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9709

January 10th, 1915

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Amos G. Russell
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Q Now, Miss Dedisky, try and sit back and not be nervous; nothing to be afraid of, and speak just as loud as you can, so all these gentlemen can hear what you say, and so counsel and his client, the defendant, can hear what you say. Will you try and lift your voice up? A Yes, sir.

Q How old are you? A 19.

Q And what is your occupation? A Stenographer.

Q How long have you been a stenographer? A About 2-1/2 years.

Q On the morning of the 15th of October, 1915, did you look through the columns of the "World"? A Yes, sir.

Q The advertising section? A Yes, sir.

Q And did you see an advertisement there that I now show you (handing paper to witness)? A Yes, sir.

MR. SULLIVAN: I ask it be marked for identification.

MR. GOLDSMITH: I consent that it go in evidence.

(Received in evidence and marked People's Exhibit No. 1, of this date).

Q Do you know what time it was, Miss Dedisky, when you read this advertisement? A It was about eight o'clock in the morning.

Q And did you after reading that advertisement go to the address mentioned in it? A Yes, sir.

Q About what time was that? A About 10.

Q And where did you go? A To 778, I think, or 776 8th Avenue.

Q 778, that is the number mentioned in the ad. Is that the number you went to? A Yes, sir.

Q And when you got there did you ring a bell?

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MR. GOLDSMITH: One moment. I object to that.

MR. SULLIVAN: I withdraw the question.

Q What did you do when you got there? A I went up stairs, and when I got up there I found two other girls up there, and the defendant was sitting at a desk, writing.

MR. GOLDSMITH: I can not hear this, if your Honor please, and I want to hear every thing that is spoken by the witness.

Q Just raise your voice. Don't be afraid to speak out loud?

A There were two other girls up there, and the defendant came to meet me, and he told me to sit down, to wait until he was through writing, and he would explain what he wanted a stenographer to do. He went on writing, and two other girls came in after me. There were five of us altogether. When he had finished writing he gave the letter to a young fellow that was in the apartment by the name of Willie, and he told him - I don't know what he told him to do, but he told him to take it some place; and then he explained what he wanted a stenographer to do. He said he wanted a girl to go to Cuba for three or four months, and he wanted her to do stenography, but it was mostly typewriting, copy work, and that he would pay all the expenses and pay salary also; so he said, if it seemed reasonable to all of us we should leave our names and addresses, and he would have 15 minutes private interview with each of us.

Q Keep your voice up. A So everybody seemed to be satisfied

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with the explanation, because they all left their names and addresses.

MR. GOLDSMITH: I ask that that be stricken out.

THE COURT: Yes, strike out "because they all left their names and addresses. Now, did they leave their names and addresses?"

THE WITNESS: Yes, they did.

Q Then everybody left their names and addresses? A Yes, sir.

Q Did the defendant tell you what his occupation was? A He said he was the manager of the International News Service.

Q He was the manager of the International News Service? A Yes sir, and that he was going to Cuba to take moving pictures.

Q Did he tell you what salary you were going to get? A No, he asked me what salary I was willing to start at, and I told him 12. He said, "All right".

Q Now, who was the first one to put her name on the list, do you know? A I was.

Q How did you happen to be the first? A Because I was the one sitting nearest him.

Q After you put your name on the list, what did the defendant say to you, if anything? A He told me to stay, and told the others to go away, and gave them each 15 minutes time to come back.

Q Did you remain there? A I remained, and then he explained matters.

Q What did the other girls do? A The other girls went out.

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Q And how long did you remain? A About 10 minutes.

Q What took place between you and the defendant during the 10 minutes that you remained there? A Well, he explained that the trip was to Cuba for 3 or 4 months, and he showed me pictures of Cuba, and explained what some of the pictures were, and he told me to call back at 2:30 the same day.

Q He told you to come back at 2:30? A Yes, sir.

Q Did he say anything else to you about Cuba? A No; that was all.

Q Did you tell him anything about your family? A I told him my brother was a sailor and had been to Cuba and had told me very many interesting things about it, and that I was anxious to make the trip, because Cuba interested me in a traveling way.

Q What did he say to that? A He told me to come back at 2:30.

Q What did you do then? A I went downstairs.

Q And when you got downstairs did you see anybody downstairs?

A Yes, there were some of the other girls down there.

Q And how long did you stay downstairs? A I don't know, but the next girl went up after I came down.

Q Did you stay until she came down? A I stayed until after she was interviewed, and then the third girl went up, and I was still there, because -

Q Don't state your reasons. You were there, at any rate, were you? A Yes, sir.

Q Was Miss Florea the third girl? A No, Miss Florea was the fourth.

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Q Did you wait until after the fourth girl went up? A Yes, sir.

Q Did you wait until after all the girls went up? A Until after the fourth girl.

Q Were you there when the fourth girl came down? A Yes sir; she didn't come up; she just went into the hall.

Q And how long was she in the hall? A About two or three minutes.

Q Did you see her come out? A Yes, sir.

Q Was she alone? A No, she was with the defendant.

Q Where were you then? A I was standing on the stoop, waiting for her.

Q What happened when the defendant came out with this fourth girl? A Before he went in with the fourth girl, he told me to wait.

Q Did he come out before that? A He came down with the third girl.

Q And there was still one girl there that was not interviewed? A The fourth girl was not interviewed, so he told me to wait instead of coming back in the afternoon, that he would interview me in the morning, so after he interviewed the fourth girl, Miss Florea, then I went up.

Q Did you see where he interviewed the fourth girl? A In the hall.

Q And you say he was there about 2 minutes? A 2 or 3 minutes.

Q When he came out, what did he say to you? A He told me to go upstairs with him.

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Q Did you go up? A Yes, sir.

Q When you got up, how did you get into the apartment? A Just walked upstairs.

Q Was the door open? A I don't remember.

Q Upstairs? A I don't remember.

Q Who went first? A He did.

Q And do you know the number of the apartment? A 22.

Q When you got into the apartment, what room were you in? A Th parlor.

Q You were in a parlor? A Well, we had passed through a hall to get into the parlor. We went into the parlor.

Q And what happened in the parlor, if anything, after you got in the second time? A He told me to take off my hat and coat, that he had a machine, and he would try me and see if I was capable for the position, and then he went inside; I don't know what he did; but he came back and he went and sat down at the piano and started to play, and asked me if I could play.

Q How was he dressed when he came back? A He had a vest on, I think.

Q He had his coat off then, did he? A I think so.

MR. GOLDSMITH: I object to that, and ask that it be stricken out, if your Honor pleases.

THE COURT: Strike it out.

MR. GOLDSMITH: I ask your Honor to instruct the jury to disregard that portion of the testimony.

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THE COURT: Yes, the jury will disregard it.

Q How was he dressed when he came back? A Well, with his vest on.

Q In his shirt sleeves? A Yes, sir.

Q How long did he play the piano? A Oh, he just passed his hands up and down the piano. Then came over to me.

Q Where were you? A I was sitting on a sort of couch, I think it is.

Q You had your hat and coat off? A Yes, sir.

Q When he came over to you, what did he do? A He sat down next to me and started telling me more about Cuba.

Q What? A He sat down next to me and started to tell me more about Cuba, and then he put his arms around me and kissed me, and I shoved him away from me, and he apologized. He said he didn't mean to do any harm, that he couldn't help himself. So I was greatly nervous - very nervous -

MR. GOLDSMITH: I object to that, if your Honor please

MR. SULLIVAN: I consent that it be stricken out.

Q Go ahead. A And he told me to go inside, that he would explain matters more definitely.

Q Go inside where? A He just said, "Go inside", that is all.

Q Did he point? A We were in the parlor, and the rest of the apartment was to the back of the house; so I said, "No, we can be understood just as well out here".

Q Keep your voice up, now? A I said, "No, we could be under-

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stood just as well out here", and he says, "No, you know I have employed you; you want to do as I tell you"; so I said, "no, we will sit out here"; so he forced me into the other room.

MR. GOLDSMITH: I object to that.

THE COURT: Strike that out.

MR. SULLIVAN: I consent that it be stricken out.

THE COURT: Just tell what he did, and we can tell whether he forced you.

THE WITNESS: He shoved me.

Q How did he shove you? A I don't know. He stood in back of me

Q How far did he shove you? A Well, through the dining room, through the kitchen, into the bed room.

Q What was in that bed room? A A bed and a dresser.

Q Did he shove you any further than the bed room? A No, he shoved me down on the bed.

Q When he shoved you on the bed, what did he do? A He fell down on top of me.

Q And then what did he do? A Then he put his tried to force his hands down my waist and put my -

MR. GOLSMITH: I object to that, what he tried to do.

Q Did he put his hands down your waist? A No, he tried to.

THE COURT: Tell us what he did. Then we can tell whether he tried to, or not.

Q Tell us what he did with his hands and what he said? A He tried to force his hands up my clothes, too.

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Q Don't use the word "tried".

THE COURT: Strike out the word "tried". That is a conclusion. You will have to tell us just what he did, because you are not allowed to draw the conclusion. We have to draw the conclusion from what you say. Now, if you will tell us just what he did, then we can tell whether he was trying to do that, or was trying to do something else.

Q When you first got on the bed, what is the next thing that he did with his hands, if anything at all? A He put them down my wait.

Q What did you do then? A I tried to get away from him. I struggled.

MR. GOLDSMITH: That is a conclusion of the witness which is very important.

MR. SULLIVAN: I don't think it is, if your Honor pleases.

THE COURT: What? That she struggled? No, I will allow that to stand - struggled.

MR. GOLDSMITH: I except, if your Honor pleases.

Q And when you struggled what did the defendant do? A Well, he tried to hold me down. He held me down.

Q And where else did he put his hands?

MR. GOLDSMITH: Objected to as leading.

Q If any place? A Up my clothes.

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Q And what did you do while he was doing that? A I was kicking.

Q And what else? A Trying to force him away from me.

Q Anything else? A He overpowered me once.

MR. GOLDSMITH: Now, if your Honor please, I object to this testimony. That is a conclusion of the witness, and comes within the case of the People against Miller, in the Court of Appeals. That statement is a conclusion of the witness. It is for the jury to determine this question.

THE COURT: Objection sustained. Strike it out.

Q What did he do after you say you struggled with him? You can't say he overpowered you. What did he do? Did he let you up then? A No.

Q How long did he hold you down? A I don't know. About 10 minutes, I guess.

Q And during that time what were you doing? A Trying to get away.

Q And what was he doing? A Holding me down.

Q Anything else besides holding you down? A Forcing his hands up my clothes.

Q Did you make any outcry? A Yes.

Q When? A Well, I heard two or three knocks before I did, because I was paralyzed.

MR. GOLDSMITH: Oh, that, if your Honor please -

MR. SULLIVAN: I consent that that be stricken out.

MR. GOLDSMITH: Now, if your Honor please, I must

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object to the statements of this witness as to facts of this description.

MR. SULLIVAN: I consent that it be stricken out, if your Honor pleases.

THE COURT: Strike it out.

MR. GOLDSMITH: May I ask your Honor to admonish the jury that that statement must not be taken into consideration, that -

THE COURT: What statement is that?

MR. GOLDSMITH: Will your Honor read her statement, so as to make it accurate?

(The stenographer reads the record).

THE COURT: "Because I was paralyzed" goes out. The rule of law, gentlemen of the jury, is this: That a witness can state what was done, what she saw, what she heard, what she herself did, but she is not permitted by law to state reasons like "because", for those are operations of the mind. In other words, it must be facts and not her thoughts to which she testifies, so that if you will just tell us what happened, and not say, "because", or "for the reason", just tell us what happened, then the jury can reach the proper conclusion on the facts.

Q You say you heard some knocks on the door? A Yes, sir.

Q Where were you at that time? A I was on the bed.

Q And you say that you stayed there about 10 minutes? A Yes.

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Q During all that time was the defendant doing what you described? A Yes, sir.

Q You eventually got off the bed, did you? A Yes sir, after he went to answer the door.

Q Now, when the defendant went and left the bed, which direction did he go in? A Through the kitchen, to open the door, the hall door.

Q Was that the way you had come? A Yes, sir.

Q He went back to the room you started from? A Who went back?

Q Did the defendant go to the room that you first came in? A Yes, sir.

Q When he went to the front of the house, what did you do? A I ran to the back of the house, to see if there was another entrance.

MR. SULLIVAN: I consent that the last part of the answer be stricken out.

THE COURT: Yes, the reason, "to see", may be stricken out.

Q And did you go into another room? A Yes, sir.

Q How many other rooms did you go into? A Two.

Q Did you do anything after you got into any of these rooms?

A Just to look, to see if there was another exit.

MR. GOLDSMITH: I can't hear a word she says.

Q Did you do anything in relation to any of the doors or windows? A Well, I only noticed one door, but it had a bureau up against it.

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Q How long did you stay there, in that rear room? A About a second.

Q And where did you go then? A I ran to the front of the house.

Q Did you see the defendant then? A No, he was out in the hall.

Q Was the door open, or closed? A Locked.

Q What did you hear when you were in the front room, if anything? A I heard some footsteps.

Q Where were the footsteps? A Out in the hall.

Q And did you hear anything else besides that? A I heard some talking.

Q Anything else besides that? A Then I heard the footsteps coming back to the entrance again of the apartment. Then I heard several knocks.

Q On what? A On the door.

Q And what did you do? A I didn't know what to do. I just stood there.

MR. GOLDSMITH: I ask that the answer be stricken out, as not responsive to the question.

THE COURT: Strike it out.

Q What did you do? A I hesitated.

Q What did you do? Did you open the door? A I opened the door afterwards.

Q Who came in? A The defendant.

Q Anybody else? A Another man, a detective.

Q And who else? A That is all.

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Q Did you see any of the girls there? A I saw them after I got out in the hall. They were out in the hall.

Q When they came in, what did you do? A I was going to sneak out, but

MR. GOLDSMITH: I object to that, and ask that it be stricken out.

THE COURT: Don't tell us what you were going to do. Just tell us what you did do, not what was in your mind, but what actually happened. Just tell us what you did.

Q After these two men came in, ~~was~~ the defendant and the detective, did you stay there, or did you go out? A I stayed there.

Q How long? A About two seconds.

Q And then what did you do? A I ran out into the hall.

Q And who did you see there? A The girls.

Q Did you say anything to anybody in that apartment after the defendant and the detective came back? A No.

Q Did you speak to anybody on the way to the station house? A No. I don't remember.

Q You don't remember? A No.

MR. GOLDSMITH: Now, I object to that interpretation of the District Attorney's statement of her evidence. He asked her the question, "Did you make a statement to any one?" She said, "No".

MR. SULLIVAN: She said, "I don't remember".

MR. GOLDSMITH: Then, I am mistaken, she speaks so low,

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(Record read by stenographer: "Q. Did you speak to anybody on the way to the station house? A. No. I don't remember. Q. You don't remember? A. No.").

MR. GOLDSMITH: I ask the answer "I don't remember", be stricken out, as she has answered "no", either one or the other.

THE COURT: The motion is denied.

MR. GOLDSMITH: I take an exception.

THE COURT: It is all part of her answer.

Q. Do you recall what your appearance was? A Well, my hair was partly down, and my waist was open.

Q. Did you see the defendant again after you left 728 8th avenue on that day? A Yes, sir.

Q. Where? A In the court house, station house.

Q. Station house? A Yes, sir.

Q. And there did you have a conversation with anybody? Did you talk to anybody in the station house? A I think with the girls.

THE COURT: You see that man over there in the corner is one of the jurors. Now, he has got to decide what the facts are here, and you are heard, and then the different witnesses will be heard, and unless he can hear what you say he won't know what the facts are. Now, won't you try to please talk loud enough so that man over there in the corner can hear you? Talk right up to him, good and loud.

Q. Now, Miss Pedisky, at the time you say the defendant got off

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the bed and went into the front room and opened the door, did he say anything to you as he got up off the bed? A He said, "I guess it is one of the applicants coming for the position". He said, "I will tell them the position is filled".

Q Did you at any time see any typewriter in that apartment?

A No, sir.

Q Or typewriting machine? A No, sir.

MR. SULLIVAN: Your witness.

CROSS EXAMINATION BY MR. GOLDSMITH:

Q Did you know any of these other girls that were there that day? A No, sir.

Q You say you got there at what time? A 10 o'clock.

Q Lift your voice up, talk slow, I want to hear your answer.

What time? A 10 o'clock.

Q How do you know it was ten? A There is a clock right across the way.

Q And did you see that clock? A Yes, sir.

Q And you noticed it was ten o'clock? A Yes, sir.

Q And when you got up there there were two other girls in that apartment? A Yes, sir.

Q Now, as you entered the apartment did you enter into the dining room? A No, through the hall.

Q Through a private hall? A Yes, sir.

Q And that led into the parlor? A Yes, sir.

Q I show you this diagram, and see if that will refresh your

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memory. is that a description of the apartment as you saw it (handing paper to witness)? A Yes, sir.

MR. GOLDSMITH: Any objection to this going in evidence?

MR. SULLIVAN: Yes.

MR. GOLDSMITH: Do you object to it?

MR. SULLIVAN: Yes, sir.

Q As you entered the private hall, you entered a parlor? A Yes.

Q And these other two girls were there? A Yes, sir.

Q And there was a boy there called Willie? A Yes, sir.

Q Have you seen him today? A Yes, sir.

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

Q Is his name Willie Lampe? A I don't know what his last name is.

MR. GOLDSMITH: May I ask that he be called for the purposes of identification?

THE COURT: Bring him in.

Q Is this the young man (indicating Willard Lampe)? A Yes, sir.

Q And how long were you in that apartment before any other girls came into the apartment? A Oh, about a minute.

Q What? A About a minute.

Q About a minute. A Yes, sir.

Q And then did Mr. Pryor speak to all of the five girls at the one time? A Yes, sir.

Q Now, in detailing your testimony here ^{today} Miss Dedisky, you don't want to say that Mr. Pryor spoke about Cuba, do you? A He did.

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Q Didn't he speak about Haiti? A Haiti and Cuba.

Q Didn't he speak about Haiti? A Yes, sir.

Q You have not said a word here this morning about Haiti, have you? A Well, he spoke about Cuba.

Q Did he use the word "Haiti" at all? A Yes.

Q Sure about that? A Yes.

Q Was that the first time that you entered the apartment? A I don't remember.

Q In explaining this trip where they were taking motion pictures? A The first time, yes sir.

Q And did he exhibit to you pictures that he had taken? A Yes.

Q Did he show you his own picture? A Yes, sir.

Q And showed it to the other young ladies? A Yes, sir.

Q Up to that time, no person had been selected to go with him as stenographer down to Cuba? A No, sir.

Q Or to Haiti. Did you tell Dr. Pryor, or the defendant, that your brother had been to Haiti? A Yes, sir.

Q And you used the word "Haiti", didn't you? A I don't remember.

Q I can't hear your answer? A I don't remember.

Q Is that your best answer? A I don't remember. I don't remember just exactly what I said.

Q Do you recollect having been asked this question by the District Attorney, in the Magistrate's Court, and you made this answer: "Q. State all that the defendant said to you and what you said to the defendant? A. He explained the circumstances;

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he said he wanted a stenographer to go to Haiti, Cuba, and he seemed to pick me out." Did you make that statement? A He picked me out.

Q Did you make that statement, that answer to the question which was put to you? A (No answer).

BY THE COURT:

Q Do you understand the question? He is asking you whether you said that in the Magistrate's Court. A Yes, I understand. I don't remember whether I said that.

BY MR. GOLDSMITH:

Q You don't recollect. You stated here, in answer to the District Attorney's question, and to my question, that you got there at 10 o'clock. Do you recollect making this answer to a question by the District Attorney, page 6: "Q. What time do you say you got there? A. Quarter past ten." Did you make that statement?

A Yes, sir.

Q Well, which statement is true, that you got there at 10 o'clock, or that you got there at 10:15? A Well, it was between 10:00 and 10:15.

Q No, didn't you say - do you say it was - do you say both of them are true? A Well, when I reached the house it was 10 o'clock.

Q Didn't you say, in answer to a question of the District Attorney, in the Magistrate's Court, on page 6, "Q. What time did you say you got there? A. Quarter past 10." You made that answer, didn't you? A Yes, sir.

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Q Was that answer true, or false? A (No answer).

Q Which is true, the statement that you made here this morning, in answer to Mr. Sullivan and myself, or the statement that you made in the Magistrate's Court on the day of the examination?

THE COURT: What is this? Ten, or ten-fifteen?

MR. GOLDSMITH: Yes, sir.

THE COURT: Can you say whether or not it was ten, or ten-fifteen, when you arrived at the house?

MR. GOLDSMITH: One moment. I object to that question, upon the ground it is not the one propounded by the defendant's counsel. With all due respect to the Court, that is not the question.

THE COURT: What is the question? I thought that was the question.

MR. GOLDSMITH: She testified here this morning on two direct questions, one by Mr. Sullivan and one by myself, that she arrived there at ten o'clock.

THE COURT: Yes.

MR. GOLDSMITH: In another tribunal, in the same case, she testified that she got there at 10:15.

THE COURT: That is, she said she testified she got there at 10:15?

MR. GOLDSMITH: Yes, sir.

MR. SULLIVAN: SHE SAID she did not know; she did not remember.

BY THE COURT:

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Q Which is true, did you get there at 10 o'clock, or 10:15?

A When I arrived at the house it was ten o'clock, but when I got up in the apartment it was about a quarter past ten.

BY MR. GOLDSMITH:

Q Didn't you swear in the Magistrate's Court that you did not get to that apartment before 10:15? A I don't remember.

Q Do you recollect this question being asked you and you made this answer: "Q. What time did you say you got there? A. Quarter past 10." You swore to that, didn't you, in the Magistrate's Court?

A I don't remember.

Q Is that the best answer you can give? A The very best.

Q That is the best answer you can give? A Yes, sir.

Q Now, after having a conversation with all of these girls, he told you to sign your name, did he? A Yes, sir.

Q Did you sign your name? A Yes.

Q Look at this paper, and I ask you whether or not this is your signature (handing paper to witness)? A Yes, sir.

Q Did you write that? A Yes, sir.

Q And how long had you been in the apartment before you wrote your name upon this paper? A I don't remember.

Q Well, you were the first one to sign your name? A I know, but we had been waiting until he had finished writing the letter. Then he explained everything, and then he told us to write our name. I don't know how long that took.

Q With your telephone address. And what was 10:20, what was

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that? A I don't know; I didn't notice that.

BY THE COURT:

Q Did you write, "10:20?" A No, sir.

BY MR. GOLDSMITH:

Q Was your appointment made for 10:20? A I was interviewed right there, and the other girls were sent away. I was not sent away at all.

Q Didn't the interview start at 10:20? And he said he would give each girl 15 minutes? A Yes, sir.

BY THE COURT:

Q You mean, then, that he said he would give each girl 15 minutes? A Yes, sir.

BY MR. GOLDSMITH:

Q Now, did Lampe go out, or was Lampe still there when he said he would give each girl 15 minutes? A I don't remember. I know he returned after he had delivered the letter.

Q And there is no question in your mind that Lampe did come back to the apartment? A Yes.

Q There is not any question about that, is there? A No.

Q How long after he left did he return? A I don't know.

Q What is your best recollection? A I don't remember. I know he returned after he had delivered the letter.

Q How long was that, 5 minutes, or 10 minutes? A (No answer).

BY THE COURT:

Q Was it before you came downstairs, or afterwards? A Before I

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came downstairs.

Q That is, when you came downstairs and saw the other girls waiting down there? A Yes, we were all in the apartment when Willie came back.

BY MR. GOLDSMITH:

Q You have testified here to a state of facts. Have you talked with anyone with reference to what you were going to testify to here today? A No.

Q Not to a human living being, not to a soul? A No, sir.

Q You are sure about that? A Positive.

Q You are positive you spoke to no one? A No, sir.

Q Did you speak to Elsie Schimmel? A No.

Q Did you speak to Fanny Florea? A No - over at the court house we did - the station house.

Q Did you speak to the police officer about it? A No.

Q At no time? A No.

Q And this officer's name is what? A Griffin.

Q You never had a conversation with Griffin about what you were going to testify to what happened? A No.

BY THE COURT:

Q Did you tell him what happened? A I told him what happened.

BY MR. GOLDSMITH:

Q When? A The day of the arrest.

Q When did you tell him that? A After we got over to the court house, I told the Magistrate.

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Q But that was the first time that you said anything, was before the Magistrate? A Yes, sir.

Q You said nothing to this lieutenant in the police station? A In the police station, I mean.

Q Will you tell this jury, if you can - take your time - nothing to be afraid of - when was the first time that you spoke or said anything to that police officer, Griffin? A Right after the arrest.

Q After the arrest. Now, was it in the building, on the way to the station house, in the station house, or in the Magistrate's Court? A In the station house.

Q In the station house? A Yes, sir.

Q Then, at no time did you say to the police officer, in the building, or on the stairway, or on the way to the station house, that this defendant had assaulted you? A No.

Q Are you sure about that? A Positive.

Q And there can be no mistake about it? A No.

Q Now, you have testified here this morning that when you got into the premises, Mr. Pryor, the defendant, told you to take off your hat and coat? A Yes, sir.

Q Is that the truth? A Yes, sir.

Q Sure about that? A Positive.

Q You are positive? A Yes, sir.

Q Do you recollect the District Attorney asking you this question in the Magistrate's Court, question 38 on page 7: "Q.

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State the Conversation or conversations that you had on the second visit to this apartment with this defendant, and also state any thing that happened in the apartment?" You recollect him asking you that question? A Yes, sir.

Q "A. I entered the room and the door was locked behind us". Did you make that answer? A Yes, sir.

Q "I went in the front room, the parlor". Is that correct? A Yes.

Q "I removed my hat and coat." Did you say that? A I don't remember saying that.

Q You don't remember saying that? A No, I was told to take off my hat and coat.

Q Did you make this answer - I am going to repeat the question again for you, asked by the Assistant District Attorney: "Q. State the conversation or conversations that you had on the second visit to the apartment with this defendant, and also state any thing that happened in the apartment? A. I entered the room and the door was locked behind us. I went in the front room, the parlor. I removed my hat and coat, and Mr. Pryor sat at the piano and played the liano. I was at the mirror, fixing my hair, and he came over to me and asked me if I was willing to travel, and I said yes." Did you make that answer? A No.

Q That statement is absolutely untrue, isn't it? A I didn't make that statement.

Q Then, this statement is not correct, is it? A No.

Q And you never made such a statement? A No.

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Q Now, you testified here this morning, that he came over and kissed you on one occasion at that time. Is that right? A Yes.

Q Keep your hand down, please, and open your mouth, and talk so the 12th juror can hear you. Do you recollect you were asked this question in the Magistrate's Court: "Q. Isn't it a fact that you took your hat and coat off yourself? A Yes, sir." Did you say that?

MR. SULLIVAN: Where is that?

MR. GOLDSMITH: Page 26, question 254.

A Yes, I was told to take it off.

Q Do you remember this question being put to you, and you made this answer: "Q. And isn't it a fact that he didn't ask you to take it off? A. Yes, sir." Is that statement true, or was it false when you made it?

MR. SULLIVAN: Where is it?

MR. GOLDSMITH: Question 255, page 26.

A I don't remember what I testified to, but I know I was told to take off my hat and coat.

Q Do you mean to say that you did not give such testimony in the Magistrate's Court? A I don't remember.

Q What is the matter with your memory? Is it poor today? A I don't know.

Q Wasn't your memory better the day of the examination, which was held over two months ago, than it is today? A (No answer).

Q Wasn't your memory better then as to what did occur than it

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is today? A (No answer).

BY THE COURT:

Q Do you understand the question? A Yes, I understand it.

Q He wants to know whether you remembered any better then what happened than you do today. Do you remember today what happened just as well as you did then? A Yes, sir.

BY MR. GOLDSMITH:

Q Isn't that so?

THE COURT: What so?

MR. GOLDSMITH: That her memory was better then.

THE COURT: She says she remembers just as well today as she did then what happened.

Q And you swear that you did not make such an answer to that question? A Oh, I don't remember what I said at the court house.

Q I repeat this question again, and ask whether you did not make the answer to the question: "And isn't it a fact that he did not ask you to take it off? A. Yes, sir".

MR. SULLIVAN: I object. The question has been answered.

THE COURT: Yes, the objection is sustained.

MR. GOLDSMITH: If your Honor pleases, this is very important, the credibility of this girl, every fact and circumstance, if your Honor pleases, in a case of this character.

THE COURT: But she says she does not remember whether that particular question was asked her. You may ask her again if that question was asked her. What is the question?

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MR. GOLDSMITH: There are two questions: "Q. Isn't it a fact you took your hat and coat off yourself? A. Yes, sir. Q. And isn't it a fact that he did not ask you to take it off? A. Yes, sir." Now, she has testified here this morning that he asked her to take her hat and coat off. As a matter of fact, she testified in another tribunal differently.

THE COURT: That is what you contend, but there is no evidence of that. You may ask her whether she did, or not.

MR. GOLDSMITH: I will prove that she did by calling the stenographer in due time, with your Honor's permission.

Q Did you make such an answer to that question? A I don't remember. I don't remember what I made that day.

MR. GOLDSMITH: I am entitled to an answer, if your Honor pleases, whether she so testified, or did not so testify.

THE COURT: Well, she says she does not remember.

MR. GOLDSMITH: I ask that the answer be stricken out, as not responsive to the question.

THE COURT: The motion is denied.

MR. GOLDSMITH: I take an exception.

Q Now, this morning you testified that he kissed you. How many times did he kiss you? A I don't know.

Q What? A I don't know.

Q You said you recollected everything a minute ago of what transpired or was supposed to have transpired. A Oh, I don't keep

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track of those things.

Q You did not keep a memorandum of it, did you? A No.

Q Did not jot it down in shorthand? A No.

Q How many times did he kiss you? A I don't know.

Q Once? A I don't know.

Q Twice? A (No answer).

BY THE COURT:

Q Now, just tell us the best you can remember? A Several times.

Q He kissed you more than once, did he? A Yes.

THE COURT: "Yes, more than once". Speak right up,
and tell the facts about this.

BY MR. GOLDSMITH:

Q How do you recollect now that he kissed you more than once? You said you did not make a memorandum of it? A I don't know how many times he kissed me.

Q Who are you swearing he kissed you more than once, if you do not know anything about it?

THE COURT: No, she did not say that, counsellor; she did not say that.

Q Which is it? A Well, he did kiss me, but I don't know -

Q He kissed you? A Yes, sir.

Q You say you don't know whether he kissed you once, or twice?

THE COURT: She said he did kiss her more than once.

Q How do you know? You said you had no recollection of it.

THE COURT: No, she did not say she had no recollection
of it.

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Q Well, I am asking you. Do you have any recollection of it? A I don't remember. I know he kissed me, but he kissed me more than once.

Q Where did this happen? A In the parlor.

Q In the parlor. You had gotten off the couch; that was in the dining room? A This was all in the parlor. We were not in the dining room.

Q You were not in the dining room? A No.

Q Where were you standing? A When?

Q When he kissed you, as you say. A I was sitting on the couch.

Q What? A A settee; I was sitting on the settee.

Q You were sitting where, on a settee, when he kissed you? A Yes, sir.

Q You were sitting on the settee in the parlor when he kissed you? A Yes, sir.

Q Now, there is no question about that at all? A No.

Q That is correct, isn't it? A Yes, sir.

Q And he came right over from the piano and sat down and kissed you? A Yes, sir.

Q Several times, or more than once? A Yes, sir.

Q Did he at that time say anything about were you willing to travel to Haiti or Cuba? A He said that just as we came in, before he played the piano.

Q I am talking about the time he is supposed to have kissed you. You say that he did, and you were sitting on the settee,

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and he had stopped playing the piano, didn't you? A Yes, sir.

Q Had you been at the mirror, fixing your hair? A I don't remember.

Q What do you mean, you don't remember. Do you recollect making this statement: "I was at the mirror, fixing my hair", on page 8; is that right? A I don't remember that statement.

Q You don't remember that? A No.

Q Well, do you remember saying, "And then later he came over to the window and looked out of the window"? A Yes, sir.

Q And you were still sitting on the settee? A Yes.

Q And is that the time that he kissed you? A Yes, sir.

Q Now, did he do anything else? Did he put his hand down your dress? A No, not then.

Q Get you around the waist? A No.

Q Did he do anything else at that time? A He put his arm around me.

Q On the settee? A Yes.

Q Now, you have not testified here that he pulled down any shade, have you? A No.

Q In any part of your examination today? A But he did.

Q You have not so testified here? A I know.

Q And you have testified to everything that happened? Now, didn't you testify in the Magistrate's Court: "He came over to the window, looked out of the window, pulled down the shade and put his arms around my neck and kissed me several times"; didn't you

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so testify? A Yes, sir.

Q Then, that answer in here is correct, is it? A Yes.

Q That part is correct? A Yes.

Q You remember so testifying? A Yes, sir.

Q And when I ask you whether he asked you to take off your hat and coat you don't remember that, do you? A I remember I was told to take off my hat and coat. I don't remember making that statement.

Q Now, I want you to describe how long after you got up from the settee were you shoved all the way through the dining room, through the kitchen and into the bed room? A I don't know how long it took, but I know I was shoved in, shoved through the rooms.

Q He did not lift you up? A No.

Q What did you do? A He shoved me before him.

THE COURT: He asked, what did you do?

THE WITNESS: I was trying to get back, struggling back.

Q Did you holler? A No.

Q Did you scream? A No.

Q Make an outcry of any kind? A No.

Q When he got you into the bed room, he threw you on to the bed? A Yes, sir.

Q Bodily? A Yes, sir.

Q And had you before that at any time arranged your hair, or fixed your hair? A I don't remember.

Q What do you mean, you don't remember? A I don't remember.

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Q Have you a convenient memory for this case?

MR. SULLIVAN: I object to that.

THE COURT: The objection is sustained.

Q Part of the questions that affect you directly you can answer, and those which don't you don't remember.

MR. SULLIVAN: I object to that as a conclusion of counsel.

THE COURT: The objection is sustained.

Q Now, at any time while you were on the bed didn't he put his knee into your stomach? A No.

Q Yes, he did, didn't he? A No.

Q Sure about that? A Positive.

Q Eh? A Positive.

Q Didn't you testify in the Magistrate's Court as follows, on page 8: "I refused to go, and he shoved me outside of the parlor until he forced me into the other room, which was a bed room and flung me down on the bed, and put his knee on me"; didn't you swear to that? A No.

Q What? A No. I don't remember.

Q Do you mean to say you did not swear he put his knee on you?

A No, I did not make that statement, I am positive.

Q That statement is absolutely incorrect? A Yes, I never made such a statement.

Q And that statement is untrue? A Yes, sir.

Q In every particular? A The last part of it is untrue.

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Q About the knee? A Yes, sir.

Q And all of this time - withdrawn. And you were in this bed room ten minutes? A About ten minutes.

Q You were in this room 10 minutes, and you made no outcry of any kind? A Yes, once.

Q When did you make the outcry? A When I was on the bed, after I heard the second knock.

Q What? A After I heard the second knock at the door.

Q After you had heard a second knock at the door, you made an outcry? A Yes, sir.

Q Is that the time that the defendant went to open the door? A I think so.

Q Are you sure about that? A Well, after I made the outcry I know he left me.

Q What did you say? A I don't remember saying anything, but he said to me he would go and send them away; that he thought they were some more applicants, and he would tell them that the position was filled.

Q Will you please tell this jury, or explain this alleged outcry of yours? A Well, I don't know how loud I screamed.

Q You screamed? A Yes, sir.

Q Do you know what the nature of an oath is, Miss Dedisky? Do you know what an oath is? A Yes, sir.

Q What is it? A I know what it is.

Q You don't know what it is? A I do know what it is.

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Q Do you know that an oath is an affirmation made to God of the truth of the testimony you give? A Yes, sir.

Q And you say you screamed? A Yes, sir.

Q And there can be no mistake about that? A I didn't scream loud.

Q You screamed lowly? A I don't know how loud I screamed, but I screamed.

Q Didn't you testify in your direct examination in the Police Court: "A. I was too dumbfounded to scream", page 8.

MR. SULLIVAN: Finish the answer. I submit the answer ought to be finished.

THE COURT: Yes, read it all.

MR. GOLDSMITH: I will read it all, with the greatest deference to the Court and the jury. I had not gotten that far. I think I ought to be allowed to try my case in my own way, but, for the satisfaction of Mr. Sullivan, I will read it.

Q "And I was too dumbfounded to scream, and I moaned, and one of the girls heard me, and they went downstairs". Did you say that? A I don't remember.

Q You don't remember? A No, I don't remember saying that.

Q Is that the best answer you can give? A Yes, sir.

Q Will you swear that you did not so testify before Magistrate House? A Well, I remember screaming.

MR. GOLDSMITH: No, the question is - I ask the

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answer be stricken out.

THE COURT: Strike it out; motion granted.

Q The question, is, did you testify that you were too dumbfound-
ed to scream, "but I moaned, and one of the girls heard me, and
them went downstairs." Did you so testify? A Not

the latter part of that.

Q What letter part didn't you testify to? A (No answer).

BY THE COURT:

Q Do you understand what he means when he asks you whether you
so testified? A Yes, sir.

Q Before Magistrate House? A Yes, sir.

Q He is asking you now whether you made the statement before
Magistrate House? A I don't remember saying that one of the
girls went downstairs, because I didn't know who was outside the
door.

BY MR. GOLDSMITH:

Q You did not scream, did you? A I did scream.

Q You said here you were too dumbfounded to scream? A Well,
until after I had heard the knocking, the second or third knock.

Q You screamed after you heard a knock? A Yes, sir.

Q But you did not scream before you heard a knock? A No.

Q Not a word? A No.

Q Now, when ^{did} you scream? , when you heard the knock? A After
I heard the second or third knock, I don't remember which.

Q Were you asked this question, and did you make this answer, the

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same page, question, Number 40: "Q. Was it after you moaned that you heard some one rap on the door? A I heard the rap first, and then I moaned." Did you swear to that? A I screamed.

Q What? A I screamed.

Q Did you at any time, say in any testimony that you screamed?

A Yes sir, as loud as I could under the circumstances.

Q When did you scream? A After I had heard the second or third knock.

Q Did you make this answer to the question, if you will please follow me closely and listen to the question: "Q. Was it after you moaned that you heard some one rap on the door? A I heard the rap first, and then I moaned."? A I don't remember using the word "moaned".

Q You never used the word "moaned"? A I don't remember.

Q At no time? A No.

THE COURT: What do you mean, you don't remember, or you did not use the word "moaned" in the Magistrate's Court? Who was the Magistrate?

MR. GOLDSMITH: House.

BY THE COURT:

Q Do you remember being in the Magistrate's Court? A Yes, sir.

Q You were examined there by the Judge? A Yes, sir.

BY MR. GOLDSMITH:

Q You never used that word? A I don't remember using it.

Q Well, now, which is it? You did not, or you don't remember?

A (No answer).

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BY THE COURT:

Q Do you understand the question? A Yes, sir.

Q What is the question? A He wants to know which is correct, whether I screamed, moaned, or -

Q That is not the question he is asking you. He is asking you not whether you did or not. He is asking you whether you told the Magistrate that you moaned. Do you see the difference?

A Yes sir. I think I told the Magistrate I screamed. I don't remember using the word moaned. It was not very loud, but it was as loud as I could.

THE COURT: He did not ask you what you did. He is asking you what you told the Magistrate.

BY MR. GOLDSMITH:

Q While he was pushing you into this bed room, did you scream at any time? A No.

Q And you permitted him to push you from the parlor, after you had repulsed him on the settee, and he pushed you all the way into the bed room, how many feet?

MR. SULLIVAN: I object. There are two questions there.

THE COURT: Yes, the objection is sustained.

MR. GOLDSMITH: Well, we will sever the question. Do you know how many feet it is from the parlor to that bed room? A I don't know. There is three rooms; the distance of three rooms.

Q The parlor, the dining room, the kitchen and the bed room?

A Yes, sir.

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Q You took good notice of it? A Yes, sir.

Q Have you been there since? A Yes, sir.

Q When did you go there? A No, I was only there twice.

Q When? A The same day.

Q And you took notice of the apartment? A Yes, sir.

BY THE COURT:

Q You mean, when you first went up, and when you went back that same time? A Yes, sir.

Q Those are the two times? A Yes, sir.

Q Have you ever been there since then? A No, sir.

BY MR. GOLDSMITH:

Q Now, can you tell us how many feet it is, about, from the parlor window to the bed room to which you were pushed? A I don't know.

Q What is your best judgment? 75 foot, 50 foot? Is it 50 foot? Will you agree, Mr. Sullivan, it is 50 foot?

MR. SULLIVAN: I won't agree, no. I was never there.

Q You know what a foot is? A Yes, sir.

Q Was it about 50 feet? A It is a distance of three rooms. I don't know how large those rooms are.

Q As far as from here to that wall (indicating)? A No, not so far.

Q About how far? A About as far as where the first benches are, directly in front of that man (indicating).

Q That is the distance from the parlorto the kitchen, the dining room and into the bed room? A I think so.

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Q That is your best judgment? A Yes, sir.

Q From where you are sitting? A Yes, sir.

MR. GOLDSMITH: Is that about 40 feet, if your Honor
please?

MR. SULLIVAN: Let the Foreman of the Jury decide.

MR. GOLDSMITH: I want it on the record.

MR. SULLIVAN: Let the foreman make a statement now for
the purpose of the record.

MR. GOLDSMITH: What is your opinion, MR. Foreman,
from where she is sitting to the first bench?

THE FOREMAN OF THE JURY: I will say about 25 feet.

THE COURT: When you said "bench", do you mean chair?

THE WITNESS: The chair with the cane back.

THE FOREMAN OF THE JURY: That is about 25 feet.

THE ELEVENTH JUROR: It is nearer 40 feet.

MR. GOLDSMITH: We will take it between 25 and 30.

Is that satisfactory, Mr. Sullivan?

MR. SULLIVAN: Yes, whatever the jury say.

Q Now, you stated to me a little while ago you were in that
bed room on that bed about 10 minutes; that is correct, is it? A
Yes, sir.

Q Now, do you recollect making this answer to a question: "Q.
How long were you on the bed?", page 33, question 344, "How long
were you on the bed? A. About a minute and a half or two minutes."
Did you make that statement? A No.

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Q That statement is also absolutely false and untrue? A Yes.

Q And you never gave such testimony? A No.

Q And this record is entirely false if it so states that you made that answer to that question? A I did not make that statement.

Q You understand my question? A Yes, sir.

Q Please answer it. You have testified that the only time that you screamed was when you heard the knock on the door?

A Yes, sir.

Q And that was the time when the defendant went to open it; is that right? A Yes.

Q That is correct. Question 353 - do you recollect these questions being asked ^{you} and you making these answers: "Q. During that minute and a half that you were on the bed what was the Doctor doing? A. He was trying to force his hands up my clothes". Did you swear to that? A Yes, sir.

Q That is correct, is it? A Yes, sir.

Q "Q. What were you doing? A Struggling." Did you testify to that? A Yes, sir.

Q "Q. Struggling? A Yes, sir." That is correct, isn't it? A Yes, sir.

Q "Q. In what way? A Trying to get away from him." Is that correct? A Yes, sir.

Q "Q. Did you scream then? A I screamed as loud as I could under the circumstances." Did you make that answer? A Yes, sir.

Q During the minute and a half that you were on the bed? A I

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didn't say a minute and a half.

MR. SULLIVAN: Where is the question?

MR. GOLDSMITH: This is question 344, where she swore she was a minute and a half on the bed on page 33.

MR. SULLIVAN: She said she did not say that.

MR. GOLDSMITH: Mr. Sullivan, I will prove that she did. I can only prove part of my case at a time.

Q Now, while you were on the bed you were screaming all this time; is that right? A I only screamed once.

Q He did not have his hands over your mouth, did he? A No, he had his hands up around here some place (indicating neck), but I can't say just where.

Q Was he choking you? A I don't remember.

Q Did he have his hands over your mouth, "yes", or "no". A No.

Q Did he have his hands on your breast at the time? A Yes.

Q The other hand he had up your clothes? A He tried to force it up.

Q Which hand did he have on your breast? A I don't know.

Q Which hand did he have under your clothes? A I don't know.

Q You don't know? A No.

Q Now, before he pushed you into the bed room, were there any 'phone calls or knocks on the door - knocks on the door or 'phone calls? A No.

Q Are you sure about that? A Positive.

Q None at all? A No, sir.

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Q Nobody knocked on the door, and the only knock that you heard was when he went to the door to open it? A After we were in the bed room.

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

Q So, during the time when he took you from the settee, in the parlor, and pushed you into the bed room, and you were in there you say, ten minutes, you heard no knock, and you heard no telephone call, and the only one you heard was when the Doctor got up to open the door? A I said I heard two or three knocks before I screamed; that is when I was on the bed.

Q Not previous to that, though, did you? A No.

Q You heard a knock, and then you screamed, in the bed room?

A Yes.

Q And then the Doctor, after you screamed, got up and went out and opened the door? A Yes, sir.

Q Do you know what time that was? A No.

Q Your best recollection?

THE COURT: What time what was?

MR. GOLDSMITH: When she was forced into the bed room.

THE COURT: Started to go, you mean?

MR. GOLDSMITH: Yes.

BY THE COURT:

Q Did you observe what time it was when he started to push you into the bed room? A No, I have not the slightest idea.

BY MR. GOLDSMITH:

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Q Now, when the doctor, or the defendant, went to open the door, did you hear footsteps also? A I don't remember that.

Q What? A I don't remember that.

Q Didn't you testify here this morning that you heard foot steps in the hall? A Yes, sir.

Q And people talking? A Yes, after the defendant had gone out into the hall, I heard footsteps.

Q That was after he had gone into the hall, but not before? A No.

Q Did you run to the front of the house, or to the rear of the house? A The rear of the house.

Q And was there a door there that you could have got out of? A No.

Q Did you try to get out of a door? A There was no door. The only door that I noticed had a bureau up against it, in the bed room.

Q Which bed room? A I don't know.

Q First, or second? A First, I think. The one next to the kitchen.

Q Is that the only one you went into? A No, I went through the parlor, but that was the only one -

Q Didn't you go into the other bed room also? A Yes, sir.

Q And you went into the bath room? A Yes, sir.

Q When was that? After you had screamed? A Yes, sir.

Q And after the doctor had gone to open the door? A After the doctor was out in the hall.

Q Out in the hall? A Yes, sir.

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Q You did not walk to the door where the doctor went out of?
That is the usual door to go out? A No, I did not walk to the door.

BY THE COURT:

Q What do you mean? A I did not walk to the door.

Q What door? A The entrance to the apartment.

Q Did you go there at all? A I went to the back of the apartment, after the defendant had gone out into the hall.

Q Yes? A Then I returned to the front of the apartment.

Q When you got to the front of the apartment, where did you go? A Then I heard knocks -

Q Where did you go to the front of the apartment? A To the parlor, and I tried the window, and the window was locked.

Q Did you go to the door? A No. I went to the door after I heard the knocks.

Q Then, you did go to the front door? A Yes, after I heard the knocks.

THE COURT: Now, when he asks you a general question like that, you want to think whether at any time you went to the front door. If you answer, "no", it looks as if you never went to the front door. Now, before you said you went to the front door after you went to back and came to the front. Stop and think of the questions before you answer them.

BY MR. GOLDSMITH:

Q Before you went to the front of the house, wasn't there a

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knock on the door, a couple of raps by somebody? A No, I went to the front of the house, then I went to the door.

Q Keep your voice up and your hand down from your mouth. You went to the front of the house? A Before I went to open the door.

Q Did you look out of the window? A I tried the window. The window was locked.

MR. GOLDSMITH: I ask that the answer be stricken out, as not responsive.

THE COURT: Strike it out, yes. Did you look out of the window?

THE WITNESS: I think so.

Q Now, your mind is clear at that time that you think you looked out of the window? A Yes, sir.

Q Is that correct? A Yes, sir.

Q And in looking out of the window you did not break a pane of glass and holler for help, did you? A No.

Q Did you, or not, scream? A No.

Q Nobody was holding you? A No.

Q Nobody was doing anything to you, were they, at that time? A No.

Q And did you have to draw the shades to look out of the window? A They were down, partly.

Q Did you have to draw the shade to look out of the window when you went to the front of the apartment? A No.

Q Now, when you heard a knock at the door, you opened it, didn't

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you? A Yes, sir.

Q And you stood behind the door, didn't you? A Yes, sir.

Q Why did you go behind the door? A Well, to allow the defendant to go in, so that I could easily sneak out.

Q Sneak out. You saw a police officer there, didn't you? A Yes.

Q You didn't want to sneak out for anything, you had not done anything wrong, had you? A You don't suppose I am going to stay in an apartment with a beast like he is.

MR. GOLDSMITH: I ask that answer be stricken out.

THE COURT: I think it is responsive to the first part of the question. However, I will strike it out. Strike it out, and the jury are directed to disregard it.

Q How did you know it was a police officer? A Because he showed me his badge.

Q When did he show you his badge? A After he entered the apartment.

Q Immediately? A Yes, sir.

Q What did he say? A He asked me what the defendant had done to me.

Q Yes, and what did you say? A I didn't say anything.

Q Then what happened? A He told me that he had come up to help me, and I should try to tell him what the defendant had done to me. He saw my condition, so he ran to the -

MR. GOLDSMITH: I ask that that be stricken out as a conclusion of the witness, "he saw my condition".

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THE COURT: Yes, strike that out.

A (Continued) He went to the parlor, where the defendant had gone, and I ran out into the hall.

Q What else? Did you leave the hallway, or did you wait for the officer? A I ran right out into the hall.

Q Then what happened? A Then I met the girls at the top of the steps.

Q What? A I met the girls at the top of the steps.

Q You met a girl named Schimmel? A Yes, sir.

Q And you had a talk with her? A I don't remember speaking to her.

Q You didn't talk with Schimmel? A No.

Q Did you make any complaint to the Schimmel girl at that time?

A No, I come out crying.

Q You never said a word to her at all? A No.

Q No complaint on the stairway to the Schimmel girl? A I didn't say anything.

Q Absolutely none? A No.

Q Was there a door open leading from one bed room to the hall way at any time while you were in the apartment that you could escape from? A From the bed room?

Q Do you understand my question? A No.

Q Do you understand my question? A No, I don't.

Q I withdraw it, and repeat it. While you were in that apartment, when this is supposed to have happened to you, was there any

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door way open where you could get out through any of the bed rooms or any of the other rooms, or were they all securely locked?

A Leading out into the hall?

Q So you could make your escape, so you could sneak out? A No.

Q They were all locked? A Yes, sir.

Q Every one of them? A I only noticed one.

Q What one did you notice? A The one with the bureau up against it.

Q And the bureau or dresser was up against it? A Yes, sir.

MR. GOLDSMITH: May we adjourn here, if your Honor pleases?

THE COURT: Gentlemen of the jury, you are admonished in accordance with the statute, that you are not to converse among yourselves or with any person on any subject connected with the trial, neither are you to form or express any opinion thereon until the same is finally submitted to you and you have received the instruction of the Court. You will refrain, therefore, from talking about the case.

MR. GOLDSMITH: I ask that your Honor direct that this witness be not talked to during the recess hour, as she is under cross examination by the defendant's counsel.

THE COURT: I won't assume that the District Attorney will do anything improper in the premises. No, I will not give such direction. I have confidence that the District Attorney will perform his duties.

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MR. GOLDSMITH: I have, also. I don't think Mr. Sullivan in a thousand years would attempt to talk to this witness, but some outside sources, while she is under cross-examination. The reason I do this, your Honor, is this: I had a case before Mr. Justice Crain, and it developed -

THE COURT: I will not have you go into what happened before Mr. Justice Crain.

MR. GOLDSMITH: On a question of law.

THE COURT: (To the Witness) Do not talk to anybody during the recess hour.

THE WITNESS: No.

THE COURT: Gentlemen, you will return at 2 o'clock.

(The Court then accordingly took a recess until 2 o'clock P.M.).

A F T E R R E C E S S

E L S I E D E D I S K Y, resumes the stand.

CROSS-EXAMINATION (CONTINUED) BY MR. GOLDSMITH:

Q Miss Dedisky, you were girl No. 1 that went into this apartment? A Yes.

Q Who was No. 2, the name of the girl? A I do not know her name.

Q Who was the girl No. 3? A I don't know her name, either.

Q Who was girl No. 4? A Miss Florea.

Q And who was girl No. 5? A Miss Schimmel.

Q Now, were you there all of the time that he was interviewing

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those girls? A Yes, sir.

Q How long did he talk to you? A About 10 minutes.

Q How long did he talk to girl No. 2? A I don't know. She was upstairs about 12 or 13 minutes.

THE COURT: You said you were present all the time he was talking to them.

THE WITNESS: Yes.

THE COURT: When was that?

MR. GOLDSMITH: Maybe I misunderstood her.

Q You were not there while he was interviewing these other girls? A No; I was downstairs.

BY THE COURT:

Q He asked you if you were present, and you said yes. A Yes, downstairs.

Q You mean you were present on the premises? A Down on the stoop.

BY MR. GOLDSMITH:

Q No. 2, you say, about 10 or 12 minutes? A I think so.

Q And the third girl? A About the same.

Q And the fourth girl? A About two or three minutes, in the hall.

Q And Miss Schimmel? A She was not interviewed. She was the fifth girl.

Q What? A She was not interviewed.

Q She was not interviewed at all? A No.

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Q He had no talk with the Schimmel girl, had he? A Not while I was there.

Q At any time? A (No answer).

BY THE COURT:

Q Was she up in the room first with the others? A Yes sir, she was up when we all five were there.

Q When all five of you were there together? A Yes, sir.

BY MR. GOLDSMITH:

Q You said a moment ago that you did not know who the third girl was, didn't you? A I don't remember who the third girl was.

Q What? A I don't remember who the third girl was.

Q Don't know her name? A I don't know. I think it was Miss Markus, or another girl, I don't know.

Q Don't you know it was Miss Markus? A I don't remember whether she ~~it~~ was the second or third girl interviewed. I know he came down with the third girl.

Q Wasn't ^{it} Miss Marks the third girl? A I think it was, but I am not positive.

Q Didn't you testify in the Magistrate's Court that Miss Marks was the third girl? A I don't remember.

Q Were you asked this question, and did you make this answer, page 20: "Q. Who was the third girl? A I don't know; one of these five. Q. Who is not in court? A Who is not in court, Miss Marks." Did you make that answer? A I can't say positively.

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Q You don't remember? A No, I don't remember whether she was the second or third girl, but I know she was interviewed; she was interviewed before Miss Florea.

Q Nobody went up after Miss Marks, did they? A Miss Florea.

Q Sure about that? A Yes, Miss Schimmel was the fifth girl to be interviewed.

Q Were you asked this question, and did you make this answer: "Q. Who went up after that?" after you had remarked about the Marks girl, "A. Nobody went up; the defendant came down with the third girl". Did you make that answer? A Yes, sir.

Q Was that true? A Yes.

Q Then, nobody went up after that, did they? A That is right.

Q What? A That is right.

Q That is correct, then, is it? A Yes, sir.

Q Where was the fourth girl interviewed? In the hallway? A In the hallway.

Q And Miss Schimmel was not interviewed at all? A No.

Q Do you know who knocked on the door when you say you were in the bed room? A No, I haven't got the slightest idea.

Q You have not the slightest idea? A No.

Q Was it a hard knock, or a soft knock? A I can't just say, but I know it was a knock.

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

Q What? A I don't know. Two or three.

Q Two or three knocks? A Yes, sir.

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Q And was the defendant on top of you at the time? A Yes.

Q And he got up immediately? A Well, after the second or third knock.

Q There were three successive knocks; is that what you mean?

A No, sir.

Q One after the other? A No.

Q What space of time elapsed between the first and the second and the second and third? You said there were three distinct knocks?

A About five or six minutes.

Q Five minutes before the first knock, and then five minutes from the second knock, and then five minutes and the third knock; is that right? A I can't just say, but I remember hearing two or three knocks.

Q And between each knock there was a space of time of about five or six minutes? A Yes, sir.

Q Now, didn't you testify when the knock was at the door the defendant got right up and opened the door and went right out?

A After the second or third knock.

Q After the second or third knock? A I don't remember how many knocks there were, but he didn't get up at the first knock.

Q He did not get up at the first knock? A No.

Q Did you scream then? A No, I screamed after the second or third knock.

Q The second or third knock you screamed? A Yes, sir.

Q You say you did not use the word "moan" at any time? A I

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don't remember.

Q Didn't you swear this morning that you did not? A Well, I don't remember using that word. I remember using "scream".

Q When did Lampe come back - Willie? A I think before the girls went downstairs, before the five of us went down - before the four girls, at least, went down.

Q Did he have a conversation at that time in your presence with the defendant? A I think so.

Q Well, where were you seated? A I don't know, but I remember being in the parlor.

Q When Willie came back? A Yes, sir.

Q How long had Willie been gone? A I don't know.

Q What is your best recollection? A About 12 or 15 minutes.

Q Was that the first time that you had been in the apartment, or the second time? A The first time, when all the five girls were there.

Q When you left the apartment, was Willie still there? A I think Willie left the apartment before I did.

Q Did Willie come back to the apartment? A No. He came back after he delivered the letter and then he went away.

Q Then he went away? A Yes, sir.

Q Did he say where he went to? A No.

Q Do you know who the letter was to? A No.

Q Did you hear any conversation with reference to the letter?

A Well, the defendant told him to see that it got on a certain boat. That was all I heard.

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Q That it got on a certain boat? A Yes, sir.

Q Anything else? A That is all.

Q Tell the entire conversation? A Well, the defendant told Willie to see that the letter got on a certain boat.

Q Yes. Is that all? A That is all I can remember.

Q Was there anything said about a typewriter? A No.

Q At no time? A Not while I was there.

Q At any time? A No.

Q Didn't you hear the defendant say to Willie to go to the typewriter firm and get the typewriter? A No.

Q Sure about that? A Positive.

Q At no time? A No.

Q Were you asked this question - you were present in court on this examination at page 28, question 300: "Q. Didn't you tell the District Attorney that you did not scream? A. I screamed when I was in the bed room." Did you make that answer? A Yes.

Q "Q. Didn't you tell the District Attorney this morning", meaning the day of the examination in the police court, "that you did not scream," and do you recall the District Attorney saying, "the witness hastested that she moaned"? A I don't remember that

Q Eh? A I don't remember that.

Q You don't remember that. How long after the officer knocked, or Miss Schimmel, or who ever knocked on the door, was it that you opened the door? A I don't know. About three or four minutes, I guess?

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Q Why did you wait that long? A Because I would much rather be a prisoner than be a subject of mistreatment.

Q You did not know who was outside there knocking on the door, did you? A No. That was after the defendant had gone out, and I was in alone.

Q After the defendant had gone out. You did not open the window and scream out, did you? A The window was locked.

Q But you could have opened it if you had tried? A I didn't think of that.

Q Did you try? A No, I didn't think of that.

Q Was there any bric-a-brac around the room that you could have smashed open the window with and cried out? A I didn't have time to think of that.

Q You could use the telephone ? A I didn't see any telephone.

Q Do you mean to say there was no telephone in that apartment?
A I did not say there was not any.

Q Did you see a telephone there? A No.

Q Didn't even hear it being used at any time? A No.

Q Sure about that? A Positivea.

Q Do you recollect the defendant talking on the telephone? A Not while I was there.

Q And while he went to the telephone you said, "It may be another one of those girls. Don't answer the 'phone." Do you recollect that conversation? A No.

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- Q Are you sure of that? A Positive.
- Q Where do you say you live? A 1540 Second avenue.
- Q Near what street? A Eightieth.
- Q What? A Eightieth.
- Q And how long have you lived there? A About five or six months.
- Q What? A About five or six months.
- Q Where did you live before that? A Seventy-first street.
- Q What number? A 24k.
- Q Keep your voice up, will you, please. What number? A 241.
- Q How long did you live there? A About nine years.
- Q What? A Nine years.
- Q And how old are you? A Nineteen.
- Q Nineteen years. Now, where were you employed previous to October, 1913? A In the Pictorial Review Company.
- Q What? A In the Pictorial Review Company.
- Q Where is that? A 39th street.
- Q What number? A I don't know. Between 7th and 8th avenues.
- Q Who was your boss? A Mr. Able.
- Q Please keep your voice up. What is the name? A Mr. Able.
- Q How long did you work there? A A little over a year.
- Q And where did you work before that? A For F. W. Windhorst.
- Q Where was that? A 71st street and Third avenue.
- Q Where? A 71st street and Third avenue.
- Q 71st street and Third avenue. What business? A Grocery!
- Q You were a stenographer in a grocery store. What did you do

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there? A Book keeper.

THE COURT: Wait a minute. She did not say that. She said she worked for a grocer.

MR. GOLDSMITH: She testified on direct examination that she was a stenographer for 2-1/2 years.

BY THE COURT:

Q What did you do in the grocery? A I was a stenographer and book keeper and cashier.

Q Stenographer, book keeper and cashier? A Not a stenographer.

Q Book keeper and cashier? A Yes, sir.

BY MR. GOLDSMITH:

Q Where was your first position as a stenographer? A Down in a law office, downtown.

Q Where? A Maiden Lane.

Q What is the name? A J. Noble Hayes.

Q And how long did you work there? A I don't know.

BY THE COURT:

Q Approximately how long? A It was only a temporary position.

Q A week, two weeks, a month? A About two weeks, I think.

BY MR. GOLDSMITH:

Q Was that your first position? A Yes, sir.

Q And when was that? A About 2-1/2 years ago, I guess.

Q Where was your next position? As stenographer, I am talking about? A At the Pictorial.

Q Pictorial? A Yes, sir.

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Q You say you worked there a year? A A little over a year.

Q When did you go to work for that firm? A I don't remember.

Q When did you quit? A Last August.

Q Last August? A Yes.

Q Have you had a position since then? A Yes.

Q Up to the time of this trouble? A Yes.

Q Where did you work in September? A Sperry & Hutchinson
Company .

Q As stenographer? A Yes, sir.

Q Where is that? A 2 West 45th street.

Q How long were you employed there? A About 5 weeks.

Q When was that? A August and September.

Q August and September. Now, you worked a year in the Pictorial
News, and 5 weeks for Sperry & Hutchinson; is that right? A Yes.

Q Now, we have got about 14 months. Where did you work before
you worked for the Pictorial News? A I don't remember. I have work-
ed in several temporary positions. I can't remember them all.

Q Where did you work that year, between the time you were with
J. Noble Hayes and the time you went to the Pictorial News? A I
was the book keeper for F. W. Windhorst.

Q You told the Court and Jury here that you had been a steno-
grapher for 2 years and a half; is that correct? A Yes, sir.

Q You were not a stenographer in this grocery store, were you?
A Well, I kept up my stenography.

THE COURT: She had been a stenographer for J. Noble

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Hayes for about two weeks. She says that was 2-1/2 years ago.

MR. GOLDSMITH: Then she says her next position was with the Pictorial News, didn't you?

THE WITNESS: No, with F. W. Windhorst.

Q What? A With F. W. Windhorst.

Q On 71st street and Third avenue? A Yes, sir.

Q How long did you work for him? A A little over a year, too, I think.

Q As a book keeper and cashier? A Yes.

Q Now, what year are you talking about that you worked on 71st street and Third avenue? Was it before your position with J. Noble Hayes, as stenographer, or after? A After.

Q How long after? A A few weeks.

Q A few weeks after. Didn't you testify here a few minutes ago that your next position was with the Pictorial News? A No.

Q That you had a few temporary positions in the meantime? A I had a few temporary positions right after I was with J. Noble Hayes. Then I had my position with F. W. Windhorst, and then I went to the Pictorial.

Q And you worked for them about a year? A Yes, sir.

Q A year and a quarter; is that right? A (No answer &.

Q When did you leave the Pictorial News? A Last August.

Q Did you have a position after that? A Yes.

Q Where? A The Redfern Corset shop.

Q And where was the next position? A Sperry & Hutchinson Company.

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Q Any after that? A I am back with the Sperry & Hutchinson Company now.

Q Are you there now? A Yes, sir.

Q Now, when you opened the door, wasn't the defendant immediately placed under arrest? A Not immediately.

Q Not immediately? A No.

Q Do you recollect making this answer to this question, on page 41, question No. 438: "Q. And after that when did you first start to talk to the detective? A The detective arrested the man right away." Did you so testify? A Well, after he tried to convince me that he was up to help me.

Q What? A After he tried to convince me that he was up to help me.

Q The officer did? A Yes, sir.

Q Do you recollect making this answer, page 40 -

THE COURT: He was in plain clothes, was he?

THE WITNESS: Yes, sir.

Q Page 40, No. 430: "Q. And the detective during all that time what did he do? A. He arrested the man right away, just as he came in." A No.

Q You did not swear to that? A No, I did not say that.

Q You did not say that? A No.

Q You did not answer the detective anything about what this defendant did to you at all; is that right? A That is correct.

Q Did he take the man right away to the station house? A Yes.

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Q Immediately? A Well, after he tried to convince me that he was up to help me.

Q The officer tried to convince you that he was up to help you? A Yes, sir.

Q Officer Griffin? A Yes, sir.

Q What did he say to you? A He asked me if the man had done anything to me.

Q Yes. Did you answer him? A No.

Q Never said a word to him? A No.

Q And still you were satisfied the man tried to convince you that he wanted to help you, and you did not even tell him anything that happened? A No, because I thought he was a confederate.

MR. GOLDSMITH: I move that her conclusion be stricken from the record, because she thought he was a confederate.

THE COURT: The motion is denied.

Q You thought this officer Griffin was a confederate? A Yes, sir.

Q What made you think that? A Because he was red-headed.

Q Because the officer was red headed, that is the only reason you thought that? You thought red heads run together; is that it?

A Birds of a feather flock together.

Q What? A Birds of a feather flock together.

Q And that is the reason you and Miss Schimmel and Miss Florea was running together, is that it?

MR. SULLIVAN: I object to that. There is no evidence to show that they ever went together.

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THE COURT: Objection sustained. Did you know any of these girls that applied before you went there?

THE WITNESS: No sir, they were strangers.

Q Well, when you thought hew as a confederate, what did you do, anything? A I was trying to sneak out the door, but he came in. I didn't think there was anybody behind the defendant.

Q Did he hide, the detective? A No, he stepped in first.

Q Who stepped in first? A The defendant.

Q The defendant stepped in first, and then the red headed detective came in? A Yes, sir.

Q And the detective asked you whether this man had done any thing to you, and you did not answer him? A No.

Q And he immediately locked this man up? A No, he pulled out his badge and showed me that he was a detective.

Q He showed you a shield and said he was an officer? A Yes, sir.

Q Then did you say anything to him? A No, sir.

Q You never said a word until you got in the court house, did you? A No.

Q Never said a word to the detective? A No.

Q At no time? A No.

Q Now, you talked to the detective in the station house, didn't you? A At the station house, yes.

Q What? A At the station house.

Q That is what I am trying to find out. You spoke to the police officer in the station house, didn't you? A Yes.

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Q What? A Yes.

Q Who directed you to go to the police station? A The girls took me over.

Q The girls took you over? A Yes, sir.

Q Didn't the officer tell you to go to the police station?

A The officer was behind. We ran down ahead of the officer.

Q And the officer did not tell you to come along? A No.

Q Never said a word to you about going to the station house?

A He might have said something to the other girls, but he did not say anything to me.

Q Not a word to you? A No.

Q Now, Miss Dedisky, I want to call your attention to one question about the doctor's hand. Did he have it on your throat, or did he have it on your waist, at any time?

THE COURT: What is that?

MR. GOLDSMITH: Did he have his hand on her throat, or on her waist?

THE COURT: When?

MR. GOLDSMITH: At any time while in this apartment.

THE COURT: Well, that question is very misleading, because she said that he put his arm around her, and she also has testified that he had his hand up, indicating near her throat, at another time, when she was on the bed. Which time do you refer to?

Q On the bed, at that time, did he have his hand in your waist, or on your throat? A Well, up here (indicating neck); I can't say

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just where.

Q Do you recollect this question being asked you by the District Attorney, page 43, on redirect examination: "Do you want to correct your testimony at this time? On direct examination, this morning, you testified, which is on the record, that the defendant had his hand on your waist. You testified on cross-examination by Mr. Bernstein that he had his hand on your throat. Which is correct?", and your answer was, "He had it on my waist." Is that true? A I did not say that.

Q You did not say that, either? A No.

Q Were you asked this question: "Q. Do you want to correct your testimony in that respect at this time?", and your answer was, "Yes, sir". Were you asked that question, and did you make that answer? A I don't remember that.

Q Did you make that answer? A I don't remember that.

MR. GOLDSMITH: You don't remember. That is all.

RE DIRECT EXAMINATION BY MR. SULLIVAN:

Q This examination in the Magistrate's Court took place on the very same day that these things are alleged to have happened to you in the defendant's apartment? A Yes, sir.

Q That very same day? A Yes, sir.

Q You never had an experience like this before, did you?

MR. GOLDSMITH: Objected to as irrelevant, incompetent and immaterial.

THE COURT: Objection sustained.

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Q Now, counsel has asked you if you wanted to correct your testimony at this time. On direct examination this morning you testified, which is on the record, and so forth, and your answer was, "He had it on my waist". Now, do you remember this question being asked, on re cross examination, by the defendant's lawyer in the Magistrate's Court: "Q. On your waist? A Yes, sir. Q. Both hands, or one hand? A One hand." Do you remember that? A No.

Q Do you remember this, "And the otherhand?", and the answer, "He held my hand down". Do you remember that? A Yes, I remember that.

Q Now, do you remember this question: "Q. And you were lying on your back?" A. No, sir, I was standing up at the time." Do you remember that? A I don't remember that.

Q Do you remember this question: "Q. When you were lying on the bed? A On the bed, he forced his hand down." Do you remember that answer? A Yes, sir.

Q "Q. Down your waist? A Yes, sir." Do you remember that question and answer? A Yes, sir.

Q "Q Your breast? A Yes, sir." Do you remember that? A Yes.

Q You testified to that in the Magistrate's Court, didn't you?
A Yes, sir.

Q Now, on page 29, counsel asked you this morning, "Didn't you tell the District Attorney this morning that you did not scream?", and then he said, "By Mr. Blyer, the District Attorney, the witness has testified that she moaned." Now, do you remember that

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being said there in the Magistrate's Court? A I don't remember the word "moaned" being used.

Q Do you remember this, that followed immediately after, "The Court: I don't think it is material. Proceed with some other line of cross-examination", and do you remember making this answer, "I screamed as loud as I could under the circumstances"? A I remember that.

Q So, you did testify you screamed, in the Magistrate's Court?
A Yes, sir.

MR. SULLIVAN: That is all.

RE-CROSS EXAMINATION BY MR. BOLDSMITH:

Q You understand English, don't you? A Yes, sir.

Q And you have answered Mr. Sullivan very fluently. He asked you did this examination in the Magistrate's Court occur on the same day that this thing happened, and you said yes.

THE COURT: I have not noticed any difference in the method of the answering. That is for the jury. I cannot allow you to assume she has answered very fluently, although Mr. Sullivan read very fluently from the minutes. As I recall her answers as to what she remembered and did not remember, it was exactly the same as she told you.

Q You testified in answer to Mr. Sullivan's question that these questions and answers were made the same day as this happened, didn't you? A Yes, sir.

Q A few minutes ago? A Yes, sir.

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Q Don't you know that you lie when you say so? A It was in the 47th street court.

Q Don't you know you are testifying falsely now when you make that statement? Don't you know that these questions were not asked you until 10 days afterwards? A Well, we were examined -

THE COURT: She is trying to.

A (Continuing) We were asked those questions that same day, at 2 o'clock. We were brought in court, in the ~~the~~ 54th street court, that same day.

Q Wasn't this examination to which I have referred and to which Mr. Sullivan has referred taken on the 25th of October, 10 days after the arrest? A (No answer).

BY THE COURT:

Q Did you go back again to court afterwards? A The same after afternoon.

Q Did you go back again later on? A Yes, sir.

BY MR. GOLDSMITH:

Q Now, which is the truth? A I don't remember what day those questions were asked.

Q You don't know the difference of 10 days, do you? A No.

MR. GOLDSMITH: That is all.

F A N N Y F L O R E A, called as a witness on behalf of the People, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. SULLIVAN:

Q Where do you live? A 105 East 123d street.

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Q What is your business, Miss Florea? A I am a book keeper and stenographer.

Q Keep your voice up, please, because all of these gentlemen want to hear everything you say.

BY THE COURT:

Q Can you talk loud? A I will try to.

Q That last man and all those gentlemen want to hear you. A Yes.

BY MR. SULLIVAN:

Q What did you say your occupation was? A Stenographer and book keeper.

Q I show you People's Exhibit No. 1 in evidence, and ask you if you recall seeing that advertisement previous to now (handing witness People's Exhibit No. 1)? A Yes, I answered this advertisement.

Q And did you go to the address mentioned in it? A Yes, sir.

Q Was that on October 15th, 1915? A I don't know what day, but I know it was on a Friday.

Q When you got there, did you see - who did you see? A I saw Mr. Pryor. I believe that is the defendant's name.

Q Were there any other girls there besides you? A There were four other girls besides me.

Q And was Elsie Dedisky, the last witness, was she one of them?
A Yes, sir.

Q Were these other girls in the room before you, or did you come in after them? A I came in after them. Two girls came in at the same time.

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Q You came in alone? A With another girl, but I didn't know her.

Q Did you know any of the girls that were in that room? A No.

Q Did you ever see Elsie Dedisky before that day? A Never before.

Q You had a conversation with the defendant? A Personally?

Q Yes. A Not when I first came in.

Q Did he talk in general? A He talked in general to all the girls.

Q Just state what he said, to the best of your recollection? A He said he was manager of some sort of International News Service, and that he was going down to Haiti to take some pictures and write some stories, and he wanted a stenographer that could travel; and then he said he wanted 15 minutes with each girl present, he wanted to speak to each girl individually, and then he made out the time; he gave each girl a certain time to come back. I was the fourth girl to come back, and Miss Dedisky was the first. We all went down and left Miss Dedisky there and went away, and we waited down stairs, just to see what she would say when she came down. Only three girls waited for her.

Q Do you recall who they were? A I only recall one other girl, Miss Markus. The other girl went away.

Q Miss Markus, isn't it? A Yes, I think that is the name.

Q Did you go upstairs? A Well, we waited for Miss Dedisky. She came down, so Miss Markus was the second girl. She went up stairs, and Miss Dedisky and I waited downstairs until Miss Markus came down. When Miss Markus came down, the third girl, ~~we~~ ^{that} didn't

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wait downstairs came and went up stairs. She came down with the defendant. I was supposed to go in and talk, and the defendant came out and said to me, "I suppose I didn't speak to you yet". I said, "No". So he said to Miss Dedisky, "I want to see you again after I speak to this girl". I didn't want to go upstairs, and I told the defendant he could speak to me right in the hall, and the defendant asked me whether I was willing to travel, and I said I would have to ask my people; I didn't know whether I could or not. So he told me he would call me up. He took my 'phone number and said he would call me up. When we waited outside Miss Dedisky whispered to me, "Wait for me on the corner".

MR. GOLDSMITH: I move to strike that out.

THE COURT: Strike it out.

Q What did Miss Dedisky do after she went in? A She went in. We went to the corner and waited for her. Five minutes passed, ten minutes; I do not know how long; and she didn't show up; so I thought of that affray -

MR. GOLDSMITH: I move to strike that out.

MR. SULLIVAN: I consent that it be stricken out.

Q What did you do then? A So a certain lady came up to me, Miss Schimmel.

Q Don't tell us what she said. Tell us what you did, if any thing? A I said to her that -

Q No, not what you said to her.

BY THE COURT:

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Q You can't say what was said, except when the defendant was present. You had a conversation with her, did you? A Yes, sir.

Q After that conversation, what did you do? A The last thing I did was -

Q What did you do next after conversing with her? A I didn't converse with her.

BY MR. SULLIVAN:

Q She said something to you? A Yes, sir, she said, "Wait for me"

MR. GOLDSMITH: I move to strike that out.

THE COURT: Strike it out. You must not tell what was said, if the defendant was not there.

BY THE COURT:

Q Did she do something? Did you see her do anything? Where were you when she spoke to you? A After she came -

Q Where were you when she spoke to you? A On the stoop.

Q Then what did you do? Stay on the stoop? A No, I waited on the corner for her.

Q What did she do? A She was up in the room. I do not know what she did up there.

Q Did you see her leave the stoop? A No, I called the policeman.

MR. GOLDSMITH: I object to that.

THE COURT: Objection sustained. Strike it out.

BY MR. SULLIVAN:

Q When this third girl came along, that was Miss Schimmel? A Yes.

Q She had a conversation with you on the corner? A Yes, sir.

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Q Did you stay on the corner? A I waited on the corner.

Q Where did she go? A She went upstairs.

Q Did she come out again? A Yes, sir.

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

Q After she had that conversation with you, did you still stand on the corner? A No.

Q Where did you go? A Went for a policeman.

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

Q How far is the station house from 778 Eighth avenue? A One block. This was 47th and 48th streets. The police station was on 47th street.

Q How far from Eighth avenue? A Between 7th and 8th avenues.

Q It was around the corner, was it? A Yes, sir.

Q Did you go to the station house? A I went to the station house.

Q Who went with you? A Miss Schimmel.

Q And you saw the Lieutenant in the station house? A Yes, sir.

Q And you had a conversation with him? A Yes, sir.

Q After you had a conversation with him did you see Officer Griffin? A Yes, Officer Griffin went with us.

Q And where did you go with Officer Griffin? A To the place where we had answered the advertisement.

Q That is, 178 Eighth avenue? A Yes, sir.

Q Did you go in with Officer Griffin? A I went to the first floor. That was as far as I went.

Q What floor is apartment 22 on? A Third floor.

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Q You did not go above the first floor? A No.

Q Who with? A Miss Schimmel went one floor above, and then I looked up and I saw Officer Griffin on the top floor.

Q Did you go back to that apartment, in the apartment, or on the floor of the apartment, at any time after your first visit there, when the defendant told you to come back? A No, I went to the floor below that.

Q The furthest you went was up one flight? A Yes sir, when the defendant came out - I mean, when Elsie came out, and I saw her.

Q You saw the complainant come out of the apartment? A Yes, sir.

Q What was her appearance?

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

THE COURT: The objection is overruled.

MR. GOLDSMITH: I take an exception.

Q What did you see? What did you observe about her appearance?

A Well, she was very, very scared; she couldn't talk a word.

MR. SULLIVAN: I consent that that be stricken out.

MR. GOLDSMITH: I don't want that consent. I ask your Honor to instruct the jury that they must absolutely disregard this woman's statement upon that theory.

THE COURT: Strike it out, and the jury are directed to disregard it. Just tell us what you saw. Then the jury will be able to determine what her condition was. You must not state your own conclusions, but what you saw.

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THE WITNESS: Her hair was disheveled^{and} she was very scared; that I know because she could not talk one word. I tried to question her, and she couldn't answer.

MR. GOLDSMITH: I think this is absolutely improper. I object to it, strenuously.

THE COURT: Well, strike out that she was very scared. Did you speak to her?

THE WITNESS: I did. I said, "Elsie, Elsie, what did he do to you?".

MR. GOLDSMITH: One moment. I object to that as not in the hearing or presence of the defendant.

BY THE COURT:

Q Did you speak to her? A Yes, sir.

Q Did she answer? A No, she did not answer.

BY MR. SULLIVAN:

Q Did she speak at any time from the time she came out of the apartment until she got in the station house? A No, I tried to question her -

MR. GOLDSMITH: I move to strike that out.

THE COURT: Strike it out.

Q Did you question her? A I did. I questioned her time and again.

MR. GOLDSMITH: I object to that, upon the ground it is incompetent, immaterial, irrelevant and leading and suggestive, a conversation addressed to a witness not in the presence and hearing of the defendant.

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THE COURT: Yes, strike that out.

Q Did you ask her any questions from the time you left that house until you got to the station house?

MR. GOLDSMITH: I make the same objection.

THE COURT: I will allow the question as to whether she asked her any questions.

A Yes, sir.

Q Did she answer you at any time? A No.

MR. GOLDSMITH: I object to that.

THE COURT: The objection is overruled, and you have an exception, in the same shape as if it had been interposed before the answer was given.

MR. GOLDSMITH: I ask the answer be stricken from the record.

THE COURT: The motion is denied.

MR. GOLDSMITH: I take an exception.

Q What did you observe about her clothing, if anything?

MR. GOLDSMITH: Objected to as leading and suggestive.

THE COURT: Well, I will sustain the objection. What did you observe about her appearance?

THE WITNESS: I did not look. I do not know. I was just trying to question her; that was all.

Q You say you observed her hair? A Her hair was all disheveled; that I know.

MR. GOLDSMITH: I object to that. Will your Honor admonish the witness that where an objection is made she should

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not talk.

THE COURT: Yes, wait when an objection is made until I have an opportunity to rule on it.

MR. GOLDSMITH: I object to the question as leading and suggestive, upon the ground the District Attorney has exhausted that subject, and upon the ground that it is leading and suggestive.

THE COURT: The objection is overruled.

MR. GOLDSMITH: I take an exception.

Q Did you observe her appearance other than her hair? A No.

MR. GOLDSMITH: That is objected to.

MR. SULLIVAN: Your witness.

MR. GOLDSMITH: No questions.

BY THE COURT:

Q Did you go to the court? A Yes, I went to Court with Elsie. That is the first time I heard her speak, when they asked her her name.

Q In the court? A In the court - in the precinct, I think.

Q Did you notice her face, or her eyes? A Yes, her face was all - she was crying; she was hysterical; she didn't know whether she was crying -

Q She was crying? A Yes, sir.

Q You saw that yourself? A Yes, I saw that, and her face was one mass of red; it was all inflamed, because I myself took her into my arms -

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Q Just answer questions. Who walked with her to the station house? A I did.

Q And where was the officer? A The officer was walking with the defendant.

THE COURT: That is all. Any other questions?

MR. SULLIVAN: Yes sir, one or two, I have.

BY MR. SULLIVAN:

Q Was any body else walking with her besides you? A Yes sir, Miss Schimmel.

Q Did she have her hat and coat on? A No.

Q You walked her to the station house without her wearing her hat and coat? A Yes, sir.

MR. SULLIVAN: That is all.

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ELSIE SCHIMMEL, called as a witness on behalf of the

People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

Q Where do you live? A 29 Manhattan Avenue.

Q What is your occupation? A Stenographer.

Q Have you a place of business? A Yes sir.

Q Where is it? A Gaiety Theatre Building.

Q These gentlemen want to hear everything you say? A I can't hear you very well.

Q I say, these gentlemen on the jury want to hear everything you say. Now, will you keep your voice up loud? A Yes sir.

Q You have an office of your own? A Yes sir.

Q I show you People's Exhibit #1 in evidence, and ask you if you ever saw the advertisement there before? (Handing People's Exhibit #1 to witness) A Yes sir.

Q Did you? A I saw this.

Q When? A Fifteenth of October.

Q And you saw that in the morning World? A Yes sir.

Q After reading that advertisement, where did you go? A I went to this address.

Q When is that, what time was it? A About ten o'clock.

Q And where did you go in that address? A On the top floor.

Q And do you know the number of the apartment? A 22.

Q Who did you see in that apartment? A I saw the defendant, and I saw three other young ladies.

Q Was the complaining witness, Elsie Dedisky, one of the girls

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you saw there? A Yes sir.

Q And was the witness who just testified, Miss Florea, one of the girls you saw there? A Yes sir.

Q What was the defendant doing when you got there? A The defendant?

Q Yes? A Sitting in a rocking chair.

Q Was there a conversation had at that time between the defendant and any of the girls in the apartment? A With all the girls.

Q What did he say? A He told us the position was to travel down in the West Indies, for a certain number of months; he also told us -- spoke about a Royal machine; I did not see any machine there; and he told us that he hired the apartment merely for interviewing the girls; that he stopped at the Continental Hotel, and his baggage was there; and while I was there there was a young lad there by the name of Willie, who was reading a newspaper, and he went out and came back, and he told the defendant the boat leaves at 2 o'clock, and the defendant said "We will have to wait until Saturday, and this young lad left, and I have not seen him after that.

Q Was there any further conversation between the defendant and the girls that were in the room at that time? A He showed us some pictures.

Q Of what? A Of the West Indies, and he showed us a picture of a man on an operating table, and the defendant was in the picture and I don't know what the picture refers to.

Q Did he say anything about coming back? A He said that he would pay -- he would give us a round trip ticket and if we did

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not like it we could come back.

Q Did he say anything about coming back to the apartment that day

A He took our names and said he would have to interview each one of us fifteen minutes, apart, and my name being the last, ^{I was} to be interviewed about half past eleven. It was then a little after ten, and I thought --

Q Don't tell us what you thought. Did you leave the apartment with the other girls? A Yes, but I had desk room at the time, and I wanted to see if there was any work for me where I had my desk, and I told the defendant I am going away, but I would be back, so he fixed the time at 11:30, but if any other applicants came in the meantime he would interview them. I went to where I wanted to go, and found there was no work for me, and I went right back again, before anybody else got there. That brought me back about a quarter after 11, and when I got -- while I was going along I met Miss Florea at the drug store on the corner, and I said to Miss Florea --

MR. GOLDSMITH: No, no, no, I object.

THE COURT: The objection is sustained.

Q You can't tell us what you said to Miss Florea. What did you do after you saw Miss Florea? A I wanted to interview him and I went back in the apartment and found every door locked, and I knocked on all three doors very, very hard, and I got no response, and I went down and told Miss Florea "There is no one up there".

THE COURT: Strike out "I told Miss Florea" from there on. You are not allowed to give conversations.

Q You said something to Miss Florea? A Yes sir and she said

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the girl is still up there.

Q You had a conversation with Miss Florea? A Yes sir.

Q After you had a conversation with Miss Florea -- A Yes sir.

Q She said something to you after that? A Yes sir.

Q Where did you go? A Back up again.

Q To where you had come from? A Yes sir.

Q And where is that? A On the top floor of this apartment.

Q What did you do then? A I knocked again, and got no answer, and then I listened at the wall, and I heard the complainant faintly moaning, like a moan, as though some one tried to stop her from crying.

MR. GOLDSMITH: I ask that that be stricken out.

THE COURT: Strike it out. You heard a voice?

THE WITNESS: I did not hear a voice, I heard a moan, a human voice; it was muffled. I knew some one was moaning, so I went down and got the detective.

Q And the other girl, Miss Florea, went with you? A Went with me.

Q Did you come back with the detective? A We came back with the detective.

Q What happened? A The detective went up to the top floor, and I was afraid to go up.

MR. GOLDSMITH: I move to strike that out.

THE COURT: Motion granted.

THE WITNESS: I went up to the third step of the top floor with the detective, but I did not go all the way up.

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Q Did you see the defendant? A I did.

Q Where was he? A He was standing on the threshold of the door.

Q Was the door open or closed? A Open.

Q The door to his apartment was open? A Open at that time.

Q What happened to the door after that? A The door was opened.

The defendant was standing on the threshold. His face was very red, and I could see the veins in his forehead. His hair was disarranged and his tie was partly pulled out of his vest. He had no coat on. He was in his shirt sleeves, and his clothes were ruffled, as though --

Q Never mind "as though". Did you hear him say anything? A No I didn't hear him say anything at that time.

Q Did you hear any conversation between the officer and the defendant? A I don't remember that.

Q Did you see Elsie Dedisky? A Yes sir.

Q Where did she come from? A Out of that room.

Q And what was her appearance? A Her waist was torn open in front and her hair was coming down, and she was very hysterical, crying very much.

Q Did you have a conversation with her there? A I tried to talk to her, but she could not understand me.

MR. GOLDSMITH: I object to that and ask to have it stricken out, as a conclusion.

THE COURT: Strike that out.

Q Did she answer you? A She did not answer me. She answered the police lieutenant at the police station.

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Q You went to the police station with her? A Yes sir, 47th Street.

MR. SULLIVAN: That is all.

CROSS EXAMINATION BY MR. GOLDSMITH:

Q Are you hard of hearing? A A little bit.

Q You are the witness who heard the moan through the door, aren't you? A I did.

Q You swear hear that you heard a moan through the door? A I heard a moan, yes sir.

Q And you are a little hard of hearing? A I can hear out of this ear very well. (Indicating).

Q Which ear did you use? A This ear (Indicating).

Q You used the left ear to hear the moan? A Yes sir.

Q Not the right one? A No.

Q You hear better with the left than you do with the right? A Yes sir.

Q And you said you were in business for yourself? A Yes sir.

Q You listen to me with the left ear, so you do not misunderstand me? A I hear every word you say.

Q Where have you got this office of yours? A Gaiety Theatre Building.

Q Room what? A 315.

Q Do you hire that place? A I do.

Q By yourself? A For myself.

Q Sure about that? A Certainly.

Q All your own office, then certainly?
? A C

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Q Were you asked this question at any time, and did you make this answer? "Q Are you there alone in the room?" A I am at present.

Q Or with some one else, a music publisher? A I am there alone at present.

Q What has become of the music publisher? A I gave that up to take my own office.

Q Are you in the same room now that you were when you were examined before? A No, I can't be if I gave it up to take my own office

Q Who gave it up, the music publisher? A I did myself.

Q Did you move out of those rooms? A I had to, to take my own office.

Q To have your own office? What do you mean? A I mean that I could not hire an office from a man that rented an office from an agent. I had to rent my own office, in another room.

Q But when did you do that? A About a week ago.

Q Since a week ago you are in business for yourself? A Yes.

Q And does Fanny Florea work for you? A Nobody works for me.

Q Any of these girls work for you? A None of them.

Q None of them work for you? A No.

Q You are not interested in any of these girls? A No.

Q Neither one of them? A No.

Q And you had a business where you had your own business? A I had desk room at that time.

Q You had desk room in this Eureka Printing Company? A With a music autographing company.

Q And wasn't the Eureka Printing Press there also? A Yes sir,

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that is correct.

Q And you were doing business? A I was doing business.

Q And you entered this advertisement; you wanted to take the ride? A I wanted it because business is very bad and you can't live on air in New York.

Q Neither hot air or cold air? A And I went to get a position.

Q You can live on neither? A Indeed not.

Q And you went looking for this position? A That is it.

Q And you did not get this position, did you? A No, you bet I didn't; lucky I didn't.

Q How long did you have this same room? A I don't remember now.

Q About how long? A I don't remember; I can't give any decided answer if I don't remember.

Q Have you got a poor memory? A How?

Q Is your memory poor? A I don't remember. I don't want to say any time that I am not sure of.

Q Well, is your memory poor? A No, it is not poor. It is as good as yours.

Q Then tell us how long you were there? A I don't remember. I don't care to say.

Q Why don't you care to say? A I don't care to say.

Q Why? A It is not of any interest to you.

Q Well we would like to know, just the same? A Well, I don't know.

BY THE COURT:

Q Were you there a year? A No, I was not there a year.

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BY MR. GOLDSMITH:

Q Were you there about a year? A No, I was not there that long.

Q Were you there ten months? A No; I don't remember just the time.

Q Oh, yes, you do. Please tell us? A I can't tell you anything I don't remember.

Q What do you mean, you don't remember? A I don't remember just the time I was there.

Q You don't want to tell us, do you? A I don't remember, I am telling you.

Q Was it four months? A I don't remember; I can't tell you; I did not figure the time.

Q You know the difference between a week and a month? A I certainly do.

Q Were you there a month? A I don't remember.

Q Were you there two months? A I don't remember.

Q Were you there three months? A I don't remember.

BY THE COURT:

Q You must answer the question? A Well, he can put down anything he likes.

Q No; the jury wants to know whether you are telling the truth and the purpose of cross examination is to find out if you are telling the truth. Now, tell this jury as near as you can recollect how long you had that office? A Well, say about two months I was in that desk room.

BY MR. GOLDSMITH

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Q Where were you before that? A Employed.

Q Where? A I was substituting. Before that, I was doing work at home.

Q Where was your home? A 34th Street.

Q What number? A 438, I think.

Q You were living at 438 East or West? A West.

Q 438 West 34th Street, near what Avenue is that? A Between 8th and 9th.

Q You were living there? A Yes sir.

Q And you were doing work at home? A Yes sir.

Q For whom? A Different people, different clients.

Q Well, name one? A I don't know their names. They were transients. They came in and gave me work, and went out.

Q Who came in there? A Different people.

Q What kind of a house was this? A Private house.

Q Did you have a sign up on the outside? A No.

Q And somebody came into this private house? A Yes sir. I delivered my cards to different people.

Q Tell us one person who came there and gave you work? A I don't remember; I don't know; there were different people came; I don't know the names of the people; they came in; I did their work, and they went out again.

Q How many people came there and give you their work? A About two.

Q And how long were you doing work at your house? A About a month.

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Q And where did you work before that? A I substituted in different places.

Q Where did you substitute? A Oh, I don't remember. That is about a year ago.

Q I can't hear you.

THE COURT: She says it is about a year ago; she does not remember.

A I can't remember, I worked in so many different places.

Q You can't recollect? A No, I can't I worked in a lot of places.

BY THE COURT:

Q What is your work, or what was your work? A Stenographer.

Q Now, do you mean to say you are not able to give the names of any persons you worked for as stenographer? A I substituted in a number of places. I know I was with the Department of Health for five years.

BY MR. GOLDSMITH:

Q When was this? A From 1905 to 1910.

Q Give us something nearer than that, will you please? A I can't remember. I don't remember the firms that I worked for now.

Q Will you give us the name of the last firm that you have worked for? A I can't remember. I can't tell you a lie.

Q Were you asked this question in the Magistrate's Court, by the then counsel for the defendant, page 59: "Q What is the last place of employment you had?", and your answer was "I don't remember; couldn't tell you." Did you make that answer? A I don't remember

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That was over a year ago.

Q Did you make that answer? A I am telling you I can't remember.

Q Did you make that answer? A I can't remember; I can't tell you who I worked for if I can't remember.

Q "Q You don't know any of the firms? A Yes, I do." Did you make that answer? A What is that question?

THE COURT: He is asking you now whether you told the Judge in the Magistrate's Court these answers that he is reading you. Read it again.

Q "Q You don't know any of the firms? A Yes, I do, but I don't care to give their names." Did you say that? A No, at that time, I didn't.

Q Did you say that? A I said that yes,

Q And was that true? A Yes, it was true.

Q And were you asked this question: "Q I want to know those names?", and your answer was "I won't give them to you"? A No, I don't see why they want any.

Q "They have nothing to do with this case"? A No, that is right

Q Did you make that answer? A Yes sir.

Q Now, tell us the names of those firms? A I don't remember them now.

Q But you said in the police court you did? A At that time I might have, but I can't remember them now.

Q You can't remember them now? A I can't remember them now.

Q And you won't give them to us? A I can't remember them now.

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My mind is all upset. I can't remember.

Q How many times were you to the third floor of that apartment?

A Twice. Three times in all.

Q The first time you had an interview with the defendant? A Yes sir.

Q And you were told to come back at what time? 11:45? A About 11:30.

Q What? A About that.

Q Where do you say you live? A 29 Manhattan Avenue.

Q How long are you living in that house? A A few months.

Q How many months? A A few months.

Q Do you mean two? A How?

Q Two months, do you mean? A A few months; about three months in all.

Q Where did you live -- do you know what the reputation of that house is? A It is a good respectable house, and I will tell you the woman that owns it, too, that has an apartment there.

Q Who is it? A Mrs. Pease.

Q She has an apartment there? A Yes, and she rents out her apartments to respectable working people.

Q And you got the reputation of the house from her? A I got no reputation whatever; and you will have to prove that statement that my reputation is anything but the best.

BY THE COURT:

Q No, he did not ask you that. You misunderstood him. He asked you whether you got the reputation of the house from this lady, who

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told you it is a respectable house? A It is a respectable house, yes, it is, and if you go to Mrs. Pease she will tell you that I am a respectable girl.

BY MR. GOLDSMITH:

Q Now, the first time you went up to talk to the doctor, Miss Dedisky was there? A Doctor? I didn't think he was a doctor.

Q Well, the defendant? What did you think he was when you went up there? A A mister, not a doctor. I never heard him called doctor.

Q You had not seen him before that day, had you? A No, but when I got up there I never heard him called doctor. Mister Pryor.

Q And after this talk with Mr. Pryor, you were the last one to be interviewed, were you not? A Yes, I was.

Q And you were told to come back at 11:20? A Well, between 11:20 and 11:30.

Q Now, did you leave the apartment? A I did.

Q Did you all leave? A We all left together but Miss Dedisky.

Q She stayed in the apartment? A She stayed there.

Q Did she come down at that time? A I didn't see her come down until we got her down.

Q The next time -- she never came down until you got her down?

A Well, I was up and came down again.

MR. SULLIVAN: She did not say that.

THE COURT: She said she did not see her come down until she got her down -- didn't see her.

Q You never saw her down stairs until you went up with the offi-

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cer? A. That is so.

Q. And you never saw her leave the premises? A. Never saw her leave the premises.

Q. Except the time with the police officer and this defendant?

A. Yes sir, that is right.

Q. The second time you went up, did you knock at the door? A. I did.

Q. And you got no response? A. I got no response.

Q. Then what did you do? A. Listened at the wall.

Q. With which ear? A. The good ear. This ear (INDICATING left ear)

Q. The left ear? A. Yes sir.

Q. And what did you hear? A. I heard a moan.

Q. You heard a moan, and then what did you do? A. I went down for the detective.

Q. You went down for a detective? A. Yes.

Q. You heard no scream of any kind? A. No, I didn't hear a scream.

Q. You heard a moan? A. Yes sir.

Q. With your good ear? A. Yes sir.

Q. Did you have your ear up against the wall? A. I did.

Q. And how long was your ear up against the wall? A. Just a few minutes.

Q. And then you immediately left? A. And I immediately left.

Q. Then did you go back again? A. Came back with the detective.

Q. Then did you hear the detective rap at the door? A. I could not tell you that.

Q. Did you hear the detective rap on the door? A. The detective

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.got up before me.

Q But you were within three steps of the third floor? A The detective got up to the top floor before I got on the first landing.

Q Well, when you got upstairs, had the door -- A The defendant was standing at the threshold of the door.

Q You heard no knocks at that time? A Heard no knocks.

Q At that time you heard no knock? A Heard no knock at all.

Q You have not heard Miss Dedisky testify here, have you? A No, I have not.

Q How many times did you knock on the door? A The first time I knocked about three or four times on each door.

Q And was there any door there that was open? A None were open. They were all locked.

Q Which ones were all locked? A The glass door going to the parlor and two side doors made of wood, they were all locked.

Q And none of these doors were open? A None were open.

Q Sure about that? A Sure about it.

Q Now, you were examined also in the police Court, were you not?

A I was.

Q And you were asked various questions with reference to the door. You have testified here that the doors were all locked? A Yes sir.

Q And when you got there with the officer, were they all locked, too? A I was on the third step, and the one wooden door was open, and the defendant was standing on the threshold.

Q That was the door leading into the dining room, the private hall, is that right? A It was the door leading into the apartment.

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Q Yes. Now, are you sure there was no other door open there? A I didn't see.

Q You recollect you were in the hallway at that time? A I was

Q Did you testify as follows, on page 71: "Q Where did you stay?

A In the hall." Was that correct? A Yes sir.

Q "Q The door was closed on you? A No, the door was open."

Is that correct? A Yes sir.

Q The door leading into the parlor, I mean, was that open, or closed? A That was closed, but the door from the bed room into the hall was open."? A Yes sir.

Q But the door leading from the bed room to the hall, that was not a door leading into the apartment, was it? A Well, that led into the apartment proper. It was all the apartment. There was no private hall. There was only one public hall.

Q Do I understand you correctly when you say the door from the bed room into the hall was open? A The last time I got up there, and the defendant was standing at the threshold.

Q That was the door leading into the apartment, wasn't it? A Well there was a bed room as you come into the apartment.

Q As you come immediately into the apartment? A Yes, you walk right into the apartment from that door into a bed room.

Q Are you sure about that? A Yes sir.

Q What makes you so positive? A Well, because I saw a bed as I got up on the top floor, in the hall.

Q Don't you know, as you enter the private hall, that leads to the parlor? A The front door led to the parlor; the glass door

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led to the parlor.

Q And there is a door leading to a bed room? A A wooden door
yes.

Q Is that the one you say was open? A Yes sir.

Q And you saw that open? A Open.

Q Positively? A Positively, open.

Q And there is no question about it? A There is no question
about it.

MR. GOLDSMITH: That is all.

BY THE COURT:

Q Is that the door the defendant was standing at the threshold
of? A Yes sir.

Q The one going into the bed room? A Yes sir.

Q A wooden door? A A wooden door.

Q Not a glass door? A Not a glass door.

RE-DIRECT EXAMINATION BY MR. SULLIVAN:

Q Counsel was asking you about the people you were working for
and you declined to give him the names. Will you give me the names
of some of those people you worked for? A United Cigar Stores
Company --

MR. GOLDSMITH: I object to that as improper.

MR. SULLIVAN: Don't you want the names? Do you press
the objection?

MR. GOLDSMITH: Yes, as improper re-direct.

MR. SULLIVAN: That is all, then.

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E M M A M A R K U S called as a witness on behalf of the people,
being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SULLIVAN.

Q You live at #541 East 78th Street? A Yes sir.

Q What place is that? A Junior League.

Q You are a stenographer by occupation? A Yes sir.

Q And, Miss Markus, on the 15th of October, 1915, did you buy
the morning World? A Yes sir.

Q And you looked through the advertisements section? A Yes sir.

Q Do you remember seeing that advertisement in the paper (Handing
witness People's Exhibit #1)? A Yes sir.

Q And as a result of reading that advertisement did you go to the
premises mentioned? A Yes sir.

Q When you got to the premises, about what time was it? A About
ten o'clock.

Q And did you see Miss Florea there? A Yes sir.

Q And Miss Dedisky? A Yes sir.

Q And Miss Schimmel? A Yes sir.

Q The defendant had some conversation with the girls in general
there, didn't he? A Yes sir.

Q And did he make an appointment with you to come back? A He
made an appointment to call me by telephone.

Q Did you go back for an interview after you went out? A Yes
sir.

Q What time did you go back for an interview? A About 11 o'-
clock.

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Q And did you go upstairs? A Yes sir.

Q Did you come down? A Yes sir.

Q Did you come down alone? A Yes sir.

Q And you went out? A Yes sir.

Q Who was on the stoop, if anybody? A Miss Dedisky, Miss Florea, Miss Schimmel, that is all.

Q Did you stay there some time after that? A Yes sir.

Q What became of Miss Dedisky? A She was asked to come upstairs again.

Q Did you see her go back? A Yes sir.

Q Do you remember Miss Schimmel coming there? A Yes sir.

Q After Miss Dedisky went back the second time? A Yes sir.

Q Did you go into that house with Miss Schimmel? A Yes sir.

Q How far did you go into the house? A Upstairs, on the floor in which the apartment was.

Q Did you see Miss Schimmel do anything up there? A She listened at the door, and then I believe she knocked.

Q She knocked? A Yes sir.

MR. GOLDSMITH: One moment. I ask your Honor to strike that from the record.

THE COURT: Strike out, she believes; unless you know. Did you hear her knock?

THE WITNESS: Yes sir.

Q You saw her listen, and heard her knock on the door? A Yes sir.

Q After she knocked, did you go out with her, or did you stay there? A I went down stairs with her.

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Q Then what did you do when you got down stairs? A I stood on the corner while they spoke to an officer.

MR. SULLIVAN: That is all, your witness.

(No Cross examination.)

R I C H A R D F. G R I F F I N, Police Officer, attached to the 26th Precinct, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

Q Officer Griffin, were you in the 26th Precinct Station House on the 15th of October, 1915? A I was.

Q And on that day do you remember seeing Miss Florea and Miss Schimmel? A I do.

Q You had a conversation with them there? A Yes sir.

Q And after you had a conversation with them where did you go, if any place? A To premises 778 8th Avenue.

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

Q When you got to the premises, what part of the premises did you go to? A Fourth floor, apartment #22.

Q Will you state what took place after you entered the house? A When I got up to the fourth floor, when I arrived at the stairway of the fourth floor landing, I noticed the defendant, Charles Pryor, coming through a long private hallway. I asked the defendant where he belonged, and he told me apartment 22. So I asked him where was the young girl that applied for a position as a stenographer so he asked me what girl I says "A girl that you have in your

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rooms"; so he says "Yes, I have got a girl in the rooms". I said "I want to see her". So with that he walks down the hall to the last door, in a private hallway, and as he got to the door he searched his vest pockets for a key. He said "I haven't got my key, and the door is locked". So I says "Well, I have to get in there. I have to see this young girl". So with that he says "Well, wait a minute; I will see if I can get her"; so he called three or four times the name of Elsie; so Elsie came to the door, the young girl, the complainant, Elsie Dedisky; so then I told the defendant to step in the rooms; so I went in behind him and closed the door; so when I seen the girl's condition I went over to question her: I asked her what had happened, and she couldn't speak; she was nervous and all upset.

Q Was she crying? A She was not crying at that time. So I asked her again, I told her I was a police officer, and showed her my authority, and told her that I wanted to help her out. So still she would not speak. So I went to the defendant then, Charles Pryor, and I said to him "What did you do to this girl that has got her in this condition". He says "Why, I haven't done anything". I says "Well, what did you say to her?" He says "I simply asked her if she was straight and on the level". So with that I turned to look for the girl, and the girl had left the apartment without her hat and coat or purse. So I told the defendant, Charles Pryor, to get his hat and coat and I would have to take him to the station house

Q What did you observe about the complainant's condition or appearance? A Well, the complainant was very nervous; her hair was

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hanging partly on one side; her hair was disarranged, and her waist was disarranged on the top.

Q What did you observe about the defendant, if anything? A His face was very red, and his hair was disarranged. He was in his shirt sleeves, with a vest on; no hat or coat.

Q You took them all to the station house? A I took the girl's clothes and him and the complainant to the west 47th Street precinct

Q Did the complainant say anything on the way to the station house

A No, not to my knowledge.

Q Did she when she got to the station house? A She did, after I got her a glass of water and give her a drink.

Q Was the defendant there when she spoke in the station house?

A Yes sir.

Q What was said? A She told the lieutenant how she had applied for a position as a stenographer at that said premises, and that when she got up there how this defendant --.

MR. GOLDSMITH: Was the defendant present at that time.

THE WITNESS: Yes; as far as I can remember, yes.

MR. GOLDSMITH: I object to that, as far as he can remember. He ought to know, because I know different.

THE WITNESS: Yes.

Q Go ahead? A So the complainant stated that the defendant had thrown his arms about her, and had forced several kisses on her, and finally pushed her into a bed room there and laid her on top of a bed, and had forced his hands up her clothes, and about her

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breasts, and that she had screamed or tried to scream, and that he held her there, and then she stated later that he had heard knocks on the door, and that she went to the rear of the premises, trying to look for an exit, to get out.

Q Did the defendant say anything in reply? A No, not that I heard.

MR. SULLIVAN: Your witness.

CROSS EXAMINATION BY M. GOLDSMITH:

Q Did the girl, Dedisky, say anything on the way to the station house? Were you walking with her? A I was walking behind, with the defendant.

Q How far behind her were you walking? A About a distance of thirty feet.

Q Thirty feet behind her? A About that.

Q Now, when you first got to the premises who went with you? A Miss Schimmel and Miss Florea.

Q Did you go right upstairs? A I did.

Q And did you notice Miss Schimmel following you up? A She stayed back in the hallway, about a landing below.

Q Did you look back to see where she was? A I told her to come --

Q No; did you look back to see where she was? A I did at first, until I seen the defendant. Then, when I seen the defendant, I left my mind off Miss Schimmel and I proceeded with the defendant.

Q You did not know whether he was the defendant, not? A I asked him where he belonged. He told me apartment 22.

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Q Apartment 22? A Yes sirs.

Q Was the door leading to that apartment open, or closed? A It was locked.

Q Were any doors open at all? --A They were not, they were all closed.

Q Can you tell us how you saw a man walking in a private hallway, then? A In a private hallway?

Q Yes? A All the doors to the apartment was closed.

Q Yes, but you said something about a private hallway? A There was a private hallway, but that door was not closed.

Q What door was not closed? A The door to the private hallway.

Q Of this apartment? A Not to the apartment. The private hallway leading off from the stairs.

Q That is open, is it? As you go up the stairs, that hallway is open? A That doorway is open, yes sir.

Q That is the ordinary hallway of that landing? A Yes sir.

Q Now, were there any other doors open? A None, no.

Q Which door was open? The glass door? A What do you mean? Leading to the apartment?

Q Yes? A There was none of them open leading to the apartment.
one

Q There must have been open at that time? A There was none open when I was there, leading to the apartment.

Q How did you get in? A He called the name of Elsie.

Q I know that, but was the door open? A The door leading to the apartment?

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Q No, to the roof?

THE COURT: Don't answer that question.

Q Did you get into the apartment at any time? A Yes sir.

Q Did you go by way of the roof? A No.

Q Did you go into a door? A (No answer)

Q Do you understand me? A I understand you partly. which door do you mean?

Q Any door that leads to that apartment. Did you go through any one door? A No door from --

Q Then, you did not? A I did not go in any door leading to that apartment.

Q Then, you did not get into the apartment? A Until he called the name of Elsie.

Q Will you please listen to what I say? Did you get into the apartment? A I did, after he --

Q Will you please answer "Yes" or "No"? A I did.

Q Did you go through a door to get into that apartment? A Yes sir

Q What door did you go in? A The last door on the hall.

Q What hall? Is that the door that leads into the private hall? A It does.

Q Does it have a glass door on it? A Yes sir.

Q Then you went through a door into this apartment? A Yes sir.

Q So, you finally got in, did you? A I got into the apartment.

Q And you are the officer, and you have got red hair? A I don't think that has got anything to do with it.

Q You were not a confederate of this man, were you? A Yes. What

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is that?

Q You were not a confederate of the defendant? A No, not at all

Q Because one of the girls here testified she thought you were a confederate? A No.

Q And the reason that you were a confederate was because you had red hair; so you understand why now. Now, after you got in there did you talk to this defendant? A I did.

Q Now, will you please tell the jury what you said to him and what he said to you? A I asked the defendant what he had done to the young lady, the complainant. He told me he had done nothing so I said "Well, what did you say to her?" He said "I simply asked her if she was straight and on the level". So with that I turned around to look for the complainant, and I seen her going out the door. So I told the defendant to get his hat and coat, and we went over to the West 47th Street precinct.

Q There was no complaint made in the hallway about any mistreatment of this girl, or alleged mistreatment to you? A In the hallway?

Q Yes sir? A No.

Q Or in the presence of Miss Schimmel at any time? A No.

Q Up to that time, up to the time you had arraigned the defendant before the lieutenant, no complaint of any kind had been made about any alleged mistreatment, had there? A Any alleged mistreatment about the complainant? Only the complaint she made herself.

Q Up to that time? A Up to that time, yes.

Q When you arraigned the defendant before the lieutenant, will

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you tell the conversation that you had with the lieutenant and the lieutenant with you? A Well, the lieutenant had a conversation with the complainant.

Q Did you hear my question? A Yes sir.

Q Will you please answer it? A I told the lieutenant there what I observed there in regards to the girl's condition. Of course he seen that himself. The girl's condition was about the same when she arrived at West 47th Street. It was only a block away.

Q Will you please tell the conversation that you had with the lieutenant and the lieutenant had with you and what was said? You know that the word "conversation" means? A Yes sir.

Q It means the talk that you had with him and he with you? A Yes sir.

Q Now, please state? A Well, I told the lieutenant when I went to the premises there and found the girl in the condition which she was in and asked her what had happened, and she could not answer at that time; so after he had asked the girl what had happened he told me to charge him with attempted rape.

Q The lieutenant said charge him with attempted rape? A Yes sir

Q That is the first time that was used? A Yes sir.

Q The word "rape"? A Yes sir.

Q What did you do? A I told his name and pedigree, and took the complainant's name and the witnesses names and their addresses, and searched the prisoner, and brought him back to the pen.

Q Now, was the defendant arraigned in the Magistrate's Court?

A He was.

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Q When? A That same afternoon.

Q Was a complaint taken? A The complaint, yes sir, it was -- a complaint was taken and the case was put off.

Q How many days elapsed from the time the complaint was taken to the examination before Magistrate House? A About two weeks; about a week.

Q Have you a memorandum or book? A I have.

Q Will you please look at it? A (Witness produces memorandum book). It was five days afterwards, October 20th.

Q October 20th the examination was taken? A Yes sir.

Q Wasn't it October 25th? A Yes sir; it was put off again, after October 20th until October 25th.

Q And that was the day the examination took place and the testimony was taken? A That is it.

Q That was ten days after? A Ten days is right.

Q Now, when you got up there you did not knock on the door, did you? A No, I did not.

Q You saw the defendant on the threshold of the door? A I seen him on the threshold of the private hallway.

Q And you did not knock on the door at any time? A No.

Q Look at the defendant's hair. Was it any different then than it is now? A It seemed a little more disarranged than that.

Q In what way? A It was standing up more, it appeared to me.

Q How do you mean, up high? A Yes sir,

Q Do you see this hair? A Yes, I see it.

MR. GOLDSMITH: hat is all

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MR. SULLIVAN: The People rest.

MR. GOLDSMITH: I just want to ask Miss Schimmel a question.

ELSIE SCHIMMEL, being recalled testified as follows:

BY MR. GOLDSMITH:

Q Miss Schimmel you have testified here to-day that Miss Dedisky was unable to make a complaint, and did not say anything because she was hysterical; is that true? A That is true.

Q Did she tell you what happened in that building? A No.

Q Sure about that? A Sure about it.

Q And she said nothing downstairs as she was going down? A Nothing; she said nothing.

Q Let me read this question, and see if you did not make this answer --

THE COURT: When?

MR. GOLDSMITH: This is before the Magistrate.

THE COURT: Before the Magistrate?

MR. GOLDSMITH: Before the City Magistrate, if your Honor pleases.

Q "Q Did she say anything to you in the presence of the defendant and the officer?" -- A She did not.

Q Wait a minute? "She told me what had happened, but not in the presence of the defendant"? A That is right.

Q "Q And not in the presence of the officer? A Yes sir. Q In the presence of the officer? A Yes sir. Q Was that upstairs or downstairs? A Downstairs, as she was going down the stairs,

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and in the police station." Did you say that? A Well, she tried to speak when she was going down the stairs, and she said a few words but she told us what happened in the police station.

Q Were you asked this question: "Q You are sure she told you that going downstairs, in the presence of the officer? A Yes sir, she was sobbing"? A That is wrong. She did not say anything going down. She was sobbing.

Q She did not say anything? A She did not say anything. That is wrong.

MR. GOLDSMITH: That is all. Now, if your Honor please I move --

THE COURT: The jury may retire while argument is being had on the motion.

(The jury then retired from the Court room)

MR. GOLDSMITH: If your Honor pleases, under the indictment upon which this defendant is brought to trial, that is taking rape in the first and second degrees, in the first count in that indictment the Grand Jury of the County of New York accuse the defendant of the attempted crime, that in the Borough of Manhattan, on the 15th of October, in the year 1915 the defendant, with force and arms in and upon a certain female not his wife, to wit, one Elsie Dedisky, feloniously did make an assault and an act of sexual intercourse with her, the said Elsie Dedisky, then and there feloniously did attempt to feloniously perpetrate, against the will of said Elsie Dedisky, and without her consent, against the form of

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the statute in such case made and provided.

Now, if your Honor pleases, if there was a penetration, or a partial penetration of the defendant, you might entertain the crime of attempted rape in the first degree, but in this case there is absolutely no evidence of any penetration, or a partial penetration, nor an attempt at penetration, and it seems to me from all of the evidence in this case, if your Honor should finally decide that it should be submitted to a jury, that the only submission to a jury of any fact or circumstance against this defendant would be that of assault in the third degree.

If your Honor will recall the testimony of the complaining witness, she says he threw her on the bed, had one hand on her breast, and the other he attempted to put underneath my clothes. Now, she has not expressed any statement that any part or parcel of the defendant's person or his private parts were taken out and pressed against this woman, but merely that he attempted to put his hand underneath her clothes; and she says she was on the bed there for ten minutes. Now, in order, if your Honor pleases, to make the case out in the second degree, which reads as follows: "With force and arms--":

THE COURT: What are you talking about now?

MR. GOLDSMITH: The second count in the indictment, assault in the second degree, which I am going to ask your Honor to take away from the consideration of the jury. I

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don't think that the District Attorney will dispute the fact that, if there is any crime committed, or alleged crime committed, that it can be any more than assault in the third degree, and assault in the second degree should be eliminated. It says, on the day in question, Charles A. Pryor, late of the Borough Of Manhattan, on the day and year aforesaid, with force and arms in and upon a certain female not his wife, to wit, the said Elsie Dedisky, feloniously did make an assault with the intent an act of sexual intercourse with her, the said Elsie Dedisky, against her will and without her consent, then and there feloniously perpetrate, against the form of the statute in such case made and provided.

Now, that would be an attempted rape, if your Honor please, not an attempted assault, not an attempted assault. It is one thing or the other: It is either assault, or it is not assault. Now, if it is attempted assault, the only assault it could be would be assault in the third degree, because there is no evidence that this defendant used any instrument of any kind, or attempted to use any instrument of any kind; and I submit, further, before your Honor can submit this case to a jury, there must be some degree of corroboration, and, while I assume that your Honor is familiar with all of the cases --

THE COURT: I would not assume that.

MR. GOLDSMITH: Well, most of the cases which directly affect the question of corroboration, and while in the case

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of the People against Platt it was held that to establish the material facts some degree of corroboration is absolutely necessary, that is in 100 New York --

THE COURT: That is not only the authority, but it is the statute in a case of a rape. Now, in the case of attempted rape, however, it has been held that corroboration is not necessary.

MR. GOLDSMITH: That is not the point. In the case of the People against Kirwin, the Court there held it was necessary that some corroboration ~~was~~ be furnished, but that the degree of corroboration was a matter for the Court to determine. It did not say it was absolutely unnecessary, that a woman could come in and say "This man attempted to rape me" and you could let it go to the jury. Some degree of corroboration is absolutely necessary and essential before your Honor can submit it to a jury, because you will see how those --

THE COURT: I don't think you have to argue that any further. I think there is evidence here which the jury might take into consideration in the question of corroboration.

MR. GOLDSMITH: Will your Honor eliminate the first count in the indictment?

THE COURT: I will hear the District Attorney.

MR. SULLIVAN: As your Honor well knows there is no corroboration necessary in a charge of attempted rape, although I submit there is corroboration in the case in this way, circumstantial corroboration, by circumstantial evidence

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Circumstantial evidence is sufficient. As to assault in the second degree, any assault within intent to commit a rape is assault in the second degree. We don't have to prove there was grievous bodily harm, or that an instrument was used. If we prove the assault was committed with the intent to commit the crime of rape, it is assault in the second degree. Now, I submit, in attempted rape, the jury can infer from circumstances. I think it is a question whether, if this defendant did take the complainant into that room and throw her on the bed, it was for the purpose of an attempt to perpetrate the crime of rape.

THE COURT: What is the difference between attempt to commit rape in the first degree on a girl nineteen years of age, and assault in the second degree with an attempt to commit rape?

MR. SULLIVAN: One is, the main element in the crime is rape, and the other is the assault. That was part of the motive in attempting rape. The body in the one case is rape and the body in the other is assault.

THE COURT: Isn't assault with intent to commit rape an attempt to commit rape?

MR. SULLIVAN: Yes, if they believe that he had in mind the intent to commit rape, but made no attempt but nevertheless assaulted her, they could find him guilty of assault in the second degree with an intent to commit rape. In one case it is an attempt to commit rape, and in the other

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case it is an assault with intent to commit rape.

THE COURT: On the question as to the evidence upon the first count, do you think you have sufficient evidence to go to the jury on a charge of an attempt to commit rape?

MR. SULLIVAN: In my candid opinion, I think the case ought to be submitted to the jury on assault in the second degree and assault in the third degree. I think if he acted as this girl describes, and had in his mind the intent to commit the crime of rape, he is guilty of assault in the second degree.

MR. GOLDSMITH: You see how dangerous it would be to submit the first count in this indictment to a jury. Has the District Attorney abandoned the second count?

MR. SULLIVAN: I said, my opinion was that the crime of assault in the second degree was made out. I think the case ought to be submitted to the jury on the counts of assault in the second degree and assault in the third degree. I don't think the evidence is sufficient on the charge of attempted rape, because there is no evidence of any other act than the assault that this defendant made upon the girl. Of course, it is for the jury to infer whether he had in his mind an intent to commit the crime of rape, but there is no evidence of it at present. There is no evidence of whether he had in his mind an intent to commit the crime of rape, other than his actions, which are circumstantial.

THE COURT: What did he throw her on the bed for, if he

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throw her on the bed?

MR. SULLIVAN: The jury will have to draw an inference from that. There is no proof of what he did except to put his hand under her clothes and down her breast .

MR. GOLDSMITH: You cannot prove a case by inference, surmise or guess, if your Honor pleases. The District Attorney's statements of what he thinks is the fact is not sufficient. He states that he does not believe the crime of attempted rape in the first degree has been made out under the evidence, and I ask your Honor on that point to take away the first count in the indictment.

THE COURT: I would like to confer with counsel.

(Both counsel confer with the Court)

(The jury return to the Court room)

MR. SULLIVAN: May it please your Honor, upon a further consideration of the evidence in this case, I press the first count. I ask that be submitted to the jury for their consideration.

MR. GOLDSMITH: I think that statement is absolutely unwarranted.

MR. BYRNE: If the Court please, I had expected to be read to open for the defendant at this session. There will be one witness, the stenographer who took the minutes of the hearing before Magistrate House, and my report in regard to him is that it is physically impossible for him to obtain the stenographic minutes of that testimony for this af-

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ternoon's session. If your Honor would grant me until tomorrow morning to make my opening, I feel sure that I can utilize the time between times and compress the case and save time for this court and this jury, and I therefore respectfully ask that I be allowed until tomorrow to make my opening.

THE COURT: These motions to dismiss are denied at this time, and upon the question of assault the charge will be submitted under the second count, and upon the question of whether or not the defendant is guilty of assault in the third degree, as well as upon the second count in the indictment. Gentlemen of the jury you are admonished that you are not to converse among yourselves or with any person on any subject connected with this trial, neither are you to form or express any opinion there on until the same is finally submitted to you and you have received the instructions of the Court. You may be excused until tomorrow morning at 10:30.

(The Court then accordingly took a recess until tomorrow-Tuesday, January 11th, 1916, at 10:30 A. M.)

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THE PEOPLE, Etc., against CHARLES A. PRYOR.

New York, Tuesday, January 11th, 1916.

TRIAL CONTINUED

MR. GOLDSMITH: May I ask your Honor to recall Elsie

Dedisky for further cross-examination?

ELSIE DEDISKY, being recalled, testified as follows:-

CROSS-EXAMINATION (CONTINUED) BY MR. GOLDSMITH:

Q You testified here yesterday that the windows in the front room, or the larlor, were locked; is that correct? A Yes, sir.

Q And I asked you whether you could not take something and break one of the windows; is that correct? A Yes, sir.

Q And I asked you yesterday if you knew what an oath was, didn't I? A Yes.

Q And you said yes? A Yes.

Q I ask you whether you did not make this answer to this question that was propounded to you in the Magistrate's Court, page 30, question number 310: "Q. And there are two windows there, aren't there? A Yes, sir." Did you say that? A I don't remember answering that.

Q You don't remember answering that? A No.

Q "Q. And those windows, were they open, or closed?", and didn't you make this answer: "A. They were open from the top about 2 inches". Did you say that. "Yes", or "no". A I don't remember.

Q You swore here yesterday that the windows were locked, didn't you? A Yes, the one I tried was locked.

Q Did you make this answer in the Magistrate's Court: You

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were asked this question, "Q. And those windows, were they open, or closed?", that referred to both windows. "A. They were open from the top, about 2 inches." Did you make that answer? "Yes", or "no". A I don't remember that.

Q That is the best answer you can give. Now, have you told us all the conversation that happened in the room? A In what room?

Q In the parlor.

MR. SULLIVAN: Between whom?

Q Between you and the defendant? A No.

Q What? A No.

Q You have not told everything? Have you withheld any thing? A Well, there are some things I can't repeat.

Q Some things you can't repeat? You have not hesitated here to tell everything that transpired, have you?

MR. SULLIVAN: I object to that as calling for a conclusion on the witness' part. I think it is up to the jury to decide whether she hesitated or not, whether she appears anxious, or hesitated.

BY THE COURT:

Q What else is there that happened that you have not told? A Oh, he said several things to me, your Honor, I can't repeat.

Q What did he say? You can tell them low here, and I will have the stenographer take them down. We want to know what happened. What did he say? A He told me that if I traveled with him to Cuba he would buy clothes for me and lots of pretty things, and that was

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while he was on the bed. Then he said, had^{anybody} ever put it in, and I pushed him away. I said, "Leave me alone", and he says that he would.

BY MR. GOLDSMITH:

Q He said that he would?

BY THE COURT:

Q What do you mean? He said he would leave you alone? A No, that he would put it in.

Q That he would put it in? A Yes.

BY MR. GOLDSMITH:

Q Didn't you testify here that not a word was spoken, that you were struggling all the time, and that you were unable to say a word? A Well, I shoved him away from me.

MR. SULLIVAN: When did she say it?

MR. GOLDSMITH: Yesterday, in her examination.

MR. SULLIVAN: Show it to me (handing minutes to Mr. Goldsmith).

Q Is there anything else that you have forgotten now?

MR. SULLIVAN: I object to the use of the word "forgotten", because it implies - or the use of the word "recollect". The first question was, "Is there anything that you did not tell us yesterday that you left out?" No use of the word "forgot" or "recollection". I think it implies that what she just told us she forgot. As a matter of fact, her evidence shows she did not forget it.

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Q Is there anything else you have omitted? A (No answer).

BY THE COURT:

Q Is there anything else? A No, I don't remember anything.

BY MR. GOLDSMITH:

Q Anything else you failed to recollect? A I can't think of anything else.

Q Did he ask you whether you were passionate? A Yes, sir.

Q When did he ask you that? A In the parlor.

Q In the parlor? A Yes, sir.

Q You did not tell us that yesterday, did you? A I can't think of everything.

Q You could not think of everything. Did you ever tell that to the District Attorney? A Which District Attorney?

Q Mr. Blier, or Mr. Sullivan. A I told Mr. Blier, I think.

Q Will you swear that you told him? A I don't know whether it was Mr. Blier, or -

Q Well, the man up in the Magistrate's Court? A I told somebody I don't remember who, though. I think I told Mr. Embree, too.

Q Who? A Mr. Embree.

THE COURT: Mr. Embree is the District Attorney in charge of the Grand Jury proceedings. That is admitted, I suppose?

MR. GOLDSMITH: What is that, your Honor?

THE COURT: I suppose it may appear that Mr. Embree is the District Attorney in charge of the Grand Jury

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proceedings?

MR. GOLDSMITH: Yes sir, that is conceded.

Q Did you tell the District Attorney in the Magistrate's Court about it? A I don't remember.

Q That you can't remember. Do you recollect this question being asked you, and you made this answer: "Q. Go ahead? A. And then he asked me if I was passionate, and I said no". Did you say that? A I think so.

Q "Q. You did not tell that to the District Attorney, did you, when he questioned you? A. I think I did, didn't I?". Did you say that? A (No answer).

Q "Q. Did you tell the District Attorney here when he examined you on the stand before recess that the Doctor asked you whether you were passionate or not? A. No, sir." Did you make that answer? A I don't remember that.

Q That you can't remember? A No.

Q Didn't you testify here yesterday that the Doctor merely put his hands over the piano as he passed it? A Yes, played the piano.

Q What did you mean? Did he play the piano, or did he pass his hand over it only once? You know the difference between playing a piano and passing your hand over it one time? A Well, he just touched the keys. I don't remember what he did, but I remember hearing the piano.

Q You remember hearing the piano? A Yes, sir.

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Q For how long a period of time? A A few seconds.

Q What? A A few seconds.

Q What were you doing while he was playing the piano? A Taking my hat and coat off.

Q Taking your hat and coat off. Anything else? A No.

Q Sure about that? A I don't remember doing anything else.

Q Are you sure about that? A I don't remember doing anything else.

Q Your memory is poor on that subject? A (No answer).

Q You were taking your hat and coat off; is that right? A Yes.

Q Did you have any conversation with him while you were taking your hat and coat off?

MR. SULLIVAN: Now, if your Honor pleases, I object to going all over the cross-examination again after thinking it over during the night. I think, if there are specific denials or assertions or contradictions, I think they ought be allowed, but I don't think there ought to be a general cross-examination of this kind, especially after both sides have rested on the People's case.

THE COURT: I will allow a full inquiry. Proceed.

Q After you took your coat and hat off, what did you do? A I think I sat down.

Q You sat down. Now, do you recollect this question being asked you and you made this answer, on page 8: "I went into the front room, the parlor. I removed my hat and coat, and Mr. Pryor sat at

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the piano and played the piano." Do you recollect stating that, in the Magistrate's Court? A Yes, sir.

Q "I was at the mirror, fixing my hair." You didn't so testify? A No, I don't remember testifying that.

Q Did you testify that this man put his knee on you? A No.

MR. SULLIVAN: I object. That has been answered.

THE COURT: Objection sustained.

MR. GOLDSMITH: That is all.

MR. SULLIVAN: That is all.

BY THE COURT:

Q When you were in the bed room, when you say this defendant was on the bed, in what position was he on the bed? A He had his body on top of mine.

Q Had his body on top of yours? A Yes.

Q What was the condition of his clothing, if you noticed? A I didn't notice his clothing.

Q Did he have his coat on, or off? A He had his coat off.

Q Did you notice anything about his clothing? A No, I don't think I did.

Q Now, just think and let me know if you did notice anything else?

A No, I don't remember noticing anything else; I was too excited.

Q Did he unbutton his trousers? A No, I couldn't say that.

BY MR. GOLDSMITH:

Q Did he say anything about a typewriter? A He said that he had a Royal, but I did not see it.

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Q Said he had a Royal? A Yes, sir.

Q And there was some talk about a typewriter? A That is when the five girls were altogether.

Q Was your waist torn? A No.

Q Any part of your clothing torn? A I don't remember. I don't think so.

Q You did not hear Miss Schimmel and the officer testify that your waist was torn, did you?

THE COURT: No, they did not testify to that.

MR. SULLIVAN: They said her waist was open.

Q Open the way it is now, or more? A More. It was open all the way down.

MR. GOLDSMITH: That is all.

The same motions which were made at the close of the People's case are now made, if your Honor please, with the same force and effect.

THE COURT: The jury may retire while I hear arguments on the motions.

(The jury then retired from the court room.)

MR. GOLDSMITH: Now, if your Honor pleases, yesterday, in discussing the question of rape in the first degree, which is defined by the statute as a person who perpetrates an act of sexual intercourse -

THE COURT: What section are you reading from?

MR. GOLDSMITH: 2010 of the Penal Law. A person who

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perpetrates an act of sexual intercourse with a female not his wife, against her will, or without her consent, under Subdivision 2, when her resistance is forcibly overcome, that would make the complete crime of rape in its first degree.

This indictment charges an attempt to commit the crime of rape in the first degree, in that the attempt at commission and failing in commission is the attempt charge d in this indictment.

Now, under Section 2011, any sexual penetration, however slight, is sufficient to complete the crime. But in this case, if your Honor please, the last and important question which was addressed by the Court to the witness, did he at any time have his trousers open, really is the crux of the situation and of the attempted crime. Of course, your Honor might ask, how far is a man to go before he can be charged with an attempt, but these are very serious crimes, and in order to substantiate or fulfill the indictment as to the complete crime, the Court says, further on -

THE COURT: Does not your argument, in a way, defeat itself, if it were carried to its full extent? Any penetration is sufficient to constitute rape.

MR. GOLDSMITH: What is that, your Honor.

THE COURT: Any penetration, I say, however slight,

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is sufficient to constitute rape; and then you argue, unless there is some penetration there is no rape, but if there were any penetration the crime would be completed. How could there ever, therefore, be an attempt?

MR. GOLDSMITH: I claim on the evidence in this case there is no attempt.

THE COURT: Your argument, as I understood it, went to the extent of saying that there must be some evidence of penetration before there could be an attempt.

MR. GOLDSMITH: Absolutely.

THE COURT: And if there is any penetration, under this section, then the crime is completed.

MR. GOLDSMITH: Yes, sir.

THE COURT: Therefore, it would not be an attempt.

MR. GOLDSMITH: No sir; it is either the full crime, or it is nothing, under this evidence. That is my argument. It is either the full crime, or it is nothing, but if your Honor sees fit to submit it to the jury as assault in the third degree, now, that is the contention in this case. Now, if your Honor please, may I call your attention - I have not got it with me - The People vs. Cross, which was decided in the Appellate Division?

THE COURT: I will send for it.

MR. GOLDSMITH: And that is upon the testimony of the -

THE COURT: Do you know the citation?

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MR. GOLDSMITH: It was Inspector Cross. He was convicted upon the testimony of a woman -

THE COURT: People against Cross?

MR. GOLDSMITH: People against Cross. And that is, that it is unsafe at any time to submit to a jury a case against a defendant where the complainant's testimony abounds in contradictions. Those are the words in that case, by the Appellate Division. And so you have in this case one lie after the other. I can point out to your Honor one, two, three, five, ten and fifteen absolute and deliberate falsehoods testified to by this girl. Of course, your Honor might say that might be an argument before a jury, but your Honor is the sole guiding star in this case, and your Honor must take the interests of the defendant into consideration, as well as the complainant.

THE COURT: I don't like to be a sole guiding star.

MR. GOLDSMITH: Maybe that is too rich, but I submit, upon all the evidence, it would be unsafe to submit this case to a jury on the indictment.

THE COURT: Have you rested?

MR. GOLDSMITH: No, the People have just rested.

THE COURT: I will deny the motion at this time.

MR. GOLDSMITH: Your Honor will give me an exception.

(The jury return to the court room).

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THE DEFENDANT'S CASE

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

J A M E S G R A H A M, called as a witness on behalf of the defendant, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. GOLDSMITH:

Q Where do you live? A 2157 Walton avenue, Bronx.

Q What is your position? A Official Stenographer, City Magistrate's Court.

Q And how long have you been such a stenographer? A City Magistrate's Court, for 2 years.

Q But you have been a stenographer for a number of years? A 15 years.

Q Have you your original minutes, taken on the 25th day of October, 1915, in an action entitled "The People of the State of New York on complaint of Elsie Dedisky against Charles A. Pryor"?

A Yes, sir.

Q Have you also a typewritten copy there? A I have a carbon of the transcript.

Q Will you turn to page 8 of your minutes? Will you read from the original record the answer on page 7: "Q State the conversation or conversations that you had on the second visit to the apartment with this defendant, and also state any thing that happened in that apartment?"

MR. SULLIVAN: Now, I object, if your Honor please,

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to going over the record in this case in that form. It is just a reiteration of what took place in the Magistrate's Court. I think, if there is to be any specific denial made, it should be made directly, and not any general statement made by a witness in the Magistrate's Court, because that will cover points other than those in contention.

THE COURT: Now, you may prove what questions were asked and answers given concerning those specific questions and answers, ~~and~~ that you interrogated the -

MR. GOLDSMITH: The complaining witness about. That is exactly what I am doing. I am not going to read the entire record. I am going to get right down to the meat of the facts. Your Honor will recollect I asked her whether she removed her hat and coat.

Q Read that answer, Mr. Graham?

MR. SULLIVAN: I object, again.

THE COURT: Wouldn't the shorter way be simply to ask him whether he has a correct transcript of the notes, and then mark in evidence those portions of the minutes from which you read?

Q Have you a correct transcript of the stenographic record of your notes? A I have a carbon copy of the original, which is an accurate transcript of my notes.

Q There are no markings on that? A No.

MR. GOLDSMITH: Then, I offer it in evidence.

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MR. SULLIVAN: No objection. I will consent if the other is a true copy, I consent that shall be the copy in evidence as an original copy.

MR. GOLDSMITH: Well, this copy is marked, and if the jury want to take it, I don't want anything there except the cold blooded facts. Now, my copy is marked.

THE WITNESS: That copy which you showed me, Mr. Goldsmith is not a typewritten copy of my copy. It has been recopied, perhaps, in your office.

Q Look at your copy and see whether or not that is or is not the copy (handing paper to witness)? A This is the original of my transcript.

MR. GOLDSMITH: I offer it in evidence.

MR. SULLIVAN: No objection. That is, I will object, of course, to these interlineations.

MR. GOLDSMITH: I don't offer the interlineations or markings on it, except that is a transcript of the record.

MR. SULLIVAN: I submit, the copy should be offered in evidence, and if counsel wants to refer to anything in it he may refer to this in his summation to the jury, but I think the copy without any markins on it that the stenographer identifies should be the one that is offered in evidence.

THE COURT: Mark this copy in evidence.

(Same received in evidence and marked Defendant's Exhibit "A", of this date).

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MR. GOLDSMITH: That is, all. No further questions.

THE COURT: Gentlemen of the jury, you are admonished in accordance with the statute, that you are not to converse among yourselves or with any person on any subject connected with this trial, neither are you to form or express any opinion thereon until the same is finally submitted to you and you have received the instruction of the Court. You may be excused until 10 minutes before two.

(The Court then accordingly took a recess until 1:50 P.M.)

A F T E R R E C E S S

Le R O Y F. D U K E, called as a witness on behalf of the defendant, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. GOLDSMITH:

Q Where do you live? A Westfield, New Jersey.

Q Mr. Duke, what is your business? A Electrical contractor.

Q And you are President of the Cortland Engineering Company? A
I am.

Q And where is their place of business? A 42 Broadway.

Q You are acquainted with the defendant? A I am.

Q How long have you known him? A I became acquainted with Dr. Pryor in Havana, in the Spring of last year. I was down there for about 3 months' time.

Q Did you have any business dealings with him? A Dr. Pryor

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was organizing a moving picture company, and as I had a film I turned my set of films over to him, to secure bookings in Havana.

Q Did you meet other people that knew the defendant while you were in Havana? A I did.

Q When did you leave Havana? A On July 3rd, 1914.

Q Did you have a talk with him before you left? A I was more or less coming in contact with Dr. Pryor every other day or so, because he was interested in taking pictures of a manufacturing that I was doing down there.

Q Did you have a talk with him as you left for New York, or for the States? A I met him several times and talked to him. I don't know of any special talk.

Q Do you recollect having a talk with him on the Steamship "Havana" as you were about to sail, with reference to the recommendation to him of a stenographer? A He wanted - he said -

Q Do you recollect such a conversation? A We had a conversation -

Q Do you recall such a conversation? That means "Yes", or "no".

A No.

Q You don't recall it. Did you have a conversation with him previous to that time, about a stenographer? A Not in regard to a stenographer.

Q At any time? A No.

Q Did he ask you whether you could recommend him a stenographer? A He asked - he said he would need help, and asked if I knew of

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anybody to send them down.

Q I show you a letter, dated - is this your signature (handing paper to witness)? A That is.

Q Did you write that letter? A I did.

Q Read it.

MR. SULLIVAN: Let us see it. Do you want ^{him} to read it to the jury?

MR. GOLDSMITH: No, no, read it to himself.

A I see it.

Q Read that carefully. Did you write that letter? A I did.

Q Do you know the substance of it? A I do.

Q Does that refresh your recollection any? A In a general way, yes.

Q What? A In a general way.

Q Now, can you tell us whether or not, after refreshing your recollection from a letter that you wrote, whether or not the defendant asked you if you could recommend him a stenographer? A Among other help.

Q No, Mr. Duke. Will you be kind enough to answer merely the question that I propounded to you? (Question read by stenographer, as follows: "Now, can you tell us whether or not, after refreshing your recollection from the letter that you wrote, whether or not the defendant asked you if you could recommend him a stenographer?")? A Yes, he did.

Q Now, do you recollect the conversation now? A I do not think it was on board of the steamer.

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Q Well, wherever it might have been, did you have such a conversation? A Yes sir, I believe so.

Q That is your best belief at the present time? A It surely is.

Q What did you say to him after he had asked you? A That if I heard of anybody I would put him in touch with them.

MR. GOLDSMITH: That is all.

CROSS-EXAMINATION BY MR. SULLIVAN:

Q That was around July, 1914? A July - I left Havana on July 3rd, 1914.

Q Have you seen Dr. Pryor since that time? A I met Dr. Pryor when he arrived in New York, in the early part of October.

Q October of what? A About October the 10th or 11th.

Q What year? A 1914.

Q Have you seen him since that time? A The day after he was arrested.

Q And between October, 1914, until October, 1915, you did not see the defendant? A I did not.

Q Did not know where he was or what he was doing? A I knew he was in Havana; I knew he was in Haiti, from correspondence which he had with me and which I wrote to him in regard to the films.

MR. SULLIVAN: That is all.

REDIRECT EXAMINATION BY MR. GOLDSMITH:

Q Aren't you a little confused in the year? This is 1916? A 1915. I wish to correct my statement, if I said 1914, I meant October, 1915.

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RE CROSS EXAMINATION BY MR. SULLIVAN:

Q Then, you left Havana on July 3rd, 1915? A 1915, yes, that is correct.

Q And you say you saw the defendant when you got to New York, in October, 1915? A When he came to New York.

Q Now, can you tell us what time in October? A It was the Monday previous to the week he was arrested in.

Q Then, he got here - he was only in New York a week before he was arrested; is that right? A No, he was here several days before I got in touch with him.

Q You don't know when he arrived, do you? A I do not.

Q Did you know where he was living in New York? A I met him at the Continental Hotel.

MR. SULLIVAN: Yes, that is all.

W I L L I A M H. S T A N F O R D, called as a witness on behalf of the Defendant, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. GOLDSMITH:

Q Where do you live? A 243 East 83rd street.

Q What is your business? A Assistant to the manager of the Royal Typewriter Company.

Q Where is their place of business? A 364 Broadway.

Q Do you recollect October 15th, 1915? A Yes, sir.

Q I show you a paper, and ask you whether you can recognize it (handing paper to witness)? A It is just like all we have in the office, yes, sir.

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Q Do you recognize that as on the paper or the printed matter of your concern? A Yes, sir.

MR. GOLDSMITH: I ask that it be marked for identification.

(Same marked Defendant's Exhibit "B", for identification, of this date).

Q Did you see a boy named Lampe in your office that day? A Yes.

Q What time? A It was between 10:30 and 11:00 in the morning.

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

Q State the conversation you had with him and he with you?

A He came in and said he wanted to rent a typewriter; he wanted to send it up to 778 Eighth avenue. He wanted to get it right away, said he was in a hurry, that they had some work to do, that he wanted to get a machine up there right away. So I looked at my watch, and I told him that we could not get it up there until 2 o'clock; we had to have 2 or 3 hours to get it ready and get it delivered.

Q Let me ask you this question before you go any further, Mr. Stanford: Was an arrangement made as to how much was to be paid?

A Yes, sir.

Q How much? A \$2.75 a month, for rent.

Q And was that paid? A Yes, sir.

Q It was paid to your company? A Yes, sir.

Q And a receipt given therefor? A Yes, sir.

Q In consequence of the payment of the money and the request

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of Lampe, was a typewriter sent to 778 Eighth avenue, in the city of New York? A It was sent up there that day.

Q By one of your delivery boys? A Yes, sir.

Q Was that brought back again? A Yes, sir.

Q Do you know why? A The report that came to me from my stenographer was that the boy had brought the machine back, saying it was refused.

Q Do you know what time it was sent up there? A I don't know. I know it was afternoon, but I don't know what time.

Q Do you know what time Lampe got to your office? A At approximately 10:30. It might have been a few minutes before.

MR. GLDSMITH: That is all.

CROSS -EXAMINATION BY MR. SULLIVAN:

Q You never sent a typewriter to the defendant that he kept, did you? A That he kept?

Q Yes. A No, sir.

Q And on this day that typewriter was not sent until after noon? A That is my recollection. It was in the afternoon.

Q What fixes the time in your mind when Lampe came into your place? A Because he was in a hurry to get the machine, and I looked at my watch, as I usually do in those cases, to tell him about that time I could deliver it.

Q You say it was between 10:30 and 11:00 o'clock? A Yes, sir.

Q Was it after 10:30? A It might have been, a few minutes.

Q Well, what was it? A I don't know exactly.

Q Sure it was after 10:30? A Yes, sir.

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Q And before 11:00? A Yes, sir; it was within that half hour.

MR. SULLIVAN: That is all.

REDIRECT EXAMINATION BY MR. GOLDSMITH:

Q Did you make an affidavit on the 3rd day of January?

A Yes, sir.

Q Who dictated this affidavit?

MR. SULLIVAN: I object to that.

Q Well, this affidavit you say -

MR. SULLIVAN: I object to anything said in any affidavit. It has not been marked in evidence.

Q You are not interested in this defendant, are you? A Never saw him before.

Q Never saw him in your lifetime? A No, sir.

Q You have been brought here under a subpoena? A Yes, sir.

Q And you are sure it was on the 15th of October, between the hours of 10:30 and 11:00 o'clock? A Yes, sir.

Q That is your best judgment and your best recollection? A Yes.

Q Is that the young man (indicating Willett Lampe)? A That is the one that came for the typewriter, yes sir.

MR. GOLDSMITH: That is all. Let it be noted on the record, if your Honor pleases, that a boy by the name of Willett Lampe comes to the bar and is identified as the boy who came for the typewriter.

W I L L E T T L A M P E, called as a witness on behalf of

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the defendant, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. GOLDSMITH:

Q Where do you live? A 1450 Gates avenue, Brooklyn.

Q How old are you? A 20 years.

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

Q How long have you known him? A Between 3 and 4 years.

Q Did you have any business dealings with him? A Yes, sir.

Q In what respect? A I was employed by him.

Q To do what? A To take care of film matters for him.

Q Where were you employed? A In New York City, while he was staying at the Hotel Continental.

Q Did you see the defendant on October 7th? A Yes, sir.

Q Where? A He called at my home, in Brooklyn.

Q Did he engage you there? A Yes, sir.

Q And what was your salary? A \$12. a week and all living expenses.

Q And were you to go to Haiti? A Yes, sir.

Q Now, do you recollect going over to the Edmonds Apartments, 778 7th avenue - 8th avenue? A Yes, sir.

Q What did you go over there for, do you know? A For the purpose of - with Dr. Pryor; he wanted to interview some applicant for a position.

Q Did you put the advertisement in the "World" at his request?

A The "World" and "Herald", both.

Q Both in the "World" and in the "Herald"? A Yes, sir.

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Q And were you there with the defendant at this apartment?

A Yes, sir.

Q Was that rented for one month, or one week? A I couldn't tell you. I did not rent it.

Q Who rented it, do you know? A No, sir.

Q And did you go over there on October 15th? A 14th and 15th.

Q Now, on the 14th, were any girls there? A No, sir.

Q Now, on the 15th, what time did you go there? A 20 minutes to 10, about.

Q With the defendant? A Yes, sir.

Q Now, tell everything that transpired from 20 minutes to 10 until you left those premises? A Well, that would be kind of hard.

Q Why? A Such a lot. It would take too long, wouldn't it?

Q What. A Well, I came in there with Dr. Pryor, and he sat down, and he said he had to read a letter - write a letter, and about 5 minutes to 10:00 a young lady came in. She gave the name of Miss Dedisky later, and about 5 minutes later 4 other girls came in. The Doctor turned around and said, "I am writing an important letter, and it has to be mailed right away; I am sorry, I will have to keep you waiting a few minutes". Then he gave them a few photographs that I had already seen.

Q Are these some of the photographs (exhibiting photographs to witness)? A Yes, sir.

MR. GOLDSMITH: I offer them in evidence.

THE WITNESS: There were numerous more than that.

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MR. SULLIVAN: I don't see the materiality of them,
if your Honor pleases.

Q Is this one of the photographs (handing photograph to witness)? A Well, I don't exactly recollect that. There was one of that style. I am not positive of that, no.

Q Did he show them any reading matter, do you know? A I didn't notice that.

Q Did the doctor finish his letter? A Well, first he stopped for a few minutes, and explained the position to the girls.

Q Now, you say "explained the position". What did he say? A He said he wanted a stenographer to go to Haiti with him.

Q He used the word, "Haiti", did he? A I beg pardon?

Q He used the word, "Haiti"? A Yes sir, certainly.

MR. GOLDSMITH: I offer these photographs in evidence.

MR. SULLIVAN: I will press the objection. I think they are incompetent.

BY THE COURT:

Q You say there were other photographs? A yes sir, there were other photographs.

Q Do you remember any of the others? A Yes, sir.

Q What? A Well, one where there was a dead rebel in the Haiti Revolution, and another of a machine gun of the Haiti Government, , another one with a caption on the back of it, "On the firing line in Haiti". It was all regarding Haiti and the Revolution.

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MR. SULLIVAN: I think they are absolutely immaterial.

Q Where are the rest of them? A I have got some of them at home.

BY MR. GOLDSMITH:

Q You have got some of them home? A Yes, sir.

MR. GOLDSMITH: Your Honor will recollect this man was taken from the apartment on the 15th of October, and he has been in jail ever since.

THE COURT: What has that got to do with it? You have not been in jail.

MR. GOLDSMITH: No, but I could not get them.

THE COURT: You have been at large.

MR. GOLDSMITH: We will have the balance of them here. Will your Honor give us 10 minutes, and we will send for them? He has a number of them in the cell in the Tombs.

THE COURT: Well, I don't know that it is material.

Q Then what happened after showing these pictures? There were a lot of pictures there? A He resumed writing the letter.

Q About what time was that? A I should judge about 3 minutes after ten.

Q Now, the, what happened? A He gave the letter to me, and told me to go to the post office with it, the nearest ^{post} office, as quick as possible, as it had to go to Haiti by the noon boat.

Q Go on. Did you go out with the letter? A Yes sir, I went to the 51 street post office; that is three blocks away.

Q Did you come back? A And I came back.

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Q When you came back, who was in the room? A The 5 girls and the defendant, Dr. Pryor.

Q Did you have a talk with him? A No; the Morning World was on the cot in the dining room, and I picked it up and took a dining room chair and sat in the doorway between the dining room and the parlor, and read the advertisements that were in the paper. I even exclaimed to Doctor -

Q What was the next thing that was done or said by either of the girls or the defendant? A What was said by him?

Q Yes. A He explained the proposition to them.

Q Was that the second time he explained it? A He didn't explain it fully the first time.

Q Then the second time he explained it in detail? A Yes, sir.

Q And they were examining the pictures? A Not when I returned, they were not.

Q I want to know what happened when you returned. Did you stay there? A Yes, surely, and they were listening to it.

Q How long did you stay there? A Until about 25 minutes after ten, perhaps a little later.

Q Did you leave the place? A Yes sir, then I left.

Q What did you go out for? A I went to get a typewriter.

Q How did you come to go for a typewriter? A Dr. Pryor gave me \$5. and asked me to go get one.

Q Then you had a talk with the defendant, didn't you, before he gave you the \$5? A He just turned around to me when he

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stopped talking to the girls and says, "I want a typewriter, and I want to have it up here as quick as possible. Go down and get one".

Q Did you immediately leave? A No; I sat down and ate breakfast.

Q You had breakfast? A Yes, sir.

Q What time did you leave? A It must have been about 25 minutes to eleven, perhaps half past ten.

Q Did you cook your own breakfast? A Yes, sir.

Q Nobody there to cook for you, was there? A No, sir.

BY THE COURT:

Q Where was that? A In the Edmonds Apartment, 778 8th Ave.

Q Edmonds Apartment? A Yes, sir.

THE COURT: Who is Edmonds?

MR. GOLDSMITH: That is the name of the apartment house.

THE COURT: I am asking.

MR. GOLDSMITH: Oh, I beg your pardon.

THE WITNESS: That is the name of the building, your Honor.

BY MR. GLDSMITH:

Q Did you leave, to go down town? A Yes, sir.

Q Do you know what time you left? A About 20 minutes to eleven, or half past ten.

BY THE COURT:

Q That was after you had had your breakfast? A Yes, sir.

BY MR. SULLIVAN:

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Q What did this breakfast consist of, if you recollect? A Some toast and steak I believe; I am not sure.

BY THE COURT:

Q Where did you cook that? A On the gas range, in the kitchen.

BY MR. GOLDSMITH:

Q And you immediately went down town then? A Yes, sir.

Q And did you go to the office of the Royal Typewriter? A Yes.

Q At what number Broadway? A 364 Broadway.

Q Did you hire a typewriter? A Yes, sir.

Q Did you receive a paper receipt for the money that you paid?

A Yes sir, \$2.75.

Q I show you Defendant's Exhibit "B", for identification, and ask you whether that is the paper receipt that you received at the time (handing witness Defendant's Exhibit "B" for identification)? A Yes sir, that is the paper.

MR. GOLDSMITH: I offer it in evidence.

(Received in evidence and marked Defendant's Exhibit "B", of this date).

MR. GOLDSMITH: "Royal Typewriter Company, Inc. \$2.75. October 15th, 1915. Received, W. Lampe \$2.75, rental on Number Five from October 15th to November 15th. Royal Typewriter Company, Inc., by M. P.", something.

Q Did you have a talk with Mr. Stanford when you were in that place, the gentleman who was here? A Yes, sir.

Q What did you say to him about the typewriter? A I told him I wanted it up there as quickly as possible. He said he didn't think

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it was possible, because the boy had to clean the machine, and when I left I expected it to be up there at 12 o'clock.

Q After you left the typewriter place, where did you go? A I went back to the apartment.

Q What time did you get back to the apartment? A Around noon.

Q Was there anybody there? Was the defendant there? A No.

Q Did you find out anything about it? A No, sir.

Q When did you find out he was arrested? A (No answer).

BY THE COURT:

Q Did you say anybody was there? A Nobody was there.

BY MR. GOLDSMITH:

Q Did you 'phone to the defendant from the typewriting place?

A No sir; I 'phoned from a store on Broadway.

Q At what time? A Well, to be exact, it was 11:22 A.M., but I told him over the 'phone it was 11:20.

Q At 11:20 he answered the 'phone? A Yes, sir.

Q Are you sure about that? A Well, it was his office. I recognized his voice. He spoke to me.

Q Did you know who you were talking to? A Yes, sir.

Q And you told him about the machine? A I told him I expected it to be up there at 12 o'clock.

Q And that was at 11:20 o'clock? A 11:22.

Q Or, 11:22, to be accurate? A Yes, sir.

Q You did not manufacture this receipt in any way, did you? That is an original receipt that you received from the Royal Typewriter

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Company? A It seems to be the same.

Q When you got up there, at 12 o'clock, was the apartment locked?

A Yes, sir.

Q Couldn't you get in? A Surely.

Q Did you have a key? A Yes, sir.

Q Was the Doctor there? A No, sir.

Q Did you find out where he was? A No, sir.

Q When did you find out where he was? A I went over to the hotel with an empty grip, for the purpose of bringing some things over that we needed.

BY THE COURT:

Q Where did you get the grip? A In the apartment.

Q Oh, you got in the apartment? A Yes, sir.

Q You had a key to it? A Yes, your Honor. I went over to the hotel with the empty grip, and I just got up to the room in the Continental, and I started to unlock it, and the telephone rang; it was Dr. Pryor who said he had got in trouble, and I should come to the 54th street court at 2 o'clock in the afternoon, and he would see me up there.

BY MR. GOLDSMITH:

Q And you went up there? A I went back to the apartment first.

Q Were you there when the Dedisky girl came in? A Yes, sir.

Q Did you see her take her hat and coat off? A You mean the second time?

Q Yes. A Yes, sir.

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Q Are you sure about that? A Positive.

Q Did this defendant tell her to take her hat and coat off?

A I did not hear anything when I was in the kitchen.

Q Did you see her take her hat and coat off? A Yes sir. I just
up from the dining room table, finishing my meal, when he came
back.

BY THE COURT:

Q When who came back? A When the defendant and Miss Dedisky
came back.

Q Came back where? A He had gone down stairs, and he came
back.

BY MR. GOLDSMITH:

Q Had the defendant opened the door himself, or did you
open the door for him? A I opened the door for him.

Q Did he knock on the door? A No, I heard him coming up the
hall, and I went to the door to see who it was, and he walked right
in, and I was behind the door.

Q And the dedisky girl was with him? A Yes, sir.

Q When they got in, did she immediately take off her hat and
coat? A When she sat down on the settee she did.

Q When she sat down on the settee? A Yes, sir.

Q She took off her hat and coat? A Yes, sir.

Q You did not hear the defendant request her to take her hat
and coat off, did you? A I didn't hear him say a word, because
I was in the kitchen.

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Q Now, there were four or five girls there at that time? A (no answer).

Q What appointments were made?

MR. SULLIVAN: I object to his leading the witness.

Q Were there 4 or 5 girls there?

MR. SULLIVAN: When?

Q At any one time. The first interview? A Miss Dedisky came in first, and about 2 minutes later 4 girls came in.

Q Were any appointments made for the girls? A They all started to talk at once, and the Doctor said, "I can't interview you this way. I will give you each 15 minutes private interview, so I can discuss the salary, and find out your experience".

Q Did he make any appointments with them? A About 15 minutes apart.

Q From when, do you know? If you know, say so. If you don't, say so. Don't draw on your imagination. A I am not positive of it. I think it was 10:10.

Q Don't tell us anything you are not positive about? A All right, then, I don't know.

Q Don't stretch your imagination, I don't want anything but what you actually know yourself. Did you hear the appointments made for 2:30 o'clock, any of them? A Yes, the first 3 girls.

Q And they were told to come back at what time? A 2:30 P. M.

Q Are you sure about that? A Positive.

Q Now, did the second girl come back, the girl that came in

there second? Do you know who she was? A Miss Markus, I believe.

Q When did she come back? A About 7 minutes after Miss Dedisky came in the first time - stayed there the first time.

Q Do you know when the doctor said he started to interview these girls? A Not when he started in. It must have been about 5 minutes after ten.

Q And he said he would interview them 15 minutes apart? A Yes.

Q And they went down stairs? A Yes, sir.

Q Did he fix a time for that interview? A 15 minutes apart.

Q Was that arranged by them writing their names on this piece of paper (handing paper to witness)? Did you see the girls write their names on that? A I saw them write their names on some paper. I would not say it was that one.

MR. GOLDSMITH: I ask that it be marked for identification.

THE COURT: It is not identified.

THE WITNESS: It was a bill head of the Continental, of that style, but I didn't take notice when they were writing their names.

MR. GOLDSMITH: I offer it in evidence. The complaining witness has identified her signature upon it, with the exception of the "10:20", the time.

MR. SULLIVAN: I don't know whether that is the paper she identified, or not. She identified her signature.

THE COURT: Is there any objection?

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MR. SULLIVAN: I would like to show it to Miss Dedisky, and see if it is her signature. No objection to this signature going in evidence.

(Paper received in evidence and marked Defendant's Exhibit "C", of this date).

MR. GOLDSMITH: You may examine.

CROSS EXAMINATION BY MR. SULLIVAN:

Q Were you employed when the defendant came to your house to interview you? A You mean in Brooklyn?

Q Were you employed by anybody? A Not at that time, no, sir.

Q You were out of work? A Yes, sir.

Q How long? A 5 days - 4 days.

Q And who did you work for just previous to that? A Philip Doup & Company.

BY MR. GOLDSMITH:

Q Are these some of the pictures?(handing photographs to witness)

A Every one of them, yes sir.

MR. GOLDSMITH: May I ask that they be included in the other exhibit?

THE COURT: The others have not been marked in evidence yet.

MR. SULLIVAN: I think the people to identify the pictures are the people they were shown to. I don't think this witness is qualified to testify what they were looking at.

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THE COURT: Oh, yes, he is, if he saw it.

MR. SULLIVAN: He might be able to testify those pictures were there.

MR. GOLDSMITH: If there is any technical objection to it, Mr. Sullivan, we can call Miss Dedisky and she can look at them.

MR. SULLIVAN: There is a right and a wrong way to do everything. I think it ought to be done in the right way.

BY THE COURT:

Q Were these pictures shown to these girls? A Yes, sir.

THE COURT: The objection is overruled.

(Photographs received in evidence and marked Defendant's Exhibit "D" of this date).

BY MR. SULLIVAN:

Q Where is Mr. Doup's place of business? A 60 Pearl street Brooklyn.

Q And what line of work did you do for him? A Book keeping.

Q And were you to be a book keeper for the defendant? A Yes, sir.

Q You were? A Not at that time. When he got to Haiti I was.

Q You were to be his book keeper? A Yes sir, I was.

Q When previous to the day the defendant came to your house in Brooklyn was the last time you saw him? A It must have been in January.

Q This year? A 1915.

Q Last year? A Yes, sir.

Q Where? A In my home, in Brooklyn.

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Q Were you working for him then? A No, sir.

Q Did you work for him in January? A No, not in January.

Q What did he come to your house for, do you know? A To go fishing with him.

Q To go fishing with him? A Yes, sir.

Q You are a friend of the defendant, aren't you? A Yes, I am a friend of his, certainly.

Q Now, the advertisement that you put into the "Herald" and the "World", were they written by you, or the defendant? A Both of us.

Q Did each one write one? A No, we both suggested what was the best to put in.

Q I want you to look at that advertisement marked People's Exhibit No. 1 in evidence and tell this Court and jury what part of it you suggested and what part of it the defendant suggested (handing witness People's Exhibit No. 1)? A Well, I suggested the word "capable", and then I suggested the words "nice looking", and he put it "nice appearing".

Q You suggested "nice looking" and "capable"? A Well, I am not through yet. Wait a minute.

Q Did you suggest those two words? A Yes sir, those 3 words.

Q Go ahead? A Well, that is about all.

Q So, it was the defendant that wanted this stenographer, wasn't it? A Surely. I didn't want her.

Q And you were the one that suggested that he ought to have a

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nice looking and a respectable stenographer; is that correct? A That is right.

Q Why did you believe he wanted a nice looking stenographer?

A Because he told me he wanted to use her in motion pictures, before the camera.

Q Then, he told you he wanted a girl to perform? A No, he did not tell me that.

Q He told you he wanted a girl to use in the pictures as an adress ? A He did not say that.

Q What did he say? A He said, "We may have to use her in pictures, so I would like a girl with clear features".

Q Why didn't you put in, "a girl with experience in pictures"?

A Because he also wanted her to be a stenographer.

Q So, you suggested he wanted a nice looking girl; is that right? A Yes.

Q He told you what kind of a girl he wanted before you attempted to help him write this advertisement, did he? A No, he did not.

Q Didn't he tell you what kind of girl he wanted? A He said he wanted a stenographer.

Q You said he wanted a girl he would have to use in the pictures? A Well, he said both.

Q What else did he say about the girl he wanted? A That is all he said.

Q He said he wanted a girl who was a stenographer that he could use in the pictures; is that right? A He said he wanted a steno-

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grapher that he also could use before the camera.

Q Why didn't you put that in the ad? A I thought the words "Nice looking" took care of that.

Q You thought that a person on the street by using the words "nice appearing", that he would want a girl to appear before the camera? A It was none of their business, if they didn't want to come.

Q You wanted them to understand what they were to do by reading the advertisement, isn't that so? A Isn't what so?

Q Are you listening to my questions? A Yes, but you speak so fast I can't understand you.

Q (Question read by stenographer, as follows: "You wanted them to understand what they were to do by reading the advertisement, isn't that so?")? A Certainly, that is so.

Q Then, why didn't you put in the advertisement that you wanted them to work before the camera? A Well, I don't know.

MR. GOLDSMITH: I must press an objection. This has already been asked and answered five different times.

THE COURT: Objection sustained.

Q Did you appear as a witness before the Grand Jury ? A Where Here?

Q Upstairs, yes. A No, sir; this is the first time I was on the stand.

Q Were you down to Mr. Goldsmith's office? A Yes, sir.

Q And did you go over what happened that day, with Mr. Gold-

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smith? A No, sir.

Q Did you talk to anybody about this case? A I just handed him the minutes.

Q Didn't you tell him what you were going to testify to? A No; he asked me if I would.

Q And you went over what you were going to testify to; isn't that so? A No, sir.

Q Didn't he ask you any questions? A He did not ask me one.

Q Not a single question? A He said, "It is a difficult case, don't you think so?", and I said, "I leave that to you".

Q Didn't he ask you about going for the typewriter? A No, sir; he did not.

Q He did not ask you whether you were the one that went? A No.

Q And he did not ask you anything about this defendant? A He asked me who he was. I told him he was a friend of mine.

Q You told Mr. Goldsmith that the defendant was a friend of yours; is that right? A Yes, sir.

Q And you never said anything, and he did not ask you any thing about the case? A He read the minutes, and then he said, "I will take care of this. I will go up to see him tomorrow".

Q You did not testify in the Magistrate's Court? A No, I did not.

Q And do you mean to say you did not tell the counsel what you were going to testify to here today? A No sir, not a word.

Q So, when you went on the stand, he did not know what you were going to say? A He did not know a word.

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Q Yet he asked you the questions, and you gave the answers; isn't that so? A Yes, sir.

Q Where was the defendant living at the time this apartment was rented at 778 8th avenue? A Continental Hotel.

Q He still had a room there, didn't he? A Yes, sir.

Q Did you live there together? A Yes, sir.

Q Did you live in the same room with him? A Yes, sir.

Q And was he living at the Continental Hotel when he came to your house in Brooklyn to engage you? A Yes, sir.

Q And did you then leave your home and live at the Continental Hotel with him? A Yes, sir.

Q How many days previous to October 15th were you living at the Continental Hotel? A Eight days.

Q You were a sort of handy man for the defendant, weren't you?
A As an assistant, as you might put it.

Q Was it you, or the defendant, who rented this apartment? A It was the defendant I suppose. I said I did not know, before.

Q Well, you know you did not do it, don't you? A I did not do it, no.

Q And you don't know how long the apartment was engaged for?
A No, I don't know that either.

Q Do you know what day the apartment was engaged? A No.

Q Will you tell us the first day that you ^{ever} went to the apartment?
A I believe it was the 14th of October.

Q The day previous to the defendant's arrest; is that right?

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A Yes, sir.

Q And you went up to look at the apartment? A Not exactly. I took some things over there in a grip.

Q What did you take over? A Necessities, tooth paste, and so forth, writing paper.

Q Anything else? A Yes, those pictures and a lot of film.

Q And household effects? A No, sir.

Q It was a furnished apartment? A Yes, sir.

Q Now, that apartment consisted of how many rooms? A 6 and bath and a private hall.

Q What were the 6? A The parlor, dining room, a kitchen, 2 bed rooms, and a bath.

Q That is 5 and bath? A I made a mistake. I beg your pardon.

Q There were 2 bed rooms? A Yes, sir.

Q Were there 2 beds? A Yes, sir.

Q And there was bed linen and pillows there? A Yes, sir.

Q Now, on the 15th you came from the hotel at what time? A About half past nine.

Q On the night of the 14th, you slept at the hotel? A Yes, sir.

Q And so did the defendant? A Yes, sir.

Q And when you got to the apartment you had already put the ad in the "Herald" and "World"? A I put that in the night before.

Q Now, you were there when the first girl came in? A Yes, sir.

Q And you sat that was about 5 minutes of ten? A Yes sir; it must have been 5 minutes of ten.

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