

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

2725

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THE PEOPLE OF THE STATE OF NEW YORK,;

-against-

A N N A V E N T U R A .

-----x

Before:

HON. JOSEPH F. MULQUEEN, J.

And a Jury.

New York, December 21st, 1916.

The defendant is indicted for abortion.

Indictment filed November 22nd, 1916.

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

For the People: ASSISTANT DISTRICT ATTORNEY OLCOTT.

For Defendant: JOSEPH L. COPPOLA, ESQ., (Mr. Charles Trosk, of
Counsel.)

(A jury is duly impaneled and sworn.)

Mr. Olcott opens the case to the jury.

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E L E N A C I S E R R I, (432 East 118th street) called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Elena, all of these gentlemen want to hear you and you must talk so they can hear you. How old are you? A Seventeen, going on eighteen.

Q When are you going to be eighteen? A February 5th.

Q Where do you live? A 432 East 118th street.

Q Who do you live there with? A My father.

Q Who else? A My father and brothers.

Q Is there any one else in the household there? A No.

Q What do you do there? Do you go to school, or do you cook, or what? A I keep house.

Q You keep house for your father and two brothers, is that right? A Three brothers.

Q Do you know a man by the name of Luigi Puglia? A Luigi Puglia.

Q How long have you known him? A About two years and a half.

Q And during the summer of 1915, from August on, were you intimate and friendly with him? Did he come to your house?

A Yes, sir.

Q And did you have sexual intercourse with him? A Yes.

Q About how often during those months? A Many times.

Q A good many times? A Yes.

Q About how many times? Once a week? A Once or twice a week. 3

Q And that relation between this man Luigi and you continued up to November, is that right, 1915? A No, up to June, 1916.

Q Well, in November 1915 was Luigi coming to your house? A Yes.

Q Do you remember a time in November when you noticed anything about your physical condition? A Yes, sir, it was on November 28th.

Q At that period did something happen to you? A Yes, I should have been menstruating.

Q Did you at that time or shortly thereafter have any menstrual period? A No.

Q You did not? A No.

Q When was it you told Luigi of this? A About two weeks after.

Q You had a conversation with him, is that right? A Yes, because I vomitted.

Q How long did this condition of not having any period, as you have described, continue? A Three months.

Q So that in the early part of January you were still, as you believed, in the same condition that you were in November, not having your menstrual periods, is that right? A Yes, sir.

Q At that time, or after the first of January, did Luigi take you anywhere, or tell you to go anywhere, - yes or no? A Yes.

Q Did you go to any doctor or person you believed to be a doctor? A Yes, Dr. Tanner.

Q Where is his office, or where did you go to see Dr. Tanner?

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A It is near 116 street, near First avenue.

Q What happened when you went to that Doctor, did he examine you or not? A Yes, he examined me.

Q Did he state to you what your condition was, yes or no?

MR. TROSK: I object to that, if the Court please.

THE COURT: I sustain the objection.

Q After you went to this doctor did you have a conversation with Luigi, yes or no? A Yes, sir.

Q And as the result of that conversation did you go anywhere with Luigi? A A couple of days he brought me to another doctor.

Q Where was that? A On the west side.

Q Whereabouts? A I think around 76th street, or 80th street, somewhere around there.

Q And after you went there did you go anywhere else? A On the same day he brought me first to a druggist.

Q Where was the druggist? A On 15th street, on the east side.

Q Downtown, 15th street? A Yes, sir, 15th street.

Q Did you see a man there? A Yes.

Q Did you, or Luigi in your presence, have any talk with the man in the drug store? A Yes, Luigi did.

Q You heard that conversation? A A little.

Q You heard what Luigi said? A Yes, a little.

Q Luigi speaks Italian, doesn't he? A Yes.

Q And he spoke to this man in Italian? A Yes.

Q And you understand Italian? A Yes, sir.

Q You are an Italian girl? A Yes, sir.

Q How long have you been in this country? A Sixteen years.

Q You were brought over when you were a little baby? A I was thirteen months old when I came here.

Q And your family comes from Italy? A My father and mother and one brother.

Q Now, after you went to this druggist and Luigi had a conversation with the man there where did you and Luigi go? A Luigi brought me to this midwife's house.

Q This defendant's house? A 412 East 15th street.

Q And that is the house where you afterwards saw this defendant, is that right, or visited her there? A Yes.

Q When Luigi and you went to this house what date was that? A 22nd of January.

Q Can you fix it by telling me how many days before the day which you claimed something was done to you by this midwife? Do you understand me? A (No response)

Question withdrawn.

Q Did you see this defendant, this woman, at 412 East 15th street on that day? A No, sir, she was not in.

Q Then what did you do? A We went home.

Q Did you have a conversation with Luigi that night or afternoon? A No, sir.

Q When you left he talked to you, didn't he? A Yes, when he left.

Q When did you again see Luigi, before or after you saw

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this defendant? A After I saw the defendant, -- no, first. 6

Q You saw Luigi first? A Yes.

Q Did Luigi say to you --

MR. TROSK: I do not like to interrupt before the question is put, but it is very apparent the question is objectionable.

THE COURT: You must not ask that question. Ask her what conversation, if any, she had with this defendant. It does not make any difference what Luigi said to her, it is not binding on this defendant.

Q Did you have a conversation with Luigi before you ever saw this defendant, yes or no? A Yes.

Q And as the result of that conversation what did you do, and where did you go? A On the 24th I went to the midwife.

Q The 24th? A Yes.

BY THE COURT:

Q She was not in, you say? A Yes, she was in on the 24th, this time.

Q That is the first time you met her? A Yes.

BY MR. OLCOTT:

Q Did you see this defendant on the 24th? A No, -- this man?

Q This woman, the defendant? A Yes, I saw her.

Q Where did you see her? A In her house.

Q What did you say to her and what did she say to you, and what, if anything did she do on the 24th of January? A I rang the bell, and at the door I saw her and she said to me--I said

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to her that I am the girl that the man spoke about. She asked me who that man was. I said "He is my brother-in-law", just as he had told me to say, and she said, "Where does he live?" I said "Uptown." Then she said, "Have you got the money?" I said "No." She asked me how long I was not menstruating, and I said three months, and also I told her that I had taken plenty of medicine and pills, and then I said-- she said to me, "If you haven't got the money I can't do anything." So I said, "All right, if I see this man I will tell him."

Q How much money did she say? A She said a hundred dollars.

Q What did she say about the hundred dollars? A She said she wants a hundred dollars. She told me that on that morning. This defendant would be there, and still he did not come.

Q You mean Luigi? A Luigi.

Q He did not come there? A No.

Q Did you have any other talk with her that you can remember?

A No.

Q Did she ask you any more questions about your physical condition? A No.

BY THE COURT:

Q You did not go into her house at all that day, as I understand it; all this talk was at the door? A It was in her house.

Q You went into the house? A Yes.

Q Did she say anything to you that day? A No.

Q Did she examine you? A No, she did not examine me. I went

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home.

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BY MR. OLCOTT:

Q Did you see Luigi that night? A No.

Q Did you see him the next morning? A Yes.

Q Did you have a conversation with him the next morning?

A Yes.

Q As the result of that conversation what did you do? A He told me--

Q No, not what he told you. Did you do anything? A He gave me \$50 and told me to go to the midwife.

Q He gave you \$50 and had a conversation with you? A I only said I had been to the midwife.

Q Not what you said to Luigi; you got the \$50, did you? A Yes.

BY THE COURT:

Q Then you went back to see Mrs. Ventura, the defendant? A Yes.

Q Is that the name you know her by, Mrs. Ventura? A Yes.

BY MR. OLCOTT:

Q Did you go down that day, the 25th of January to Mrs. Ventura's house? A Yes, sir, I did.

Q On 15th street, 412? A Yes, sir.

Q That is in New York City, and the County of New York?

A Yes, New York City.

Q Did you see Mrs. Ventura, the defendant, that day? A No, I did not, the man defendant?

Q On the 25th? A Yes, I saw her.

Q You saw Mrs. Ventura on 15th street? A Yes.

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Q Did you go inside the house? A Yes.

Q Did you have a talk with Mrs. Ventura? A Yes, sir.

Q Tell us what you said to her and what she said to you, and what, if anything, she did to you that day? A Well, she asked me if I had the money. I said yes, and then she put me on the bed.

Q What did you do, if anything, with the money? A After she did the operation I gave her the money.

Q You did not give her any money at the time you said you had the money until afterwards? A No.

Q You said you had the money? A Yes.

Q Then what did she do and say and what did you say, if anything? A She said, "Now, I have the disinfectants ready and I can do the work."

Q What did she do and what did you do? A Then she put me on the bed.

Q Where was the bed? A It was right near the kitchen.

Q Did you take off your clothes? A Yes.

Q How much of your clothes did you take off? A Only my drawers.

Q What happened? A Then she took a flat iron, it was an iron for stretching, an instrument.

Q What did she do with the iron? A She put that in my body.

Q Your private parts? A Yes, sir.

Q Do you know what she did with that iron? A She put that in

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and then she washed me out. After she washed I saw her take a bottle with medicine, and also saw an instrument.

Q What kind of an instrument? A It was a long wire about 12 inches, a silver wire.

Q A thin instrument? A Yes.

Q What did she do with that? A She took some cotton and put it around it, and then she put that in my body.

Q Did you have any sensation when she put that in, any feeling at all? A Yes.

Q What did it feel like? A Well, it hurt me, and then I also felt something moving in my body.

Q Then what happened? A After, - it took her ten or fifteen minutes, - after that she took some cotton, a big bunch of cotton, and put some string around it and then she put this cotton inside.

Q That is, in you? A Yes, in me.

Q Then what happened? A Then after that, after it was through she showed me some blood in the basin and cotton.

Q What did she say about the blood and cotton, anything? A No.

Q Then what happened? Were you still on the bed? A No, I got up.

Q Did she take the iron instrument out of you? A Yes.

Q And when she put the instrument inside, the cotton inside, was this instrument still in you, the first instrument? A No, she took that instrument out and then she put cotton in.

Q She put the thin instrument in while the other instrument

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was in you, is that right? A Yes, sir.

Q Then took both instruments out, the thin one and the thick one, and put in cotton? A Yes.

Q Then she showed you cotton with some blood on, in the basin? A Yes.

Q What did she say to you after that? A Then she said to me, I will tell you--

Q Did you speak in Italian or English? A In Italian.

Q You understand Italian? A Yes. She said to me, "Now, tomorrow morning I will be over your house at eight o'clock, and tonight you will suffer, but you won't die", she said. So I went home and blood began to flow.

Q How much? A Not much.

Q Did you go to bed? A That evening at nine o'clock I went to bed, and I began to feel pain. Every five minutes the pain would get stronger, and also blood began to flow, plenty.

Q A lot of blood?? A Yes.

Q Were you alone in the house or was your father there?

A They were in.

Q Did you tell anybody? A No.

Q What happened then? A Well, every five minutes the pain got stronger until 10, 11 or 12 o'clock, and then I could not stand it, because I could not move at all; I was stiff in bed. So in the morning the pain began to get lighter.

Q Did you see Mrs. Ventura, this defendant in the morning?

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A Yes, the next morning, on the 26th of January she came to my house, just at eight o'clock.

Q Did she see you? A Yes.

Q Did she do anything to you that morning? A Yes, she pulled out plenty pieces of blood.

Q Out of you? A Yes.

Q How did she pull it out of you? A With her hand.

Q Did she put her hand in you? A Yes, sir.

Q What happened then? A Then she told me to get up, she showed me how to use the syringe.

Q Did you have a syringe, or did she give it to you? A I had it.

Q Where did you get that from? A My father had it from three years ago when my little brother was sick.

Q She showed you how to use it? A Yes, sir.

Q When she came there at eight o'clock was anybody home at your house? A Nobody, no.

Q Had you had a conversation with her about what time to come? A She told me she would be around eight o'clock.

Q Luigi knew the habits of your household when people went in and out, didn't he? A Yes.

Q He had been there a great many times, hadn't he, Luigi?

A Luigi?

Q Yes. A Yes.

Q What, if anything, did this defendant, Mrs. Ventura, do to you that morning when she came back? A After she showed me how

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to use the syringe, she said "Tomorrow morning you take a dose of castor oil." After that she went away and told me that I could rest myself in bed. During that day I had very strong pains. I stayed in bed, but every five minutes I had to get up, there was some knocking at the door. The next morning I did take the castor oil, and I also fainted, fainted and for two weeks I was very weak.

Q You did do your work, however? A I did.

Q And you did not tell your father or brothers or anybody what had happened, is that right? A No.

Q Before you went down to Mrs. Ventura's place did you take any pills that Luigi gave you? A Yes, he gave me six pills.

Q Did he tell you when and how to take them? A Three in the morning and three at night.

Q When was it, before you went down and this instrument was put in you? A Two days after.

Q After what? After you first went there, you mean? I don't think you understand my question. Did you take the six pills before or after you went down to Mrs. Ventura, and she put an instrument in you? A Before.

Q How many days before? A Two days before.

Q And Luigi gave them to you when he saw you, is that right?

A Yes.

BY THE COURT:

Q You mean you swallowed the pills? A Yes, sir.

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Q Or you put them into your private parts? A I swallowed them.

BY MR. GILCOTT:

Q Did you notice what, if any effect those pills had? He said they were for the bowels.

Q Did they have an effect on your bowels? A Yes, they did.

Q When was it that you first told anybody about what had happened to you?

THE COURT: That is not a part of your case.

MR. GILCOTT: May I not show lapse of time and the reason for it?

THE COURT: That may be asked on cross examination.

She is not obliged to make any disclosure.

Q Did you ever see this woman again after she came up to your place and told you how to use the syringe, and took out some blood, as you have described it? A No, I did not.

Q When did you pay her, if at all, the \$50? A On the same morning, on the 25th.

Q The morning she put the instrument in you? A Yes.

Q When did you give it to her? A On the same morning, the 25th.

Q You have described how you got up and were shown in the basin some cotton, on that morning. Tell us any further conversation you had in connection with the money or anything else. After she showed you the cotton in the basement I think I interrupted you. Did she do anything else, and did you see anything,

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or did she say anything? A She told me in the night, she said, "Tonight you will suffer, but you will not die; but tomorrow morning I come to your house at eight o'clock.

Q Anything else? A Then I would feel very strong pains.

Q What about the money? A I gave her the money.

BY THE COURT:

Q Did she say anything about the money? A She asked me for the money and I gave her fifty dollars.

Q ~~What did she say about the \$50?~~ A ~~Nothing.~~

Q She took the \$50? A Yes.

Q Did she ever tell you \$50 would be enough, instead of \$100? A She did not say anything because she spoke to the man that evening.

Q Were you there? A No.

MR. GICOTT: I consent to strike it out.

BY MR. GICOTT:

Q After the visit of this woman did your menstrual periods continue again?

THE COURT: That is entirely immaterial.

MR. GICOTT: Your witness.

CROSS EXAMINATION BY MR. THOSE:

Q Now, before the defendant did the things that you have told us about, when was the last time that you menstruated?

A October 28th.

Q Now, before that time I understood you to say that you

had been having intercourse with this man whom we are calling Luigi about once or twice a week for a period of about how long?

A Three months.

Q That is to say, during October, September and August?

A August to October.

Q You started in in August? A Yes, sir.

Q In August, 1915, is that right? A Yes.

Q And the first time that Luigi ever had intercourse with you was then in the month of August, 1915, is that right?

A Yes, sir.

Q How long had you known Luigi before August, 1915? A Two years and a half ago.

Q Two years and a half from now or from then? A From now.

Q At the time that Luigi first began to have intercourse with you, which you say was in August, 1915, about how long had you known him at that time? A About two years before.

Q And during all of those two years that you had known him before August, 1915, he had not had intercourse with you? A No.

Q Now, before Luigi commenced to have intercourse with you had you ever had intercourse with anybody else? A No.

Q Now, you say that the last menstrual period you had before the time that the defendant did the things to you that you have described was on October 28th, 1915? A Yes.

Q Now, after that time Luigi still continued to have intercourse with you, didn't he? A Yes.

Q And as a matter of fact he continued to have intercourse

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with you up to June, 1916, didn't he? A Yes.

Q That is to say after the time that you told the gentlemen of the jury and his Honor the defendant did these various things to you, you still continued to have intercourse with Luigi for a period of about six months, didn't you?

THE COURT: You can figure that time yourself.

Question withdrawn.

MR. GIBBOTT: With your Honor's permission may I ask counsel to designate this woman defendant as Mrs. Ventura, so as to avoid any confusion?

MR. PROSK: Certainly, I will do that.

Q When you missed your menstrual period in November did you tell Luigi? A Yes.

Q And then did you go to any person in November with reference to your condition? A On January, to Mr. Tanner.

Q That was the first time? A Yes.

Q Dr. Tanner is that? A Yes.

Q That is the man in 116th street? A Yes.

Q Near First avenue? A Yes, sir.

Q Now, the first time that you ever called at the house of the defendant, it was on a morning, was it not? A Yes.

Q And when you came in you told Mrs. Ventura, did you not, that you are the lady about whom the gentleman spoke to her last night? A Yes, sir.

Q And didn't Mrs. Ventura ask you whether you had a dollar with you, one dollar? A No, sir.

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Q Well, in any event she did not do anything to you the first day when you called, did she? A No.

Q She did not even examine you? A Yes.

Q Didn't even ask you any questions? A She asked me wues-tions, yes.

Q She asked you questions? A Yes.

Q Now, you remember the second day when you came there, that was the day upon which Mrs. Ventura did these various things to you, isn't it? A Yes.

Q Now, she examined you that day, didn't she, the second day you called on her? A Yes.

Q And in order to examine you she placed you on a bed, did she? A Yes.

Q Did your head rest on a pillow, or was your head flat on a sheet and mattress? A On the pillow.

Q Your head was on a pillow? A Yes, on the pillow.

Q So that your eyes were on a level higher than the rest of your body? A No.

Q That is, your head was tipped back as she examined you? A Yes.

Q So that as you looked, the ceiling was directly above you; you could only see the ceiling? A The ceiling and the wall in front.

Q Is that all you could see as you laid with your head tilted back on the pillow? A I could see the whole room. I could see everything.

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Q As your head was tipping back your eyes were directed upward, were they not.

Question withdrawn.

Q Now, then, you remember that Mrs. Ventura lifted your clothing, do you remember that? A Yes.

Q And do you remember that she said to you, "Why, Madam, you are all full of blood"? Don't you remember that? A No, she did not say that.

Q When you came there to Mrs. Ventura that second day, weren't you bleeding? A No, I was not.

Q Had you taken pills that morning before going to her?
A No, I did not.

Q You had not? A No.

Q Had you taken pills the preceeding day, that is to say the day before? A Yes, the day before.

Q How many pills did you take? A Six pills.

Q And the day before that, had you taken any? A No.

Q As a matter of fact, ever since you missed your menstrual period in November, and up to the time you went to Mrs. Ventura, you had been taking various kinds of medicines? A Yes, sir.

Q And among that quantity of medicines you had been taking pills? A Yes, sir.

Q Do you remember sometime ago you testified before the Magistrate? Do you remember that? That is to say, do you remember some time ago you were in another Court room? A Yes.

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Q About this same case? A Yes, sir.

Q And you testified there, didn't you? A Yes, sir.

Q Do you remember that you testified there --

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

Question withdrawn.

Q Is it not true you were there asked whether you had taken any pills before going to Mrs. Ventura, and that you asked you had taken about twenty a day? A Yes, I said I had been taking pills.

Q No, you don't get my point. I say, weren't you asked whether you had been taking pills before going to Mrs. Ventura, and you answered that you had taken not six a day, but twenty a day? A Twenty-four pills or twenty-seven in two days.

Q Twenty-seven in two days? A In two days.

Q Even that would be more than six a day, wouldn't it? A Yes.

MR. OLCOTT: Objected to.

Question withdrawn.

THE COURT: That will be conceded. Twenty-seven in two days is more than six a day.

Q Now, think back a minute and see if you cannot remember that what you did say there was that you had taken twenty a day? A I did not say twenty. I said twenty-four or twenty-seven in two days.

Q Well, now, when you came to Mrs. Ventura, she placed you on the bed. Did she remove your underclothing at all, or was your underclothing left on you? A It was left at the bottom of my

feet.

Q You say she first took a large instrument and put it into your body? A Yes.

Q And that while that large instrument remained in your body she put in a thin wire? A First she used the syringe to wash me.

Q And then she inserted a large instrument, is that right? A No, a thin, thin wire.

Q First the thin wire?

THE COURT: She said first the instrument, and then washing, and then the thin wire.

Q All of this time you were lying on this pillow with your head tipped back, were you? A Yes.

Q At any time did Mrs. Ventura walk behind you to get instruments? A Yes.

She did? A Yes, sir.

And did you turn your head around to see what she was doing? A Yes, sir.

Q Now, do you remember that upon the occasion when you were in court before, you were asked what instrument, if any, Mrs. Ventura put into your body and you said that all that you saw was a long wire. Do you remember that? A Yes, I remember.

In the other court room, you didn't say anything at all about this large instrument, did you, that you are not telling us about? A I said it too. I could not explain it. They did not understand me. I could not explain it.

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Q Well, which is it? Do you want to tell us now that in the Magistrate's Court you did mention the big instrument? A Yes.

Q Or that you did not mention it? A I mentioned it.

Q Now, how long were you in Mrs. Ventura's house altogether upon the second occasion when she did these things to you? A Around twenty minutes.

Q And on the first occasion when you did not have the money with you how long were you there? A An hour, I think; one hour waiting for this man to come.

Q Well, now, upon the first occasion when you were there was anybody in the house in addition to Mrs. Ventura, any other persons? A Well, I did hear somebody knock at the door and she told me to go in the front room, and then I heard her speaking with other women.

MR. TROSK: If the Court please, may I have a young lady witness called in? I want to see if this witness can identify her.

THE COURT: She did not see the witness, she said.

She said she was sent into the front room.

BY THE COURT:

Q Did you see that woman? A I saw nobody.

Q You saw nobody in her apartment? A Nobody.

BY MR. TROSK:

Upon the second occasion when you were lying in the in the bed, you were in the bedroom, weren't you? A On the 25th, yes.

And further front towards the street there was another room,

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wasn't there? A Yes.

Q And a door between the front room and the room in which you were lying was closed, wasn't it? A No, it was open.

Q Are you sure? A Sure.

Q When Mrs. Ventura examined you upon the second occasion didn't she say to you, "My dear young lady, you are only a child, and from what I can see, you look to be a woman of about thirty". Didn't she say that? A No, she did not say that.

Q Didn't she also tell you that she could not say whether or not you were pregnant, because she did not know whether the blood that was flowing was brought about by the pills that you had taken or whether it was a natural menstruation; didn't she say that?

A There was no blood at that time; she did not say that.

Q Now, after this second occasion her home, did she call upon you at your home; she did, didn't she? A Yes.

Q What time was that? A Eight o'clock in the morning.

Q And were you all alone? A All alone.

Q Now, between the time that she did these things to you and the time that she called at your home, you had a lot of pain, didn't you? A Yes.

Q And a lot of blood was flowing? A Yes.

Q And you had to change the bandages all the time, didn't you? A Yes.

Q During the time that you were changing the bandages, and the time that you had the pain, you were in your house? A Yes.

Q And wasn't your father there? A It was at night.

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Q Wasn't your father home at night? A Yes, they went to sleep,
to bed.

Q And your brothers were also sleeping? A Yes.

Q The time when Mrs. Ventura did these things to you was in
the morning, wasn't it? A Yes, sir.

Q Right after that you went home, didn't you? A Yes.

Q Alone? A Alone, yes.

Q And when you got home did you find anybody home? A Nobody.

Q And you stayed in the house all that day, didn't you? A Yes.

Q And then in the evening your father and brothers came home?

A Yes.

Q And did they stay home that evening? A Yes.

Q And during all this time you were having pain? A No, the
pains started at nine o'clock at night.

Q There was no pain during the day, but the pain first started
at nine o'clock at night? A Yes, sir.

Q And you did not say anything at all about it to anybody?

A No, sir.

Q Didn't anybody ask you what was the matter, and you looked
sick? A That was after the midwife came to my house.

Q Then they asked you what was the matter, that you looked sick?

A I had to get up. Then the woman knocked at the door. She is
the woman that had been teaching me embroidery. She came in to
ask me if I could do a piece.

Q Didn't either of your brothers or your father ask you "What
is the matter, Elena, you look sick"? A When?

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Q After Mrs. Ventura had done these things to you, when they came home that day, that night, or the next morning? Didn't your father or your brothers ask you what was the matter, that you looked sick? A It was the next night that my father asked me.

Q What did you say to him? A I said I had a cold because I was very weak, and told him that I was getting stronger.

Q Now, when was the first time that you told anybody about these things that Mrs. Ventura had done to you? A It was a woman.

Q I know, but how long after Mrs. Ventura had done these things to you was it that you told this woman? How many days or weeks or months? A That was in October, October 23rd, 1916.

Q And who was the lady you told it to? A First I told this woman about my story.

Q Who was the woman? A Lucy Cito.

Q How did it happen that you came to tell her this? A Because this man's wife came to my house and explained to me.

Q By this man's wife, do you refer to Luigi? A Yes. She came to my house and explained to me about who her husband was and what he was doing, and what he did wrong to me; explained to me that it was ruin for my life.

Q Did she say how she knew it? A Yes, she told me her husband had told her, that he always told her everything.

Q Now, Elena, at the time that Luigi was having intercourse with you --

MR. JACOPE: I ask that the witness be permitted to answer the question which was how she came to tell.

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THE COURT: " She has answered that.

Q Go ahead, if you wish to say anything further. A About what his wife said?

Q Who was Lucy? A That was a woman, she lives opposite me. She had been teaching me embroidery for two years.

BY MR. GILCOTT:

Q She lives in the same house with you? A Yes, sir.

Q She is an Italian woman? A Yes, and a very good woman.

Q A married woman? A Yes, has a son and husband.

Q And then you told Lucy what Luigi's wife told you? A Yes, I told her, because I wanted to have this man arrested.

BY MR. TROSK:

Q Well, now, this lady who you described as Lucy was a friend of yours, wasn't she? A Yes.

Q You knew her very well? A Yes.

Q You told her your secret and confided in her? A I told her yes.

Q Now, during all the time that you were having this intercourse with Luigi, weren't you telling her about it? A No.

Q Now, then at the time that you commenced to have intercourse with Luigi, did you know that he was married? A Yes, I knew it.

Q And this condition in which you were just before you went to Mrs. Ventura, you felt that was a serious condition, didn't you? You worried about it? A Yes, I was worried.

Q And you knew it was wrong? A I knew there was something wrong.

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Q And you did not want to have it happen again, did you? A Happen what again?

Q You did not want to have that condition happen to you again, did you? A I was not sure what the trouble was.

BY THE COURT:

Q But you found out you were going to have a baby? A Yes, afterwards.

Q And you say you had your baby removed? A Yes.

Q Now, the lawyer asks you--you did not want to have that happen again? A No.

Q But you kept on going with Luigi? A Yes, because he forced me and he would not stop it.

BY MR. TROSK:

Q But notwithstanding the fact that you appreciated that it was wrong, and that it was a serious condition, and you did not want to have it happen again, you still kept on your relations with Luigi, didn't you? A Yes.

BY THE COURT:

Q What did you say about his forcing you? How did you meet Luigi? A He is a baker, and used to deliver bread in our house.

Q How did you come to have intercourse with him? A He got familiar with me.

Q He did not force you the first time? A Yes, sir, the first time, on August 3rd.

Q But he did not use any force? A Yes, he forced me; he always

did.

BY MR. TROSK:

Q And still of course, that was a great trouble, wasn't it, this forcing of Luigi upon you? You did not like it? A No.

Q And still notwithstanding you did not like it, and you knew it was wrong, you did not tell your lady friend Lucy next door? A I told nobody. I tried to stop for my own self. I thought he would stop and still he continued and kept saying, "I will stop", and instead he was telling false.

MR. TROSK: That is all.

BY MR. GIBCOFF:

Q You said you took twenty-four or twenty-seven pills in two days. How long before the day you went to see Mrs. Ventura did you take those pills in that quantity? A A month before, it was in December, around the 25th; 24th or 25th.

Q But you took some pills two days before or the day before?

A Before I went to Mrs. Ventura I took the medicine that Dr. Tanner had given me.

Q What medicine was that? A I don't know; it was in a small bottle.

Q When you spoke of the twenty-four or the twenty-seven pills in the Magistrate's Court you referred to the pills that were taken back in December? A Yes.

BY THE COURT:

Q You say you took pills in December? A Yes.

Q Twenty-four or twenty-seven? A Yes.

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Q Did you take any pills the day before you went to Mrs. Ventura's house? A Yes, I took the pills she had given to this man and Luigi gave them to me, six pills.

Q Luigi gave you six pills? A Yes.

Q And he said she gave them to him? A Yes.

Q And then you took them? A Yes.

Q That was two days before you went to her house? A Yes.

Q For one day? A Two days before she operated.

Q Counsel has asked you about Luigi's visit to you. You say he delivered bread? A Yes.

Q What time would he come to your house? A In the morning around 9 or 10 or 11 o'clock.

Q Would your father and brothers be home at that time? A No, they were either at school or at work.

Q Was it during that time that he was delivering bread to you and your family were away that he had intercourse with you?

A Yes.

THE COURT: Gentlemen of the jury we will take a recess until 2 o'clock. Meanwhile you must be extremely careful not to discuss this case among yourselves, nor with any one else, and you must not form nor express any opinion on the question of the guilt or innocence of the defendant, until you have heard all the stories on both sides, and all that is to be said, and until the case is given to you by the Court for your decision. Now remember that you are not to talk to any one, and if any one should attempt to talk to you about

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Q Did you take any pills the day before you went to Mrs. Ventura's house? A Yes, I took the pills she had given to this man and Luigi gave them to me, six pills.

Q Luigi gave you six pills? A Yes.

Q And he said she gave them to him? A Yes.

Q And then you took them? A Yes.

Q That was two days before you went to her house? A Yes.

Q Or one day? A Two days before she operated.

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the case, you must report it. You must not discuss it among yourselves. That is an absolute provision of the law.

You may go until 2 o'clock.

Trial Continued, 2 o'clock p. m.

MR. JOSEPH: I understand counsel desires to question the last witness for several more questions, and I have no objection.

MR. TROSK: Will your Honor indulge me to the extent of asking a few more questions?

THE COURT: Well, be very brief, please. I think your examination covered every point, but if there is any point you omitted, you may take it up.

ELENA CISSARI, recalled for further examination testified as follows:

BY MR. TROSK:

Q Elena, I would like to enquire, after you spoke about this matter to the lady whom you called Lucy, did you thereafter talk about it to anybody else? A Yes, I didn't only say about the abortion case. I told her about what the man did to me.

Q After you spoke to Lucy and told her about what Mrs. Ventura did to you, who was the next person you told it to? A I told my father.

Q And then who was the next person? A Mrs. Gibson.

Q And after Mrs. Gibson? A That is all.

Q Who is Mrs. Gibson? A Mrs. Charles Dana Gibson, one of the

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Big Sisters.

Q And then you told it to Mr. Olcott, the District Attorney?

A I told it to officer Enwright.

Q Didn't you talk about it with Mr. Olcott? A Yes, I then told him.

Q How many times did you tell it to Lucy? More than once?

A Once.

Q How many times did you tell it to your father? A Once.

Q How many times to Mrs. Gibson? A Once.

Q How many times to Officer Enright? A Once.

Q How many times to Mr. Olcott, the Assistant District Attorney? A Once.

Q And you told each one of them the same thing? A The same thing.

Q With reference to the first time that you called upon Mrs. Ventura, when you didn't have the \$100, weren't you asked in the Magistrate's Court, in the other court in which you were before this one, how long you remained with Mrs. Ventura at that time and didn't you say just a few minutes ago, "As soon as I told her I didn't have the money, she sent me away"? Didn't you say that?

A I don't know; I don't remember.

Q It is possible that you may have said that, isn't it? A Maybe I said it.

THE CLERK: That is all.

MR. OLCOTT: That is all.

L U I G I P U G L I A, (306 East 115th street) called as a witness on behalf of the People, being first duly sworn, through the Official Interpreter, Mr. Villamena, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q You have recently pleaded guilty to assaulting this little girl? A Yes, sir.

Q From the month of August, 1915, from that time on, for at least several months did you from time to time have sexual intercourse with the girl Flena? A Yes, sir.

Q Some time in November did the girl make a statement to you in regard to her condition? A Yes, she told me that she was pregnant.

MR. TROSK: I move that be stricken out on the ground it involves a conclusion.

THE COURT: Strike it out.

Q When did you first see this defendant, Mrs. Ventura? A When I went with the girl to her residence.

Q Before the day that you went to her residence, had you gone with this girl to a doctor uptown? A Yes, sir.

Whereabouts? A The first time I went to 116th street.

Q Do you remember that doctor's name? A I don't remember the name.

Q About how long was that before you went down with the defendant to Mrs. Ventura's house? A In the month of January also.

Q Can you tell me was it ten days, five days, or how many days before you first went to Mrs. Ventura's? A After the visit to the

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doctor that time we went to another doctor downtown, on 11th street, and that was four or five days after we went to the Doctor uptown.

Q Where did you see that doctor, the second doctor you saw?

A Between 14th and 15th street and Avenue A.

Q In what kind of a place? A In the drug store.

Q And you had a conversation with that doctor, as you call him there? A Yes, sir.

Q Do you remember that man's name? A Dr. Siragusa.

Q Had you know him before? A Yes, sir.

Q You had a conversation with him, is that right? A Yes, sir.

Q As a result of that conversation where did you go? A I went to the midwife.

BY THE COURT:

Q Who was the midwife? A Anna Ventura.

Q This defendant here? A Yes, sir.

Q Did you know her before you saw Dr. Siragusa? A No, sir.

Q Where is her house? A 412 East 15th street.

BY MR. JICOTT:

Q When you first went there was there any one with you? To the house, I am speaking of now? A The girl Elena was with me.

Q The first time? A Yes, sir, and we did not find her.

Q What did you do then; did you go uptown, or what happened? A We went away.

Q When did you see the defendant for the first time? A In the evening of the same day, about half past eight.

Q You mean the same day that you had tried to see her with the

girl? A Yes, sir.

Q Did you have a conversation with her? A Yes, sir.

Q What did you say to her and what did she say to you? Tell me the conversation from beginning to end. A I told her that the girl was pregnant, and she wanted to procure an abortion on herself, and she said to me that "Before I see the girl I could not say nothing. Then I went to the girl's house,

Q What other conversation did you have with her that evening?

A That is all I said to her.

Q Did you say anything about Siragusa? A She asked me "who sent you here"? A I said to her, "Dr. Siragusa gave me your address."

Q What else was said about that? A That was all I said.

Q Did you tell her what relation, if any, you were to this girl, or anything else about the girl on that occasion? A I told her that this girl was seduced by a brother-in-law of mine.

Q Anything else on this occasion? A Then she said to me, "If I don't see the girl, I could not say nothing about it."

Q Did you see Elena after seeing this defendant, and having the conversation that you just told us about? A In the morning, yes.

Q The next morning? A Yes, sir.

Q Did you tell her anything? A Yes, sir, I told her that I spoke to this midwife.

MR. STONE: I do not want to take up the time of the court; I would like to have your Honor's ruling as to

whether as yet I have established this man as an accomplice of the defendant. If you wish me to establish it further, I will, before asking him this conversation.

THE COURT: I cannot decide that.

MR. SCOTT: Well, will you permit him to testify to the conversation had with the girl at this time?

THE COURT: I will, yes.

Q What did you tell Elena?

MR. TROSE: If the Court please, may I for the purpose of the record object to the witness detailing the conversation he had with Elena in the absence of the defendant, on the ground that it is not binding upon the defendant, and may I have an exception?

THE COURT: Yes, you have an exception.

A I told Elena that I spoke with this midwife, and the midwife requested Elena to go down there next morning to visit her, and after this visit was made, then she would tell me all about it.

Q Did you see Elena again after giving her those instructions?

A No, I didn't see Elena then, but I went again in the evening to the midwife's house, and I asked her--

Q This defendant? A Yes, I asked her, "Did you see Elena?"

And she said, "Yes, I saw her and I think I could make the operation."

Q What else was said between you on this second visit, when you saw the defendant? A Then we came to a price and she asked me a hundred dollars. I said to her, this man that did this thing to

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the girl there is not doing very good business, and he could not afford to pay \$100, and we agreed on \$50.

Q Did the defendant say how that money was to be paid, and by whom, and if so what was the conversation? A She said to me

"All right, those are six pills", and she gave me six pills. She told me, "You have to give those six pills to the girl and tell her to take three in the morning and three in the evening. The day after tell her to come over here and I will prepare her to do what is necessary."

Q Did she say anything about the money and who was to pay it?

A Yes, she told me in the meantime to give \$50 to the girl.

"Give her \$50 for me and I will prepare her".

Q Do you remember any other talk you had on this second occasion except what you have told us? A No, after I gave \$50 to the girl

I didn't see the midwife any more.

Q After you saw the midwife the second time did you see Elena?

A Yes, next morning when I gave her the money.

Q Did you give her anything beside the money? A I gave her fifty dollars.

Q Anything else beside the \$50? A I escorted this girl the next morning as far as 116th street elevated station, and I left her there and she went to the midwife and I went home.

Q What date was that, if you remember? A I don't remember exactly if it was the 20th or the 19th of January.

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

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Q Did you give any pills to Elena at the time you saw the Midwife the second time? A What the midwife gave to me, yes.

Q When did you give her those? A I gave Elena the pills next morning, and I told her exactly how to use them; three in the morning and three in the evening.

Q Did the defendant tell you what the pills were for? What did the defendant say about the pills? A I don't know. She did not tell me. She said, "Give those pills to her and give her the \$50 and when she comes here I know what to do with her."

Q You gave her the pills the day before you put her on the elevated railroad to go downtown, as you understood it? A Yes, sir.

Q Now, what you told the midwife about your brother-in-law being concerned with Elena was not true, was it? A No, it was not true, because I was the man.

Q Now, before taking Elena to the doctor at 116th street, had you given Elena any pills? A Yes, sir.

Q How many? A I don't remember. I bought some mustard for her too.

Q How many pills, and on how many occasions did you buy pills, and where, before you went to the doctor on 116th street?

A I got for her these pills, they were white pills. I don't know how to call them, but Elena wrote that on a piece of paper for me.

Q On how many occasions did you buy pills, more than once?

THE COURT: How is that material? This all happened before he met the defendant. He said he gave her medicine

100-40050

before.

BY THE COURT:

Q How long was that before you went to see this midwife? A She began to take some medicine in the month of November.

BY MR. OLCOTT:

Q And when was the last time that you gave her pills?

THE COURT: That is not material.

Question withdrawn.

THE COURT: If on cross examination the attorney wants to go into that he may.

Q Do you remember the conversation that you had with this defendant on the second time when the money was talked about, and do you remember anything further about that conversation? A That is all I remember saying to her. I know next morning I went over and saw the girl. I gave her \$50, and that is all. That was the last time that I saw this midwife.

Q Do you remember her saying anything to you about taking a chance, and why she wished to charge more than the \$50 stated by you?

MR. BROOK: If the Court please I object to this question on the ground it is entirely leading and suggestive. It is quite clear that the witness's memory has been exhausted. He said definitely that nothing further was said, and as a matter of fact the bulk of the testimony as to the conversations had between this witness and the defendant has practically been put into the witness's mouth by the leading.

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questions of Mr. Olcott.

THE COURT: I will overrule the objection.

MR. TROSK: May I have an exception?

THE COURT: Certainly.

A Yes, she told me that the matter was very dangerous, and the girl was pregnant three months and a half. To make this operation it is needed \$300.

MR. OLCOTT: That is all.

CROSS EXAMINATION BY MR. TROSK:

Q Now, Mr. Puglia, you originally pleaded not guilty to the charge of having committed rape upon the person of the complaining witness, did you not? A No, sir.

BY THE COURT:

Q Did you plead guilty or not guilty? A No, sir, I said always that I was guilty.

Q Did you tell the Court you were guilty, or did you say not guilty? A The first time I said I was not guilty.

BY MR. TROSK:

Q And then you changed your plea to guilty, is that right?

A Yes, sir.

Q And you have not as yet been sentenced, have you? A No, sir.

Q Now, then, when was it that you first commenced to have sexual intercourse with the complaining witness, Lena? A The 4th or 5th of August.

Q 1915? A Yes, sir.

Q Did you have to force her to permit it, or did she submit

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voluntarily? A She submitted voluntarily.

Q Now, then, some time in November she told you that she had missed her menstrual period, did she? A Yes, sir.

Q And when was the first time that you went to any physician about the matter? A In the month of November--no, no, I am mistaken, in the month of January.

Q Now, then, between the time in November when she told you that she had missed her menstrual period, and the time when you first went to a physician about it, did you give her any medicines of any kind? A Yes, sir.

Q How many different kinds of medicine did you give her? A At the beginning she only used mustard and some Rochelle salts.

Q Was it you that brought that to her of your own initiative, or did you bring it to her after she had directed you to purchase it for her? A She would ask me to buy those things for her, and I would bring it to her.

Q And with reference to all of the pills that you gave her, before you first went to see a physician, did she also give you the names of those pills and ask you to buy them for her? A Yes, sir, I don't know the names of the pills. She would write the names on a piece of paper, and I would buy them for her.

Q Can you remember how many times she wrote names on pieces of paper for you of different kinds of pills? A Twice.

Q Now, before you started in to have intercourse with Elena in August of 1915, you had known her for how long before then?

A About six months before.

Q Had you ever given her any money before August 1915? A No, sir.

Q Did Elena ever tell you that she loved you?

MR. GILCOTT: I do not see how that is material.

MR. TROSK: I will show the materiality of that. It is highly material, I think.

THE COURT: I will allow it.

A Yes, sir.

Q More than once, wasn't it? A Yes, more than once.

Q Now the first time that you went to see the defendant, Mrs. Ventura, you told her, did you not, that you were the brother-in-law of a lady who had missed her menstrual period, and that this lady wants to determine whether or not she was pregnant, didn't you?

THE COURT: I think there are two questions there.

MR. TROSK: I will withdraw the question.

Q When you first came to Mrs. Ventura, didn't you introduce yourself as being the brother-in-law of a certain lady? A No, I said it was a first cousin to my wife that did this thing to this girl.

Q Didn't you also say to Mrs. Ventura upon that first occasion that this lady had missed her menstrual period, and she was desirous of ascertaining whether or not she was pregnant? A No, I told her that the girl told me that she was pregnant.

Q And when you came to Mrs. Ventura, didn't she ask you who recommended you, and didn't you reply to that that it was the husband of a patient of Mrs. Ventura's? A No, sir, I told her that

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it was Dr. Siragusa who sent me to her, which doctor cured a wife of a friend of mine.

Q Didn't Mrs. Ventura tell you that she would examine the lady that you were referring to, and that her fee for examinations conducted at her house was \$1, and for visits to the house of the patients was \$2? Didn't she so state? A No, sir.

Q In any event that first interview wound up by Mrs. Ventura telling you to have the lady call on her, didn't it?

A Yes, sir.

Q Now you told Elena to go there, didn't you? A Yes, sir.

Q And then after she had been there the first time you went again didn't you? A Yes, sir, in the evening.

Q And upon what occasion when you went to Mrs. Ventura's house after Elena had been there the first time, Mrs. Ventura told you that she could perform the operation for \$100, did she? A Yes.

Q Did Mrs. Ventura at that time when you went back to her, after Elena had been there the first time, did Mrs. Ventura tell you that she had examined Elena and that she could do the operation for \$100? A Yes, she wanted \$100, and we agreed for \$50.

Q Did she tell you that she had examined Elena, who had called on her, and that she wanted a hundred dollars for the operation?

MR. OLCOTT: What is that question?

MR. THOSK: Is it conceded that the witness answered yes, before?

THE COURT: You had better divide the question. There are two questions there.

BY THE COURT:

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Q Did she tell you that she had examined the patient? A Yes, she told me she examined the girl and she was pregnant three months and a half.

BY MR. TROSK:

Q Don't you know that the fact is that she did not examine Elena the first time that Elena called on her?

MR. OLCOTT: I object to that.

THE COURT: Sustained. That may or may not be true; it is for the jury to determine whether she told him that or not.

Q Now, then, after Elena had gone to Mrs. Ventura the first time, did you see Elena before she went the second time? A The next morning.

Q And the next morning after Elena had been to Mrs. Ventura the first time, did Elena tell you that Mrs. Ventura had examined her? A Elena told me that she had not examined her, because she wanted the money first.

Q But when you went back to Mrs. Ventura after Elena had told you that, Mrs. Ventura told you that she had examined her, is that so?

MR. OLCOTT: I object.

MR. TROSK: He testified that first he went to Mrs. Ventura, then he sent Elena there, and then Elena came and then told him something, and then he went back to Mrs. Ventura.

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MR. GICOTT: He did not testify to that.

THE COURT: I am not clear on that testimony; you may ask him once more. Ask him if he went back to this woman's house, after he made the bargain with her for \$50, and if that was not the last time he saw her.

Q (Question put to the witness as suggested by the Court)

A No, sir.

Q Mr. Puglia, let us understand this: You first went to Mrs. Ventura upon the occasion when you told her that you were recommended by Dr. Siragusa?

THE COURT: That he first went there with the girl and could not find her, and then he went without the girl.

Q You first went with the girl and you did not find Mrs. Ventura, is that right? A Yes.

Q Then you went alone without Elena, upon which occasion you did find Mrs. Ventura, and upon which occasion you had the conversation in which you told her that you went sent by Dr. Siragusa, is that so? A Yes. She asked me, "Who sent you here?"

BY THE COURT:

Q Did you see her after that? A I saw her the following night.

Q Saw who? A The midwife.

Q Then you saw the midwife twice, is that so? A Twice.

BY MR. TROSK:

Q Between the time that you saw the midwife when she told you to send the girl to her, and the second time you saw the midwife,

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you saw Elena, and Elena had already been to her, hadn't she?

A I saw Elena in the morning, yes.

Q And Elena told you she had been to the midwife, is that right? A No, sir, the first night I was to the midwife, I told her I was here today, and she was not in. I went in the evening about half past eight, and I find the midwife home, and I told her, I was here today at 12 o'clock and you were not in. The janitress told me I would find you in here this evening at half past eight, and I came here this evening." She asked me what is the matter, and I told her.

Q Did you see Elena then? A The first evening no, I didn't see her.

Q You went home to your own house after you left Mrs. Ventura?

A Yes, I went home to my house.

Q And then when did you see Elena? A The following morning.

BY MR. TROSK:

Q Now, it was that time, the following morning that you instructed Elena to go to the midwife, didn't you? A Yes.

Q Then when did you see Elena next? A I didn't see Elena any more that day, but in the evening I went over to the midwife's house and asked her, "Did you see Elena", and she said, "Yes, I examined her and she is pregnant three months and a half."

Q And then you saw Elena, didn't you? A I went there in the evening and the next morning I saw Elena.

Q Was it then that Elena told you that Mrs. Ventura had not examined her? A Elena told me that the midwife did examine her,

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and she was three and a half months pregnant.

Q Now, which is it?

THE COURT: We have been all over that. If there is any contradiction, it is in the record. You may ask this witness questions on any other point, but that matter, you have gone over.

MR. TROSK: That is all.

H I G H C A S S I D Y, (Third Branch Detective Bureau)

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

DIRECT EXAMINATION BY MR. OLCOTT:

Q You are an officer of the Municipal Police Force, is that so? A Yes, sir.

Q You in company with officer Enright went to this defendant's place on 15th street, and arrested her? A Yes, sir.

Q When was that? A On the 6th of November, 1916.

Q And you found her where? A 412 East 15th street.

Q That is in the City and County of New York? A Yes, sir.

MR. OLCOTT: Your witness.

CROSS EXAMINATION BY MR. TROSK:

Q Did you search the premises? A Detective Enright searched the premises.

Q In your presence? A Yes.

Q Did you find any wires? A No, sir.

Q Did you find any instruments? A Well, there was a bag found

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there containing bottles, and so forth, but I didn't see any instruments.

Q And certainly no wires? A There was no wire.

MR. TROSK: That is all.

(At this point Dr. Tanner is called in the corridor and does not respond.)

MR. OLCOTT: The People rest.

MR. TROSK: If the Court please, I move to dismiss this indictment on the ground that the People have not proven the commission of any crime by the defendant; on the further ground that the People have not proven the commission of the crime charged in the indictment, and on the specific ground that the People have not proven by credible evidence of a character sufficient for the jury to pass upon, the particular crime charged, and specifically that the complaining witness was pregnant, or quick with child, at the time of the commission of the alleged offense.

THE COURT: Motion denied.

MR. TROSK: Exception.

(MR. Trosk opens the case to the jury.)

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DEFENDANT'S CASE.

A N N A V E N T U R A, (412 East 15th street), the defendant called as a witness in her own behalf, being first duly sworn, testified as follows: Through Official Interpreter Villamena.

DIRECT EXAMINATION BY MR. TROSK:

Q Mrs. Ventura, how old are you? A Forty-five years.

Q Are you married? A Yes.

Q Do you know the complaining witness Elena? A Yes.

Q Do you know the witness Puglia who is on the stand?

A Yes, sir.

Q Which one of them did you meet first? A Puglia.

Q And when was the first time that you met Puglia, according to the best of your recollection? A I remember it was about the middle of the month of January.

Q January of this year? A Yes.

Q Where was it that you met him; at what place? A He came in my house.

Q What time of the day or night? A About half past seven or eight in the evening.

Q Did you have a conversation with him then? A Yes, he asked a few questions.

Q What was it he said to you, and what was it that you said to him? A I opened the door, and I seen this man. I said to him, "Who are you", and he told me, "The husband of a customer of yours sent me here." I said to him, "What do you want?" He

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said to me, "I have got a sister-in-law of mine who failed to have her menstruation, my brother being too busy, he cannot come, and he sent me here."

Q What next? A He asked me, "How much you want for your visit?" I said to him "\$1 if she comes here; if I have to go over to her house I charge \$2."

Q Is that all you can remember of this conversation between you and Puglia upon this first occasion when you met him? A (In English) Nothing else.

Q By the way, do you speak English? A (In English) No; a little bit.

Q Do you understand English? A Yes, sir.

Q Now, then, did Puglia upon that first occasion tell you why it was that his sister-in-law wanted to be examined? A Because her menstruation fails and she wants to find out what was the reason.

Q Now, after that and on the next day did the complaining witness Elena come in to see you? A The following morning about five o'clock Elena came.

Q How did she introduce herself? A I said to her, "Who are you?" And she said to me, "I am the sister-in-law of that man that was here last night, I want you to visit me."

Q By "visit me" you mean "examine me", do you not? A Examine.

Q Did you have any further conversation with her at that time? A I said to her, "Did you bring the fee for the examination, because I don't know you and I don't know your brother-in-law,

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and I make my living by examinations.

Q What else? A She told me she has not got any money and I said to her, you come back to-morrow, there is no hurry about this examination.

Q Before she left did you ask her anything at all with reference to her symptoms? A No, sir. I only spoke to her about two minutes.

Q After she left that morning who was it that you next saw, Puglia, or Elena? A Elena again.

Q And when was it that you saw Elena? A The following day Elena came to my house about nine o'clock in the morning.

Q By the way, I forgot to ask you, upon the occasion when Elena first called on you was anybody in your house? A Yes, sir.

Q Who was it? A A servant girl.

Q What is her name? A Annie Matzola.

Q Is she here in court ready to testify? A Yes, sir.

Q Now, then, you say the next morning Elena came again; about what time was it that she came? A Nine o'clock.

Q And at that time when she came were there any persons in your room other than yourself? A I was talking in the parlor room with my sister who comes from Newark, and this Matzola servant girl.

Q You were talking where? A In the front room.

Q You are a midwife, are you? A Yes, sir.

Q How long have you been a midwife? A From the time that I am in America, ten years.

Q And during all those ten years have you practiced mid-wifery in the City of New York? A (In English) Yes.

Q Now, then we come to the time when Elena called the second time at about nine o'clock in the morning; did you have a conversation with her upon that occasion? A Yes, the next morning I was talking with my sister in the front room when I heard the bell ring. I went to the back there and opened the door, and I saw it was Elena there. She said to me, "Good morning". I answered her "Good morning." She came in. I said, "Did you bring the dollar for the visit?" She said "Yes." She opened the pocketbook and left the dollar on the table.

MR. VILLAMENA: The witness thought the interpreter said that it was the brother that paid the money, but I didn't mention the brother.)

A (Continued) She left the dollar on the table.

Q Did you have any talk with her? A Yes, when I asked her, "How do you feel? What is the matter with you? How long did the menstruation cease to come?" She said "Last month." I told her, "What do you want to know?" She said, "I don't feel good because I took too much medicine." I told her, "Those medicines, they are no good, why do you take those medicines for?" And I took her in my bedroom in order to visit her, and this bedroom is next to the front room.

Q Before you took her into the bedroom to examine her did she tell you what sort of medicine she had been taking? A No, sir, pills, she said.

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Q Now, you say you took her into the bedroom. Then what happened in the bedroom? A After I had been in the front room she lay on the bed, she raised up the clothes herself and I saw that all of her underwear were all full of blood. Her underwear were open in the front and I said to her, "What is the matter, you are all full of blood?"

Q What did she say? A "I don't know," she said to me.

Q Well, after you told her that her underwear was all full of blood, what, if anything, did you do? A I took the water, I put that water in a basin. I put the basin under to her, and I started to clean her and I said to her, "I do not know if I could examine you, because I do not know if this is menstruation." I did examine her, I put my finger there, and I find out that the uterus was in good condition. I said to her, "You put this piece of cotton in", and she did that herself, and I could not exactly state now what brought this; she told me she took about 60 pills; I said, "And tomorrow I will be able to tell you better." I told her, "You come back tomorrow and I will be able to state, if it is menstruation, or whatever it is, this blood you got now." She said, "No, tomorrow I could not come down. You better come up to the house because two days I have been out of the house."

Q And then did she leave your house? A Yes.

Q Now, how long a time has she been in your house this time?

A You could imagine the time yourself. Put water in a basin

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and washing don't take no more than ten minutes.

Q The morning before when she came and she did not have the dollar, how long was she at your house? A The time it would take for you to say, "Did you bring the dollar for your visit?", and you answer "No." Then I said to her, "I don't want to wet my hands for nothing, you better go and come back."

Q Before she left the house the second time when you examined her did you express to her any opinion at all as to whether or not she was pregnant? A I said to her, "No, I could not exactly state if this is blood or menstruation or what; maybe it is blood that was brought about from the pills that you took."

Q Now, when you examined her did you make any comment to her at all as to the condition that you found her in?

MR. OLCOTT: Objected to.

THE COURT: What do you mean by that?

MR. TROSK: I refer to what I told the gentlemen of the jury in my opening.

THE COURT: It is immaterial what comment she made. The question is did she perform the operation that caused an abortion; that is the only thing we are concerned with. I will sustain the objection and I will not allow the witness to testify to that. Anything she told her about her condition as to pregnancy I will allow, but nothing else.

MR. TROSK: I take an exception.

Q Now, then, the next day did you call upon Elena at her home? A Yes, sir.

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Q What time of the day was it? A About half past nine.

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Q Was she all alone at home? A Sure.

Q Did you find her in bed? A No, she came to open the door and right alongside of her was a dog, about so big (witness indicating).

Q What, if anything, did you do or say to her upon that occasion when you called upon her at her home? A When I got in there I said, "I see you feel good." She said, "Yes, I feel good, only a little pain last night." I said, "Well, that is good. That don't show that you are pregnant, because if you were pregnant you would be in a terrible state." Then I said to her, "You want to be visited again?" She said "Yes." Herself, she went in the bath room, got hold of a syringe, put water in the syringe, and she came in the room and she sat on top of a trunk. I did wash her and I examined her again, and I find the uterus in the same condition as on the day before, just menstruation.

Q When you examined her the second time did you find that she was bleeding? A Yes, the menstruation.

Q And from your examination of the blood were you able to say whether the blood was the produce of ordinary menstruation or the result of the effect of the pills? A I could not state it exactly, if the menstruation was forced, or by the cause of taking those pills.

MR. OLCOTT: I object to what he could not state.

THE COURT: Objection sustained.

Q The blood that you found there were there any clots in it

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at all? A No, only blood.

Q Did you examine the uterus? A Yes.

Q What did you find? A (In English) Closed, very tight.

Q How did you examine the uterus, with an instrument, or with your finger? A With my finger.

Q And then after having examined the uterus, what did you tell her, if anything? A I said, "You haven't got nothing. This is a regular menstruation that you have"; and I said to her, "When your menstruation finishes, you take a dose of castor oil and that is all."

Q Did you go home then, did you leave? A Yes, sir.

Q Did you ever attend Elena professionally again? A No, sir.

Q Now did you ever give to Puglia any pills with instructions to give them to Elena? A No, sir.

Q Did you ever at any time use an instrument of any kind on Elena? A I haven't got any instrument; I never used any instrument.

Q Was there ever at any time any talk between you and either Puglia or Elena with reference to a hundred dollars or fifty dollars? A No, sir.

MR. TROSK: I think that is all.

CROSS EXAMINATION BY MR. OLCOTT:

Q I understand you to testify, Madam, that this girl was not at that time pregnant, and apparently had not within a reasonable time before the time you examined her, been pregnant, is that

right?

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MR. TROSK: I object to the question on the ground it presupposes testimony that has not been given. He is asking her if that was her testimony.

THE COURT: The question is somewhat involved, and if she does not understand it, it may be repeated.

(Previous question repeated by the stenographer.)

A What I could state is this: the girl was not pregnant and what she had was a regular menstruation that was taking its course.

BY THE COURT:

Q Had she been pregnant at any time before she came to see you, as far as you know? A What do I know.

BY MR. OLCOTT:

Q Can't you tell from your examination whether during the past week or so prior to the time you examined her she had been pregnant?

MR. TROSK: I object to the question as being totally immaterial and not within the issues.

THE COURT: I will allow it. Exception taken.

A A midwife could not say that. The doctor would be able to state that.

Q Well, could you tell? A No.

Q Didn't you state a moment ago that the uterus was distended? A The menstruation, yes.

Q From your experience as a midwife, would the uterus of a person who was or had been recently pregnant, have been

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in the normal condition you describe this girls to have been in?

MR. TROSK: Same objection. The issue is what her condition was at the time the witness saw her, not what she may have been in at any time prior thereto.

Question allowed. Exception taken.

A No, I could not state. You may ascertain that by some instrument in looking at the uterus. That is a doctor's business.

Q You have a great deal of experience, haven't you? You have a number of patients? A Yes, taking children, that is the experience, I got.

Q How many people are you in the habit of treating, both in the case of actual deliveries, and examinations during, we will say, a month? A Ten or twelve, according.

Q Do I understand that that is all that you have on an average; haven't you a much larger business than that? A That is all.

Q You have ten or twelve deliveries a month on an average, isn't that a fact? A Yes.

Q And during the time that those people are about to be delivered, and other people, a great many people come into your office every day, don't they; for one purpose or another? A Yes, yes.

Q And most of them are Italians and speak to you in Italian, and you speak to them in Italian? A Yes.

Q Do I understand that your recollection of the date is sometime towards the middle or end of January, when you saw this young woman Elena? A Yes; in the first fifteen days of January.

Q She states it is the 25th of January, and you dispute that as to the date, is that right? A I don't remember well, but I do remember this, that the festival of Ephifany just passed a few days.

Q Do you keep any notes of the people who come in and what you do for them, any book? A No, sir.

Q You keep no records of the treatment of patients that come in to see you is that right? A No, sir.

Q Is there anything about this girl's call on you which excited your suspicion or made you take any mental or actual notes of her visit? A No, sir.

Q Did you know the man who came in to see you, Puglia, or this girl before that time? A No, sir.

Q Have you seen them since that time, except in court?
A When I saw them in court, that is all.

Q So that from the time in January, whatever the date may be, until your arrest you didn't know that there would be any reason to especially remember what happened when Elena came into your place, is that right? A No, sir.

Q They came in just as hundreds of other people came in, is that right? A Yes, sir.

Q And do you want this jury to understand that you could

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remember word for word as you recited to this jury what conversation you had with this girl and with this man; is that what you want us to understand? A Yes, that is what I remember because you are looking at the person, and things come up to your mind.

Q And from the time in November, or late in October, the day of your arrest, you are able to look back on the events of January 25th and say exactly who was present, at what time this girl came, and just what you said to her, and what she said to you, is that right? A I remember that very well.

Q This maid of yours, or the woman that you describe as your servant, she has been with you a long while, hasn't she?

A Six years.

Q And in talking with her was there any way that you could fix a date or the time as to where she was and where you were when this young girl came in to your place, Elena? A Yes, sir, sure.

Q She only saw her for a second at the door, as far as you know, is that right? A Yes.

Q And you have no difficulty, you want us to understand, in making her remember that one occasion, and fixing a time for that, is that right? A Yes, because the very next day when this girl came in and I was sitting in the front room with my sister, and this Annie Matzola, when this girl came in, after she went out I said to them, "You know who it was that came in just now, the girl that was here yesterday, that didn't have the dollar for the visit."

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Q And that was a matter for you to comment on, and for you and your sister and this maid to remember in November, is that right? A Yes.

Q Now, your sister comes over to visit you quite often, doesn't she? A Twice a week.

Q As a matter of fact you support her, don't you? A No, she is married.

Q Don't you give her money from time to time? A Why should I give her money?

Q I am asking you? A The husband is making a good living and she has not got any children.

Q Where do they live? A In Newark.

Q She comes over about twice a week, is that right? A Yes, sir.

Q Just to visit you, is that right? A Yes, sir.

Q And how often did you visit her? A She comes and has breakfast with me and then she goes.

Q How often do you visit her? A I could not go to my sister to visit her, because I got two children. They get sick on the train from traveling, and that is the reason she comes over to see me.

Q The only time you ever saw this man Puglia was once, is that right, except when you saw him in court lately? A Yes, sir.

Q You told us what he said to you and what you said to him when he came there? A He came there and said to me, "A sister-in-law of mine, the wife of my brother, he could not come here because he is very busy and she wants to be visited because

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she did not have her menstruation, we don't know what is the matter with her,-- if she is not got her menstruation, or if she is pregnant, you make a visit to her", and I answered to him "Yes", and he said "How much would she bring?" And I said, "One dollar if she wants to be visited here and \$2 if I have to call at her house."

Q You told him the prices? A Yes, sir, because he asked me.

Q And that was before this girl came down, is that right?

A Yes, sir.

Q Is that the only conversation you had with him? A Yes, sir, I sent him away right away, because it was supper time for me, and I wanted to get my supper. I didn't even light the gas.

Q Did he tell you he lived away up town? A No, sir.

Q Did you know where he lived? A No, sir.

Q When did you first find out where either the girl or the man lived? A Elena left the address to me when she requested me to go up to her house to make a second visit.

Q You know now where he lives, don't you? A I don't remember.

Q Isn't it a fact you just went to his house last week?

A I know that he lives uptown. No, sir, I don't know where he lives.

Q Didn't you try and get in touch with him through this gentleman who is standing here in the court room, to speak to this defendant (indicating a Mr. Rinaldi)? A Which man?

Q That gentleman here, Joseph Rinaldi (indicating)? A I don't know him.

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Q Did you not go to Mr. Rinaldi's house within the last week or so? A No, sir.

Q Sure of that? A Sure.

Q Did you see him within the last week anywhere; Mr. Rinaldi I am talking about now? A No, no, I don't know him.

Q You didn't go to his house and you did not telephone to his wife during the last week? A No.

Q You are absolutely positive of that are you? A Sure, certain.

Q And you didn't go with Luigi Puglia last week, or within the last ten days? A No, sir, I was afraid to go near him, not only that I should go to see him.

Q You were not afraid of this gentleman Mr. Rinaldi, were you? A I don't know him.

Q Now, when this little girl came in to see you she spoke your language and you had no difficulty in understanding her, did you? A Yes, I can understand what she said because she speaks good Italian.

Q Did she explain to you what she wanted to have done?
A She wanted me to make an examination because she did not have menstruation, because she did not feel well.

Q Why, she was having it at that time, wasn't she? A I do not know that she had menstruation.

MR. TROSK: The testimony is that the witness first found the complaining witness to be bleeding, not on the occasion of her first visit when she did not examine her

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at all, but on the second occasion.

Q Well, on the second occasion, or on either occasion, you had no trouble in understanding her, is that right? A Sure.

Q She told you that she wanted an examination, didn't she?

A Yes.

Q She made no improper request of you of any sort, did she?

A No.

Q Didn't you think it peculiar that a man should come all alone and ask you about a case before she came there when nothing improper was asked you? A No, it was nothing suspicious; no doubt about it because he told me this was the wife of his brother.

Q But he did not bring her at that time and ask you to examine her, did he?

MR. TROSK: Objected to on the ground these questions are argumentative.

Question withdrawn.

MR. TROSK: I object to this entire line of examination on the ground it is purely argumentative. The District Attorney is arguing with the witness.

THE COURT: The District Attorney has a right to endeavor by his questions to bring out what really happened at that visit. The exact phraseology of the question is not the important thing. I think the examination is along proper lines. The complaining witness has given one version of the affair, and this witness gives another.

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The jury must decide between them. A witness may be cross examined in any way that will bring out the truth. Of course he has no right to argue with the witness. He must put questions to her and let the jury determine.

Q Isn't it a fact that this man came to you in the night-time without this woman and asked you if you would examine her, a perfectly proper request? A Yes. I found nothing bad in it.

Q Isn't it a fact that this girl came the next day and that you could understand her perfectly, and that she could make and did make the same request? A Yes.

Q On the third occasion, on the third day this girl said she wanted you to examine her then too, didn't she? A She came twice.

Q On the second occasion she asked you, and you did examine her, isn't that a fact? A Yes, sir.

Q Did she tell you at any time, either that day or the day before why she wanted you to examine her? A The first day I said nothing to her because she did not bring the money with her. I said "Go way". The second day I asked her a question.

Q On the second day what question did you ask her and what answer did she give? A I said to her, "What is the matter with you?" she said to me her menstruation is missing and then she told me that she took so many pills and she wanted to know if it was the effect of the pills, what was the matter with her

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uterus.

Q She told you that she was not menstruating, is that right?

A She told me, "The last month I did not have menstruation, my blood did not come."

Q Did she tell you that that condition was still continuing?

A Yes; she did not know that she had the blood on.

Q How much blood was there? A Only the drawers, a little bit dirty on each side, (indicating), just exactly as when the menstruation begins.

Q Didn't you say in answer to your counsel that she was all covered with blood down there? A I said to her, "Yes, you get the blood, you get the menstruation, you could not be pregnant."

Q So at that time she had menstruation, is that right? A Sure.

Q And you told her that she had menstruation, and that she could not be pregnant on that very occasion, is that right?

A After I examined her I said to her, your uterus is the uterus of a mustruant, one that is not menstruation."

Q Didn't you say in answer to your counsel that you told her that you could not tell, that as a matter of fact, you could not tell, and that is why you went up to her house the next

day? A Yes, I said to her she had the blood, but I could not tell exactly if it was her menstruation, or if this menstruation was brought about by the medicine she took, and that is the reason why I said to her, "I want to visit you once more tomorrow."

Q Which is true that you diagnosed her case then and there and

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told her that she was menstruating and could not be pregnant, or that you told her that you didn't know and would have to see her tomorrow. Which of those two statements of yours are facts?

A I said to her, "This blood that you got now shows to me that it is menstruation, but I could not tell you that exactly now, if the blood of menstruation, because your uterus is small, is tight." Any way I said to her, "Tomorrow we will examine you again, and we will find out then tomorrow." When I examined her I found she was in the very same condition she was in the day before.

Q Still bleeding? A Yes.

Q What was there about the atmosphere of 118th street that enabled you to examine her and find out more exactly than you could find out in 15th street; anything? A Well, if it was a menstruation, as in fact it was menstruation, the uterus must be in the very same condition; in fact it was in the same condition.

Q Is there any reason why she should not have come down to your place the next day? A She told me that she could not leave because she was working on embroidery. She left there twice to come downtown, and she could not come the third time.

Q And she understood at that time, didn't she, and you told her it would cost \$2 for you to come uptown, and one dollar for her to come down to you? A Yes, but she did not pay me the second time.

Q You did not get paid the second time? A No.

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Q No money passed on the second occasion? A No.

Q Well, what did you say about the money when you came up to the house, anything? A I said to her, "If you want me to come up here, let me have my fee." She said, "Yes, I will send it to you down to the house."

Q After she paid you the \$1, she said that she would pay you the \$2 later, is that right? A Yes.

Q You would not even look at her or speak to her before she paid you the first dollar, that is right, isn't it? A Yes, I said to her, "I will not wet my hands for nothing", the first time.

Q Did you say anything of that sort to her on the second occasion? A Bona fide I thought she would pay me.

Q You never had any conversation with Puglia about the \$50, did you? A No, sir; he was drunk when he came to me. He was smelling of wine.

Q That was the first occasion? A Yes.

Q The only occasion? A Yes, sir.

Q He did not say anything about Seragusa then did he, no such name mentioned? A No.

Q Do you know any such man as Seragusa? A I don't know him. He has got a drug store on 15th street.

Q You know that, don't you? A Yes.

Q He is not very far from where you live? A No, just around the corner (In English). Q That is a druggist there, and you are a midwife, and you don't know him, is that right? A (In English)

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No, I know.

Q What is that? A No, sir, I never go in his drugstore, because he sells very dear.

Q But you know there is such a man there, is that right?

A Yes, sure, his sign is up there.

Q It is an Italian neighborhood, and you have lived there for a long while, a neighborhood where Italians live? A Only one year I live in that house.

Q Where did you live before? A On first avenue.

Q How far away from where you live now? A Corner of 16th street.

Q Right in this neighborhood? A 16th street.

Q Around the corner from where you now live? A 16th street, not 15th street, then half a block.

Q And half a block further or perhaps a block further from Seragusa's drug store than where you now live, is that right?

A I did live on First avenue Seragusa is in Avenue A.

Q But you never had any conversation with Puglia about \$50 and the difference between \$50 and \$100 on the only occasion that you saw him, as you say? A Never, never.

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

Q Or give him any instructions about what this girl should do or anything to tell this girl other than to come there to your place? A No, sir; there are no instructions to be given, because he only says he wants me to make a special visit, a single visit.

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Q What do you mean by a special visit? A It was nothing extraordinary.

Q A thing that happens almost daily among the Italians, an examination by a midwife, and you are often acting as a midwife, isn't that a fact, according to your story? A Yes.

Q Now, I ask you again was there anything that particularly attracted your attention to this girl, or this man that would make you remember just what happened? A No, sir.

MR. OLCOTT: That is all.

RE-DIRECT EXAMINATION BY MR. TROSK:

Q You have no regular office hours, have you? A No, sir.

Q Now, this complaining witness Elena, when she came to you how old did you think she was when looking at her?

MR. OLCOTT: Objected to.

THE COURT: Sustained.

MR. TROSK: I am only asking this apropos of what there was in the situation to make this defendant remember the occurrence.

THE COURT: Objection sustained.

Exception taken.

THE COURT: The jury saw the complainant on the stand.

MR. TROSK: District Attorney Olcott asked the witness whether there was anything in connection with this entire incident that would tend to fix it in her mind. I am going to develop that.

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THE COURT: You may ask her that. I will not allow you to ask the question that you ask now. You may ask that question that Mr. Olcott put to her, you may give her a chance to make a further explanation as to what helped her to fix this incident in her mind.

MR. TROSK: Mr. Olcott asked her that a number of times and she said nothing. Now I want to get at the thing indirectly. I will not put anything into her mouth at all.

THE COURT: She said nothing, and you may refresh her recollection on that if you wish to question her.

MR. TROSK: Yes, I do not want to do it directly by putting words into her mouth, but I want to develop certain things which occurred, and then show and let the jury pass upon the question whether those were not enough to make this thing stick in her memory.

Q Now, when the girl came how old did you judge her age to be?

MR. TROSK: That is a question I will put to her.

Q Now, when this girl came to you how old did you just judge her age to be by looking at her? A Seventeen or eighteen years.

Q Now, then, when you came to examine her, that is to say, when you examined her private parts, her vagina, what if anything did you observe with reference to that? What did you notice with reference to the condition of the vagina? A She had a big vagina.

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Q Was there anything in that condition of affairs, that is to say, was there anything in the comparative condition of her facial appearance, which you say indicated that she was about seventeen years old, and the size of her vagina, which served to fix the incident in your memory? A Yes, sir.

Q What was it that made the thing stick in your mind? A I am impressed in my mind by the fact that she was such a small girl, and she had such a large vagina. She looked as if she was the mother of many, many children.

Q Is there anything the matter with your eye-sight, Mrs. Ventura? A Sure, it is good.

Q Do you know this gentleman, Mr. Rinaldo (indicating)? A No.

Q Did you ever see him? A Now, I see him here.

THE COURT: I think we will adjourn at this point.

(4:30 p. m.)

Meanwhile you must be very careful not to discuss this case among yourselves, nor with any one else. Do not talk about it with any one. If any one should talk about it to you, you must notify the court. You must keep your mind open on the question of the guilt or the innocence of the defendant, until you hear all that is to be said on both sides, and until the case is submitted to you by the Court for your decision. That is the time to make up your mind and not before that. You may go until half past ten tomorrow morning.

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New York, December 22nd, 1916.

J O H N B. C O P P O L A, (1861 Lexington avenue) called as a witness on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TROSK:

Q Mr. Coppola, how old are you? A I am thirty years.

Q What is your business? A An attorney and counselor at law.

Q Admitted to practice in what State? A In the State of New York.

Q How long have you been practicing? A About four years.

Q You are the attorney of record for this defendant in this proceeding, are you? A I am.

Q Have you ever met the complaining witness, Elena? A I saw her at the Magistrate's Court once.

Q Is that the first and last time you ever saw her there? A I saw her there for the first time, and I saw her here in this court room again.

Q Upon the occasion when you saw her in the Magistrate's Court what court was that? A Fifth District Magistrate's Court.

Q Located where? A 170 East 121st street.

Q Was that upon the occasion of the arraignment of the defendant before the Magistrate? A It was.

Q Did you represent the defendant there? A I did.

Q Did the complaining witness testify there before the Magistrate? A She did.

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Q Were you there throughout the whole of the time when she testified? A I was.

Q Did you cross examine her? A I did.

Q Were you there throughout the whole of the time that she was cross examined? A I was.

Q Is it not a fact that upon that time upon the occasion of the hearing before the Magistrate that you just referred to, you asked her?

MR. OLCOTT: I object to this.

THE COURT: I will allow him to ask the question.

Q Is it not a fact that upon that time, upon the occasion of the hearing before the Magistrate that you just referred to, you asked her how long she was at the house of the defendant upon the occasion of her first calling there and she answered "Only a few minutes"? A Yes, sir, that is right.

Q Is that the fact? A That is the fact.

Q Is that what she swore to? A Yes, sir.

Q At that time she was under oath, was she not? A She was.

Q Is it not a fact that upon that occasion you in cross examining her asked her what instrument, if any, she claims were used upon the occasion of her second visit to Mrs. Ventura, by Mrs. Ventura, and that she then said, "The only instrument used was a thin wire."

A That is right.

MR. OLCOTT: I object to that.

THE COURT: Question allowed. The jury will have to determine whether there was any contradiction or not.

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MR. OLCOTT: I am objecting to the form of the proof as to the testimony in the Magistrate's Court.

THE COURT: Any one can testify he heard her testify there. You can ask the witness, if you want to, to contradict him.

Q Did she or did she not so testify? A She so testified, and I asked her very distinctly--

THE COURT: That will do now. You are asking a simple question. The jury have her word that she did not, and his word that she has. Now, they can take their choice. They will decide who is telling the truth, or whether there is any contradiction, whether the girl may not have testified, as she says, in answer to certain questions.

MR. TROSK: I think that is all.

BY MR. OLCOTT:

Q Did you refresh your recollection from anything, any paper, or any memorandum, or anything that you had? A I looked last night at my minutes. At least, the notes that I took down at the Magistrate's Court.

BY THE COURT:

Q You never got the minutes of the Magistrate's Court trial?

A No, I went there this morning to subpoena the stenographer with the minutes, and the Judge said he would not allow him to come down, excepting between one and two, if Judge Mulqueen wanted them he would send them down with them.

Q You could have served a subpoena on him? A I did serve him.

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Q Who was the Judge? A Judge Groehl, I think. I served him with a subpoena, and I gave him a dollar fee, with it.

THE COURT: Did you make an affidavit to that effect?

MR. TROSK: Yes, here. (Hands paper)

THE COURT: (Addressing the Captain of the Court Officers) Just telephone up there for him to come down at once, or I will send an attachment for him.

MR. OLCOTT: That is all.

HENRY SPITZER (249 West 139th street) a witness called on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TROSK:

Q I understand you are a physician, is that right? A Yes, sir.

Q Duly licensed to practice medicine in the State of New York?

A Yes, sir.

Q When did you graduate from the medical school? A In 1884.

Q How long have you been practicing medicine in New York State? A Since then.

Q Have you any hospital connections now? A Yes, Metropolitan Hospital.

Q Do you specialize in any particular branch of medicine or surgery? A Gynecology.

Q You mean by that diseases of women? A Yes, sir.

Q In connection with that you have necessarily specialized in obstetrics, have you not? A More or less.

Q And understand and have made a special study of pregnancy

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and its attendant conditions? A Yes.

Q You have also some time ago held the position of lecturer at the Post Graduate Hospital? A Instructor at the Post Graduate Hospital.

Q In the study of gynaecology? A Yes, sir.

Q Now, then, Doctor, assume that a young girl, about seventeen years of age, or sixteen years of age, menstruates on or about October 28th, that she misses her period in November, and misses it in December, would it be possible for a medical practitioner from those facts alone to say with reasonable certainty whether or not she was pregnant? A Positively no.

Q Sir? A Positively not.

Q Assume the facts that I assumed in the previous question, with these additional facts, that shortly thereafter and within two or three weeks, the womb, the vaginal cavity is palpated with the fingers, and the uterus palpated and explored, could it be told with reasonable certain at that time whether or not the patient were pregnant? A It could not, no.

Q Assume that the period of gestation had advanced three or three and a half months, would it be possible at such a stage to be able to detect pregnancy by a manual, or by manual examination of the vaginal cavity and palpating the uterus? A Not with any certainty.

Q Now, Doctor, assume that a young girl about sixteen or seventeen years of age menstruates last on October 28th, and that she misses her period on November, misses it in December, and

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then in January, and in the latter part or in the middle part of
January she goes to a midwife, or a physician, if you will, and
assuming also that she is then--

MR. OLCOTT: I object to the question because it in-
volves going to a certain person.

(Question withdrawn.)

Q. Assume that a young girl of the age that I have mentioned
last menstruates on October 28th, misses her menstrual period in
December, and then in January she goes either to a physician or
a midwife, would it be possible for any person, be he either a
medical practitioner or a layman, to effect an operation upon that
girl with the aid only of a thin wire?

MR. OLCOTT: Objected to.

THE COURT: I will exclude that question. It is not
based upon the testimony.

MR. TROSK: I take an exception.

Q. Assuming, Doctor, that the period of pregnancy has advanced
three to three and a half months, would it be possible for any
person, either lay or medical, to bring about an abortion when
the only instrument used was a thin wire?

MR. OLCOTT: I object to that. No evidence that a
thin wire was used.

Objection sustained. Exception.

MR. TROSK: In order that I may not be misled, of
course it is my intention to call the stenographer, when he
comes, and I expect to have him corroborate Mr. Coppola as

to the complaining witness's testimony before the Magistrate.

THE COURT: That is not any proof that it was true. The testimony here is that an instrument was used to dilate the vagina, and then that a wire was inserted.

MR. TROSK: Yes, that is true.

THE COURT: No fact can be proved by any statement made elsewhere, except in the nature of a confession by the defendant. You can prove that. The only purpose for which you can call the stenographer is to show that she made conflicting statements in your opinion, and it is for the jury to determine whether those statements conflict, whether there is a material contradiction and whether they will give it any weight or not.

MR. TROSK: But the jury may find as a fact that the only instrument used was a wire.

THE COURT: Not from the evidence in this case. Your client says she used nothing. The person who claims she did, said she used the articles mentioned by her in her testimony.

MR. TROSK: Assuming that everything that the complaining witness says is the truth, even then it would be impossible to effect an abortion.

THE COURT: Well, you can base a question on that. The jury cannot find any facts without evidence, and there is no evidence here that only a thin wire was used. The testimony is that some other instrument was used to dilate



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the womb and after that had been in for some time, then a wire was inserted in the womb. The former evidence is for the purpose of attacking her credibility only. The jury may find that there is no contradiction between her testimony in the Magistrate's Court and her testimony given here, or no contradiction to which they will attach any importance or weight. The testimony here is the testimony she has given on the stand. This case must be decided on the evidence given here, and the only purpose for which any other statement can be used is to contradict the witness, if there is any contradiction, and then the jury may determine how much weight they will give that.

MR. TROSK: Exception.

BY THE COURT:

Q A young girl of sixteen years can become pregnant if she has intercourse with a man for six months or so? A Yes.

BY MR. TROSK:

Q Assuming that a young girl last menstruates on October 23th, and that she misses her menstruation in the month of November, and misses it in the month of December, and that she is in fact pregnant, would it be possible in the latter part of the month of January, be he lay or medical, to effect an abortion upon that pregnant woman, with the aid only of a finger or fingers, but no instrument?

MR. OLCOTT: Objected to as not the best evidence in the case.

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THE COURT: Objection sustained.

MR. TROSK: The defendant said she only explored the womb.

THE COURT: I exclude that.

Exception taken.

THE COURT: If they do not believe this girl's story they will acquit the defendant. If they do believe her story they may take it in connection with all the other evidence in the case, and determine whether or not the defendant committed the crime charged in the indictment.

A N N I E M A Z O L A (188 First avenue) called as a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. TROSK:

Q How old are you? A Twenty-four, going on twenty-five.

Q Keep your voice up, please. Are you married? A No, sir.

Q Do you know Mrs. Ventura, the defendant? A Yes, sir.

Q This lady here (indicating) A Yes, sir.

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

Q Do you work for her? A Yes, sir.

Q What sort of work do you do for her? A Cleaning.

Q Do you live with her in her home? A No, sir.

Q How long have you been working for her, in the way you have said? A Well, about five years.

Q Do you come to her house to work every day? A Yes, sir.

Q When do you usually get there in the morning? A Well, I

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haven't got the exact time. Sometimes half past seven, sometimes quarter to eight and the latest is half past eight.

Q When do you usually leave in the evening? A There is no exact time. Sometimes one, sometimes six. It depends when I get through with my work.

Q Did you ever see this young lady (indicating complaining witness)? A I saw her once personally.

Q You did see her? A Yes, sir.

BY THE COURT:

Q When? A I saw her in the beginning of January.

Q That is a year ago, almost? A Yes, sir.

BY MR. TROSK:

Q Where was it you saw her? A In Mr. Ventura's house.

Q Now about what time in the day was it? A Well, I could not exactly say. It might be a quarter to nine or nine o'clock something like that.

Q Tell us all that happened that day in connection with your seeing this young lady?

MR. OLCOTT: ~~Objected to as immaterial, and indefinite.~~

THE COURT: I will exclude it.

Q How did it come to pass that you saw her?

BY THE COURT:

Q Where did you see her? A I saw her in the kitchen, in the back of Mrs. Ventura's house.

Q You did not let her in? A No, Mrs. Ventura did.

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Q I do not want you to tell me who did. You did not see her come in? A Yes.

Q You saw her in the kitchen? A Yes.

Q Was defendant there, Mrs. Ventura? A Yes.

BY MR. TROSK:

Q Did you talk to the young lady? A No, sir.

Q Did you overhear anything that the young lady said to Mrs. Ventura, or that Mrs. Ventura said to the young lady? A I could not hear nothing the first time.

Q The first time you mean upon the occasion when she first came up? A In the morning, yes.

Q Anyway, you did then see her? A Yes, sir.

Q Well, now, the day after you saw her the first time were you at Mrs. Ventura's house in the morning again? A Yes, sir.

Q Was there anybody else there in the morning? A Yes, sir.

Q Who was it? A Mrs. Ventura's sister. I and her and Mrs. Ventura.

Q Mrs. Ventura, Mrs. Ventura's sister and yourself? A Yes, sir.

Q And about what time was it that Mrs. Ventura's sister came that morning? A I could not exactly remember; it was about half past eight or a quarter to nine I think.

Q Around that time or rather shortly after Mrs. Ventura came, or rather Mrs. Ventura's sister came, did the bell ring? A Yes.

Q And at the time that the bell rang, where were you, Mrs. Ventura and Mrs. Ventura's sister? A In the front room.

Q Do you know who went out to open the door? A Mrs. Ventura.

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Q Now after Mrs. Ventura went out to open the door, tell us what you heard or saw?

MR. OLCOTT: I object to that as indefinite.

Objection sustained. Exception taken.

Q After Mrs. Ventura went out to open the door did you hear her come back or did you see her come back? A I saw her come back.

Q Did you hear her talking to anybody? A No, I did not.

Q Did Mrs. Ventura then close the door between the front room in which you and her sister were?

MR. OLCOTT: Objected to as leading.

MR. TROSK: That is the only way that I can get it before the jury.

THE COURT: I will not allow it.

Objection sustained. Exception.

Q After Mrs. Ventura went out from the front room to open the door did she come back?

MR. OLCOTT: I object to that.

THE COURT: She has answered that; I will allow it.

A Yes, sir, she came back.

Q Now tell us what occurred after she came back?

Objected. Allowed.

A Mrs. Ventura came back and closed the door.

Q Closed what door? A The front room door that leads to the bedroom. She lit the gas, and about a few minutes after, about two minutes, no more than two minutes, I heard Mrs. Ventura say--

MR. OLCOTT: I object to that.

THE COURT: I will exclude that.

BY THE COURT:

Q Just tell us what you saw. Did this girl come into the room at all? Did you see the person that came in when the bell rang?

A No, sir.

Q She went into the bedroom? A Yes.

Q And Mrs. Ventura closed the door and went into the bedroom with her? A Yes, sir.

Q That is all you saw? A Yes, sir.

THE COURT: I will not allow her to say what Mrs. Ventura said.

MR. TROSK: I am going to follow this up by having the witness identify the person who was in the room. She saw her afterwards, she saw her leaving the house.

THE COURT: I will grant that she will testify that she saw this girl leave the house and leave the room, but still I will not allow you to say what you overheard Mrs. Ventura say.

MR. TROSK: What she said to the complaining witness Elena?

THE COURT: No.

MR. TROSK: For the purpose of contradicting Elena?

THE COURT: No, it is immaterial. It is a collateral matter.

MR. TROSK: Your Honor does not mind if you just hear

me a moment on that. Your Honor will at least recall in my opening. --

THE COURT: I heard what you said to the jury in your opening, and I told you I would not let you prove that. If you merely wish to repeat that statement I will tell the jury it is not material, it is a collateral matter.

MR. TROSK: The complaining witness Elena denied that upon the occasion when Mrs. Ventura first examined her, Mrs. Ventura explained to her, Elena, "Why, young woman, you are full of blood. Your underclothing is all full of blood."

THE COURT: I will not allow that statement to be put in evidence. I will tell the jury to disregard it. That is no proof whatever of the fact, even if she said that. She might have said that and it be absolutely untrue. She might have said that for the purpose of being overheard by some person to testify to in case of trouble. Mrs. Ventura testified on the stand, the jury heard her, and they are going to say how much weight they will give her testimony in connection with all the other testimony.

MR. TROSK: I take an exception.

THE COURT: The jury, I know, will take the law from the court on that. If this girl saw the underclothing herself, she may testify to its condition, if she wishes. That is, saw it before the interview with Mrs. Ventura.

MR. OLCOTT: There is no such claim that the witness saw it.

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BY MR. TROSK:

Q After Mrs. Ventura lit the gas, was the gas thereafter turned out?

MR. OLCOTT: Objected to. This witness did not see the gas.

MR. TROSK: It is proper to elicit from her how long that person was in that room with Mrs. Ventura.

THE COURT: You may ask her that.

BY THE COURT:

Q How long were you in the room with the girl Elena; you said you heard the bell ring and the door closed, and you saw the girl come out, you say? A It was no more than about eight or ten minutes.

Q You did not look at your watch? A No.

Q That is just your opinion? A Yes.

MR. TROSK: That is all.

CROSS EXAMINATION BY MR. OLCOTT:

Q A great many people come in to see Mrs. Ventura? A That same very day?

THE COURT: Why cross examine her? She has not testified to anything.

MR. TROSK: I except to your Honor's remark to the effect that the witness testified to nothing, on the ground that it is highly prejudicial against my client.

THE COURT: Nothing in addition to what has been testified to by the other witnesses, Mrs. Ventura, for instance.

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Q Did you have any watch at all? A Well, there was a big clock in the room.

Q Did you notice the clock? A I just figured out.

Q When did you figure it out? A That same very day.

Q Why did you figure out how long that girl was there? Was there anything particular about it that made you figure the time?

A No, there were no particulars.

Q Why did you figure the time? A I think it was not any more than eight or ten minutes.

Q Do you know? A That is the way, I think.

BY THE COURT:

Q Why did you think about it at all, about the time? Why did you figure the time at all? There were fifty people coming there a day, weren't there? A Yes, sir.

Q Why did you figure the time in this particular one case, or do you figure the time of every one that is in that house? A No.

BY MR. GICOTT:

Q Why did you do it in this case? A I did not count the time.

Q How can you say a year afterwards how long a girl was in the room, if you did not figure the time then? A I did not figure the time; I could figure it, it was no more than eight or ten minutes.

Q But you are willing to swear now, after a year, that of fifty girls that came into that place on or about that time, one stayed a certain time? A That is the only girl I saw all day because I went out.

Q You work with Mrs. Ventura? A Yes.

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Q And you help her in that work? A Yes, sir.

Q And have been for a long time? A Yes.

Q And are depending for your living with Mrs. Ventura? A Yes.

Q And you talked about this matter with Mrs. Ventura just recently, didn't you? A When?

Q Just recently within the last week or so? A No, just yesterday.

Q Didn't Mrs. Ventura tell you to say it was only eight or ten minutes? A Yes.

Q Did you volunteer that? Did you tell her the time, that it was eight or ten minutes? A She asked me, "Can you figure out how long the girl stayed?" so I said, "I don't think it was more than eight or ten minutes."

Q And it was yesterday that you did that figuring? A Yes, sir.

BY MR. TROSK:

Q Of course there are a great many women, young and middle-aged who come to see Mrs. Ventura, aren't there? Isn't that right?

A Yes.

Q Now, what the Judge and Mr. Olcott want to know is what was there about this particular young woman, that is to say, about Elena, what was there about her, or anything that happened, that made you remember her visit? A Because eight or ten minutes later Mrs. Ventura came into the room and said, "You saw who that girl is?"

MR. OLCOTT: That is objected to.

THE COURT: I exclude that, what Mrs. Ventura said.

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MR. TROSK: Your Honor will note that Mr. Olecott opened this inquiry himself. He wanted to learn from the witness as to what there was about this incident that fixes it in her mind now, if a certain remark was made at the time, why isn't that as cogent a reason as anything else for fixing the event in her mind?

Q The Judge has ruled that you are now allowed to say to the gentlemen of the jury what it was that Mrs. Ventura said, but the point is, was it what Mrs. Ventura said about the girl that made you remember this thing? A Yes, sir.

MR. TROSK: That is all.

G F R O L O M A C A L I F U R I, (Newark, New Jersey) called as a witness on behalf of the defendant, being first duly sworn, testifies, through Official Interpreter Villamena, as follows:

DIRECT EXAMINATION BY MR. TROSK:

Q You are a sister of the defendant, are you? A Yes, sir.

Q And are you married? A Yes, sir.

Q Where do you live? A 50th street, North, Newark.

Q Are you friendly with your sister? A Sure.

Q How long have you been living in Newark? A Four years.

Q During that time have you been coming to New York to see your sister, the defendant? A Twice a week always.

Q What time of the day do you come? A Whenever I feel like it.

Q As a general rule, ordinarily what time do you leave your

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house to come to your sister? A Sometimes at seven, sometimes at eight, sometimes at a quarter to eight, so I reach my sister's house about nine o'clock in the morning.

Q You know this young lady, the previous witness, Mazola?

A Yes, sir.

Q She works for Mrs. Ventura, does she? A Yes, sir.

Q Do you remember coming to the house one morning in January of this year, 1916? A Yes.

Q And finding in the house at the time Mrs. Ventura, and this young lady, the previous witness? A Yes.

Q Do you know the complaining witness at all? (The complaining witness is directed to stand up, which she does? A No.

Q Did you ever see her at Mrs. Ventura's house? A No, sir.

Q Do you remember an occasion in January of this year when you were at Mrs. Ventura's house, and while you were there she was closeted in the room next to the front room, with a patient?

MR. GILCOTT: I object to that.

THE COURT: I will exclude that.

MR. TROSK: I take an exception. Does your honor exclude the whole line of inquiry?

THE COURT: I exclude that question because she does not identify her. She has probably been there when there were other patients in the room. This woman does not know the girl she said.

MR. TROSK: Exception. That is all.

MR. GILCOTT: No question.

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MR. TROSK: With the exception of the stenographer, that will be the defendant's case.

THE COURT: The stenographer's testimony is only for the purpose of contradicting her. The only way you can prove facts is by witnesses who are produced here before the jury. It is also proper to show that those witnesses have made statements which contradict statements made here. That affects their credibility; that is all, but it does not prove the contradictory statement is true.

MR. TROSK: I do not want to hold up the trial of the case, if Mr. Glcott will concede that when the stenographer comes he will corroborate Mr. Coppola, with reference to the answers to the questions?

THE COURT: You subpoenaed the stenographer, and you are entitled to have him here. If you think that is important I will wait until the stenographer comes here. You may call the stenographer when he comes. You may rest with that exception.

MR. TROSK: Yes; I reserve my motions.

(At this point Mr. Tanner is called and does not respond.)

R E B U T T A L:

J O S E P H R I N A L D I (306 East 116th street) called as a witness on behalf of the People, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. GICOTT:

Q Mr. Rinaldi, in connection with the case of Puglia, with

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which your son was connected as counsel, were you present at a house with Luigi Puglia, at a certain night within the last two or three days? A Last Monday.

Q On that occasion did you see this defendant? A Yes, sir.

Q Under what circumstances?

MR. TROSK: I object to this on the ground, in the first place it is not proper rebuttal, and in the second place it is an attempt to contradict my witness on a matter elicited by Mr. Olcott on cross examination, which is wholly collateral.

MR. OLCOTT: This woman came and attempted to see a witness in this case for the People, and I think I am entitled to show it.

THE COURT: I sustain the objection.

MR. OLCOTT: The People rest.

THE COURT: You can prove by this witness or any other that the defendant made any statement concerning the material allegations, whether you asked him about them or not.

MR. TROSK: I understand the reason Mr. Olcott will not concede these matters of the stenographer's minutes is that he is under the impression that Mr. Coppola testified to them in the form of conclusions only, whereas, as a matter of fact, I asked him whether he asked her this and that question, and whether she made that answer.

THE COURT: The record is the best evidence. I allowed him to testify on his statement that he had subpoenaed

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the stenographer. It may appear when you examine the minutes that even if his testimony is accurate, and of course I do not doubt his desire to tell the whole truth, you understand, it may be misleading, that that answer may have been given in answer to a particular question, but in the preceding sentence or in the following sentence, she may have spoken about the other instrument she spoke of here, and she may not have considered that an instrument that was used. For instance, the wire did what the girl wanted, but the other instrument may have been used just the same. It is important because they have to rely largely on the testimony of the girl, and if she has been contradicted on that point it is for the jury to determine how much weight they will give her. Now, since the issue has been raised, I think the proper thing is to have the stenographer here. I think we better take a recess for half an hour.

Gentlemen of the jury, we will take a recess until half past twelve. In the meanwhile you must be very careful not to discuss this case with any one, do not talk about it with any stranger, and you must not form nor express any opinion as to the guilt or the innocence of the defendant until you have heard all that is to be said by both sides and until the case is submitted to you by the Court for your consideration. Be back here at half past twelve o'clock.

(The Court reconvenes, at 1:15 p. m., the stenographer

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having arrived.)

THE COURT: Well, I think it might be better that both counsel consult with the stenographer, as he has his notes with him, instead of having him read all the record which may not be material at all, and select such parts of the testimony of this girl that you would like to call to the attention of the jury.

MR. TROSK: I understand that all that Mr. Miller (The Stenographer) is being called for is to have him corroborate, or not corroborate, Mr. Coppola on the two questions that Mr. Coppola was asked.

THE COURT: But Mr. Olcott has a right to ask him if at some other part of the testimony she did not refer to other instruments, so that it might take a lot of time. It would expedite matters if you and Mr. Olcott, during recess hour went over the minutes with the stenographer, and then you could mark the part that you think ought to be called to the attention of the jury and Mr. Olcott might put in an explanatory remark, because the rule is that when it is sought to prove that a witness has made contradictory statements, the witness has a right to explain those statements, and the explanation might appear right from the minutes without recalling her, so if we take a recess, say, until quarter past two, the stenographer ought to be able to testify in five minutes or ten minutes, as counsel may agree upon.



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Meanwhile, you will remember, Gentlemen of the Jury, what I have told you, that you must not talk about this case among yourselves. This is not the time to decide it. You must wait until you hear all that is to be said, and decide it when you retire at the end of the case, after the Court submits it to you, and not before that. Keep your minds open on the question of the guilt or the innocence of the defendant until then, and of course you will not allow any stranger, any one who is not a member of the jury, to talk about the matter, or mention it to you, during recess. You may go until quarter after two.

Trial Continued, 2:15 p. m.

MR. OLCOTT: Mr. Trosk and I have arranged with Mr. Miller to read very small portions of the testimony. The first is on the direct examination, which it is the People's contention is explanatory of the statements made on cross examination. It is all very short and agreed on.

FREDERICK J. MILLER, (2164 Seventh Avenue,)

called as a witness on behalf of the Defense, testifies as follows;

DIRECT EXAMINATION BY MR. TROSK:

Q Mr. Miller, you are an official stenographer of the City Magistrate's Court?

THE COURT: That will be conceded, he is an Official Stenographer and he took the testimony in the Magistrate's Court, when the Magistrate was investigating this case.

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Q Have you with you the minutes which you took with you upon that occasion? A I have.

Q And does it appear from those minutes that Elena Cissera was sworn in that proceeding as a witness?

THE COURT: That is all conceded; she was sworn, of course.

Q Now, this forenoon, Mr. Olcott and I agreed upon certain parts of the testimony that were to be read. I think the first of it appears on page 112 of your minutes, Mr. Mibler? A Yes, sir.

Q Will you please read the part that we agreed upon should be read?

MR. OLCOTT: That is contained in the direct examination by the District Attorney in that court, is that right?

THE WITNESS: Yes.

A It is examination by the Court: "Q Did you afterwards meet this lady? A Yes.

"Q What time did you go to see her? A Well, that day she was not home."

BY MR. TROSK:

Q I think we started further down, on page 112. A This is 110, I do not think it will take very long.

Q Start at page 112. A (Reading) "By Mr. Forster: I want you to tell us exactly what happened. Did you have any clothes on? What did she do to you? Give us a picture of the whole thing.

A She told me to get on the bed, I took off my clothes.

"Q How much clothes did you take off? A Only my underwear.

"Q Both of your skirts? A Yes.

"Q And you laid on the bed? A Yes.

"Q Go on. A She used a basin, she had a basin.

"Q What did she do with the basin? A She had it under me, she was washing me.

"Q After putting the basin under you what did she do? A she had some instrument.

"Q What did she do with it?

"By Defendant's Attorney: I object.

"The Court: What did it look like?

"A A thin wire.

"Q A thin instrument? A One instrument was to open the womb, I think.

"Defendant's Attorney: I move to strike that out.

"The Court: She said what it looked like.

"By Defendant's Attorney:

"Q What did it look like? A It was something like a silver wire, with something wound around.

"By Mr. Forster:

"Q What did she do with it? A She put medicine on it, and she began to work inside.

"Q Inside where? A Inside of me.

"The Court: Pushed it up into your body? A Yes.

"Mr. Forster: Into your private parts? A Yes.

After that, after she was through with the basin she showed me blood."

Q Now, you will read the other point, the other part of the testimony, I think it commenced on page 157. A (Reading) "By Mr. Coppola; What did you say she was using? A A thin wire.

"Q You don't know what she was doing with the wire? A No, she was working with it.

"Q You are unable to testify anything at all about what she was doing with it? A No, only about the instrument.

"Q What was that instrument? What did it look like? A It was a long thin wire.

"Q That is the only instrument she used? A Yes.

"Q No other instrument was used, only that long thin wire?

A No, only that."

MR. TROSK: That is all.

MR. OLCOTT: It has been agreed between counsel that Dr. Tanner appeared here, but keeps no record, and he does not know whether this woman was examined by him a year ago.

MR. TROSK: Yes, that is all right.

THE COURT: Either side has the right to explain the failure to produce a witness.

MR. TROSK: We have agreed with Mr. Olcott that Dr. Tanner was here, and says he has no recollection.

Both sides rest.

MR. TROSK: I renew the motions that I made at the close of the People's case, for a dismissal of the indictment, and also move on the same grounds for the direction

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of a verdict for the defendant, of acquittal, and I move⁰⁸²
on the further ground for the dismissal of the indictment
and a direction of a verdict for the defendant on the
ground that there is no credible evidence in the case suf-
ficient to corroborate the accomplice Puglia, if indeed
there was any offense at all committed.

THE COURT: I will deny your motion.

MR. TROSK: I take an exception your Honor.

THE COURT: The jury will understand that in denying
your motion I am not deciding anything. I merely decide that
there is evidence that makes it proper to submit the case
to the jury, and they must tell what weight they will
give the evidence. The Court does not attempt to do that.

(Both counsel sum up to the jury.)

(The Court charges the jury.)

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THE COURT'S CHARGE.

The defendant is charged with the crime of abortion. It is alleged that in the County of New York, on the 25th day of January, 1916, with intent to produce and procure the miscarriage of one Elena Ciferri, who was then and there a woman pregnant with child, the same not being then and there necessary to preserve the life of the said Anna Ciferri, or of the child with which she was there so pregnant, as aforesaid, did feloniously use, and cause to be used, a certain instrument to the Grand Jury aforesaid unknown by then and there forcing, thrusting and inserting the same and causing the same to be forced, thrust and inserted against, upon and into the womb and private parts of her, the said Elena Ciferri, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

There is a second count in the indictment which charges the same crime, and the only difference between it and the first count is that it is charged that she feloniously used and employed divers means to the Grand jury aforesaid unknown, and in a manner to the Grand Jury likewise unknown, the said means and the manner of their

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use being then and there adapted to procure such miscarriage of her, the said Elena Cifarri.

In one count they charge the use of an instrument, and in the other they charge that an abortion was procured or caused by the defendant by some means to the Grand Jury aforesaid unknown. In each count there is a reference made to the statute, to which I will now briefly call your attention.

Section 80 of the Penal Law is as follows:

"A person who, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve the life of the woman or of the child, with which she is pregnant:

"1. Prescribes, supplies or administers to a woman, whether pregnant or not, or advises or causes a woman to take any medicine, drug or substance; or,

"2. Uses, or causes to be used, any instrument or other means, is guilty of abortion."

So that these two counts in the indictment charge that she violated the second subdivision of Section 80, that she used or caused to be used an instrument or other means, with intent to procure the miscarriage of a woman: "Unless the same is necessary to preserve the life of the woman or of the child with which she is pregnant." That allegation in the indictment does not require any proof. I

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mean the allegation that the abortion was necessary to save the life of the woman or of the child with which she is pregnant. It is a defense to an accusation of abortion that it was done to preserve the life of the mother or of the child. That defense is not interposed here, and the People are not obliged to prove that the abortion was not necessary to preserve the life of the woman. That is taken for granted, unless evidence is supplied by the defense, and in the absence of any evidence you must take that as a stated set of facts that if there was any abortion performed, it was not necessary to preserve the life of the woman and was not necessary to preserve the life of the child with which she was pregnant.

Now, as has been stated by counsel to you, in a case of this kind, it is also unnecessary to prove that the woman was actually pregnant. If the person who performed the alleged operation believed that she was pregnant, if the woman who submitted believed she was pregnant, and if any instrument, or other means, were used to cause the miscarriage, or with intent to cause a miscarriage, why, that is abortion, whether the woman was pregnant or not.

You understand that it is the duty of the Court merely to tell you the law, to advise you on the legal questions that arise during the trial. The Court has no power and no right to find any facts. You are the sole and exclusive

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judges of the facts and of the credibility of witnesses.

I will explain that a little more fully to you later, but I wish now to explain that when I tell you what the statute is why that you must take without any question, and then you must find from the evidence whether or not the charge has been proved, for you must remember that the indictment is only a charge. The indictment is an accusation in writing, intended to let the defendant know that she is charged with a crime, to let her know what the crime is, and to bring her in before you for trial, and also to let you know what the charge is; that is all. It is no proof of guilt and you must not infer that because this woman had been arrested and indicted that she is guilty. The law is just the opposite. The law is based on the theory that the defendant in a criminal action is presumed to be innocent. She is not presumed to be guilty. She is presumed to be innocent and she must be allowed to go free unless the evidence produced here satisfies you that she is guilty, and furthermore there must be evidence to satisfy you of that beyond a reasonable doubt. The burden is upon the People primarily of producing that evidence. If the defendant calls witnesses, and takes the stand, why, then you must take all the evidence on both sides and weigh it and find the facts from that evidence, and then if your minds are satisfied to a moral certainty

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from a calm, careful and honest examination of the evidence that the charge has been sustained, why, then you may convict her; otherwise you must let her go free. That is what is meant by proof beyond a reasonable doubt.

That term has often been defined, and yet none of the definitions are very satisfactory. It really explains itself. A reasonable doubt is a doubt that is based on reason, and that reason must be connected with the evidence, arising out of the evidence in the case, flowing out of the evidence in the case, or be based on the lack of the evidence in the case, for there must be enough evidence in quantity as well as quality to convince you to a moral certainty that the charge is true. It is your duty, as I said, to weigh the evidence calmly, carefully and dispassionately. You are not retained on one side or the other. You are the judges, absolutely free from bias or prejudice or sympathy. You must banish every thought from your mind, except the desire to do your duty, which is to render an honest verdict on the facts, according to the law that the Court gives you. If, after you make an effort to do that, you feel that your minds are not fully satisfied, that you cannot say that you are fully convinced to a moral certainty that the defendant is guilty, then your mind is in a state of reasonable doubt. If the evidence

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creates in your mind the thought that she is possibly or probably guilty, that is not enough. If it creates in your mind the suspicion that she is guilty, that is not enough. The evidence must go further. It is not only the preponderance of evidence, but sufficient evidence of a character satisfactory to you, evidence that you believe and that fully convinces you to a moral certainty of her guilt.

You notice I have used the word "moral" certainty several times. I said "moral" certainty because the law does not require proof to an exact certainty, or an absolute certainty. Outside of mathematics and some sciences, you find no thing that is absolutely certain. We know that two and two make four. You could not be convinced that that was not true by any reasoning or argument, but in real life, in your business affairs, in your private affairs, things are not absolutely certain. You have to consider the future, the probability of one thing or another being right, not to do a certain thing that might happen, or would happen. You have to consider how you shall act, and you weigh the reasons for or against any line of action and you satisfy yourselves that you ought to do or refrain from doing a certain thing. You become morally certain of the right thing to do, not absolutely certain, because it

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may be found afterwards that you did a wrong thing. You try to do right, you try to satisfy yourselves to a moral certainty of what you ought to do. Now, that is a state of mind that a juror must have before he can render a verdict of guilty. His mind must be so convinced, so satisfied by the evidence that he would act upon it in important affairs of his own private life. If that is your state of mind, after viewing all the evidence, then you must find the defendant guilty. If you have a reasonable doubt on any of the elements in the case, you must acquit her.

Now, you remember that I told you that the Court simply passes on the law, and that you are the sole and exclusive judges of the facts. There is only one way of proving facts. Facts must be proved by witnesses produced here before you. They are not proved by statements of counsel on either side, or by the statements of the Court. If the Court has said anything to lead you to believe that the Court has expressed any opinion on the facts in the case, or on the weight to be given to any testimony, why, I want to remove that from your minds. Sometimes in discussions, the words of the Court may be misunderstood. On all matters of discussion that arise during the trial the Court is simply addressing the lawyers, the District Attorney on one side, and counsel for the defense on the other, and in deciding legal matters, perhaps sometimes un-

necessarily explaining the reason for his ruling in order that they may base their conduct accordingly, but that is all.

I want to refer especially to defendant's counsel objecting to my stating that a witness had proved nothing. That merely referred to the fact that she simply testified that the girl (Ciferri) was there, which the girl had said and which the defendant herself had said, and that she went away. I did not intend it to mean that she had not proven anything as to the length of time the girl stayed there. You must understand that if there is a controversy as to the length of time that the girl spent there on the day this alleged operation was performed, you have to decide that for yourselves. The Court has not any opinion on that, and did not intend to express any. I overlooked that part of the girl's testimony, and when counsel called my attention to it I very promptly corrected it. I merely did not wish to have the record cumbered with the cross examination, when there was really nothing, apart from that one point which was not under discussion at the time, which could be contradicted. If the Court does not pass on the testimony of the witnesses, why, then, you must. You are the sole judges of the credibility of witnesses. You are not obliged to believe any witness that comes here at all. You are obliged to test their testimony, to weigh it, and to pass

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upon the question as to whether it ought to be believed or not, and that is the great power that you must use with absolute fairness to both sides. There is no rule to guide you in doing that. No rule laid down that you must follow. All the law asks you to do is to be honest men. You must remember that. You are performing the most important work that our citizens are ever called upon to do in time of peace. The criminal law must be maintained, otherwise we would have anarchy. Respect for law must be maintained, and People who violate the law must be brought to account for it, and when they are charged with a crime the jurors must say whether the evidence satisfies them that they are guilty or not, and if not guilty they must go free, so that you must decide here honestly. The defendant is entitled to an honest verdict and the People are entitled to an honest verdict. Therefore you will weigh the testimony of the witnesses who have testified here calmly, neutrally and dispassionately, and make up your minds as honest men what part of the testimony you will believe. The rule is that you may believe all the testimony of a witness, or believe part of it, or reject all, or reject part, just as you think you ought to do, just as your reasoning, your judgment and your conscience dictate. If the testimony seems incredible in whole or in part, that is for you to say. You may reject it, or if it seems

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credible and consistent with reason, why, then you may believe it. You may consider the manner of a witness, whether a witness has testified fully, freely and frankly, considering the intelligence of a witness, whether witnesses have been inspired to tell the stories which they have told here, or whether they have any interest in the controversy, whether they are neutral or friendly to one side or the other, or hostile to one side or the other, and whether they have any motive to testify.

By "motive" is meant something that induces one to act, like hatred, fear, love of ambition or love of money; those are motives which impel human acts. It is sometimes said that a defendant has a motive to testify falsely, and therefore that testimony should be discredited. That is not the law. If it has been shown that any witness has a possible motive which might induce that witness to testify falsely, it would be a great wrong for you to say that you would not believe the witness solely for that reason. Your burden is to find any possible motive, if you can, and then to determine whether the witness is telling the truth notwithstanding. The burden is not on either side to prove that a witness has a motive. Of course if they can prove it they may, but a witness may lie without any apparent motive, and have a motive deep down in his or her heart.

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What I want you to understand is to keep in mind clearly the rules of law that the mere existence of a motive to testify falsely would not justify the exclusion of the testimony, otherwise the defendant would never be allowed to testify; if the testimony would simply be brushed aside because the defendant had a motive, why, it would be useless to let him or her testify. Our law requires that you should give careful weight and consideration to the testimony of a defendant, just the same as the testimony of a complainant, or of any other witness. But if you find on the examination of the story and considering the manner, interest and motive, all these elements in contrast with other testimony that you may believe, if you think that part of the story is false, incredible or unworthy of belief, why, reject that. If you believe that any witness has testified wilfully and knowingly falsely, with knowledge and intent, as the law puts it, wilfully and knowingly testifies falsely on a material point, that witness is guilty of perjury and you may disregard all the testimony of the witness, although you are not obliged to do that. You may still believe part of it.

If a witness through inadvertence, loss of memory, length of time, or for any other reason, makes a statement that you do not think is true, but if the witness be honest

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and believed what he or she so testified to, why that would not be any reason for rejecting all the testimony of the witness.

The law is also that it is proper on cross examination to show any contradictions that may have been made, any contradictory statements. Now, that is not intended to prove that the contradictory statement is true, you must understand, but it is for the purpose of attacking the credibility of the witness. If a witness tells one story in one place and a different story in another place, the cross examining counsel may show that the witness told different stories not for the purpose of proving that either story is true, but for the purpose of impairing your confidence in the credibility of a witness who gives different accounts of the same transaction. You have to determine whether there is any contradiction or not. The mere fact that counsel on either side--and you must understand the District Attorney is only a lawyer, he is the lawyer for the People, just the same as the lawyer for the defense--I say the fact that the lawyers claim that the contradictions are important and weighty, is not enough for you. You must be satisfied that the contradiction is material, weighty and deliberate, and perhaps of sufficient importance to impair your confidence in the story of that witness so that you will have less regard for his or her testimony than you

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otherwise would.

It is also proper to show that any witness has committed any immoral, vicious or criminal act. The witness Puglia is what as known in law as an accomplice. A person who is concerned in the commission of a crime so that he might be indicted for it, one who aids or abets, counsels or advises another in the commission of a crime, or procures another to commit a crime is himself guilty of that crime, even if he be absent when the crime itself is committed. If Puglia induced this girl to go to this defendant for the purpose of having the abortion performed, if he made arrangements with her for the abortion and paid her for it, so as to procure the abortion, he could be indicted for abortion just the same as the woman, assuming that any abortion was committed, you understand.

So if you find that any crime was committed, why Puglia was an accomplice. The law is that you cannot convict on the testimony of an accomplice without other supporting testimony, and that rule has been embodied into the Code of Criminal Procedure. Section 399 of the Code of Criminal Procedure says:

"A conviction cannot be had upon the testimony of an accomplice unless he be corroborated by such other evidence as tends to connect the defendant with the commission of the crime."

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That is, you must be satisfied that a crime was committed in the first place, and there must be other evidence entirely separate and apart from the testimony of the accomplice to connect the defendant with the crime. The girl, the complainant, is not an accomplice in law. A woman who submits to an abortion is guilty of a crime, but she is not regarded in law as an accomplice of the person who performs the abortion. That rule requiring corroboration of her testimony does not apply to the testimony of a woman upon whom an abortion was performed.

You have a right to consider the character of the witness, whether she has committed any criminal, vicious or immoral acts. You have heard her story of her relations with this man. If she were over eighteen at the time of any of these sexual connections with this complainant, why, she was guilty of the crime of adultery. The cohabitation with the husband of another woman is adultery on the part of the woman, and likewise the man was guilty of the crime of Rape in the second degree if she was under eighteen. It is not necessary to have any force, you must understand, but our law forbids a man to have sexual intercourse with a woman not his wife, under eighteen years of age. So that he was guilty of a very serious crime and you may take the fact that the girl was a criminal, and a vicious, immoral girl, and that the man was guilty of a very serious crime,

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that he was a libertine and scoundrel under the circumstances to have any intercourse with this girl, in considering the weight you will give to their testimony. You will weigh their testimony calmly and carefully. It is submitted to your reason and your conscience and you will take it in connection with the story of the defendant and all the other witnesses in the case and say how much weight you are willing to give it, and then if there is enough credible testimony in the case when viewed in that way to satisfy you beyond a reasonable doubt that this woman committed the act charged either in the first or second count of the indictment, that with intent to procure a miscarriage of the complainant, Elena Ciferri, whether she was then and there pregnant or not, used an instrument, or two instruments or no instrument, used any other means, her hands or any other means that were capable of performing the abortion, you may find her guilty as charged in the indictment. If you have a reasonable doubt as to what she did to her, or whether she did anything to her, or not, why, then you must acquit her.

As I said before, the law is very plain. The law forbids abortion. The policy of the state makes it necessary to pass that law, and we must take the law as we find it, and you must enforce it. The defendant is brought to the bar here to be tried on that charge. You are not expressing

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your approval or disapproval of the law, understand that, or your approval or disapproval of her conduct. You are simply to render an honest verdict on that one question--did she or did she not violate that section of the law that I have stated? If you are satisfied beyond a reasonable doubt, by a careful examination of this evidence, a calm, dispassionate, fair weighing of the testimony that she did, then you will find her guilty and if, for any reason connected with the evidence in the case, either on account of lack of evidence in the case, or the quality of the evidence in the case, you have a reasonable doubt of her guilt, then acquit her.

MR. TROSK: If the Court please, just a few requests. I ask your Honor to be good enough to charge the gentlemen of the jury that Dr. Spitzer is as a matter of law a disinterested witness in this case.

THE COURT: I decline to so charge. I do not know whether he is disinterested or not. He may have been paid to come here or not. His testimony was not contradicted or discredited, so far as I can see, but I decline to say he is disinterested.

MR. TROSK: Exception.

MR. TROSK: I ask your Honor to charge the gentlemen of the jury that the maid, Mrs. Ventura's maid, is as a matter of law, a disinterested witness in this case.

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THE COURT: I decline to so charge. 115

MR. TROSK: Exception.

MR. TROSK: I ask your Honor to charge the gentlemen of the jury that if after considering all the evidence their minds are in doubt as to whether or not the guilt of the defendant has been established beyond a reasonable doubt, they must acquit.

THE COURT: Well, I so charged. On the question of the interest of witnesses I tell you in determining their credibility you may consider the interest of a witness, whether his interest is friendly, hostile or neutral. I think I told you that, whether the witness has an interest in the case or not is not to be controlling with you; that is one of the things you may consider. Now, as to the servant of this woman, I would not charge you she is disinterested. You may consider the fact that she is in the service of this woman as proof of interest, for all I know. I do not say that you should. She may, on account of her relations with her be friendly or hostile to her, I do not know about that. You are to decide that. As far as the doctor is concerned, why I do not think there was any contradiction of any statement the doctor made. You may take his statements for granted so far as any contradiction of them is concerned. What I mean to say is he has appeared here for one side or the other; he may testify out of friendship for the defendant, or for

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a fee, or for any other reason, but it is not my duty to determine whether the witness has any interest in the matter. It is your duty, and the mere fact of the existence of interest on one part or the other would not justify you in either rejecting the testimony or giving it undue weight. It is one of the things you may consider. The character of the witnesses, whether they are honest, decent and upright people, or whether they are interested from any reason of relationship or service whatever, and whether they have any motive. Those considerations are merely to guide you, to aid you, something that may help you. You have in the last resort to use your own good, common sense that you use in your own business affairs and your own private affairs. There is no claim that you are going to have any greater wisdom, or be inspired when you sit in the jury box than you have when you are not in the jury box. But all the good sense and ordinary honesty and integrity that you have you must devote to the decision of those two matters; what facts are proved here and do those facts satisfy you beyond a reasonable doubt that the defendant is guilty. If they do, you must say so, and if the evidence fails to impress you to that extent, you must acquit her. You must be guided by your own recollection of the testimony. I have not referred to the testimony because counsel on both sides have referred to it, and if there should be any

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difference of opinion as to what the testimony was, why,
each juror must be guided by his own recollection on that.
He may have his memory refreshed by a reference to the minutes
if he so desires. In the last analysis you must not take
the testimony from counsel. You take the facts from the
witnesses only, and the law from the court, and if the
statements of counsel appear to you to be based on reason,
to be based on the evidence and are within reason you will
give heed to them, otherwise ignore them. Statements of
personal experiences and views which are not supported by
evidence at all must be disregarded by you.

MR. TROSK: Apropos of what your Honor just said on
the question of interest, I would like to ask your Honor to
be good enough to charge the gentlemen of the jury this,
that all things being equal, a witness who they are sat-
isfied is disinterested is entitled to greater weight than
a witness who is interested.

THE COURT: I decline to so charge.

MR. TROSK: I take an exception.

THE COURT: They may be satisfied that that witness
is absolutely and plainly lying from other facts and
circumstances in the case. It is not necessary to prove
interest or motive. Interest or motive may exist that you
do not know anything about. The opposing counsel may al-
ways show interest or motive on cross examination, but

his failure to show it does not mean that it does not exist. You have to consider the relation of every witness to the controversy. You have to make your decision as to whether they are interested or disinterested, whether friendly or hostile, whether they know whereof they testified, whether they had opportunity to know the things they testified to. You must determine whether the witnesses had any knowledge whatever of the controversy, whether they gave you a true account of their knowledge when they came on the stand. That is your function.

MR. TROSK: I beg your Honor's pardon, but I am quite sure your Honor did not get my precise point. I shall assume everything to be equal. Take two witnesses, all things are equal except that one is found to be a disinterested witness, and one to be an interested witness,-- that under those circumstances the disinterested witness is entitled to greater credit than the interested one.

THE COURT: I decline to so charge.

MR. TROSK: I take an exception.

THE COURT: The jury must determine the weight and credence to be given to each witness, and they must use their own judgment in doing that. I merely suggest instructions to them which experience has found to be of service in deciding those questions, but they may absolutely ignore them. They are to use their own judgment in that.

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You are the sole judges of the credibility of witnesses, and you use your own good judgment in arriving at your conclusion on that point, untrameled by any rules. The things I have pointed out to you are merely suggestions as to what experience teaches us, but you can disregard everything I said on that subject, if you like. No one can question your judgment on the credibility of witnesses. You are the sole and exclusive judges of that. All the law asks you to do is to be honest men. Every honest verdict is a vindication of the law. If in your heart you are convinced beyond a reasonable doubt that the defendant has been proven guilty, and yet you for some reason by your verdict should find her not guilty, you would be striking a blow at the dignity of the law and the State and at American institutions, and so, on the other hand, if you are not thoroughly convinced in your hearts beyond a reasonable doubt that she was guilty, and if you should be lead for any reason to say under those circumstances that she was guilty, you would also strike a blow at the dignity and majesty of the law. But when you render an honest verdict, whether it be guilty or not guilty, if it be your honest conviction under the evidence and in the light of the law, then you are upholding the law, and that is what you must do.

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The jury retire at 4 p. m.

The jury return at 4:40 p. m.

THE CLERK OF THE COURT: Gentlemen of the Jury, have you agreed upon a verdict?

THE FOREMAN: We have.

THE CLERK OF THE COURT: How say you, do you find the defendant guilty or not guilty?

THE FOREMAN: Guilty.

THE CLERK OF THE COURT: Hearken to your verdict as it stands recorded: You say you find the defendant guilty of abortion, and so say you all.

THE FOREMAN: Yes, sir.

(Pedigree of defendant taken.)

MR. TROSK: If the Court please, I move to set aside the verdict on the ground it is against the law, against the evidence, against the weight of the evidence, and on all the grounds set forth in the Code of Criminal Procedure and upon the ground particularly that there was no credible evidence in the case aside from that given by the accomplice Puglia sufficient to warrant the jury in determining that the defendant was guilty of the commission of the offense beyond a reasonable doubt.

THE COURT: Motion denied.

MR. TROSK: Exception.

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MR. TROSK: I move on the same ground in arrest of judgment.

THE COURT: Motion denied.

MR. TROSK: I take an exception.

THE COURT: The defendant is remanded to January 3rd, 1917, and you may at that time renew your motion or make such additional motions as may be advised.

MR. TROSK: I should like to reserve that right, because I am not wholly familiar with the practice in this court.

(Defendant remanded to January 3rd, 1917.)