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1254

CASE

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

PART IV.

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

-against-

MARY V. HEUVEL.

1244
:Before

:HON. THOMAS C. O'BULLIVAN,
:Judge.

.....X
New York, November 17th, 1910.

Indicted for abortion.

Indictment filed January 28th, 1910.

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

For People: Assistant District Attorney Buckner.

For Defendant: Fred M. Rogers, Esq.; and Sidney L.
Teven, Esq., of counsel.

A jury is duly empanelled and sworn.

R O S E G A R T N E R , called as a witness, on behalf of
the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BUCKNER:

Q Where do you live now? A Sheriff street, number 21.

Q You are a married woman, are you? A Yes sir.

Q What is your husband's business? A He is a cloak worker, a presser.

Q Where does he work? A The name I couldn't tell you because he is working now in a new place; I couldn't tell you.

Q Well, you live at home with him, do you? A Certainly.

Q How long have you been married? A Since the 19th of March last year--oh, that is this year.

Q What was your name before you were married? A Rosa Furst.

Q Where did you live? A 258 Delancey street.

Q Whom did you live with, or what did you do there?

A I was working out.

Q Were you working at a house in Delancey street? A No I was working that time I think 230 West 99th street.

Q This Delancey street was the street of your home?

A Where I used to stop with a strange woman, just a friend of mine.

Q Where were you working? What woman were you working for? A I was working for Mrs. Kirsheimer at that time 230 West 99th street; general housework.

Q Were you keeping company with Mr. Gartner at that

3
time?

Objected to; objection sustained.

BY THE COURT:

Q When did you say you were married? A 19th of March, this year, 1910.

BY MR. BUCKNER:

Q Did you ever see this woman before to-day (indicating defendant)? A Yes sir.

Q When is the first time you ever saw her? A That was the 13th or the 14th of December, I am not sure is it the 13th, I think, the first time.

Q Where did you see her? A I went up to her house to see her.

Q You went up in her house to see her? A Yes sir.

Q What house did you find her in? Where was it? A It was on 99th street but I can't remember what was the number, the number I can't exactly remember.

Q Was it east or west? A West side.

Q West 99th street? A Yes sir.

Q Had you ever seen her before that day? A No sir.

Q How did you find out where she lived?

Objected to as incompetent, immaterial and irrelevant.

Objection overruled.

Q Don't tell what any one told you, but how did you find out where to go? Don't tell just exactly what any one told you but how did you find out where to go? A Because a clerk told me where to go to.

Q You made inquiries, did you? A Yes.

Q Did you ever hear of Mrs. Heuvel before that day?

A Not before.

Q Never heard of her name? A No sir.

Q Didn't know her at all? A No sir.

Q When you went to her what sort of a place did she have? What was it, a house or an apartment? A She lived in a flat house.

Q Did you see her herself that day? A That time, yes sir.

Q Did you talk to her? A Certainly.

Q What did you tell her? A I told her all about it, I told her that I was in this condition.

Q Just tell me what you said, as near as you can remember? A Well, I told her that I was sent to her and I asked her if she was a midwife, she said yes, and I told her that I was in this condition about eight or ten weeks.

Q How many? A From eight or nine to ten, I wasn't sure.

Q What condition? A That I was pregnant.

Q You told her you were pregnant? A Yes sir.

Q Did you tell her about how you had gotten in that condition? A Yes sir, I told her I was engaged to a fellow and that that was from him and that he was going to marry me, but any way if she could help me out of any trouble, if she could do it for me without any trouble, I could not have any trouble because I was in a place, I was a servant girl, and that I had no place where to lay down, and I asked her if she could do it for me that I should not have to lay down when I will have it done, and if not I didn't want to have it done at all.

Q Did you tell her why you wanted it done? A Yes, because I was ashamed of my people where I lived down-town, and that I had no trouble on account of the feller because the feller promised to marry me.

Q Had you ever had any trouble like that before? A No sir.

Q Had you ever had any sexual intercourse with any one except this Gartner? A No sir.

Q Was this man whom you afterwards married the man who you told her about? A Certainly.

Q The same man? A Yes sir.

Q Did he know you were going over to see her? A No, he did not.

Q Well, just go ahead and tell what else. What did she say when you told her what trouble you were in? A She said yes, she is a midwife and she would help me out and I must pay her twenty-five dollars.

Q How many weeks along did you tell her you were? A I told her eight to ten, I wasn't sure.

Q Did she examine you? A She did.

Q Just what did she do? A I stood near the door. She closed the front room door and she examined me. I was standing and she stuck her fingers in my vagina.

Q She put her fingers in your body? A Yes.

Q What did she say after she examined you? A She said yes, that I was pregnant.

Q And what did she say about it? A She said if I had the money, twenty-five dollars, she could do it right away for me.

Q Do what right away? A She would perform that operation for me.

Q What did you tell her about the money? A I told her I didn't have more with me, only ten dollars, and she says I should give her the ten dollars and that the next day I should come if I wanted to have it done and pay her the fifteen dollars more, and that she will do it for me.

Q Did you come back the next day? A And I did the next

7
day. The next day I came back and I paid her fifteen dollars.

Q Then what did she do, tell us everything she did?

A She laid me down on her lounge and she just--she stuck something in there--I don't know. She laid me down and lifted my clothes up.

Q Took your clothes off? A No, just lifted them up, she put it up, and I didn't see nothing in her hand but I just felt a little pain, and that was all she done to me.

Q What part of your body was she working on? A On my vagina.

Q On your private parts? A Yes sir.

Q Where did you feel the pain? A Inside.

Q Inside? A Yes sir.

Q What sort of a pain was it? What did it feel like?

A It just felt a pain like from a pin or something--I couldn't say, something it was, because I didn't see any--

Q What did she say to you?

DEFENDANT'S COUNSEL: I object to "I didn't see any" and move to strike it out.

MR. BUCKNER: Consented to.

Q What did she say? What directions did she give you, if any? A When I was up there she just told me,--she gave me a little napkin around--gave me a little napkin to pin

around and she told me to come the next day and see her. That was in the evening and told me the next day, in the afternoon, the night time, the same time, to come to see her and tell her how I was,, and I did go the next day to see her and she asked me how I was, and there was nothing doing, so she said "It will come in about two days later" and she gave me three pills to take in her house; she gave me six more to take them home and when I go to bed I should take them with a little water, and the next night I should come again to see her, but when I go home, when I took those six pills which she gave me, the next night--

Q Just a moment before you get ahead of your story. Did she tell you what to do with any particular thing or instrument? A> Yes, that's right. The next night when I went to see her and she gave the three pills and when I went home she told me that I had inside a piece of tube, and that I should take those pills when I go to bed and the next day when I will get up in the morning I should take that tube out and burn it up and come to-night to see her again--how I was.

Q Did she tell you the reason for burning it up? A She didn't tell me no reason and I didn't ask, I didn't pay any attention, and I went home and I took those pills and I laid down but I couldn't sleep all night, my head hurted me that time, I couldn't lay in bed all night, I had a headache;

1254

so the next morning I was laying in bed all day and I took that little tube out of there, where she told me, but I couldn't burn it up because I was laying in bed and the lady was walking around in the kitchen, so I couldn't go in the kitchen and do it, so I just put it away in my satchel, in my dress suit case, and I laid in bed. I was laying all day in bed and I had fever, so then that was on Thursday, and the next morning, on Friday, the lady wanted me to go to the hospital because she seen I couldn't get up. I was sick, laying in bed all day Thursday.

DEFENDANT'S COUNSEL: I object to all this on the ground that it is not binding.

Objection overruled; exception.

Q Keep your voice up as much as you can, the jury wants to hear all you have to say? A And the next morning the lady--she didn't know--

DEFENDANT'S COUNSEL: Objected to.

THE COURT: Do not make any statement about what the lady said to you.

THE WITNESS: I mean she didn't know anything about it.

THE COURT: The objection in that regard is sustained, with regard to anything which the woman, the employer, said, and it is stricken

from the record.

THE WITNESS: I was just all day Thursday, I was in bed, I couldn't do nothing, but I had a headache, I was very dizzy, when I got up I had to fall back to bed, and I started a little bit--little spots, you know--that was all day Thursday and all night Thursday, and Friday morning I went down-town because I felt very weak and I knew I wouldn't be able to stay there, so I went down-town to my friend's, to 258 Delancey street, and when I came down I was very cold, I couldn't stand it, and I went to bed. I was laying all day Friday in bed and all day Friday and all night Friday I was in bed and Saturday morning when that broke out on me, you know, I started to get pains all night Friday night, I had pains, and Saturday morning that broke out on me, you know.

Q Something came out? A Yes sir.

Q Did you save what came out? Did you keep it or what did you do with it? A Well, I didn't keep it, but the doctor examined it when he came.

Q What doctor was that? A That was a private doctor.

Q Where did this come from? A That was Saturday morning.

Q Where did this something that came out of you--
where did it come from? A It came out from inside.

Q From your private parts? A Yes sir, and I sent for
that doctor and he came. The private doctor examined me and
of course he told me what condition I was in and he told me
that--

Q When were you taken to the hospital? A On the 18th
of December.

Q What day of the week was that? A Saturday.

Q And before you were taken to the hospital did you con-
tinue sick? Were you sick? A Yes, certainly.

Q Sick, were you? A I was very ill. I felt so weak
that I didn't know even when they sent for the ambulance. I
felt so weak I was in a faint.

Q Then, passing along, what hospital were you taken to?
A Lying-in, 17th street and 2nd avenue.

Q Did you meet Doctor McPherson there? A I can't
tell you his name. I know him personally.

Q What was done to you at the hospital? A They clean-
ed me out, but they gave me chloroform. I couldn't tell you
because I sleep.

DEFENDANT'S COUNSEL: I move to strike it out.

Q Well you don't know what they did to you? A No
sir.

1254

MR. BUCKNER: I consent to strike it out.

Q After you went to the hospital when did you next see this defendant? A On the same day but in the night time, Saturday night, in the hospital, when I was in bed.

Q In your room? A In my room.

Q Who else was in the room then? A There was a lot of women laying there.

Q Did you hear what was said to this woman there and what she said there? A No sir. The doctor asked me if I knew this woman.

Q What did you say? A I said yes.

Q What did he ask you about it? A He just asked me if she performed that operation on me and I said yes.

Q And what did the defendant say to you? A What do you mean?

Q What did this woman (indicating defendant) say when you said she had performed this operation? A She didn't speak nothing, I didn't speak to her afterwards, I couldn't speak because I was after the operation and I didn't speak nothing.

Q What language did you talk with her in 99th street? A She spoke to me German too.

Q What did you speak, English or German? A I couldn't remember. I spoke a little English and a little German both mixed up.

13
Q This is 99th street, up here in New York City, New York County? A Yes sir.

Q What day of the week did you first go to her? A On the 13th, on Monday.

Q That is the day you paid the ten dollars? A Yes sir, in the night time.

Q And the next day-- A I paid the fifteen dollars.

Q Last year? A This year, 1910.

Q It isn't yet December, 1910? A Oh, 1909, that's right.

Q You mean last winter? A Yes, last winter, 1909.

CROSS-EXAMINATION BY DEFENDANT'S COUNSEL:

Q Did you tell Mrs. Heuvel, the defendant, that a clerk in the drug store at 99th street and Broadway had sent you to her? A Yes sir.

Q Is that a fact? A Yes sir.

Q Have you been in to the drug store in 99th street and Broadway since then? A No sir.

Q What kind of a looking man was this clerk that sent you there? A Well, I couldn't explain exactly. He was a tall looking man, but his complexion I can't remember, because I seen him the first time.

Q A young man? A Yes sir.

Q Have you ever been arrested? A I was afterwards

when they took me out of the hospital.

Q You were arrested? A For two days at Essex Market Court.

Q You know that your statements here are an admission of crime by you, do you know that? A What is that?

Q You know that your statements here are an admission that you have committed a crime, do you not,--in submitting to an operation? A (No answer)

Q Do you understand the question? A No.

Q Do you know that your statements on the witness stand to-day are an admission that you committed a crime in submitting to having an operation performed upon you? A I don't understand. Will you please explain it to me.

BY THE COURT:

Q Well, he wants to know whether or not you do not understand when you say you submitted to an operation that you committed a crime? Don't you understand that, he wants to know? A That I committed a crime, I don't understand that.

Q He wants to know if you do not understand that when you admit that you submitted to what is called an abortion that you also committed a crime. He wants to know if you understand that? A Really, I don't understand, it is too hard for me to understand. Can't you explain it a little plainer?

BY DEFENDANT'S COUNSEL:

Q Do you know that it's wrong for a woman to have an abortion performed? A Well, I know now.

Q Yes, do you know it now? A Well, of course now I know I didn't have to do it.

Q Do you know that it is wrong? Do you know that it is against the law for you to have an operation performed on you? Do you now know that that is a fact? A If I know that it is harm to have it done?

Q That it is wrong for you to have an operation performed upon yourself? A Well, I think it ain't right now, but--

Q Well, do you know that it is against the law? A Well, I didn't know that.

Q Do you know it now? A I don't know what you say.

BY MR. BUCKNER:

Q Do you know you can be sent to jail? That is what he means. A (No answer)

BY DEFENDANT'S COUNSEL:

Q Do you know that you can be sent to jail for having submitted to this operation, or having had this operation performed on you, if any there was? A Well, I didn't know if it is wrong or if it right.

Q You didn't know it at the time, is that what you mean? You didn't know it in 1909? A Yes.

Q Well, you know it now though, don't you? A Yes.

Q The District Attorney has told you so, hasn't he?

A What is that?

Q Hasn't the District Attorney told you that it is against the law for you to do such a thing? A I don't remember if he said that to me, I don't know.

Q But at any rate you know now that you must not do such a thing? A Well, certainly.

Q Did the District Attorney or any representative of his office, or the detectives, tell you that you had a right to refuse to answer their questions? A Did anybody tell me?

Q Yes. A No sir.

Q You have never been told you had a right to refuse to answer their questions? A No sir.

Q Have they told you that they will not prosecute you, that they will not have you arrested or punished because you submitted to this abortion? A Nobody told me about it.

Q Nobody told you any such thing as that? A No sir.

Q When you were arrested what happened? A What happened to me?

Q Yes, what happened to you? A Because they told me that I had to be as a witness, so they took me over to the--

Q You were never charged with any crime? A No.

Q Has the District Attorney or any one of the detectives if told you that you did not testify in this matter, that if you did not go on the witness stand as you now are this morning that you would be punished? A They didn't tell me nothing.

Q You are perfectly healthy, aren't you? A Yes sir. I do my housework.

Q Were you healthy in December 1909? A Well, I was a little weak, but I was healthy.

Q At the time that you say you were at Mrs. VonHeuvel's house did you ever see a man there, in December? A Well, not the first time. I have seen there a man and Mrs. Von Heuvel told me that that was her husband.

Q You did see her husband there? A I did.

Q Did you speak to him? A Well, the next night when I came to see her, she wasn't home that time, and I was sitting a little in the kitchen and her husband was just sitting across the way, sitting--I don't know what he was doing, he just spoke to me a few words and asked me to wait until this woman come back later.

Q How many pills did you say she gave you? A In her house she gave me three and she gave me six, I should take them right away. She gave them to me on a spoon and she gave me six more in a little bottle to take them home and to take them as soon as I go to bed.

Q Are you sure about those numbers, three and six? A

Yes sir, I am.

Q Are those the numbers that you stated always? A

Yes sir.

Q What day do you say it was she gave you three pills at your house? A That was on Wednesday night. The next day when she performed the operation on me.

Q The day after? A The day after.

Q Do you remember testifying at the magistrate's court?

A If I remember that I was there?

Q Yes. A Yes.

Q Do you remember, in Essex Market Court? A Yes sir.

Q Do you remember how many pills you said there that she gave you? A I said the same thing, I said three, and she gave me three, I took them right away, and ~~six~~ she gave me--I should go home and take them when I go to bed.

Q Are you sure you didn't say five? A No sir, only six.

Q Can you speak English? A A little, I can read, not much.

Q I show you the official stenographer's Minutes--

*MR. BUCKNER: Why don't you just read it to her?

DEFENDANT'S COUNSEL: All right.

Q I will read to you from the stenographer's Minutes,

"And she gave me more pills to take and I took them and she gave me five more to take home with me" A I said six.

Q Then the stenographer is mistaken when he wrote five here? A Well, I can remember positive that I said six, and whatever I say now I said before; this was all the truth.

Q What kind of a night was it on the 13th of December?

A It was Monday night.

Q What kind of a day was it, was it clear? A No, it was a rainy day, a hard rainy night.

Q It rained very hard? A Yes sir.

Q And when you came to her home you came from the place where you worked? A Yes sir.

Q The next day when you came there, where had you been before you came there? A Where I was working.

Q You came direct from the place where you worked? A Yes sir.

Q The first night you came there did you have your hat and coat on? A No sir, it was a rainy night; I just had a rain coat on.

Q And your head was bare, wasn't it? A My head?

Q Yes. A Well, I think I had a little shawl on, or something, I don't remember.

Q The next day, was it clear? A Clear.

Q Did you have a hat on the next day? A Yes sir, I did.

Q Did you say you had come from down-town? A Yes sir, I told her I came from down-town. I went to take out some money from the bank.

Q Was that true? A Yes sir.

Q And was that the only place where you had been? A Yes sir.

Q Now, then, when you became sick, as you say, you didn't go back to her? A No, I couldn't, because I was in bed.

Q But you went from 230 West 99th street down to Delancey street, didn't you? A Well, the lady took me down, she was carrying my dress suit case down to the subway; I went down, I had to go down.

Q Did you ever return there for employment again? Did you go back and work for her? A No sir, I did not.

RE-DIRECT EXAMINATION BY MR. BUCKNER:

Q Is that the tube that you referred to (indicating)? A Yes sir.

Q Is that the one that you put in your satchel? A Yes sir.

Q Is that the tube that you took out of your person? A Yes sir.

Q Did you put it in your person yourself? A I did not.

Q Are these the cloths which you gave you? A No,

that was my own.

Q Did the defendant give you this one (indicating a cloth) or is that your own? A No, that is my own. She gave me one but I can not say exactly which one.

Q You used these after you got home, is that right? A Yes sir.

Q Did you have this (indicating the tube) in your person before you went to the house? A No sir. She told me that she placed it in me.

Q That is, when she was talking to you about burning it up? A Yes sir.

MR. BUCKNER: I offer it in evidence.

Q Is that the only tube that you ever got out of your person? A There was a ball of cotton too.

Q Is that the only rubber tube you got out of your person? A That's all.

THE COURT: Admit it in evidence.

Received in evidence and marked People's Exhibit

1.

RE-CROSS EXAMINATION BY DEFENDANT'S COUNSEL:

Q How do you know that that was the tube that you took out? A How do I know? Because I took it out.

Q How do you recognize it now? A Because I took it out and I put it into my dress suit case.

1254

EXHIBIT

Q How do you recognize that tube? A Because it is the same tube I have seen before. If I can remember everything I can remember this too.

Q Have you ever seen other tubes like that? A No sir.

Q How would you know that tube from another tube like it? A I couldn't say. May be if you showed me another one, but this is the one I remember.

Q This looks like the one you took out? A Certainly, it was straight; now it is a little bended.

Q It doesn't look the same as when you first saw it?

A It was bent, in the regular--but when I took it out it was straight, but it was the same thing.

Q What is there about that tube that enables you to recognize it as the same one? A I didn't show it to nobody.

Q I know, but how do you know that that is not a different one? A Because I have seen it that time and I have seen it now and I should say it is the same thing.

Q Was that the only tube like it that you had in your satchel? A Yes sir, I had nothing else, such kind of things only this; it was wrapped up in those dirty napkins.

ROSS * Mc P H E R S O N , M . D . , called as a witness on behalf of the People, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BUCKNER:

Q Do you know this woman that just left the stand? A I recognize her as a patient that was at the hospital under my care.

Q What hospital is that? A New York Lying-In.

Q Did you treat her there last December? A Yes sir.

Q And did you make an examination of her at the time?

A Yes sir.

Q What did you find? A I found that she had recently been pregnant and had aborted, was bleeding at the time and had had an abortion, that is had aborted.

Q Had the fetus been entirely removed? A No sir.
That is, if you mean by the fetus the products of conception--

Q Yes. A No sir, the entire mass had not been removed.

Q Where was that? A Inside the uterus.

Q Did you perform any operation on her? A Yes sir, I curetted her--scraped out the interior of the uterus.

Q At that time had any blood poison started or anything of that sort? A No sir.

Q How long could that condition have continued without blood poisoning having set in? A Well, that is impossible to say.

Q It all depends on the condition of the patient? A
It all depends on the condition of the patient, yes sir.

Q Do you remember the particular day, did you look it up? A I have not looked it up. It was some time the latter part of the year but I have not looked it up.

Q Of last year? A Yes.

Q You never had her but once as a patient? A That's all.

Q Is this Exhibit 1--has that any particular name in the medical profession? A That is a bougie, a weak bougie--a young bougie.

Q Can you state as matter of professional opinion whether that sort of thing is adapted to the committing of an abortion?

Objected to as leading and as irrelevant, immaterial and incompetent.

THE COURT: Objection sustained.

MR. BUCKNER: On the ground that I have not shown that the doctor is competent?

DEFENDANT'S COUNSEL: No.

THE COURT: It may be adapted to the commission of an abortion and it may be adapted to any operation legally performed.

MR. BUCKNER: That is perfectly true, but, for instance, if we--

BY THE COURT:

Q What do you call that study--gynecology? Under what term does that go, in medicine? A Do you mean an abortion?

Q The treatment of the womb or any-- A It goes under the head of either obstetrics or gynecology.

Q Yes, obstetrics, I mean the practical science of an abortion comes--or the abortion in its practical view comes under what name--obstetrics? A Obstetrics, yes sir.

THE COURT: Well, now then I think the proper question to ask is whether in a professional obstetrical operation, or whether in an obstetrical operation, professional or otherwise, that is an instrument to be used.

BY MR. BUCKNER:

Q In an obstetrical operation, whether professional or whether illegitimate, is that the kind of an instrument that could be used for that purpose?

Objected to. Objection sustained.

THE COURT: Ask the doctor what ^{it} is commonly used for; in his profession what is that instrument you have called a bougie commonly used for in your profession?

A In the profession?

Q No, what it is commonly used for, in the profession or out? A That instrument is commonly used to produce

abortion.

CROSS-EXAMINATION BY DEFENDANT'S COUNSEL:

Q Have you had occasion to witness the performance of many abortions? A I suppose--I think the answer is yes there. If you mean by many a reasonable number, inasmuch as that is my specialty.

Q Have such operations been performed with the use of bougies, those that you witnesses? A Occasionally, not invariably.

Q It is usual to perform an abortion in the profession by the use of a bougie? A That is a question that can not be answered by yes or no. If you like to have me dilate a little on it?

Q I am asking is it usual. A I say that is a matter of preference to the operator.

Q You would not-- A You mean for a legitimate abortion?

Q Yes, speaking of abortions generally, you yourself would not produce an abortion by the use of a bougie, would you, ordinarily? A Ordinarily, no, but I might.

Q What other uses are there for a bougie, any other condition? A Well, a bougie can be used-- a bougie is used in general surgery for dilation of any cavity.

Q In other words, it is not distinctively an instrument

used for illegitimate purposes, is it? A No, no more than any other instrument.

Q And when you testified that that was an instrument that was only used to perform abortions you didn't mean that in exactly those words, did you? You meant that it is some times used to perform abortions, isn't that so? A I don't think I meant that at all. I think I meant it is ordinarily used.

Q In other words you think its most common use is for the performance of abortions? A Yes sir, I do.

Q When did you first see this complaining witness? I am not so particularly concerned as to the time as having you describe the circumstances under which you first saw her? A Well, I can not give you the date accurately, but it is probably what they say. She was brought into my service in the hospital and I was notified by my house-surgeon that there was a--

Q Just what you know of your own knowledge? A Well, on the course of my visits, on my daily rounds, this patient was brought to me as a case.

Q And in what condition when brought to you? A She was bleeding and having the signs of an abortion.

Q Was she then under chloroform? A No.

Q From what would you deduct the fact that she had miscarried? A From the history together with the fact that

she was bleeding and that the physical sign of such situation

Q Might those physical signs have justified another conclusion? A No sir.

Q Then without any history you would necessarily have concluded from the physical signs that a miscarriage had occurred? A I should very strongly suspect it.

Q But you could not conclude it absolutely, could you? In other words, you made no such accurate examination as justifies you in concluding it purely and simply upon the physical signs? A I should say yes.

Q Yes what? A Yes, that I could conclude that she was pregnant or had been recently pregnant.

Q Were there any signs that this miscarriage was of an artificial character? A No sir.

Q Absolutely no signs;; and it might have been brought on by natural causes might it? A Yes.

Q And so far as you know it could have been brought on by natural causes in this case? A Yes sir.

Q Did you examine this complaining witness and find she was suffering from any disorder of any character other than that she was suffering from this miscarriage? A She didn't present any evidence of it at the time.

W I L L I A M F . R E I C H (Detective Bureau), called as

a witness on behalf of the People, being first duly sworn, testifies as follows:

(Witness Reich is now temporarily withdrawn to permit of the recall of Doctor McPherson)

R O S S M c P H E R S O N , M . D . , recalled, having been previously duly sworn, testifies as follows:

CROSS-EXAMINATION BY DEFENDANT'S COUNSEL: (Continued)

Q Doctor, I wanted to ask you to describe in detail the physical signs upon which you predicated a miscarriage?

A Well, the most important signs in a case of this sort are, in the first place, the bleeding; following that you have a more or less blue color to the genital organs--particularly the mucous membrane of the external genitals; with that combination you will have what is known as softening of the mouth of the womb--the neck of the womb becomes of a distinctive, different consistency from what it is in the non-pregnant state. These, you understand, are the signs, not the symptoms, found by what we call by manual examination, the fingers of one hand inserted internally and one hand externally and the womb palpitated between the two hands and you get an enlargement of the womb varying according to the length of time that the woman is pregnant.

Q Did you go through--did you make all of these signs yourself? A Absolutely, ob course.

WITNESS WILLIAM F. REICH resumes the stand and testifies:

DIRECT EXAMINATION BY MR. BUCKNER:

Q Did you make the arrest in this case? A I did.

Q Where did you arrest the defendant? A At her residence, 190 West or 170 West 99th street.

Q What did you do with her after you arrested her?

A I immediately brought her to the Lying-In hospital, 17th street and 2nd avenue.

Q When you got in to the hospital, where did you take her? A To the Ward in which the complainant Rose Furst was confined.

Q You speak of Rose Furst as the complainant? A Yes.

Q Did she complain in this case at all? A Not directly. The report from the hospital authorities that there had been a woman brought there--

Q Well, don't tell the report. Rose Gartner made no complaint in this case? A No.

Q You called her the complainant because she is the witness in the case? A The principal witness, yes; that is the only reason.

Q Did you have any conversation in that room? A I did.

Q Did you talk to this defendant before you got to the hospital, up there in her house, did you say anything to her?

A I told her that I was going to bring her to the hospital for the purpose of having her identified.

Q Did you talk English? A I did.

Q Did she talk English? A Yes.

Q Did she answer you as if she understood what you had said? A Yes.

Q When you got to the hospital just where did you take her? A I took her to the reception room outside of the ward and there we waited a little while until one of the orderlies brought this woman Rose Furst out on a rolling cot into the reception room.

Q Just what happened then? A Then I brought the defendant along side of the cot and I asked this Rose Furst did she know this woman. She said yes. I said "What is her name?" She said "Mrs VonHeuvel." I said "What did this woman do to you?" She told me that she did call on her on the 14th day of December, that she had been recommended by a drug clerk, at 99th street and Broadway.

BY DEFENDANT'S COUNSEL:

Q Was this said in the presence of the defendant? A It was.

BY MR. BUCKNER:

Q It was all said right there? A Right there, and

that she went there and rang the bell sometime in the afternoon, there when she had been sent there by this drug clerk and she said "Oh, all right," and she told her trouble, she said she had not menstruated in about six weeks or so and she thought she could help her and that she then said "Yes, I can help you, it will cost you twenty-five dollars." She said "I haven't got twenty-five dollars".

Q Did Mrs. Gartner tell this whole story lying on the cot there? A Lying on the cot.

Q And in the presence of the defendant? A Yes.

Q That was in the reception room? A She didn't tell the whole of that story at that time.

Q Don't you tell it then.

DEFENDANT'S COUNSEL: I move to strike it out on the ground it was not said in the presence of the defendant.

BY THE COURT:

Q All you have told now she told in the presence of the defendant? A Yes.

Q You haven't told anything that she did not tell in the presence of the defendant? A No sir.

Q And that is what you mean when you say she did not tell the whole of the story in the presence of the defendant, is that it? A Yes sir.

Q Is that it? A Yes sir.

THE COURT: Motion denied.

BY MR. BUCKNER:

Q Tell everything you remember that was said there?

A Then asked her how often did she see this defendant, she said she had been there twice, two or three times, she was not sure. I said to the defendant "You heard what this woman says, is it true that she has been there?" She says "Well yes, she came to me and told me she was in trouble and what could I do? I helped her out".

Q Did she say anything direct to Mrs. Gartner? A No, I wouldn't permit her to talk to her at all, I didn't permit her to talk to her.

Q Have you ever seen People's Exhibit 1 before to-day?

A I did.

Q Where did you first get that, first see it? A I saw that on the Sunday--I don't know just the date--it was following the arrest, in the month of December, in the premises 258 Delancey street.

Q And where did you get it in those premises? A Out of a dress suit case.

Q Has it been in your custody ever since? A That has been in the property clerk's, and I marked it.

Q You marked it with your initials? A Yes sir.

Q That was the house of Rose Gartner, was it? A Yes

sir..

And those are your initials (indicating on People's Exhibit 1)? A Ther are;; W. F. R.

Q That is the same initial that you got at that time?

A Yes sir.

Q Did you ever show this to the defendant (referring to People's Exhibit 1)? Did you have it at that time? A Not that I can remember that I showed it to her.

Q Did you have it on the day that you went--when was it after that that you got it? A After that.

/ CROSS-EXAMINATION BY DEFENDANT'S COUNSEL:

Q The complainant in this case states that when you brought the defendant before her all she said was that she knew that woman and that she lived in West 99th street and you say now that she recited considerable of her story to you, is that so? A Yes sir.

Q Do you recall testifying in the Essex Market Court in this case when this woman was arraigned before the magistrate? A I think I do recall.

Q Do you recall being asked by the magistrate what took place there and answering "I asked the complainant if she knew this woman and she said yes. I said what is her name? And she said, Mrs. VonHeuvel; and I said, is this the woman that performed the operation on you? And she said, yes. That was

all at the time that was said in the dormitory and I took this defendant then and talked to her"? A I don't remember.

Q Is it possible that you made this statement as recorded here in the stenographer's Minutes? A Oh, it is possible, it is.

Q You won't deny that you made this statement? A No, I won't deny it.

Q Now, will you explain how it is that your statement now is inconsistent with the statement you made before the magistrate? A No, I can not, outside of being a very busy man and I have got a number of cases which might have slipped my mind in a way that I did not make the full statement there.

Q I know, but this was made on the 19th of January?

A 19th of January, that's right.

Q That was only a month after then and we are now almost a year after that time--do you think your recollection is better now than it was then? A Hardly so.

Q Then you might be mistaken when you say she made all that statement? A Well, I can not be mistaken, counsellor. The statement was made to me--I couldn't get it otherwise.

Q It might have been made to you without the defendant being present? It might have been made to you before you arrested the defendant? A There wasn't any statement made to me before, with the exception that if I went up there I could find the defendant at that place, to place her under arrest.

Q But you have talked with the complaining witness since then, haven't you? A Well, during the time that the case was on in the magistrate's court I did speak to her, since then I have not spoken to her.

Q Might not your recollection be confused as to what she told you in the magistrate's court and what she told you later? A Well, it might some. I don't think all told though.

Q If you testified to the effect that I have read, before the magistrate, that was correct, was it? A That was correct, yes.

Q If your testimony now is inconsistent with your statement before the magistrate, is that correct too? A I believe it is.

Q Well now if you testified before the magistrate that that was all that was said at that time, it is not possible that your testimony now that more was said can be correct, is it?

Objected to as argumentative. Objection overruled.

A Well, it is possible, that is true.

Q What is that? A It may be possible that some of it--

Q Is mistaken? A Is mistaken, yes--some of it.

Q Well now then did she ever make a statement to you

that a drug clerk had referred her to this defendant? A Who are you referring to--the defendant?

Q Did the complaining witness ever make a statement to you that a drug clerk had referred her to this defendant? A She did.

Q Did she tell you where this drug clerk could be found? A She told me, at 99th street and Broadway, on the northwest corner.

Q Did you go there? A I did.

Q Did you ascertain who the clerk was? A I went there on the following day.

Q Did you ascertain who the clerk was? A I got the name of the clerk who had been employed there but who had been discharged. Whether he was that clerk or not I do not know.

Q And you never could trace any further? A I tried to locate this man that had been discharged, and went as far as 152nd street and Amsterdam avenue, but I couldn't get any recollection or any idea of where he was--nobody could tell me where he was.

Q With whom did you speak when you were at the drug store? A I believe the proprietor of the place, or the manager--one of the managers.

Q When you went to the house of the defendant did you make any search of the premises? A No.

Q You have a right to, haven't you? A No, I don't see why I should have a right. I simply went there for the purpose of arresting the defendant.

Q You have made arrests in cases where a charge of abortion have been brought before? A I have.

Q Don't you as a rule search the premises on such occasions? A We do not, no sir.

Q Don't you usually seize instruments, if you find them--or medicines, if you find them? A Well, it all depends on what evidence we go there on.

Q Did you ever subsequently to the arrest of the defendant search the premises? A No sir.

Q And you found no instruments in her possession, drugs or anything else, medicines or anything of that sort, did you? A I didn't search the premises.

Q I say you found none, at any rate? A I didn't look for any. I simply placed the woman under arrest.

Q But answer yes or no, you saw none there? A No.

Q You are in no way prejudiced against the defendant, are you? A I don't know her.

RE-DIRECT EXAMINATION BY MR. BUCKNER:

Q The counsellor did not read all of your answer. I want to ask you if you made this answer to what he read "And I took this defendant then and talked to her and she said,

what could I do? She came to me in trouble and I wanted to help her out"? A Well, I testified to that too.

Q And your recollection at that time was as good as it is now? A Yes.

RE-CROSS EXAMINATION BY DEFENDANT'S COUNSEL: --

DEFENDANT'S COUNSEL: I want to challenge Mr. Buckner's statement, because that statement was made after they had left the presence of the complainant.

P E O P L E R E S T .

DEFENDANT'S COUNSEL: I make the formal motion to dismiss the indictment.

THE COURT: Motion denied.

M A R Y V o n H E U V E L , the defendant herein, called in her own behalf, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q Speak slowly, so you will be able to think of what you have to say, because you have difficulty in speaking English. You are a married woman? A Yes.

Q How long have you been married? A With my second husband, ten years.

Q And before that? A Eighteen years.

Q In other words, your first marriage was about thirty years ago. Where do you live? A 171 West 99th street.

Q Does your husband support you? A I do the housework for the family.

Q Have you any children living with you? A No more.

Q Just you two. Did you ever see this complaining witness before? A Yes.

Q Where? A In my house.

Q Will you tell what happened then? A The 13th of December, the Monday night, it was a very hard rainy day, it rings my bell and I answer, I open the door, and standing there, the young woman there, she was looking so weak like a ghost, I says--she asked--I say "What is your wish?" She says "Can I see Mrs. VonHeuvel?" I say "That is me. Will you come in?" And she says "Can I talk to you?" "Certainly, please,"

When you come in my hall door there is right away the front room, and I say "What brings you up to my house?" She says "Mrs. VonHeuvel, I wish to know your advice." "In what kind you look for my advice? I don't know you, it is strange to me that you come to me, that a strange person to want advice." She says "Here, I tell the truth. The druggist, corner 99th street he sent me up to you." Oh, I say "That is

funny, a man what I never know, where I never was, send you up to me, and for advice. What your complain anyhow?" She says "I feel at times, I feel sick, I got headaches and my bowels is not moving very good." I said "When you was in the drug store did he not give anything to you?" She says "No." I says "That is funny." Then she started to cry. She says she was friendless here, she got--took a position in that neighborhood only eight days before and she liked to keep that position, on account she was sick before. Oh, I says "I am very sorry for you but I don't can't do anything to you, I am not a doctor." "You are a midwife?" "I am a German midwife--not in this country;" and then she says "Do you have no children?" Yes, I say, "Only one boy is left, he is laying on the dead," and she says "Don't you know how I feel?" I says, "Yes, my young girl. Then when you do not feel well you should not go out on a day like this and you should stay home, and when you only got your position a short time then you should be more careful. Now, I tell you what you do. You go home, take a hot bath and a hot cup of tea and something what makes your bowels moving and then you will feel better in a couple of days, everything will be all right;" and then she asked me if I would allow her to come and see

me again. I said to her "Any time when you should need advice and you like to see me you shall not feel friendless, my door is open for everybody." She thanked me very heartily and walked out.

Q Now then she testified that she gave you ten dollars that evening? A Oh, we didn't talk about money. There was no reason to talk about money.

Q Did she give you ten dollars? A No.

Q Did you see her again after that? A The next eve, between six and seven o'clock.

Q Who was there? A My husband was home, he wanted to frame some little pictures, and he was walking right in the kitchen--on the kithen table he did the work, and she comes in. Now, you are there again, and she was finely dressed. I say "You will go out?" And she says "No, I was out." "Oh, you was out, and now you not home for dinner time. What will the lady mean, when you only there eight days and you not for supper time home." Then she put the hat on, she says "I can have every day a position but I can not do every day what I did to-day." I say "What did you do?" Then she shook a little, her shoulders, and didn't answer me, and then I didn't take time more and then my husband was gotten a little grouchy together and I was angry, and I only says "How are you?" "Oh, I feel better." Oh I say "You will feel in a couple of days much better. Take good care of you and keep

1254

quiet."

Then she thanked me ever so much and goes out. No, then she says "Mrs. VonHeuvel, can I speak only a couple of minutes?" "What is it?" She says "I didn't trust to you yesterday if I was last month not unwell. Can you not do anything with me?" I say "My good girl never ask me that. I don't can do anything to you, I don't can advise you." "Mrs. VonHeuvel, you have got a sick boy too" and just for that reason I never would do such a thing. Then she asked me if I not could anything do for her. I say "Well, please never say that again, I don't know anything." Then she begged pardon. She says I should not feel mad on her, and she left, and then I said to her "Mrs, it is better if you don't come again." That was a Wednesday--

Q Did she cry that day when she spoke to you? A Not so. She was more free than she was the day before. The first day she cried. The second day, as she was down-town, then she was no more so sad like she was the day before, then she left.

Q Did she come to see you again after that? A Wednesday afternoon I was gone down-town about some undershirts for my husband. I could come home. My husband is sitting on the kitchen table writing a letter home, and just like in the corner she sat on the door. "Now, you are there again--" And

then she said " Oh, Mrs., I only got a few minutes. Can I see you a minute?" And I go in the room and take my hat off, and I have to make my supper too and she come after me and she say "Mrs. VonHeuvel, is it not possible that you can do anything for me?" "No, it is not possible, and now you must see I am busy and I can not do nothing, if I will I could not. Then you must go to somebody else." But she didn't force me then or say so much as she did the second day, and she left.

Q Now when did you see her after that? A The 18th of December, eve, and not Mr. Reich--another man come.

Q Another detective? A Another, yes, with black hair, and I don't know the name, and he asked me if I know Mrs. Philip? I say "No, I don't know Mrs. Philip." Then first he ask me if I not would take a nurse and a place by his wife--she will have her baby--and I say "I don't know, I never did nursing, only my husband wouldn't allow me. You told you to send to me? That is strange, that people come to me, I have got no advertisement, I have got no announcement, it is strange to me that you ask for me for help." I didn't know that he was a detective. Then this other gentleman what was here, he comes in (Officer Reich) I says "What is your wish too?" "I am only a brother of that young man." Well, I says "That is too bad. Why didn't you bring him up right away in weather like this and not be standing on the street?" And then this gentleman what was sitting here (Officer Reich) he

says "Mrs. VonHeuvel, do you know Miss Furst?" "No." She tells us because you may be--do your people know me--I don't know that. And then he says "She is lying in the hospital, and she is lying in the hospital and she makes you responsible for her sickness." Oh, no; I says, "I am not responsible for anybody's sickness." Then he says "Will you dress yourself. Better we ask her." I said "Certainly." I dressed and we go down. Then he asked her on the bed--she comes in--she was lying on a bed--she comes in, rolled, and then he says "Miss Furst, do you know this woman?" "Yes." "Where is she living?" "171 West 99th street." That was all that was said, not in that room. I didn't answer and didn't question the detective at the hospital, and down--then he says "Mrs. VonHeuvel, you can not go home. Your husband must look for a bondsman." Oh, I says "That is funny, that I shall not go home, I am not responsible for her sickness." "Yes, she put on the complaint on you," And I say "Now I wish if she will soon be healthy and then that she can consent and say if I am the person or not;" that was all.

Q During the time that she was at your house did you ever give her any pills of any sort? A No.

Q That bougie which which is shown there, when did you first see that? A At Essex street court.

Q Did you ever have it in your house? A No.

Q Did you ever have it in your hands? A Oh, certainly,

1254

in her hand, in my --

Q Now, did you ever have that in your hands? A No.

Q Did you ever take any money from this girl? A No.

Q Did she ever offer you any? A There was reason to take it.

Q Just answer yes or no? A No.

Q Did you say to the detective "I helped her out?"

A No.

Q Did you speak in English or German to the detective?

A At that time I didn't speak much more--I couldn't speak so much than to say-- I practiced very hard.

Q You couldn't speak as well then as now? A Yes, I practiced this year very hard.

Q Did you speak English or German to the Detective?

A Some German, some English.

Q You mixed it up, did you? A Yes.

CROSS-EXAMINATION BY MR. BUCKNER:

Q You were a midwife over in Germany? A Yes.

Q You have had those things (indicating the bougie)?

A Not here.

Q In Germany did you use those things? A No, not that kind. With a hole to take the water from the person,

Q But you have not practiced your profession over here?

A No.

Q Didn't you know this girl's name? A No.

Q She was at your house about three times altogether?

A Yes.

Q Didn't you find out her name? A No. Everybody knows me for that, somebody knock on my door. I try to be nice and obliging to everybody, but maybe she called me a name; you see I don't recollect.

Q They all know you up there? A Oh, certainly.

Q Around there in the neighborhood? A Yes,

Q They all know who you are? A Yes, they know me for a respectable woman.

RE-DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q When you say they all know you up there whom do you mean? A My landlord, the men in--the people what was living in the house where she comes--in fact somebody could come, but some gentleman was living up ~~with~~ us. Will you want to the whole neighborhood--

RE-CROSS EXAMINATION BY MR. BUCKNER:

Q Did you ever commit an abortion on anybody in your life? A No.

Q And you didn't tell Rose Furst that you had done it the day before? A No.

Q And the girl got well all right? A No.

Q And this officer is not telling the truth when he says that you said you helped her out of trouble? A So true--so sure as I will see my son in heaven again I did not.

Q And he didn't ask you whether you did or not? A No.

Q He just arrested you and did not ask you whether you did the thing or not? A He only told me that, he says "Yes, she complained, she put a complaint on you," and then I say "Oh, that must be, very soon, I only wish she will be soon healthy." I am surprised to-day by the gentlemen. He let me have a quarter the morning, he says--I got that from home--I didn't know that I was arrested. He let me have a quarter. I didn't pay him back yet and now he says such things.

J O H N V o n H E U V E L , a witness called on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q What is your occupation? A My occupation is sea captain.

Q Licensed by the American government? A I am licensed by the American government and by the German government, only limited tonnage.

Q How long are you married? A I am married ten years in Europe, when I left on the last vessel, the Victoria.

Q Did you ever see this girl before? A I did.

Q Where? A I saw her in my house.

Q Do you remember what day of the week it was? A It was on the 14th of December.

Q About what time? A About in the evening between six and seven, I can't exactly say what time, between six and seven.

Q Did you open the door for her? A My wife opened the door because I was in the hall room and I was looking for some pictures while I got some frames--my license frames, and I wanted to use them for pictures because I didn't use them on board.

Q And you saw her after she came in, is that it? A Yes.

Q Where was she when you saw her? A I saw the girl walking into the back room and standing facing toward the windows, the back windows which face the church, and my wife face towards the kitchen, but I went into the kitchen, brought my pictures and wanted to frame them and I went into the kitchen and the door between the kitchen and the back room is practically on the one angle, and it is all apart and it is about ten to twelve feet.

Q Then you were able to see from the kitchen into the room where they were? A I could see, yes. When I stand close near the side of it I could look right into the room.

Q But you did not watch them particularly? A No, I did not watch them particularly at all.

Q About how long was she there? A She was there only a few minutes.

Q Did she sit down during that time? A No, I didn't saw the girl sitting down at all.

Q Did you see her during the time that she was in that room continuously? A I didn't seen her exactly because I stood in front of the table, but the angle kept me away by promptly seeing her.

Q Now then can you say whether or not she lay down on the couch? A No. There was nobody layed on that couch of mine at all.

Q Are you sure about it? A I am sure because the couch will sound itself to tell who is lying on the couch or not.

Q Did you see her as she passed out? A I see her going out, she looked in side ways to the kitchen.

Q About how long a time was she there? A She was there about ten minutes, I think, but the conversation which I didn't heard--listened to--she might be ten minutes, I didn't look at the watch because I was drawing some other attention of my own.

Q When next did you see her? A I saw her on the 15th, the next day.

Q You were all alone when she came? A I was all alone at home, yes.

Q And you opened the door for her? A I did open the door for her because she knocked on the door. I didn't know who it was I wanted to see.

Q What happened after she came in--where did she go?

A After the girl came in I asked what does she wish now, and I recognized the girl as the same as the night before, the girl asked, I want to see Mrs. VonHeuvel. I said "You want to see Mrs. VonHeuvel what for?" "Oh, I only like to see her." Well I says "My wife is not at home, she went down-town to buy me a few little things what I wanted her to do, and if you want to stay you can sit down in the kitchen." At the same time I was writing a letter, corresponding with my folks over in Europe, while Christmas was near, and I did so and I didn't draw no attention, except that I looked at the girl and sized her up, I looked at that girl and I says "Ain't you a Polish girl?" And she says "Yes," so she spoke to me in German, as she can speak German, and I says "Well, I thought that I was not mistaken, I thought you were a Polish girl;" but I didn't question her any further whatsoever where she came from.

Q How long did she wait before your wife came? A My wife came about fifteen minutes later.

Q What happened after your wife came? A When my wife

came in my wife says "Well, are you here again?" So when the girl says "Can I see you for a minute?" My wife hadn't hardly took her coat off, just she went into the back room, and they spoke for a few minutes, it might be two or three minutes, and that was all, then I seen the girl passing out of the door again.

Q That is all that happened? A That is all what happened.

Q On those two days when she was there? A Yes sir.

CROSS-EXAMINATION BY MR. BUCKNER:

Q How do you know that this first night was Monday night?

(The Court now declares a recess until 2 p. m., first duly admonishing the jury as usual)

AFTER RECESS. TRIAL RESUMED.

J O H N V o n H E U V E L , resumes the stand, and further testifies:

CROSS-EXAMINATION BY MR. BUCKNER:

Q Now it was the 14th of December that you saw this girl? A Yes sir.

Q That was Tuesday night? A Yes sir.

Q You didn't see her Monday night? A No sir, I

55
wasn't at home Monday night.

Q You saw her Tuesday night for the first time? A
Yes.

Q And you were doing some picture framing you say? A
Yes sir.

Q You did not look at them, did you? A No.

Q They were in that room where the couch was? A Yes,
they were in the room where the couch was.

Q You think she did not lay down on the couch because
you would have heard the noise? A Yes sir.

Q What room were you in? A I was in the kitchen,
that is next to where the couch was.

Q And you wouldn't say that she didn't lie down on the
couch? A No sir.

Q Now the next night was Wednesday night? A Yes sir.

Q You went to the door and let her in? A Yes sir.

Q Why didn't you ask your wife what her name was? A
No, I didn't ask her name at all.

Q You did not? A I did not ask her name at all, be-
cause I wasn't inquisitive to ask her name for the minute.

Q You didn't think it queer that she should come there
two nights in succession? A No, I didn't know what she
came for, I had no slightest idea.

Q And you didn't ask your wife what she came for? A
No.

Q Didn't ask what she came for nor where she lived nor what her name was? A No.

Q Is that a common thing, for young girls to come there like her? A Well, it is not a common thing but I looked on a different way--while I had some quarrels with my wife some time before and I didn't was very inquisitive at that time because I had other matters in my head which was very serious to think about for me.

Q You didn't ask what this girl's name was or what she wanted because you had other matters in your head? A Yes sir.

Q Relating to trouble with your wife? A Yes.

Q Had you any quarrel with your wife? A I had a quarrel with my wife on account of some stock business, yes sir.

Q That has all been fixed up now, that is all settled now, is it, between you and your wife? A Well, that is not settled yet.

Q Were there other girls that came in from time to time? A No sir.

Q Never saw any other girls? A No sir.

Q This was the only girl you ever knew to come to your house that way? A Well, there is some acquaintances.

Q But I mean whose names you did not know? A Whose name I did not know, no sir.

Q This is the only one? A That is the only one.

Q And you saw her there two different nights? A Yes.

Q Did you ever see her again later in the week, did she come on Thursday? A On Thursday, no sir. She came on the 15th, I don't know exactly was it on the 15th, what day, was the 15th, may I ask this question?

Q Do you know she was there the 14th? A She was there the 14th.

Q How do you remember the date? A I don't exactly know if it was Monday, Tuesday or Wednesday, I can't recollect it this minute.

Q How do you know it was the 14th? But I knew it was the 14th.

Q Well, how do you know? A I know because it was the 14th of December. I could figure back in the time when my wife was arrested.

Q So you did figure back, did you? A Yes sir, I figured back at the time my wife was arrested.

Q And you figured back that she came that Tuesday and had a talk with your wife alone and then Wednesday you met her? A Yes.

Q And she just was there for a few minutes? A Yes.

Q And they were off in another room for a few minutes, were they? A Yes.

Q Mrs. Gartner or Miss Furst had a talk with your wife

in the kitchen the second night? A That was on Wednesday, the 15th, yes.

Q And then after the little talk they went into another room? A They went into the back room again.

Q And only stayed two or three minutes? A Yes.

Q And came right out? A Yes.

Q And the girl went home? A Yes sir.

CROSS-EXAMINATION BY DEFENDANT'S COUNSEL:

Q When the District Attorney asked you, you don't know whether she lay on the couch or not, you answered no. What did you mean, that you don't know, or that she did not lie on the couch? A No, she did not lie on the couch.

Q You are positive of that? A I am positive of that, yes.

Q Did you speak to your wife about this girl coming there? A I spoke to my wife what the reason was that that girl came there and my wife answered me, she says, "Well, she is only coming here for motherly advice." I says "Is that all?" I says "And then you bring strange people in my house." I said "I don't want to see them here".

Q Did your wife say anything after that about the girl visiting? A My wife did not say anything on account of we had this quarrel and I didn't speak any more with her about it.

1254

RE-CROSS EXAMINATION BY MR. BUCKNER:

Q I thought you told me you didn't ask your wife what the girl came for? A I asked my wife in this way, I says "What did the girl came for?" And I in this way, I cut it off, because I was very angry at my wife and I didn't answer her no more questions.

Q Didn't you tell me a minute ago that you didn't talk to your wife about the girl at all? A Talk to the girl? All I did was answer only that one question, what the girl did there, because I saw the girl coming in the second day.

Q So you did talk to your wife about it? A Yes, I did.

Q But you didn't ask who the girl was? A No, I didn't.

Q You didn't ask where she lived? A No.

Q You didn't ask what trouble she was in? A No.

Q You didn't ask what advice she wanted? A No.

C A T H E R I N E W A L S H , called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q Where do you live? A 476 Wyeth avenue, between south 8th and south 9th streets.

Q Married? A Yes sir.

Q Have you a family? A Yes sir.

Q Do you know the defendant? A Yes sir.

Q How long have you known her? A Ten years.

Q Where did you first make her acquaintance? A Why,
I made her acquaintance before I was married.

Q Does she visit you and do you visit her? A Yes sir.

Q Do you know her reputation? A Yes, a very good woman.
an.

Q Is she a woman who is friendly with her neighbors?

A Yes very friendly.

Q Ever hear of her acting as a midwife? A Never before.

Q You mean this case is the only time you ever heard anything? A Yes sir, for the first time.

Q Did you ever hear of her resorting to any illegal practices? A No sir.

Q Her reputation as you know was absolutely good?
Good, very good woman.

CROSS-EXAMINATION BY MR. BUCKNER:

Q What is your name? A Catherine Walsh.

Q You are the bondswoman of the defendant? A Yes.

Q You went her bond when she was arrested? A Yes sir.

Q How did you happen to get acquainted with her? A

I was acquainted with her before I was married.

Q While you were still a single woman? A Yes.

Q You have some feeling in this case? A Any strong feeling in this case? Yes, I have, for Mrs. VonHeuvel.

Q You don't think very highly towards Mrs. Gartner, do you? A I don't know the woman at all--a perfect stranger to me.

Q You have been making some remarks out here in the hall? A No, I beg your pardon, I never said a word, I was speaking to my friend out there. I was saying how wonderful the court is here, I said--

Q Didn't you speak of her as a dirty thing and she ought to be ashamed of herself? A No sir, I never said anything of the kind.

Q You didn't say that at all? A No sir, I did not.

Q When this young man (Mr. Cummings) told you to stop talking that way you said you had a right to talk if you wanted to? A No sir, I didn't think he was alluding to me individually, but I probably thought he told me to stop out in the corridor and he told me stop, and that's all I said.

M A R T H A S C H M I D T , called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q Where do you live? A 483 Amsterdam avenue.

Q Married? A Yes sir.

Q Family? A Yes sir.

Q How long have you known the defendant? A Five years.

Q Where did you make her acquaintance? A I used to live in the house together--I lived 486

Q You mean the house next to the house she lived in?

A Yes.

Q Did she visit you and did you visit her? A Yes sir.

Q Do you know her reputation? A Yes sir.

Q What is it, good or bad? A Very good.

Q Did you ever know her to practice as a midwife? A No sir, I did not.

Q Did you ever hear them speak of her that she did any illegal work? A No.

Q Has she been known in the neighborhood where she lived as a woman who was kind to people, a good-hearted woman?

A She was always a very good woman.

CROSS-EXAMINATION BY MR. BUCKNER:

Q You knew she was a midwife, didn't you? A No.

Q Did you know she was a midwife in Germany? A No, she never told me. I had two little children and I know Mrs.

VonHeuvel and I never knew she was a midwife.

Q You have had two children since you have known her?

A Since I know her.

Q You didn't call on her to help you? A No.

LOUIS GREVATT, called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q Are you married? A Yes sir.

Q How long have you known Mrs. VonHeuvel? A I know her over four years.

Q Four years? A Yes sir.

Q Where did you make her acquaintance? A In the house, as a neighbor--I lived in the same house.

Q You visit her and does she visit you? A Yes sir.

Q Do you know her reputation amongst those who knew her?

A Yes sir, her reputation is very good.

Q Did you ever hear of her practicing as a midwife in this country? A No sir, I never did, not in this country.

Q Did you ever hear any one say that she did illegal work? A No sir.

Q Do you know her to be a good-natured, generous woman?

Objected to as immaterial.

DEFENDANT'S COUNSEL: That's all.

MR. BUCKNER: That's all.

D I E D R I C H H . E E T E R S , called as a witness,
on behalf of defendant, being first duly sworn, testi-
fies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q What is your business? A Wine and liquor business.

Q Wholesale or retail? A Wholesale.

Q Your wife is the owner of the house in which the Von
Heuvel's live? A Correct.

Q How long have they lived there? A Pretty near four
years.

Q Do you collect rents there? A Yes sir.

Q Are your relations with Mr. and Mrs. VonHeuvel inti-
mate? A No sir. Related, do you mean?

Q No, no, are you friendly with them? A Oh, yes.

Q You know people who know them? A Yes sir.

Q Do you know her reputation? A Well, as far as I
know, going there and collecting the rents I always found them
a good tenant, desirable people.

Q Did you ever hear of her doing any illegal work? A
No sir.

Q Did you ever hear that she practiced as a midwife?

83
A No sir.

CROSS-EXAMINATION BY MR. BUCKNER:

Q What is the rent they pay? A Seventeen dollars a month.

Q Who generally pays it? A Mrs. VonHeuvel.

RE-DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q What time do you call for the rent? A At different times.

Q Generally? A Sometimes in the morning, sometimes in the afternoon.

Q Seldom in the evening? A Very seldom. Sometime I get paid in the evening, as I find time.

Q When you call for the rent as a rule Mr. VonHeuvel isn't home, is he? A No.

WILLIAM BERBERICH, called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q How long do you know Mrs. VonHeuvel? A About ten years.

Q How did you make her acquaintance? A I got acquainted through work, I lived with that woman over three

1854

years.

Q You lived with them? A Yes sir.

Q Do you know friends of theirs? A Yes sir.

Q Do you know her reputation amongst those who knew her? A Yes sir.

Q Good or bad? A Her reputation is very respectable.

Q Did you ever hear of her practicing as a midwife?

A She never did since I was there. I was there three years. I am quite sure she never did.

Q Did you ever hear of her doing any improper work, any illegal work? You say you lived with them for three years?

A I did.

MR. BUCKNER: No cross-examination.

DEFENDANT'S COUNSEL: I would like to recall

Mrs. VonHeuvel for a question.

M A R Y V o n H E U V E L , the defendant herein, recalled, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q You know that there is a drug store at the corner of 99th street and Broadway, don't you? A Yes sir.

Q Did you ever go in that drug store? A No.

Q Did you ever know anybody who was a clerk in that drug store? A No.

DEFENDANT'S COUNSEL: Defendant rests.

ROSE GARTNER, recalled in rebuttal on behalf of the People, having been previously duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BUCKNER:

Q During any of your visits to Mrs. VonHeuvel did you see Mr. VonHeuvel? A I seen him once when I came back, on Wednesday night, the 15th of December--he opened the door for me when I rang the bell, that was Wednesday night.

Q Was that before or after the abortion? A The day after.

Q Did you see him the night before? A No sir.

Q What sort of a room was this where you say you laid down on a couch, what room was it? A It was ^{like} the front room.

Q Where was the kitchen? A The kitchen was on the side where I was the next night sitting, just when you come in right on the side by the first room or the kitchen I have seen--I only seen the kitchen and the parlor, the other rooms I didn't see.

Q Did you speak to him the next night when you were there? A I just came in and I asked him where his wife was and he told me to just sit down and his wife will be back pretty soon.

Q The first time you were there did Mrs. VonHeuvel ask your name and who you were? A No, she did not.

Q Did she know your name? A No sir.

Q And did you give it to her? A She didn't ask me.

BY THE 8th JUROR:

Q How far was the front room from the kitchen? A About two yards. It was like here, just suppose like from here to the window (indicating), that's all.

CROSS-EXAMINATION BY DEFENDANT'S COUNSEL:

Q Are you positive that you didn't see Mr. VonHeuvel the 2nd day that you were there? A I didn't positively.

Q You passed the kitchen, didn't you? A I passed a little hall on the kitchen. There is nothing to pass the kitchen, only a little hall.

Q Can't you look into the kitchen? A I didn't look in because when I came in Mrs. VonHeuvel closed the kitchen door when I passed.

Q Don't you know there is no door on the kitchen? A I seen it was a curtain or a door, something it was, because it closed up and I didn't look in, I just passed in to the front room.

Q Which was it, a door or a curtain? A I couldn't say for sure, but something was closing, either a curtain or a door, I am positive of that.

Q Don't you know that there is not even a curtain hanging there? A Something it was, I couldn't remember exactly what it was, but it was something. I just passed and I didn't look into the kitchen.

Q He might have been there without your having seen him? A I couldn't say yes or no because I don't know.

P E O P L E R E S T .

C a s e c l o s e d .

DEFENDANT'S COUNSEL: I ask your Honor to direct a verdict for defendant.

THE COURT: Motion denied.

Counsel now close to the jury.

The Court now charges the jury.

The jury now retires and upon its return renders a verdict of guilty as charged in the indictment.

(Defendant remanded, Mrs Walker to investigate)

Stewart Liddell,

Official Stenographer.

68

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

PART IV.

.....X
THE PEOPLE OF THE STATE OF NEW YORK:
-against-
MARY Von HEUVEL.
.....X

New York, November 23, 1910.

Indicted for abortion.

Indictment filed January 28th, 1910.

The defendant is arraigned for sentence before

HON. THOMAS C. O'SULLIVAN, Judge.

DEFENDANT'S COUNSEL: If the Court pleases, I
intimated to your Honor some facts upon wished to
base a motion for a new trial. As your Stated you
did not think you would interfere with the finding of
the jury I will not present the matter at this time.

THE COURT: You had better make all the motions
you have to make. I will deny the motion for a new
trial.

DEFENDANT'S COUNSEL: On behalf of the defendant I wish to say that this is the first offense, if such it be, and that this matter has been pending for a period of over eleven months. She was arrested on December 18, 1909, and at the time of her arrest she was in confinement for several days before she was able to procure and give bail. Pending this case her son became sick in Germany and with the leave of the Court she went to the hospital where he was in bed and three days after her arrival there he died. She is a woman who is suffering from a weakness of the heart and from nervous trouble, and I have no doubt she has suffered keen mental anguish during the time that this case has been pending. She has also been in the Tombs now since her conviction last Thursday. I believe that the report of the probation officer, Mrs. Walker, is favorable to her and--

THE COURT: Yes, Mrs. Walker's report is to the effect that she has heretofore borne a good reputation, which the Court does not doubt--that this is her first offense. [She has lived the life of a respectable woman, according to her reputation in the community where she lived, that is all true, but a body of twelve intelligent men, under oath, found her guilty of a most heinous offense, and I think that the

1354

90

jury must have been impressed by the testimony of the complaining witness. To my mind her testimony was honest, I don't think that the woman had even the slightest intention of ~~max~~ falsifying even one word of her testimony--I thought all the jury believed that, too--a humble working-woman who herself admitted to the commission of a crime in destroying the life of a child probably--I don't know that--but, however, this abortion was committed. The girl, the complainant, was then keeping the company of the man whom she afterwards married and who according to her story was the cause of her trouble at that time. I think it is a splendid example of fidelity to a woman on the part of the man who caused her trouble, because I am not from the testimony aware that he knew anything about what she did, but in her simplicity and perhaps her desire to still hold the affection of her husband to be, she went to this woman and that woman performed an abortion upon her. Now, while it was a crime on the part of the complaining witness it never would have been committed had she not been able to find a criminal like that woman at the bar, and whatever her former good reputation was the Court will take into consideration, and it does take it into consideration by not sending her to State prison.] The sentence is

a year in the Penitentiary.

(Penitentiary.)

Stewart Liddell,

Official Stenographer.

PAGE 1254