

START

2649

CASE

CASE # 2649

I N D E X .

	Direct	Cross	Redirect	Recross
Viola Muller	8			
(Resumed)	14	30		

1818

CASE # 2649

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

3181

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

B e f o r e :

vs.

: HON. JOHN F. McINTYRE, J.

B E N J A M I N S H E R M A N . :
-----x

and a jury.

Indictment filed May 15th, 1919.

Indicted for rape in the second degree, and abduction.

New York, June 17th, 1919.

APPEARANCES.

FOR THE PEOPLE: ASSISTANT DISTRICT ATTORNEY WILLIAM J.A. CAFFREY.

FOR THE DEFENDANT: MR. ABRAHAM LEVY.

Peter P. McLoughlin,

Official Stenographer.

CASE #2649

Mr. Caffrey, Assistant District Attorney opened the case on behalf of the people as follows:

With the permission of the Court, and you, gentlemen of the jury:

Mr. Levy in his questions touching upon your qualifications to act as impartial jurors in this case, gave a brief resume' of what he deemed to be the facts leading up to and attendant upon the making of the charge in this case. Substantially it was correct but not, however, in every particular.

It is well perhaps in opening this case that I should just as briefly and as succinctly as possible-- because I think before getting down to the exact date it would be well that no misapprehensions concerning the antecedent facts in this case should be created-- to state the following facts: In April, about the 9th of April, the complaining witness in this case, whom we shall prove to be 14 years of age made the acquaintance of a man named Beatty over in Newark where the girl lived, and after going around quite some in Newark with him he invited her to come over here to New York to visit his sister's home. He said he lived at an address he gave up in 61st street some where among the sixties, and she, accordingly did come over here. When she got over she did not see Beatty but as she went to his house, the house where Beatty said he

CASE # 2649

resided, she was told that Beatty was not in. She came out. While walking on the street near Beatty's alleged residence a man who said his name was Hollingsworth approached her and asked her if she was looking for a man named Beatty and she said yes. They had some further conversation which she will narrate if necessary and this alleged Hollingsworth asked her to go to a restaurant. They had something to eat in the restaurant and she said that after having a drink of milk or whatever concoction she had in the restaurant she became dizzy and this man Hollingsworth took her to a room on 26th street, West 26th street, where she remained-- this being Wednesday night she said-- she remained there until the following Sunday night which was the 13th of April. She said during her stay in the house in 26th street that this Hollingsworth had absolutely and actually no sexual intercourse with her; that he did not in any wise molest her. As a result of stay there her purity was not, in any wise, impaired. I may say in passing that previous to the connection with the defendant that she had never known or had sexual intercourse with a man.

Now on the night-- now here is where the real part of this case begins, gentlemen-- on the night of the 13th

CASE # 2649

2

of April, Sunday the 13th of April, 1919, she was walking along Broadway, wandering aimlessly about, not knowing just exactly where she was going, being afraid to go home because of what had happened, when this philanthropic gentleman, the defendant, in the pursuit of his philanthropic and his social service work upon Broadway, walked up to this unknown female and asked her where she was going. During the course of the conversation she told him that she had left her home; that she was an orphan; told him that she had no home, and he told her that he belonged to some order, and that he would take care of her. She did not tell him that she was a Jewess, nothing was said about religion in that conversation. And as I think you are, gentlemen, all over the age of fifteen, and perhaps most of you have spent some nights away from home after 9 o'clock, you may know that religion was the last thing thought of. This defendant said that he would get a room for the girl. At 11 o'clock that night he took this girl not to any social service institution or other philanthropic or eleemosynary house, but to a furnished room house at 27 Stuyvesant Place -- at half past eleven at night-- rang the bell, and a woman came to the door and said, "Hello Bennie" to the defendant or "Is that you Bennie" or some words to that effect. She said "What do you

CASE # 2649

want"? He said, "I want a room." This woman took him to the back parlor and opened the door for him and let him and the woman or the female into the room. Thereupon after the girl was in the room his generous philanthropic nature was again spared and he showed his great philanthropic purpose by handing a two dollar note to the landlady -- not to the girl but to the landlady for the room. Now, gentlemen, the landlady will say that she let this man, the defendant, in the room because she knew him and she had known him for three years and there is no doubt about his being there. She said it was dark in the hallway; she knew that he had a female with him and she let him and that female into that room but that night she could not recognize who the female was but she did positively recognize the defendant.

Now the next proceeding or the next chapter in this case is the next morning, Monday morning. The landlady was cleaning out the front room, the front parlor, and she will describe to you that there was a little hallway between the front parlor and the rear parlor, and with her door open in the front parlor she could see the door that led from this little hallway into the rear parlor. About 8 o'clock in the morning the defendant came out of that rear parlor and this woman sitting down in her room could see

CASE # 2649

him coming out of the room and he came up to her and he said he was very late, that he would have to hurry up to his place of business up in 31st street. Then mark you, gentlemen, within half an hour after the defendant came out of this room the female came out of the room and walked into the parlor where the woman, Mrs. Voss by name was. She had a conversation and that female is identified by her as the complaining witness in this case, Viola Muller. Now they went out and disappeared.

Now the next step, gentlemen, is that this Viola Muller, the complaining witness, went up to the store on West 31st street kept by Sherman Brothers. When she got up there she had a little conversation and while she was there she left her vanity bag there-- or by the way, the night before he gave her a card in order to go up and see him and he gave her some of his letterheads to write letters on if she needed paper. Then this defendant took the complaining witness to a house -- the exact number is 113 East 26th street in this county. The defendant took her there and put her in that house and told the woman to take care of her. This is the second house. He told the woman to take care of her and watch out for her and he paid ten dollars in advance, five dollars a week to look after this girl. He went there and visited her every night. In

CASE #2649

this second house, gentlemen of the jury-- I want to make myself clear about this-- there is no suggestion that any act of sexual intercourse took place. He went and visited her at the second house and continued his visits. We shall prove to you that Mr. Levy is in error when he said that it was the defendant that notified the police. The defendant did not do anything of the kind, but the police when they saw the name and picture of the girl in the paper instituted some detective work, and after a system of espionage they were able to get hold of this girl and lock her up, and they also placed the defendant under arrest. He said that through charity he took her to the house in East 26th street but he most studiously avoided any reference to the house at No. 127 Stuyvesant Place. He never once made any statement as to that house.

Now, gentlemen, that, in brief, is the case. If we prove these facts to you as we confidently expect to be- yond a reasonable doubt we shall ask you to convict the defendant of the crime charged in the indictment, rape in the second degree.

MR. LEVY: For the purposes of the record I move that the District Attorney be required to elect under which count in this indictment he proposes to submit the case. There are three counts in the indictment. The

CASE #2649

first charge is rape in the second degree, the second assault in the second degree and the third abduction.

THE COURT: From what I have gathered from the District Attorney's opening he intends to rely on each count of the indictment, namely rape in the second degree, abduction and assault in the second degree.

MR. CAFFREY: That is the position of the District Attorney.

THE COURT: I shall not require him to elect now Mr. Levy. You may make your motion later.

V I O L A M U L L E R, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states she lives at 20 Baldwin street, Newark, New Jersey.)

DIRECT EXAMINATION BY MR. CAFFREY:

Q Now, Viola, I want you to speak up so that the last juror over there can hear every word you say? A Yes, sir.

Q How old are you? A Fourteen years old.

Q When were you fourteen years? A In 1918, August 1st.

Q 1918? A Yes, sir.

Q August 1, 1918? A Yes, sir.

Q Do you know the defendant, Benjamin Sherman? A Yes, sir, I do.

Q How long have you known him? A Since April 17th.

CASE # 2649

Q April what? A 13th.

Q April 13th? A That is the day you met him? A Yes, sir.

THE COURT: April 13th or 17th?

THE WITNESS: Yes, sir, the 13th.

BY MR. CAFFREY:

Q Are you married to the defendant, Benjamin Sherman or were you ever married to him? A No, sir.

Q Where did you meet the defendant on the 13th of April?

A On Broadway.

Q Broadway, New York County? A Yes, sir.

Q What part of Broadway? A I don't know where.

Q You don't know where in Broadway? A No, sir.

Q What time of the day or night was it that you met the defendant? A About 10 o'clock.

Q Ten o'clock at night or morning? A At night.

Q Were you alone or with somebody else? A I was alone.

Q Now state to the jury under what circumstances you met the defendant? A Mr. Sherman came up to me and spoke to me; he asked me if he could walk with me and I didn't say anything. He said I should not be afraid of him and he showed me his Masonic emblem and ring and said I should not be afraid of a Mason because he was a Mason.

Q Go right on. A Then he walked a little and said he was going to take me to a lady that he knew on -- I don't know where it was -- but he took me to Stuyvesant street, and when he

CASE # 2649

got there he said to the lady --

Q This is what Sherman said to you? A Yes, sir.

Q On Broadway? A Yes, sir.

Q Now you got to the point where he said he was a Mason?

A Then he started walking with me and then he took me into a drug store and we got hot chocolate and then that was all there was to that question.

Q Was anything said? A No, sir.

Q What did you say. Tell us what you said. A I told him my name.

Q What is that? A I told him my name.

Q What name did you give him? A Viola Muller.

Q Told him your name was Viola Muller? A yes, sir.

Q Did you tell him anything else about yourself? A No, sir.

Q Did you tell him where you lived? A No, sir.

Q Who did you tell him you were? A I told him I was Viola Muller.

Q Did you tell him where you were coming from or anything about yourself? A No, sir.

Q Did he ask you? A No, sir.

Q Was there anything more said on Broadway? A No, sir.

Q Did you go any place after that? A Yes, sir.

Q Tell us where you went, you and the defendant? A He took a car and got off at Wanamaker's and walked down a couple of blocks to Stuyvesant street and took me into a place.

CASE #2649

Q What place? A A boarding house.

Q What was the number of the house? A 27 Stuyvesant street.

Q In the county of New York? A Yes, sir. He said he was going home to Brooklyn where he lived.

Q What time did you and the defendant get to 27 Stuyvesant street? A It was between -- about ten and eleven o'clock.

Q What time did you arrive at 27 Stuyvesant street? A It was after eleven o'clock.

Q Well, what did you do, was there a stoop or what?

A Yes.

Q Tell us what you and he did when you arrived at the stoop? A When we got there he rang the bell and the lady came to the door and she had her face tied up because she had a toothache. He said to her -- she opened the door and she said, "Hello Bennie. I expected you earlier." He said, "Have you got my room ready?"

Q Who said that? A Mr. Sherman. She said "yes but I expected you earlier, where were you," and he said "to the theatre." She said, "Come in."

Q Then what? A Then he had said he was going home to Brooklyn. She went out and closed the door.

Q Now before you get to that. Did the woman and the defendant have any conversation in the hall? A Yes, sir-- it

CASE #2649

was in the room.

Q What is that? A In the room.

Q Before you got into the room, was there any conversation in the hall? A No, sir, just at the front door when she opened the door.

Q When you got in was there any light in the hall? A No, sir.

Q Then you and Bennie and the woman entered the room?

A Yes, sir.

Q Is that right? A Yes, sir.

Q Now was there a light in the room? A She made it, she turned on the gas and made a light.

Q Who did? A The woman.

Q What did she say, if anything, and what did the defendant say? A He handed her two dollars and said, "Here this is for the room for a little while." And she said something about her husband that he was sick, and he gave her a cigar for him.

Q What did he hand her for the room for a little while?

A Two dollars.

Q Then what was done? A Then she left and I thought that he was going to--

Q Never mind what you thought. The woman left? A Yes.

Q What happened? A Then he sat there and he said he couldn't go back to Brooklyn because it would be too late, he would have to go to work about half past eight, and he said it would take him a couple of hours to go to Brooklyn so he said

CASE #2649

he would stay there and I said he could not; he said if he-- he asked me if he would get another room and I said no. So he said he would sit in a chair for the night and I didn't know what to do.

Q Speak up. What else was said and done. A Then he turned out the lights, and I had undressed and gone to bed and he sat on the chair for awhile. During the night when I was sleeping I woke up and I found him alongside of me in the bed, and then he had intercourse with me.

Q What did he do to you? (No answer.)

Q Was he dressed or undressed when in bed? A He was undressed.

Q Now tell us what he did to you.

MR. CAFFEY: Your Honor, I hate to have to go into this.

THE COURT: You will have to do it because you must comply with the Statute.

Q You say he had intercourse with you? A Yes, sir.

Q Tell us what you mean by intercourse. Speak up and let us get over with it. Tell us what he did to you. Won't you tell the jury just what he did to you. (No answer.)

THE COURT: We will take a recess at this time. Gentlemen you will not speak about the case or permit anybody to speak to you of it and do not make up your minds concerning the guilt or innocence of the defendant until the

CASE # 2649

case is submitted to you.

The Court then took a recess until two o'clock.

AFTER RECESS.

V I O L A M U L L E R, resumes the stand, testified as follows:

DIRECT EXAMINATION CONTINUED BY MR. CAFFREY:

Q Now, Viola see if you cannot recover your voice and speak up loud enough for us all to hear you.

THE COURT: You were asking her what the defendant did to her, and she said that she had intercourse with him.

Q Now, you said that he, the defendant, had intercourse with you. Now, tell the jury what you mean by that, just what he did to you. Tell us what he did. A He put his privates into my privates.

Q And how long did he remain in that position? A I don't know.

Q About? A I don't know.

BY THE COURT:

Q Did he lay on top of you? A Yes.

Q Can you state how long? A I don't know.

BY MR. CAFFREY:

Q Well, what was done then? A Well, I said that I shall scream.

Q Now, tell us what was said. A I said that I would

CASE #2649

scream, and he said "I could if I wanted to, but that it wouldnt do me any good because there wasn't anybody there, all the windows were closed, and the people were asleep, and he said I couldn't do anything."

Q Now, can you tell us about how long the defendant remained on top of you with his privates in yours? A I dont know.

Q Then after he said just what you have narrated, what was then done or said. A He didn't say anything.

Q Well, what did he do after that? A Nothing.

Q Did he lie in bed all night? A Yes.

Q And you remained there too? A Yes, sir, but not near him.

Q What? A I wasn't near him.

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

Q Now, did the defendant after that act you have just spoken of have any other act of sexual intercourse with you that night? A Yes, once after that.

Q How long after that first act? A Not very long.

Q Well, can you give us any idea about the time? A I was just beginning to fall asleep I know.

Q Can't you tell us the length of time between the first act and the second? A No.

Q Where were you when he had the second act of sexual intercourse? A Well, I was sleeping when he woke me up.

Q Did he remain in bed with you after the first act? A Yes.

CASE #2649

Q After he woke you up what did he then do to you? Now, tell the jury just what he did, now, tell it and we will get over it. A (No answer.)

Q Now, you tell me about the first act. Now, you say the second time he woke you up. Tell us, please, what he did the second time. A The same as the first time.

Q Did he put his privates into your privates? A Yes, sir.

Q Was he on top of you?

MR. LEVY: Please don't lead her.

Q Now, tell us Viola, what he did to you the second time? A He put his privates into my privates.

Q And was he on top of you or what? A Yes, sir, he was on top of me.

Q And how long did he remain in that position the second time? A Not very long.

Q Now after he finished with that what did he do or what did you do? Now, go right along. A I cried and he didnt do anything.

Q Did he say anything to you? A No.

Q Well, then, what was done, did you remain in bed or what? A Then in the morning when he got up he said I should come down to his place.

Q Well, did you remain in bed with him after that? A Yes.

Q Until he got up in the morning? A Yes.

CASE #2649

Q Now, when you got up he dressed? A Well, he was dressed when I woke up.

Q So that when you woke up Sherman was up? A Yes.

Q In the room and dressed? A Yes.

Q Then he asked you to come down where? A To his place of business on 31st street.

Q Did he tell you where his place of business -- did he tell you that? A Yes, he gave me a card.

Q I show you a card. Look at the card which I now exhibit to you and state whether or not that is the card the defendant then gave to you? A It is.

Q What did the defendant say when he gave you that card? A He directed me to his place of business, and in case I should forget the number here was one of his cards

Q And he gave you this card? A Yes.

MR. CAFFREY: I offer it in evidence.

BY MR. LEVY: Is this the identical card he gave you? A Yes.

MR. CAFFREY: I offer the card in evidence and I ask that it be marked people's Exhibit 1 in evidence.

(The card is marked People's Exhibit 1.)

BY MR. CAFFREY:

Q Then he handed you that card, and told you where to go. Now, tell us what next happened? A He went out--

MR. LEVY: Speak up so that I can hear you.

MR. CAFFREY: Yes, you must speak up. You are in a noisy room and it is very hard for everybody to hear you

CASE #2649

and you must speak up.

MR. LEVY: There may be some testimony that I might wish to object to, and which might not be properly be admitted because I cannot hear her.

THE COURT: That is the reason why I am insistent upon this young woman lifting her voice. You are entitled to hear every word she says. I don't want anything to get into this record that ought not to be there.

MR. LEVY: Yes, I cannot protect the defendant unless I hear what she has to say. (Addressing the witness) Now, you can talk louder, no one will hurt you. We are going to be very kind to you.

BY MR. CAFFREY:

Q Now, come right out with your voice. A Shall I tell you before he went out?

Q Yes. Tell us what he said before he went out. Now, turn that way and talk to the jury. A He spoke to the lady of the place, a Mrs. Voss, and he told her that he was late, and that he would have to hurry, and then after he told me about the card and how to get there, why, he left and told me to be down at his place of business by 12 o'clock, and after awhile I got dressed and I went down there.

Q Now, do you come out of that big room, that rear parlor? A Yes.

Q And is there a hallway between the rear parlor and the

CASE #2649

rear parlor? A Yes.

Q And does the door from the front parlor lead out on to the same hall as the door from the rear parlor leads into? A Yes

Q And when you came out of the rear parlor could you see the door in the front parlor? A The door was open.

Q The door of the front parlor was open? A Yes.

Q Did you see Mrs. Voss, and the defendant talking together? A No, only Mrs. Voss.

Q Did you hear them talking together? A Yes.

Q You knew Mrs. Voss' voice? A Yes.

Q You heard it the night before? A Yes, sir.

Q And you knew the defendant's voice? A Yes.

Q And you heard the two of them talking together, is that right, now? A Yes, sir.

Q Now, when you came out how long, at what time in the morning was it that the defendant left the room about what time? A Between eight and nine.

Q Now, what time or about what time-- now, be careful-- did you leave the room? A It was after eleven.

Q After eleven? A Yes, sir.

Q Sure of that? A Almost.

Q Now, between the time that the defendant left the room where you were and the time that he left the room, did any other person leave or enter that room besides yourself? A No.

Q Was there anybody else in the room? A No.

CASE #2649

Q Now, from the time that you entered the room with the defendant the night before until the time the defendant left the room in the morning was there any other person in that room besides you and the defendant? A Only when we first came in to the room, the woman.

Q You mean Mrs. Voss? A Yes, Mrs. Voss.

Q So then you had a talk with Mrs. Voss, and then what did you then? A Then I left there and I went to his place of business on 31st street.

Q You mean by that the defendant's place of business, don't you? A Yes.

Q When you went to his place of business did you see him? A Yes.

Q Did you enter the place of business? A I did.

Q At what time, about? A Oh, at ten minutes after twelve.

Q Now, while you were there did you leave any of your personal belongings there? A Yes.

Q What did you leave there? A A vanity box.

Q I ask you to look at this article and state whether or not that is the article you left there to which you referred as a vanity box? A Yes, sir.

Q Is that the vanity box? A Yes, sir.

Q Is that the vanity box you left? A Yes.

Q At the defendant's place? A Yes.

Q Why did you leave it there? A I had forgotten it.

CASE # 2649

MR. CAFFREY: I ask that that be marked for identification.

(The vanity box considered as marked People's Exhibit 2 for identification.)

Q Did you go any other place with the defendant? A No.

Q Did you remain in his place of business at 16 West 31st street? A No, I went back to 26--

Q What is that? A He took me to a lady in 26th street.

Q That is what I asked you. Then you did go some place else? A Yes, I thought you meant if I went out.

Q I asked you if you did go to any other place with him, did you? A Yes.

Q From the business place. Where did you go? A He went to a man, I don't know what the man's name is, and he asked him if he knew of a good boarding place.

Q Who was that man, do you know? A No, sir.

Q Was it Mrs. Gries's cousin-- where did you meet that man, you and the defendant? A I don't know what he was--

MR. LEVY: I object to this.

Objection sustained.

Q Were you with the defendant when he went to that house?
A But I was downstairs and he went up.

Q Did you hear the conversation between the defendant and this man, what they were talking about? A Well, I didn't hear all of it, but I heard that he said he wanted --

CASE # 2649

Q Did you hear the conversation that took place between this man and the defendant? A Not all of it.

Q Where did the conversation take place? A Downstairs from where this man worked --

Q On the street? A Yes, sir.

Q Where did the defendant meet him? A He went up to where he worked and asked him to come down.

Q Did he call him out on the street? A Yes, sir; it was just at the noon hour.

Q Where was this place, what street? A I don't know where it was.

Q Let me ask you. You are a stranger in New York?
A Yes, sir.

Q Aren't you? A Yes, sir.

Q Previous to this time of coming to New York had you ever been in New York before? A Yes, sir, with my mother.

Q How many times? A About three or four times.

Q You don't know anything about the streets of New York?
A No, sir.

Q Now tell us the part of the conversation you heard between the defendant and this man, only what you heard? A I heard this other man--

MR. LEVY: I don't want to throw any obstacle in the way of developing the truth, but she only heard a part of the statement, and I cannot determine whether that is competent or relative. Unless she heard the whole conver-

CASE #2649

sation I don't think she should be permitted to testify to it.

THE COURT: I would not let her testify to all of it because she said she did not hear all of it. I will let her testify only to the portion she heard.

MR. LEVY: She can testify to that part but the other part might be explanatory of that part which she heard.

THE COURT: I want you to tell us what occurred, that is to say, tell what was said between that man and this defendant. You are to say only that which you heard and nothing else.

BY MR. CAFFREY:

Q Now you may go on.

MR. LEVY: I think that would be incompetent testimony.

THE COURT: Well, I cannot determine that until I have heard it.

MR. LEVY: Your Honor is right. I want to reserve the right to strike it out.

THE COURT: I will entertain a motion to strike it out if it is incompetent.

BY MR. CAFFREY:

Q Raise your voice. What conversation did you hear?

A Mr. Sherman was speaking to him and he said it will be all right. Then Mr. Sherman said, "Well, how can I let her know", and he handed him a card, and said, "Yes, I know, her place",

CASE # 2649

and he said "everything will be all right".

Q Who said that? A Mr. Sherman.

Q Were you there then? A Yes, sir.

Q And the man said "I know her place"? A Yes, sir.

Q What was this? A A card with something written on it about my going there, it would be all right.

MR. LEVY: It may be, your Honor, that I might want this in the case, but I don't think it is competent.

THE COURT: It may stand conditional on any motion that you may want to make hereafter.

MR. LEVY: I assume the District Attorney will connect it.

THE COURT: I have assumed that he was going to connect it up and that is the reason I have allowed it to stand.

MR. LEVY: Do you intend to connect it?

THE COURT: Standing alone it means nothing.

MR. CAFFREY: I don't regard it as important enough to have any quarrel over it.

THE COURT: I think that what was just said concerning the card and something being written upon it and all relating thereto should be stricken from the record and the jury are directed to disregard it.

MR. LEVY: Before that is done, may I inquire about this card that has been spoken of.

THE COURT: I was curious to know about that.

CASE # 2649

MR. LEVY: Was it the defendant's card or the other man's card?

THE COURT: There is nothing here to show what card it was. She has not stated that.

MR. CAFFREY: I don't know myself. I was going to try to bring that out.

MR. LEVY: Have you that witness?

MR. CAFFREY: No, because I don't know who he is. She doesn't know the man and there is no way of ascertaining who he is.

MR. LEVY: To conserve the defendant's rights I shall move to strike it out.

THE COURT: I will strike it out and tell the jury not to pay any attention to it.

BY MR. CAFFREY:

Q After the conversation with that man at that house, did you go any place with the defendant? A Yes, sir, to this place where the man said, Mrs. Gries.

Q Where was that? A On 26th street, 113.

Q 113? A Yes, sir.

Q East or west? A East.

Q East? A Yes, sir.

Q In the county of New York? A Yes, sir.

Q Now, when you got to Mrs. Gries' place was the defendant with you? A Yes, sir. He handed her this card.

CASE #2649

Q He handed Mrs. Gries a card that he had received from the other man? A Yes, sir; that he had received from the other man.

Q You don't know what was on that card, do you, say yes or no? A No, sir.

Q Now after the card was handed to Mrs. Gries by the defendant what happened then? A Then she said it will be all right to Mr. Sherman and Mr. Sherman said that he knew her cousin, then they got into conversation. They were talking German and some parts of it I understood.

Q Do you understand German? A I do.

Q Ever talked in German? A Yes, sir.

Q You understood what they said? A Yes, sir.

Q Tell us what they said.

MR. LEVY: I object to that.

Objection overruled.

Q Now tell us what was said? A He said that he wanted her to take care of me because I did not have any relatives or any one to take care of me and she said she would; then they were talking about business and something I did not understand that.

Q During the course of the conversation between Mrs. Gries and the defendant was there anything said as to who you were? A He said I was a distant cousin of his.

Q Who said that? A Sherman.

Q He said that to Mrs. Gries? A Yes, sir.

CASE #2649

Q Was there any money paid to Mrs. Gries? A yes, sir, ten dollars.

Q Who paid that ten dollars? A Mr. Sherman.

Q When he paid the ten dollars to Mrs. Gries what did Sherman say? A He said, "Here this is for the room and I want you to take care of the girl." That is all.

Q Now, during the evening did you remain at Mrs. Gries' house? A From Monday until Friday.

Q From Monday until Friday? A Yes, sir.

Q That was Monday the 14th of April? A Yes, sir.

Q Until the following Friday? A Yes, sir.

Q Is that correct now? A Yes, sir.

Q While you were there did the defendant visit you? A He came once; he was only speaking to Mrs. Gries.

Q During this time from Monday to Friday he came once?
A Yes.

Q Did he see you on that occasion? A Yes, sir; that was downstairs with Mrs. Gries.

Q You were down there? A yes, sir.

Q Did he talk to you? A No, sir, he did not have anything to say to me just then; he was talking to the woman.

Q You had no private conversation with him? A No, sir.

Q And no immoral acts took place between you and him while in that house? A No, sir.

Q The only act was in the other house? A Yes, sir.

CASE # 2649

Q In 27 Stuyvesant street? A Yes, sir.

Q Is that correct now? A Yes, sir.

Q Were you placed under arrest on this Friday? A Yes, sir.

Q Who was present when you were placed under arrest? (No answer.)

Q Who was present when you were placed under arrest?

A Mrs. Gries' son.

Q Mrs. Gries' son? A Yes, sir.

Q Is that all? A Yes, sir, and two little children, two girls.

BY THE COURT:

Q In Mrs. Gries' you didn't have sexual intercourse with him at all? A No, sir.

Q Now did you receive any other papers from the defendant at any time? A Yes, sir.

Q When? A The day that I was up there on that Monday, April 14th.

Q Up where? A In his office.

Q What papers were they? A It was a letter head.

Q I ask you what did he say to you when he handed you these letterheads? A He just said that if I wanted to I could use them and write notes on or something if I wanted to.

Q I ask you to look at the papers which I now exhibit to you, and state whether or not these are the papers and the letterheads that the defendant gave you? A Yes, sir.

CASE # 2649

Q Look at them? A Yes, sir, they are.

Q What did you do with them afterwards? A I took them up to the house on 26th street.

Q Did you give them to anybody? A No, sir.

Q What became of them after that? A They were just upstairs in the room on 26th street.

Q Did you see anybody take them? A No, sir.

Q Did you give those papers to anybody? A No, sir.

Q Did you give them to the police, I mean Mr. Pizarra?

A No, sir.

Q They were in your room? A Yes, sir.

Q Is that it? A Yes, sir.

MR. CAFFREY: I ask to have these marked for identification.

MR. LEVY: Did I understand you to say that he gave you his letter paper, these here?

A Yes, sir.

MR. LEVY: He told you that you could use it?

THE WITNESS: Yes, sir.

MR. LEVY: Is that right?

THE WITNESS: Yes, sir.

MR. LEVY: He gave her according to her statement his letter paper and said she might use it, is that correct?

THE WITNESS: Yes, sir.

(The papers referred to are marked for identification

CASE #2649

People's Exhibit 3.)

Q He said you might jot down notes or memorandum if you wished to? A Yes, sir.

MR. LEVY: May I ask when it was he gave her these letterheads.

THE COURT: I haven't the faintest idea. I cannot hear a word she says.

MR. LEVY: When was it the witness said the defendant gave her these letterheads?

MR. CAFFREY: On Monday, April 14th.

MR. LEVY: The 14th, the day after you met him the first time?

THE WITNESS: Yes, sir.

BY MR. CAFFREY:

Q That was while you were up in his office? A Yes, sir.

Q Visiting at his office? A Yes, sir.

Q Before you went to the house on 26th street? A yes, sir

Q Is that correct? A Yes, sir.

Q When you saw Mrs. Voss at 27 Stuyvesant Place where there any bandages around her head? A Yes, sir.

Q She had her head tied up? A Yes, sir.

THE COURT: She said that. She said she had something around her head which indicated that she had a toothache.

CROSS EXAMINATION BY MR. LEVY:

Q You say your name is Viola Muller? Is that right?

CASE # 2649

A Yes, sir.

Q Now, Viola you will do us all a favor if you will be good enough to try to speak louder than you have been speaking. Will you try to do that like a good girl? A I will.

Q Now, you say that you are over fourteen years old, is that right? A Yes, sir.

Q Don't be afraid, I want to be as kind as I possibly can be. You were fourteen years old on the first of last August?

A Yes, sir.

Q So that you are nearly fifteen years old now? A Yes, sir.

Q Is that right? A Yes, sir.

Q Of course, you have gone to school, haven't you? A Yes.

Q What school did you attend? A The Robert Treat School, Newark, New Jersey.

THE COURT: I will have every answer repeated .

Q Did you graduate from that school? A No, sir.

Q In what class were you at the time you left home? A I was in the junior High.

Q Now, what is your father's name? A George Muller.

Q What is his business? A A physician, a medical doctor.

Q What is your mother's name? A Regina Muller.

Q What? A Regina Muller.

Q Now are there any other members of your family, brothers or sisters? A No, sir, I have none.

Q Are you the only child? A Yes, sir.

CASE # 2649

Q You are sure about that? A Yes, sir.

Q Do you remember how you were dressed when you left home? A I do.

Q Do you remember that? A Yes, sir.

Q Do you remember the dress you wore? A yes, sir.

Q How were you dressed, Viola? A I had a brown Georgette dress on.

Q How were you dressed? A I had a brown georgette crepe dress on.

Q Was it long? A No, sir.

Q Was it as short as the skirt you have on now? A It was shorter.

Q What kind of a hat did you wear? A A blue hat, a navy blue Georgette.

Q How was your hair dressed? A Something like this.

Q You can tell me, was it dressed like that or was it dressed differently? A Well, I couldn't fix it any different; it is cut.

Q Was it dressed differently from it is now dressed. How did you wear your hair?

MR. CAFFREY: May I have her last answer read. She started to give an answer.

(The last answer read as follows: I couldn't fix it any different; it is cut.)

Q Was it dressed on the top of your head or was it hang-

CASE #2649

ing as it is now? A Like it is now.

Q What is that? A Like it is now.

Q Like it is now? A Yes, sir.

Q When you left home did you have any money with you?

A Yes, sir.

Q How much did you have? A I don't know how much I had, but I had a couple of dollars.

Q A couple of dollars? A Yes, sir.

Q Now before we go into that I want to ask you since you have been arrested have you been in the care of the Children's Society? A Yes, sir.

Q Where have you been living since that time, at what place? Where did you sleep and where did you eat? A When do you mean?

Q Since the time you were arrested? A In the Society.

Q Arrested on the 19th of April, where have you been since that time? A In the care of the Children's Society.

Q What place? A 23rd street and Fourth avenue.

Q Where did you sleep, in that building? A Yes, sir.

Q You have met a lot of people connected with the Society? A Yes, sir.

Q Now can you give me the names of those whom you have met and with whom you have talked since that time, since last April? A Pizarra and Mr. Moore and Mrs. Hirsch.

Q She is a matron, one of the matrons there, one of the lady attendants, is that right? A No, sir, a probation officer.

CASE #2649

Q Who else? A Mrs. Shiels.

Q Any one else? A There were others, but I don't remember their names.

Q Now you have talked to some of these people about your case, haven't you? A Some of them, yes, sir.

Q Now, with whom have you talked about the case? A Mr. Pizarra.

Q Who else? A Detective Sherwood.

Q Just think you are out in the school yard romping with the girls, and you can talk louder than you are doing now. Give me the names of those who spoke to you about your case? A Mr. Pizarra and Mr. Sherwood.

Q He is one of the agents of the Society? A Yes, sir, a detective.

Q Who else. Did you talk to these ladies there, the matron or probation officers? A No, sir.

Q About your case? A No, sir; none of the matrons.

Q Did you tell them your story of how the thing happened, did you or didn't you? A No, sir, only to those whom it concerned.

Q Well, who did you regard as being concerned? A Well, I mean Mr. Pizarra.

Q No one else? A No, sir, the detective.

Q Mr. Sherwood and who else? A And Mr.--

Q Perhaps I can help you. You know Mr. Moore, dont you?

CASE #2649

A Yes, sir.

Q Did you talk to him about it? A No, sir, I did not.

Q What is that? A No, sir.

Q Did you talk to any detective who came from Newark about your case? A Yes, sir.

Q With whom did you talk that came from Newark? A Mr. Brady.

Q Let me see if you can't talk louder? A Brady.

Q How is it I can talk as loud as I do. You can talk loud. A I cannot.

Q Mr. who? A Mr. Brady.

Q Did you know Mr. Brady? A No, sir, I didnt know him.

Q Didn't you know him in Newark? A No, sir.

Q Brady, any one else? A That is all and Mrs. Dugan.

Q Who is Mrs. Dugan? A She is a police woman in Newark.

Q Now did you tell them what you have just told these twelve gentlemen here? A No, sir.

Q You lied to them didn't you?

MR. CAFFEY: I object to that.

A No, sir.

MR. CAFFEY: I object to that question.

THE COURT: She said she did not lie to them.

Q You didn't tell these people who came from Newark and those here from New York-- you didn't tell them the same story you told these gentlemen? A I didn't tell them anything.

CASE # 2649

Q I asked you particularly if you told your story to any one and you said you did, to Mr. Pizarra, and those who were concerned to use your own words, is that so, did you or didn't you? A I did.

Q What is that? A Yes, sir.

Q You did or did you not? A I did.

Q Well, now to whom did you speak, to whom did you tell your story? A To Mr. Pizarra and Mr. Sherwood.

Q Now, did you tell both of these gentlemen, or either of these gentlemen the same story that you now tell his Honor today and these twelve men? A Yes, sir.

Q The very same thing? A Yes, sir.

Q Now let us see -- when you were arrested, you were taken into the police court, weren't you? A Yes, sir.

Q You appeared as a witness before his Honor, Judge Sweetser, City Magistrate, didn't you, when this defendant was arrested, didn't you? A I don't just remember the name of the Magistrate.

Q You don't remember? A She probably would not know the name of the Magistrate.

Q Leave his name out. You did go before a Magistrate or Judge? A Yes, sir.

Q Sitting on the bench when Sherman was arrested? A Yes, sir.

Q You gave your testimony before that Judge whatever his name may have been? A Yes, sir.

CASE # 2649

Q Did you not? A Yes, sir.

Q You gave your teetimony under oath, didn't you?

A Yes, sir.

Q You were sworn to tell the trutha? A Yes, sir.

Q Is that right? A yes, sir.

Q Did you when you called as a witness intend to tell the truth in this proceeding before that Judge? A Yes, sir, I did.

Q Now you know what an oath is, don't you? A Yes, sir, I do.

Q Viola? A Yes, sir.

Q Have you had any religious instruction? A yes, sir.

Q What religious instruction have you had? A Well, I am a Catholic.

Q I know, but what instruction have you had?

MR. CAFFEY: She said she is a catholic.

Q Are you a communicant with any church? A yes, sir.

Q Have you attended? A Yes, sir.

Q That church and have gone to confession? A Yes, sir.

Q Have you? A Yes, sir.

Q How long before you ran away from home? A Well, about a month.

Q A month before? A Yes, sir.

Q So when you swore to tell the truth before that Judge in the Police Court you meant to tell the truth, is that correct?

A Yes, sir.

CASE # 2649

Q Now, did you tell that Judge before whom you appeared under the sacredness of an oath and testified-- did you tell the same story that you now tell his Honor here and these twelve gentlemen? A I did.

Q What is that? A I did.

Q You did? A Yes, sir.

Q Now let us see. You saw a stenographer sitting alongside of the Judge's bench, didn't you, writing down what you said? A Yes, sir.

Q Did you see him? A Yes, sir.

Q You saw that he wrote down every word that you said, every answer you made to the questions that were put, is that right? A Yes, sir.

Q You saw that, didn't you? A Yes, sir.

Q Don't nod your head. Answer me. You did? A Yes, sir.

Q Do you remember swearing before the Judge -- you say you don't know his name -- that when you went to the house in Stuyvesant Place that the defendant spoke to the woman in a foreign language and you did not understand it? (No answer.)

Q What are you crying about. That is a simple question. Do you remember saying that?

MR. CAFFREY: I resent the suggestion that the girl is crying because he has asked her that question. I don't want him to put the girl in that attitude before the Court and jury.

CASE # 2649

MR. LEVY: Don't make yourself absurd.

MR. CAFFREY: I am not making myself absurd. You are not going to bulldoze me.

THE COURT: Order. I will rule.

MR. CAFFREY: Now, if it please your Honor, I object to that remark to this girl. This girl has broken down there because of her position on the stand and not because of any question that counsel has asked her.

THE COURT: I will give her an opportunity to recover herself. Do you feel that you can testify now, Miss Muller?

(No answer.)

MR. CAFFREY: I again take exception to any suggestion here that the question that he asked provoked this. It is clear that the girl's position has brought about this. Mr. Levy infers that when that question was put to her she immediately broke down giving the implication that she was caught in a lie and at once broke down.

MR. LEVY: What is she sitting there that way for now.

MR. CAFFREY: Because of the girl's position on the stand. Any modest girl in the world would-- anybody but you would understand that.

MR. LEVY: I have more regard for the sacredness of woman than you have. Now what is there about that question Miss, that you don't like?

CASE #2649

MR. CAFFREY: I object to that. She has not said that she didn't like the question.

THE COURT: I exclude it.

MR. LEVY: I withdraw the question.

BY MR. LEVY:

Q You answer my question, Miss.

THE COURT: You may call her attention to what you want. I understand you want to cross examine her on the record before Magistrate Sweetser, is that it, for the purpose of showing variances and contradictions.

MR. LEVY: And contradictory statements and denials now.

THE COURT: You may proceed.

MR. LEVY: That is the purpose of it.

BY MR. LEVY:

Q Now, Miss, I want to be kind to you. Did you tell the Judge under oath in that other court that when this defendant took you to that house in Stuyvesant Place that he spoke with the woman in a foreign tongue that you did not understand. Did you swear to that? A Yes, sir, I did, but they spoke half English and half German.

Q Did you swear to it? (No answer.)

Q Do you understand German? A I do, yes, sir.

Q What part of what you overheard that you told in answer to the District Attorney's questions was spoken in English and spoken in German -- what part of it was spoken in a foreign

CASE #2649

tongue, and in what tongue? A I don't know what you mean.

Q You don't know what I mean. All right we will pass from that for the moment. You know Howard Beatty? A I do.

Q How long have you known him? A Since the last day of March.

Q What? A Since the last day of March.

Q March? A Yes, sir.

Q The last day of March was the 31st, didn't you know him before? A No, sir.

Q Where did you meet him? A In the Terminal Building in Newark.

Q What time of the day? A Noon.

Q Meet him by appointment? A No, sir.

Q Met him accidentally? A Yes, sir.

Q Do you know his full name? A I do.

Q What is his full name? A Howard J. Beatty.

Q How did you learn his name? A He told me.

Q Where did he tell you, and when did he tell you his name? A At first he didn't tell me his right name.

Q Was it a flirtation between you? A Yes, sir.

Q What is that? A Yes, sir.

Q He wanted to pick you up, is the idea?

MR. CAFFEY: I object to that.

— THE COURT: That is asking for the mental operation of that man. I will exclude that.

CASE # 2649

Q He met you in the Terminal Building. Weren't you attending school then? A I was.

Q What is that? A Yes, sir.

Q Did you meet him there by appointment? A No.

Q Where did he take you to? A He didn't take me any place.

MR. LEVY: I would like this witness to speak up.

This is the most crucial part of this case.

BY THE COURT:

Q Now, did you hear Mr. Levy? A Yes, sir.

Q Now answer that question. A He asked me if I would show him around the drug stores because he was a stranger.

BY MR. LEVY:

Q Did you go to the drug store with him? A Yes, sir.

Q Did you go to a hotel with him? A No.

Q From the drug store where did you go with him? A I went to a moving picture.

Q What time of day was that? A Afternoon.

Q After the moving picture where did you go? A I went home.

Q What is that? A I went home.

Q Then when did you meet him again? A On Tuesday.

Q Tuesday? A Yes, sir.

Q When? A Tuesday.

Q How long after that first meeting? A The next day.

Q Where did you meet him? A In the Newark Hudson Ter-

CASE #2649

minal.

Q Where? A The Tube.

Q Was that by appointment? A Yes, sir.

Q That you met him the next day? A yes, sir.

Q What is that? A Yes, sir.

Q What were you to meet him the next day for? A I was going to show him around to the drug store.

Q Show him the drug store again? A Yes, sir.

Q Is that what you mean? A yes, sir.

Q What were you to show him the drug store for? A Because he was a stranger in Newark, and he had some business with those places for an ice cream, and he had to take orders at those places and he didn't know where they were.

Q Did you tell him your name? A yes, sir.

Q Tell him where you lived? A He didn't ask me.

Q What were you to meet him for-- you were to show him around different drug stores? A Yes, sir.

Q You did meet him? A Yes, sir.

Q Did you take him to drug stores? A Yes, sir.

Q What drug stores did you take him to? A I took him to drug stores downtown, and showed him the street.

Q How did you know these drug stores? A Because I was a resident of Newark.

Q What is that? A I was a resident of Newark, and I knew my way about there.

Q You felt he couldn't find his way around and he need-

CASE # 2649

ed somebody to guide him to find the drug stores?

MR. CAFFREY: I object to that as based upon matters which are not in evidence.

THE COURT: I will allow it. I am not going to hold him down to strict rules. I want the truth in this case. I have ruled.

Q Why did he want you-- is my question to put it again-- to show where the drug stores were. A He didn't know his way about Newark.

Q About how old a man was he, do you know, to the best of your knowledge? A About around thirty.

Q Around thirty? A Yes, sir.

Q What was his color? A He was dark.

Q He was a negro, wasn't he? A No, sir.

Q What is that? A No, sir.

Q A colored man? A No, sir.

Q You mean that you don't know that he was a colored man?

A No, sir, he was a Porto Rican.

Q Tell you he was born in New York? A No, sir.

Q Where did he say he was born? A He said he was born in Brazil.

Q Didn't you know he was a negro? A No, sir.

Q After you showed him some drug stores then what did you do? A I went home.

Q Then you made an arrangement to meet him again, didn't you? A Yes, sir.

CASE #2649

Q Where were you to meet him again and when? A On Thursday.

Q On Thursday? A Yes, sir.

Q The next day was Tuesday and you were to meet him on Thursday? A Yes, sir.

Q Where were you to meet him again? A The same place, where I met him Tuesday.

Q What was the purpose of your meeting him again on Thursday? A The same as the first time.

Q What is that? A The same as the first time.

Q To show him the drug stores? A Yes, sir.

Q Did you show him the drug stores that day? A I did.

Q Now before we go on. When you showed him the drug stores what did you do, simply say to him, "This is the drug store", is that what you mean? A No, sir.

Q What did you do? A He would tell me what drug store he wanted and where, what street it was, and I would show him.

Q He showed you what drug store he wanted and what street he wanted it on? A Yes, sir.

Q Is that what you meant to say? A Yes, sir.

Q What drug store did he want and what street did he want the drug store on? A I don't remember the names of the drug stores; there were so many.

Q Did he give you the names of the drug stores he wanted and give it to you each time that he wanted to go to a drug

CASE # 2649

store? A He had the name of the drug stores written down on a piece of paper.

Q When you got to the drug store would you and he go in-
to the store? A Yes, sir.

Q Did you see what he did in the drug store? A He took orders.

Q What did you do while he was in the drug store? A Wait-
ed for him.

Q waited for him where? A Outside or inside.

Q How much time did you spend with him on Monday, the
first time you met him? A I was with him from between 12
until 5.

Q On the second day, Tuesday, how long a time did you
spend with him? A About the same time.

Q On the third time, Thursday, how much time did you
spend with him? A About half past five.

Q During that time weren't you required to go to school
or were you playing truant? A No, sir, I was not playing tru-
ant.

Q Playing hookey? A No, sir.

Q Didn't you have to go to school? A I had not been
feeling very well; I had trouble with my voice, my throat.

Q Did you tell your mother that you were going out?

A Yes, sir.

Q Did you tell your mother where you were going to go?

A No, sir.

CASE # 2649

Q Did you go out with her knowledge or go out without her knowledge? A I don't know what you mean.

Q Did you go out with your mother's knowledge on these different occasions or did you go out without her knowledge?

A She knew I was out.

Q She knew you were out? A Yes, sir.

Q She has had a lot of trouble about keeping you home, hasn't she? A No, sir, she has not.

Q Never complained about it? A No, sir.

Q Was your father home? A No, sir.

Q Where was your father? A Father does not live with my mother.

Q Don't you know where your father was?

MR. CAFFREY: I object to that. She says he doesn't live with her mother.

THE COURT: I don't think we will inquire into some unfortunate relation that might exist between the father and the mother.

Q Did you know where your father was is my question?

THE COURT: I think I will exclude that, Mr. Levy, on the ground that it is absolutely immaterial.

MR. LEVY: Exception. It is for the purpose of showing the incorrigibility of this girl. I have a right, it seems to me, with all due deference, to show the family situation and the household conditions. I don't mean to go in-

CASE # 2649

to the affairs of her parents, but it is merely to show if there was any discipline exercised over the conduct of this girl or whether she was under restraint or whether her incorrigibility was a matter of complaint.

THE COURT: I do not see that the misfortunes of the family tend to establish her incorrigibility.

MR. LEVY: I want to know if this girl knew where her father was.

THE COURT: I think that is immaterial.

Exception.

BY MR. LEVY:

Q Now when was it before you first met Beatty that you last attended school? A I don't remember; it was a couple of weeks because I had been sick. I had been home.

Q Were you sick abed? A Yes, sir; I had trouble with my throat, laryngitis.

Q Were you sick ^{in bed}, yes or no? A No, sir.

Q Were you out? A No, sir, I wasn't out; I had laryngitis.

Q Did you invite Mr. Beatty to your home? A I did.

Q Did he call? A No, sir.

Q Well after 5 o'clock on that Thursday did you go home?

A I did.

Q When did you meet him again? A The next Monday.

Q Where did you meet him? A In the Hudson Tube in Newark

CASE #2649

Q Tell me where was it you met him that night, Monday?

A In the Tubes at Newark.

Q The entrance to the Tube at Newark? A Yes, sir.

Q Now, how long were you with him there? A I don't remember.

Q You don't remember? A No, sir; just until in the afternoon.

Q Did you go anywhere with him? A Yes, sir, to the drug stores.

Q He wanted you to go to the drug stores again? A Yes, sir.

Q How many drug stores did you go to with him that day?

A Three or four.

Q Do you know the names of any? A I don't.

Q Can you give me the name of any one? A No, sir.

Q You say that you knew Newark pretty well? A I did.

Q Give me the name of any drug store you visited with him?

A No, sir, but I know whereabouts they are.

Q Repeated. A I said no, but I know--

Q Did you go to any place with him besides a drug store? A No, sir.

Q Did you get anything to eat? A No, sir.

Q With him? A No, sir.

Q Well, on Monday after you left him what time was that that you left him? A About 5 o'clock.

Q What is that? A 5 o'clock.

CASE #2649

Q Where did you go? A Home.

Q Did you meet him again? A Tuesday.

Q Where? A The same place I met him before.

Q At the Tubes? A Yes, sir.

Q What did you meet him there for? A To go around to the drug stores with him.

Q So you did meet him again to take him to the drug stores? A Yes, sir.

Q Were you expected to do anything more than to be a guide to him or for him, take him to these drug stores-- would you go into the drug stores with him or help him in any way?

A No, sir.

Q The answer is no, is it? A Yes, sir.

Q The answer is no? A Yes, sir.

Q How many drug stores did you visit on Thursday? A I don't remember.

Q Do you know the name of any one you went to? A No, sir.

Q Well, when did you meet him again? A I didn't meet him after that.

Q Now, Viola, you know that Beatty was arrested, don't you? A Yes, sir.

Q Do you know what he was arrested for? A I think I do.

Q Well, what was he arrested for? A Because he had persuaded me to come to New York.

Q You didn't tell me he had persuaded you to come to New

CASE #2649

York. When did he persuade you to go to New York? A Almost every time he saw me.

Q Did he tell you what he wanted you to do in New York?

A Yes, sir, he said he wanted me to meet a sister of his.

Q You say he was arrested because he asked you or invited you to go and meet his sister, is that what you mean?

MR. CAFFREY: I object to that. She didn't say that.

Q Tell me what you mean.

MR. CAFFREY: She said he was arrested because he persuaded her to come to New York.

BY MR. LEVY:

Q Don't you know what he was arrested for. Br frank with me Viola, please, tell us what he was arrested for? A Because he had persuaded me to come to New York.

Q Is that all? A Yes, sir, that is all.

Q Wasn't he arrested because he had taken advantage of you? A No, sir.

Q You like him, don't you? A No.

Q Well, when he was arrested-- where was he arrested, in New York? A I don't know.

Q In Brooklyn? (No answer.)

Q Did you point him out? A No.

Q How long after that last time which you said was on Tueaday how long after that was it that you saw him again?

A In the court house in Newark, New jersey.

Q When he was on trial? A Yes, sir.

CASE #2649

Q You were a witness in that case? A Yes, sir.

Q You gave testimony against him under oath, didn't you?

A Yes, sir.

Q What is that? A Yes, sir.

Q You were sworn in that case before a Judge in Newark, in Essex County, Oyer and Terminer Court -- you were sworn to tell the truth in the case of the people of the State of New Jersey against Howard James Beatty, isn't that right? A yes.

Q Do you remember the name of the Judge before whom you made oath in New Jersey? A No, sir.

Q Didn't you as a witness in that case swear that Beatty by force did unlawfully take you out of the custody of your mother and father for the purpose of abusing you and of having carnal intercourse with you. Now, I want you to understand that question, Viola. If you don't understand it, I will try to make it clear to you. So stop until you do thoroughly understand it.

MR. CAFFREY: I object to that question.

THE COURT: I will overrule the objection. I am going to have the truth developed in this case. I think in a case of this character the jury is entitled to hear the whole truth.

MR. CAFFREY: I think your Honor ruled the other day that these questions would have to be read, from a copy of the testimony and that is why I made the objection.

CASE # 2649

THE COURT: Counsel for the defendant is reading from the contents of a complaint lodged against that defendant in a court of foreign jurisdiction.

MR. LEVY: The indictment.

THE COURT: You may interrogate her concerning the contents of an affidavit that she made.

MR. CAFFREY: Does counsel purport to read from an affidavit? Now, I want to keep myself within your Honor's ruling made the other day. And that is why the objection was made.

THE COURT: The Court is entitled to know just what there is in this case, and the jury should know everything that surrounds this case as well as everything that surrounds this girl. The purpose of this cross examination of counsel for the defendant, I suppose, is for the purpose of establishing something that will affect her credibility. Am I right?

MR. LEVY: Absolutely so..

THE COURT: Well, you have a perfect right to do it.

MR. CAFFREY: May we not know what paper he is reading from?

THE COURT: He may ask the question. Now, Mr. Caffrey I have said frequently that a prosecuting officer should never make an effort to suppress anything that the jury is entitled to know.

CASE #2649

MR. CAFFREY: I am not doing that. I ask counsel to keep within the rules of law.

THE COURT: Liberaltiy and generosity is a virtue in a prosecuting officer. I was at this bar as a prosecuting officer for fourteen years, and I never saw the time that I ever thought I was doing the righteous thing when I made the slightest effort to keep out something which the jury were entitled to know.

MR. CAFFREY: I am not afraid of any question being asked but I think it is my duty to at least ask that counsel be kept within the rules of law.

THE COURT: I know the rules of law, I believe, and certainly I have had a long experience, and I doubt whether anybody will question my knowledge of the rules of law.

MR. CAFFREY: Then I misapprehended your Honor's ruling made the other day.

THE COURT: Now Mr. Levy you may proceed. If there is anything in that record^{to} which you are now referring which in your judgment is calculated to affect the credibility of this witness you may ask the question, and I rule upon it.

MR. CAFFREY: May I ask your Honor that we know what the record is that he is reading from.

MR. LEVY: Will you be good enough to read the last question?

Q (Question repeated as follows:) Didn't you as a witness

CASE #2649

in that case swear that Beatty by force did unlawfully take you out of the custody of your mother and father for the purpose of abusing you and of having carnal intercourse with you. Now the question is, did you swear to that. A I don't know what it means.

THE COURT: She says she doesn't know what you mean.

Q Now what is there about that question you don't understand?

THE COURT: Is it the word carnal you don't understand?

THE WITNESS: No, sir.

BY MR. LEVY:

Q Do you know what sexual means? A Yes, sir.

Q Sexual relations with you? A Yes, sir.

Q Now, then I will change the word carnal to sexual relations, for the purpose of having sexual relations. Did you swear to that? A Yes, sir.

Q That he took you for that purpose? A yes, sir.

Q Away from your father and mother? A yes, sir-- no, sir, he took me to see his sister.

Q Now wait a moment. Do you want to tell the truth in this case? A Yes, sir.

Q Do you? A Yes, sir.

Q Sure now you want to tell the truth? A Yes, sir.

surely.

CASE # 2649

Q Now Beatty was tried in that court, wasn't he? A Yes.

Q Was convicted and sent to State prison, wasn't he?

A Yes, sir.

Q Do you know what he was sent to State prison for? A I don't know.

Q You don't know why you were a witness against him, is that what you mean to tell me? (No answer.)

Q Wont you answer me please? A No, sir; I said no.

Q You don't believe he was sent to State prison because he asked you to go and see his sister, do you. Think about that. Now you tell me the truth about it, please. Question repeated. (No answer.) -- I don't know.

Q You don't know? A No, sir.

Q Hadn't you any idea when you were a witness in that court what he was being tried for or prosecuted for? A No.

Q Did you understand the questions that were asked you by the public prosecutor in Newark? A yes, sir.

Q When that man was being tried? A yes, sir.

Q You did not understand his questions? A Yes, sir.

Q You know Mr. Harrison who is prosecutor of Pleas in Essex County, Newark, dont you? A Yes, sir.

Q He was the lawyer representing the State who tried the case on your behalf? A Yes, sir.

Q Against Beatty, wasn't he? A Yes, sir.

Q And Mr. McDermott was the lawyer for Beatty, wasn't he?

CASE #2649

A No, sir.

Q You know that Mr. McDermott lives in Newark, doesn't he? A yes, sir.

Q And they both asked you questions, didn't they? A Yes.

Q Both Harrison and Mr. McDermott, the lawyer for Beatty? A Yes, sir.

Q Didn't you swear in that case that by force Beatty took you away from the custody of your parents for the purpose of having sexual connection with you; didn't you swear to that, Viola? A I don't remember.

Q Don't you understand that?

THE COURT: She says she does not remember.

Q You don't remember? (No answer.)

Q Do you mean to say you don't remember or you don't know, which will you have? A I don't know whether I did or not.

Q Was it true or wasn't it true? A All the testimony I gave was true.

Q Was it true that he did take you away from your parents for the purpose of intercourse, sexual intercourse, was it true or not true? A He only took me to see his sister.

Q Well that does not answer the question. Was it true or was it not true that he took you away from your parents for the purpose of sexual intercourse?

MR. CAFFEY: I object to that question as already

CASE #2649

answered.

THE COURT: I will allow her to answer it again.

Now young woman answer that question yes or no.

Q Question repeated as follows: Was it true or was it not true that he took you away from your parents for the purpose of sexual intercourse? A Yes, sir.

Q It was true? A yes, sir.

Q Now you know that the reason he was sent to prison was for doing that? A I didn't know.

MR. CAFFEY: I object to that. The records of the court are the best evidence.

THE COURT: I will exclude that.

Q Now then you went over to New York, did you to meet him here, Beatty? A Yes, sir.

Q Is that right? A Yes, sir.

Q Where were you to meet him and when. Won't you tell me? A I don't know; he told me where to go over to-- it was in the morning.

Q Did he give you any money? A No, sir.

Q Where did you get money from with which you paid your expenses to come to New York? A Well, I had my allowance that my mother gave me.

Q You had your allowance? A Yes, sir.

Q When you got to New York you did not meet Beatty? A No.

Q Now as a matter of fact, Viola, throughout all these proceedings in Newark, and in the giving of your testimony and

CASE #2649

in your statements to the Society's representative, Mr. Pizarra and others, and in your statement to the New York Police and in your statements to the Newark police, didn't you try at all times to shield Beatty? A No, sir, I don't think I did.

Q You did not? A No, sir.

Q You understand that question? A I think I do.

Q What is that? A I think I do.

Q Do you understand that question? A I think I do.

Q I will have it read to you again because I want a truthful answer. Do you want it read again, or do you understand it?

MR. CAFFREY: I want to make an objection because this is not for the purpose of affecting this young woman's credibility but it is trying the case of the People against Beatty. It seems to me that if anything is to be shown in reference to that case it must be shown by the Court's record.

THE COURT: Will your contention be that this girl was a pure girl before she met this defendant?

MR. CAFFREY: She says that to me. Beatty was not convicted of any crime, as far as I understand, in Jersey that would negative that.

MR. LEVY: He was convicted because of his seduction of this girl.

MR. CAFFREY: It wasn't anything of the kind.

CASE #2649

THE COURT: I wouldn't state it unless it is a fact, supported by the conviction.

MR. LEVY: But the conviction was predicated upon the seduction of this witness. Even if she was not seduced if I can prove anything in the shape of contradictory statements with regard to her relations with Beatty it goes to her credibility as a witness.

THE COURT: It goes to credibility but it wouldn't make a particle of difference if this girl had intercourse with a hundred men before she met this defendant. If the defendant had intercourse with her on the dates mentioned and described in the indictment he would be guilty of rape in the second degree, but the jury has a right to know her previous character in order to give such weight to her testimony as they deem proper.

MR. CAFFREY: Now, if your Honor please--

THE COURT: I have heard enough.

MR. CAFFREY: Will your Honor permit me --

MR. LEVY: May my last question be repeated.

Q Question repeated as follows:. Now, as a matter of fact, Viola, throughout all these proceedings in Newark and in the giving of your testimony and in your statements to the Society's representative, Mr. Pizarra and others, and in your statements to the New York police and in your statements to the Newark police, didn't you try at all times to

CASE #2649

shield Beatty? A No, sir, I did not.

Q We will pass from that. Now, then, when you came over to New York you went to this address you say he gave to you, and you didn't meet him, is that right? A yes, sir.

Q Did you meet any one else? A Yes, sir.

Q Whom did you meet? A Mr. Hollingsworth.

Q What was his first name? A Mr. Henry Hollingsworth.

Q Henry? A Yes, sir.

Q How old a man is Henry Hollingsworth? A I dont know, about around 22.

Q Where did you meet Mr. Henry Hollingsworth? A Near Mr. Beatty's home.

Q Did you meet him in his home? A No, sir, I never was in his home.

Q Did he come up and talk to you? A Yes, sir.

Q Without any introduction? A Yes, sir, he said--

Q Did he tell you his name right off the reel? A yes, sir, he said--

Q He said his name is Henry Hollingsworth right away?

A No, sir.

Q How did it happen? A He said that he thought he knew me.

Q He said he knew you? A Yes, sir.

Q Did you recognize him? A No, sir.

Q Never seen him before? A No, sir.

CASE #2649

Q When he said he knew you did you ask him where he had met you? A No, sir, I did not.

Q Weren't curious enough to know where he had met you when he said he knew you? A Yes, sir.

Q Did you inquire where he met you? A I didn't know where he said he met me.

Q How near Beatty's home was it that you met him? A A couple of blocks away.

Q What time of day was it that you met him? A I don't remember.

Q Was it in the morning? A I think it was.

Q Are you sure? A No, sir, I am not sure.

Q Was it in the afternoon? A I think it was noon time.

Q Noon time? A Yes, sir.

Q That wasn't by any appointment was it? A No, sir.

Q Didn't Beatty introduce you to Hollingsworth? A No, sir.

Q Did he mention Beatty's name to you, Hollingsworth? A Not that I know of.

Q Did you mention Beatty's name to Hollingsworth? A No, sir.

Q Did you tell him what you were doing in New York? A No, but I told him I wanted to go back to Newark, and he said--

Q Did you tell him what you were doing in Newark? A No, sir.

CASE #2649

Q Did he inquire of you what you were doing in New York?

A No, sir.

Q Did you tell him where you lived? A I told him I lived in Newark.

Q Well, then you told him where you lived in Newark, What did he say to you? A In Newark.

Q When you told him you wanted to go back to Newark? A He said he would take me back because I didn't know the way.

Q What street was that on? A I don't know.

Q Near what avenue was it? A I don't know.

Q You knew how you had come there, how you had gotten there, is that right? A I think I do.

Q You knew the road that you took to get to where you were, didn't you? A Yes, sir, I did.

Q Didn't you know you could return the same way that you came? A No, sir, I didn't know.

Q You didn't know that? A No, sir.

Q When you saw him, when you told Mr. Hollingsworth that you wanted to go back to Newark, what happened? A He said he would take me back.

Q He said he would take you back? A Yes, sir.

Q What did you say? A I asked him if he would take me back, and he said he would.

Q What happened? A Well, then he said that we would go and have something to eat before he would take me back and

CASE #2649

we went into a restaurant .

Q Do you know where it was located? A No, sir.

Q What did you get to eat? A I didn't eat anything.

Q What did you drink? A I only had a glass of water.

Q Only a glass of water? A Yes, sir.

Q That was about the noon hour? A Yes, sir.

Q Then what happened? A Well, then I had a headache and he gave me something, and he said it was a headache powder.

Q Gave you this in the restaurant? A Yes, sir; he put it in the water and he said I could drink it.

Q You could drink it? A yes, sir.

Q Did he eat anything? A yes, sir.

Q Do you remember that very distinctly, don't you?

A Yes, sir.

Q What is that? A Yes, sir.

Q Up to that time your memory is perfectly clear, is it?

A Yes, sir.

Q Sure now? A Yes, sir.

Q Now have you ever had any lapses of memory? A No, but after I was arrested--

Q Now, have you ever had any lapses of memory? Answer yes or no. A I was going to answer your question.

Q We'll answer it now then. I asked you whether you ever had any lapses of memory. You can tell me whether you did or not, won't you please. Do you understand my question. Please

CASE #2649

answer. Did you ever have any lapses of memory? (No answer.)

Q Now you are composed, please tell me whether you ever had any lapses of memory. A No, sir.

Q What address did you give Mr. Hollingworth as the place that you lived at? A I didn't give him any address; I only told him I lived in Newark.

Q Now, after he gave you this headache pills or powders, what happened? A I got sick then.

Q Sick at your stomach or sick in the head? A Sick at the stomach.

Q Then what happened? A Then he said that before I went home I should go to a place in 26th street.

Q Did you ask him what that place was? A No, sir.

Q Did he tell you what the place was? A He told me it was a place where a lady had a boarding house.

Q Did he tell you the name of the lady? A No.

Q Did he tell you the number of the house? A No.

Q Told you 26th street? A Yes, sir.

Q Did he tell you whether it was east or west? A No.

Q Didn't you say to him "I would rather go home"? A I felt too sick.

Q How did that sickness affect you. Tell me. A It made me feel sick at my head and at my stomach.

Q Now, did you feel like vomiting? A I don't remember.

Q How was your head, dizzy? A Yes, sir.

CASE #2649

Q It was as though your head was going around all the time? A Yes, sir.

Q Could you stand on your feet? A Hardly.

Q How far away from this house in 26th street was this restaurant where you took the pills or powders, whatever it was? A I don't know. We had to take a car.

Q How long did you travel on the car? A Not very long.

Q About a half an hour? A No, sir, not as long as that.

Q How long would you say? A About fifteen minutes.

Q Was it a street car or the elevated road? A A street car.

Q All the time that you were on the car for the fifteen minutes you felt that same sickness at your stomach and some dizziness in the head? A Yes, sir.

Q Why didn't you ask him to take you home?

MR. CAFFREY: I object to that. I am prompted by a sense of my duty to object to this testimony as irrelevant, incompetent and immaterial. It cannot by any stretch of the imagination affects this girl's credibility.

THE COURT: I will allow it.

Q Why didn't you ask him to take you home? A I did ask him.

Q Did he refuse to take you home? A He said he would not take me there until I felt better.

Q When you got to the house on 26th street what kind of

CASE #2649

a house was it? Private, tenement or flat house? A A private house.

Q Was it a high stoop? A Yes, sir.

Q How did you get in. Hold up your head please.

A Through the door.

Q I know you did. Did you ring the bell or knock at the door or how? Rang the bell.

Q Who came to the door? A A woman.

Q Do you know her name? A No, sir.

Q Then what happened when she got to the door? A Then I do not know what he told her and then--

Q What happened when you were there. Tell us what was said when you got to that door, and the woman came to the door at that place in 26th street, with Mr. Hollingsworth. Tell me all about it? A The woman took me upstairs.

Q Didn't he say something to her before that? A Yes, sir; that is what I was telling you.

Q You said the woman took you upstairs? A yes, sir.

Q Wasn't something said at the door, a greeting, or something said by her, was there anything, did you say hello Henry? A No, sir; I don't know how she greeted him.

Q Was there anything said at the door? A Nothing that I remember.

Q Well, then the only thing that you remember is that she took you upstairs? A Yes, sir.

Q Into what kind of a room? A It was a bedroom.

CASE #2649

Q A bedroom? A yes, sir.

Q Did he go up with you? A No.

Q Then what happened up in the bedroom? A I was there from Wednesday until Sunday.

Q That was on Wednesday, what time did you say it was on Wednesday that you got into that room? A I don't remember what time it was.

Q Was it the middle of the day, was it midday, evening or afternoon, or morning? A It was in the afternoon.

Q How late in the afternoon? A I don't know.

Q Was the sun set? A No, sir.

Q That was long before you met this defendant, Benjamin Sherman? A No, sir, it was only four days before.

Q Now, when you got up to the room what did the woman say to you, or you say to the woman? A She said I should lay down.

Q Did you undress yourself? A No, sir.

Q You didn't lie down in your clothes did you? A I just took my coat out.

Q Had you had anything to eat that day? A Yes, sir, I did in the morning.

Q This was in the afternoon? A Yes, sir.

Q Weren't you hungry, didn't you say you were hungry?

A No, sir, I was not.

Q What is that? A No, sir, I was not.

CASE #2649

Q Now did this illness continue all the time, this sickness at your stomach? A Yes, sir.

Q What is that? A Yes, sir, it did.

Q Did she give you any medicine or anything to relieve you of that sickness at the stomach? and the dizziness in the head? A No.

Q Did you ask for any medicine? A No, I did not that day.

Q She gave you nothing? A No, sir.

Q Now when was it that Hollingsworth came up to that room? A He didn't come.

Q Did you ask the woman how much it would cost to occupy the room? A No, sir.

Q Did you hear any conversation between the woman and Hollingsworth as to who would pay for the room? A No, sir-- yes, sir, I did.

Q What did you hear? A He handed her some money. I don't know how much it was.

Q Do you know how much? A I don't just remember.

Q Was it bills? A No, sir.

Q He handed her some money the first time? A Yes, sir.

Q Where did he hand the money to her in the hallway or upstairs? A In the hallway.

Q Before you went upstairs? A Yes, sir.

Q Did you tell him your name? A Yes, sir.

Q What name did you give him? A Viola .

CASE # 2649

Q Where did he hand the money to her? In the hallway or upstairs? A In the hallway.

Q Before you went upstairs? A Yes, sir.

Q Did you tell him your name? A Yes, sir.

Q What name did you give him? A Viola Muller.

Q You didn't tell him where you lived in Newark? A No, sir, I told him I lived in Newark, that is all.

Q Give him any street number? A No, sir.

Q No street number, is that right? A Yes, sir.

Q He brought you there, gave the woman some money, how much you don't know and then the woman took you upstairs? A Yes.

Q You stayed there Wednesday, Thursday, Friday, Saturday and Sunday. Did you pay the woman any money? A No, sir.

Q You told this jury that in those days this man never came to see you, Hollingsworth? A No, sir, he did not.

Q You did not see him? A No, sir.

Q You have not seen him since? A No, sir.

Q Did he tell you what business he was in? A No, sir on the card it was some manager by the name of Simms.

Q What kind of business? A I don't know; he didn't say.

Q Do you know why this man should have taken you to that place, and given money to that woman?

MR. CAFFEY: I object to that.

Q Do you know why?

CASE # 2649

MR. CAFFREY: I object to that as calling for the operation of the witness's mind.

THE COURT: If she knows why she may state.

Q You don't know why? A What do you mean?

Q What is that? (No answer.)

Q Well, I want to know if you know why that man who was an absolute stranger to you, and whom you had never met before that afternoon, and to whom you complained you were sick would take you to a restaurant and then take you on a car to this 26th street house, pay the landlady-- I want to know why he paid the landlady for you there if you know? A Because I told him I wanted to go to Newark and after he gave me the headache powder I was so sick he said I should go to that woman and that is why he told me to go there.

Q Being there four days didn't you learn the woman's name? A No, sir.

Q Did you eat anything in that house those four days? A I did.

Q Who furnished you with the food? A She did.

Q Where? A Down in the dining room? A I was downstairs with her.

Q At the table? A Yes, sir.

Q Who sat at the table besides yourself? A Another little girl.

Q Any one else? A And a little boy four years old.

CASE #2649

Q Now when you went into that house, Viola, did you have any money in your pocket? A I did.

Q How much did you have in your pocket? A I don't remember, I had a couple of dollars.

Q Did the woman or anybody else in that house during the four days that you were there restrain you of your liberty in any way? A What do you mean?

Q In other words were you able to go out if you wanted to, or come back if you wanted to or walk around the house if you wanted to or go on the street if you wanted to? A Yes, sir.

Q You could go wherever you liked? A Yes, sir.

Q Nobody stopped you, is that right? A Yes, sir.

Q Why didn't you go home then with a couple of dollars in your pocket? A Because I didn't feel well.

Q You mean to say that the sickness continued for four days? A Yes, sir.

Q And the dizziness continued for four days? A It did.

Q Now, you thought that it would be necessary for you to pay your board and lodging in that place? A She told me that it was paid.

Q Didn't you take his address? A No, sir.

Q Wasn't you curious to know where he lived and who he was, and why he did this? A I told you why he did it because I felt sick.

Q When did your sickness leave you? A Sunday.

CASE #2649

Q What time did your sickness leave you? A In the afternoon.

Q What time in the afternoon did your sickness leave you? A I don't remember.

Q Can't you fix approximately the time, or about the time?

THE COURT: Is that very material the precise time?

MR. LEVY: Now, you see, your Honor, I have a purpose. It is upon that evening she claims to have met this defendant. Your Honor sees the point of that.

THE COURT: But it is not very material.

MR. LEVY: I won't press it if your Honor doesn't think so.

THE COURT: I only wanted to save time.

MR. LEVY: I will take your Honor's suggestion.

BY MR. LEVY:

Q Now did you go out into the street during those four days? A Only once.

Q What day was that? A I don't know.

Q You got there Wednesday, was it the next day or the day after, Thursday or Friday? A I don't know what day it was.

Q How long were you out on the street? A Just a little while.

Q How long is a little while? A About half an hour.

Q Where did you go to? A Just took a little walk.

CASE #2649

Q What is that? A Just took a little walk.

Q Where did you walk to? A I don't know.

Q Weren't you afraid you would lose your way going and couldn't find your way back? A I just walked a few blocks and then walked back again.

Q Do you remember the names of any avenues you crossed?

A No, sir, I didn't see it.

Q Do you remember how many blocks about you walked?

A About eight or nine.

Q Can't you tell me the streets you crossed? A No, sir.

Q Were you alone? A Yes, sir.

Q You found your way back? A Yes, sir.

Q In all those four days didn't you learn the name of the woman in whose house you were? A No, sir.

Q Didn't you ever ask her? A No, sir.

Q You want these gentlemen and myself to understand as well that you sat at the woman's table with her children there and you slept in her house? A Yes, sir.

Q And you never inquired what the woman's name was? A No sir; only what I heard them call her.

Q What is that? A Only what I heard them call her.

Q What did they call her? A Miss Hannah.

Q The first name, the christian name? A I don't know if that was her first name, but they would sometimes inquire for her and ask for Miss Hannah.

CASE #2649

Q Miss Hannah? A Yes, sir.

Q Did you answer the door? A No, sir.

Q You heard somebody inquire for Miss Hannah? A Yes,
sir.

Q Did you know the names of the children? A Yes, sir.

Q That you knew? A Yes, sir.

Q You played with the children during the day, didn't
you? A Yes, sir.

(At this point the Court admonished the jury calling their attention to Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until tomorrow, June 18th, 1919, at 10.30 o'clock.)

CASE # 2649

New York, June 18, 1919.

TRIAL RESUMED.

V I O L A M U L L E R, the complaining witness resumes the stand.

CROSS EXAMINATION CONTINUED BY MR. LEVY:

Q We will go to that Sunday you left the house of the woman on 26th street before you met Sherman. You understand what I mean. Why did you leave that house that day? A To take a walk.

Q What? A To take a walk.

Q Did you intend when you left that house to return to it?

A I did.

Q Did you know the number of the house? A No, sir.

Q Did you know how you could find it again? A Yes, sir.

Q Had you any clothes with you other than those that you wore, have another skirt or anything of that sort? A No, sir.

Q Did you during that walk that you took while living in the house with the woman whose name you don't remember buy any articles to wear? A I did.

Q What? A On the afternoon that I took the walk.

Q Do you remember what you bought? A I do.

Q What did you buy? A I bought some underclothing.

Q How much did you pay for the underclothing? A I dont remember.

Q Can you give me any idea of about how much? A Two or three dollars.

CASE #2649

Q Two or three dollars? A Yes, sir.

Q Do you remember the store that you went into to buy the clothes? A Yes, sir.

Q Besides the underclothes what else, if anything, did you buy? A Nothing.

Q Where did you get the money to pay for the underclothes? A I had the money; it was my own.

Q You told me when you left Newark to see the sister of Beatty that you had about two dollars with you, do you remember telling me that yesterday? A No, sir; I didn't say the amount that I had.

Q What is that? A I did not name the amount that I had.

Q Do you remember telling me yesterday that you had about two dollars in your possession? A I said I had a couple of dollars.

Q Did you take those clothes back to that boarding house on 26th street? A Yes, sir.

Q Did the woman in that house during the time that you were there, four or five days, ask you your name? A Yes, sir.

Q Did you give her your name? A Yes, sir.

Q What name did you give her? A Viola Muller.

Q Did she ask you where you lived? A No, sir.

Q Did you tell her where you lived? A No, sir.

Q Did you while there read the newspapers? A No, sir.

Q Did the woman whom you lived with in that house speak

CASE # 2649

English? A Yes, sir.

Q Did you see any other people in that house except that woman and her two children during those four or five days?

A No, sir.

Q Did you ever express to that woman a desire to go home?

A No, sir.

Q What is that? A No, sir.

Q Now to go back just a moment, Viola, please, you say that Hollingsworth did not mention Beatty's name to you, is that right? A Not that I know of.

Q Do you remember swearing in the police court or testifying in the Police Court to the effect that Hollingsworth came up to you and asked you whether you were looking for Beatty?

A I don't remember.

Q You don't remember? A No, sir.

Q Did he or did he not ask you whether you were looking for Beatty? A I don't know.

Q You don't know? A No, sir.

Q When you came to New York to find Beatty's sister did you have any paper with you, any writing? A I don't know.

Q An address or something of that sort? A I don't know.

Q Did he write down the address of where his sister lived for you? A I had it down on a piece of paper.

Q You had it on a piece of paper? A Yes, sir.

Q Are you able to tell me which way it was that you took to get from Newark to this place, the address of which you had

CASE #2649

written upon a piece of paper, which way you came, what cars you took? A I don't remember the cars I took; I know I came over in the subway, and when I got out I asked how to get to the place.

Q Do you remember what station it was that you got off at?

A No, sir.

Q Now you remember all the facts and circumstances that you have told this jury that happened to you between the time that you left work and up to the time that you met Sherman, is that right? A Yes, sir.

Q Do you remember all these things that you told us about?

A Yes, sir.

Q Do you? A Yes, sir.

Q What is that? A Yes, sir.

Q Don't nod your head, answer. A I said yes.

Q What? A Yes.

Q Do you remember all these things that you have been giving testimony about, that you have been telling these twelve gentlemen about that happened to you, and what was said to you and what you said between the time that you left Newark and the time you met Sherman? A Yes, sir, I do.

Q You do remember all of them? A Yes, sir.

Q Now, let me see. Do you remember under oath testifying before the Magistrate in the police court - I am talking of when you were arrested -- you were taken to the police court,

CASE #2649