

**START**

1907

**CASE**

CASE #1907

# INDEX

DIRECT CROSS RE-DIRECT RE-CROSS

Elsie Wurslen	1	19
Elizabeth Comstock	55	37
Joseph Getz	59	

CASE #1907



# INDEX

	Direct	Cross	Redirect	Re-Cross.
May Sandford	41	52	58	
Rose Wurslen	58	59		
Ray Stock	61	63		
August Schalow	64	65		
Harry N. Cohen	67	72		
Elias Owens	76	84	92	
Henry D. Sayer	93	94		
Albert J. Berwin	95	96		
Frederick J. Groehl	96	--		
Willard H. Ellison	97	--		

CASE #1907

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

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

2333

- against -

ELIAS OWENS.

Before

HON. JOSEPH F. MULQUEE

and a jury.

-----X  
New York, Friday, June 12th, 1914.

THE DEFENDANT IS INDICTED FOR RAPE IN THE SECOND  
DEGREE, ASSAULT IN THE SECOND DEGREE AND ABDUCTION.

INDICTMENT FILED JUNE 3rd, 1914.

Appearances:-

MILLARD H. ELLISON, ESQ., Assistant District Attorney,

For the People.

BERNARD H. SANDLER, ESQ.,

For the Defendant.

(A jury is duly impaneled and sworn).

THE PEOPLE'S CASE

(Mr. Ellison opens the case to the jury on behalf  
of the People.)

ELISE WURSLER, called as a witness on behalf  
of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELLISON:

CASE #1907

fourth street.

Q. Elsie, I want you to talk out loud when you are answering questions. Where were you living in May? A. 416 West One hundred and Twenty-fourth street.

Q. A little louder? A. 416 West One hundred and Twenty-fourth.

Q. And who were you living there with? A. My mother and father and sister.

Q. And at this time what were you doing? A. I was going to school, taking up stenography.

Q. What school? A. Gaffney's.

Q. And where is Gaffney's school? A. One hundred and Twenty-fifth street between Seventh and Lenox.

Q. Do you know this defendant, Owens? A. Yes, sir.

Q. When and where did you first meet him? A. One hundred and Twenty-fourth street and St. Nicholas avenue.

Q. And about when? A. About three weeks ago, I should judge.

Q. And at what time? Day, or night? A. Night.

Q. What time? A. About half past nine.

Q. Just tell the jury under what circumstances you met him? Talk out. A. When do you mean? The first time?

Q. The first time, yes. Tell us how you met him? A. He came up to me.

BY THE COURT:

Q. Did you ever see him? A. Yes, sir.

100

CASE #1907



Q Where is the first time you saw him? A One hundred and Twenty-fourth street and St. Nicholas avenue.

Q One hundred and Twenty-fourth street and St. Nicholas avenue; just tell us how you came to meet him? A He came up to me in the street.

Q What were you doing? A I was coming from the store, One hundred and Twenty-fifth street.

Q On your way home, were you? A Yes, sir.

Q And he came up to you? A Yes, sir.

Q Did he say anything to you? A Yes, sir, he asked me where I was going, and I said "home", and we had a little conversation, and he asked me where I lived, and I told him, and he asked me if I could see him some time. I told him I was not sure, and he asked me if I would call him up, and I said yes.

BY MR. ELLISON:

Q And did he tell you where to call him up? A Yes, sir.

Q What number did he give you? A 907 Morningside, I think it is.

Q And did he tell you where he lived? A Yes, sir.

Q What did he say? A Windemere Court, One hundred and Twenty-seventh street and St. Nicholas avenue.

Q Was that about all the talk you had with him the first night? A Yes, sir, that is about all.

Q When did you see him the next time, about how long after? A I guess it must have been about a week later.

CASE #1907

Q And where did you see him the second time? A One hundred and Twenty-fifth street and St. Nicholas avenue.

Q And what time of the day or night? A Night.

Q What time? A About eight-thirty, I think it was.

Q And was that appointment, or by accident? A Accident.

Q What did he say to you when you met him the second time? What conversation did you have with him? A I don't believe I had any conversation at all.

BY THE COURT:

Q He must have said something to you, didn't he? A Nothing in particular.

Q Well, what did he say? A I don't remember what he said.

Q Did he say "hello"? A Oh, yes.

Q What else? A I don't know what else he said. I don't believe he said anything that night.

BY MR. ELLISON:

Q Do you remember May 21st, 1914? A Yes, sir.

Q And on that day did you meet any friend of yours?

A Yes, May.

Q May what? A Sanford.

Q And where did you meet May on that day, and at what time?

A I met her at One hundred and Twenty-fifth street and St. Nicholas avenue, about five o'clock.

Q In the afternoon? A Yes, sir.

Q And did you have a talk with May? A Yes, sir.

CASE #1917

Q After you talked with May, what did you do? A I went home, and I met her at One hundred and Twenty-fourth street and Eighth avenue, and went over to the Harlem Opera House, and then I called Owens up.

Q Over the telephone? A Yes, sir.

Q And did you recognize his voice over the telephone? Did you know his voice when you were talking to him? A Oh, yes, sir.

Q What did you say to the defendant over the telephone, and what did he say to you? A I told him about May.

Q Just tell us what you told him about May, what you said to him? A I told him about her uncle beating her, and she didn't want to stay home, and she had no place to go, and I asked him if he could help her, and he said yes, and I asked him if he could come down to the Harlem Opera House, and he said yes.

Q Did you tell him when to come to the Harlem Opera House? A Yes, I told him right away, because I had to go right home.

Q And did you and May then go to the lobby of the Harlem Opera House? A We were in the lobby of the Harlem Opera House.

Q And did the defendant come down there? A Yes, sir.

Q Alone, or with anybody else? A He came with Louis Ross.

Q Before he came there with Louis Ross, had you ever seen or heard of Louis Ross before in your life? A No, sir.

Q Did he introduce you to Louis Ross? A Yes, sir.

Q I want you to tell the jury what conversation took place

CASE #1917



6  
between you May, the defendant and Ross in the Harlem Opera House lobby? Talk out loud? A I spoke to Al first. I told him all about it, and then we went inside.

Q What did you tell him? A Told him all about May's trouble.

Q Tell the jury what you told him? A That May's uncle had hit her, and she did not want to go home, and then we went inside the lobby, and he gave me an introduction to Ross, and then May told Al all about her story.

Q What did you hear him tell Al? A The same thing that I told you before.

Q You will have to tell the gentlemen of the jury? A That her uncle had hit her, and that she did not want to go back home.

Q Yes. A That is all.

Q What did Ross or Owens say to that?

MR. SANDLER: Objected to as leading.

THE COURT: The objection is overruled.

MR. SANDLER: I take an exception.

Q What did they say? A They said they would help her.

Q They said they would help her? A Yes, sir.

Q Is that about all that you recall that was said at that time in the Harlem Opera House? Do you remember anything else?

A That is all I remember, only Ross said he would meet May at half past ten and take her some place where she could sleep.

Q Half past ten what night? A Thursday night.

CASE #197

Q That same night? A Yes, sir.

Q After that conversation, where did you go? A I went home.

Q And the did the boys leave, Ross and Owens? A Yes, sir.

Q Now, did you see any of them again that day? A No, sir.

THE COURT: "Yes", or "no".

THE WITNESS: No, sir.

Q Now, on the next day, Friday, May 22nd, did you call this defendant up over the 'phone? A Yes, sir.

Q And did you recognize his voice when he spoke to you?  
A Yes, sir.

Q What did you say to him the next morning, and what did he say to you, over the 'phone? A I asked him where May was, and he told me in One hundredth street, and I asked him who she was with, and he told me alone. I asked him if he would give me her address, and he did.

Q What address did he give you? A 61 West One hundredth street.

Q What else did you say to the defendant over the 'phone? anything else? A No, I believe that is all.

Q About what time in the morning was it that you had this talk over the 'phone with him? A Oh, it must have been about twelve-thirty.

Q Now, that afternoon did you go any place after you found out the address? A No, sir.

Q Now, did you go down to 61 West One hundredth street?

003

CASE 11917

8  
A No, I went Friday evening.

Q About what time? A It must have been about eight-thirty when I got down there.

Q What floor did you go on? A ground floor, east.

Q Did you see May when you went there? A No, she was not in. Nobody was there.

Q Did you wait around there? A Yes, I did.

Q About how long? A Oh, about three-quarters of an hour.

Q And did you finally meet May? A Yes.

Q And did you go into the flat with May? A Yes, sir.

Q Tell the jury how many rooms there were in that flat?

A Three rooms.

Q And what did they consist of? A A kitchen, parlor and bed room.

Q And what was in the bed room, what furniture? A A bed and a chair, I think.

Q On that Friday night did you see the defendant? A Yes.

Q And where did you see him? A In May's flat.

Q In the flat 61 West One hundredth street? A Yes, sir.

Q And who else was there? A Ross and May.

Q Ross, May, you and Owens? A Yes, sir.

Q About what time did Ross and Owens come in? A About nine-thirty.

Q Did they come together? A Yes, sir.

Q What took place on that Friday night? Just what conversation did you have with the defendant, if anything?

CASE #1917



MR. SANDLER: I object to that, if the District-At-  
torney intends to use this conversation as a basis for  
the act itself.

THE COURT: Objection overruled.

MR. SANDLER: I respectfully except, as too remote.

Q Tell us what the defendant said to you, and what you  
said to him on Friday night? A Everything I said? I  
don't remember everything I said.

Q Not everything, as much as you remember.

BY THE COURT:

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

A Nothing in particular.

BY MR. ELLISON:

Q Come on, we are waiting? A We did not talk about  
anything.

Q You must have talked. How long were you with him? A I  
went home about ten-thirty, I think.

Q You were there how long with him? A About one hour, or  
an hour and a half.

Q Tell the gentlemen of the jury what you were talking  
about during that hour? What did you say to him? A (No answer)

BY THE COURT:

Q Did he say anything to you? A No, nothing in particular.

Q Did he say anything, whether it is in particular, or  
not? A He must have said something, but I don't remember  
everything he said.

CASE #1007

Q Now, it is your duty to answer the questions that are put to you. Do you understand that? A Yes, sir.

Q Remember, you are to answer the question. We don't want any impertinence from you. You must not talk back. Just answer the questions that are put to you. Did he, or did he not, say anything. Did he? A Yes, he must have spoken.

Q It is not a question of what he must have done? A I don't remember what he said.

THE COURT: Then, you don't remember; all right. Let that answer stand. You may refresh her recollection.

BY MR. ELLISON:

Q When you were in the parlor, where was he sitting, and where were you sitting? A I was sitting on a chair.

Q And where was he? A On the couch.

Q On the couch? A Yes, sir.

Q Now, at any time were you sitting on the couch?

MR. SANDLER: I object to that, your Honor.

THE COURT: The objection is overruled.

MR. SANDLER: I respectfully except.

A Yes, sir.

Q When you were sitting on the couch with him, don't you remember anything that was said between you?

MR. SANDLER: Objected to. The witness testifies she don't remember.

THE COURT: The objection is overruled.

A He did ask me if I would have intercourse with him.

CASE #1907

Q What? A He did ask me if I would have intercourse with him.

MR. SANDLER: I move to strike out the answer, your Honor, as being incompetent, too remote, and not part of the res gestae.

THE COURT: The motion is denied.

MR. SANDLER: I respectfully except.

THE COURT: Any statement made by the defendant is admissible.

Q And what, if anything, did you say? A I said "no".

Q That was on Friday night? A Yes, sir.

Q And who took you home that night? A Al Owens.

Q The defendant? A Yes, sir.

Q Did he take you to your door, or did he leave you on the corner? A Left me on the corner. No, I think he took me to my door.

MR. SANDLER: That is objected to.

THE COURT: The objection is overruled.

MR. SANDLER: I take an exception.

THE WITNESS: I think he took me to my door that night.

BY THE COURT:

Q The door of your house? A Yes, sir.

BY MR. ELLISON:

Q Where you were living with your mother and father? A Yes.

BY THE COURT:

Q You lived in an apartment house, did you, or a private

CASE #1907



house? A Apartment house.

Q He did not take you up to your apartment? He just took you to the street door? A Yes, sir.

BY MR. ELLISON:

Q On Saturday, did you go to the flat on 61 West One hundredth street? A Yes, sir.

Q About what time? A It must have been about two o'clock.

Q And when you got to the flat who was there? A May.

Q Now, any time after you were there, did this defendant come in there? A Yes, sir.

Q At about what time on Saturday? A It must have been about two-thirty.

Q Now, at that time, when he came in, did you have any talk with him? A Yes, sir.

Q What did he say to you, and what did you say to him? A I don't remember what he said, but I know I asked him if I could buy a kimona, and he said yes, and he gave me one dollar, and I went to the corner, and I bought a short kimona, and came back with it, and May said she wanted a short one, so she could wear it, and I didn't like the short one, so Al gave us a ten-dollar bill, and I went and got a long kimona.

BY THE COURT:

Q Who is Al? A Al Owens.

Q You mean this defendant? A Yes, sir.

BY MR. ELLISON:

Q Where did you buy that kimona with the ten dollars

CASE #1907

that he gave you? A Right up at the corner.

Q And you brought the kimona back? A Yes, sir.

Q When you got back to the flat with the kimona, was the defendant Owens still there? A Yes, sir.

Q Well, then, did you put on the kimona? A Yes, I did.

Q And where did you put it on, in what room? A The parlor -- no, I didn't. I put it on in the bed room.

Q Now, after you came back, did you have any talk with the defendant? A No, sir, not that I remember.

Q What room was he in when you came back? A He was in the parlor.

Q And did he leave the parlor after you came in? A Yes.

Q And where did he go? A In the bed room.

Q After he went in the bed room, did you hear him say anything? A Why, yes, he called me several times.

Q And when he called you from the bed room, where were you?  
A In the parlor. I was sitting down, talking to May.

Q And May was in there with you? A Yes, sir.

Q Well, did you then go into the bed room, after he called you? A I did, yes, sir.

Q Now, I want you to tell the jury just what happened after you got into the bed room? You will have to tell it. Tell just what happened from the moment you went in the bed room?

A I went in there and sat on the bed, on the edge of the bed, and the first thing he done -- we had a conversation together, and he asked me if I would have intercourse with him, and I told

CASE #1907

him no, that I had never had it before, and I didn't want to do that, and so we talked for some time, and finally the first thing he done he put his hands under my clothes.

BY THE COURT:

Q Did you have any clothes on? A Yes, all my clothes. My skirt and waist was off.

Q You took off your skirt and waist when you put on the kimona? A Yes, sir, and I did resist at first, but not after, so he didn't really force me to do it.

Q What did he do to you? A I had intercourse with him.

Q What do you mean by that? Was he dressed, or undressed? A He had his hat and coat off and I believe his collar, tie and shoes.

Q He took them off? A He did have them off.

Q Did you lie on the bed? A Yes, sir, I did, after some time, not of my own free will, though.

Q Did he lie on you? A Yes, sir.

Q You felt his private parts in your private parts? A Yes.

BY MR. ELLISON:

Q Is that the first time you had ever had intercourse with a man? A Yes, sir.

Q Now, after this was over, what did he do? Did he bring anything into the room? A Yes, sir.

Q What? A A towel.

Q And May was in there all the time, was she? A Yes, sir.

BY THE COURT:

CASE #19197



Q In the front room? A Yes, sir.

Q She was not in the bed room? A No, sir.

BY MR. ELLISON:

Q Now, I want you to explain how do you get from the parlor to the bed room? A How who get?

Q How did you get from the parlor to the bed room? How did you get from one room to another? A They run right through. First the parlor, kitchen and bed room.

BY THE COURT:

Q Is there a hall, or just an opening? A No hall.

BY MR. ELLISON:

Q You walk from one room to the other? A Yes, sir.

BY THE COURT:

Q No doors between them? A Yes, sir, there is a door between the bed room and the kitchen.

Q But not between the parlor and the bed room? A There was a kitchen between the parlor and the bed room.

BY MR. ELLISON:

Q Did you continue to remain in the apartment on Saturday then? A Yes, sir, I had supper there.

Q You had supper there? A Yes, sir.

Q And who was there for supper? A Ross, May, Al and myself.

Q When you say "al", you mean this defendant? A Yes, sir.

Q How late were you there on Saturday? How late did you stay there? A Oh, I left there, I think, about eleven o'clock.

002

CASE 77-1907

Q And did anyone take you home? A Al Owens.

Q Now, on Sunday, did you go to the apartment? A Yes, sir.

Q About what time? A I got there about three o'clock.

Q And when you got there who was there? A Al Owens and May Sanford.

Q And at any time that afternoon did Ross come in? A Yes.

Q About what time? A About three-thirty.

Q And how long did the four of you remain in the flat on Sunday? A Oh, I guess about ten or fifteen minutes.

Q And then where did you go? A Then Al Owens and Ross went out, and we stayed there.

Q And did they return again on Sunday? A Yes, sir.

Q About what time? A About seven-thirty.

Q And how long did they remain there then? A Why, Ross, May and myself had supper there, and Al was lying on the couch.

Q The defendant was lying on the couch while you three were eating supper? A Yes, sir, and I think about half an hour later, after we cleaned up, we went out, took a walk to Central Park.

BY THE COURT:

Q Who went out? A The four of us.

BY MR. ELLISON:

Q And about what time did you get home on Sunday night?

A To my house?

Q To your own home? A I got home about eleven o'clock.

Q And who took you home? A Nobody.

0030

CASE #1907

Q You went home alone? A Yes, sir.

Q Now, on Monday, did you go to the apartment on 61 West One hundredth street again? A Yes, sir.

Q When you got there, who was there? A May.

Q And at any time after you got there did you see the defendant, Ross? A Yes, sir, he came in when the detective was there.

Q When the detective was there? A Yes, sir.

Q Had a detective come there that morning? A No, sir, I wasn't there in the morning. I got there about one o'clock.

Q How soon after you got there did the detective come there? A The detective came about seven-thirty.

Q In the morning? A Evening.

Q When the detective came there, who was home? A May was there, and I was just coming in from the store.

Q You were coming in from the store? A Yes, sir.

Q And the detective came in? A The detective was in the hall, talking to May, when I came in.

Q And you had some talk with the detective? A Yes, sir.

Q While you were talking with the detective, did Ross come? A No. First the detective came in our apartment and was sitting in there, talking, when Ross came in.

Q Ross came in? A Yes, sir.

Q While the detective was there? A Yes, sir.

Q And some conversation took place between May and you and the detective and Ross, did it? A Yes, sir, and Harry

CASE 1917



Cohen.

Q Ross had another man with him by the name of Harry Cohen? A Yes, sir.

Q And then did the detective place anybody under arrest? A Not right away.

Q I mean at any time? A Yes, sir, he did.

Q And who did he place under arrest? A Ross and May Sanford and myself.

Q And what you have told us took place in the County of New York, did it? A Yes, sir.

MR. ELLISON: That is all.

BY THE COURT:

Q How old are you? A Sixteen.

Q When were you sixteen? A April 26th, 26th of April.

Q 26th of April? A Yes, sir.

Q Was that before, or after, this happened? A Before.

Q You were past your birthday? A Yes, sir.

Q Born in New York City? A Yes, sir.

BY MR. ELLISON:

Q Just one more question. When did you see this defendant after that Monday that you were arrested or taken into custody? A In the Criminal Court Building.

Q In the District-Attorney's office? A Oh, yes, sir.

Q And how many days after? A I think it was the next day Tuesday.

Q Up in this building? A Yes, sir.

CASE #1907

MR. ELLISON: That is all.

CROSS-EXAMINATION BY MR. SANDLER:

Q Did you ever flirt before you met Owens? A What?

Q Did you ever flirt with any men before you met Owens?

A Flirt? No, I am not in the habit of flirting.

Q Did you flirt with Owens? A No, I did not flirt.

THE COURT: What do you mean by "flirt"?

Q You have testified there was a flirtation when you first met; you met through a flirtation? A No, sir.

THE COURT: I did not hear that word mentioned in the testimony.

A (Continuing) He came up to me and spoke to me. He followed me for a block, and came up to me and spoke to me. I don't call that flirting.

Q What do you call that?

THE COURT: That is immaterial what she would call it. I will exclude that question as immaterial.

Q Did you ever speak to any other men under similar circumstances before that time? A Any man I ever did speak to I did get an introduction to him.

Q Why did you speak to the defendant? A Why did I?

Q Yes. A He spoke to me.

Q Did any other man ever speak to you before that time on the street? A On the street? Yes, men that I know.

Q Strangers? A No.

CASE #19197

Q What particular reason did you have to hold a conversation with this defendant at that time?

BY THE COURT:

Q Did you open any conversation with him? A No, just what I told before.

Q He opened the conversation with you, did he? A Yes, sir, he asked me where I was going.

Q Counsel asked you, did you have any particular reason to have a conversation with him? A No.

BY MR. SANDLER:

Q Do you know where the College Inn is, on West One hundred and Twenty-fifth street, between Eighth avenue and St. Nicholas avenue? A Yes, sir, I do.

Q You frequent that place, don't you? A No, sir, I never have been inside of that place.

Q Did you meet the defendant in front of the College Inn? A No, sir, I did not.

Q Anywhere near the College Inn? A I seen him there, but I did not speak to him.

Q But you know where the College Inn is, don't you? A Yes I live right around the corner from it.

Q You know the character of the place? A No, I never went in it.

Q You know the character of the place, don't you? A No, I don't.

Q Do you tell this jury you never were in the College Inn

CASE #1907



before? A I never was in the College Inn. Nobody can say I was, either.

Q Did you ever sit there and drink beer? A Where? In the College Inn?

Q In any cafe. A No, sir.

Q You drink beer, don't you? A Yes, I did drink a glass of beer. I drink it home with my meals.

Q What is that? A I drink it home with my meals.

Q You never knew any other man before you -- A Yes, surely I do.

Q You know other men, don't you? A Yes, friends of ours.

Q You go out with them at night? A No, I don't.

Q Weren't you keeping company with a young man? A I was, for some time.

Q How long were you keeping company with that young man? A How long was I?

Q Yes, before you broke? A About eight months.

Q And you were going to a business school during that time, weren't you? A I was.

Q How long since you left -- A Listen here. He was a friend of ours, and come to the house, and my mother knew him, and my father knew him, and he came any time he wanted to, and the reason why we broke friendship was because he died.

Q How old was he? A Twenty-two, I think, or twenty-three.

Q You always went with men much older than yourself when you went out? A What do you say?

CASE 111917

Q I say, you always went out with men much older than yourself? A Yes, sir.

THE COURT: Well, that is a matter of taste, Mr. Sandler. It isn't any crime to go with old men.

Q Did you ever tell anyone you were nineteen years of age? A No, sir, I did not.

Q Did you ever misstate your age to any person? A To any person?

Q To anybody. A I don't see what that has to do with this case.

BY THE COURT:

Q Did you ever say you were nineteen? A No, I never said I was nineteen, to nobody.

BY MR. SANDLER:

Q Did you ever tell anybody you were eighteen? A Eighteen?

Q Yes. A I don't know.

Q Isn't it a fact you always told your friends -- A All my friends knew I was only a young girl, sixteen or seventeen. I never said I was more than seventeen.

Q You say you never said you were over seventeen? A No.

Q To your male friends? A What?

Q To your gentlemen friends? A No, sir, I didn't.

Q Always told them you were sixteen? A Yes, sir.

Q Now, when you went into the bed room of this flat, as you testified here, that Saturday afternoon, did you lock the

CASE 19197

door? A Lock the door? Did I lock the door?

Q Was the door locked? A No, sir.

Q Was it open? A Yes, sir.

THE COURT: There was only one door, she said, leading into the kitchen.

BY THE COURT:

Q There is no door between the parlor and the bed room; isn't that so? A Yes, sir, between the parlor and the kitchen there is no door.

Q How did the rooms run? A They ran right through.

Q Which is first? A Parlor, kitchen and bed room.

Q Parlor kitchen and bed room? A Yes, sir.

BY MR. SANDLER:

Q Isn't the kitchen in the centre?

THE COURT: She said yes, parlor, kitchen, bed room.

Q The kitchen divides the parlor from the bed room? A Yes.

Q And you were in the bed room? A Yes, sir.

Q And there is a door between the kitchen and the bed room?

A Yes, sir.

Q Was that door locked when you were in there? A Locked?

Q I mean closed?

BY THE COURT:

Q Was that door shut, or open, while you were in there with him? A It was open, on a crack.

BY MR. SANDLER:

Q Nearly closed? A Yes, sir.

CASE #1907



Q And May, your friend, was in the parlor? A Yes, sir.

Q And between the parlor and the kitchen there are portieres? A Yes, sir.

Q That is, the entire apartment, is that right? A Yes, sir.

Q While you were in there as you claim with this defendant you say you had on a kimona? A I did.

Q Was that kimona on top of your skirt? A What skirt?

Q Had you taken your skirt off, your outer clothes? A My skirt and waist, yes.

Q What clothes did you have on you? A All my clothes excepting my skirt and waist.

BY THE COURT:

Q Tell him what clothes you had on. Did you have any petticoats on? A Yes, sir, a combination, and shoes and stockings.

BY MR. SANDLER:

Q Combination underwear on? A Yes, sir.

Q Why did you ask this defendant to buy you a kimona? A Why did I ask him?

Q Yes? A Well, when I first went down there I said to May I didn't want to soil my skirt and waist, and I am sure I didn't want to take it off and walk down with nothing on, so I wanted to buy a kimona.

Q Did you intend to spend some time in that apartment?

A Well, I intended to spend the afternoon, and I intended to go down more often, because May said she was lonesome.

CASE #1907

Q May invited you to stay there? A She invited me to come down.

Q And May was having trouble at home? A Yes, sir.

Q May was being beaten by her uncle? A Yes, sir.

Q And didn't May exhibit to you wounds on her arms and body?

THE COURT: What has that got to do with this case?

Q And it was to keep May company that you went there?

A Yes, sir.

Q This defendant did not ask you to come there? A Yes, he did, several times.

Q Did you go because this defendant asked you to go, or because May asked you to keep her company?

THE COURT: That is entirely immaterial, and I will exclude it. We are only wasting time.

MR. SANDLER: I respectfully except.

THE COURT: The only question in this case is, was she there, and did the defendant have intercourse with her, and was she sixteen years of age, or eighteen? Whether he coaxed her or she coaxed him is entirely immaterial. The law does not give her the power or the right to consent to that act, and whoever breaks that law is guilty of rape in the second degree. Now, you ought to confine your cross-examination to the material points.

Q You told this jury that the defendant had sexual intercourse with you; is that right? A Yes, sir.

CASE 771917

Q Will you describe to the jury what the defendant did to you that you say was sexual intercourse? A (No answer).

BY THE COURT:

Q Tell him what he did? A I don't know how to express myself.

Q You were in bed, weren't you? A Yes, sir.

Q You lay on the bed? A Yes, sir.

Q Did you lie on your back, or otherwise? A Back.

Q And what did he do? A He was lying on top of me.

Q And did he do anything when he laid on top of you? A Yes.

Q What did he do? A Pulled my clothes up.

Q He pulled your clothes up? A Yes, sir.

Q What else did he do? A I don't know what else he done.

Q Did you feel anything? He has a right to ask you those questions. The sooner you answer them the sooner the case will be over. Now, did you feel him do anything to you? A Yes, sir.

Q Where did you feel anything? Now, you better answer quickly? A I don't know how to express myself.

Q Well, you can point. He has a right to ask you those questions if he wants to. You stated it once. Now state it again? A Well, I said I had intercourse with him. Isn't that enough?

Q No. A I don't know what he wants me to say.

Q Did you feel any part of your body or any part of his body? A Yes.

CASE #1917



Q What part of his body did you feel? A Lower part.

Q Did you feel his private parts? A Yes, sir.

Q Where did you feel them? In any part of your body? A Yes.

Q What part of your body did you feel them in? Please hurry up and answer? A (No answer).

BY MR. SANDLER:

Q The outside of your body? A The inside of my body.

Q Inside of you? A Yes, sir.

Q In your privates? A Yes, sir.

Q And how long did the defendant remain -- was he on top of you? A Yes, sir.

Q How long did he remain on top of you? A I don't know how long.

Q Did you suffer any pain? A Yes, a little.

Q Did you examine your clothes after it was over? A No, I did not.

Q You did not? What became of your underwear? A What became of it?

Q Yes. A I had it on.

Q Did you look at them? A No, I didn't.

Q Have you looked at them since the day that this happened? A No, I have not.

Q Have you still got them? A Yes, I have them.

Q You never looked at them? A Certainly, I looked at them.

Q Did you observe anything? A No, I did not.

CASE #1907

Q You were a pure girl, weren't you, prior to that time?

A Yes, sir.

Q And you are still a pure girl, aren't you? You are still virtuous? A I don't know.

Q You don't know? A No.

Q Were you examined by a physician? A I was.

Q What did the physician say? A I don't know what she said.

Q Aren't you a pure girl today, virtuous, undefiled?

MR. ELLISON: I am going to produce a physician here who examined her.

A I don't know what the physician seen, or what she said, or anything else. I don't know what the doctor said.

BY THE COURT:

Q How long after this day did the physician examine you?

A It was the same day that I went and picked out Al Owens.

BY MR. SANDLER:

Q Did you show your mother the underwear you had on, the combination? A No, sir.

Q Did you tell your mother about it when you got home? A No.

Q Do you know what a good girl is, a pure girl? A Yes.

THE COURT: Never mind that, whether she does or not. She says she had intercourse with that man. Now, whether she thinks she is a good girl or not is immaterial.

CASE #1917

MR. SANDLER: I want to see whether she did have intercourse, or not.

THE COURT: You have a right to inquire about that.

Q Do you know what intercourse means?

THE COURT: She has described what happened to her, this sexual intercourse, if that really happened.

BY THE COURT:

Q You haven't any doubt about that? You felt his private parts in you? A Yes, I did.

Q Did you see his private parts? A No, I did not see them.

Q But you felt them in you? A Yes, sir.

Q What did he do when he was on you? Did he remain perfectly quiet? A No, sir.

Q What did he do? A I don't know what he done.

Q You ought to know. You said he did not keep quiet. What did he do? A (No answer).

BY MR. SANDLER:

Q What did you do? Did you move forward? A No, I didn't do anything.

Q You remained still? A Yes, sir.

Q And you had your legs closed, didn't you? A No, sir.

Q Did you have them open? A Yes, sir.

Q Was he between your legs?

THE COURT: You had better answer the questions quickly.

A Yes, sir.

Q Will you tell this jury whether or not you felt his

CASE #1917



privates in your body?

THE COURT: I will exclude that as repetition. She has said that over and over again.

Q This never happened to you before, did it? A No, sir.

THE COURT: I will exclude that as repetition.

MR. SANDLER: I take an exception.

Q When you left the bed room, did you tell May about this? A I did. She knew about it.

Q Did you tell her about it? A Yes, sir.

Q Did you tell anyone else? A No, sir.

THE COURT: That is immaterial, whether she told anyone else, or not.

Q Who was in the apartment besides May? A Al Owens and myself.

Q Do you know a man named Cohen? A Cohen?

Q Yes, a big tall man. A Yes, sir.

Q Wasn't he there? A No.

Q Was he there at any time?

THE COURT: What do you mean by "at any time"?

Q While this was going on? A No, sir, he was not.

BY THE COURT:

Q He was not in the bed room, was he? A No, sir, he was not in the flat at all.

Q And when you came out of the bed room you walked into the front room? A And May was there.

Q And May was in the parlor when you left it to go into

CASE #1907

the bad room? A Yes, sir.

BY MR. SANDLER:

Q Have you ever stayed away from school to go up to that flat? A Yes, sir, I did, Monday.

Q Did you stay away Friday, Friday afternoon? A No, sir.

Q Did you tell your mother that you stayed away from school?

A Monday?

Q Yes. A I was not home to tell her.

Q Did you ever stay away from home at night? A No, sir.

Q You were home every night? A Yes, sir.

Q And you went home the night after this happened, as you claim? A Yes, sir.

Q When the officer in the case questioned you, did you make any statement to him?

THE COURT: What officer do you mean?

MR. SANDLER: The arresting officer.

A Yes.

BY THE COURT:

Q Did he question you in the first place? A Yes, sir.

Q He asked you questions? A Yes, he spoke to May and myself.

BY MR. SANDLER:

Q Did he ask you how old you were? A Yes, sir.

Q What did you tell him? A Sixteen.

Q And you were in the apartment at the time? A Yes, sir, not at the time that he came there, but I was in afterwards.

CASE #1917

BY THE COURT:

Q When you told him you were sixteen, were you in the apartment? A Yes, sir.

BY MR. SANDLER:

Q When did you first mention the name of this defendant to that officer? A I didn't mention his name at all until Harry Cohen came in, and he said "Didn't you have sexual intercourse with a fellow by the name of Owens?", he said to me, in front of the detective, and I said "yes". I did not mention his name at all. And then Harry Cohen said to May "Are you married to Ross?", and she said "no", and she had told the detective that she was married, at first, and then she said "no".

Q Did the officer ask you whether or not you had ever had any sexual intercourse with Owens, and you said "I did not"? Isn't that so, before Cohen came in? Just think, now? A No, sir, the detective did not ask me anything about Owens, because he didn't know anything about him.

Q And you never mentioned a word about Owens; is that right?

THE COURT: She said she did not mention him until Cohen asked her.

Q And you did not intend to tell anyone about Owens?

THE COURT: I will exclude that as immaterial, what she intended to do.

MR. SANDLER: I take an exception.

Q You knew Mr. Owens was connected with the District-Attorney's office? A No, sir, I did not.

CASE #1917



Q When did you first learn that? A When the detective brought me here.

Q And it is the detective who told you about that? A Yes.

Q Didn't the detective tell you that the man you knew was connected with the District-Attorney's office? A He told me that he wanted me to go with him to pick Owensout, and I thought he was going to take me up to the Windemere Court.

BY THE COURT:

Q You went with the detective? A Yes, sir.

Q You did not know where you were going? A No, sir.

BY MR. SANDLER:

Q And he brought you down to the District-Attorney's office? A Yes, sir.

Q How many days was that after Saturday? A It was either the next day, or Wednesday, I am not sure.

Q Now, then, while the officer was in the room, in the flat did Ross walk out?

THE COURT: Who is Ross?

MR. SANDLER: The other man mentioned here?

A Yes, sir.

Q He walked out of the flat? A Yes, sir.

Q And the officer did not arrest him at that time? A Ross did not come in at first, and finally he came in, and after he came in he didn't go out any more.

Q While the officer was questioning you and May, Ross walked out? A Yes, sir.

CASE #1917

Q And then came back? A Yes, sir.

Q Did the officer go out and come back while you were in the apartment?

THE COURT: What difference does that make? I will exclude it as immaterial.

MR. SANDLER: I respectfully except.

Q How long have you known May? A I have known May, I guess, about two years, but I never went with her.

Q Very chummy with her? A No, I never palled with her at all.

Q Prior to the happening of this incident here, had you been very friendly with her? A Yes, I spoke to her, because her uncle owned a dry goods store right around the corner, and she lived in the same block, right down further, and her uncle owns a dry goods store, and I went in there very often.

Q Did you know May's male companions, her friends? A Yes sir, I knew one.

Q Do you know his name? A Yes, sir.

Q What is his name? A John Lynch.

Q Is that the man that ruined her? A Yes, sir -- I don't know if he is or not.

THE COURT: I will exclude that. That has nothing to do with this case. All we are interested in here is her age and whether or not an act of sexual intercourse was perpetrated by the defendant.

CASE #1917

ELIZABETH COMSTOCK, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q What is your name? A Elizabeth Comstock.

Q Where do you live? A 507 Madison avenue.

Q You are a physician, duly licensed to practice medicine in New York County? A Yes, sir, I am.

Q And have been for how long? A Since June, 1901.

Q That is, thirteen years? A Yes, sir.

Q Did you make a physical examination of Elsie Wurslen, the complaining witness in this case? A Elsie Kissenberg.

Q This girl here, the complaining witness? (Indicating the complaining witness) Did you make a physical examination of this girl? A Yes, sir, I did.

Q When and where did you make that examination? A I made it at my office.

Q When? A On May 26th, on the evening of May 26th, 1914.

Q And did you examine her private parts? A I did.

Q Did you find that her hymen was ruptured?

MR. SANDLER: Objected to as calling for a conclusion.

Q What did you find as to the condition of her hymen, and so forth? A I found that her hymen was ruptured.

MR. SANDLER: Objected to. This testimony is too remote. The crime alleged to have been committed was on May 23rd.

CASE #1907



THE COURT: The objection is overruled.

MR. SANDLER: I respectfully except.

Q What is the answer? A The hymen was ruptured.

Q And did it show evidences of penetration?

MR. SANDLER: Objected to as calling for a conclusion, your Honor.

THE COURT: Oh, I will allow it under the circumstances.

A Yes, sir.

THE COURT: Didn't you make a written report?

THE WITNESS: Yes, sir, I did.

BY THE COURT:

Q Where is your report? A They have it.

Q Will it refresh your memory? A I can describe it, if you wish me to.

Q Please describe it? A In this case the hymen was one with a double entrance, and the entrance on the left side of the hymen was not ruptured, but the entrance on the right side was ruptured, completely ruptured.

Q Did you make any report as to the cause of that rupture in your opinion? A I did not.

Q What do you mean by a rupture? A I mean that the edge of the -- that the hymen showed a tear in it, in the mucus membrane.

Q But you formed no opinion as to how that tear was caused?  
A I thought probably it was caused as a result of what the girl told me.

CASE #1907

Q Did the appearance indicate that? A Yes, sir.

Q And were her private parts in a condition for her to have sexual intercourse? A What do you mean by the question?

Q I mean, could she have had sexual intercourse? A Yes, she could have.

Q The law requires that proof in these cases. A Yes, sir.

MR. ELLISON: That is all.

CROSS-EXAMINATION BY MR. SANDLER:

Q From your examination, doctor, of the hymen, and without the history, could you tell this jury what caused that condition that you found, without the history that the girl gave you? Any other causes for it? What would bring on such a condition? A The most common cause of such condition is caused by intercourse; that is the most common cause.

BY THE COURT:

Q Do you represent some society? A No, I do not.

Q Just in private practice? A I am a private practicing physician.

BY MR. SANDLER:

Q How many females have you examined? A I could not tell you. I examine about thirty three times a week, and I have done so for about eight years.

BY THE COURT:

Q Where? A At the New York Infirmary for Women and Children.

Q You mean thirty new cases? A No, that would not be

CASE #1917

correct. They are not all new. Some are old and some are new.

BY MR. SANDLER:

Q The history as you got it from the complaining witness is that she was alleged to have had an act of intercourse on May 23rd, and you examined her on May 26th? A May 26th.

Q Three days after? A Yes, sir.

Q You didn't see -- A I never saw her before.

Q And you don't know what may have happened to her between the 23rd and the 26th? A I do not, except --

Q Except what she told you? A Except that she came to me. They telephoned to me --

MR. SANDLER: I object to that.

BY THE COURT: Q Never mind that. Didn't the appearance of the privates themselves indicate whether the rupture was recent, or very old? Was it an old rupture, or a fracture, or whatever you call it?

A No, I should say it was recent.

Q It had not healed up yet, had it? A Perhaps I should not say that. There was -- the hymen was healed. There was no sore that I could see there.

Q When you speak of the entrance, you mean the entrance to the vagina? A Yes, sir.

BY MR. SANDLER:

Q The girl is not ruined, is she?

MR. ELLISON: Objected to as calling for a con-

CASE #1907



clusion and an opinion.

THE COURT: Yes.

Q The hymen is not all destroyed? A No, it is not all destroyed.

Q It is still there? A There is still some there.

MR. SANDLER: That is all.

J O S E P H G E T Z, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q What is your name? A Joseph Getz.

Q Where do you live? A 79 Jefferson street, Brooklyn.

Q Are you connected with the Department of Health of the City of New York? A Yes, sir.

Q Are you a clerk there? A Yes, sir.

Q Pursuant to a subpoena served upon the Health Department have you produced this original certificate and record of birth of one Elsie Wurslen, No. 7920 (handing record to witness)? A (After examining record) Yes, sir.

Q And that is an official record taken from the files of your office, is it? A Yes, sir.

MR. ELLISON: I offer this in evidence and for the purpose of the record will read it in.

MR. SANDLER: It is conceded that it is an official record.

MR. ELLISON: "State of New York, certificate and

CASE #1907

"record of birth of Elsie Wurslen, No. 7920. Bureau  
 "of records, Borough of Manhattan, signature, Mrs. K. Smith,  
 "mid-wife. Residence 1329 Columbus avenue. Date of report,  
 "May 7th, 1898. Name, Elsie Wurslen. Sex, female,  
 "color, white. Date of birth, April 28th, 1898.  
 "Place of birth, 371 West One hundred and twenty-sixth  
 "street. Father's name, Frederick Wurslen. Residence,  
 "371 West One hundred and Twenty-sixth street. Birth  
 "place, Germany. Age, thirty-seven years. Occupation,  
 "conductor. Mother's name, Rosa Wurslen. Mother's name  
 "before marriage Rosa Gelwoor. Residence, 371 West One  
 "hundred and Twenty-sixth street. Birthplace, Switzer-  
 "land,. Age, thirty-five years. No. of previous  
 "children, five. How many now living, three. Date of  
 "record of birth, May 7th, 1898."

THE COURT: We will adjourn now until half past ten  
 o'clock Monday morning, and meanwhile be very careful not to  
 discuss the case among yourselves, nor with anyone else, and  
 do not come to any conclusion as to the guilt or innocence  
 of the defendant, until you hear all that is to be said  
 on both sides and until the case is given you by the Court  
 for your decision. You must keep your minds open on that  
 question until you retire, after the conclusion of the case.  
 Now, you may go until Monday morning at half past ten.

(The Court then accordingly took a recess until Monday,  
 June 15th, 1914, at 10:30 A. M.).

-----

CASE 1917

June 15th, 1914.

TRIAL CONTINUED

MAY SANDFORD, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q What is your name? A May Sandford.

Q Where do you live? A 402 West One hundred and Twenty-fourth street.

Q Now, May, in answering questions, you will have to talk out loud. All these gentlemen have to hear you. Where were you living in the month of May, 1914? A I was living home.

Q Where? A 402 West One hundred and Twenty-fourth street.

Q And with whom? A With my uncle.

Q And is your mother living? A No, sir.

Q Is your father living? A No, sir.

Q Do you know Elsie Wurslen, the complaining witness in this case? A I do.

Q And does she live near you? A Yes, sir.

Q How far away? A About half a block.

Q How old are you? A I will be sixteen in August. I am fifteen.

Q And when will you be sixteen? A In August.

Q Now, on Thursday, May 21st, 1914, did you meet Elsie?

A I did.

CASE #1917



Q And where did you meet her, and at about what time?

A I met her at One hundred and Twenty-fourth street, at about half past four.

Q And did you have an appointment to meet her? A No, I just happened to run into her.

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

Q After you had a talk with Elsie, what did you do, and what did Elsie do? A We walked over to the Harlem Opera House.

Q And when you got into the lobby of the Harlem Opera House, what did Elsie do? A We stood there talking for a while, and then she telephoned to Al Owens.

MR. SANDLER: Objected to, and I move to strike that out.

MR. ELLISON: Consented to.

THE COURT: Strike it out.

Q After she telephoned, did you see this defendant, Owens? A Yes, sir.

Q About how long after she telephoned? A Well, about fifteen or twenty minutes.

Q And where did you see him? A In the lobby of the Harlem Opera House.

Q And did he come there alone or with anybody else? A No he came there with William Ross.

Q At the time that the defendant Owens and Ross came there, had you ever seen either one of them before in your life? A Yes, sir.

CASE #1907

Q When they came in, tell the jury what Elsie said, what Owens said and what Ross said, as nearly as you can recall, at the first meeting? A They didn't say much to me. They was speaking to Elsie.

Q Tell us what was said, what you heard?

MR. SANDLER: I object to that, your Honor.

BY THE COURT:

Q Whatever you heard this defendant say to Elsie? A He told me -- at first he said he would not take me to his house.

Q Who said this? A Owens.

BY MR. ELLISON:

Q Tell the jury what was said in answer to that? A Because he said it was too near my place.

THE COURT: What did you say to Owens?

Q What did you say, or what did Elsie say to him? A Elsie had explained the whole thing.

BY THE COURT:

Q What did Elsie say? Can't you understand English?

A I couldn't tell you what Elsie said.

Q Tell us the words? A Because she was talking outside.

BY MR. ELLISON:

Q What did you say?

MR. SANDLER: I object to this.

THE COURT: The objection is overruled.

MR. SANDLER: I respectfully except.

Q What did you say? A I told Owens that I was leaving

CASE #1917

home, and Elsie told him that I had no place to go for that night.

BY THE COURT:

Q You heard her say that? A Yes, sir, I did.

BY MR. ELLISON:

Q Go ahead. A And she said -- Owens said his home was too near my place for him to take me to, but he would get me a place, and then Ross told me to meet him at 10:30 that evening, and he would have me in a place.

Q And that was in the presence of the defendant Owens, was it? A Yes, sir.

Q After that talk, what did you do, and what did Elsie do, and what did the defendant do? A Elsie went away with the two boys, and I went in the Harlem Opera House.

Q You went into the show? A Yes, sir.

Q Now, at 10:30 that night, did you return to the Opera House? A No, I come from the Opera House and stood in the lobby.

Q And did you meet anybody there? A I met William Ross.

Q That is the man that was with Owens? A Yes, sir.

Q And where did you go with Ross? A 61 West One hundredth street.

Q And where did you go in 61 West One hundredth street?

MR. SANDLER: Objected to as not binding on the defendant.

THE COURT: The objection is overruled.

CASE #1917



MR. SANDLER: I respectfully except.

Q Where did you go to? A To 61 West One hundredth street.

Q What floor? A Ground floor, east.

Q And was that a furnished, or unfurnished, apartment?

A It was a furnished apartment.

Q How many rooms? A Three rooms.

Q Describe to the jury how those rooms are located, and what rooms there are?

MR. SANDLER: Objected to as incompetent irrelevant and immaterial.

THE COURT: The objection is overruled.

MR. SANDLER: I respectfully except.

A When we went in we were in the kitchen, and off the kitchen was the bed room, and on the other side was the parlor or the sitting room.

Q And how do you get from the parlor to the bed room?

A You have to walk through the kitchen.

Q Walk through the kitchen? A Yes, sir.

Q And how many bed rooms are there in the place? A One bed room.

Q And what was in the bed room? A A bed and a bureau and a chair and a cupboard to put your clothes in.

Q And what was in the parlor? A Sofa, three chairs and a bureau.

Q Did you stay there that night? A I did.

Q Did Ross stay there that night? A Yes, sir.

CASE #1907

Q Did Ross sleep with you that night? A Yes, sir.

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

Q Now, on Friday did you see Elsie? A Yes, sir, I saw Elsie.

Q At about what time? A At about half past eight.

Q And at any time that day did you see this defendant, Owens? A Yes, sir, he came in the morning.

Q At about what time? A At about half past ten.

Q And did the defendant come to the flat alone, or with anybody else? A He came with a fellow by the name of Harry Cohen.

Q How long did they stay there on Friday? A They stayed about two minutes.

Q Did you see the defendant Ross again on that day?  
A Yes, sir, I saw him that evening.

Q About what time? A Around five o'clock, or six o'clock.

Q And did he come then alone, or with anybody else? A I think he came with Ross, if I am not mistaken.

Q Well, on Friday evening, was Elsie there? A Yes, sir, Elsie was there.

Q How many of you were there on Friday evening? Give me the names? A Owens, Ross, Elsie and myself.

Q And how long did Elsie and Owens remain there? A It was about eleven o'clock when they left.

Q And who left? A Owens and Elsie.

Q And did Ross stay there that night? A Yes, sir.

CASE #1917

Q And sleep with you? A Yes, sir.

Q And that was the flat at 61 West One hundredth street?

A 61 West One hundredth street.

Q Did you hear any talk between Owens and Elsie on that Friday night? A No, sir, I did not.

Q Now, on Saturday, about what time did Elsie come to the flat? A About half past one.

Q And did you see the defendant Ross that day, on Saturday? A Yes, I did.

Q What time did he come to the flat? A He came about three.

Q And did he come alone, or with anybody else? A He came alone.

Q And when he got there was Elsie there? A Yes, sir.

Q Now, at that time, did you hear any talk between Elsie and the defendant? A No, I didn't.

Q Did you hear anything said at all? A No, sir.

Q How was Elsie dressed? A She had a kimona on.

MR. SANDLER: I object to that.

THE COURT: I will allow the question.

MR. SANDLER: I respectfully except.

Q What is that? A She had a kimona on.

Q Were you present with her when she purchased that kimona? A I was.

Q What, if anything, was said about getting a kimona?

A Elsie insisted upon having a kimona when she first came in.

CASE 111917



48

and she said she was going to wait until Owens came in and ask him for money for a kimona, so when he came in she did.

Q What did she say? A She told Owens she wanted a kimona.

Q What did Owens say? A Owens gave her the money and told her to get one.

Q How much money did he give her? A He gave her a dollar bill.

Q And subsequently did you see him give her any more money? A She didn't like the kimona; she wanted a longer kimona; and then Owens gave her a ten dollar bill.

Q And did she go out and get a kimona? A She did.

Q Did she put that kimona on? A Yes, sir.

Q When she put the kimona on, in what room was she?

A She was in the parlor, with myself.

Q And where was the defendant Owens? A Lying on the bed in the bed room.

Q While the defendant Owens was in the bed room, did you hear him say anything? A Yes, sir, he called Elsie several times.

Q And Elsie was in the parlor with you? A Yes, sir.

Q What did Elsie do after he called? A Owens called so many times that I said to Elsie "Why don't you answer him?", so she did, and Owens called her in, and she went in.

Q And did you see her go in the bed room? A I saw Elsie go in the bed room, yes.

Q How long did she remain in the bed room? A Between half

CASE #1907

an hour and an hour.

Q Did you see her when she came out of the bed room? A Yes.

Q And how was she then dressed? A Syll with the kimona on.

Q Did you see the defendant? A Later on I did, yes, sir.

Q And how was he dressed? A He did not have his collar, tie or shoes on.

Q They were off? A Yes, sir.

Q Did you see anything else at that time? A No, sir.

Q Well, did you see a towel? A Yes, sir, I saw the towel.

MR. SANDLER: That is objected to as leading.

THE COURT: The objection is overruled.

MR. SANDLER: I respectfully take an exception.

Q And who had the towel? A Nobody had the towel. It was on the chair.

Q Did you hear any conversation about any towel? A Yes, sir. Owens was washing his hands, and he asked me for the towel, so I got up and went for the towel where it usually hung, and it was not there, so I told Elsie "There is the towel in the bed room", and she laughed and said to Owens that was the dirty towel. Then I knew, of course, it was --

BY THE COURT:

Q Did you see the towel? A Yes, sir, I did.

Q What do you mean by saying it was a dirty towel? A Elsie meant that that was the towel that they had used.

BY MR. ELLISON:

CASE #1917

Q After they came out of the bed room, how long did Owens remain there? A He remained there until about half past ten that night.

Q And did Elsie remain there all that time? A Yes, sir.

Q And were you there? A I was.

Q At any time that day did Ross come in? A Yes, sir, he came in around five or six.

Q And did he remain there? A Yes, sir.

Q Now, on that Saturday, was anybody in that flat but you, Elsie, the defendant Owens and Ross? A No, sir, nobody.

Q What time did Elsie leave on Saturday night, about? A About a quarter past ten, or half past ten.

Q And did anyone leave with her? A No, sir, she left alone.

Q After she left, did the defendant Owens leave? A No, sir. Excuse me. She did. She left with Owens.

Q With Owens? A Yes, sir.

Q And who remained there? A Ross and myself.

Q Did Ross sleep there that night? A Yes, sir.

Q Sleep with you? A Yes, sir.

Q Now, on Sunday did Elsie come back to the flat? A Yes sir, she did.

Q At about what time? A About two o'clock -- three o'clock.

Q And did you see the defendant Owens on Sunday? A Yes.

Q About what time did he come there? A He came around half past one or two o'clock, and he left.

CASE 111917



Q Did anybody come with him? A No, sir, he came alone.  
He left then and Ross followed him.

Q When did Ross come in? A Ross was there.

Q Oh, he was there? A Yes, sir.

Q Now, did they return again that day, on Sunday? A Owens came back at about half an hour after Elsie came, about half past three, and he stayed for a while. Then Ross came in, and he left with Ross.

Q And did they return again that day? A Yes, half past seven.

Q Half past seven? A Yes, sir.

Q And who was there when they both came back? A Elsie and I.

Q Did they remain there? A They did.

Q About how long? A We remained there until around nine o'clock. Then we went out for a walk.

Q Who went out for a walk? A Owens, Ross, Elsie and myself.

Q And what time did you return home? A About half past nine or a quarter to ten.

Q Who came with you? A We all came together.

Q And how long did you remain home? A We remained there about half an hour. Then Elsie left.

Q Did she leave alone? A Yes, sir.

Q Did Owens leave after that? A Owens left, I guess it must have been <sup>around</sup> one o'clock.

Q And did Ross remain there? A Yes, sir.

CASE #1917

Q And sleep with you that night? A Yes, sir.

Q Now, on Monday, did you see Elsie? A Yes, sir.

Q Before Elsie came, did anyone else come to that flat?

A No, sir.

Q Was she the first one to come Monday morning? A She was the first one to come Monday morning.

Q About what time did she get there? A Elsie got there around one o'clock.

Q Who came there after Elsie? A Nobody came after Elsie until seven o'clock, until the officer came.

Q The officer came? A Yes, sir.

Q When the officer came, who was there? A I was there, and Elsie was sitting on the stoop.

Q And the officer had a talk with you, did he? A Yes.

Q Now, after that officer got there, did anyone else come?

A Ross and Harry Cohen came.

Q And how long after the officer came did Ross and Harry Cohen come? A About half an hour or three-quarters of an hour.

Q And did the officer then place Ross under arrest? A Yes.

Q And took you girls into custody? A Yes, sir.

Q When did you next see the defendant, Owens? A I didn't see him until I saw him one day here.

MR. ELLISON: That is all.

CROSS-EXAMINATION BY MR. SANDLER:

Q May, how long have you known Elsie? A About three years.

CASE #1907

Q Did you go to school with her? A Yes, sir.

Q Did you call at her home? A No, sir, I never did.

Q Did she call at your home? A She called for me at the store, when we went out.

Q Were you working? A I was working in my uncle's store.

Q Did you ever go out together evenings? A No, sir.

Q Sundays? A Yes, sir.

Q Did you ever go out together to any amusement place?

A No, sir, never.

Q You just walked around the street? A Yes, sir, just took a walk.

Q Did you know the young man that Elsie was keeping company with for eight months? A Yes, sir.

Q Do you remember his name? A Lee West.

Q Lee West? A Yes, sir.

Q He was about twenty-two years of age at the time of his death, wasn't he? A Yes.

Q Elsie was keeping company with him for about eight months? A Yes, sir.

Q Did you ever go out with Elsie and Lee West? A Only for a walk.

Q Only for a walk? A Yes, sir.

Q At the time that Elsie was keeping company with Lee West, she was attending a business school? A Yes, sir.

Q Gaffney's School? A For a while. Not long, though.

Q And did you ever tell any one you were over sixteen

CASE #1917



years of age? A I had said so, yes.

Q What is that? A I had said so, yes.

Q What? A Yes, sir.

Q Who did you tell? A I told Johnny Lynch.

Q Johnny Lynch? A Yes, sir.

Q Who is Johnny Lynch? A That was a fellow I used to go with.

Q A fellow you used to go with? A Yes, sir.

Q How old is Johnny Lynch? A Twenty.

Q That aint the man that ruined you? A Sir?

Q Is that the man that ruined you? A Yes, sir.

Q Wasn't it John Roberts that ruined you? A No, sir.

Q How long ago did Lynch ruin you? A Last October.

Q And you are now pregnant with child? A yes, sir.

Q As a result of him ruining you? A Yes, sir.

Q You were going with Elsie all that time? A I was.

Q You told this man Ross when you first met him that you had been ruined, didn't you? A No, sir, I hadn't said nothing.

Q Did you tell him you were a good girl? A No, I didn't say anything.

THE COURT: What difference does that make? Whether she told him, or not is immaterial. It makes no difference whether the girl is good, or bad. The law forbids absolutely anyone having intercourse with a girl under eighteen years of age.

MR. SANDLER: I submit in a case of this kind that

CASE #1907

where it is within the discretion of the Court to limit the scope of cross-examination --

THE COURT: I am not limiting the scope of the cross-examination. Strike out what she told Ross. She admits the fact. You admit you had intercourse with other people before?

THE WITNESS: Yes, sir.

THE COURT: Now, whether she told that to Ross or not makes no difference. It is entirely immaterial.

Q Do you know whether Elsie had intercourse with any man?

A I didn't believe so.

THE COURT: I will exclude that as immaterial.

MR. SANDLER: I respectfully except.

Q Elsie is quite a big girl, isn't she? A Yes, sir.

Q And Elsie often told friends that she was nineteen or over, didn't she? A Well, she hadn't said nineteen. She said about seventeen or eighteen.

Q Do you remember when the policeman came to the apartment? A Yes, sir.

Q She told him she was eighteen or nineteen? A Yes, sir.

Q And the policeman did not know whether to make an arrest or not; is that right? A Yes, sir.

Q Did he want to know where she lived? A Yes.

Q Didn't she tell the policeman then that nothing had happened to her? That she was a good girl? Do you remember that? A No, sir, I don't.

CASE #1917

Q What did she say to the policeman with regard to herself?

A She did not say anything to the policeman regarding herself.

Q Did the policeman ask her any questions? A He asked her questions, and when Harry Cohen and Ross came in she said she had not, that she was virtuous until she met Owens.

Q She was a virtuous girl until she met Owens? A Yes.

Q That Saturday, when you testify that the defendant Owens was in the bed room there, you were in the parlor? A Yes.

Q You did not overhear any talk between Owens and Elsie in that bedroom? A No, sir, I did not.

Q You don't know what took place there, do you? A No, sir.

Q You knew Owens was connected with the District-Attorney's office, didn't you? A No, sir, I did not.

THE COURT: How is that material?

MR. SANDLER: I am laying a foundation for something else.

THE COURT: I will strike it out.

Q When did you first find out he was connected with the District-Attorney's office?

THE COURT: That is entirely immaterial.

Q Did you ever look at the bed? A I did.

Q After Elsie got off? A Yes, sir.

Q Did you see anything there? A No, sir.

Q Did you ever see Elsie's underwear after that, the combination? A Yes, sir.

Q Did you see anything there? A No, sir.

CASE #19197



Q You know what it means when you were ruined? A Yes.

Q You were a pure girl? A Yes, sir.

Q And you observed blood stains after that? A Yes, sir.

Q On your underwear or bedding? A Yes, sir.

Q Was that man arrested that ruined you? A No, sir.

Q Did you tell the officer --

THE COURT: How is that material? Strike that out.  
Please confine yourself to this case.

Q Did you tell the officer when he came to the flat the name of the man who ruined you? A I told him after that.

THE COURT: I will exclude that as immaterial. That man is not on trial.

MR. SANDLER: I respectfully except.

Q Do you know Moe Levy Cohen? A Yes, sir.

Q He called there with the defendant Owens, didn't he?

A Yes, sir.

Q Did you know who Cohen was? A No, sir, I did not.

Q Did you know he was a witness in the Becker case? A No sir, not until after.

THE COURT: What difference does that make, whether he was a witness in the Becker case, or not?

Q Did Elsie complain to you after she left the bed room of any pains that she had experienced, or anything? A She only said it hurt her a little.

Q She was laughing, wasn't she? A Sir?

Q She was rather happy, wasn't she? A (No answer.).

CASE 1007

BY THE COURT:

Q Did she say what hurt her a little? A No, sir, she did not say exactly what hurt her.

Q What did she say? A (No answer).

MR. SANDLER: I am satisfied with the answer.

THE COURT: It hurt her a little?

MR. SANDLER: Yes, that is all she said?

THE WITNESS: Yes.

MR. SANDLER: That is all.

RE-DIRECT EXAMINATION BY MR. ELLISON:

Q You never knew Moe Levy Cohen until he was introduced to you by the defendant?

THE COURT: What difference does that make? She admits she had intercourse with other people. The statute makes no distinction about that. The jury will take the law from the Court on that point. The only materiality it can have is on the question of her credibility.

-----

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

DIRECT EXAMINATION BY MR. ELLISON:

Q What is your name? A Rose Wursland.

Q Where do you live? A 416 West One hundred and Twenty fourth street.

Q You are the mother of Elsie? A Yes, sir.

Q How many other children have you? A One girl.

CASE #1917

Q What? A One daughter.

Q And is that other daughter older, or younger, than Elsie?

A She is older.

Q How old is Elsie? A Elsie was born the 26th of April, 1898.

Q Was she living home with you last month? A She was always at home.

MR. SANDLER: That is objected to as immaterial.

THE COURT: The objection is overruled.

MR. SANDLER: I take an exception.

Q What? A She was always at home.

Q And was she going to any school at that time? A She went to business school.

Q Business school? A Every day except on Monday.

MR. ELLISON: That is all.

CROSS-EXAMINATION BY MR. SANDLER:

Q Do you know a young man by the name of Lee West? A I do.

Q Did he call at your home? A Yes, sir.

Q Do you know May Sandford, a friend of Elsie's? A I know her by sight. I never spoke to her.

Q But you know that Elsie went with May Sandford, didn't you? A No.

Q Don't know that? A No, sir.

Q How old a man was Mr. West, do you know, before he died? About twenty-two? A Mr. West, he was about twenty-one.

Q And you knew he was keeping company with your daughter?

CASE #1917



A He didn't keep no company.

Q He was calling there? A He was a friend of mine and my other daughter also and my husband.

BY THE COURT:

Q He was a family friend, then? A Yes, sir.

BY MR. SANDLER:

Q You remember Saturday, May 23rd, 1914? A Yes, sir.

Q I want to direct your attention to May 23rd. That was a Saturday? A Yes, sir.

Q Do you remember Saturday night when Elsie came home about twelve o'clock? A Yes, sir.

Q What time did Elsie get home Saturday night?

BY THE COURT:

Q Do you remember? A I do.

Q Well, if you don't remember, don't guess. A I don't think it was twelve o'clock.

BY MR. SANDLER:

Q Earlier? A I guess so.

Q What time? How much earlier than twelve, if you can remember? A I could not tell.

Q Did she tell you anything? A No.

Q Did she change her underwear the next morning, Sunday morning? A She did.

Q And you got the other underwear that she took off? You took the other underwear from her? A Yes, sir.

Q You looked at it? A Yes.

CASE #1907

Q Did you observe anything? A No.

MR. SANDLER: That is all.

RAY STOCK, called as a witness on behalf of the People  
being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q What is your name? A Ray Stock.

Q Where do you live? A 61 West One hundredth street.

Q Are you the housekeeper of 61 West One hundredth street?

A Yes, sir.

Q And have been for how long? A Three years.

Q Do you know this defendant, Owens? A Yes, sir.

Q When and where did you see him for the first time? A In  
my house; he called for a flat, he come for a flat, furnished  
flat.

Q When? A On Thursday night, the 21st of May.

Q At about what time on Thursday night? A Between six  
and seven.

Q Was he alone, or with anybody else? A He was with  
another fellow.

Q And do you know the name of the other man that he was  
with now? A Yes, Ross is the other fellow's name.

Q I want you to say just what was said to you at that time  
about a flat? A He come in and they said they come for a fur-  
nished flat, and said if I had a furnished flat. I said yes, I  
had a flat next door to me. They said "Can I see it?". I

CASE #1907

62  
answered yes, and I took the keys and showed it to them, and I asked them for who is it, and he said "Me and my wife and my brother". Ross said that.

Q Who did he say was the brother? A He said the fellow with him was his brother.

Q And it was for a brother and his wife and himself? A And His wife and himself.

Q And did you take the defendants Owens and Ross into the flat then and show it to them? A No, they didn't pay the money right away.

Q Did you show them the flat? A Yes, sir.

Q And what flat did you show them? A The flat right next door to me, three rooms.

Q And what floor is that? A The ground floor.

Q East or west? A East.

Q And how many rooms? A Three.

Q And what are those rooms? A They are furnished.

Q And what kind of rooms? Parlors, or what? A A parlor, kitchen and bed room.

Q And on that day what was in the bed room, what furniture? A A bed and a dresser; that is all that was in the bed room.

Q And what was in the parlor? A In the parlor a couch bed and a table and a couple of chairs.

Q After that night, did you ever see the complaining witness, Elsie Wurslen? A Elsie I didn't see. I saw her

CASE #1907



Friday morning. May I seen Friday morning.

Q And you saw May? A Yes, sir.

Q And then did you see them after that? A Elsie I seen Friday night.

Q And did you see May around there? A May I seen, yes, sir.

Q Going in and coming out of this flat that you rented?

A Yes, sir.

MR. ELLISON: That is all.

CROSS-EXAMINATION BY MR. SANDLER:

Q Did this man here give you any money? A No, sir.

Q Did he ask you for the key to the flat? A No.

Q How long had that flat been vacant before you rented it? A Three or four days.

Q Do you know who occupied the flat before that time?

MR. ELLISON: Objected to as immaterial.

THE COURT: The objection is sustained.

MR. SANDLER: I respectfully take an exception.

Q Did you know the character of the people who occupied the flat? A No.

MR. ELLISON: That is objected to.

THE COURT: I will exclude it as immaterial. We are only trying one case here.

Q Did the police come to your place there on a complaint?

MR. ELLISON: Objected to as immaterial.

THE COURT: I will exclude that as immaterial.

MR. SANDLER: Irrespectfully except.

CASE #1917

64  
Q All your apartments are furnished, aren't they?

THE COURT: Excluded, as immaterial.

MR. SANDLER: I respectfully except.

Q To whom was therent receipt made out? A To Ross.

Q Not Owens? A No.

Q Not this man (indicating defendant)? A No.

MR. SANDLER: No further questions.

AUGUST SCHALOW, Police Officer, attached to the Fourth Inspection District, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ELLISON:

Q What is your name? A August Schalow.

Q You are a member of the Police Department of the City of New York? A I am.

Q To what precinct were you attached on the 25th day of May, 1914? A I was attached to the Fourth Inspection District office.

Q And where is that located? A Sixty-eighth street station house, above the station house.

Q On that day, did you visit the premises 61 West One hundredth street? A I did.

Q At about what time? A At about seven-thirty that P. M.

Q And when you got there who did you see? A In the premises at that time?

Q Yes. A I saw one party.

CASE #1917

Q Who? A A girl by the name of May Sandford.

Q And did you see the other girl at any time? A Yes, sir, she came in after.

Q Did you then have a talk with them? "Yes", or "no"?  
A Yes, sir.

Q And after you talked with them, did anyone else subsequently come in there? A Yes, sir.

Q Who? A Ross and another man who gave his name as Cohen.

Q And did you afterwards place anybody under arrest? A I did. I placed Ross under arrest, Elsie Wurslen and May Sandford.

Q Did you arrest this defendant? A I did.

Q When and where? A I arrested him on May 26th, on the top floor of this building, room eight.

Q The District-Attorney's office? A At three-thirty P.M.

Q And who was with you at the time you arrested him up there? A The other girl, the Wurslen girl.

Q Elsie Wurslen? A Yes, sir. There was another party who came in, the housekeeper.

Q You mean you saw Mrs. Stock? A Yes, sir.

Q You had a talk with her, too? A I did.

Q While you were having these conversations Owens was not present, was he? A He was not.

MR. ELLISON: That is all.

CROSS-EXAMINATION BY MR. SANDLER:

Q What day of the month was it that you walked in that

CASE #1917



apartment? A May 25th, Monday.

Q You had received a complaint? A I did.

Q You were assigned by the inspector? You worked under Inspector Dwyer? A I do.

Q And when did you receive the assignment, do you remember? A The assignment of that complaint?

Q Yes? A I received the complaint on the 21st of May, but the complaint was based on that apartment the 19th, two days before they went to the apartment.

Q So, the complaint really was against people who had occupied the apartment prior to them? A No, the complaint was based on that apartment.

Q But against other persons? A I don't know.

Q You don't know? A I do not.

Q You know now, since you got into this case when the girls May Sandford and Elsie, got into that apartment? A I found out later.

Q Do you know now that the complaint you received was not based against the persons you arrested? A The complaint was based on that apartment.

Q But not against the persons you arrested?

MR. ELLISON: That is objected to as immaterial.

THE COURT: That has nothing to do with this case.

The defendant is here before this jury, no matter how he got here.

-----

CASE #1917

THE PEOPLE REST

MR. SANDLER: I now respectfully move your Honor to dismiss this indictment charging rape in the second degree, assault in the second degree and abduction against this defendant, on the ground the People have failed to establish the indictment.

THE COURT: The motion is denied.

MR. SANDLER: I ask your Honor, then, to dismiss the first count charging rape in the second degree.

THE COURT: The motion is denied.

MR. SANDLER: I respectfully except, and I make the same motion with respect to assault in the second degree.

THE COURT: The motion is denied.

MR. SANDLER: I respectfully except, and I make the same motion with respect to the count charging abduction.

THE COURT: The motion is denied.

MR. SANDLER: I respectfully except.

-----  
THE DEFENDANT'S CASE

(Mr. Sandler opens the case to the jury on behalf of the defendant.

HARRY N. COHEN, called as a witness on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q What is your full name? A Harry N. Cohen.

CASE #1917

Q Where do you live? A 55 East Seventh street.

Q You are known as Hec Levy Cohen, are you? A I am.

Q And do you know the defendant at the bar here, Elian Owens? A I do.

Q Under what circumstances did you meet the defendant for the first time?

THE COURT: I will exclude that as immaterial.

Q You were under subpoena in the case of the People vs. Becker?

MR. ELLISON: Objected to as immaterial.

THE COURT: The objection is sustained.

Q Were you subpoenaed as a witness before the Grand Jury in the case of the People vs. Owens?

MR. ELLISON: That is objected to as immaterial.

THE COURT: I will exclude that as immaterial.

MR. SANDLER: I respectfully except.

Q You were served with a subpoena? A I was.

Q To appear before the Grand Jury in the case of the People vs. Owens? A I was.

Q And did you appear before the Grand Jury? A I did.

THE COURT: I will exclude that as immaterial. This case is to be decided on the testimony given by the witnesses here before this jury, and we are not concerned with the police or the Grand Jury or any other body. If a witness on the stand made different statements at any place from the statements he makes here, it is proper to call

CASE #1917



his attention to it. Otherwise not.

Q When did you first meet the defendant, Owens?

THE COURT: Do you call him as a character witness?

MR. SANDLER: No, your Honor.

THE COURT: I will exclude that as immaterial.

MR. SANDLER: Haven't I a right to show the jury under what circumstances they met, that this man was in his custody?

THE COURT: That does not make any difference. A man having another in custody has no right to commit rape in the second degree. That is not your defense, is it? I will exclude it as immaterial.

MR. SANDLER: I except to that statement of your Honor's, that he committed rape in the second degree.

THE COURT: I did not say he committed rape in the second degree. I said that is no defense to a charge of rape in the second degree. The jury understands that.

Q Were you with this defendant on Friday, May 22nd, 1914?

A I was.

Q Where were you with him that day? A 61 West One hundredth street.

Q In whose apartment was that? A A fellow by the name of Ross.

Q Do you know who was in the apartment beside Ross?

THE COURT: That is only his conclusion.

Q Did you see anybody?

CASE #1917

THE COURT: Strike out the last answer.

Q Who was in the apartment when you got there? A Ross and some young girl. I don't know her name.

THE COURT: May Sandford, wasn't it?

Q May Sandford? A There was two girls there.

Q Was Ross with you when you got there? A Ross was there when I got there.

Q Did you stay there any length of time? A About two hours, or three hours.

Q Did you leave with Ross? A How is that?

Q Did you go out with Ross? A We all went out together, Owens and I.

BY THE COURT:

Q You did not mention Owens as being there? A Owens was with me. I was in his custody all the time.

THE COURT: Strike out "I was in his custody".

THE WITNESS: Owens was with me.

BY MR. SANDLER:

Q Were you with Owens on Saturday, the 23rd of May? A I was.

Q Were you stopping with Owens then? Was he stopping with you? A I had apartments and Owens was stopping with me.

Q Sleeping in your place? A How is that?

Q Did he sleep in your house? A Yes, sir.

Q What time did you leave your apartment that day with Owens? A Saturday?

CASE #1917

Q Yes. A About three o'clock in the afternoon.

Q Where did you go with Owens? A To West One hundredth street.

Q What did you go there for?

THE COURT: Excluded as immaterial.

Q What time did you get to the apartment? A Three o'clock.

Q And who did you find there? A Ross, Miss Sandford, and Miss Elsie, whatever her name is.

Q How long did you stay in the apartment with Owens?  
A Until six o'clock.

Q Were you calling on anybody there? A On Ross.

Q He was your friend? A He was.

Q And did you leave with Owens? A How is that?

Q Did you and Owens go away from there? A Yes, sir.

Q What time? A Six o'clock.

Q While you were there with Owens, did Owens go into any room with this girl, Elsie? A Not that I know of.

Q Did you have Owens -- was Owens in sight all the time while you were there? A All the time.

Q Did you see May Sandford there? A I did.

Q Did you see Ross there? A I did.

Q Did you go to the flat the next day, Sunday? A I never came there until Monday night.

Q How long had you known May Sandford? A Only I saw her there twice. I never saw the girl in my life.

CASE #1917



72  
Q With Ross? A Yes, sir.

Q How long had you known Elsie? A I saw her twice.  
Never saw her in my life before.

BY THE COURT:

Q You did not commit sexual intercourse with either of  
those girls, did you? A No, sir, I did not.

BY MR. SANDLER:

Q You had an opportunity, didn't you?

THE COURT: Strike that out as immaterial. The  
character of the girls is not essential. It is admis-  
sible simply on the question of their credibility.

MR. SANDLER: That is all.

CROSS-EXAMINATION BY MR. ELLISON:

Q You say you are a friend of Ross? A I am.

Q Tell this jury how long you have been going with Ross?

A Going?

Q Yes. How long have you known him? A A few years.

Q How many times has he been convicted of crimes? A A  
couple of times.

MR. SANDLER: That is objected to.

THE COURT: I will exclude that as immaterial.

Q How was <sup>Elsie</sup> ~~he~~ dressed on Saturday, the Saturday you went  
there? A In a blue suit.

Q Did you see anything else on her? A (No answer.)

BY THE COURT:

Q Did she have a coat and vest on, the same as you have?

CASE #1917

That is a blue suit. A She had a skirt and coat on.

BY MR. ELLISON:

Q Did she have anything else on that day? A She had her hat off in the house.

BY THE COURT:

Q Did she have her shoes on? A Yes, she had her shoes on.

BY MR. ELLISON:

Q How was May dressed on Saturday? A Just a skirt and a waist; that is all she had.

Q And you got there at three o'clock, did you? A I did.

Q Were you with Owens the night he was out and met Elsie on One hundred and Twenty-fourth street? A What night is that?

Q That is about two weeks before May 21st. A I was with Owens any time --

Q Were you with him when he met Elsie the first time? A I was.

Q Now, you are positive about that? A I am.

BY THE COURT:

Q Describe the meeting with Elsie? A I don't know what you mean.

Q Do you know what a meeting is? A Yes, sir.

Q Tell us about it? A Owens came home and he said he met a friend of his that he knows about a couple of years, and he said "come on, we will go out and take a walk". Anywhere I went he had to go with me.

Q Describe the meeting with Elsie? A One hundred and Twenty-fourth street and St. Nicholas avenue, at about ten-

CASE 111917

74  
thirty one night, he had a meeting with this Elsie Wurslen.

Q And who else? A That is all that night, that was the first meeting with Elsie.

BY MR. ELLISON:

Q And you were there? A I was.

Q How did he come to meet her there? A He had an appointment. We had a 'phone in our house, and she called up.

Q What was your 'phone number? A 9076 Morningside.

Q And what was the name of the apartment you lived in, the name of the flat? A Moe Levy.

Q What was the name of the apartment? A The Windemere Apartments.

BY THE COURT:

Q How would Elsie have called you up if he had not met her before that? A I don't know whether he met her before.

Q I asked you about the first meeting? A That is the first meeting, the first time I ever saw Elsie.

Q If he ever met Elsie before that, you did not see it?  
A Not while I was in his jurisdiction, not while I was with him.

BY MR. ELLISON:

Q Were you with Owens the night he met Elsie and May in the Harlem Opera House? A I was not.

Q You told the jury you were always with Owens? A Well, I was not with him that night. I was in bed.

Q That is one of the nights you were not with him? A (No answer.)

CASE #1907



BY THE COURT:

Q Did you give Elsie this telephone number? A No, sir.

Q Who else lived in the room a with you and Owens? A Ross.

BY MR. ELLISON:

Q Were you with Owens the time that the flat was engaged at 61 West One hundredth street? A No, sir. Owens was with me all the time. He didn't engage no flat to my knowledge. Ross told me that he engaged the flat.

Q Were you with Owens the night he went over, when the flat was hired? A I am telling you Owens didn't hire no flat.

BY THE COURT:

Q You were not with him when he did hire it? A I don't know. He was with me. Ross told me he hired the flat.

Q Answer his question? A I am trying to.

Q You were not with him when the flat was hired? A I was not.

BY MR. ELLISON:

Q Do you remember this Saturday very well? A I do.

Q Do you remember the Thursday before it just as well?  
A I do.

Q Was he home on that Thursday? A We went to bed together about eleven o'clock at night.

Q Was he home during the day with you? A Yes, sir, we were down in court. We had to come down to court.

Q So, he was with you all day Thursday? A Yes, sir.

Q Was he with you all day Friday? A He was.

CASE #1917

Q And did not leave you at all on Friday? A Not until we went down to One hundredth street, in the evening.

Q So, you were together all day Friday? A Yes.

Q And you were with him all day Thursday? A I was.

Q Were you with him on Sunday? A Always.

Q Was he with you all that Sunday? A Yes, sir.

Q And was he with you on Monday? A Yes, sir.

Q Now, will you tell us where you and Owens were on Sunday? Where did you go on Sunday? A One Sunday we went to Coney Island.

Q On this particular Sunday, after the Saturday? A He has a book, the District-Attorney has the book; I didn't make pads of it, Mr. Ellison.

Q Do you know where he was on Sunday with you? A I didn't make any particular pads.

Q But he was with you; you are sure of that? A He was always with me.

MR. ELLISON: That is all.

ELIAS OWENS, the defendant herein, called as a witness in his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q What is your name? A Elias Owens.

Q Where do you live? A 826 Ninth avenue.

Q Owens, how old are you? A Twenty-six.

CASE #1907

Q Married? A Married.

Q Children? A Two.

Q How old are they? A Nine and eight years old.

Q And where do you live? A 826 Ninth avenue.

Q How many years have you been connected with the District-Attorney's office? A Between three and a half and four years.

Q And what was your designation in that office? A Process server.

Q And as such were you assigned -- who is your immediate superior? A The chief process server, Albert J. Berwin.

Q During the recent case of the People vs. Becker, were you assigned to do some work of a confidential nature in that case?

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

THE COURT: Oh, I will allow it.

A Yes.

Q To what Assistant District-Attorney did your chief assign you? A Assistant District-Attorney Groehl.

Q And did Mr. Groehl assign you to keeping in tow Moe Levy Cohen, a witness in that case? A Yes, sir.

Q And that is the last witness who testified here? A Yes.

Q Had you ever known that man before that time? A No, sir.

Q Did you ever know a man named Ross before that time?

A No, sir.

Q Or Elsie? A No, sir.

CASE #1917



Q Or May Sandford? A No, sir.

Q Before you came to this office as a process server, where did you work? A Clerk at the Great Northern Hotel.

Q Great Northern what? A Hotel.

Q And how many years were you there? A From the day it was opened, for about a year.

Q Did you work for the United States Appraisers? A United States Appraisers, Port of New York.

Q Did you work for the Public Administrator of New York County? A Yes, sir.

Q Have you ever been convicted of any crime before? A No.

Q Or arrested for anything? A No, sir.

Q Now, when were you assigned by Mr. Groehl to take charge of Moe Levy Cohen? A The latter part of March, I think it was; I went to relieve another man.

Q And what instructions did you receive?

MR. ELLISON: I object to that, your Honor, as immaterial, what instructions Mr. Groehl gave him with respect to Moe Levy Cohen.

THE COURT: The objection is sustained.

MR. SANDLER: I take an exception.

Q How long were you with Moe Levy Cohen in all? A Over two months, I guess.

Q Day and night? A Yes.

Q Where did you take him to? A Wherever he wanted to go.

Q Was that your orders? A Yes, sir.

CASE #1917

Q Now, will you explain to the jury how you came into that flat at 61 West One hundredth street? How did you come to go there? A One day, I don't remember the exact date -- yes, I do, it was Thursday, I think.

Q In the month of May? A Yes, this girl, Elsie, called up on the 'phone and said --

BY THE COURT:

Q Where did she call? A Morningside 9070.

Q That is the Windemere? A Yes, sir; and she asked me if I could come out to see her, and we were just then having something to eat, and I said no, that I was at lunch, and could not come then, and she told me what the trouble was; she said some girl got put out of a house; so I said "I am sorry, I can't bother with that now; I am having lunch"; so in about five minutes the telephone rang again and Moe says that the same party wants you on the 'phone; so I went to the 'phone, and I recognized Elsie's voice again on the 'phone, and she pleaded and begged with me to come over, so I did go over. I did go out, and went over to the Harlem Opera House, in company with William Ross, and when I went over there there was three girls there, a young girl about twelve years of age, I think, was there, and Elsie introduced me to this girl, May Sandford, and this girl had a bundle in her arm, and had plaster on her head, and said her uncle had beaten her, and showed a scalp wound, and said she had bruises all over her body.. She begged me to find a place for her to sleep.. I said "I am sorry, I haven't got any

CASE #1917

place to keep you".

BY MR. SANDLER:

Q Did you tell the girls you were connected with the District-Attorney's office? A At that time, no.

Q Mention the girl's name when you speak? A May Sandford began to cry and threatened to commit suicide, and all this, and Ross said "We will see what we can do for you", and she went back in the moving-picture theatre, and stayed there. I don't know how long she stayed there. Anyhow, I went away with Ross. Ross said "I will take you down to an apartment where people I know -- where I have been before with people that hired this apartment", and he said "Come down with me." So, we went home first, and we went down to 61 West One hundred-th street, and Ross went inside. I went in the hallway. The janitor came out.

Q Who was this man Ross? A The man who lived with me for about a month.

Q How did you come to meet Ross? A Through Mr. Cohen.

Q He was a friend of Mr. Cohen's ? A Yes, sir.

Q Do you know Ross' past record? A I didn't know at that time, no.

Q You never knew him before you met Moe Levy Cohen, did you? A No.

Q Go ahead, A So Ross spoke to this woman. I don't know whether she was German, or Jewish, because Ross can speak both of them, and the lady said those friends of his had moved

CASE #1917



out, I think about the 19th of the month, and so Ross told me, and we went in the flat.

Q You were in the flat in 61 West One hundredth street?

A Yes, sir.

Q Were you there on Friday?

THE COURT: You asked him about the hiring of the rooms. Let him finish his answer.

BY THE COURT:

Q You went in the flat? A Yes, sir.

Q You did not go away when she told you his friends had gone? A No, sir.

Q You hired the flat before you went away, though, didn't you? A No, sir.

Q Who did? A Ross went up and met May Sandford at the Harlem Opera House, at 10:30 at night.

Q You did not hire the flat on the first visit? A No.

Q And you did not have Elsie or May with you? You were going to get a room for May, but she was not with you when you went there first; is that it? A Yes; Ross was going to.

Q Ross and you were there? A Yes, sir.

Q And then you met somebody at the Harlem Opera House?

A We went home to the Windemere Apartment, and Ross went and got the May Sandford girl, so I understand now, or brought her to the --

Q Just state what you did? A I went home, to the Windemere Apartment House, and left Ross at the Harlem Opera House.

CASE #1917

Q How long after? A Ten o'clock at night.

Q Who else was there at the Harlem Opera House? A That May Sandford girl came out of the show.

Q And who else? A Elsie, and we --

Q And you and Ross? A Yes, Ross went away with the May Sandford girl, took a car.

Q What did you do with Elsie? A I went home, to One hundred and Twenty-seventh street and St. Nicholas avenue, left her at St. Nicholas avenue. On Friday, we went down, I and -- Ross had slept in the flat, and Elsie called up on the 'phone and said she was coming down -- she wanted to know where May Sandford was, so I said Ross had called me on the 'phone, and I told the address, I thought she was down there, 61 West One hundredth street, so she went down there. Then, around about five or six o'clock in the evening, I and Harry Cohen went down to 61 West One hundredth street, and in the apartment was the May Sandford girl and Elsie and Ross. We stayed there three or four hours, had something to eat, and the May Sandford girl said she had no clothes to wear, her uncle wouldn't give her her clothes, and she had some money, she got herself a pair of slippers, I think it was.

Q She got herself what? A A pair of slippers, and she asked me if I could not please give her some money to eat and to buy some little things she needed; so, knowing the straits she was in, I did give her some money.

Q How much? A A few dollars; I don't know the exact

CASE #1917

amount.

Q Elsie said ten. Did you give her ten? A No, sir.

Q You did not? A No, sir. She bought a whiskbroom and a comb and various little household articles, and she went out and came in with a kimona, May Sandford, a short kimona.

Q Who came in with that kimona? A May Sandford; and, of course, she had nothing to wear; she had no clothes at all, and she wanted to take off her waist, because it was all dirty, and she wanted to wash it. That is the reason she bought this kimona. That night we went home, and on Saturday --

Q Who went home? Elsie said you went home with her from the flat? A I, Mr. Cohen and Elsie.

Q Elsie says you and she went home? A No.

Q Elsie is not telling the truth? A So we went up to the Windemere apartment, and Saturday we went down again to the apartment, to One hundredth street, West One hundredth street. In there was Ross and May Sandford and Elsie, and we stayed there a few hours, about three or four hours; I don't know the exact time; and during that time we sat and had something to eat, talked; that was about all.

BY MR. SANDEFORD:

Q Did you perpetrate an act of sexual intercourse with Elsie? A Absolutely not.

Q Did you take her in a bed room and get on the bed with her? A No.

Q At any time during Saturday? A No.

CASE #1917



84  
Q Do you know whether anyone else did, then, any other of the men that were calling there? A No.

Q Did you buy a kimona for Elsie? A No, I did for May Sandford, a short kimona.

Q Did you give Elsie ten dollars? A I give them a few dollars, one or two dollars.

Q Did you give Elsie one dollar? A Two dollars, I think it was.

Q What did you go to the apartment for, the flat? A Cohen wanted to go and see his friend Ross.

Q When were you arrested? A On Tuesday, I think it was, Monday or Tuesday, in the Criminal Court Building, top floor.

Q 27th; do you remember the date? Were you in this building when you were arrested? A Yes, sir.

Q Waking up in room eight? A Yes, sir.

MR. SANDLER: Your witness.

CROSS-EXAMINATION BY MR. ELLISON:

Q Now, Owens, you are very well acquainted with the regulations of the District-Attorney's office, are you not? A Yes.

Q You know it is the duty of a process server to keep a book in which he makes entries of what he does every day; that is so, isn't it? A Yes, sir.

Q Have you got your book with you? A No, I have not.

Q What? A I haven't got no papers with me.

Q Did you make any entries in yur book showing your visits to the flat at 61 West One hundredth street? A Yes, sir.

CASE #1917

Q Did you make any entry in your book of going over there with Ross when the flat was rented? A Yes, sir.

Q Did you make entries in there of giving the girls money? A No, sir.

Q Did you make any entries in there of being out and meeting Elsie Wurslen on the street and giving her your telephone number? A No, sir.

Q Now, when Elsie called you up over the telephone, why did you find it necessary to take Ross with you down to the Harlem Opera House? Why didn't you go down alone, if you wanted to help them out, and didn't intend anything else? A I just went down for a walk; that is all.

Q What? A Went out to have a walk.

Q You took them out for a walk? A Yes, sir.

Q Ross was not in your custody, was he? A No.

Q I say, Ross was not in your custody, he was not a witness in the Becker case, was he? A He might have been.

Q I say, he was not at the time? A No.

Q Was he anywhere in your custody? A Partly, yes.

Q Did the District-Attorney ever direct you to take charge of Ross? A The District-Attorney knew he lived with us.

Q Did the District-Attorney ever tell you to take custody of Ross? A He was always with me when I visited this building. Mr. Groehl knew it.

Q "Yes", or "no"? A Yes.

Q Who? A Mr. Groehl.

CASE #1917

86  
Q Mr. Groehl directed you to take charge of Ross? A I don't want to say exactly taking charge.

THE COURT: Let him explain it.

BY THE COURT:

Q Did Mr. Groehl ever say to you "take Ross into your custody"? A Not in my custody, no.

Q Then, he did not direct you to take him into custody?  
A No.

BY MR. ELLISON:

Q But Ross was a friend of Cohen's; that is the point, isn't it? A Yes, sir.

Q You did not take Cohen with you on that walk, did you, down to the Harlem Opera House, when you met the girls? A No.

Q And Cohen was directly in your custody, by orders of the District-Attorney? A Yes, many a time I went out to get papers and get a shine, and he would be lying in bed, and I had a right to do that.

Q You never were told, of course, to go down to the Harlem Opera House and meet any girls, were you? A No.

Q Cohen did not introduce you to Elsie Wurslen, did he?  
A No.

Q Ross did not introduce you to Elsie Wurslen, did he?  
A No.

Q In fact, you met her on the street, didn't you? A (No answer).

Q So, on this particular night, when she called you up and

CASE #1917



87  
said she wanted you to help out her friend, you took Ross with you just for a walk? A Yes, sir.

Q And you met the girls in the Harlem Opera House, and they told you they wanted some place for May to stop; is that so? A Yes, sir.

Q And you, out of the goodness of your heart, I assume, wanted to help them out? A Yes.

Q You did not have any other intention at that time, did you? A No intentions.

Q And, of course, if you knew that Ross had any intentions you would not have allowed him to go with you, would you? A No, I would not.

Q So, that night, at about seven o'clock, you went over to 61 West One hundredth street, didn't you? A Yes, sir.

Q You went over with Ross? A Yes, sir.

Q Ross never met those girls before, did he? A At the Harlem Opera House, yes.

Q I mean, before you introduced them, he had never met them? A No.

Q And yet, in the short space of about half an hour, he decided to rent the place, and not you; is that so? A Yes.

Q So that, they were your friends? A They were not my friends. I never saw the May Sandford girl before that.

Q You knew them? You knew Elsie? A I knew Elsie, that was all, about a week.

Q And you had introduced --

CASE #197

BY THE COURT:

Q How did you meet Elsie? A I was in One hundred and Twenty-fifth street, getting some fruit, or papers, or something, I was right by the College Inn; she came along, and she smiled at me, and I smiled back, and she was right ahead of me, and she walked slow, and I came up to her and we talked.

Q You gave her your telephone number? A I did.

BY MR. ELLISON:

Q And so Ross decided to rent an apartment for her; is that so? A Yes.

Q Although he never met her until you introduced him to her half an hour before? A Correct.

Q You were there when he rented the apartment, weren't you? A No.

Q Did you hear the landlady on the stand say that you were represented as his brother, and he said he wanted a flat for himself, his wife and his brother? A When the apartment was rented, so I understand, the landlady was --

BY THE COURT:

Q Did you hear him say that to the landlady, that Ross wanted it for himself, his wife and his brother, you being the brother? A No.

BY MR. ELLISON:

Q You heard the landlady so testify on the stand this morning? A Yes, sir.

Q And you heard her talk English? A Yes, sir.

CASE #1917

Q And you could understand her English, couldn't you? A Yes, sir.

Q You have never had any trouble with that landlady in your life, Mrs. Stock? A Never.

Q You have never had any trouble with Elsie in your life? A Never.

Q You have never had any trouble with May? A Never.

Q You then started calling on that flat quite frequently, didn't you, from Thursday until Monday? A Yes, sir.

Q You were there every day, weren't you? A Yes, sir.

Q And you went around there without Cohen, didn't you? A No.

Q Did you have Cohen there every day and all the time while you were there? A Friday and --

Q Did you have him there on Friday? A Yes.

Q During the day? A I don't know whether it was day, or night, that we were there.

Q Were you there any time alone without Cohen on Friday? A No, with Cohen.

Q Were you there on Saturday any time without Cohen? A No.

Q Were you there on Sunday without Cohen? A No.

Q Do you mean to say Cohen was there all the time you were there, every day? A Those three days, except that Thursday night.

Q You can't be mistaken about that, can you? A I can't be mistaken, no.

CASE #1917



Q Were you there on Monday with Cohen? A Yes, sir, I went  
as far as the street, on the other side of the street.

Q You were not there when the officer came there? A I  
was in the street.

THE COURT: He asked if you were in the apartment?

A I was not in the apartment, no.

Q Did you see the officer go in? A No.

Q What were you doing on the street? A I waited on the  
corner.

Q How long did you wait there? A Possibly about an  
hour, or half an hour or so, until Mr. Cohen came out of the  
apartment.

Q Cohen came out of the apartment? A Yes, sir.

Q Did you see them placed under arrest while you were  
waiting there? A No, we went away.

Q You and Cohen went away? A Yes, sir.

Q You are positive about that, too? A Yes, sir, we went  
away.

Q And you say you took Cohen up there because Cohen wanted  
to see Ross; is that so? A Yes, sir.

Q Of course, Ross could go up to that flat where he was  
living with you? You told the jury Ross was living with you  
and Cohen up in the Windemere Court? A Yes.

Q But, instead of his going up there to live, you used  
to go down to visit him in the flat with the girls; is that so?  
A Yes, sir.

CASE #1917

Q Did you think it was perfectly proper and right, being an attache of the District-Attorney's office, when you introduced Ross to this girl, to find that he was living there with her? A No.

Q And yet you continued your visits down there, did you? A Yes.

Q Did you ever report any of this to Mr. Berwin, your superior? A No.

Q Did you ever report it to Mr. Sayer, the Chief Clerk of the District-Attorney's office? A No, only what was in the book.

Q Did you ever show the book to Mr. Sayer? A Yes, sir.

Q Containing those entries? A Yes, sir, and he O. K'd them.

Q Was there any entry in those books that Ross was living with the girls in 61 West One hundredth street? A No.

Q I am asking you whether you made any entries that Ross, the man you introduced to these girls, was living in the flat with one of them? A I had orders --

BY THE COURT:

Q Was there any entry in that book? A As to 61 West One hundredth street, yes, sir.

Q That Ross was living with these girls? A No, sir.  
BY MR. ELLISON:

Q And you never reported that to your superiors, did you? A No, sir.

Q And you knew it was wrong? A Yes, sir.

1010

CASE #1917

BY THE COURT:

Q And it took you four hours to make these visits there to see Ross? A I had nothing to do with them, your Honor.

Q You spent four hours there each time you went there? A Yes, sir.

BY MR. ELLISON:

Q Will you tell the jury what Ross was going for a living?

A No, he did not work.

Q Who gave him the money to pay for the flat? A I gave him some money about a week or two or three days before that.

Q Don't you know you gave him the very money he paid the rent with for 61 West One hundredth street? A He might have, yes.

Q And then did you charge those up to expenses to the District-Attorney's office, the moneys you gave the girl? A No.

Q And the money that the flat was paid for? A No, sir.

BY THE COURT:

Q What about Ross and money? Did you say Ross could always have money because he was a pickpocket? A I suppose so, that is the way he lives, I suppose.

Q And you were in the employ of the District-Attorney's office, visiting this pickpocket? A Yes, sir, in my line of duty.

Q Spent four hours a day with him? A Yes, sir.

Q And for no other purpose? A For no other purpose.

RE-DIRECT EXAMINATION BY MR. SANDLER:

Q Did you ever bring Ross down to this building? A Every time I came here.

CASE 11197



95  
Q Where did you take him? A To Mr. Groehl's office, on the fourth floor, room eight.

Q Did you introduce him to anyone up there? A Mr. Groehl knew him before I knew him.

THE COURT: What has that to do with the case?

MR. SANDLER: Nothing, except to show the environment.

THE COURT: This young man is twenty-six years old?

THE WITNESS: Yes, sir.

THE COURT: And you know what you are doing all the time?

THE WITNESS: Yes, sir.

MR. SANDLER: Before I excuse the defendant, I ask your Honor to direct that the complaining witness be brought in.

(The complaining witness is brought into the court room.)

MR. SANDLER: I want her to stand alongside of the defendant, for a physical comparison.

THE COURT: I will not allow it. They can see where she is now. She says she did not resist. She did in the beginning but she consented. There is no question of rape in the first degree here, but the statute takes from her the power of consenting.

-----  
H E N R Y D. S A Y E R, called as a witness on behalf of the defendant, being first duly sworn, testified as follows:

CASE #1907

## DIRECT EXAMINATION BY MR. SANDLER:

Q What is your name? A Henry D. Sayer.

Q Where do you live? A 684 St. Nicholas avenue.

Q You are the Chief Clerk of the District-Attorney's office.

A I am.

Q The defendant at the bar is under your immediate supervision? A He is.

Q How long have you known the defendant, Mr. Sayer? A Since about the 1st. of January, 1911.

Q And has he been employed by the District-Attorney ever since that time? A He has.

Q Do you know other men who know the defendant? A Yes.

Q Have you ever heard the defendant's character discussed prior to this indictment, his reputation? A I can't say that I have ever heard his reputation discussed.

Q You have discussed it with other men yourself? A I have an opinion as to his reputation.

Q What is the defendant's reputation? Good, or bad? A It has always been good.

MR. SANDLER: That is all.

## CROSS-EXAMINATION BY MR. ELLISON:

Q Of course, you know nothing about his social life, do you, Mr. Sayer, his friends, outside the office? A Nothing.

Q You mean, as far as his work was concerned in the office he did his work all right? A In so far as his work came under my observation, it was always satisfactory.

CASE 11917

Q He was a civil service employee? A He was.

MR. SANDLER: I object to those questions, on the ground they are collateral.

THE COURT: The objection is overruled.

MR. SANDLER: I take an exception.

MR. ELLISON: That is all.

ALBERT J. BERWIN, called as a witness on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q What is your name? A Albert J. Berwin.

Q Where do you live? A 144 West Eighty-seventh street.

Q Mr. Berwin, you are the chief process server connected with the District-Attorney's office? A I am, yes, sir.

Q Do you know the defendant at the bar, Elias Owens? A I do.

Q How many years have you known him? A About two and one-half.

Q Do you know others that know the defendant? A Simply men in the office.

Q Have you ever discussed or heard discussed his reputation? A I had no occasion to.

Q Do you know what his reputation is, good, or bad, prior to the indictment in this case? A As far as I know, good.

MR. SANDLER: That is all.

CASE #1917



## CROSS-EXAMINATION BY MR. ELLISON :

Q You don't know who his friends are on the outside with whom he associates, do you? A No, I do not.

Q You know him in connection with the office and the way he performs his work? A That is the only acquaintance I have with him.

MR. ELLISON: That is all.

-----

F R E D E R I C K J. G R O E H L, called as a witness on behalf of the defedant, being first duly sworn, testified as follows:

## DIRECT EXAMINATION BY MR. SANDLER:

Q What is your name? A Frederick J. Groehl.

Q Where do you live? A 601 West One hundred and Forty-ninth street.

Q Mr. Groehl, you are on the staff of the District-Attorney of this County? A I am.

Q Do you know the defendant at the bar, Elias Owens? A I do.

Q How long have you known the defendant? A Almost two years.

Q Do you know others that know the defendant? A I do.

Q Have you ever discussed the defendant's reputation with others? Have you ever heard it discussed? A Yes.

Q What is his reputation? Is it good, or bad? A So far as I know, it is good.

CASE #1917

BY THE COURT:

Q You never heard anything bad about him? A I did not.

MILLARD H. ELLISON, called as a witness on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SANDLER:

Q What is your name? A Millard H. Ellison.

Q Where do you live? A 56 West Ninetieth street, Borough of Manhattan, City of New York.

Q Mr. Ellison, you are on the staff of the District-Attorney of this County? A I am.

Q And do you know the defendant at the bar, Elias Owens?  
A I do.

Q How long have you known the defendant, how many years?  
A Well, I guess I have known him as long as he has been there, because I have been in the office longer than he has.

Q Do you know what his reputation is? Is it good, or bad?  
A Well, as far as I personally know, he has always been a very nice young man, has always done his work well.

THE DEFENDANT RESTS

TESTIMONY CLOSED

MR. SANDLER: I respectfully renew the motion made

CASE #1917

at the close of the People's case, that your Honor dismiss the indictment, the three counts of the indictment.

THE COURT: Motion denied.

MR. SANDLER: I will take them up singly. I ask your Honor to dismiss the indictment charging rape, assault and abduction.

THE COURT: Motion denied.

MR. SANDLER: I except to each and every denial of my motion. Of course, your Honor will charge the jury that the denial of the motions made by the defendant's counsel is to have no bearing on them.

THE COURT: Nothing at all. It is simply a question of law.

(Mr. Sandler then summed up the case to the jury on behalf of the defendant.)

(Mr. Ellison then summed up the case to the jury on behalf of the People.)

THE COURT: Well, the Court will excuse the jury now until two o'clock, and meanwhile be very careful not to discuss this case among yourselves; you must not talk about it with strangers under any circumstances. If any one should attempt to speak to you about it, you should call that fact to the attention of the Court, and you must not come to any conclusion as to the guilt or innocence of the defendant until the case is submitted to you by the Court for your decision. You may go until two o'clock.

CASE #1917