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COURT OF GENERAL SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK. PART IV.

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

VS. :

ALBERT C. ROY :

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Before Hon. :

JAMES T. MALONE, J., :

and a jury. :

-----X
New York, January 8, 1914.

Indictment filed May 7, 1913.

Indicted for attempted rape in the first degree.

APPEARANCES:

For the People, ASSISTANT DISTRICT ATTORNEY ROBERT C.
MC CORMICK.

For the defendant, MR. ABRAHAM LEVY.

Peter P. McLoughlin,
Official Stenographer.

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Mr. McCormick opened the case on behalf of the People as follows:

May it please the Court, Mr. Foreman and gentlemen of the jury:

This indictment charges the defendant with the crime of attempt to commit the crime of rape in the first degree. That is the first count in the indictment. There is another count in the indictment charging assault in the second degree, that is, an assault committed with intent to have sexual intercourse with the complainant. The complainant is a young woman 22 years of age who lived at the time the rape or the attempted rape is charged to have been committed, on the 28th of April, 1913, right around the corner from the dental establishment of the defendant on 6th avenue near 10th street. She had, with her mother, several times visited the defendant for the purpose of having her teeth operated upon. On this occasion she went there alone. In the building, 159 6th avenue, the defendant occupied two rooms on the second floor front. The entrance to the building was on the south side and then there were stairs leading up to the second floor, and you turn to the right and go into the dentist's waiting room. A diagram of these premises will be submitted to you later. In the front of these two rooms the defendant had two dental chairs, one of them was in the larg-

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er room and the other in the smaller room. On the day in question the complainant came in and waited for a while, the defendant being engaged in operating on some other patient. Then he told her to get into the chair, that is, the chair in the larger room. There was no one else, as I understand it, in the room at the time excepting the dentist, the defendant, and the complainant, the girl. She got in this first chair which was in the outer office and he did certain work on her teeth there. Then he told her to go into the inner room. He had put something in her mouth. He told her to sit there with her mouth open for a while. She sat there with her mouth open and her head back when, he suddenly came forward. I will not repeat all that he did. I would rather have you hear that from her mouth and then you will understand it exactly as it happened. But, among other things he did, he pulled her dress up and exposed his own person and tried to have sexual intercourse with her. In the struggle that ensued she was very badly bruised; her clothing was torn and her waist that she had on was torn and we will produce it here as an exhibit,-- also certain other articles of clothing. She succeeded in preventing him from having sexual intercourse with her. She ran out of the place in a state of excitement and around the corner to her mother. She related to her mother all that

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happened and exhibited the torn garments and bruises on her legs and arm.

Now there is certain other evidence that will corroborate the story which she tells and upon that evidence we will ask you to convict this man of an attempt to commit the crime of rape.

MR. LEVY: If your Honor please, there are two counts in this indictment and I respectfully move that the District Attorney be compelled to elect under which count in the indictment he will present this case.

THE COURT: Do you desire to make an election now?

MR. MC CORMICK: I would rather not. I would rather wait until the evidence is all in.

THE COURT: I won't constrain an election now.

MR. LEVY: Exception.

MARTHA POULAILLON, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states she lives at 128 West 11th street.)

MR. LEVY: The witness, your Honor, speaks English.

BY THE COURT:

Q Do you speak English? A Yes, sir, a little bit. I speak enough to make myself understood; I can't say everything in English.

Q What language do you speak? A French language.

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THE COURT: We will see if we can get along in English.
DIRECT EXAMINATION BY MR. MC CORMICK:

Q Now, Miss Poulailon, where did you live on the 28th of April last year? A In 128 West 11th street.

Q That is ~~how~~ not very far west of 6th avenue, is that right? A No, sir; not very far.

Q Now, at that time did you know where Albert C. Roy had an office? A Yes, sir; he had an office in 6th avenue but I don't know the number.

Q Near what street? A It is near 11th street.

Q What is your age? A 22 years.

Q Had you ever been to his office before that day? A Yes sir.

Q How many times? A I was three times.

Q On those three occasions did you go there alone? A No sir; the first time mother took me with her and the second time she came, and she came to the door and she led me to the dentist's office and because she saw that there was some people in side she said "I will come back and get you." She came back after and the doctor was still fixing me, the second time.

Q Now I am speaking of the 28th of April. Do you remember going there that day? A Yes, sir.

Q Did you go there alone or was some one there with you? A No, sir; I was alone.

MR. MC CORMICK: I desired to offer in evidence at the

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beginning of this trial a diagram and I would like to do it now. Have you any objection to it?

MR. LEVY: Have you got the surveyor here?

MR. MC CORMICK: Yes.

MR. LEVY: I wanted to ask him a few questions if I may, as to the diagram.

THE COURT: Do you desire to withdraw the witness now?

MR. MC CORMICK: If he is here. He should be here. I thought he would be here.

MR. LEVY: Subject to any correction it might be temporarily used.

THE COURT: Very well.

(The diagram referred to is marked People's Exhibit 1 in evidence.)

BY MR. MC CORMICK:

Q Did you ever see that diagram before? A Yes, sir.

Q You understand it, do you? A Yes, sir.

Q Now it is a diagram of Dr. Roy's office? A Yes, sir.

Q That is, on the second floor of the building in which he had his office? A Yes, sir.

Q You saw this up in my office (referring to the diagram)?

A Yes, sir.

Q The other day? A Yes, sir.

Q Now, you went there on the 28th of April, didn't you?

A Yes, sir.

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Q Do you remember what time it was you went there? A I had an appointment for 11 o'clock.

Q What time did you reach the office? A Just 11 o'clock, mostly sharp.

Q When you reached the office how many people were in it?
A There was only one person.

Q Who was that? A I don't know who it was.

Q The doctor was there? A Yes, sir, and a nurse.

Q A nurse? A Yes, sir; I mean there was a patient there

Q As you came in the door, point out on the diagram where the door to the office is. Let me hold it so the jury can see

A This is the door here (indicating).

Q As you come up the stairs where is the door you go into the outer office by? A (No answer)

Q Listen to the question. When you come up stairs.

A Yes, sir.

Q You go into a door? A Yes, sir.

Q Where is that door? A This must be here (indicating).

Q There is a door? A Yes, sir.

Q To the dentist's office? A Yes, sir.

Q Isn't there a door there (indicating)? A Yes, sir; here is a door, there.

Q As you come in that door you went through into the office? A Yes, sir.

Q The dentist's office? A Yes, sir.

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Q You say there were three people in the office? A Yes, sir.

Q Was the patient a man or woman? A A woman.

Q How many chairs did the dentist have? A He had two chairs.

Q Where are they? A There is one here, a dentist's chair there-(indicating).

Q Where is the other? A The other one is here (indicating).

Q There? A There (indicating).

Q Now where was this patient sitting? A The patient was sitting on the first dental chair.

Q Now, what did you do then? A I waited a little while

Q Where did you wait? A At the sofa there (indicating).

Q Now, where was this nurse? A The nurse was in here.

Q How old a woman was the nurse? A I can't say that.

Q You say the nurse was there and the patient in that chair (indicating)? A Yes, sir.

Q Where was the chair? A The chair was there with the patient.

Q And the nurse was there too? A Yes, sir; both were there.

Q Now, you sat on the sofa? A Yes, sir.

Q How long did you sit there? A Oh, about, not any more than five minutes.

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Q Then what happened? A Then when the patient went away the doctor told me to take the chair, the dental chair.

Q Do you know where the nurse was? A She was at his table, some place, the first dental chair.

Q You took the first dental chair? A Yes, sir.

Q Now it was after the other patient went out? A Yes, sir.

Q And how long did you stay in that chair? A I can't say how long, but he fixed two teeth, he plastered two teeth and put cotton in one; that is all I can say.

Q Now you go on and tell the jury all that happened while you were up there? A I went to the dentist's-- I went to the dental chair and while I was in the dental chair he fixed my teeth, plastered two and put cotton in one and after a little while he told me to pass into another room, the other dental chair.

Q Point out the other chair. A That little small chair, the room there where the dental chair is (indicating).

Q Was there a door here? A Yes, sir, a door with a little hook.

Q What happened in the second chair? A Then he told me to-- when I was in the office, in that dental chair, he told me to leave my mouth open so that the plaster would dry, told me to open it that way, like that (illustrating) and to keep it that way. So I did what he told me and I sat there a little

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while, with my mouth open and then suddenly he came in, and he came on my mouth, put his tongue way in my mouth, held my hands with one hand; then he leaned on me, tried to force me, put my dress half way up; I was not well; I had a sanitary belt on. The chair, probably, was fixed before, just a little push and I was way down, legs were up. I kicked as much as I could to prevent him from doing that to me, he tried and tried for a long time and I thought he was going to choke me, he had his tongue in my mouth, moving it all the time. I could not get rid of it. He had his hands holding me. I had bruises here on my legs. I kicked him and when he saw at last, after trying and trying, that he could not do what he wanted he let go of me and he opened the door and he had himself exposed.

Q. You mean that his private parts were exposed? A Yes, sir.

Q Was that when he was on top of you? A He was leaning on me, yes, sir.

MR. LEVY: Don't lead the witness, please.

BY MR. MC CORMICK:

Q Now where were those bruises, when did you discover the bruises on your leg? A I went home directly to mother and we only saw it just in the afternoon, and they were just red when I came home but they just turned a little bit yellow.

Q Have you told us all that happened in this dental chair? A Yes, sir.

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Q What did he do with his hand? A At the time he had his tongue in my mouth.

Q At the time he had his tongue in his mouth where were his hands? A One hand holding my hand.

Q Holding two of your hands? A Yes, sir; the other hand here (indicating) he used to hold my dress up, tried to force me.

MR. LEVY: I move to strike that out.

THE COURT: Yes.

Q Where did he have the other hand? A He had the hand and tried to have it-- I can't say it.

Q He tore your drawers with that hand? A Yes, sir; tore my stocking, tried to force me. I can't say it.

Q When was it he was exposed?

MR. LEVY: I move to strike that out.

THE COURT: Strike it out.

BY THE COURT:

Q What did he do with his hands? A With his hands? He had my mouth open and he was attempting to insert his finger in my private parts.

BY MR. MC CORMICK:

Q Now as you went out was anything said? A No, sir; I didn't say a word.

Q To him? A No, sir; I was crying. I was just standing up, that is all.

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Q Did he say anything to you? A No, sir; he did not say anything.

Q Did he hand you anything? A No, sir; he did not give me anything only when I went away to the sitting room I took my coat and then when I pulled my coat I saw a dollar bill, I just saw a dollar bill sticking in the fold of my sleeve, the left sleeve (witness indicating her left sleeve).

Q Did you say anything to the defendant? A I just took the bill and threw it in his face.

Q Did he say anything? A No, sir; he did not say anything; he told me, yes, he told me to buy flowers with it. I did not say a word.

Q As you came out did you see any one else in the dentist's outer office? A No, sir; I did not see anybody.

Q Did you see anybody on the stairs as you went down?
A No, sir; I went quickly home and I did not see anybody.

Q Now, when you reached your home did you see your mother? A Yes, sir; I saw my mother.

Q Now, don't answer this question until it is decided whether you can answer or not. Do you understand? A Yes, sir.

Q When you reached home did you tell your mother about what had happened to you?

MR. LEVY: I object to that form of question as incompetent.

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Objection overruled; exception.

Q Yes or no. A Yes, sir; I told my mother.

THE COURT: That is an answer.

Q Did you show her any part of your clothing?

MR. LEVY: I object to that as not material, relevant or competent, and not binding upon the defendant.

Objection overruled; exception.

Q Yes or no. A Yes, sir.

Q Did you say anything about your waist having been torn in the struggle with the defendant? A Yes, sir.

MR. LEVY: I object to that, sir. The witness should not be led. She has not said anything of the kind. I object to that.

BY MR. MC CORMICK:

Q You said some of your clothing had been torn? A My waist was torn.

Q Where is that waist now, do you know? A It is here.

Q Who has it? A The detective has got it

Q You don't know where the waist is now, do you? A No, sir; I think the detective has it here.

Q Now, do you know where the stocking is, that is with the waist I suppose? A Yes, sir; with the waist.

Q Did you ever, after that day, see the defendant?

A No, sir.

Q Do you remember meeting him in a law office? A What

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is that?

Q You say that-- on what part of your body were the marks?

A On my two wrists.

Q What color were they? A When I got home they were red only, they were just red and swollen.

Q Red or white? A Red and inflamed.

Q Now tell us how did they appear the next day? A Later in the evening, the same evening, they just turned yellow and the next day they were black.

Q You were speaking of the bruises on your wrists?

A Yes, sir, and on my leg.

Q Now which leg were they on? A On my right leg.

Q What part of the leg? A Just here (indicating the thigh).

Q The front? A Yes, sir.

BY THE COURT:

Q Where was that? A (Witness indicates the thigh.)

BY MR. MC CORMICK:

Q You never have been married to this defendant? A No, sir.

CROSS EXAMINATION BY MR. LEVY:

Q How old do you say you are, young lady? A I am 22 years old.

Q Where were you born? A In Paris.

Q You have lived in America how long? A We have been

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here two years.

Q Two years? A Yes, sir; in New York City.

Q So you were about 20 years old when you came to this country? A What?

Q You were about 20 years old when you came to this country? A I was.

Q Answer me in English. A And I want to say something in French.

Q Well tell me this in English, you were about 20 years old when you came to this country? A We were not living-- two years living in New York-- we were in another city before.

Q You have been in America how long? A Been in America ten years.

Q Now are you a nervous girl? A What is that? Am I a nervous girl? Not so very.

Q You are somewhat nervous? A A little bit.

Q You get excited very quickly, don't you? A No, sir.

Q Well, how do you show your nervousness, in what way?

A Well I am nervous but not too nervous, yes, sir.

Q When ~~and~~ you have your monthlies you are more nervous than you are at other times? A I was on that day especially.

Q You will excuse me asking you these questions. When you get your monthly courses, when you do get them you get more nervous than at other times? A No, sir; I am just as usual.

Q Don't it affect you that way at all? A No, sir;

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don't affect me at all.

Q Did you ever have any hysterical attacks? A No, sir; I never was sick at all; in perfect health.

Q I don't mean sick, bodily sick, but I mean nervously sick. A No, sir; I never have them.

Q You never have that? A No, sir.

Q Pardon my asking you this question, please, I have got to ask it in the performance of my duty. Do your monthly courses last long? You can ask that in French.

(Addressing the interpreter.)

A (Through the interpreter). Three days.

Q Which day was this, the day that you went in there to see Dr. Roy, was that the second day? A It was the second day

Q Of your menstruation? A Yes, sir.

Q Weren't you depressed, downhearted, that day? A What did you say? No, sir, not at all.

Q You were not at all affected by your condition? A No, sir; not at all.

Q Sure about that? A Yes, sir; sure about that.

Q But you were suffering with your menstruation? A Yes sir.

Q Now, Miss, while this was going on did you make any outcry? A Yes, sir; I tried very hard to get away.

Q Scream out? A I screamed a little bit, I cried, but there was noise on 6th avenue, I couldn't cry any time so

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that anybody could hear.

Q Did you scream? A No, sir; I could not scream; he had his tongue in my mouth.

Q Did you bite his tongue? A No, sir, but I tried to get out but I could not.

Q Did you bite his tongue? A No, sir; I did not.

Q Why couldn't you bite his tongue? A Oh well I didn't have courage to do that.

Q You didn't have courage to do that? A No, sir.

Q Did you realize that you were about to be ravished or raped? A Well I don't understand what you say.

MR. LEVY: Ask that question in French. (Addressing the interpreter.)

THE WITNESS: I knew what a danger I was running but at the same time I had some strength yet left to try and prevent him doing anything like that happening.

Q Did you know what an act of sexual intercourse was?

A No, sir; I did not.

Q You did not know at that time what it meant, how it was done? A I was imagining what he was about to do.

Q Well, what did you imagine he was going to do to you?

A I was imagining that he was going to ruin my, take my virginity.

Q You were bandaged up? A Yes, sir; it was a good thing that I had it.

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Q When he found that you were bandaged up he stopped right away? A May I answer this question?

Q Yes. A Oh yes, after a long time.

Q When he found that you resisted he stopped, didn't he? A Yes, sir; but after he tried for some time and saw me crying then he stopped.

Q You mean that after you made it clear to him that what he was doing was against your will then he stopped? A No, sir; he did not.

Q You understand my question so well, now won't you please answer me in English?

MR. MC CORMICK: I object to that.

THE COURT: What was the remark?

MR. MC CORMICK: I say she has answered. She says that he only stopped when he found that he could not.

THE COURT: Put a question.

BY MR. LEVY:

Q Now, Miss, when was it that he stopped with his efforts?

A He stopped when he saw that there was nothing to do with me.

Q He stopped when he saw you would not allow this? A No sir; I wouldn't let him do that what he wanted to do.

Q That is what I mean, Miss, I have got to ask these questions and don't be offended with me. He stopped when he found out that you would not let him do it, is that right? A Yes, sir; I kicked him.

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Q Won't you answer please? A Yes, sir.

Q In the meantime he tried to excite you, didn't he?

A No, sir.

Q Didn't try to excite you? A No, sir;

Q He tried to-- you may put this, if you please, in French-- did he try to make you passionate?

MR. MC CORMICK: I object to that, as to what he tried to do; she does not know.

THE COURT: Let her testify as to what he did.

MR. LEVY: You don't know. She was there.

THE COURT: She may answer.

A No, sir. May I say something?

THE COURT: If you will answer the questions that will be quite enough.

BY MR. LEVY:

Q Did you say to him "I don't want you to do this" or anything like that? A No, sir; I did not.

Q Did you say to him, tell him not to do it? A No, sir; I hardly spoke to him but just for business purposes.

Q Did you say anything to him while he had his hands upon you or was doing anything with you? Did you say anything to him at all? A I couldn't say anything; I had my mouth-- he had his tongue in my mouth, how could I speak?

Q Do you mean to be understood as saying that all the time during the whole of the transaction? A Yes, sir.

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Q That he had his tongue in your mouth? A Yes, sir; all the time.

Q Far in? A Yes, sir; all the time.

Q How far in? A Very far, he could hardly choke me, yes, sir, he was moving it all the time inside.

Q He was moving his tongue in your mouth as far in as he could get it? A Yes, sir.

Q How long did you say he had his tongue in your mouth? A Oh I can't say how long.

Q Well give me your best idea. A I can't say how long; I didn't have a clock before me.

Q But try and fix it according to your present recollection, try to fix the time that you say he had it in your mouth, say a few seconds or minutes or whatever you like. A I can't say the time. When things happen like that it always seems longer; it seemed to me very long.

Q Have you thought about it since that time? A No, sir, I couldn't think of it.

Q You couldn't think? A No, sir.

Q Would you say it was as long as five minutes? A I wouldn't say the time, I could not; I can't tell anything that I do not know.

Q But you must have formed an idea, you must have formed an idea as to the length of time, whether it was a minute or an hour or a half an hour or some time? A No, sir; I can't say

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the time, that is all I can say; I was too worried; that is all, to think about the time; it seemed to me very long; that is all.

Q You don't think you were hysterical, do you? A No, sir.

Q Do you know what hysterical means, do you? A Yes, sir I know what it is but I was not.

Q Did you ever see anybody who was hysterical? A No, sir; I did not.

Q You have never been hysterical yourself? A No, sir; I have never been.

Q You have never been? A No, sir.

Q Well now, he had his tongue in your mouth? A Yes, sir.

Q Where was his body? A He was leaning on me.

Q Was his chest on your chest? A Yes, sir.

Q He covered your whole body? A Mostly, yes, sir, but the chair was inclined; he was on top of me and his tongue was in my mouth and his chest was half way on my body.

Q His face was against, of course, against your face?

A Yes, sir.

Q During the whole of the time while he was lifting your dress, while he was putting his hand upon your person did he remove himself from your body? A No, sir; he did not; he moved his body but not move his face.

Q I want to know whether he got up from you at any time

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during that transaction? A No, sir.

Q Did he? A No, sir; he did not.

Q So that he did not get up from you any time until after he felt that you had on a sanitary bandage, then he stopped, is that right? A That didn't stop him; he kept on continuing, moving his body towards me.

Q Well I want to know what particular time it was when he stopped. A Well, when he received enough kicks with my feet, when he saw then that it was useless then he got up.

Q Where was he during the time that he had his tongue in your mouth, where were your hands? Do you understand the question? Answer if you please in English. Where were your hands?

MR. MC CORMICK: I object to that. He has no right to tell the witness that she understands his question.

THE COURT: So far as you can talk English. If you cannot answer a question or do not understand it then let the counsel know that you don't understand it and he will ask to have the interpreter help you. Now go ahead.

BY MR. LEVY:

Q Now, Miss, I want to know where your hands were while his tongue was in your mouth? A My hands were held with his hand.

Q What part of your body, alongside of your body, over your head, or where were they? A He was holding them that

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way (illustrating) just on top of the chair.

Q Show me how he was holding them? A This way (illustrating).

MR. LEVY: So as to get the record right she illustrates both hands clasped.

THE WITNESS: That way (illustrating)

MR. LEVY: Both hands together over her left shoulder, is that correct?

MR. MC CORMICK: Yes.

Q Is that a correct description? A Yes, sir.

Q Now, were your hands clasped together or lying on top of each other? A I can't say that; I don't know; I did not look.

Q How long were your hands kept that way? A All the time he was trying to--

Q Tell me how long that was? A I can't tell you.

Q Did he hold both of your hands? A Yes, sir.

Q How did he hold both of your hands? A With one of his hands.

Q Did he hold both of your hands with the right or left?

A His left hand.

Q Now put your hand back in that same position again as you had it before please. Will you take the officer's hands, please, and show the Court and jury how he held your hands with his left hand? A I can't tell you.

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Q What is that? A I can't tell you.

Q Now just try to the best of your recollection, and show us the position of his holding your hands, that is all. A I can't say the position because I don't know anything about that, I was too upset to look at his position.

Q You don't recollect all the details? A Yes, sir; I know what he done but I didn't look how he held his hand, what way.

Q Were you upset? What do you mean by "being upset"? Hysterical? A No, sir; I was not hysterical; I was afraid, that is all.

Q That did not prevent you from seeing what the man was doing or trying to do? A Yes, sir; I was trying to prevent it.

Q But you felt his hand on your hand, didn't you? A Yes sir; I felt his hand.

Q Will you show me how his hand was on your hand? A I can't show it to you because I don't know how he held it; I didn't look at that.

Q Did he hold two, or one hand? A He held two hands.

Q Did he hold you by holding by the wrists? A I told you by the two wrists.

Q One hand, by the wrists? A Yes, sir.

Q Now let the officer show that or illustrate it.

A My hand is too small to hold both of the interpreter's wrists.

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Q No, the officer's hand, that is not too small, show us with his hand how he held you. A How can I tell you?

BY THE COURT:

Q Did you notice his hand or did you see his hand?

A No, sir; I did not; I only felt it, that is all.

Q You only felt it? A Yes, sir.

BY MR. LEVY:

Q Didn't see the hand, but felt it? A Yes, sir.

Q Now where did you feel that hand, on what, on your wrist, elbow or what? A On the wrist and he held it this way so tight.

Q On both wrists? A Yes, sir.

Q Both wrists? A Yes, sir; both wrists.

Q At the same time he held it all the time? A Yes, sir.

Q While his tongue was in your mouth? A Yes, sir.

Q Both wrists? A Yes, sir.

Q Couldn't you pull the hand away from him? A He was stronger than I was; if I could have I would have done it; I tried to.

Q I want you to make it clear. If you don't understand me in English I am so anxious to have it correct that I am willing you should ask through the interpreter. Were your hands across your chest? A I can't tell you now. all I can tell you is he was holding my both hands in a tight way.

Q You told the jury a little while ago that both of your

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hands were over your left shoulder. You showed that to the jury? A Yes, sir. I felt my own hands were there.

Q Now then if both of your hands were over your left shoulder then your hands must have been either across your chest, your arm must have been across your chest? A I didn't notice that.

Q After he had hold of your hands with his left hand his arm would have to be across your chest, is that so? A No, sir; his arm was behind the chair; behind me, behind the chair.

Q Behind the chair? A Yes, sir.

MR. LEVY: With your Honor's kind indulgence may Mr. Mustaki illustrate this and then I can ask the witness questions. Now, you know, young lady, this is for the purpose of illustration. (Indicating) You put your hands together as the young lady illustrated they were when they were being held. Is that correct? (Addressing the witness.)

THE WITNESS: I think so, I don't know.

Q You say the left hand of the defendant was holding both of your hands (illustrating)? A Yes, sir.

Q And while doing that his mouth was against your mouth and his tongue was in your mouth? A Yes, sir.

Q And his chest was up against your chest do you testified, is that correct? A Part of his body was on my chest.

Q What part of his body was on your chest? A I think

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it was only his legs.

Q On ly his legs? A Yes, sir.

Q So if he was in that position with his mouth to your mouth, his arm must have been across your chest just as my arm is across Mr. Mustaki's chest? A No, sir, he had the arm turned down towards the chair.

Q Will you show in what way his arm was turned towards the chair? Let her illustrate that please. A He was on my right side (witness indicating the right side of the chair).

Q You cannot illustrate it with the man on the left side of you? A Yes, sir; that is what I was doing.

MR. LEVY: Will you permit me go through this with the witness?

Q Is that the reason that you can't illustrate it because the interpreter is on the other side? A Certainly.

MR. LEVY: Now, with your Honor's permission, may I ask the young lady to step down here and sit in front of the jury?

THE WITNESS: Your Honor orders me to?

THE COURT: Yes.

MR. LEVY: (Addressing the witness) Will you be seated here if you please, Miss?

(The witness takes her seat in front of the jury box)

MR. LEVY: Mr. Mustaki, come over here and place yourself to the right of the young lady.

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THE INTERPRETER: Yes, sir.

MR. LEVY: Will you tell us now, Miss, and in the presence of the jury point out the position your hands were in when the defendant, as you say, was holding them?

THE WITNESS: You want to understand that my body was not in this position. It was inclined back.

MR. LEVY: I understand that. In what position were your hands?

THE WITNESS: This way (illustrating).

Q Now, the defendant was holding both of your wrists?

A Yes, sir.

Q With the left hand? A Yes, sir.

Q Was he in the position that the interpreter now is?

A No, sir. (The witness wishes the interpreter to get around here) But he didn't have his arm like that; he had his arm here (illustrating).

Q Which way did he have his arm? A This side (illustrating).

Q Around your neck? A Yes, sir.

Q Had his arm around the back of your neck? A Yes, sir; this way.

Q You were lying in the chair? A Yes, sir.

Q Where was his mouth? A On my mouth.

Q Was he standing leaning over the chair? A He was leaning on me.

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Q Leaning on you? A Yes, sir.

Q You mean to say his body was on you? A Yes, sir; nearly all on me.

Q You said something about both his legs, both of his legs. A I did not exactly feel them but I felt on the side of my leg something.

Q You did not exactly feel them? A He was going to put them on my body.

Q But he did not put them on your body? A No, sir; because I defended myself.

Q Why couldn't you pull your hands away? A Because I could not.

Q Couldn't you bite his tongue?

MR. MC CORMICK: I object to that It has been asked and answered.

Q Couldn't you bite his tongue in that position?

THE COURT: Is it necessary for her to sit there longer?

MR. LEVY: No, sir.

THE COURT: Then come right back here.

(Witness resumes the witness stand.)

BY MR. LEVY:

Q Excuse me Miss. Could you have bit his tongue is the question, in that position? A I told you I couldn't do it.

Q I show you a photograph and ask you whether that is not

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a correct representation of the dental chair in which you were sitting at the time, or reclining at the time? A This is the dental chair (referring to the photograph).

Q Look at this one. What do you call this?

THE COURT: Do you want it in evidence?

MR. LEVY: Yes, sir, I am going to put it in evidence

(The first photograph is marked Defendant's Exhibit

A in evidence, and a second photograph is marked Defendant's Exhibit B in evidence.)

THE WITNESS: This is the second dental chair (referring to Defendant's Exhibit B). That is where I was attacked, in that chair.

Q Is that the second chair? A Yes, sir.

BY MR. MC CORMICK:

Q That is a proper photograph of that chair, is it?

A Yes, sir; a regular dentist's chair.

Q It looks to you like the chair you were in when he tried to rape you?

MR. LEVY: I move to strike that out.

MR. MC CORMICK: That is what she says he did.

When he assaulted you?

THE WITNESS: Yes, sir. (Referring to Defendant's Exhibit B.)

MR. MC CORMICK: She said she was assaulted in a chair and this is a picture of it.

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MR. LEVY: I ask to have the photograph shown to the jury with your Honor's permission.

(The jury inspect the photographs Defendant's Exhibits A and B.)

MR. LEVY: I want them so as to illustrate my further examination. They are received in evidence, are they?

THE COURT: Yes.

BY MR. LEVY:

Q Will you be good enough to look at these two photographs and tell me if they are not correct representations of the reception room of the defendant and the entrance to it?

A Yes, sir; I don't see the table exactly but that is the room.

MR. MC CORMICK: Maybe the table is on this one.

THE WITNESS: Yes, sir. (Indicating)

MR. MC CORMICK: Will you bring out what part of the room they represent?

MR. LEVY: I am going to do it in the examination.

(Two other photographs are offered and admitted in evidence and marked Defendant's Exhibits C and D.)

MR. LEVY: C is the entrance to the hallway and D is a view of the entire reception room.

MR. MC CORMICK: Will your Honor permit us now to withdraw the witness and put Mr. Volckening on the stand, the man who drew the diagram?

THE COURT: Yes.

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WALTER H. VOLCKENING, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states that he lives at 115 Decatur street, Brooklyn.)

BY MR. LEVY:

Q Mr. Volckening, Mr. McCormick has introduced in evidence a diagram purporting to have been made by you, is that correct? A That is correct.

Q It is called Exhibit 1? A Exhibit 1.

Q Now you have drawn that diagram to a scale? A Yes, sir; I have.

Q What scale? A I will have to refer to the diagram.

Q Do so if you please. A Yes. Three-quarters of an inch to the foot.

Q Three-quarters of an inch to the foot? A Yes, sir.

Q Have you your measure with you? A Yes, sir; I have.

Q Just for the purpose of putting it on record as to the measurements I have requested that you be called and with your Honor's permission I want to give to the jury, if you please, and his Honor, the measurements of the room. This room here. Here is the entrance from the hall. A The total width?

Q This room marked the small room with the center dental chair, give us the width of the room and the depth of the room

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up to the partition separating the room from the workroom.

Do I make myself clear? A Yes, sir. The width of the room is 5 feet 10 inches. The depth of the room from the front wall to the partition separating the small room from the workroom is 6 feet 6 inches.

Q Did you have occasion in making this diagram to take the measurements of the chair, the dental chair in that room?

A I located the center of the chair in that room.

Q You saw the chair? A Yes, sir.

Q Are you able to give us the dimensions, the width of the chair? A No, sir.

Q Its height from the floor? A No, sir.

Q In what part of the room is it located, in the center?

A Not quite the center, the center of the chair is 3 feet 2 inches south of the north wall.

Q Now that is a window facing 6th avenue (referring to the diagram)? A Yes, sir.

Q And the chair is faced towards that window, is it not? A It faces, the chair, the front of the chair is towards the window.

Q Could you give the dimensions of the window, the width of the window? A 3 feet 2 inches between the window jambs.

Q Now the distance from the first dental chair which I designate as the first dental chair, this chair, is seen as you approach from the waiting room to the second dental chair, is it? A From the center of one chair to the center of the other is about 13 feet.

Q What is the width of the door separating the small room, so-called, in which the dental chair was placed, from the office? A The width of the door? The door opening is 2 feet 10 inches wide, the door jambs.

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Q Did you notice at the time you made the diagram whether there was a door hanging there? A I didn't notice particularly the door originally on that opening was an ordinary door, but that had been removed at some time, and what is known as a two part folding door had been constructed, each part is about 17 inches wide, and, of course, the full height of the opening, one part could be opened without the other.

Q But you could open both parts? A Swinging, yes, sir, into the main office.

Q Let me illustrate that by saying similar to the swinging doors that one occasionally sees in front of the cafe?

A Well, only in two parts. If this was the door originally that would be one part (illustrating), but this door was cut through the center; it entered through the center; you could open that part, and open the two parts, and that was done to facilitate space.

Q To make space? A Yes, sir.

Q Now in the hallway, the door leading ^{from} the head of the stairs to the door was how far? A The entrance?

Q The distance from the head of the stairs to the entrance door is how far, taking it on a diagonal line? A The centre of the door?

Q Let us have that? A From the newel post, passing the newel post to the center of the door? That is, well, about five and a half feet, perhaps, five feet four inches.

Q Did you observe whether there were windows -- of

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course you did -- windows in the office leading on to the street? A Two of them.

Q And of the same width as the window in the smaller office? A Yes, sir: the same width.

Q Back of the small room there was a space which is designated upon this diagram as the workroom? A Yes, sir; that is correct.

Q You went into that room, didn't you? A Yes, sir; I did.

Q You took measurements of that workroom? A Yes, sir.

Q Found the dimensions to be what? A The width of the room was five feet ten, the same as the small room in front, and the depth of the room was five feet.

Q Did you see whether or not there were benches constructed around that work room? A Work benches, yes, sir.

Q The width of those benches approximately, about? A I sketch , and I will sketch them here, about 18 to 20 inches, perhaps 19 and a half.

Q I want you to tell the jury whether or not there was any door or partition which separated the smaller room so-called which contains a dental chair? A Whether there was any door separating those two rooms? This partition.

Q The hanging doors? A Yes, sir.

Q I don't mean a space, I say a hanging door? A Between the small room and the workroom there has been constructed a door, a partition of about seven feet.

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MR. McCORMICK: Can you turn the diagram so that the jury can see it as these questions are being asked?

THE WITNESS: Yes, sir. This is the small room, designated as the smallroom, and this is designated as the work room. That small room ^{is} theroom the young lady said she was attacked in.

Q You understand the room I am talking about? A Between these two rooms there has been constructed a board partition about seven feet high, and on the small room side of that partition there are two doors, sliding doors, that may be closed in the center of this opening (illustrating) close off that room from this one (indicating) .

Q Now are they solid doors or glass doors? A Well, I can,t answer that question definitely; they are doors.

Q Now, did you notice where the gas tanks used by dentists were placed in the room? A Well, the attachment to be applied at the time of extraction, as far as I can remember was on this side (indicating).

Q In that small room? A Yes, sir.

Q That was connected with what? A Why some connection with the tank.

Q With the tank? A Yes, sir; I could not say where the tank was, but I remember seeing it.

MR. LEVY: I shall have to demonstrate that by another witness. I wanted your recollection at present, I thank you very much.

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BY MR. McCORMICK:

Q Let me ask you a question or two.

Q This is one room down by that black line? A Yes, sir.

Q But there was a sort of a partition across here? A I wouldn't call it a partition. This is an instrument case or work bench, and behind the work bench are two folding screens which were about five feet six high.

Q These are the screens? A Yes, sir.

Q So as a matter of fact there is an obstruction with the screens drawn? A Yes, sir.

Q Running about how high? A Well, I should say about five feet six.

BY MR. LEVY:

Q Not to the ceiling? A No, sir; not to the ceiling.

BY MR. McCORMICK:

Q Now is there a door there (indicating). A When the building was built they had a door to enter that whole room, and in front of that door these two windows have been constructed, and you cannot pass out of that door; that door is a solid door, I am not sure whether windows in it or a transom is over the door.

BY MR. LEVY:

Q Mr. Volckening you were sent up to make this diagram by the District Attorney? A Yes, sir.

Q No objection was made by the defendant there to. He offered every facility, and assisted you in making the dia-

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gram? A Yes, sir; he did.

THE COURT then admonished the jury, calling their attention to Section 415 of the Code of Criminal procedure, and took a recess until 2 o'clock.

AFTER RECESS.

M A R T H A P A U L A I L L O N, a witness for the People resumes the stand.

CROSS EXAMINATION CONTINUED BY MR. LEVY:

Q Now, Miss, are you sure that Dr. Roy put his hand under your clothes? A Yes, sir.

Q Was there any reason why he should pinch you or use force? A What is that? Because I refused him.

Q Did you tell him that you refused to allow him to have what he wanted? A I could not tell him because his tongue was in my mouth, but I kicked him.

Q You kicked him? A Yes, sir.

Q Are you aware where it was that you kicked him, in what part of his person? A I could not tell you where that; wherever I could strike him, wherever I could kick.

Q Do you know whether you kicked him in the legs or in the body? A Mostly on the legs I think.

Q Aren't you sure as to where you kicked him? A Oh, I don't know, I didn't see it; I kicked him, that is all.

Q He was very close to you, wasn't he? A Yes, sir.

Q Holding you tight. (No answer.)

Q Was he holding you tight? A He was holding my hand

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tight.

Q Did he hold your body tight? A He was holding my hand and my mouth.

Q You said he hand his hand around the chair? A Yes, sir.

Q Underneath your neck? A Yes, sir; holding my two hands.

Q Was the hand on your neck or was he around the chair with his hands? A Around my neck.

Q Around your neck? A Yes, sir.

Q Then he pressed your body close to him, did he?
A Yes, sir, he did.

Q Now, let me understand. You were lying flat, were you not, with your head -- were you horizontal, and was he horizontal? A No, sir, not altogether horizontal.

Q Won't you tell us so that we can understand what the positions were. Won't you tell this jury what your position was as far as the incline was concerned, were you reclining?
A Perhaps it will help you by telling you that my feet were higher than my head.

Q Is there a foot rest or was there a foot rest to that chair? A No, sir; my feet were not on the foot of the chair; they were hanging out.

Q Now we will take Exhibit A. Exhibit A, that is a fair representation, is it not, of the chair. Put that in French. That is a very representation of the chair? A That is not

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where I was on.

Q But it is similar chair to the chair in which you were? A Yes, sir.

(On People's Exhibit A the witness pointing to the head of the chair.) It was down, and the seat of the chair where I was seated, my feet extended outside of the seat up; but there was not foot off the chair under my feet.

Q I do not mean that the chair as shown on Exhibit A is a chair in the position that it was at the time when she claims she was assaulted, but I mean it is a fair representation of the kind of a chair in which she was? A Yes, sir. I know that is not the chair: yes, sir, that is the kind of a chair.

Q Now, you will notice Miss, that there are side rests on that chair? A Yes, sir.

Q Would you say that the chair that you were in at the time that you claim that you were assaulted was any wider than the chair that you are now seated in? A That I could not tell you.

Q Are you able to tell whether the arms of the chair or the arm rests on the side of the chair were any higher than the arm rests, of the chair on which you now sit on? A I did not notice all these details.

Q At what angle were you inclined backwards? A I do not understand what you mean by angle, but I was seated on that chair and the chair was inclined backwards.

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Q Well, Miss I want to be fair with you, and I want to know whether you were extended perfectly straight out or whether you were bent forward or whether your body was inclined forward. I want you to tell the jury what your position was at that time. Please try to describe it to the best of your recollection. Do you understand me? A Yes, sir; I understand what you mean, and I will explain you how the chair was.

Q Please do that. A The chair was inclined a little bit backward so that my feet were a little bit further up than my body, and that is the position I was lying in.

Q Now will you please tell me whether your legs were together or whether they were spread out? A My legs were apart, and it is good they were, because that is the only use I had -- the reason my legs were apart is because that was use to the only means that I could defend myself, and consequently I had to part them.

Q Now then, will you tell his Honor and the jury if your legs were apart whether or not the defendant was in between your legs? A While my legs were open he was not between my legs, but he was attempting to get on my body, and at the same time I was preventing him and defending myself; he did not succeed to get on.

Q Then you must explain that a little more, and I have to apologize for the necessity of asking these questions. I want you to understand that. If he was not between your legs

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in what position was he? A I told you this morning that he was on top of me, and he was expecting any minute to act the way he wanted to act if I had not defended myself; it may be he was waiting until I fainted.

Q It may be that he was waiting also until you would consent, is that so? A Perhaps.

Q When he found out that you would not consent, after you resisted then he stopped? A A little while afterwards.

Q You claim that you made it clear to him that you would not give your consent? A Certainly.

Q Now, didn't it occur to you that what the man was trying to do was to try to arouse your passions by fooling around you and manipulating your person or your body for the purpose of inducing you to give your consent?

MR. McCORMICK: I object to that. It has been asked and answered.

THE COURT: Objection sustained.

Exception.

Q Did he at any time get between your legs? A No, sir; he was not able to.

Q Now, you say that he was on your body? A Yes, sir, he only was on my chest.

Q When was it that you had an opportunity to see that he had exposed his person? A When I was fighting hard and defending myself, I happened to glance and saw his private

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parts.

Q Were you very much excited then?

MR. MCCORMICK: I object to that.

Objection overruled.

A Certainly I was excited. I was defending myself.

Q Now, Miss, I want you to tell his Honor and the jury if that man had his mouth to your mouth and his tongue in your mouth how you could, if you were reclining in the position you say you were, how you could glance down to see the lower part of that man's body? A Because he was raising himself up now and then a little bit.

Q Did you at any time feel his body, not his hands, but his body close to your body, on your flesh? A I did, I only felt the weight.

Q Now you have told the District Attorney that you felt his finger upon your private parts, is that true? A Yes, sir.

Q Did you at any time while these acts were being done make any outcry, I mean screaming and like that? A I was crying; I could not speak; I could not make any outcry.

Q Once again I have to ask you as I did this morning, are you able to inform the jury as to the length of time that this struggle lasted? A I could not tell you.

Q You had been in that dentist's shop several times before, did you not? A Three times.

Q You became rather friendly with the dentist, didn't you? A No, never; only spoke for business, that is all.

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Q When I say friendly I mean you got on terms of nice amiability with him? A The same way as any one has to be polite towards each other.

Q Never used any word of impropriety to you, did he?

A No, sir; never.

Q And with the exception of what you now complain of he never, in any way, offended you? A No, sir: only what he done he took me in a treacherous way.

Q In a treacherous way? A Yes, sir.

Q Well, what you mean is he tried to take advantage of you by the reason of the position in which you were, is that what you mean? A He never had mentioned a single unkind word to me or at any time insinuated anything wrong; always treated me in a gentlemanly way because if he had done so I would immediately have told him to take a walk.

Q Did he put his hand on any other part of your person other than your limbs? A No, sir; in the private parts.

Q How do you explain, if you can explain, the fact that your shirt waist was torn, and how was it torn? A It was he, the defendant, that tore it with his right hand while I was defending myself.

Q How do you mean, he grabbed you and tore the waist?

A Yes, sir; he tore the waist starting from the neck (witness indicating the collar of the dress at her neck).

Q With regard to your stockings he tore the stockings with his right hand? A Yes, sir; because I was -- I

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didn't want to do it, and I was defending myself.

Q You didn't want to do it? A I was defending myself.

Q Did you know what he wanted to do? A I was -- I suspected.

Q What do you mean by suspected? A I don't know what it is.

Q Well, ~~was~~ what did you suspect he wanted to do?

A Because I knew what he intended to do; he intended to do me wrong.

Q How did you know that? A Shall I answer such a question? It is a very delicate question to put to me and a very delicate answer to answer.

Q Won't you please answer it?

MR. McCORMICK: I object to it. It has been gone over once.

THE COURT: Objection overruled. You may have an answer to the question.

A I knew that he intended to insert his private parts in my private parts.

Q Now, how did you know that? A Because I know that my mother told me that those things -- that they are dangerous things.

Q Did your mother tell you about those things before or after this happening? A After I told her.

Q Well I am talking about what you had in your mind at the time that this matter happened. What was in your mind

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then as to what you knew he was going to do or believed that he was going to do? A Because I understood that much that an act on his part that way was out of the way.

Q What act? A An act on his part committed it was one out of the way; it was not gentlemanly.

Q But did you know or did you believe -- you said in answer to a question a moment ago that you believed he was about to insert his privates into yours. Did you know or did you believe that that was his intention at that time?

A Yes, sir; I knew that that was his intention.

Q Then you were more or less informed with regard to how an act of sexual intercourse was performed? A Yes, sir; my mother always warned me about, to be careful about these things, and she described these things to me.

Q Your mother described the act of intercourse to you?

A No, sir; she did not describe it to me, the act, but she warned me that when a man attempted to attack any girl to be careful.

Q I won't pursue it any further, but I make a thousand apologies for this question which it is my duty to ask. You say that you got a glimpse of the defendant's private parts. Are you able to say -- and I regret that I must ask it, are you able to say whether the man had or had not an erection?

A That I do not know.

Q Well are you sure that you saw his privates at all?

A Yes, sir.

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Q Had you ever seen the privates of a male before?

A No, sir.

Q What makes you sure that ^{what} you saw was his private parts?

MR. McCORMICK: I object to that.

MR. LEVY: I regret to be compelled to ask it. I am so sorry but what can I do?

THE WITNESS: I have an idea where the private parts, whether a man or woman should be, and therefore I made no mistake when I saw his private parts ⁱⁿ that location.

Q Well the man was under your observation all the time. Did you see him unbutton his trousers? A I did not see him unbutton his trousers, but when I was going away he was buttoning them.

Q After you were released from the chair why didn't you scream or make an outcry? A Because my voice was exhausted; I had no strength to scream.

Q Why? A Because the excitement and fright and the nervousness.

Q Do you still say that the excitement and fright did not make you hysterical? A Not hysterical. Any one can be crying and be frightened without being hysterical.

Q Did you see the nurse in that place, the young woman attendant? A I saw nobody there.

Q You saw the nurse there when you came in? A At the start when I went there I saw her.

Q Did you see what became of her? A She was gone; I

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don't know where.

Q Would you recognize her again if you saw her? A Yes.

MR. LEVY: Will you ask that young woman to come to the door for a moment?

Q Look at this young lady, please. Is this the girl whom you say was the nurse -- whom you saw there? A Yes, sir.

MR. LEVY: (Addressing the nurse) That is all. I thank you.

BY MR. LEVY:

Q When you saw her first where was she? A She was by the side of the first chair, in the first room.

Q Now, then I have to take up another matter, and let us see if we cannot get along for the present in English. I have to take up the treatment that you received there, and that is to say what you were being treated for and what treatment the doctor gave you. Did you have any teeth extracted?

A No, sir.

Q What was the treatment that you went there to receive?

A To have my teeth filled.

Q How many teeth did you require to be filled? A I had to have three filled.

Q Where were those teeth situated? A One on this side.

Q Were they back teeth? A No, sir; they were not, back, one here (illustrating) and the other two here, and one upper.

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Q One below and one upper on the left side of your face?

A Yes, sir.

Q Is that right? A Yes, sir.

Q You had cavities in those teeth, didn't you? A Yes.

Q Did it require any drilling. Did the doctor have to drill those in order to prepare the cavities for filling?

A Yes, sir: he had to make holes.

Q You used a machine for that purpose, didn't he?

A Yes, sir.

Q Now, you remember Miss, that alongside of the chair in which you sat was a large gas machine by which the gas or anaesthetic were administered, don't you remember that?

A Yes, sir.

Q Do you remember the doctor took his drilling machine and rilled those teeth, don't you? A He didn't fill my teeth.

Q I am asking you whether he did not drill them for the purpose of preparing them for filling? A Yes, sir.

Q That was very painful wasn't it? A No, sir, I never suffered any pain.

Q You never suffered? A No, sir.

Q You are a lucky girl. You didn't suffer when he drilled the teeth? A No, sir.

Q He drilled the cavities? A No, sir; I am very courageous.

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Q I don't mean courage, I want the fact as to whether you suffered any pain or not? A No, sir.

Q No pain? A No, sir; I did not suffer.

Q He put the drill in your tooth or in your teeth? A Yes.

Q And drilled out those little holes or those little cavities to prepare them to be filled, isn't that right?

A Yes, sir.

Q You say that that was not painful to you? A No, sir.

Q Didn't he have to put some kind of -- any kind of a drug or something on there, cocaine or something, so that you should not suffer pain while he was drilling your teeth? A No sir; because I never allow any one to put any kind of medicine or anaesthetic as you describe, in my teeth. I have courage enough to have them drilled without it.

Q You may have splendid courage but don't you suffer pain? A I do not wait until my teeth pain me that hard to go to the dentist, so that I had no pain whatsoever.

Q You did have such cavities that required him to put some plaster or something to fill them up, didn't he? A It was kind of a paste, kind of gum that he put in.

Q That gum was soft in texture, was it not? A I did not touch it.

Q He told you that you would have to remain with your mouth open for sometime in order to let that plaster dry?

A Yes.

Q He told you to sit there for sometime in order to allow

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that to dry so that you could use your teeth with that temporary filling on them? A Yes, sir.

Q Now how many teeth had that temporary ^{plaster}/filling?

A Two. And in one tooth yet he had to kill the nerve, but he had not taken the nerve out.

Q He had to kill the nerve? A Yes, sir.

Q Now did he prepare that one tooth to kill the nerve by putting anything in to it? A He only made a hole, drilled a hole, and then he inserted a piece of cotton in it.

Q Did he put anything on that cotton so as to deaden the pain of that nerve that was uncovered by his drilling the hole? A He did not put anything on the cotton. He put the cotton dry in it.

Q Then while he was putting his tongue in your mouth and keeping it there for the time that you say that he had it there, rolling his tongue around your mouth you had this soft plaster in there as well as the cotton in the other hole? A Certainly.

Q Did he dislodge the cotton or dislodge the soft plaster when he was doing this mouth act? A No, sir; he did not.

Q Did you feel any pain in your teeth while he was doing this with his tongue? A No, sir; only the throat.

Q Only the throat? A Yes, sir; it pained me.

Q What part of the throat pained you? A (Witness indicates the tongue being right into her mouth about three inches

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under her chin reaching down there.)

Q Point down at your throat how far that tongue reached?

A (Indicating about three inches under her chin) . He was moving the tongue in and out.

Q Well, we will pass from that, and we will go to this : You got up then from the chair? A Yes, sir.

Q He did not prevent you rising from the chair, did he? A Yes, sir.

Q He did not? A No, sir; he did not.

Q When you got up, did you say anything to him? A Not a word.

Q Did you say to him, "Here you have insulted, you have tried to outrage me" or something to that effect? A I could not tell him anything.

Q Why? A Because, first because I lost my voice, and secondly, because I was in fear he might attack me again.

Q Lost your voice? A Yes, sir;

Q What do you mean by that? A I felt like, I felt choking, I couldn't bring out any noise out of my throat.

Q Before you got into the chair you took your hat off, and took your coat off, didn't you? A Yes, sir.

Q Were you assisted by the maid or nurse in disrobing, in taking those things off? A No, sir.

Q Did you leave them anywhere, put them anywhere? A I threw them on the sofa.

Q When you got up from the chair did you put them on yourself

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yourself? A Yes, sir, myself.

Q Didn't you say a word to him? (No answer.)

Q Did you say anything to him? A Yes; I told him something.

Q What did you do? A He told me something; he told me, he gave me, there was a bill in my cuff of the coat that I saw just coming out, and I threw it in his face.

Q What I want to know is did you say anything to him about the insult that you received? A No, sir ; I didn't say anything . I said --

Q You found your voice. Did you say a word to him from the time that you got up from the chair until the time you left the place? A No, sir; I didn't say a word.

Q Did he say a word to you? A Yes, sir.

Q What did he say to you? A He said to buy flowers.

Q To buy flowers? A Yes, sir; with the money.

Q You believed that he was fascinated with you, didn't you? A That I do not know.

Q Then you went home to your mother? A Yes, sir;

Q Did you come back again to that place after that?

A That night?

Q That night? A Yes, sir; the same day, 6 o'clock with a detective.

Q Did you speak to him then when the detective was there?

A I told him all my story in his presence.

Q Did you speak to him, not what the other said? A No,

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Q Now you say he was stronger than you. You said that this morning? A I should think so.

Q (Referring to the defendant) Will you stand up?
Now how much do you weigh, Miss? A 142 I weigh.

Q You are much heavier than he is are you not?

Objected to: objection sustained.

MR. LEVY: That is all, your Honor.

RE DIRECT EXAMINATION BY MR. MCCORMICK:

Q Is that the waist that you had on? (Showing witness waist? A Yes; that is my waist.

Q Now just answer the question? A Yes, sir.

Q That is the waist that you had on when you went into his office? A Yes, sir.

Q What was the condition of that waist when you entered his office? A It was all clean except that little hole at the end of the waist.

Q A little hole where? A At the end of the waist. I will show it to you if you give me the waist. It was perfect except this hole (Indicating)

Q Excepting what? A Excepting here, this hole, that is a laundry hole.

Q That hole was in it when you went in there? A Yes.

Q Was there any other tear in it? A No, sir; the waist was perfect.

Q Look at it carefully and tell the jury whether it is

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now in the same condition that it was when you left his office?

A Yes, sir; it was not so before the dentist tore it.

Q How did that tear come in the back of it, the back of the neck. A That goes in the front.

Q That is the front? A Yes, sir.

Q How was that torn? A He pulled it away from my person.

Q How was this hole torn do you know? A I suppose in the struggle that got torn.

Q How about these other tears except the one that you pointed out as having been in there? A The two holes that are there at the end have been made by the laundry, but all the rest is done by him.

Q Which two were made by the laundry? A These little holes (indicating).

Q These two holes? A Yes, sir, those were made by the laundry because I had it perfect,--

Q This hole? A Yes, sir.

Q These holes were made by the laundry? A Yes, sir.

Q But all the other tears were made by this defendant?

A Yes, sir.

MR. McCORMICK: I offer the waist in evidence.

MR. LEVY: Just a moment please.

BY MR. LEVY:

Q That tear Miss is in the seam, isn't it? A Yes, sir;

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but he pulled it.

Q You don't mean to say that the upper part which is around the neck was torn, do you? A Yes, sir; that little part there is torn.

Q When was that torn? A When I was struggling with him.

THE COURT: Do you object to it?

MR. LEVY: Yes, sir; I don't think it is competent as an exhibit at all. It really makes very little difference except that I can't well let it pass by without objection.

THE COURT: What was the date?

MR. LEVY: The 28th of April, 1913.

THE COURT: Where has it been since Mr. McCormick?

MR. McCORMICK: Well it has been in the office of the property clerk at police headquarters. The witness has just sworn that so far as the tears are concerned it is now in the same condition as it was when she left the dentist's office.

THE COURT: You are offering the whole thing in evidence. If taken it will all go in evidence. I think you will have to show where it has been kept.

MR. McCORMICK: I know but this witness eliminates the necessity for such testimony.

THE COURT: You think so, but I don't agree with you.

MR. LEVY: I think I can enlighten the situation

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by asking the witness --

(The waist referred to is marked People's Exhibit 2 for identification.)

MR. LEVY: May I ask a question now.

THE COURT: Yes.

BY MR. LEVY:

Q When did you first discover that your waist was torn?

A After I told my story to my mother, and I showed the condition of the waist to my mother.

Q That was after you had gotten home? A Yes, sir.

MR. LEVY: Then I make my objection.

THE COURT: You will have to bring more proof before I will receive it because if taken at all it will have to be taken as it is, not only having regard to what has been shown but the other things may exist. You must show where it has been and how it has been kept and whether it is in the same condition.

THE COURT: If you intend to offer it later perhaps you might ask some further questions from this witness with reference to it -- if you desire to renew the offer.

BY MR. McCORMICK:

Q Will you say it is in the same condition now -- I mean only with respect to tears that are in it -- that it was when you left the dentist's office that day? A Exactly.

MR. LEVY: The witness says she did not see the waist

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until after she had gotten home and had shown it to her parents.

MR. McCORMICK: I will take this up later with another witness.

BY MR. McCORMICK:

Q Now, I show you a stocking. A That is my stocking. He tore it.

Q Did you wear that stocking when you went into the dentist's office? A Yes, sir: it was perfect.

Q Do you know which leg it was on? A The right leg.

Q Was there any tear in it at that time? A No, sir; not there. (Witness pointing to the tear on the stocking.)

Q There is a tear in it now. When did you first notice that it was torn in that way?

MR. LEVY: I object to that.

A When I was showing the bruises to my mother then I noticed the stocking was torn.

THE COURT: Will you fix the time?

Q How long after you left his office? A About five minutes after I left the dentist.

Q Was it in the same condition. Did anything happen to it between the time you left the dentist's office, and the time you showed it to your mother? A No, sir: it was in the same way.

Q The same way as it was when you left the dentist's office? A Yes.

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MR. LEVY: May I interrupt Mr. McCormick for a minute to ask if she wore garters with clamps on the stockings?

THE WITNESS: I had suspenders attached to the corset.

Q Corset? A Yes, sir.

MR. McCORMICK: Now it would be better to bring that out on cross examination or on the recross. I offer the stocking in evidence.

MR. LEVY: I object to it.

MR. McCORMICK: Then I will have it marked for identification as people's Exhibit No. 3.

(The stocking referred to is marked People's Exhibit 3 for identification.)

THE COURT: Do you desire to ask any questions preliminary to offering it later from this witness, with reference to what was done with it, and when it was done?

MR. McCORMICK: Yes, sir.

BY MR. McCORMICK:

Q Between the time you left the dentist's office, and the time you saw your mother did anything happen to change the condition of this waist?

MR. LEVY: I object to that as incompetent, irrelevant and immaterial, and not binding upon the defendant.

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THE COURT: I think the witness says that she went directly home, and in five minutes talked with her mother about the matter with reference to the waist. You might ask her if she went any other place, and if she went directly home.

BY MR. McCORMICK:

Q When you left the dentist's office you went down the stairs, didn't you? A Yes, sir.

Q Out into the street? A Yes, sir.

Q Then where did you go? A I went directly home.

Q Directly home? A Yes, sir.

Q You walked first on 6th avenue? A Yes, sir.

Q To what street? A To 11th street.

Q This dentist's office was below 11th street or above? below wasn't it? A What do you mean by that?

Q Was it between 10th and 11th or between 11th and 12th streets? A Between 11th and 12th streets.

Q You then walked down 6th avenue to 11th street?

A Yes, sir.

Q Then where did you walk? A I went to our place.

Q Along 11th street? A Yes, sir.

Q When you got to your house you went right in? A Yes.

Q Did you find your mother in there? A Yes, sir.

Q What is it, a private house? A No, sir; it is an apartment house.

Q You live there with whom? A With papa and mamma.

Q There are no other members of the family? A No, sir.

Q Was your mother home? A Yes, sir.

Q Did you talk with her, yes or no? A Yes, sir.

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Q Did you make a complaint to her?

MR. LEVY: I object to that.

B1 MR. McCORMICK: That has been brought it; I will withdraw it.

Q This was in the same condition at that moment that it was when you left the dentist's room? A Yes, sir.

Q Were the stockings in the same condition then that they were when you left the dentist's room? A Yes, sir.

Q Then after you talked with your mother when was it, how long after this was it that the waist was removed from your back? A It remained on all day.

Q You kept it on all day? A Yes, sir.

Q What time in the morning was it you reached your mother? A It was about 12 o'clock.

Q 12 at noon? A Yes, sir.

Q You kept this waist on until what hour that day?

A Why, about, I stayed in that condition all day long, I was too sick to change my clothes.

Q When was it, what hour that day did you take that waist off? A About 3 o'clock.

Q What did you do with it? A I don't know what I did with it.

Q Did you afterwards give it to any one? A Mother kept it I guess.

Q You think you gave it to your mother? A Yes, sir.

Q How about the stocking? Did you keep that on all day? A Yes, sir; I gave that to mother, I gave the stockings at the same time to my mother that evening.

Q This is the stocking you gave to your mother that

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night? A Yes, sir.

Q You don't know what she did with them, do you?

A She put them apart.

Q When you gave them to her were they in the same condition that they are now? A Yes, sir.

Q Are they now in the same condition that they were in-- I mean as far as the tears are concerned-- that they were when you came out of the dentist's office? A Yes, sir; because the detective was present and saw the same tears.

THE COURT: The latter part will be stricken out as not responsive to the question.

BY MR. MC CORMICK:

Q You left the dentist's office around noon and went home? A Yes, sir.

Q Now later that day you saw him some place, didn't you? A In the evening.

Q In the evening? A Yes, sir.

Q About what time? A 6 o'clock about.

Q Where? A At his office.

Q Who else was with you? A A detective, and Mousieur Deville.

Q And Detective Ditsch? A Yes, sir; I think that is his name.

Q And Mr. Deville? A Yes, sir.

Q Did you talk with the defendant on that occasion?

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A Yes, sir.

Q Tell us what that conversation was. (No answer)

BY MR. LEVY.

Q With this man, with Roy? A Yes, sir.

THE WITNESS: I told him all that he done to me in the presence of Mr. Deville and in the presence of Detective Ditsch.

BY MR. MC CORMICK:

Q You told that to Roy? A Yes, sir.

Q What did Roy tell you? A He said "You are breaking my heart and my future, you are ruining my future."

Q Did you say anything to that? A And I answered him by saying that he had no heart to try and ruin my future forever.

Q Is that all the conversation had between you and him?

A That is what I said.

Q Were you alone with the defendant before the time you say he assaulted you? A Yes, sir.

Q Do you remember a while ago you were asked about some cotton being in your mouth or plaster, how large was the plaster? A I couldn't tell you.

Q Where was it, inside of your tooth? A Yes, sir.

Q It was a filling in your tooth, wasn't it? A Yes, sir; it was a filling.

Q There was no plaster outside of the tooth? A No, sir.

Q Where was the cotton? A In the hole of the cavity.

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A Q In the hole inside of the tooth? A Yes, sir.

RECROSS EXAMINATION BY MR. LEVY:

Q Now, that night when you came there with the detective this defendant denied that he had done you any wrong, didn't he? A He didn't say anything.

Q What did he say? A He said nothing.

Q Didn't you just say that he said "You are breaking my heart. You are ruining my future"? A Yes, sir; he said that.

Q "I did no wrong to you". Didn't he say that to you? A No, sir; he said "You are ruining my heart, you are ruining my heart, you are breaking my heart, you are ruining my future."

Q Did you hear him say to the detective "I did no wrong to this young woman at all? A No, sir; I did not hear that.

Q What language was spoken? A Mostly French.

Q And the defendant spoke French? A Yes, sir.

Q Didn't he say to you "I have done you no wrong. I did not injure you in any way at all. You are ruining my future by making this charge against me"? A No, sir; you just break my heart and my future; he only said "You are breaking my heart and my future."

Q Wasn't there anything else said? A No, sir.

Q Did the detective say anything to him? A I didn't hear.

Q What did you tell him he had done to you? A To the

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detective?

Q No, to the defendant. I don't care about the detective. A I told the defendant the whole story as I told it here in court.

Q What did you want to tell the defendant the whole story for? A Because I was compelled to say it.

Q Who compelled you to say it? A Nobody forced me but it was my duty to say it.

BY THE COURT:

Q Madam, didn't you say that you told the detective and this other gentleman everything that had happened to you in the presence of the defendant? A Yes, sir.

Q Well now didn't the detective and this other person when you told them that, didn't they say something to him? A Nothing that I heard.

Q Didn't you hear everything that was said there?
A They spoke before I went there myself.

BY MR. LEVY:

Q Were you there when they spoke? A Well when the detective and Mr. Deville went there they went ahead of me. I went afterwards.

BY THE COURT:

Q Mr. Deville is the interpreter? A Yes, sir.

Q Do you want to represent to the jury that neither Mr. Deville or the detective said anything to the prisoner when you outlined to them everything that had happened to you that morn-

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ing? A I told my story but I did not hear them say anything to the defendant.

MR. LEVY: I am through, your Honor.

G E O R G E M . D e V I L L E , a witness called on behalf of the People, being duly sworn, testified as follows:
(The witness states that his address is No. 480 Central Park West.)

DIRECT EXAMINATION BY MR. MC CORMICK:

Q Mr. DeVille, what is your business? A I am an official interpreter of the court of General Sessions, New York County

Q Did you see Miss Poulailon on the 28th of April, 1913?

A I did.

Q Where was she when you first saw her? A At her parents' residence, at her residence, which I believe is No. 128 West 11th street.

Q What time of day was it? A It was between 3.30 and 4 o'clock p. m.

Q Who else was there at the time?

MR. LEVY: Is that material? I object to it.

Was the defendant there; that is the question.

MR. MC CORMICK: Well I want to know who else was there.

MR. LEVY: I object to who was there at that time, if the defendant was not there.

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BY MR. MC CORMICK:

Q Did you go any place or did you see the defendant that day? A I did.

Q What time? A 6.40 p. m.

Q Where? A At his office.

Q Who else was in his office at that time? A There were three or four patients, one of them on the operating chair and two or three others sitting in the main room.

Q When you went into his office that day were you alone?

A I was accompanied by Officer Ditsch.

Q Any one else? A That is all.

Q Now tell the Court what happened after you got into the office. A Officer Ditsch asked him if he was Dr. Albert Roy and he answered in the affirmative, he said "Yes." He said, "You had better finish your work with the patients that you have in the room and I will talk to you afterwards." And after Dr. Roy was through with the patient he had on the chair he came outside in the hall and wanted to know what was wished of him. Then Officer Ditsch informed him that Mademoiselle Poulailon, the complaining witness, had complained against him in that he had attempted to rape her between the hours of 11.30 and 12 o'clock noon that same day.

BY THE COURT:

Q Where was she? A She was there, your Honor. There was fully 10 to 15 minutes conversation and after that we re-

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9 entered the room, the main room. Dr. Roy proceeded with his work on the patients, and when he was through, it was then nearly a quarter after 7, I suggested that Miss Boulaillon should be telephoned for. That was done and Mrs. Poulailon came with her father.

Q Have you told us all the conversation that either Ditsch or you had with the defendant? A No, sir.

Q Up to that point? A No, sir; there was a conversation in the hall first.

Q That is what I want, the conversation with the defendant had with you. A Well Officer Ditsch informed the defendant that he was a police officer and that I was an interpreter in the Court of General Sessions and that I had been assigned to or requested to accompany him on that day.

Q What language was spoken? A French. Detective Ditsch and the defendant spoke French.

Q Now give us the conversation, just what the defendant said. A Part of the time the conversation was or would revert into English and back again into French. He told him he was charged with the crime of attempted rape and he said--

Q Who said? A The defendant said to the officer "You know, Officer, you can't believe hysterical women" or words to that effect, and he says-- Officer Ditsch then said "Doctor, did you operate on her today?" He answered that he did. "Did you ask her to go into the back room?" He said he did.

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"Did you administer any anesthetic of any sort to her?" He said "No, with the exception of a local application of cocaine on the tooth affected. There were several other phrases interchanged between them but I have no clear recollection of them. Q Then it was suggested that Miss Poulailon should be telephoned for, was it? A Yes, sir.

Q She came? A Yes, sir; I telephoned myself and she came accompanied by her father.

Q Now what happened when the five of you were there?

A Mr. Ditsch, the officer, said to her, "Mademoiselle, will you repeat the charge you made against this man, the charge you made against this man, repeat the story you told Mr. DeVille and myself in your house." Then she started briefly reciting the same facts that had been told us in the apartment.

MR. LEVY: I think that you should recite it yourself, with your Honor's permission.

THE COURT: Yes, whatever was said in the presence of the defendant.

THE WITNESS: Officer Ditsch said to her "Is this Dr. Roy, the man whom you accuse of having assaulted you and attempting to rape you?" She said "Yes." "Well, where were you seated when this happened?" She pointed to the small back room to the right and she says "Over in that room. I was seated on the operating chair at the time." "What did he do to you?" And then she started

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stating that she was on the operating chair and that the doctor requested her to keep her mouth open and that she did so, and that a moment or so later she felt both her hands grasped or placed in this position (illustrating) and later thrown up to her shoulder; that she was holding them or he was holding her hands with one arm, the left arm, I believe, and simultaneously he leaned over and placed his mouth against her mouth, his lips against her lips, and inserted his tongue into her mouth, and that he placed his hand on her leg and gradually began working his hand up her right leg, that then she began resisting with all the force that she could command but by that time the doctor had reached her knee and while she was raising her leg up and down he pressed it hard and it pained her a good deal. Finally she kicked him or punched him and extricated herself somewhat. At a certain moment he placed her hand on his privates and after that he backed out and she got off the chair, and that at that moment she saw that his trousers were unbuttoned and that his privates were visible; that he lifted his left arm and unhooked a hook which was attached to the door which is a telescope door and he opened the door and buttoned himself and walked out in the front office. She got hold of her coat to put it on and he stopped her in the outer room and inserted a one dollar bill in the flap of her

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sleeve, she saw the edge of the bill, took it out, threw it at his face, opened the door and ran down, and she told me she didn't see any one in the hall; she didn't see any one in the front room, and saw no one on the stairs.

Q Is this what she said to the defendant? A Some questions were put to her in the presence of the defendant and some of it was a continuous recital.

BY MR. LEVY:

Q All of this in the defendant's presence? A Yes, sir; no one else except I heard a little noise in the back room and I realized there was a person in the small room. I asked the doctor and he said "It is the nurse." Then Detective Ditsch and I walked through the door into the back room and looked at the chair and looked at the wash stand and Mademoiselle walked in and pointed to the place where she was, the position she was in more or less and where the doctor stood, and after that Detective Ditsch called the nurse aside and had a short conversation with her.

BY MR. MC CORMICK:

Q With whom? A With the nurse-girl who was in attendance there. It was within our hearing and I stood two feet away from her.

Q What was done with the defendant then? (No answer)

Q Is that all the conversation any one had with the defendant? A Practically all. The defendant said, "All this

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is not true." And Miss Poulailion answered, "Monsieur, you know very well that every word I have said is the truth."

Q That was the conversation in the dentist's office?

A Yes, sir; in the dentist's office.

Q What did you and Ditsch do with the defendant? A That is as far as I can remember.

Q Was the defendant arrested? A The defendant then was told by Ditsch that he was under arrest.

Q What did Ditsch do with him? A He had permission to fix up some matters, some friend of his was either outside or he called him in through the girl, he came in and they had a little conversation together in private and the defendant put his hat and coat on and we walked towards the Charles Street police station.

Q You went out of the building his office was in?

A Yes, sir.

Q You were on 6th avenue? A Yes, sir.

Q Then you went south, did you? A I don't know whether it is south or southwest.

Q You walked on the street? A Yes, sir.

Q Who walked with the defendant? A Detective Ditsch.

Q Were you walking behind them or in front of them? A I was walking in front, the complaining witness was between her father and myself, we were walking in front.

Q You went to the Charles street station? A Yes, sir.

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Q Did you hear the defendant say anything to Ditsch on the way to the station house? A Yes, sir, I heard him ask Ditsch whether he could not speak to the complaining witness.

Q To whom? A To the complaining witness or to the father, and Ditsch says "You speak to her yourself if you want to. I can't stop you." Or something of that sort. The defendant came abreast of us and said "Mademoiselle, you know that this prejudice means ruin to me." It was said in French. "You know that this means complete ruin to me." In French.

And Mademoiselle said to him "And you, sir, wouldn't you have ruined me had I not been able to resist you?" And at that time there was a car crossing and Ditsch pulled the defendant back. We crossed 8th avenue and proceeded towards the Charles street station house.

Q That is all you know about it, is it? A More or less.

Q Is there something else? Did you hear the defendant talk about this case at any time after that? A I did not.

Q Were you present when he was arraigned in the station house? A Yes, sir.

Q Were you present in the magistrate's court? A I was.

Q You didn't hear him say anything which was not already testified to? A No, sir, I did not.

CROSS EXAMINATION BY MR. LEVY:

Q Now, Mr. DeVille, the purpose of going to see this defendant at his office was for the purpose of procuring from him

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some admissions that might be injurious to him, wasn't that so? A No.

Q Well I only want to get at the truth, Mr. DeVille, there must have been a motive in going there. A I went there at the request of some one if you wish to know.

Q But you went there and the girl was sent for for the purpose of having her rehearse her statement in the presence and hearing of the defendant, to hear what he would say, isn't that so? A That was probably the purpose of it.

Q Now if that was probably the purpose of it won't you tell his Honor and the jury after the girl recited her story as to the alleged indignity which she had been subjected to, what did he say, what did he say? A On two or three occasions he denied it.

Q He denied it? A Yes, sir.

Q What did he say, my dear Mr. DeVille, tell us what he said, what did he say? Try to give us his language as nearly as your memory will help you out. Did he say "I am not guilty of this thing. I didn't do it." Or anything like that? Use his language. A What I remember is "Mademoiselle, I didn't do all this. You know I didn't do all these things." And her answer back was "You know, sir, that I am telling the truth," or something of that sort.

Q Now, my dear Mr. DeVille, take up for instance when Mr. Ditsch, the Officer Ditsch said to him "Now you are charged with

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the crime of attempting to rape this girl." What did he say in answer to that? A His answer to that was, "You know what a hysterical woman will charge a man with doing."

Q "And I didn't do it"? A "I didn't do it."

Q "I didn't do it?" A Yes, sir.

Q Then he was insistent upon his innocence, wasn't he, not your conception of it, the words he used, insisting he was innocent of this charge? A Why, I could have construed it, if you want my own construction.

Q I don't want your construction. A My own construction is far fetched and I don't want to give it.

Q You are not authorized to give your construction. You may give his language. Can't you say whether he denied he was guilty of this? A At the time I was advised by--

Q Never mind, by somebody? A By some one to write it down. I was advised by some one to write it down that day so that I should not make any mistake.

Q The point of my inquiry is very clear-- and I am going to let you go quickly-- in answer to the officer he said "I am not guilty of this, you know what a hysterical woman will say" or something to that effect? A Yes, sir.

Q In other words he turned to the girl and said "You know I didn't do these things, I am not guilty of this"? A All his answers-- it is an utter impossibility for any human being to repeat conversation of 15 or 20 minutes-- all his answers

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were to the effect that he did not do it but if he could apologize in any way he would gladly do it.

Q In other words he said "I am standing face to face with ruin. You are making this accusation against me. You know I didn't do it but if you think an apology will do any good I am glad to make an apology to you." Did he say that?

A Apology was spoken simultaneously.

Q He said "You know this means ruin to me. I am a professional man. Making an accusation against me, the accusation itself means ruin." A Yes, sir; he did speak about it, it was of his mother and of his future career. He kept on talking in a very pleading way.

Q The point of the matter, Mr. DeVille, that I wanted to develop before this jury is that he said "The mere fact that I am charged with such a thing, I being a dentist, is enough to ruin me", isn't that right? A He said "This means complete ruin to me." He did not use your own words.

Q But the substance of what I said? A The substance was that it would mean complete ruin to him.

Q And that he was not guilty of this offense? A On three or four occasions he said he was not guilty.

BY THE COURT:

Q He said that in so many words, did he, Mr. DeVille, "I am not guilty"? A "I didn't do that. I didn't do that. Mademoiselle is mistaken."

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BY MR. LEVY:

Q During the entire conversation he never retracted it or changed it? Don't give any construction of what he said. At no time did he withdraw it, but kept on saying "He didn't do it"? A No, sir; at no time did he make an admission.

Q Every time he spoke upon the subject he protested that he didn't do it? A He said he was not guilty in various ways.

BY MR. MC CORMICK:

Q He said something about an apology you say. What words did he use about apology?

MR. LEVY: Not your construction but what he said.

THE WITNESS: Well if an apology was used in English, reparation in French-- he used -- those words were mentioned on two or three occasions.

Q What words did he use? A The words he used were "Is there any way by which I can make amends or apologize to the young lady? I am ready to do it."

BY MR. LEVY:

Q So that she shouldn't press the charge against him?

(No answer)

BY MR. MC CORMICK:

Q How did he use the word reparation? A In French, the word reparation corresponds either with reparation or apology.

Q Did he say he wanted to make reparation? A Yes, sir; in French.

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Q Why don't you say so? What did he say? A Well, if there were any way or any means of permitting him to make reparation to her so that he should not have to undergo the ordeal of arrest and trial-- it would seem ruin to him-- he was ready and willing to do it.

BY MR. LEVY:

Q When he was charged with having subjected the young lady to an indignity didn't he say "I don 't know anything about it" and then the defendant said if he had done anything to her he could apologize or would apologize or offer any excuse if he had done anything impolite to her? A That was in the hall, that is outside, that was the first time.

Q That was the substance of it? A Yes, sir.

Q The word reparation in English means a good deal more than reparation in French, doesn't it? A It does; it means to make amends in English.

Q If I should tear a lady's dress or step on it I would make a reparation and that would be an apology? A It may go further than an apology but it does not have the exact meaning of the word reparation in English.

Q It doesn't mean to make good what he has done bad, but in the polite language of the nation he was to make an apology? A Make amends; that is the proper translation.

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J O S E P H I N E P O U L A I L L O N , a witness called on behalf of the People, being duly sworn, and examined through Official Interpreter Mustaki, testified as follows:

(The witness states she lives at 128 West 11th street.)

DIRECT EXAMINATION BY MR. MC CORMICK:

Q Now, Mrs. Poulailon, you live with your husband at that address? A Yes, sir.

Q And your daughter at that address? A Yes, sir.

Q Before the 28th of April this year did you go with your daughter to the defendant, to his dental establishment?

A Yes, sir; I had been with her several times.

Q Did you see your daughter about 12 o'clock in the day-time on April 28th? A Yes, sir.

Q Where were you at the time? A I was at home when she came in the house.

Q What room were you in? A I was in the house.

Q Do you know what time your daughter left the house that morning when she went to go to the dentist's? A She had an appointment at 11 o'clock with the dentist that day.

Q Now you say it was about 12 o'clock when she came back?

A About nearly noon time.

Q Did you let her in at the door? A Yes, sir.

Q What did your daughter do when the door was opened?

MR. LEVY: Not what she said, but what she did.

THE WITNESS: When she entered she fell into my arms.

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Q What was her condition?

MR. LEVY: I object to that, if the Court please. I don't think it is competent, material or relevant as to what her condition was then.

THE COURT: You may answer what was her condition.

MR. LEVY: Exception if you please.

A I could not exactly explain her condition, but she was silent, she could not talk, and she looked dazed.

Q Can you say anything else in regard to her condition?

A She was full of emotion and she was crying and I was compelled there to ask her what was the trouble.

Q What was the condition of her clothing?

MR. LEVY: I make the same objection, if your Honor please.

Objection overruled; exception.

A Her waist was torn and her stocking was torn.

Q You say her waist was torn? A Yes, sir.

Q Did you notice the waist as she went out that morning?

A It was in good condition; it was not torn.

Q Did you see any other part of her clothing when she came back? A I saw the stocking, and I noticed the inflamed wrists, the red wrists.

Q Did you look at her leg? A Yes, her thigh.

Q Now don't answer this question until it is passed upon.

Did she make complaint against Dr. Roy?

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MR. LEVY: I object to that as incompetent, immaterial and irrelevant.

THE COURT: Did she make complaint about any one and mention any name?

Exception.

Q Yes or no. A Yes, sir; she told me what it was.

Q What did she say?

MR. LEVY: I object to what she said.

Q Did she mention the name of any man or any person?

MR. LEVY: I object to that question. Now wait, Mr. Interpreter. I object to it as not competent, material or relevant.

Objection overruled; exception.

A Yes, sir; she told me the dentist--

MR. LEVY: Pardon me, your Honor. I submit, your Honor, that any statement made in the absence of the defendant is hearsay. As to whether she made complaint, of course the courts have held that statement may be given in evidence, if she made a complaint, but the substance of the complaint, the purport of the complaint or anything is not competent.

THE COURT: You may ask if she mentioned any name in connection with the complaint. I will take it.

MR. LEVY: That calls for a categorical answer, does it not, your Honor?

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THE COURT: Yes.

MR. LEVY: I respectfully except.

A Yes, sir.

Q Whose name was it, what was the name?

MR. LEVY: I object to that as not competent, material or relevant.

Objection overruled; exception.

A She said it was the dentist tried to abuse me.

MR. LEVY: You see the answer is not responsive, your Honor.

THE COURT: Strike it out. Can you not give her the question so that she can answer it? (Addressing the interpreter.)

THE WITNESS: She did not mention any name but we are apt to call anybody like that a dentist.

MR. LEVY: I move that the latter part of the answer be stricken out.

THE COURT: Strike it out.

MR. LEVY: The first part that she did not mention any name, I take it, is to stand, your Honor?

THE COURT: Yes.

BY MR. MC CORMICK:

Q What words did she use?

MR. LEVY: I object to that as not competent, relevant or material.

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THE COURT: She may answer that.

Exception.

A It is very difficult on an occasion like that and the condition in which she was when she came in to remember whether she told me Roy or dentist.

Q It was either one or the other?

MR. LEVY: I object to that.

Q Do you know whether this was the waist she wore that morning? A Yes, sir.

Q Did you notice how it was when she came back? A Yes, sir.

Q Was it torn? How was it torn when she came back?

A Around the neck and on the side.

Q Did she give you this waist that night, do you remember?

A I don't remember how it was done.

Q Did you give this waist to any police officer? A Yes, sir.

Q When? A I don't remember whether it was the same day, I can't remember.

Q The time that you gave the waist to the police officer was it in the same condition that it was when you got it from your daughter? A Yes, sir.

Q I mean in reference to the tears. A Yes, sir.

Q Was that stocking in the same condition when you gave it to the police officer that it was when your daughter gave it

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to you? A Yes, sir.

Q Was that officer Ditsch? A Yes, sir. I do not know the name but he is very big.

MR. LEVY: I have no questions to ask the lady.

B E R N A R D D I T S C H , a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states that he is attached to the 29th precinct, detective division.)

DIRECT EXAMINATION BY MR. MC CORMICK:

Q You are a member of the New York police force? A Yes sir.

Q Did you see this defendant on the 28th of April?

A Yes, sir.

Q What time of day? A About between half-past five and eight o'clock, from half-past 5 to 8 o'clock.

Q Where? A At his dental office, 156 6th avenue, or 158 6th avenue.

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

Q Who was with you? A When I went there first Mr. DeVille was with me.

Q I am talking about the first time you ever saw the defendant. A Mr. DeVille.

Q Now tell us what happened when you and DeVille went into his office. A I called the defendant out. I asked him

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his name and he said "My name is Albert C. Roy." I asked him if he was a dentist. He said "Yes." I asked the defendant if he had treated, in the afternoon, a lady named Miss Martha Poulailon, and he said "Yes." I asked him if he noticed anything in the lady's behavior, if she was hysterical, and he said "No." I said, "Did you treat her?" He said "Yes." I said, "Did you use any anesthetic in the line of either laughing-gas or cocaine?" And he said "Yes, I treated her teeth and I made a local application of cocaine at the tooth to be treated." I asked the defendant if that would produce hysteria in a person and he said "No." I said, "Was she at any time unconscious while you were treating her?" He said "No." So I

informed him then that the complaining witness charged him with having assaulted her and tried to rape her while in the dental chair, and he said "No, I didn't do that." I asked the defendant while the lady went out if he had put a dollar bill in her sleeve, in her cuff, and he said "No." So he requested me if he could see me alone and I said "All right." He went in the hallway and he said to me, "Now this woman is going to ruin me. What shall I do? Do you think I should apologize to her for anything that would not be polite?" I told him, "No, if you are innocent I wouldn't offer an apology for anything I didn't do." So he waited a while and I requested him to come in again to the dental office. We waited for a while.

BY THE COURT:

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Q What did he say to that, did he say anything? A Yes, your Honor, the conversation was ended there until Mr. Poulail-
lon came with her, the father and mother. When they were
present I requested Miss Poulail-
lon to repeat her story, which
she did. So I asked the doctor, after she related her story,
"What have you got to say about this?" He said, "I didn't do
that," and he said to Miss Poulail-
lon, "You are going to ruin me,
and she said, "Sir, you tried to ruin me also." And she called
him another name, "scoundrel," or something, in French,
"filou", which means scoundrel. So I placed the doctor under
arrest and proceeded to the Charles Street station house. On
the way over he asked me again, he said, "Don't you think I
could talk to her?" I said "You are under arrest and the best
thing is to say nothing to her or engage in conversation."
He slipped away again and what he said at that time I don't
know-- I wasn't close enough to hear, he spoke to Miss Poulail-
lon--

BY MR. MC CORMICK:

Q Did you have any conversation with the defendant on the
way to the station house other than what you have testified to?

A No, sir.

Q Or at any other time after that? A Yes, sir, in the
magistrate's court.

Q What was that conversation? A Well, it was relative
to some other case.

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BY MR. LEVY:

Q Does it relate to this case? (No answer)

MR. LEVY: I object to that.

THE COURT: If it has no relation to this case we will not go into any outside case.

BY MR. MC CORMICK:

Q In relation to this case did you at any time have any conversation with the defendant not already testified to? A I do not recollect, I don't remember.

THE COURT: I will ask you to take up the cross examination tomorrow morning, Mr. Levy.

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until tomorrow, Friday morning, January 9th, 1914, at 11 o'clock.)

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New York, January 9, 1914.

TRIAL RESUMED

BERNARD H. DITSCH, a witness for the People,
resumed the stand:

BY MR. MC CORMICK:

Q Officer Ditsch, on or about the 28th of April of this
year did you receive from Miss Poulailon any property? A Yes
sir.

Q What was it? A A waist and stocking.

Q Would you be able to identify them if you saw them?
A Yes, sir.

Q Are these the articles (handing witness a waist and a
stocking)? A That is the stocking. That is the waist. (In-
dicating)

Q Do you remember what day it was you received them?
A On the same day, April 28th.

Q In the evening? A Well, about 6 o'clock.

Q Do you remember what the condition of the waist was
when you received it from her?

MR. LEVY: I object to that, sir, as not competent

THE COURT: Was it in that condition?

BY MR. MC CORMICK:

Q Was it in the same condition, as far as the tears are
concerned, that it is now? A Yes, sir.

Q Is that true also of the stocking? A Yes, sir.

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Q When you received those articles from her what did you do with them? A I kept them in my possession.

Q How long? A For about two or three weeks, I am not sure.

Q Where did you keep them? A Kept them in my own home.

Q Were they wrapped up? A Yes, sir.

Q And what did you then do with them? A I delivered them to the property clerk's office.

Q Was the bundle unwrapped before you delivered it to the property clerk? A According to a rule of the department every article is, yes, sir; they were unwrapped.

Q They were unwrapped? A Yes, sir.

Q You saw them? A Yes, sir.

Q Was that bundle the same as it was when you received it from Miss Poulailon? A Exactly, yes, sir.

Q What is the name of the man you delivered it to at police headquarters? A Officer Ticho.

Q Is he here now? A Yes, sir.

Q Is Officer Ticho here? A Yes, sir. He is very hard of hearing.

Q Is that the man (pointing to officer Ticho)? A Yes, sir.

Q Now, you got these articles when this trial started yesterday? Didn't you? A Yes, sir.

Q Where? A At police headquarters, the property clerk's

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office.

Q Were they in the same bundle they were wrapped up in when you left them there? A Yes, sir.

Q Got them from the same officer? A Yes, sir.

Q Are they in the same condition now as what they were when you got them originally? A Yes, sir.

CROSS EXAMINATION BY MR. LEVY:

Q I am curious to know, Officer, why you, an official, should take the exhibits and keep them in your own home instead of turning them over to the proper officials. Can you explain that? A The case was not entirely disposed of. There is a rule of the department not to turn in the goods until the case is disposed of either before the grand jury or in the magistrate's court.

Q Isn't it usual to leave articles such as this exhibit in the police station? A No, sir; not in the detective division, not in the detective bureau.

Q Exhibits are kept by detectives at least in their own home? A As a rule--

Q Is that what you say? A There is a rule to keep them until the case is disposed of. We keep them in cocaine cases, in those kind of cases, we keep them until the matter is disposed of in the lower court.

B E N E D I C T J . T I C H O , a witness called on be-

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half of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MC CORMICK:

Q What is your position? (No answer)

Q Mr. Ticho, are you a member of the New York police force? A Yes, sir.

Q What position do you hold? A I beg pardon.

Q What position do you hold at present, what position, what is your work? A I am a patrolman detailed to the central office squad, assigned to duty in the property clerk's office.

Q Did you receive any property from Officer Ditsch?

A Yes, sir.

Q In the month of May, 1913? A About May 2nd.

Q Do you know what it was? A On May 2nd Officer Ditsch brought in one shirt waist and one stocking.

Q Did you see them when they were brought there? A Yes, sir.

Q Are you able to identify them now? A Yes, sir.

Q Are these the articles (showing witness a waist and a stocking)? A Yes, sir; that is the property I received.

Q Are they in the same condition now that they were when you got them first? A Whether I got them?

Q Are they in the same condition as they were when you received them? A Yes, sir; the same way now as when I received them.

Q When you received them what did you do with them? A I

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wrapped them up, tied them up, marked them and put them with in the regular place.

Q Is that the paper you wrapped them up in? A Yes, sir; that is my writing.

Q Did you afterwards, within the last day or two, deliver them to Mr. Ditsch? A Yes, sir.

Q They are in the same condition now that they were when you got them? A Yes, sir; the same now as when I received them.

THE COURT: Have you anything, Mr. Levy?

MR. LEVY: No, sir.

(No cross examination.)

MR. MC CORMICK: The People have no other witness excepting a Dr. Blank. I had him on the phone about 45 minutes ago and he said he would be here shortly after 11. Now I will rest the People's case but I would like to have the privilege of calling the doctor if he appears.

THE COURT: Have you any objection to that, Mr. Levy?

MR. LEVY: I do think the People should finish their case, your Honor.

THE COURT: I think so too.

MR. MC CORMICK: The People will rest. I offer in evidence the shirt waist and the stocking.

MR. LEVY: I object to them as incompetent, immaterial and irrelevant.

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THE COURT: I will take them.

(The shirt waist referred to is marked People's Exhibit 2 in evidence and the stocking referred to is marked People's Exhibit 3.)

MR. LEVY: May it please your Honor, I respectfully move that your Honor direct the jury, in accordance with the provisions of Section 410 of the Code of Criminal Procedure, upon the ground that the People have failed to establish facts sufficient to sustain the indictment and, especially because of the fact that there is no testimony in this case tending to support or corroborate the testimony of the complaining witness. I direct my motion as to each count in the indictment.

THE COURT: Motion denied.

MR. LEVY: Your Honor will please give me an exception. I ask your Honor to take from the consideration of the jury the first count in the indictment upon the grounds stated.

THE COURT: Motion denied.

Exception.

MR. LEVY: It is proper for me to ask your Honor, at this time, to state to the jury, if you please, that your Honor's denial of my motions is not to be taken by the jury as any expression of opinion as to the facts on the part of the Court.

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THE COURT: That is so, gentlemen. It is a legal matter that I have to pass upon. It only means that, in my judgment, the matter is one for you.

MR. LEVY: I also request your Honor, if you please, to direct the District Attorney to elect under which count, in this indictment, he intends to submit the case.

THE COURT: What is the attitude of counsel for the State?

MR. COLLIGAN: If the Court please I don't think it is obligatory on the part of the District Attorney at this stage of the trial to elect. It seems to me that it is the wiser thing to allow the entire evidence to be produced first. That is it. It is my opinion that even then I think--

THE COURT: I will not oblige the District Attorney to make any election, Mr. Levy.

MR. LEVY: Your Honor will please give me an exception. In order to economize time, your Honor, I shall reserve whatever comments I had to make, until the close of the case, and will not open the case to the jury.

THE COURT: Can I have some notion, Mr. Levy, from you now as to how long you think you will need with the jury?

MR. LEVY: My impression is that all the testimony can be submitted by recess time but I am only going to

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call a few witnesses.

C H A R L O T T E W O O D S , a witness called on behalf
of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LEVY:

Q Where do you live? A 105 West 50th street.

Q Now, Charlotte, I don't want you to be nervous. I
want you to talk as loud as you can so that these gentlemen may
hear you. A Yes, sir.

Q How old are you? A 19.

Q Where do you live? A 105 West 50th street.

Q With whom do you live? A Mother and Father.

Q Are you employed? A Yes, sir.

Q Where and by whom? A By Dr. Roy, 159 6th avenue.

Q Employed by the defendant, Dr. Roy? A Yes, sir.

Q How long have you been in his employ? A About eleven
months.

Q So that in April you were in his employ, 1913?

A Yes, sir.

Q What position do you occupy there? A Generally useful

Q What is that? A Generally useful; I am generally
useful there.

Q You are a maid in the place, aren't you? A Yes, sir.

Q An attendant in the office of Dr. Roy? A Yes, sir.

Q Is that right? A Yes, sir.

Q What are your duties there, what do you do? A Well, I

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clean the whole place and I am generally useful there.

Q. You make yourself generally useful to the patients who come there? A Yes, sir.

Q. Is that correct? A Yes, sir.

Q. Do you know a young woman by the name of Martha Poulail-
lon? A Well I don't know her, but I have seen her.

Q. Did you see her in the month of April of last year?
A Yes, sir.

Q. How many times before the day that the doctor was ar-
rested had you seen her? A I think it was about three or four
times.

Q. Where had you seen her? A In the office.

Q. She had come there for the purpose of getting treat-
ment? A Yes, sir.

Q. Do you remember the day that the doctor was arrested?
Do you not? A Yes, sir.

Q. Were you in the office at the time of his arrest?
A Yes, sir.

Q. Do you remember the early part of that day, midday?
A Yes, sir.

Q. On the day of this arrest? A Yes, sir.

Q. Do you remember seeing the young lady, Miss Poulail-
lon, in the office there? A Yes, sir.

Q. Was she there for treatment? A Yes, sir.

Q. Was she treated? A Yes, sir.

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Q Will you speak up? A Yes, sir.

Q Do you remember what time it was that she came into the place? A It was about half-past ten when she came in.

Q About half-past ten? A Yes, sir.

Q How long was she in the place all together? A Well, about--

Q To the best of your recollection, about. A About an hour and a quarter I think.

Q Now, before we take up that circumstance, I want to inquire about the office itself. How many rooms are there in that office, in that place? A Three, I think.

Q There is a little small room with an operating chair in it, is there not? A Yes, sir.

Q There is a larger room with an operating chair in it? A Yes, sir.

Q There is a reception room? A Yes, sir.

Q Is that correct? A Yes, sir.

Q Now, in the smaller room where the operating chair is placed, is there anything else there besides the chair, Miss? A No, sir; only the gas machine.

Q The gas machine? A Yes, sir.

Q Now, can you tell the jury how large an apparatus that gas machine is or was, how big? A Well it is about that high (illustrating).

Q It is a tank, isn't it? A Yes, sir.

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Q To which is attached machinery? A Yes, sir.

Q For the pumping of the gas, is that correct? A Yes, sir.

Q How close to the operating chair is that machine?

A It is right at the foot of it.

Q Right close to it? A Yes, sir.

Q You have seen that gas tank in operation, haven't you?

A Yes, sir.

Q Many times? A Yes, sir.

Q Does the machine make any noise while being operated?

A Yes, sir; it does.

Q What kind of a noise? Can you describe it? A Well, like a soda water fountain when it is turned on.

Q Like a soda water fountain when turned on? A Yes, sir.

Q So that you were familiar with the sound that came from the machine while it was being operated? A Yes, sir.

Q So if you were in an adjoining room, or near by, you would recognize the sound? A Yes, sir.

Q Coming from that machine? A Yes, sir.

Q Even though you were not in the room when it was being worked? A Yes, sir.

Q Now, on that morning what was the first thing that you saw the young woman, Miss Poulailon, do when she came into the place? A When she came in-- she came in and took off her hat and coat and sat on the Davenport there.

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Q When she came in were there other persons there? A Yes, sir.

Q Who was there? A A lady patient in the chair and another man waiting there.

Q A man waiting? A Yes, sir.

Q Where was the man waiting? A He was sitting right opposite Miss Poulailon.

Q In the reception room? A Yes, sir.

Q Is that right? A Yes, sir.

Q I have a photograph of that reception room. I want to ask you to look at this, with your Honor's permission.

A Yes, sir.

Q That is the reception room? A Yes, sir.

Q Now can you point out where the man was sitting, not Miss Poulailon. A Right here.

Q Right there? A There was a chair right there and that is where he was seated.

Q It does not show on the picture? A No, sir.

Q Where was Miss Poulailon sitting? A Sitting right there (indicating).

Q On the sofa? A Yes, sir.

MR. LEVY: Is that clear to your Honor?

THE COURT: Yes.

BY MR. LEVY:

Q How long did Miss Poulailon have to wait before she was

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taken into the operating room for treatment? (No answer)

Q About how long? A About half an hour I guess.

Q What is that? A About half an hour I guess.

Q During the time she was sitting in the office did she have on her outer garments? A She had on a white waist and a blue skirt.

Q She sat without her coat? A Yes, sir.

Q Did she take her hat off? A Yes, sir.

Q Did the man go out before she was called in for treatment? A Yes, sir; he did.

Q How about the lady who was there being treated, had she gone by the time Miss Poulailon went in for treatment?

A Well when she was getting treated-- when Miss Poulailon came in-- and after she was treated the man went in the chair and then he went and then Miss Poulailon went in it.

Q So when the time came for Miss Poulailon to receive her treatment there was no other person in the office excepting the doctor and yourself? A Yes, sir.

Q Is that right? A Yes, sir.

Q Now, did you notice to which chair she went first?

A The big chair.

Q In what room was the big chair? A That was in the big room, right next to the sitting room.

Q Did you see what was done to her in that big chair?

A Well I don't know what was done to her but I know Dr. Roy

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was working on her teeth.

Q In the big chair? A Yes, sir.

BY THE COURT:

Q Did you see? A Yes, sir.

Q You saw him go into the room? A I was right next to the chair where she was.

Q You saw him working upon her teeth? A Yes, sir.

BY MR. LEVY:

Q How long did that treatment take in that outer room, do you recollect? A Well I know it was just twelve o'clock when she went in to the larger chair.

Q It was just twelve then? A Yes, sir.

Q How do you know that? A Because I was hungry that day and I kept looking at the clock. I was waiting for the dinner hour to come; I was watching the clock.

Q Then when she went into the inner room did you hear anything said either by the young woman or by the doctor?

I call it the inner room; I mean the smaller room. A I heard them talking.

Q Heard them talking? A Yes, sir.

Q Do you know what language they were conversing in?

A I think it was French.

Q You don't understand French? A No, sir.

Q Do you know or did you see where that woman went to in the smaller room? A She went to the operating chair.

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Q You saw her there? A Yes, sir.

Q Did you see how long she remained in that chair?

A She was in there, I guess, about fifteen minutes or something like that.

Q Fifteen? A Yes, sir.

Q Did you have occasion to go into the room and see her while she was in that chair? A When I heard the gas machine I looked in and I seen her there.

Q That is what I want to get You did hear the gas machine operating? A Yes, sir.

Q Did you? A Yes, sir.

Q After she had gone into the smaller room? A Yes, sir

Q You heard the sound come from that machine? A Yes, sir.

Q How long after that did you hear that machine in operation? A Well when you use it it makes a noise, and I looked in and I seen the gas hood over her face.

Q The gas hood put over her face? A Yes, sir.

Q Is there a gas machine in the outer room? A No, sir.

Q The only gas machine is in that inner room? A Yes, sir.

Q Then what was the next thing you saw concerning the young woman? A Then I heard Dr. Roy come out into the other room to get some instrument off the table there and he went back again and I looked in again and seen him with this instru-

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ment in this girl's mouth.

Q Then how long did you notice that the doctor remained in the inner room, or the smaller room, before you again saw him? A Before I saw him again?

Q Yes. A Why, he came out with this instrument, he went back again, and then a couple of minutes afterwards he came out.

Q A couple of minutes? A Yes, sir.

Q Is there a door between the smaller room and the room in which you were? A Yes, sir.

Q What kind of a door is that? A It is a black door, like two parts to it.

Q A sliding door? A Yes, sir.

Q It was open or closed? A They were open.

Q All the time? A Yes, sir.

Q Did you see them closed at any time? A No, sir.

Q While the young woman was there? A No, sir; not while she was there.

Q So that you could get a full observation and view of this smaller room? A Yes, sir.

Q The chair which is in the smaller room, that is an ordinary dental chair, isn't it? A Yes, sir.

Q It has side arms, hasn't it? A Yes, sir.

Q I show you Exhibits A and B and ask you if this is a true representation of the chair that was in use on that day

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or the chairs. A That is it. (Referring to the photograph)

Q Did you hear any cry, outcry, any one crying out?

A No, sir.

Q After the doctor came out within a few minutes after that, or within fifteen minutes, after the young woman was in the room, did you see her go out? A Yes, sir; I was standing right in the hall, a couple of feet from the hall door as she passed me in the hall and went down stairs.

Q She was fully dressed? A Yes, sir.

Q Did you see whether or not she was crying or had been crying? A No, sir; I looked right into her face; she was not crying or anything.

Q Did she seem to be at all upset? A No, sir.

Q Did her clothes seem to be disarranged? A No, sir.

Q Or was there anything--

MR. MC CORMICK: No leading questions.

Q Was there anything about her appearance that differed in any way, as far as you could see, from her appearance when she entered the place? A She didn't look any different to me

Q She didn't look any different? A No, sir.

Q There is a light, is there not, in that hallway?

A Yes, sir.

Q Was it lit on that day? A Yes, sir.

Q Do you know the name of the male and female patient who were being treated at that time when the young woman came

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in? A The name is Mrs. Coster.

Q And the name of the man, do you know his name? A Mr. Sheldon.

Q What time did Mr. Sheldon come in? A He came in about ~~I~~ I don't remember.

Q Did he come in after the young woman or before? A He came in after her.

Q I am talking of the people were there before the young woman came in. A This lady was in the chair was the only one was there when she came in first.

Q What is the name? A Mrs. Coster.

Q And the name of the man who was there before Miss Poulailon came in? A This man came after she came in.

Q Don't you know you just told us that there was a man and a woman there, the woman was treated, the man was treated and then Miss Poulailon went in and got treated? A Yes, sir.

Q I want to know the name of the man if you know it.

A His name is Mr. Sheldon.

Q Did any other persons come in afterwards while the young woman was undergoing treatment? A When she was in the other chair another man came in.

Q Do you know his name? A I think it is Mr. Gray.

Q A patient of the office? A Yes, sir; a patient of the office.

Q So sheldon came first and Gray came afterwards? A Yes,

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sir.

Q Do you know how long Mr. Gray was sitting there? A He only stayed there about three or four minutes.

Q Then he went away? A Yes, sir.

Q While he was there you say the young woman, Miss Poulail-
lon, was in the operating chair? A Yes, sir.

Q In which room was she then? A The smaller room.

THE COURT: I haven't clearly in my mind just when the prosecuting witness went out and the position of the present witness at the time. I wish you would develop that.

MR. LEVY: I will, your Honor.

BY MR. LEVY:

Q Now Miss, I want you to pay attention to what I ask you. I show you a photograph and ask you if this is a photograph of the hallway leading to the entrance, to the doctor's dental office. A Yes, sir.

Q That is a true representation, isn't it? A Yes, sir.

MR. LEVY: I offer it in evidence.

(A photograph showing the hallway is marked Defendant's Exhibit E.)

MR. LEVY: May I pause a moment to show it to the jury?

THE COURT: Yes.

Q That is one flight of stairs up? A Yes, sir.

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Q And the entrance is on 6th avenue, isn't it? A Yes, sir.

Q Is that correct? A Yes, sir.

Q Now then, Miss Woods, what time do you say it was about when the young lady, Miss Poulailon, left the doctor's office to the best of your recollection? A I don't think it was 20 after 12 yet.

Q What is that? A I don't think it was 20 after 12 yet

Q You don't think it was 20 after 12? A No, sir.

Q It was a little after 12 you say? A Yes, sir.

Q That you are sure of? A Yes, sir.

Q What time were you to go to get your meal? A It was a girl up stairs, she gives it to me.

Q She went out and got lunch for you? A Yes, sir.

Q Had you had your luncheon? A No, sir.

Q It hadn't been brought to you yet? A No, sir.

Q Where were you at the time the young woman, Miss Poulailon, went out? A I was standing right by that closet in the hall.

MR. LEVY: With your Honor's permission may I come around in there?

THE COURT: Yes.

Q Look at this exhibit and point out upon this exhibit, if you can, where the closet is located that you spoke about.

A It is right here where it says "Walk in."

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MR. LEVY: May I show that to the jury?

THE COURT: Yes.

Q You know what a newel post is, don't you, the post at the head of the stairs? A Yes, sir.

Q Holding up the banisters? A Yes, sir.

Q How near the banister were you standing? A Well here when the door of this closet is open it is hardly room for any person to pass; it is that close. That is where I was standing when the girl passed me.

Q So that she had to pass you in order to go down, to descend the stairs? A Yes, sir.

Q Now this post here, is at the head of the stairs?

A Yes, sir.

Q You were standing very near that you say? A Yes, sir.

CROSS EXAMINATION BY MR. MC CORMICK:

Q How far from the post were you standing? A Well, when the door of the closet is open it is only a few inches away from this post (illustrating).

Q How far were you standing from the post, as far as I am from you (illustrating)? A No, sir.

Q About half way that far? A From there to there (indicating about two feet).

Q From where I am to where you are, you mean that distance? A About from here to here, that is where the post is (illustrating).

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Q Please point out how far -- hold your hands out.
(Witness illustrates by holding her hands out.)

Q Now, do you understand that diagram, look at it carefully first? A Yes, sir.

Q Do you understand the diagram? A Yes, sir.

MR. LEVY: Give her a chance to see it.

MR. McCORMICK: I want the jury to hear.

Q Do you understand it? A Yes, sir.

Q Make a mark with this lead pencil where you were standing. A Is this supposed to be the hall here? I was standing right by that door there.

Q I want you to make a mark with a pencil where you were standing. A (Witness makes a mark).

Q No you are penciling a black mark. Make a mark that will show.

(The witness indicates the point at which she was standing.)

THE WITNESS: That is the entrance.

Q You understand that to be the entrance to the big room, don't you, right there? A Yes, sir.

MR. LEVY: Is that marked closet or room?

(No response.)

BY MR. McCORMICK:

Q Do you understand that these are stairs going down and that is a post at the head of the stairs? A No, sir; I don't understand. Is this supposed to be the door? It isn't

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so far away from the door.

BY MR. LEVY:

Q This is a post at the head of the stairs, this is the closet, this is the hallway, these are the stairs down to the street, and these the stairs going upstairs?

A Yes, sir.

BY MR. McCORMICK:

Q Now get that in your mind clearly. A This is the post going down?

Q This is the post going down, these are the stairs going up, this is the closet, there is the hall and this is over here is supposed to be the entrance to the larger room. Have you got that clear in your mind? A Yes, sir.

Q Now point out where you were standing? A This here door is open, that is where I was standing. (Illustrating)

Q That mark is right? A Yes, sir.

Q How far were you. Tell us again how far were you standing from the newel post. (Witness indicates).

Q You mean to say it is only as far as you have indicated the newel post to that closet? A Yes: when the door is open.

MR. LEVY: I have another photograph here. Do you mind my putting that in now?

MR. McCORMICK: Not now.

BY MR. McCORMICK:

Q Now, do you remember when officer Dietz came up to

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see you that afternoon? A Yes, sir.

Q You told him that you did not see that girl at any time during the operation? A No, sir: I did not.

Q You did not? A No, sir.

Q Didn't you tell Officer Dietz that you were out on the stairs cleaning brass all the time that she was in there?

A That was --

Q No or yes? A Yes, sir: not all the time she was in there; I didn't tell him that.

Q How much of the time that she was in that building there? A About five minutes.

Q To every patient that comes in to be operated upon you give a glass of water don't you? A Yes, sir.

Q Did you get a glass of water for her? A Yes, sir.

Q You gave her a glass of water when the operation began, didn't you? A Yes, sir.

Q Then when you gave the glass of water to her you went out with some rags to clean the brass on the stairs, didn't you? A Yes, sir.

Q You stayed there until the girl came out? A No, sir.

Q This girl after she came out after the operation passed you in the hall? A Yes, sir.

Q And at that time you were as far from the door to the outer office as you are from me now? A Yes, sir; just about that.

Q How long before she came out of that door and passed you

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in the hallway had you been out there? A I just had gone out.

Q How long had you been out there? A About two or three minutes.

Q Two or three minutes? A Yes, sir.

Q Where had you been before that two or three minutes?

A In the big room.

Q What were you doing during the two or three minutes that you were out in the hall? A I was fixing some bundles in that closet.

Q Were you cleaning the brass on the stairs at any time that morning while she was there? A No, sir.

Q How long a time did you take to clean the brass? A Only about five minutes.

Q When he gave her the glass of water which chair was she in? A In the large room chair.

Q In the outer office? A Yes, sir.

Q You took something in your hand to clean the brass with and went out, didn't you? A Not when she sat in the first chair, no, sir.

Q When you gave her the glass of water, when she was in the big chair, in the outer room, where did you go? A I was right beside her, cleaning a table there.

Q How long did you continue alongside of her cleaning a table before you went out of the room? A I guess about ten minutes.

Q Ten minutes? A Yes, sir.

Q She was still in that chair at the end of that ten

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minutes? A Yes, sir.

Q You went out of the room? A I was in the other room, the little room.

Q Was she in the little room then? A No, sir; in the big room.

Q What were you doing in the little room then? A I was washing out milk bottles and boiling the instruments.

Q How long did you stay in the little room? A I didn't stay in there: I went in and out, the big room and little room.

Q When was it, how long after you gave her the glass of water was it that you went out to clean the brass? A I went out to clean the brass when she was in the other chair.

Q What chair? A The little chair.

Q How long had she been in the little chair before you went out to clean the brass? A As she went in there I went out.

Q Did you see the doctor shut the door when she went in there? A No, sir.

Q Was that the last time you went out before you saw her coming out? A No, sir: I was out in the hall when she came out.

Q I understand that. But you went out-- you saw this girl in the small room, didn't you? A Yes, sir.

Q You went into the hall? A Yes, sir.

Q Why did you go out? A To polish the steps.

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Q When you went out there how many steps did you polish?

A Four.

Q Which four were they? A Leading out to the other flight.

Q Going from the second to the third floor? A Yes, sir.

Q How long did that take you? A Only a couple of minutes.

Q Then when was it that you next saw her, the time she came out and you passed her in the hall? A No, sir: I went in the big room again, and I saw her in the chair.

Q Was the door of the little room open? A Yes, sir.

Q How long had you been out in the hall at that time?

A At that time I went out and polished the steps a couple of minutes.

Q Then did you not go out in the hall again? A No, sir, not until she was walking out into the big room, I went out.

Q You hadn't started to go into the hall until she came out of the little room? A Yes, sir.

Q Didn't you say a minute ago when you went out of the big room she was in the chair in the little room? A The first time I went out to polish the steps she was in the chair.

Q Do you remember testifying before the Grand Jury?

A Yes, sir.

Q Do you remember being asked how old you were?

A Yes, sir.

Q You said you were 18 years old? A Yes, sir.

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MR. LEVY: I have no objection to his interrogating upon any matter where he desires to contradict but he cannot use the minutes of the grand Jury.

MR. McCORMICK: I am not going to read the minutes, but I can ask her as to any testimony she gave before the Grand Jury. I can ask her if she did not give certain testimony.

BY MR. McCORMICK:

Q Were you asked this question, and did you give this answer: "This young lady first came into the first of the two rooms which you can see from the waiting room? A Yes.

Q. Did you give that testimony? A First came into the two rooms? I don't understand that.

Q Were you asked this question: "While this young lady was there, after you left the room to go out into the hall" did you give this testimony: "Yes, I went out in the hall to polish a few steps of brass". Is that right? A I think that I was asked that question.

Q Did you give that answer? (No answer.)

Q Did you say this "I went out the hall to polish a few steps of brass"? A Yes; I think I did.

Q Were you asked this question, and did you give this answer: "One flight of stairs lead up to the dentist's office? A. Yes." You gave that testimony? A Yes.

MR. LEVY: I object to that.

MR. McCORMICK: I cannot separate the questions in

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such a way as to bring out a single contradictory fact of her testimony given before the grand Jury without bringing in something else.

MR. LEVY: If you let me see the minutes it may be that I will consent to let them go in. I have never seen them. I have no objection to the entire minutes being in evidence.

(The minutes of the grand jury in the case are marked people's Exhibit No. 4)

(Mr. McCormick reads People's Exhibit No. 4, the Grand Jury minutes, to the jury.)

Q Don't you always when the doctor goes to administer gas to a patient stay there while it is done? A Well if it is a difficult case I stay there, but when it is only a small case I don't.

Q How do you know whether it is a difficult case or not?

A He calls me.

Q Do you mean to say that Dr. Roy didn't call you on this girl's case? A Yes, sir.

Q Why didn't you say something about that before today?

A They didn't ask me that.

Q Now you say that the door leads from the outer office to the small room where the operating chair is, this sliding door, is that right? A It is a door.

Q Mr. Levy said it was a sliding door, and you said yes? It is not a sliding door, is it? A It goes together like

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two parts.

Q What sort of a lock has it? A A little hook.

Q How high is the hook? A Away up high.

Q Talk up loud. A The hook is away up high.

Q Does the door swing? A Yes, sir.

Q Unless it is hooked it swings? A Yes, sir.

Q Now are you understand that diagram. Look at the little room, and the door between.

MR. LEVY: Point out the room.

Q Do you understand the diagram. A Well, I don't understand it.

Q You understand that this is the door to the big room?

A Yes, sir.

Q And this door is the little room? A Yes, sir.

Q This is the operating chair? A Yes, sir.

Q This is what you call the big chair? A Yes, sir.

Q Here are some cases that act as a sort of a partition between that part of the big room and this part of the big room? (Illustrating) A Yes, sir.

Q You say you saw this girl in the operating chair while being operated upon? A Yes, sir.

Q Now mark a mark with a lead pencil where you were, what room were you standing in when you saw her? A In the big room.

Q Where? A Just right in the back of the big operating chair.

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Q How long were you standing there? A I just got out when I heard the noise.

Q What noise? A The gas machine.

Q Where had you been when you first heard the gas machine?

A Sitting on that davenport there.

Q You were not cleaning brasses? A No, sir.

Q How long were you sitting on the davenport? A As soon as I came in from cleaning the brass that is where I sat.

Q Will you make a mark where you were standing when you saw the doctor operating on her while in the operating chair.

MR. LEVY: Point out the davenport too.

A I don't understand what that is.

Q That is a pedestal and that is a book-case.

You make a mark where you were standing. Let me ask you where were you standing when you saw her in the operating chair when the dentist was operating on her? A I was standing right by the table with books on it.

Q What kind of a table? A A round table.

Q A round table? A Yes, sir.

Q Which side of the table were you standing on, the side towards 6th avenue or the side away from the avenue?

A The side towards 6th avenue.

Q How long were you standing there? A Well, that is when I heard the noise, and I just got up and looked in.

Q You weren't over there for that purpose, to look in.

(No answer.)

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Q You heard the sound of a machine? A Yes, sir.

Q Could you see the machine in motion? A I could see the mouthpiece over the girl's mouth.

MR. McCORMICK: Make a mark where you were standing.

BY THE COURT:

Q Where was the defendant when you got this view? A He was holding -- piece over the girl's mouth. Here is where I was standing (indicating).

Q Make a cross. (Witness indicates).

MR. McCORMICK: Now I would like to show that to the jury. This is where the girl was in the operating chair in the inner office. Here is where this witness stood when she said she saw the girl being operated upon by the dentist and heard the noise of the gas machine.

BY MR. McCORMICK:

Q Now you say as soon as you came in from cleaning the brasses you saw the girl in the operating chair, is that right?

A As soon as I came in from cleaning the brasses I sat on the davenport.

Q And then what? A And then I just sat down there when a man came in.

Q Who was the man? A Mr. Gray.

Q Why did you testify that when the girl left the office she passed you in the hallway? A Well, she has to pass me when she leaves the office.

Q You were cleaning brasses at the time and you had

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not finished? A No, sir; I was standing by the closet when she went out from the office to go home.

Q Why did you testify you were out in the hall by the post leading downstairs? A Well, that is by the closet.

Q Well, don't you remember going before the Grand Jury ?

A Yes, sir.

Q You knew that Dr. Roy was charged with committing a crime upon this girl in that inside room, didn't you?

MR. LEVY: I object to that.

THE COURT: Objection sustained.

Q You did not say anything to the Grand Jury about being in here where you could see the girl?

MR. LEVY: I object to that.

THE COURT: It would not, perhaps, be proper, unless the question. I sustain the objection. Unless the question was asked. If it was direct her attention to it.

Haven't you that already in evidence? You have the whole thing in evidence.

BY MR. McCORMICK:

Q Permit me to ask one other question. How long was it after you saw her in the operating chair, when you were standing by the round table, how long after that time was it that you saw her coming out when you were in the hall? A About ten or fifteen minutes.

Q Then after you saw the doctor administering the gas to her when you stood by the round table, you went out into

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the hall again, didn't you? A No, sir.

Q You never went out after that? A No, sir.

Q At any time? A No, sir.

Q How did you happen to be out in the hall when the girl passed you on her way home? A That was the only time I was polishing the brass.

Q How long had you been in the hall at the time she passed you? A Only about two or three minutes.

Q You still work for Dr. Roy, don't you? A Yes, sir.

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

Q Has his wife? A Well, Mrs. Roy told me to tell the truth.

MR. McCORMICK: That is all.

BY MR. LEVY:

Q With your Honor's permission. Miss Woods, I show you a photograph and ask you whether that is a correct representation of that part of the hallway and the closet about which you have been testifying? A Yes, sir.

Q Is that the closet that you have reference to, that you were standing by, when you say you saw the young woman go downstairs.

MR. LEVY: I offer it in evidence.

(The photograph last referred to is marked Defendant's Exhibit F in evidence.

Q Now before I show this to the jury, Miss, I want to ask you these questions: This represents the closet door upon

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Q This photograph doesn't it? A Yes, sir.

Q You will also notice what we call a newel post there?

A Yes, sir.

Q Where is that newel post situated at the head of the stairs? A At the head of the stairs.

Q That is to say if the photograph was brought out further that other way it would show the stairs going down?

A Yes, sir.

Q Now this "walk in" sign "walk in" is the same sign that is shown upon the photograph Exhibit C? A Yes, sir.

MR. LEVY: (Addressing the jury) This Exhibit E represents the hallway, the newel post and this is the other side of that hallway. These are combination pictures, and I would like to have you look at them together.

(The jury inspects Exhibit s E and F.

MR. LEVY: You will notice that part of the newel post is shown in that photograph.

BY THE COURT:

Q Miss Woods, did this person, this complainant, ever to speak to you? A Yes, sir.

Q When she came out of the dentist's office? A She spoke to me that very day; yes, sir.

Q Had she spoken to you the other days the two days ?

A No, sir; she never spoke to me.

Q Had you never had anything to do with her? A No, sir.

Q Never supplied her with any water? A No, sir.

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Q Or had any requests from her? A I never spoke with her before except that day.

Q She never spoke to you? A No, sir.

Q But she did speak to you on that day? A Yes, sir.

Q When was that? A Well, when she first got in the chair.

Q Asked you some questions? A No, sir; she said "it is wet out today, isn't it."

Q To you? A Yes, sir.

Q When you saw her go down in the hall, did she bid you good bye? A No, sir.

Q Nod to you? A No, sir.

Q Or you to her? A No, sir; I just looked at her, but she just looked at me and she went past me.

Q She didn't say anything to you? A No, sir.

Q Or you to her? A No, sir.

Q She didn't bow to you? A No, sir.

BY MR. LEVY.

Q One other question, Miss. Did you, at any time while she was in that office hear any sound of an scuffle or struggle of any character? A No, sir; I did not.

F R A N K L. G R A Y, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LEVY:

Q Where do you live? A 758 Lafayette avenue, Brooklyn.

Q Mr. Gray, what is your business? A I am bookkeeper

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for C. O. Biglow.

Q What business? A Drugs.

Q Where is his place of business? A 106 6th avenue.

Q How long have you been employed there? A Three years.

Q Do you know Dr. Roy, the defendant? A Yes, sir; I do.

Q How long have you known him? A Well, the first time I met him was --

Q How long do you know him? A About nine months.

Q Nine months? A Yes, sir.

Q Treated you as a dentist? A Yes, sir.

Q Treated your teeth? A Yes, sir.

Q You remember the fact of his being arrested? A Yes, I do. Q Do you remember your attention being called by any person to a visit paid to the office of Dr. Roy on the 28th of April? A Yes, sir.

Q A circumstance that brings that date to your recollection? A Yes, sir: the fact that I was there the first time-- I went to the doctor's office.

Q The first time that you had ever been in the doctor's office? A Yes, sir.

Q Did you make a note of it, or remember the date through any circumstances? A The date?

Q The day or the date? A No, sir; I can't remember that.

Q But you were spoken to recently after that about having been in the office, were you? A Yes, sir.

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Q Do you remember being there at the time that some other person or persons were in the office? A Yes, sir.

Q Who do you recall being there? A Well, a young woman.

Q A young woman? A Yes, sir.

Q What time of day was it you got there? A About five minutes after twelve.

Q How long did you remain there? A Not more than five minutes I don't think.

Q How long did you remain there? A About five minutes.

Q Did you receive any treatment that day? A Yes, sir.

Q What room do you recall to mind? A The larger room.

Q The larger room? A Yes, sir.

Q Where was the young woman that you speak about?

A In the smaller room to the right.

Q Could you see her from where you were? A Yes, sir.

Q From the chair in which you sat? A Yes, sir.

Q Was the door open? A Yes, sir.

MR. LEVY: Now is the youngwoman nearby for the purpose of identification?

MR. McCORMICK: Yes.

BY MR. LEVY:

Q Look at this young woman and tell me whether you recognize her? (Pointing to the complaining witness) A I can't recognize her positively.

Q Was it a young lady in appearance and size like her?

A Yes, sir.

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Q Look at her profile. Let her turn her face both sides.

THE INTERPRETER: She says that she is afraid of being photographed.

THE COURT: You will not be in my court nor any one else.

MR. LEVY: I want to get your profile.

THE COURT: You can take your hat off madam.

(The complaining witness removes her hat.)

Q Now you may look at her very closely. Have you looked sufficiently? A Yes, sir.

Q Do you recognize the young woman? A I should say that was the young woman, I saw her profile as she sat in the chair.

Q What treatment did you receive that day? A I wore a plate; I had broken a tooth off, and I came to the doctor to have an impression made.

Q To have an impression made? A Yes, sir.

Q He simply took a wax impression, and you went away?
A Yes, sir.

Q What was the young woman doing at the time you saw her? A Sitting there.

CROSS EXAMINATION BY MR. McCORMICK:

Q Do you mean to say that when you came in there Mr. Roy was working on that same woman in the inner room, and came out and worked on your plate? A Exactly.

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Q Now you are a friend of his are you not? A Never saw the doctor before that day.

Q A friend of his now are you not? A Yes, sir.

Q You talked to him about coming down here to testify?

A Yes, sir.

Q He has related to you his side of it, told you what happened there, hasn't it? A More or less, yes, sir.

Q Now, you were there about five minutes weren't you?

A About five minutes.

Q How do you remember it was just twelve o'clock or 12.05 when you got there? A Because I always leave the office promptly at 12 and it isn't more than five minutes walk from my office.

Q How many times were you treated in his office or had been treated in his office altogether? A I was treated for this one case, I was there two or three times.

Q How many times, I say, have you been treated by the doctor, by the defendant? A I don't know as you would call it treated, he prepared my plate, that is all.

Q How many times have you been there? A Two or three times.

Q One of those two or three times happens to be the same day and the same hour almost to the minute that this girl was there, is that right? A I think so, yes, sir.

Q You went out and when you went out the girl was still in the chair? A Yes, sir: she was.

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Q You don't know what happened after that? A No, sir.

BY A JUROR:

Q When you came in was anybody present? A Well, the doctor's maid.

Q And he was there? A Yes, sir.

Q Did you find her sitting or standing? A Sitting on a long ~~seétee~~ that is in the back of the room.

Q May I ask what treatment the doctor gave you that first day that you went there? A He took an impression of my-- a wax impression.

Q Of the whole of your upper gum? A Yes, sir.

Q He took five minutes to do that? A Yes, sir; preparing the wax, yes, sir.

Q That is the only length of time you were there? A Yes.

Q That is all you said, you said nothing outside of that? A No, sir: I didn't say anything except relating to the work he had to do.

BY MR. LEVY.

Q So as to understand: The doctor softened some wax?

A Yes.

Q Impressed it on your teeth?

MR. MCCORMICK: I object to this. Let the witness tell what the doctor did.

THE COURT: Yes.

THE WITNESS: The doctor went into the room where this young lady was, and back of her, I couldn't see where he

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went, he came out with wax in his hand, and he took the impression.

Q Did he force the wax up to your gum? A Yes, sir.

Q That took only five minutes? A Yes, sir; didn't take as long as that.

Q Over your whole mouth is what the juror asked, or only that particular part where the plate was located? A No, sir; the plate is taken out; he takes an impression.

CHARLES KANARIAN, a witness called on behalf of the defendant, sworn, testifies as follows:

DIRECT EXAMINATION BY MR. LEVY:

Q Where do you live? A 310 W. 43rd street.

Q Mr. Kennarian, what is your business? A Photographer.

Q I don't hear you. A Photographer.

Q Where is your gallery? A At 159 6th avenue.

Q In the same building in which Dr. Roy's dental office is? A Yes, sir.

Q Was your gallery there in the month of April of last year? A Yes, sir.

Q Do you remember the night he was arrested? the evening he was arrested? A Yes, sir.

Q Do you remember being in the hallway and overhearing a conversation between him and some men? A Yes, sir.

Q Did you hear what one of the men or both of the men said to him in the hallway? at the time he was arrested?

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MR. McCORMICK: I object to that as immaterial and irrelevant, a conversation that the defendant had with some unknown persons.

MR. LEVY: Your detectives swore they went out in the hall or at least Detective Ditsch did.

THE COURT: Well are they not here? Can you not lay a foundation, Mr. Levy?

MR. LEVY: Well, I am following the rule recently laid down by the Court of Appeals in the People against Lustig. Your Honor the Court of Appeals said that the old rule should be changed or words to that effect, and it is not necessary to lay a foundation. I am interrogating the witness independently of any preliminary foundation.

THE COURT: I do not think you have brought it within the rule.

MR. LEVY: You mean regarding the identity of the individual.

THE COURT: I do not think that you come within the Lustig rule.

MR. LEVY: Well that is true, I did not interrogate the officer as to any conversation. It is not a conversation with this witness.

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THE COURT: If you can direct this witness through hearing the defendant and Mr. Ditsch or Mr. DeVille saying something in that hall I will take it.

MR. LEVY: That is what I intended to do.

BY MR. LEVY:

Q Did you overhear a conversation between the defendant and two men? A Yes, sir.

Q In that hallway? A Yes, sir.

Q What time was that, Mr. Kanarian? A About six o'clock or a little after six.

BY THE COURT:

Q Did you see them, the men? A No, sir; I did not.

Q Did you see the doctor? A I did not.

Q You did not see him? A No, sir; I was out in the hall to get a stepladder to use it on my skylight inside.

Q Did you see any of these persons at all? A No, sir; I did not. I just heard the conversation.

BY MR. LEVY:

Q Had you conversed before that time with Dr. Roy?

A No, sir.

Q Before that time had you ever talked with the doctor?

A No, sir.

MR. MC CORMICK: I object to that,-- a conversation with the defendant.

Q Have you lost your voice? A No, sir; I have not lost

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my voice;

Q I mean to say that before the 28th of April, 1913, had you ever talked to Dr. Roy? A Oh yes.

Q So you were familiar with the sound of his voice?

A Yes, sir; I was familiar with his voice.

Q Could you recognize any voice in what you overheard downstairs in the hallway? A I could have recognized Dr. Roy's voice but I could not recognize the other voices. It was strangers.

Q Did you recognize the voice of a certain man? A Yes, sir.

Q Did you hear what the other persons you didn't see or know, what they said to Dr. Roy and what reply Dr. Roy made to them?

MR. MC CORMICK: I object to that.

A Will you repeat that to me please?

Q (Repeated) A Yes, sir; I heard a strange--

Q The voice, you were asked whether you heard it.

A Yes, sir.

Q Now will you, if you please, tell us what was said to the doctor and what reply the doctor made?

MR. MC CORMICK: I object to that as immaterial and irrelevant and it is not shown to whom the doctor was talking.

THE COURT: Well he said he knows the doctor's voice

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and he recognized his voice. He talked with him before a
and he recognized his voice. He says he heard this talk
at six o'clock.

THE WITNESS: About six or a little after six.

BY THE COURT:

Q On the night of the arrest? A Yes, sir.

THE COURT: Now is there some evidence upon the sub-
ject that that was about the time the arrest was made?

MR. LEVY: Yes, sir, the officer testified he asked
him to step out into the hall.

THE COURT: And that then the defendant was in cus-
tody and in company of these people. I think I will take
it, Mr. McCormick.

BY MR. LEVY:

Q Now tell us what you heard. A I heard a strange
voice saying, "Now own up, tell us what happened." And I
heard Dr. Roy say "I have nothing to own up as I don't know any-
thing about this." Then I heard the strange voice again say-
ing "Now if you apologize to her there will be nothing to do."
And I heard Dr. Roy's voice say "I have nothing to apologize
for as I don't know anything about this."

Q Is that all you overheard? A Then I heard this strange
voice asking him "Did you use any antiseptics?"

Q Anesthetics? A Antiseptics.

THE COURT: That is what he heard.

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THE WITNESS: I heard Dr. Roy say "No, I used ethyl chloride cocaine, and hydro oxide." I am familiar with these chemicals.

Q You have them in your business? A Yes, sir.

Q Go on. A I didn't hear any more than that.

Q At that time? A Yes.

Q Now at that time did Dr. Roy come up stairs, up to where you were?

MR. MC CORMICK: I object to the leading questions.

Q Did Dr. Roy go up to you?

MR. MC CORMICK: I object to the leading question.

THE COURT: he is directing him to the subject. He knows the defendant and is at the same place with him. I don't think it is any harm and it saves time.

THE WITNESS: Dr. Roy came up a few minutes after to me, excited, and told me there were two detectives downstairs ready to arrest him on a charge of assault and he said he was giving gas--

MR. LEVY: I don't suppose that would be proper anyway.

THE COURT: No.

Q Did he ask you then, inasmuch as he was being taken away to look after his office during his absence? A He asked me if I would look after his patients, stand down at the gate for him.

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MR. MC CORMICK: I object to that.

Q Then he left with the men? A Yes, sir.

MR. MC CORMICK: No cross examination.

ALBERT C. ROY, the defendant, being duly sworn
in his own behalf, testified as follows:

DIRECT EXAMINATION BY MR. LEVY:

Q Where do you live? A 42 Bank street.

Q Dr. Roy, you are a duly licensed dentist? A Yes, sir;
I am.

Q When were you licensed to practice? A I was
licensed in 1907.

Q You are a graduate of what institution? A The Uni-
versity of Maryland.

Q How old are you, Doctor? A Born in 1870.

Q Born where? A In France.

Q How long have you lived in the United States? A I
have lived here about 25 years.

Q You are a married man? A I am, sir, 17 years.

Q Your office is located-- A 159 6th avenue.

Q And was so located in the month of April of 1913?
A Yes, sir.

Q Do you know Miss Poulailon, the complaining witness
in this case? A Yes, sir; I knew her as a patient.

Q I wish you to only answer my questions and that is all,

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if you can. A Pardon me.

Q You treated her professionally, did you not, before that date? A Yes, sir; I did.

Q How many times? A Several times.

Q You had also treated professionally her mother, had you not? A Yes, sir. May I state that I had treated Miss Poulailon^{four or five times}? She said three.

Q In your office, you have the full equipment required in your profession for first class work and also have a machine or apparatus for the administration of gas? A Yes, sir; everything.

Q Anesthetics? A Yes, sir.

Q What anesthetics are used by you in your profession?

A I use all of them, nitrous oxide, ethyl chloride and cocaine.

Q On the 28th of April 1913 did you use or administer to Miss Poulailon any anesthetic? A Yes, sir; I did.

Q What anesthetic? A Cocaine, ethyl chloride and nitrous oxide.

Q That was administered by means of what? A By means of a certain apparatus.

Q By a machine? A Yes, sir; the nitrous oxide by a machine, yes, sir.

Q Describe the machine first to his Honor and the jury.

A Well it is-- I have photographs here.

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Q Describe it. A It is an apparatus that I had, it contained three cylinders with little tubes for the passing of the gas from the cylinders into the bag, and also taking that tube, carrying this tube to the face inhalator, over the nose and the mouth.

Q Of the patient? A Yes, sir.

Q Are you required to pump? A I am required to fill the gas bag, the pressure of the gas is very strong.

Q In what way? A I use a little handle, a little key forces it in, it rushes into the bag and it makes a noise sometimes greater than others.

Q What I mean is this, no physical effort is required?
A No, sir; a child can manipulate it.

Q A child? A Yes, sir.

Q How close to the operating chair was that apparatus situated? A Probably two or three feet; it depends upon the place.

Q That is situated in the so-called small room? A Yes, sir.

Q You had no anasthetic apparatus in the large room?
A No, sir, the small room, that is the operating room.

Q The apparatus is also equipped with an extension arm, is it not? A The apparatus, yes, sir, has tubing which is elastic.

Q But the arm is brought over to the face of the patient?

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A Yes, sir; exactly.

Q The window in that small room faces on 6th avenue?

A Yes, sir; facing the elevated road.

Q How many windows are there in that large room? A Two large windows.

Q The door separating the small room from the large room, describe that. A Well the door separating the small room from the large room is a second hand door which I bought.

Q Describe it. A It is a regular door which has been cut in two, with hinges, it closes, one half of it closes, not to take up space.

Q To save space? A Yes, sir.

Q Does it swing in and out, or one way? A It swings outward.

Q Is there a lock attached to that door? A Yes, sir, there is; I bought it in that condition.

Q Is it, yes or no? A There is a little hook on top but nothing below.

Q That is what I mean, a hook fastening? A Yes, sir.

Q Now, the hallway leading into your office is lit up, is it not, by electric light? A Yes, sir, a powerful light.

Q That electric light is located immediately over the door entrance? A Yes, sir; above the door.

Q In that building there is a photograph gallery and what other business, can you tell me? A Nothing else but my own

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business.

Q Yourself and the photographer? A Yes, sir.

Q Is there a store underneath you? A Yes, sir; a bakery.

Q The young girl, Charlotte Woods, at that time was in your employ as maid? A Yes, sir.

Q Do you recollect on that day while Miss Poulailon was in your office treating a patient by the name of Gray?

A Yes, sir, I remember well.

Q That was while the young woman was in your office?

A I didn't catch the question.

Q Repeated. A Yes, sir, correct.

Q Now first of all, I wish you to tell his Honor and the jury, in detail, for what you were treating Miss Poulailon, in other words what professional treatment did you give her on that day? A There were several conditions in her mouth that require the different kinds of drugs, I used the same kind as any other dentist.

Q What were you treating her for? A I was treating cavities; sensitive dentation as well as nerves. I had done some excavation on the dentation previously and at that time I was about ready to prepare to do a little more excavating which was rather painful because she expressed it so by a small outcry. I continued the excavation. I filled a couple of teeth permanently, no plaster as the prosecutrix explained but with permanent filling, done carefully with plenty of time. I pro

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ceeded to the other tooth which was the most painful.

Q What tooth was that? A That was the lower bicuspid, the lower jaw. I have a diagram and I can explain it better. That tooth had an old gold filling, I remember well, the gold filling that was rather leaky and she called my attention to it, and as I knew she was going on the sea and knowing there is no dentist on the steamer I proposed to do the work thoroughly.

Q I want to know what you did. A I used cocaine. The method is called pressure anesthesia with cocaine. I used it and still there was pain.

Q Did you use the same anesthesia on all of the teeth or only on that one tooth? A I used cocaine on that tooth, yes, sir, I used cocaine in most all of them.

Q On all the teeth? A Yes, sir.

Q How many teeth were you treating? A Three teeth that day.

Q Now you cocainized them? A Yes, sir; I cocainized them.

Q Well then after cocainizing them-- did you cocainize the two upper teeth? A Yes, sir; I used ethyl chloride just spraying with a little tube.

Q What need was there for other anesthetics? A It was the proper thing because it required the removal of the nerves. Several doctors do it, they have one way with arsenic, which every one knows, which will do probably in some cases,

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takes time, and causes a great deal of pain, because of its effect on the nerve. So that is the most up to date way that men in New York City use.

MR. MC CORMICK: I object to that.

THE WITNESS: I used nitrous oxide.

Q Pay heed to me. A Yes, sir.

Q Now I don't want anything except a direct answer. I want to know what you did and not your reasons for doing it. I want to know-- A To my point of view I must explain.

THE COURT: No, you have very competent counsel here who knows what he is about. Let him attend to his part of it and you just answer his questions.

THE WITNESS: Yes, sir.

BY MR. LEVY:

Q Now what did you do with regard to the three teeth? You understand the question. A Yes, sir; I used nitrous oxide for the nerve, to excavate into the pulp in order so that I might be able to take that pulp and save time.

Q Now then in connection with the two upper teeth did you use any filling at all on that day? A Yes, sir; I filled two teeth.

Q What composition was that? A The filling of amalgam alloy-- a platinum or silver filling.

Q You used the platinum filling? A Yes, sir; a permanent filling.

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Q Some people have been fortunate enough never to have needed a dentist and it is necessary for you to make an accurate explanation. In putting in that filling you compress it, do you not, by physical force? A Yes, sir; use force.

Q By use of an instrument? A Yes, sir; by use of an instrument.

Q First you excavate? A With a drill.

Q The cavity? A Yes, sir.

Q So as to fit it for the filling? A Yes, sir.

Q Then you drill by physical force and the filling is pressed into it in a proper normal position? A Yes, sir.

Q Is that correct? A Yes, sir.

Q Now, sir, did you prepare any filling for the lower tooth? A There was one upper and there was one lower. Those are the two fillings you are speaking of, two fillings in the lower and one in the upper.

Q Did you use any plaster at all? A No dentist uses any plaster for filling teeth.

Q Temporary filling? A I did use temporary filling.

Q That day or before? A On that day no, on the previous day, prior to that, I did use a temporary filling.

Q That day you removed the temporary filling? A Yes, sir.

Q And put in the platinum? A Yes, sir; the permanent filling.

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Q Now that was so with regard to the three teeth, was it?

A What?

Q With regard to the three teeth? A No, sir; it was so with the two teeth.

Q Now, the other tooth which you did not fill on that day, where was it located? A That is the lower, on the lower left side, a bicuspid tooth.

Q Now what did you do--

THE COURT: I think I will ask you to get an answer to your next question at 2 o'clock.

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal Procedure and took a recess until 2 o'clock.)

After Recess.

ALBERT C. ROY, the defendant, resumed the stand:
DIRECT EXAMINATION CONTINUED BY MR. LEVY:

Q Now, Dr. Roy, just before recess I was inquiring concerning what you did to the lower tooth. Now, will you tell his Honor and the jury what you did, what treatment you gave to the lower tooth? A I applied cocaine in different forms, powdered form as well as in liquid form. I used a catheter for the anasthesia by pressure, used a little cocaine catheter with a little galvanized rubber top on it. I used the cocaine by pressure and I decided I had to use a stronger means in

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order to get the result, which was nitrous oxide. I informed the girl, when in the chair, sitting in the chair, which I always do, I told her so and didn't get any answer because my hands were in her mouth and I informed her I was going to give her nitrous oxide.

Q The other name for that is laughing gas? A Yes, sir; I told her.

Q Can you talk as loud as I do? A I will try to.

Q Do the best you can. A I told her I would take her in the other room where the machine is, the apparatus. So she came with me to the other room. I had finished, completed two fillings. I placed her in the chair in the little room and told her to keep her mouth open and use the saliva ejector in her mouth in order to take up the saliva which was coming from the glands in the usual way.

Q In order to make that clear that is an instrument which doctors used which is called a saliva ejector? A Yes, sir.

Q That is so that a person is furnished with a little tube, in the mouth, which avoids the necessity of their expectorating? A Yes, sir. She was placed in the chair with the saliva ejector in the mouth. I went about to attend to other things, many other things. It was my method to put a patient in that chair while I had other things to do. The fillings have to be dry. I had to prepare the gas machine in order to operate. I prepared my machine, took all the neces-

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sary drills together, and all the necessary little nerve
broaches, tried the gas and the gas machine, and got every-
thing in working order. I did not inflate my gas bags. I
waited until I was about to operate. While I was doing all
this preparation I was attending to some mechanical work. I
do some mechanical work. I had a mechanical man who does the
mechanical work for me. While I was doing this I heard some
one coming into the sitting room, the large room, which was Mr.
Gray. The girl was there being attended to with this saliva
ejector. I didn't say anything to her, she was sitting there
in that position. I left her there and attended to Mr. Gray,
who came in.

Q While on that subject what treatment did you give to
Mr. Gray? A Mr. Gray had a rubber dentation which had to be
attended to, commonly called a plate which had to be repaired.

Q What did you do to Mr. Gray? A I examined his mouth
most carefully in order to know all about the mouth. I left
him in that chair and I came into the little room, softened
some wax and also attended to some of my bridge work that was
on the fire. I came back to Mr. Gray, placed the wax in his
mouth, took an impression, said a few words, made an appoint-
ment, dismissed him. He was in that chair about four to
five minutes.

Q Now, Doctor, you must endeavor to talk louder. The
acoustics of this room are terrible. Now before we go on

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you have, back of the small room, a work shop do you call it?

A Yes, sir; back of the operating chair is a little room.

Q In that little room which I call the workshop? A The laboratory.

Q If a person requires or you require wax in order to make it pliable you go to that back room and prepare the wax there? A Yes, sir.

Q Is that the idea? A Yes, sir.

Q Now, I show you a photograph and ask you whether that is a true representation of the workshop in the back of the room which adjoins the smaller room, as you call it, on this diagram? A That is correct.

Q Is that a good photograph? A Yes, sir.

MR. LEVY: I offer it in evidence.

(Marked Defendant's Exhibit G.)

MR. LEVY: Now may I pause just a moment to show it to the jury? This is the workshop. May I illustrate it? Here is the small room and here is the workroom in the back, or this is part of this room, this workroom back of the small room.

BY MR. LEVY:

Q Now then you went into that back room? A Yes, sir.

Q You prepared the wax? A Yes, sir.

Q Then came out and took the impression of Mr. Gray's mouth? A Yes, sir; of his mouth.

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Q How long was Gray there all together? A About four or five minutes.

Q Is that all the time it takes to make a wax impression?
A It takes sometimes a lesser amount of time.

Q Sometimes more? A Yes, sir; according to the conditions.

Q In this case you found nothing to detain him there?
A No, sir.

Q When a patient is being treated with you, or when you have several patients in the office at the same time you go from one patient to the other? A Yes, sir; I am able to take care of both chars.

Q Now then, Doctor, I want you to tell his Honor and the jury everything that you can bring to your mind concerning your doings and dealings and acts with the complaining witness, Miss Poulailon, from the time she entered your office until the time that she departed, and speak up loud, if you please, because this is an important part of your case. I want you to describe everything to the best of your recollection. A From the moment she entered my office until she left my office? Miss Poulailon came to my office about a little before eleven o'clock. I had an appointment, as usual, with several people.

Q Never mind, just what you did with her. A She came in about eleven o'clock, disrobed, sat on the settee, I was working on a lady named Mrs. Coster in the other room. Mrs.

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Coster left my office about eleven-fifteen. About 11.15 Mr. Sheldon came in, a patient of mine, sat in the sitting room, facing Miss Poulailon. I took Miss Poulailon in to that chair and Mr. Sheldon waited about fifteen minutes. And about 11.30 Mr. Sheldon sat in the chair in the large room. He was in that chair about five minutes when I dismissed Sheldon. Miss Poulailon came in. It was about 25 minutes of 12, as there is a clock on the mantel and as I must figure the time for each patient as my practice is very large. I kept my eye on the clock. About 25 minutes of 12 when she came in to the chair in the large room and from 25 to 12 until 12, or about 12 I operated on these three fillings, or three teeth I should say. I was unable to fill the last tooth at that sitting. From 25 to 12 to 12 o'clock I was putting in two fillings if I remember correctly, that is, two permanent fillings. While she was in that chair I had to drill with an electric drill rapidly using, mostly we use cocaine and use ethyl chloride, and use cocaine in different forms and use ethyl chloride in liquid form with a spray, an apparatus over the nose, simply with a spray. She stated in the chair there was no pain (referring to the witness^{chair}). I wish to rebut that. There was pain because I was compelled to use antiseptics and I don't use them if the patient is able to stand it, because time is money. I filled those two teeth that I filled permanently and I finished that work. Then she called my

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attention to the lower gold tooth in a loose condition, painful at times when she used sugar etc. The tooth was loose so it was easy for me to remove it with the drill. It came out and looking upon the foundation of the tooth I found that the tooth looked very bad. In order to make a permanent work I had to clean it thoroughly. I then used the drill, it was a little bit painful. I applied cocaine with this instrument with the rubber over it for partial anesthesia. There was pain.

MR. COLLIGAN: I move to have that stricken out.

"It was painful" or "There was pain".

BY THE COURT:

Q Did she say anything on the subject of having any pain?

A I am not positive that she used the word but actions are just as manifest.

Q Did she at any time say anything about it? A I feel inclined to think she did use some words.

Q Did you perhaps make some inquiry on the subject?

A No, sir; I did not make any inquiry.

BY MR. LEVY:

Q From her manner I suppose-- A She made an outcry, a small outcry.

Q Which indicated to your mind that the girl was in pain?

A Exactly.

Q Go on. A I took a piece of cotton and I told her, I says-- this girl being a French girl although she speaks well

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English--

Q Never mind that. What did you do that cavity? Did you remove the filling? A I had removed the filling and applied drugs, which did not seem to have killed the pain. I told her I would have to use nitrous oxide.

Q Well then what was done? A Well I would transfer her into the other chair, as I did with all my patients.

Q Transferred her to the chair in the small room? A Yes, sir; where I use the nitro-oxide.

Q You did apply the nitro-oxide? A Yes, sir. I proceeded to prepare my machine, getting all the drills ready, the little drills etc. so that I would, when the girl would be, to a certain degree, anesthetized, I would be able to operate at a certain time, in a certain moment, do the proper work.

Q How long did it take you to apply the nitrous oxide or laughing gas? A Well it varies.

Q How long in this case? A About a minute and a half to two minutes because she was getting++

Q Did the patient become unconscious in that period, or insensible or she became about on the border line of unconsciousness? A Yes, sir.

Q On the border line? A Yes, sir.

Q That is to say the patient could be brought back to consciousness quickly? A Yes, sir.

Q After the drug? A Yes, sir; it was not necessary to

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give her the fourth or the third--

Q Having done that, applied the nitrous oxide, what did you do? Did you insert anything into the cavity? A Yes, sir

Q What did you insert? A May I describe?

Q Just answer the question. A Yes, sir. I used a little cocaine, called a powder, a velvo powder containing a zerene compound and then a little plain cotton on top of it.

Q You saturated that cotton? A It isn't saturated with anything, a little powder on the top of the nerve and it is saturated with a certain medical preparation that we use called one two three, of oil.

Q Now you did insert the cotton? A Yes, sir, I inserted a plain piece of cotton on the top. She is right, it was a plain piece of cotton on the top, the cotton was there but under it was the medicinal substance.

Q That having been done she was restored to consciousness again? A Yes, sir.

Q Did you have any talk with her? A I said as I would to any one that this little treatment might cause her pain for an hour or two and I dismissed her.

Q Now she testified, the young woman testified-- pay heed to me-- she testified that you took her from one chair in the large room, took her into the smaller room, and you told her to keep her mouth open, is that a fact? A That is correct, sir.

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Q And the object of her keeping her mouth open was what?

A So that the saliva ejector would take up the saliva and allow the filling to dry.

Q Now can you tell his Honor and the jury how long she remained in that small room in that chair? A To the best of my ability from about 12 to about 12.15 or 20.

Q 15 or 20 minutes? A Around 12 o'clock. I kept my eye on the clock.

Q Now, Doctor, did you at any time, during the time the young woman was in your office, take her into that small room and close the door leading from the larger into the smaller room? A No, sir; I did not.

Q Did you lock the door by means of a catch or hook at the top of the door at any time? A No, sir; rarely is it locked.

Q Did you or did you not? A No, sir; I did not.

Q The young woman testified, Doctor, while in that small room that you approached her while she was in the chair and that you placed-- I am trying to depend upon my memory for the fact-- you placed your left arm and hand underneath her neck, while she was reclining in that chair, and that you reached around, held both of her hands by her wrists, held them up across her chest and that with your right hand you lifted her garments and attempted to feel her, put your hand upon her private parts. That briefly is the girl's story. A I say

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she is irresponsible for her statements because she--

Q Did you do that or not? A No, sir; I did not, sir.

Q Did you at any time tear her waist or her stocking?

A I did not, sir.

Q Can you tell the jury whether or not the girl displayed while under the influence of anesthetics, either one of them, or any one of them, any evidences of hysteria? A Yes, sir.

Q How did she manifest that? A She manifested by the general symptoms of hysteria.

Q In what way? A Well, by her movements of her body, the movement of her hands and feet.

Q Describe that. A It is very easy and at the same time it is very long.

Q Never mind but be as brief as you can. A While giving her the anesthetic she had in her mouth, a rubber cork, between her teeth, so that the patient cannot bite your finger. Here is a case of two weeks ago where a patient bit me and blood poisoning set in, while hysterical.

Q She had that cork to keep the mouth open? A Yes, sir, and so that when I get at the tooth with my finger or use even an instrument,-- I don't want to injure the patient or myself. While giving her the anesthetic it seems I got to a point where the respiration was somewhat obstructed. Then in giving an anesthetic a dentist is always nervous because he don't want a death and naturally I did a great many things which

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other doctors do. If a patient is a man who is not hysterical it is different but if the patient is excitable as the French people are very likely to be we have trouble. The cork moved anyway-- the cork moved as I was drilling^a little bit, the cork moving and the jaw closing, and the only thing for me was to take out the drill and leave her alone. Her symptoms of hysteria were these: her hands went up into the air and her head partially rested upon the head rest, the little head rest moved a little bit and her body fell to the left this way (illustrating), of course this chair is a great deal different than a dental chair so the only thing I had to do was to grab her by the wrist and as I straightened her, took up the wrists with her head raising gradually I pulled her by the wrist and straightened her body this way (illustrating). Her hand was up in the air some way or other and pulling her body her stomach seemed to make a curve, her feet were up on the foot rest and her body came in a curve like (illustrating).

Q Rigid? A Yes, sir. After that there was some rigidity of the muscles and after that there was a relaxing as it is called, that is, a relaxation. Her feet she slipped into the opening of this foot rest. Any dental chair has about the same thing and it is always dangerous for a person to get their feet this way (illustrating). For instance when I give gas if a person has their legs this way (illustrating) I always say to the woman or man "Put your feet in the proper po-

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sition because when the body gets rigid we are on the lookout for relaxation and there is liable to be trouble. So I pulled her feet out of the opening and just at that time she gained consciousness, did not make a motion, or make a noise. As it is the law not to touch them, leave them alone, not to tell them to sit there or anything of that sort I waited for her to regain consciousness, and so I went in the little room and knowing that--

Q Never mind that. A I went in the little room to get a little powder to put in that tooth. I noticed that the maid was dusting another part of that little table.

Q We will pass from that. A I got the medicine and came back and waited a few seconds and opened her mouth and I placed the medicine in the tooth and that is all there was to it.

Q Doctor, the young woman claims that you subjected her to the indignity of putting your hand upon her person, of opening your own apparel and of exposing your own private parts, is that true or not? A No, sir. It is an error. It is an error; she is irresponsible for that statement.

Q Is it true or not true? A No, sir; it is not true.

Q Did you open your trousers? A No, sir.

Q Did you expose your person? A No, sir.

Q Did you put your hand upon her privates and attempt, at any time, ^{to} titillate her with your finger? A No, sir.

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Q Doctor, at any time while she was in your office or at any other time did you ever intend to perpetrate an act of sexual intercourse with that young lady? A No, sir.

Q Did you ever have it in your mind either with her will or against her will? A No, sir; no way.

Q To have intercourse with her? A No, sir.

Q In your experience you have seen hysterical patients after the effects of the anesthetics had worn off? A Yes; thousands of them in my office.

Q Are you conscious of having inflicted upon that young woman by force and intentionally any bruising or pinching which would cause any discoloration of her flesh? A No, sir; except I may have pressed her wrists a little when I lifted her body. That may account for this.

Q That was not done intentionally? A No, sir; it was consistent with my work.

Q And was not done for the purpose of overcoming resistance to any advances or liberties that you wanted to take with her? A Yes, sir.

Q You swear to it? A Yes, sir, I swear to it.

Q Now there has been testimony given here that you gave her a dollar bill, or put a dollar bill in the cuff of her coat or garment; did you? A No, sir.

Q You will get a chance to answer the District Attorney when he cross-examines you. Did she before going out of the

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room take the dollar bill from the cuff of the coat and throw it in your face? A No, sir.

Q Did you tell her you wanted her to use that to buy flowers with? A No, sir.

Q Now, there has been testimony given here by Mr. DeVille and by Officer Ditsch to the effect that there was something said by you that you would make reparation, something said by you that if you could make reparation you would do it; now what was said on that subject? A Why these men, these two detectives, that is the word that they wanted to put in my mouth, reparation which means make amends, make a reparation, and I said I have no apology to make.

Q You said "This means ruin to me to make this charge"? A The fact that it is such a charge against me is enough to ruin my life, and also to break the heart of my mother. I told her what a serious charge it was and detective Ditsch said to me several times--

Q Never mind that. As a matter of fact, of record, have you knowledge as to how much you weigh, what your weight is? A Yes, sir; 115 pounds.

Q 115? A Yes, sir.

Q The young woman testified that you practically jumped on her, she described it that way, that you put your mouth to her mouth and that you stuck your tongue in her mouth, to such an extent that you almost choked her, that you rolled your

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tongue around her mouth; did you do anything of that kind?

A I did not, no, sir.

Q Did you approach her mouth at all except with your hands? A The rubber--

Q Did you approach her mouth at all except with your hands? A Yes, sir, as my work as a dentist required.

Q Not with your mouth? A Never.

MR. LEVY: You may cross examine.

CROSS EXAMINATION BY MR. COLLIGAN:

Q Now you say you think a great deal of your mother, do you not, Doctor? A As much as any one.

Q You think a great deal of your wife, do you not? A I do.

Q Do you know a girl by the name of Marie Robbins?

MR. LEVY: I object to that as incompetent, incompetent and irrelevant.

MR. COLLIGAN: How do you know what I am going to ask him about?

MR. LEVY: I make the objection.

Objection overruled; exception.

Q Do you know a girl by the name of Marie Robbins?

MR. LEVY: Yes or no.

A Why my office is--

Q Yes or no. A I may have known her but I don't know her today.

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Q Did you know Marie Robbins? A I don't know, sir.

Q Why do you say you may have known her? A Because I have had such a large number of Maries and Robbins and Robinson, probably I don't remember, sir.

Q Let me refresh your recollection. A Yes, sir.

Q I am going to ask you a question. On the 20th day of April 1910 did Miss Marie Robbins go to your office at 8 o'clock in the evening, you did some professional work on her, and at 9.30 when the building was vacant you told her to go into the sitting room, sit on the couch, and when she had done that you put out the lights and you attempted to rape her?

MR. LEVY: I object to that.

Q I ask you if that is so.

MR. LEVY: Wait a minute. Don't get your French stirred up.

MR. COLLIGAN: He has an Irishman to deal with now.

MR. LEVY: I object to that question if your Honor please.

THE COURT: Objection overruled.

Exception.

Q I am going to ask you--

THE COURT: He may answer the question.

Q Yes or no. A No, sir.

Q On or about the 20th didn't this thing occur?

MR. LEVY. Yes or no.

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A No, sir.

MR. LEVY: The same objection applies to that question.

BY MR. COLLIGAN:

Q Is that your handwriting, yes or no? A Yes, sir.

Q Do you remember whether or not that was given to Miss Marie Robbins?

MR. LEVY: I object to that. I object to it, sir.

THE WITNESS: No Marie Robbins down there.

MR. LEVY: Stop.

THE COURT: Wait until your counsel has an opportunity of objecting if he thinks he should object.

MR. COLLIGAN: I had asked him if that was his handwriting. He said it is.

THE WITNESS: Yes, sir.

MR. LEVY: If he said it is his handwriting that is another question.

BY MR. COLLIGAN:

Q Was not that addressed to Miss Marie Robbins?

MR. LEVY: I object to that.

A I don't think so.

MR. LEVY: Will you wait?

Objection overruled; exception.

Q Examine it and refresh your recollection, if you think so much of your mother and wife.

MR. LEVY: Stop. I object to that, "If you think so

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much of your mother and your wife."

MR. COLLIGAN: We will withdraw that and make every-
thing pleasant.

THE COURT: Strike that out. You will disregard the
question. Give no regard to the question.

Q Have you refreshed your recollection? A Why this
card looks like one that--

Q Will you answer the question? Have you refreshed your
recollection?

MR. LEVY: Yes or no.

A I--

MR. LEVY: Yes or no.

THE WITNESS: No, sir; I know nothing about it.

Q You know nothing about it? A No, sir. I gave one to
my wife like it with my picture on it. My wife's name is
Marie. I think that was stolen from my office.

BY MR. COLLIGAN:

Q Stolen from your office? A Yes, sir; I missed one of
those cards.

Q Here is one addressed to Miss Marie Robbins, was that
stolen from your office?

MR. LEVY: I object to that as immaterial, irrelevant
and incompetent.

Objection overruled; exception.

MR. COLLIGAN: I will withdraw the question.

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BY MR. COLLIGAN:

Q Now I ask you to examine that postal card and tell the jury whether or not, if you know, who that was addressed to.

MR. LEVY: I object to that as not material, relevant or competent.

BY THE COURT:

Q Was that addressed by you? A Yes, sir; it was addressed by me.

Q To whom?

MR. LEVY: I object to that as not material, relevant or competent. Wait until the Court rules.

Objection overruled; exception.

Q To whom? Read it to the jury.

MR. LEVY: I object to that.

THE COURT: You need not read it.

Q To whom was it addressed?

MR. LEVY: I object to that as immaterial. You are putting before the jury matter which is not admitted in evidence by reading it to the jury.

THE COURT: There will not be any reading at all.

BY MR. COLLIGAN:

Q To whom was that addressed?

MR. LEVY: Your Honor overrules the objection?

THE COURT: Yes.

Exception.

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Q Answer; was it Marie Robbins? A There is nothing to it.

Q You do not know whether you addressed it to her?

A There is nothing to it. I would send to many persons a card like this. I built up my practice that way.

Q "Forget me not"? A Yes, sir.

MR. LEVY: Will your Honor indulge me? The impression, at least, may be created by innuendo and insinuation that there is something in this method of proof--

THE COURT: I don't think so. I think the jury are men of intelligence in this case.

MR. LEVY: Here is the postal card, your Honor, addressed to a party whom the witness stated. How does that become material, relevant or competent to this issue?

THE COURT: I haven't any notion at all about it. Several questions were asked.

MR. COLLIGAN: He said he didn't know Miss Marie Robbins until he found out--

THE COURT: It may not have any bearing at all. I know the jury are not going to suggest anything at all or draw anything from any suspicious source in the proof here. Give attention to the questions and the answers.

MR. LEVY: Your Honor will see the evil. Suppose I were a witness on the stand and the District Attorney should come and present a dozen letters to young women and

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say "Do you know so and so, did you write a letter to so-
and so?" The evil is done.

THE COURT: I cannot agree with you that that can be
so. Here is a person who is in business, he is in a
public business and he has ^{clients} and he may advertise his
business. Every legitimate business man may address men,
women and children and it is a perfectly proper thing to
do. This jury is not going to draw any inference from
any such question or any such answer.

MR. LEVY: Of course not.

THE COURT: I am not going to let them do it, Mr.
Levy, I can assure you.

MR. COLLIGAN: And the District Attorney is not try-
ing to do it except on proof.

MR. LEVY: Does the District Attorney intend to offer
these letters or papers in evidence?

MR. COLLIGAN: I have a right, under the decisions,
if it please the Court, to ask these questions.

THE COURT: Go right ahead.

MR. LEVY: My purpose is to make the record a proper
one.

BY MR. COLLIGAN:

Q Why did you tell the jury a moment ago that you did not
know Miss Marie Robbins after having admitted that you sent her,
as you did, one of these cards?

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MR. LEVY: And I object to that.

THE COURT: Objection sustained as to the form of the question.

Q Now I will ask you about another young lady.

MR. LEVY: I object to that statement.

BY MR. COLLIGAN:

Q It is your custom, is it not, or it has been, to some extent to advertise when you wished the services of a young lady to work for you?

MR. LEVY: I object to that as not material, relevant or competent.

Objection overruled; exception.

Q Has not that been your custom? A Yes, sir.

Q Did you know a young woman whose name is May Burgess and who lived at 69 West 90th street?

MR. LEVY: Yes or no.

A I don't remember.

Q Do you remember that in the summer of 1911 you advertised in the Morning World for a girl, and that a girl by the name of Miss May Burgess, who told you she lived at 69 West 90th street, New York City, answered your ad. and came to your office after receiving a reply from you telling her to come at 8 p. m. in reference to the position, that you asked her to wait a while, and when you were through you took her to the outer room, put her on a sofa and attempted to rape her?

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MR. LEVY: I object to that, if the Court please,
as incompetent, immaterial and irrelevant.

THE COURT: Objection sustained.

MR. LEVY: Now, your Honor will, of course, I know,
tell the jury that anything that is contained in the ques-
tions of the District Attorney that has not been proven
should be disregarded by them?

THE COURT: The jury, I think, understand that when
an objection is sustained it nullifies everything that is
contained in the question and is not for the jury to con-
sider at all.

MR. COLLIGAN: Well, if the Court please, I shall ask
the direct question.

MR. LEVY: I call the District Attorney's attention
to the decision in the case of the People against Freeman.

MR. COLLIGAN: I am aware of it. I have it on my
notes.

MR. LEVY: Well be fully aware that I warn you.

THE COURT: Let us proceed with the case.

BY MR. COLLIGAN:

Q I ask you if in the summer of 1911 you did not attempt
to rape May Burgess who lived at 69 West 96th Street?

MR. LEVY: I object to that as incompetent, immaterial
and irrelevant.

THE COURT: Objection sustained.

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Q I ask you now if it has not been your custom for several years to advertise in the newspapers for help, and for several years to attempt to rape women, your customers and patients coming to your office?

MR. LEVY: I object to that, sir, as incompetent, immaterial and irrelevant.

THE COURT: You may answer.

MR. LEVY: I take an exception.

Q Yes or no. A No, sir.

Q You mentioned the French word for "amend" did you not on your direct examination by counsel? A I said the detective stated "reparation".

Q And the detective talked French, didn't he? A Yes, sir.

Q He talked French in the corridor after this thing happened, did he not? A Not all French.

Q Did he talk some French? A Yes, sir.

Q How much English did he talk? A Why I didn't make a note of it.

Q Well to your best recollection what part of the conversation took place in English? A Why, everything was in English except those two words in French "reparation" as far as I can remember.

Q Now you know, as a matter of fact, that the conversation took place in the presence of the complainant, in the pres-

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ence of Mr. DeVille, the official interpreter of this court, and the officer and the father; do you not? A There was two conversations, one in the hall and one in the room.

Q Now, let us apply ourselves to the one in the hall.

A Yes, sir.

Q Who was there? A I was there.

Q Who else? A Detective Ditsch.

Q Who else? A I am not sure about the other fellow.

Q Don't you know Mr. DeVille was there? A He is a perfect stranger to me.

Q You have seen him on the witness stand during the trial?

A Yes, sir; saw him look around--

Q Is he a perfect stranger to you now? A He was there.

Q You have a pretty good recollection, haven't you, of what happened during that period? A Somewhat.

Q Now, tell the jury whether or not Mr. DeVille was there at the time the conversation occurred in the hall? A I am not quite sure about DeVille being there in my haste etc. I know Detective Ditsch was there and a number of patients in my office.

Q You are not here, Doctor, to make a speech. Tell us once again what anesthetic you used on the woman that day.

A I used cocaine, Ethyl chloride and nitrous oxide.

Q In what room did you use the cocaine? A I used the cocaine in the big room.

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Q Now who was in the office or your waiting room at the time you used the cocaine? A My maid.

Q Where was she at the time? A In and out both the little room and the large room.

Q The little room and the large room? A Yes, sir.

Q That is, the two operating rooms? A Yes, sir.

Q She was in there? A And in the hall if she had to go out, I didn't notice.

Q You didn't notice? A No, sir.

Q What are your maid's duties there? A She has to make herself generally useful.

Q Generally useful? A Yes, sir; do anything to keep that office clean and to assist me if I need her.

Q Especially during operations? A No, sir; not specially. She has to do the cleaning.

Q Wash the floors? A No, sir, I won't say that because it is oiled cloth, mostly. She sterilizes my instruments and does all kinds of things that a maid should do in a dental office.

Q She doesn't wash the floors at all, does she? A Yes, sir; I did not say she does not.

Q Does she wash the floor in the hallway? A Yes, sir.

Q Do you recollect that about three years ago there was a woman who washed the floor in that building?

MR. LEVY: How is that material?

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MR. COLLIGAN: You don't know yet.

MR. LEVY: I object to it.

Objection overruled; exception.

Q Do you recollect about three years ago there was a woman? A I had several women.

Q Well about three years ago? A Yes, sir.

Q That time? A Yes, sir.

Q You were in the building, were you not? A Yes, sir.

Q Now I want you to tell the jury if it is not a fact that you tried to rape that woman who worked there?

MR. LEVY: I object to that, if your Honor please. I object to this as incompetent, immaterial and irrelevant. I don't want to ask for a mistrial or the withdrawal of a juror.

THE COURT: You may answer the question.

Q Did you or not? A No, sir.

Q What is your answer? A No, sir.

Q So that at the time that you were giving the cocaine to the complainant, in the outer office, the woman was wandering around? A The woman was wandering around?

Q Your assistant.

MR. LEVY: The witness has not said wandering around.

THE WITNESS: Working around.

MR. LEVY: I object to it.

Q Who came into the office at the time that the complain-

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ant was in your chair in the outer office? A In the large room?

Q In the chair in the operating room; who came in?

A Why nobody came in.

Q Nobody came in? A No, sir; Mr. Sheldon was there.

Q Isn't he some one? A Let me think. When she was in the chair Mrs. Coster had gone and Mr. Sheldon had gone and she was alone in the place, my maid and I were there, nobody else.

Q Mr. Sheldon and Mrs. who, Coster? A Yes, sir.

Q Had gone? A Yes, sir.

Q Mrs. Custer, is it not? A Yes, sir.

Q Had gone before she arrived, is that it? A No, sir.

Q We would just like to know the facts. A Mrs. Coster was in the chair, sitting there, and Miss Poulailon came in; she sat on the settee and I kept on operating on Mrs. Coster. I got through with her. And I took in Mr. Sheldon in the chair. I operated on Mr. Sheldon. I dismissed Mr. Sheldon and then Miss Poulailon came in after, therefore Miss Poulailon was the last one in that chair until Mr. Gray came in.

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Q Who was in the building or in your apartment outside of the assistant and yourself at the time that the complainant went in the smaller room? A At the time she went into the smaller room? There was nobody but me and my maid.

Q You and your maid? A Yes, sir.

Q But after that few moments, after that, Mr. Gray came in and Mr. Gray was there about five minutes? A Four or five minutes.

Q While she was in the small room, in that room did you give the anaesthetic? A Yes, sir, in the small room.

Q What was the cause of giving her the anaesthetic?

A Because that is perfectly consistent, for the nerve --

Q How much work had you done for her prior to this day? A Why I had completed two fillings.

Q What was the necessity of giving her an anaesthetic on the third occasion? A In order to remove the pulp of the nerve.

Q Is it your custom to give gas to people when treating a nerve? A My custom is that of every first class dentist in New York.

Q It is the custom of a first class dentist in New York when to have an assistant in the office to assist them, haven't they? A If you are wealthy enough to have a maid.

Q You are wealthy enough to have a maid? A No, sir.

Q Haven't you a maid? A Yes, sir, a maid to do the general work, and sometimes to assist.

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Q Don't you consider the work of assistance in an operation on a patient as more important than sweeping the floor or cleaning the stairs? A A small operation, sir, I don't feel that it was important enough to call my maid.

Q Then the application of gas is not important enough to keep your maid from sweeping the floor? A She wasn't sweeping.

Q She wasn't doing anything A She was dusting, yes, sir.

Q What was she doing, dusting? A She was working.

Q Why did you say doing nothing? A I didn't say she was doing nothing-- I said she was not-- she was in doing something which was work, cleaning, dusting and so forth.

Q Now just what time did you give gas to this woman in the inner room? A After Mr. Gray went out.

Q After? A Yes, sir.

Q You felt sure you wanted Mr. Gray to go? A No, sir.

MR. LEVY: I object to that.

THE COURT: Objection sustained.

Q Where was the girl at that time when you were applying the gas? Where was the maid? A I don't know where she was; I know she was in the next room.

Q Well, now you told the jury you don't know where she was, then you told us again she was in the next room, which is correct? A I know just what I am saying, sir, my maid was in the large room.

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Q Why do you say you don't know where she was? A I know where she was.

Q Why do you say you don't know where she was? A I didn't say that. If I did I reverse myself.

Q What was she doing in the next room at the time you were applying gas to the patient? A I don't know, sir.

Q How do you know she was in the next room? A Because I got --

Q Because what? A I won't say she was making a noise -- but I had gone to the little cabinet to get some instrument, I know where she was, I had seen her there.

Q You went to a cabinet to bring an instrument when she was in the next room? A I went to get an instrument from the cabinet, yes, sir.

Q Isn't it customary to send for her to bring the instruments for you? A No, sir; I do it myself.

Q She never brought in the instrument on this day??

A No, sir.

Q You heard her testify to that effect? A No, sir.

Q Now did you hear her say that she brought an instrument to you in the next room? A No, sir.

Q It is your custom to go in and bring all the instruments notwithstanding the fact that you have a maid there?

A Two or three instruments.

Q Only two or three? A My maid is not -- I am telling you she is there mostly working in the morning, doing the cleaning in the afternoon, and that happened to be about

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noon time.

Q All the pretty women come in in the morning?

MR. LEVY: I object to the insinuation contained in the question.

THE COURT: Objection sustained.

Q How long did it take you to apply gas to this patient? A About a minute and a half or two.

Q What did you do during the period the gas was applied? A What I did? I waited for the proper moment to apply the drill.

Q You waited for a minute and a half? A I held the hood on her face, and waited for the proper time to use the drill, until she got the proper state of -- so that I could use the drill, and she would not feel pain.

Q All the time your assistant was in the next room? A Yes, sir, that is perfectly proper.

Q Now you have a door between that operating room and the other room have you not? A Yes, sir.

Q The door was open, was it? A Yes, sir.

Q How was the door kept open, Doctor, it is a swinging door, is it not? A How kept open? It is such a door that it stays open all the time.

Q You have a latch at the top of that door, have you?

A Yes, sir, I bought that door catch and all the way it is.

Q You didn't have a catch on the upper part of that

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door on the day in question? A No, sir.

Q You did not close the door at all? A No, sir.

Q Now you did fill three teeth did you not? A Yes.

Q Before this? A Yes, sir; I did.

Q You were working on one tooth simply? A That is correct.

Q In order to kill the nerve? A Yes, sir.

Q You used gas for that purpose? A Yes, sir.

Q You did it alone? A Yes, sir; certainly always do.

Q How long had you been in the outer office? A About 25 minutes.

Q How long had you been working on her in the outer office? A About twenty five minutes.

Q What were you doing during those minutes? A Filling two teeth, excavating and so forth, and the application of medicine.

Q How many teeth in all did you work on? A Three.

Q Haven't you told us you completed filling those two teeth on the prior visit? A But I didn't tell you I concluded the third one.

Q I am asking you now if you had completed the filling of the teeth on the prior visit? A No, sir.

Q Isn't it a fact that you completed filling those two teeth on the prior visit? A No, sir.

Q Isn't it a fact that her mother accompanied her

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there when the filling was completed of the two teeth?

MR. LEVY: The attitude of the learned District Attorney in shaking his finger in the face of the witness I call attention to.

MR. COLLIGAN: That is the way I have, and I will probably continue to do so as long as I try cases.

BY MR. COLLIGAN:

Q Isn't it a fact that you completed the work on the two teeth before the visit in question? A It is not an fact, it was an error.

Q Now, she was in the outer room twenty five minutes?

A Yes, sir: about.

Q How long was she in the inner room? A About fifteen or twenty minutes.

Q Now in that room you applied the gas to kill the nerve? A Yes, sir:

Q And worked on it? A Yes, sir: worked on it.

Q How long were you working on it? A As she was hysterical, I only worked just a little bit.

Q How long? A Because she became hysterical, the cork came out and her respiration was obstructed and it was not proper for me to operate any more.

Q Haven't you told us a few moments ago that at the psychological moment, when under the gas, you did the trick so far as fixing the teeth was concerned, and killing the nerve? A I didn't say that, sir, I told you I used the drill

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but I did not kill the nerve; I did not complete the work on account of her hysterical condition.

Q What sort of an instrument did you use on this woman in order to perfect your work in the inner room, what did you do? A I used an electric drill. I excavated a tooth.

Q When you used the electrical drill was she under gas or not? A She was conscious.

Q Not under gas? A In the large room you mean?

Q In the smaller room? A In the smaller room I didn't use any drill, didn't use anything except - Q What did you do, Doctor, let us have it.

MR. LEVY: Give him a chance to answer.

A I understand what I am saying very well. You mean in the small room? I used the drill and excavated a little above the nerve when the cork moved and the respiration became obstructed I was unable to do any more because she closed the mouth, closing on my fingers or on the instrument, and I didn't want her to--

Q You had put something between the jaws to keep them open? A Put a piece of cork.

Q She broke the cork? A No, sir; it is rubber, and it slipped out.

Q At the psychological moment what did you do, when she was under gas?

MR. LEVY: I object to that. Let us get your question in proper legal form.

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MR. COLLIGAN: I will withdraw the question.

Q At the time that she was under gas, what did you do, if anything? A I did a little bit of drilling on the nerve, but I realized that she was conscious and this drilling had not been sufficient --

Q You didn't give her gas enough to complete the work?

A No, sir, because she was hysterical, and that prevented me from doing what I wanted to do, as much drilling as I wanted to do.

Q She was hysterical notwithstanding you had applied the gas. Do you want the jury to believe that? A That is a perfect fact.

Q How long did that take? A Couple of minutes.

Q What did you do when she became hysterical? A I had to leave her alone to wait until the respiration was better.

Q How long was that? A Probably a minute or two.

Q What happened then? A Nothing happened; she became all right.

Q What did you do about it? A Her head was pressing very strongly against the head rest, and the rest of her body fell this way (indicating) pressing against this head rest to get her in the direct, proper position, I grabbed her by the wrist, straightened her in position, her hand went up in the air this way (illustrating) her body stiffened, her muscles became stiff, and her body became an arch, and there was relaxation.

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Q Was this at the time she was under gas? A Yes, sir; that is what I call hysteria.

Q That is before she became conscious? A After.

Q After? A Yes, sir; she was unconscious during these things.

Q That occupied a few minutes time? A No, sir, the induction of gas takes -- she took probably a minute and a half or two.

Q How long was she in this hysterical condition?

A A few instants.

Q How long did you use this cone, Doctor, on her? A I used the cone probably a minute or a minute and a half.

Q You held it to her nose? A Yes, sir; that is perfectly proper, and consistent with my work.

Q Now, what happened after you got her in a normal condition? A Why I went to the little room and got the velvo powder, and came in, brought that instrument, a little pair of plyers to use on her tooth, told her it would probably pain her a few hours, and dismissed her.

Q You had not completed the work you intended to perform on her while she was in that condition? A I could not complete. I had given her some gas, but my gas was almost empty -- that was the reason I didn't give her more gas.

Q When did you ascertain the gas was almost empty?

A Well, I did not--

Q When did you ascertain or how did you know the gas

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tank was empty? A I was trying to inflate my gas bag. It was not filled as much as it ought to be, and there wasn't sufficient gas there to give her another dose of it.

Q How much experience have you had with dentistry?

A Probably around 15 years, because I studied before I graduated.

Q It is customary to measure how much gas you put in the tank before you begin to operate? A That is what we ought to do, but I didn't do it at that time. I use an awful lot of it.

Q How large a cone did you use? A The usual cone to cover the nose.

Q What is the usual cone? A The probable length to cover the nose and mouth.

Q What is it made of? A Rubber and celluloid. You are able to see the color of the lips through celluloid.

Q After she came to a normal condition and you had applied this material that you spoke of,-- after she had reached or gone beyond the stage of hysteria? A I applied this powder in her mouth. I told her that it would probably pain a few hours. That is all there was to it.

Q That is all there was to it? A Yes, sir.

Q Did you have any conversation with her after that?

A I think she went to the other room, to the larger room.

Q What is that? A She went in the larger room and put on her hat and coat.

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Q Where was her hat and coat, in the waiting room or in the large office? A I think it was on the settee or on the sofa, I am not quite sure.

Q Which room? A In the large room.

Q That is the waiting room? A Yes, sir.

Q Was the maid there at that time? A I don't know sir.

Q You have a pretty good recollection of what occurred ^{see} that day. Now, if you can refresh your recollection, was the maid in any of those three rooms at the time that the complaining witness was leaving your smaller room? A I can't tell now where the maid was.

Q But you know where she was at the time you were in the inner office, the larger room, do you not? A No, sir, I do not. I know where she was when I was operating in the large room because she was right alongside of that chair. My maid goes in and out of those rooms all the time. She does as she pleases to keep the place clean.

Q You didn't attempt to rape the complainant at all?
A No, sir.

Q It is not your custom is it?

MR. LEVY: I object to the form of the question, as insulting.

MR. COLLIGAN: I object to the statement of the attorney for the defendant as insulting also.

THE COURT: Put a question.

Q Now what did she do when she left the inner room?

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A She walked into the large room. I suppose she was putting on her hat and coat because when I stepped to my desk to glance at my appointment book, and was figuring what date I would give her, I heard her say, "When can I come in again."

Q She told you that? A Yes, sir.

Q On this occasion? A Yes, sir.

Q Wanted to come again? A "When can I see you again."

Q Tell us all about that. That is very interesting.

MR. LEVY: I object to these comments. I want to note an objection.

MR. COLLIGAN: We will cross out the words "that is interesting".

MR. LEVY: I object to that.

THE WITNESS: I told her I would see her Thursday morning at 10 o'clock.

Q What day of the week was this, Monday, Tuesday or Wednesday? A This was Monday.

Q You told her you would see her Thursday? A I would see her about --

Q Did she ask you to continue operating on her? A She asked me when will be my appointment", or "when can I see you again" some words of that sort or nature. I was glancing in the book, studying the book.

Q Where was your book at the time? A On my desk.

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Q Where were you when she asked you this? A At my desk.

Q Where is your desk? A In the large room, near the window.

Q Now that was when she was getting her coat and hat?

A Yes, sir; I left the desk and came to the little table, and placed my book upon the little table, and I was probably five or six feet away from her.

Q Why did you tell the jury a moment ago that you didn't know what room she went into to get her hat and coat? A No, sir; I didn't say that. I didn't understand your question.

Q She made an engagement to return the following Thursday? A Yes, sir.

Q What did she say to you to the best of your recollection? A "When can I see you, " When can I call", something like that.

Q What did you say? A I said Thursday morning at 10 a.m.

Q Then she went out? A Yes, sir. Let me say something else. I said, "Very well", I put her down, put her name down, that morning, and as she was going outside, I said, "by the way, tell your mother that her plate is ready, I can see her Thursday or Friday! She says, "All right". She walked out the door, it was open about four or five inches.

Q What door? A The door that leads into the hall.

Q Did you walk to the door with her? A Yes, sir.

Q You are positive of that? A Yes, sir; I am.

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Q Did you see the maid out there? A No, sir; I did not; I did not look, because I was looking this way, I was not looking that way.

Q You were looking at this woman were you not? A I was looking while she was opening the door, going through.

Q She came through the door out into the hall? A Yes.

Q You opened the door and stood at the door? A I stood near the settee I couldn't see my maid in that position.

Q You didn't come to the door? A I came close to the door.

Q There is a settee, is there not? (Showing witness diagram). A Let me explain to you, sir.

Q Show the jury. A I know more about this than you do.

Q You ought to. Show it to the jury. A This is the little table (indicating). I had my book on here, on this table, and I says, I asked her about Thursday, and she was by this looking glass here (indicating) in front of that putting on her hat, she stood about a minute or two, and the door was open about four or five inches while I was talking to her, and while saying Thursday I had the book in my hand, and I opened that door a little more to allow her to go out, she was about ready to go out, and I says, "Tell your mother her plate is ready."

Q You did not see your maid in any of those rooms at the time? A No, sir.

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Q Do you remember whether you saw her in the hall?

A No, sir; I did not go in the hall and look, sir. I had many other things to do for several patients.

Q There were several patients there already? A To come after. I had to hurry for my dinner.

Q I will just ask you one question. You stated on the direct examination that the woman was in an alarming condition. You used the word "alarming", did you not? A Alarming? No, sir.

Q In answer to your attorney? A I don't remember.

Q You were alarmed at her condition, is that what you said on the direct examination? A Under what circumstances?

Q In answer to your attorney, when she became hysterical and so forth? A Yes, sir. That is perfectly proper, any dentist would be alarmed if a person is hysterical.

Q Why, having an assistant who was a woman in your employ, why did you not ask the woman to come to your assistance if this patient was in such an alarming condition?

MR. LEVY: I object to that.

Q She was in such a condition to cause you alarm?

MR. LEVY: I object to that as incompetent, irrelevant, immaterial, and argumentative.

THE COURT: You may answer.

Q Why did you not do it? A Because the condition when I called my maid in is when I had a large operation,

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for instance, a lot of extractions, bleeding and so forth, and she hands me little cotton balls. That is the condition when I need the maid or if I break teeth and bleeding is so much the maid has to fetch me those little cotton balls. That is the only time I need the maid.

Q Here is was a condition in which the patient was in such a condition that you yourself became alarmed. Why is it that you did not have this maid that assist you?

MR. LEVY: Objected to.

THE COURT: Now, witness, just take in the question, and answer it.

A I would be alarmed?

THE COURT: Wait until the question is finished, and then if there be objection wait until I pass upon it, and then reply to the question.

BY MR. COLLIGAN:

Q Why is it that on this particular occasion in question when the patient was in such a condition that it caused you, yourself to become alarmed, why is it that you did not call for this woman whom you had employed in your establishment for just such a purpose?

MR. LEVY: I object to that as not competent, material or relevant, as argumentative and containing matters not in the evidence.

THE COURT: You may answer.

MR. LEVY: Exception.

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A I would be alarmed if I kept on giving her gas, but I stopped, I removed the crook there was nothing to be alarmed about, if I kept the gas from her nose and face.

Q Then why did you tell your attorney on the direct examination that you were alarmed at her condition?

MR. LEVY: I object to that as not material, relevant or competent.

Objection overruled: exception.

Q Why did you tell him that? A If I kept on giving her gas --

Q Why did you tell your attorney that you were alarmed.

MR. LEVY: I object to that. Let me formulate my objection. It is argumentative, immaterial, incompetent and irrelevant. I respectfully object.

Objection overruled. Exception.

Q Answer the question this time? A Yes, sir; I answered it before. I would be alarmed if I kept on giving her more gas.

Q Why did you tell your attorney you were alarmed on that occasion?

MR. LEVY: I object to that. He answered the question.

Q Tell us the reasons for your alarm. You say you were alarmed now? A I was alarmed if I kept on giving her gas; I was not alarmed if I stopped; I do not see where I could be alarmed. I said the respiration was obstructed.

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Q Why did you tell your attorney that you were alarmed on this particular occasion. Now you understand English, do you not? A Because the girl had hysteria.

MR. LEVY: I object to the counsel for the prosecution shaking his finger in front of the face of the defendant.

THE COURT: I don't think it is having any influence upon the witness, Mr. Levy.

MR. LEVY: He should not do it, your Honor, and I would not do it, and never did it. It is not an examination, it might be physical exercise.

THE COURT: It is perfectly proper if he desires to use a gesture.

THE WITNESS: A dentist is always alarmed when he gives gas.

Q I am asking you to answer this question.

(The stenographer reads the answer as follows)

"Because the girl had hysteria."

M A R I E E L I Z A B E T H R O Y, a witness called on behalf of the defendant, being duly sworn, testified as follows:

(The witness states she lives at 42 Bank street.)

DIRECT EXAMINATION BY MR. LEVY:

Q Mrs. Roy. you are the wife of the defendant? A Yes, sir.

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Q You have been married to him how many years? A Going on seventeen years.

Q Where were you married? A I was married in Boston.

Q You have lived with your husband in the city of New York, how long? A Well, off and on seven or eight years, I don't know just how long because we lived in Baltimore, and we lived in Boston also during the time we were married.

Q Your name is Marie, is it? A Yes, sir.

Q Your relations with your husband have always been affectionate? A Yes, sir; always.

Q He has presented, from time to time, with different postal cards?

MR. COLLIGAN: I object to that.

Objection overruled.

A Yes, sir.

Q You have frequently visited the dental parlor? A Yes.

Q The dental office? A Yes, sir.

Q You have left some of your personal belongings in his desk, haven't you? A Yes, sir: in a pigeon hole.

Q Do you recollect after your husband was arrested going to your husband's place of business, and looking at his desk or going to his desk, and finding that some of the correspondence had been abstracted therefrom, had been taken out?

A Yes, sir.

Q Do you recollect that? A Yes, sir. I do.

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Q Now, I show you a postal card, which the District Attorney has referred to, which is addressed to "Marie Albert"? A Yes, sir.

Q Your husband's name is Albert? A Yes, sir.

Q Do you remember seeing that picture? A Yes, sir.

Q Do you recollect your husband having given it to you?

A Yes, sir.

Q Do you recollect having put it in your husband's desk? A Yes, sir; put it in the pigeon hole.

CROSS EXAMINATION BY MR. COLLIGAN:

Q Is it a custom of your husband's to write postals to you?

MR. LEVY: He didn't write a postal. He gave her a photograph.

Q Is it a custom of your husband's to write postals to you? A Yes, sir, I have many at home.

Q Did he write them to you? A Yes, sir; many.

Q What does he do, bring them home from the office?

A No, sir; he just had them taken.

Q He had them taken and he put his name on it, "From Albert"? A To May or Marie.

Q When do you recollect that was taken? A It must be two or three years ago, it is a long time ago.

Q A long time ago? A Yes, sir.

Q To the best of your knowledge where did he give you

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this postal? A In the office.

Q Do you recollect who was there and so forth, that is all you know about it? A I don't remember who was there at the time, but the doctor gave it to me and I put it in the pigeon hole in the desk, and I know when I went there I found it was gone, and that is all I know.

Q How many of these postals had he written to you?

A I had many, but not like that, written to me. I had many of them.

Q Have you any in your possession to day? A Yes, sir. I have some just like that.

Q With his handwriting on? A No, sir: no handwriting on at all; I cut them around to put in a frame.

Q None of them had any handwriting on reading "Marie Albert"? A No, sir: not exactly, only that one.

Q That is the only one you had in your possession which was ever given to you, on which was inscribed the words "From Marie to Albert"? A Yes, sir; in that style of photograph.

BY MR. LEVY:

Q In that style? A Yes, sir; but I have many others.

Q Many others that he has given to you? or inscribed to you? A Yes, sir.

BY MR. COLLIGAN:

Q Did you know that you were to testify today? A No, sir; I didn't think I had to.

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Q You didn't know you were going to testify at all?

A No, sir, I didn't know anything about it, no, sir, I didn't know anything about it.

Q You didn't know that your husband this morning had been asked in regard to this photograph?

MR. LEVY: He was only asked this afternoon and she was outside.

Q You didn't know ^{that you} were going to testify to anything?

A No, sir.

Q Except that the jury want to get a look at you?

A Well, I don't know.

BY MR. LEVY:

Q But you do know that he has been a decent respectable husband? A He is, yes, Mr. Levy, and always was; if he had not been I would not live with him.

MR. LEVY: That is all, Mrs. Roy.

CHARLES KANNARIAN, a witness for the People,
recalled.

BY MR. McCORMICK:

Q You talk French? A No, sir.

Q Talk out loud? A No, sir.

BY MR. LEVY:

Q The question you testified to which you claim to have overheard between the unknown persons and the defendant or that part of it which you testified to was spoken in English, was it not? MR. McCORMICK: Objected to.

Q Well you know you heard what you testified to and understood it? A Yes, sir.

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El Q It was in English? A Yes, sir.

DR. ABRAHAM A. BRILL, a witness called on behalf of the defendant, being duly sworn, testified as follows:

(The witness states he lives at 55 Central Park West.)

DIRECT EXAMINATION BY MR. LEVY:

Q Doctor Brill, I had the pleasure of meeting you for the first time here in the hall? A Yes, sir.

Q I asked you with regard to your qualifications as a neurologist? A Yes, sir.

Q You are a duly licensed physician, are you not?
A Yes, sir.

Q And graduated from what institution? A Columbia University, Medical Department, New York.

Q What year? A 1903.

Q You have devoted yourself especially to the study of neurology which is the study of the mind, the brain? A Yes, sir.

Q What other specialties have you adopted? A Well I devote myself entirely to the nervous and mental conditions, particularly psycho-neurosis.

Q You have been the chief of the nervous department at the Bronx Hospital? A Yes, sir; I am chief of the nervous department, Columbia University, Medical Department.

Q You have also been an assistant in the department of neurology and psychiatry at the Columbia University? A Yes,

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sir; I am now holding that position.

Q You have written, have you not, considerably during your medical practice upon the subject of neurosis? A Yes, sir.

Q You are the author of some pamphlets? A I am the author of about twenty separate pamphlets in a book--

Q You have also translated from the original tongues of the Italian, and German, various papers and writings bearing upon the subject of hysteria? A Yes, sir; not from the Italian.

Q From the German? A Yes, sir.

Q Now among the books that you have translated is one that I hold before me now entitled "Selected papers on hysteria and other psychoneurosis?" A Yes, sir.

Q Which is written by Prof. Herman Floyd of Vienna?

A Yes, sir.

Q We have called you in here hurriedly, Doctor, without an opportunity to examine you in advance, to try and throw some light upon the condition presented here. Have you had an opportunity to witness, to study, the symptoms of women after the administration of anesthetics? I mean women inclined to be nervous? A Yes, sir.

Q And of course you know the effect of nitrous oxide upon a nervous temperament? A Yes, sir.

Q And other anesthetics as well? A Yes, sir.

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Q Particularly as it relates to its effects upon patients who receive dental treatment? A Yes, sir.

Q I have to present to you this case as it has been made out thus far: the patient, the subject of discussion, at the time of the administration to her of nitrous oxide was then about 21 years of age, and was at the particular period of the administration of the anesthetic undergoing her menstruation, and it appears that the nitrous oxide was administered to her, according to the testimony, if it be true, for a period of about a minute and a half; that while the anesthetic was being administered she became convulsive in her movements, by the movement of her hands over her head, by the body assuming a rigidity and by the body bending backwards in a sort of a curved shape and then within a period of two minutes relaxing, throwing herself forward. Have you, in your experience, known of such conditions to be brought about through the administration of an anesthetic such as nitrous oxide? A Yes, sir.

Q How would you explain that to the jury, such condition? A Well, the condition depends on the individual case. Some cases it has a special meaning and in other cases it has another and different meaning. But those cases that I have seen and heard related, different experiences, usually they go through certain dreamy conditions, dreamy states, and if you analyze those dreamy conditions they are all based on certain experiences which the patient or the person in question has

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entertained usually before the anesthetic was administered, or the same day, and of course a great many, a mass of material of the cast is always interwoven, but in women I find very often they are of an erotic nature, and they usually have erotic dreams in a great many cases that I have observed and that I have questioned patients about that have come and told me about it. They have different pictures about different persons with whom they never had any relations at all in reality.

Q It was really imaginary but they believed it to be actual? A Yes, sir.

Q In other words after an anesthetic is administered whatever thought passes through the mind in such condition is retained in the mind as a belief that it actually happened, isn't that what you mean? A I wouldn't put it as general as that but very often--

Q Now so that we may understand and that the jury may understand, they are not physicians, the meaning of erotic, ideas as you have stated them. In the case of a full blooded young woman what you mean is that the erotic ideas will drift towards the subject of sexual intercourse with males? A Yes, sir.

Q If the young woman had been inclined to think about those subjects and have them in her mind they will find lodgment in the mind after an anesthetic has been administered? A Sometimes it does.

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Q Is that right? A Yes, sir.

Q Now, take those symptoms that I have stated, the objective symptoms which I have related to you, would you say that the convulsive movement of the hands, the throwing of the body, the lifting of the body, and then the rigidity of the body, the extension into the shape of a curve outward, and a relaxation, what would you say that would indicate to your mind?

A It may be the result of an erotic dream of sexual intercourse or of sexual advances.

Q Would you call it hysterical? A Yes, sir.

Q Absolutely? A Yes, sir.

Q Is it sustained by the writings of various writers who have given a life study to it? A Yes, sir.

Q That idea? A Yes, sir.

Q Of course, Doctor, you cannot tell about the facts here and you are simply called in as a learned man to give your opinion of such a case if the jury will believe it. A Yes, sir.

Q But you have seen such circumstances? A Yes, sir.

Q Sometimes the purest girl in the world will--

MR. COLLIGAN: I object to that.

MR. LEVY: Let me ask the question.

Q Isn't it a fact that sometimes the purest minded girl in the world--

MR. COLLIGAN: I object to that..

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MR. LEVY: Let me finish the question.

Q Will have her mind drift to such ideas when undergoing a condition of anesthesia?

MR. COLLIGAN: I object to the question.

Objection overruled; exception.

A Yes, sir.

BY THE COURT:

Q That is your opinion? A Yes, sir.

MR. LEVY: That is all.

MR. COLLIGAN: Inasmuch as it is the contention of the People that she was not given any anesthetic I have no questions to ask.

MR. LEVY: I thank you very much, Doctor. The defense rests, if your Honor please.

MR. MC CORMICK: We have a little rebuttal.

MARTHA POULAILLON, the complaining witness,
recalled:

BY MR. MC CORMICK:

Q Now, when you were in the operating chair did you at any time lose consciousness? A No, sir; not at all.

Q Are you absolutely certain of that? A I am very certain about it.

Q Did the defendant place over your face a cone? Do you know what a cone is? A No, sir; not at all; he didn't put

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anything on me.

Q Do you know what a cone is? A Yes, sir.

Q Did he put anything of that kind over your face? A No, sir; not at all.

Q Did he in any way administer gas to you? A No, sir.

Q Or any anesthetic? A Yes, sir-- he did not give me any.

Q What is that? A He did not give me any.

Q After you got out of the chair did you have any further talk with him at all? A No, sir; not at all.

Q Did you make any further engagement to meet him?

A No, sir; not at all.

Q You were there when the officers were talking to the defendant in the evening? A Yes, sir.

Q What language was that conversation in? A French.

Q All of it? A Yes, sir.

Q Did you hear in that conversation-- did you hear the defendant say that he had administered gas to you? A No, sir

Q Or any anesthetic? A No, sir; he did not say anything.

BY MR. LEVY:

Q Were you there at 6 o'clock in the evening? A Yes, sir.

Q Were you there when the officer was there? A Yes, sir

Q The first or the second time? A The second time.

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Q Did you know that the officer was there twice? A He was there in the afternoon and then I was called in the office at 6 o'clock.

Q Did you overhear what talk he had with the defendant in the hallway? A On the first occasion I was not there.

Q The second time did you overhear any conversation between the officer and the defendant in the hallway? A No, sir; I did not.

Q You did not? A No, sir.

BY MR. MC CORMICK:

Q What time was it you had this conversation-- that they had this conversation? A It was not in the night-- I mean between 6 and 7 o'clock.

B E R N A R D A . D I T S C H , a witness for the People,
recalled:

BY MR. MC CORMICK:

Q Now, you remember talking to the defendant on the 28th of April? A Yes, sir.

Q The conversation you testified to at about 6 o'clock?
A Yes, sir.

Q Who was there? A Miss Poulailon was there and Mr. Poulailon and Mr. DeVille and the defendant.

Q What language was the conversation in? A French.

Q All of it? A Yes, sir.

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Q Every word? A Yes, sir.

Q Who were the people that took part in that conversation?

A The defendant, Miss Poulailon and myself.

Q Was there anything said by the defendant as to whether or not he had administered the gas? A Yes, sir.

Q What did he say? A I asked him that question if he used any anesthetic, either gas or cocaine or any other thing to produce stupor or produce any hysteria in the woman or any person to whom it was applied, and he said "No, I used nothing else but a local application of cocaine to the teeth to be treated."

Q Was Mr. Poulailon there then? A Yes, sir.

Q That was the father? A Yes, sir.

Q He was there? A Yes, sir.

BY MR. LEVY:

Q Now, let me get this thing straight. You were there twice, weren't you? A Yes, sir.

Q Who was there the first time? A Mr. DeVille, Myself and the defendant.

Q Did you talk in the hallway? A I spoke to the defendant in the hallway, yes, sir.

Q Were you alone with the defendant in the hallway?

A I was alone, Mr. DeVille came afterwards.

Q What was the language used in the hallway? A French,

Q Partly English? A No, sir.

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Q How did you know that the defendant spoke French?

A When I addressed him, I asked him what his name was and he said "Roy" and I said "You are a Frenchman" and he said "Yes" and I commenced to speak to him in French.

Q That was in the office? A That is when I met him.

Q Are you prepared to swear you didn't talk any English?

A I remember that I said "Are you Dr. Roy"--

Q In the hallway? A No, sir.

Q Did you ask him if cocaine would have any effect upon the system so as to produce hysteria? A Yes, sir; in French.

Q What made you speak about hysteria unless it should be that the complaining witness had been suffering from it? A My intention was to give the defendant all his rights.

Q Why was it? Give your answer. A The reason was to give the defendant his rights, and I remarked that there might be such a thing as this woman might have been suffering from hysteria.

Q What led you to say that the young woman was suffering from hysteria?

MR. MC CORMICK: I object to that. There was no statement that the young woman was suffering from hysteria.

THE COURT: Objection sustained.

Q If you hadn't thought that there was some question whether the girl was hysterical why did you talk about hysterics?

Objected to; objection overruled.

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A I done it just in fairness to the defendant himself.

Q That is the usual police duty. That is all.

BY MR. MC CORMICK:

Q You did not try to put the word apology or reparation in the mouth of the defendant, did you? A No, sir; the defendant said that himself; he asked me what he should do in a case like that and that is the reason why he called me in the hallway.

Q Who was it first used the word reparation or apology?

A The defendant himself.

Q The defendant? A Yes, sir.

Q He asked you what he should do? A Yes, sir; he said "reparation" and I said you needn't do anything like that.

Q What does that mean? A To make reparation. (The witness uses the French word.)

BY MR. LEVY:

Q Did he say to you "If I was impolite"? A "If I have committed anything impolite."

MR. MC CORMICK: The People rest.

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal Procedure and adjourned the further trial of the case until Monday morning, January 12, 1914, at 10.30 o'clock.)

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