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

\*3337

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

vs.

CHARLES GREENHALGH, impleaded with  
LAWRENCE GLENN, JAMES GARRITY, JOHN  
JORDAN, EDWARD WALL, JAMES McELLIOTT:  
and JOHN BAKER.  
-----X

New York, August 3rd, 1920.

Indicted for rape in the first degree and assault in  
the First and Second degrees.

Indictment filed June 30th, 1920.

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

For the People:

ASST. DISTRICT ATTORNEY SAMUEL MARKIEWICH.

For the Defendant:

GEORGE SIMPSON, ESQ.

Tried before HON. CHARLES C. WOTT, JR., J., and a  
jury.

The jury was duly impaneled and sworn.

James E. Lynch,  
Official Stenographer.

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Assistant District Attorney Markewich opened the case on behalf of the People as follows:

May it please the Court, Mr. Foreman, and each of you gentlemen, the defendant in this case is indicted together with Lawrence Glenn, James Garrity, John Jordan, Edward Wall, James McElliogett and John Baker, the men that you have seen before you were selected as jurors.

A separate trial was demanded by this defendant, as is his right under the law, and his is the first case to be tried.

The defendant is indicted together with the others whose names I have mentioned, for the crime of rape in the first degree, assault in the first degree, and another count of assault in the second degree.

At the conclusion of this case, his Honor will charge you the law, and will explain to you in detail just what the law is governing this case, and the meaning of each of these counts, as defined by our Penal Law, and I shall not dwell upon this subject but I will recite to you the facts as I intend to present them to you through the witnesses on the stand.

The victim in this case is a girl by the name of Flynn, a girl about seventeen years of age.

On the 14th day of June of this year, at about nine o'clock in the evening, she had occasion to be in the vicinity of Tenth avenue and 24th street in this county. She

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had an appointment with some one who did not come at the time appointed, and while she was waiting there, several men got hold of her and she will tell you, applied an an-aesthetic to her mouth and nose and she became unconscious. She regained consciousness and found herself on board a lighter, off the Chelsea Docks. She was surrounded by about fifteen men. She will tell you that she has a very vivid recollection of the faces of each of the men. She was pleading with the men to let her go, but they held onto her and they abused her and they had sexual intercourse with her one after another, and some of them performed unnatural acts upon her.

She was bleeding; her clothes were torn in the struggle, and then somebody on the dock evidently heard her outcry; the police were notified and two detectives from the nearest precinct came down and they found some men right near the docks. They were apprehended and were identified, most of them were identified by the complaining witness as being some of the men who had committed those acts upon her.

This defendant was apprehended a short time thereafter. The girl was absolutely positive in her identification of this man and she says he was one of those that had assaulted her.

If we establish these facts to you, gentlemen, we will expect you to find a verdict of guilty in accordance

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with the evidence and with what the facts in this case will warrant.

VERONICA FLYNN, called and duly sworn as a witness on behalf of the People, testified as follows:

(Residence: 468 West 23rd street).

MR. SIMPSON: I ask your Honor to have all witnesses on both sides excluded.

THE COURT: Very well.

DIRECT EXAMINATION BY MR. MARKEWICH:

Q Now, Miss Flynn, where do you live? A 468 West 23rd street.

Q With whom do you live there? A My mother.

Q Is your father living? A Yes, sir.

Q How long have you lived on West 23rd street? A Since the 23rd of May.

Q Where did you live before that? A Tamaqua, Pennsylvania.

Q With your parents? A Yes, sir.

Q Have you any brothers and sisters? A I have seven brothers and one more sister besides myself.

Q And where were you born? A Tamaqua.

Q Talk up louder, these gentlemen want to hear you?

A My throat is sore. Tamaqua, Pennsylvania.

Q Now, how old are you? A Seventeen.

Q When were you seventeen? A On the 30th of May.

Q The 30th of May? A Yes, sir, Decoration Day.

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Q Of the year 1920? A 1920.

Q Did you attend school? A I did.

Q Where, in Pennsylvania? A Tamaqua, Pennsylvania.

Q Were you graduated from grammar school? A No, sir.

Q When did you leave school? A When I was sixteen years old.

Q What have you been doing since you left school? A I was a telephone operator.

Q Working for whom? A Spring - it was in New York here but I couldn't stay it out, it was down on Spring.

Q In the Spring Exchange, do you mean? A I guess so.

Q Were you working for the New York Telephone Company?

A Yes, sir.

Q Well, that is what I mean. On the 14th day of June of this year did you have occasion to be at 24th street and Tenth avenue in this county? A Yes, sir.

Q What is your answer, you say you were there? A Yes, sir.

Q What time of day or night was it? A It was, I don't know whether it was half past eight, but it was after eight o'clock.

Q Were you there alone or in company with some one? A No, I was there by myself.

Q Did you have an appointment with some one? A Yes, sir.

Q With whom? A George McCoy.

Q George McCoy? A Yes, sir.

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Q Who is McCoy? A A sailor boy stationed at Brooklyn.

Q At the Brooklyn Navy Yard? A Yes, sir.

Q How long have you known McCoy? A I know him about two months, I guess it is now, or a month, I am sure, I don't remember.

Q How far is that place from where you live? A I live in West 23rd street, then I went to meet George in West 24th street, I think a block.

Q What time did you have the appointment with McCoy?

A For eight o'clock.

Q And you waited for him, you say, for some time? A I waited for fifteen minutes for him and he didn't come, because when I went there it was after eight o'clock.

Q Yes? A I thought for sure then that he was gone, because he said in one letter that if he would not be there at eight o'clock the boat would go up the river.

Q Well, you waited around and he did not appear? A Yes, sir.

Q Now, what did you do when you got ready to leave?

A Well, when I went to that corner there were three boys sitting on the curbstone there, down on the stone.

Q Yes? A And one boy come over to me and he said, --

MR. SIMPSON: No, I object to that.

Q What boy, can you recognize the boy that was sitting on the curbstone? A No.

Q Now, just tell us what happened to you? A He come up

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to me while I was standing there.

MR. SIMPSON: Now, I object to that.

THE COURT: If she identifies him as one of these defendants I will allow it to go in, or if she identifies for that matter, identifies him as one of the fifteen that you mentioned in your opening, I will allow it to go in; but if not, why, I will not allow it.

Q You say you saw three men sitting on the curbstone?

A Yes, sir.

Q Did you see those three men after the 14th of June?

A I saw the one boy.

Q You saw what? A I saw the one boy.

Q You saw one boy? A Yes, sir.

Q Who was that, do you know? A Baker.

BY THE COURT:

Q You say one of these boys sitting there was the co-defendant Baker? A Yes, sir.

Q And you saw him later that same evening? A I did.

THE COURT: Well, I will allow her to state what was said then.

MR. SIMPSON: Your Honor, in order to get the record clear, the defendant objects upon the ground that it is incompetent, immaterial and irrelevant so far as this defendant is concerned, and prior to any act committed or any conspiracy shown.

Objection overruled. Exception.

BY MR. MARKEWICH:

Q Now, what did Baker say? A He says, "Can you shimmy?"

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he says to me.

Q He came over and asked you if you could shimmy? A Yes, sir, and I said to him, "What is it any of your business whether I can or not?" And he says, "Where are you going?" I told him I was going down to the water, and he says could he go along. I said, "No, I know the road myself."

Q Yes? A And I started out to go down, and while he was talking there, on the other side of the street there was a sailor boy come up, and about four or five other fellows and they turned the corner. I was standing on this corner like and they turned the other corner (Indicating), and one boy crossed over the street.

Q Yes? A And then I went down to the water. I did not see them.

Q Yes? A I went down to the water and I was just ready to turn and come back when somebody grabbed me.

BY THE COURT:

Q Now, wait a minute. You say you went down to the water? What do you mean by that? A I went down to the water front.

Q Well, did you cross over on the dock? A Yes, sir.

Q You were on one of the docks? A Yes, sir.

Q How far out on the dock were you? A Right to the edge, if you go any further you would walk into the water.

Q You walked away down to the end of the dock? A Yes, sir.

BY MR. MARKEWICH:

Q Now, what happened when you got to the end of the dock?

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A Then there was one boy grabbed me around the neck and the sailor --

Q Do you know what boy did that? A He grabbed me around the neck.

Q Do you know what boy grabbed you around the neck? A No. If I see him I would know him.

Q Yes? A And then the other sailor put a white handkerchief over my mouth. It had a medicine smell.

MR. SIMPSON:. I object to all this.

Objection overruled. Exception.

MR. SIMPSON: This is not one of the defendants or any part of the defendants.

THE COURT: They cannot prove more than one thing at a time. If not connected it will be stricken out.

MR. SIMPSON: I take an exception, your Honor.

BY THE COURT:

Q You say a sailor? What makes you think they were sailors? A Because I saw him myself.

Q Well, a man can be a sailor in the Navy or he can be a sailor on board an ordinary ship. Do you mean he wore a uniform? A Yes, sir.

Q When you say a sailor, do you mean a sailor in the Navy, or at least with a blue uniform with a big collar? A Yes, sir, and a white hat.

BY MR. MARKEWICH:

Q And what happened to you after the man got hold of you

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and after the sailor put something to your nose as you say?

A I felt myself being carried.

Q You felt yourself being what? A Carried, like full.

Q Yes? A And when I got awake I found myself on this lighter.

Q On a lighter, you found yourself on a lighter? A Yes, sir.

Q You mean one of these ships or lighters off the dock?

A Just like a platform, but it was in the water.

Q Yes? A And the sailor tore all my clothes off.

MR. SIMPSON: I object to that, and so I may not interrupt, your Honor, your Honor will give me a general exception to all this line of interrogation, upon the ground that it is incompetent and not binding upon this defendant?

THE COURT: Yes.

Q Now, did you see this defendant there, did you see this defendant, this man (Indicating)? A I did.

Q What? A I did.

Q Where was he?

THE COURT: Now, wait a minute. Let us go a little slower.

BY THE COURT:

Q You say that you became unconscious and do not know what was going on? A No, sir, not when this medicine was put to my nose I didn't know nothing, I felt sleepy and dizzy.

Q Then by and bye you say you came to? A Yes, sir.

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Q Just where were you when you came to? A In a little narrow place on this lighter.

Q Up on top of the deck or down below? A No, it was only one place, it was just one place.

Q Was there a ceiling over it? A No, sir.

Q Well, was it right level with the dock? A Yes, sir.

Q The deck of this lighter was level with the dock? A Yes, but it was on a high place, you know.

Q Were you above the dock? A (No answer).

THE COURT: Try and bring out where she was.

BY MR. MARKEWICH:

Q When you say you came to, where were you? A On the lighter.

Q Were you on the dock? A No, on the lighter.

Q Was that lighter in the water? A Yes, sir.

Q It was right off the dock, was it, was it off the dock?  
A Yes, sir.

Q Now, about how many men were on the lighter? A There was eight.

THE COURT: I still do not understand where she was.

BY THE COURT:

Q From where you were could you see the dock, could anybody on the dock see you or was there was any wall there? A No, it was all covered with wagons and automobiles.

Q There were a lot of wagons and automobiles on this lighter? A Yes, sir.

THE COURT: Now, you see, we want to get a picture

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of this thing so that the jury can see what happened.

MR. MARKEWICH: Yes, sir.

Q And you were in behind some of these wagons? A Yes, sir.

BY MR. MARKEWICH:

Q You say there were automobiles and wagons right on that lighter? A Yes, sir.

Q And you were on that lighter behind one of the wagons?  
A Yes, sir.

Q Is that right? A Yes, sir.

Q Now, did you see this defendant? A I did.

Q Where was this defendant? A He was standing with the others but he was the last. He is not the first, he was the last one.

Q Just tell us what happened to you on that lighter?

A Why, when this boy grabbed hold of me, the first two that caught me, why, they brought me on this lighter.

Q Excuse me. Do you know the names of those two that caught you? A I only know the name of the one boy.

Q What is his name again? A Pat.

Q Pat what, do you know? A I don't know the last name. I only heard his name mentioned, Pat, that is all.

Q Who mentioned his name as Pat? A This other boy that grabbed me, and I don't know his name.

Q Baker? You don't know the name of the other one that grabbed you? A No, sir.

Q And you heard him call the other one Pat? A Yes, they were fighting.

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Q They were fighting? A Yes, because he wanted to go first and he would not let him.

Q Now, tell us what happened to you, what did they do to you? A Then the sailor, he lifted up my dress and he tore my clothes down.

Q Are those the clothes you wore (Indicating)? A Yes.  
BY THE COURT:

Q You mean one of the two sailors that took hold of you? A One of the sailors? There was only one sailor.

Q Was it the sailor that grabbed you by the neck or was it the sailor that put the handkerchief to your face? A The one that put the handkerchief to my nose.

Q Well, he tore your clothes down? A Yes, sir.

Q You mean by that, your drawers, underclothes? A Yes, sir.

Q What did they do with your skirt? A Well, I didn't have no skirt on. I had a one piece dress.

Q Well, you had a dress on? A Yes, sir.

Q What did they do to that? A Why, it was narrow and they tore it up the back.

Q They tore the skirt up the back? A Yes, sir.

Q The bottom part of this one piece dress? A Yes, sir.

Q Then what did they do? A They had intercourse then.

Q I know, but did they tear this dress off or did they leave it on you? A They couldn't get it off, they tore it up the back.

Q Then they tore your other clothes down? A Yes, sir.

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Q Well, now, while this was going on were you standing up or were you sitting or lying down? A No, sir.

Q Tell us everything that happened? A I was down and there were about three or four boys had hold of me.

Q Where did they hold you? A They held my hands and the other ones held my feet.

BY MR. MARKEWICH:

Q Now, just tell us what they did to you? A And the sailor, he had intercourse, he opened his pants.

Q He opened his pants and what did he do, did he take out his privates? A Yes, sir.

Q What did he do to you? Did he insert his privates into yours? A Yes, sir.

Q Did you feel any pain? A I did.

Q Did you ever have intercourse with anybody before that time? A No, sir.

BY THE COURT:

Q Now, wait a minute. You say that one man had a fight with another as to who should be first? A Yes, sir.

Q That was the first that had intercourse with you? A Yes, sir.

Q That was the sailor, and who was the other, the man you called Pat? A No, the sailor was Pat.

Q The sailor was Pat, and Pat had a fight with somebody else? What did they say? You can tell the jury all you heard while they were fighting? A Then he says, "All right, then,"

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he said that the sailor could go first, and then he did.

BY MR. MARKEWICH:

Q Did you wear these bloomers at the time (Indicating)?

A I did.

Q Were the bloomers torn before that thing happened to you? A Not that I know of.

Q I mean when you put them on? A No, sir.

Q And were they in good shape? A Yes, sir.

Q They were not torn before, were they? A Oh, they may have had one or two holes in.

Q Were they in this condition (Indicating)? A No, sir, they were not in that condition.

Q Now, what did they do with regard to your bloomers --  
Question withdrawn.

Q Were the bloomers open when you put them on? A No, sir.

Q Around your privates, I mean? A No, they were not open.

Q Now, just tell us what the boys did or the men did to the bloomers that you wore, if you recall? A Do you mean what did they do when I had them on?

Q Yes? A They tore them off.

Q Now, was there anything else they did to you? A Then after the sailor got finished doing it one way he turned around and done it the other way. He put it in my mouth.

Q He put his private in your mouth? A Yes, sir.

Q What did you do during that time? A I couldn't do

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nothing. They held me. I couldn't holler. Then when he knocked me down once, he slapped me. Then I hollered for help, and they put their hand over my mouth again.

Q Who put his hand over your mouth? A The sailor and this other boy.

Q Now, what happened after the sailor got through with you?  
A Then after he got finished he put it in my mouth. He wouldn't let anybody else take me until he got it the way he wanted it himself.

Q Yes? A And then this other boy got his turn.

Q What other boy? A The other boy that grabbed me around the neck.

Q The one who you said was called Pat? A No, the sailor was Pat. I don't know the other boy's name.

Q Well, do you know the name of the other boy? A I do not.

Q Have you seen him since? A No, sir.

Q Then what happened to you after the second one got through? A Then they all took their turn. There were five had intercourse with me, and then they went, and there was three stayed to hold me, and these other five was not gone only a few minutes when another crowd came, five more came.

Q Five more came besides those eight that you say were there? A Yes, sir.

Q And what did those five do? A They had intercourse.

Q Was this defendant that is on trial now, was he part of the first company or the second? A No, the third.

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Q What? A The third.

Q After the second batch of men got through then did others come around? A There were others came then.

Q How many? A There was a whole lot came, but they all did not have intercourse with me.

Q Did this defendant have intercourse with you? A Yes, sir.

Q You told us something about this defendant being last. Was he the last that had intercourse with you? A No, he was with the last crowd.

Q The last crowd, the last batch of men? A Yes, sir.

Q What happened to you after these men got through?  
A (No answer).

BY THE COURT:

Q Well, now, what did the defendant do?

THE COURT: You have got to prove that.

A He had intercourse and then after he wet all over me, he got up and went.

Q How do you mean he wet all over you, did he insert his privates in yours? A Yes, sir.

Q Well, what do you mean he wet all over you, discharged all over you? A Yes, sir.

Q Not inside? A I don't know whether it was inside or outside. I know I was all wet, though.

Q After he got through you were all wet? A Yes, sir.

Q How many came after him? A Then there was after him there was about three or four more came.

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Q Now, while you were waiting and these men were holding you down between these crowds, did you speak to them? A I couldn't say a word until the last crowd, and then there was a boy by the name of Jordan standing around and Garrity. .

Q Jordan and Garrity, yes? A And I said to them - there was an old man there by the name of McElliogett, and he was going to go with me, he was going to have intercourse with me and I said to Jordan, "Merciful God," have you got any sisters?" And he said to me, "Stay where you are."

Q Who said that? A Jordan.

MR. MARKEWICH: Is Jordan outside?

BY MR. MARKEWICH:

Q Is this Jordan that you refer to (Indicating a person brought to the Bar)? A Yes, sir.

MR. MARKEWICH: Bring in McElliogett now.

Q McElliogett, is that the tall elderly man? A Yes, sir.

Q What did you say McElliogett did? A Well, McElliogett was going to go with me, and then when I said that to Jordan, why, he didn't say nothing. He said, "Stay where you are," and the old lad said, "Let me on," and he knocked me down.

Q Who knocked you down? A McElliogett.

BY THE COURT:

Q Had you gotten onto your feet then? A I was standing on my feet then.

BY MR. MARKEWICH:

Q Is this McElliogett (Indicating a person at the Bar)?

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A Yes, sir.

BY THE COURT:

Q Is he the one you say knocked you down? A Yes, sir, that is the man.

BY MR. MARKEWICH:

Q What happened after that? A He had intercourse with me and he got up then, and there was two logs on the side of this lighter, and he sat down there, and then this Jordan said, "We will carry her over and put her behind the boxes." There was a whole lot of boxes there, and he said, "We will carry her over and put her behind the boxes and we will be out of the light so we won't get pinched," and I said, "Let me up until I fix my stockings, and then" I said, "I will walk over." I said that for them to let me up. I was near dead. And he said, "All right, leave her up," and I was standing fixing my stocking right beside that old man McElliogett, and I gave one run off the boat, off this lighter, and when I ran I fell, and this Garrity - he is the cross-eyed boy --

Q Garrity, what? A Garrity, he has cross-eyes, he grabbed hold of me and he kicked me and beat me and pulled my hair and everything, because he wanted me to go back on this lighter again but I didn't go back.

Q That is, he told you to go back to the lighter? A He says, "You will go back." I couldn't say nothing and he knocked me down and he --

BY THE COURT:

Q Where was that, on the dock or where? A That was on

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the dock.

MR. SIMPSON: I object to this as after any act, and the defendant not being present.

Q Was this man there then, the defendant, do you know?

A He was there with the crowd.

THE COURT: I will allow it.

BY MR. MARKEWICH:

Q Yes, then what happened? A And I hollered for help as loud as I could, and as soon as I did all the other ones ran except this Garrity, he stayed and he beat me then as I told you. He says, - he knocked me down, and when he knocked me down I didn't get up right away and he says, "Call a taxi, she is all in," Garrity said.

Q Yes? A And as soon as I heard that - he ran across the street, when I hollered for help, he ran across the street and I ran over to a man at the dock house. There was an old man in there, he was standing at the window and I asked him, "For God's sake," would he help me, that there was a lot of men over there.

MR. SIMPSON: This is all under my objection and exception, as incompetent.

THE COURT: It is competent to show that immediate complaint was made by the prosecutrix.

Q Go on? A And the old man said, "I can't do nothing." I said "All right, God help me, I will go myself," and I went to cross the street and as soon as I did Garrity made the second

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attempt for me and he said, "Where are you going, kid?" I didn't say nothing. I ran back to the dock house again to the old man, and just as I got there another man by the name of McKeon came out of the door and I asked him would he give me a match until I would go back on the lighter and get - I had a dress pin and my hat, hat pin, and he said he didn't have no match but he would stand there and wait until I come back, and I went over and got what I was to get and came back.

Q Yes? A Then I went in the dock house. He says, "Well, come inside," and I went in there with him and I asked him for a drink of water to wash my mouth out and he gave me water and then he called the police.

Q What was his name, McKeon? A McKeon.

Q When did the police officers arrive at the dock? A I was only in the dock house about fifteen minutes or ten, I am not sure.

Q Do you know when some of these defendants were arrested?

A That same night there was five, they caught five.

Q That was while you were in the dock house? A Yes, sir, the policemen brought the five over.

Q Do you know when this defendant was arrested? A That same night.

Q Q That was while you were in the dock house? A Yes, sir.

BY THE COURT:

Q What was your condition after this, as to your face and body? A My face was all black and my hair was all down and my sweater was all torn, and my stockings were hanging down,

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and my dress was all torn up the back and all stained.

BY MR. MARKEWICH:

Q Were you taken to the hospital? A No, I was taken to the station house and Dr. Johnson from the hospital examined me and he told them what was the matter with me.

Q Now, have you received medical treatment since that night? A I did.

Q Who is your physician? A Dr. Tompkins, at the Florence Crittenton Home.

Q That is a woman? A Yes, sir.

Q Now, you told us before that your throat was sore. Was your throat in good condition before this thing happened to you? A Before, yes, sir.

Q And do you feel pain in your throat now? A Yes, when I swallow or when I talk loud there is always pain. It is swollen all out. I got electricity put on it since I am over there.

Q That is, you are receiving electrical massage now, are you, that is, electrical treatment? A Yes, sir.

Q At the Florence Crittenton Home? A Yes, sir.

Q You are in the home now? A Yes, sir.

MR. MARKEWICH: Well, that is all. Your witness?

CROSS-EXAMINATION BY MR. SIMPSON:

Q Now, I want you to speak up distinctly so we will hear what you have got to say. You were seventeen years of age on the 30th of May, 1920, that is right? A Yes, sir.

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Q You were born in Pennsylvania? A Yes, sir.

Q And you were living there with your father and mother?

A And brothers and sisters.

Q You have as you said, seven brothers? A Seven brothers and one more sister, besides myself.

Q Are you the oldest? A I am not.

Q Who is first? A Joseph.

Q That is your brother Joe, how old is he? A He is twenty.

Q Then comes who? A Gertrude, nineteen.

Q And then comes? A Veronica.

Q That is yourself? A Yes, sir.

Q When did you first come to New York? A May 23rd.

Q 1920? A Yes, sir.

Q And you came here with your mother? A I did.

Q Your brothers and sister? A No. I had a sister here. My sister was in the Misericordia Hospital and my mother and I came down to take her home.

Q And you went to live at 460 what? A 468 West 23rd street.

Q Now, you came here on the 23rd of May with your mother to take home your sick sister? A Yes, sir.

Q Did you have furnished rooms over here on 23rd street?

A Yes, sir.

Q How many rooms did you have? A One big one.

Q One big room? A Yes, sir.

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Q Where was the Misericordia Hospital? A I think 86th street.

Q East side - well, at any rate it is away over near the river, isn't it? A Yes, sir.

Q When did you first become acquainted with that sailor boy that you say you had the appointment with? A I met him in Brooklyn.

Q When did you meet him in Brooklyn? A I met him - I don't know when it was that I met him.

Q Well, your memory is pretty good, isn't it? A Well, I don't remember when I met him.

Q Well, let us see. You came here on the 23rd of May? A Yes, sir, but before the 23rd of May I came once before.

Q Oh, now, when were you here once before? A In 1919 I came down.

Q 1919? A No, - it was March 14th.

Q This year? A Yes, sir.

Q Did you come alone or with anybody? A No, with my sister, I came down with her because she was going into the hospital.

Q I see. Now, your sister could walk at that time when she went into the hospital? A Yes, sir.

Q Well, you came here with your sister on March 14th? A Yes, sir.

Q Where did you go to live? A I stayed at the Misericordia Hospital two days.

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Q And those two days, did you leave to go anywhere? A I was talking to the mother there, the head sister, and she said--

Q Never mind what she said. Did you go anywhere? A Yes.

Q Where did you go to? A She got me a place to work.

Q Where? A In Brooklyn.

Q What at? A Housework.

Q Housekeeper? A Housework.

Q Whom did you work for? A Mrs. Sasso.

Q Mrs. Sasso? She was an Italian, wasn't she? A Yes.

Q Where was Mrs. Sasso's home? A 1425 East 12th street.

Q 1425 East 12th street, Brooklyn? A Yes, sir.

Q How long did you work for Mrs. Sasso? A I worked for her, I think, a month.

Q That was from about March 16th to April 16th? A Yes, sir, and I went home.

Q Then you went back to Pennsylvania? A Yes, sir.

Q Before you went back to Pennsylvania where, and how did you come to meet that sailor boy? A Well, one night I went for a ride in the park and I got off at the wrong place and I got off at Sands street and I saw George standing there and I said, I asked him could he please show me the way to Kings Highway in Brooklyn, and he showed me. He took me out all right then.

Q He took you out all right that night? A Yes, sir.

Q And did he take you down to Kings Highway? A No.

Q Well, part of the way? A Yes, sir.

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Q Well, you went around to different places with him, didn't you, before you went back to Kings Highway? A I did not. I went right on home.

Q Well, from that moment on he was your steady, wasn't he? A Yes, sir.

Q And you loved him and he loved you? A Oh, I don't know about that.

Q Well, did you love him? A I liked him all right. I couldn't say I loved him.

Q Did he ever get fresh with you? A No, never did.

Q Now, in the Sasso family, how many boys were in that family? A There was Giovanni, and George, and Vincent and Clement, four boys, and there was four girls.

Q And the boss and his wife? A Yes, sir.

Q Well, what did you leave Mrs. Sasso for? A Because I wanted to go home. My father wrote me a letter and told me --

Q All right, your father wanted you to come home and you went home? A Yes, sir.

Q Did you tell the Sassoes you were leaving? A I did.

Q You had no trouble there? A No, sir.

Q The boys were always friendly with you? A Yes, sir.

Q Well, in the meantime, what became of the sailor boy during the whole of the month that you were over with the Sassoes? A I wrote him letters.

Q And he wrote you and you went out together? A I didn't go out with him very much.

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Q Well, three or four or five times? A Yes, sir.

Q Down to Coney Island? A No, sir.

Q He did not take you there? A I have never been to Coney Island.

Q You were in Kings Highway? A Because I never went myself. I didn't have any girl friends and I didn't go.

Q No, I am speaking of the sailor boy you met? A No, he never had me there, but he was to take me.

Q That was a promise? A Yes, sir.

Q Well, you dance, don't you? A Yes, sir.

Q And the sailor danced? A Not very much.

Q He was not a good dancer? A He is no dancer at all, for that matter.

Q Well, you got back to Tamaqua, Pennsylvania, about what day in March, or April? A Well, I don't remember.

Q Well, try, will you, please? A About the 17th, I think.

Q The 17th of April you got back, what did you do when you got over there? A I stayed at home.

Q Did you work at all? A When I was home?

Q Yes? A I couldn't work because I was sick.

Q What was the matter with you? A I always had headaches and I was sent to the hospital.

Q While you were home? A Yes, sir.

Q How long were you in the hospital? A Four weeks, a month.

Q About four months? A Four weeks.

Q What hospital was that? A Well, at Coaldale, Penn-

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sylvania.

Q Well, you were in that hospital until about the 17th of May, is that right? A No, I went there before I ever came to New York.

Q Well, don't you understand what I am asking you? If not, say so. You said you came here on the 14th of March with your sister? A Yes, sir.

Q And you went to the Misericordia Hospital? A Yes, sir.

Q And while there the Mother Superior got you a position with Sasse down in Kings Highway? A Yes, sir.

Q That was about the 16th of March, is that right? A Yes, sir.

Q And you worked there about a month, that would be about the 16th or 17th or April, when you got a letter that you had to come home? A Yes, sir.

Q Now, I ask you when you got home what if anything you did, and you said you had headaches and you went to the hospital, and you were there a month, is that right or wrong? A Well, I was not sick when I went home.

Q You were good and strong? A Yes, sir. I was not sick, but before that I always was bothered with headaches, until my mother sent me off to the hospital.

Q Yes, because you had headaches? A Yes, sir.

BY THE COURT:

Q Now, he asks you what you did when you got home? A When I went home I worked.

BY MR. SIMPSON:

Q For whom? A For Wolf's Restaurant.

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Q Where is that, in Tamaqua? A Well, they don't keep it any more. They sold it out.

Q Never mind that. You worked there how long? A Two weeks.

Q What did you do there? A Washed dishes.

Q Are you sure you worked in Wolf's restaurant? A Yes, sir.

Q You worked there two weeks? A Yes, sir.

Q When? A In April.

Q When did you quit there? A I don't remember when I quit.

Q When did you go to work there? A I went to work there on the 19th.

Q What day of the week was the 19th of April? A I don't remember, I don't know.

Q You worked as a dishwasher at Wolf's restaurant at Tamaqua, Pennsylvania, from the 19th of April until when? A I don't remember.

Q Well, how long before you came to New York? on the 23rd of May? How long before that time did you work at Wolf's restaurant? A I don't remember.

BY THE COURT:

Q Well, had you stopped working in a couple of days or a week or how long before you came on to New York? A I only worked a couple of days at Wolf's restaurant.

Q Only a couple of days? A Yes, sir, about two weeks.

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Q Well, a couple of days or a couple of weeks? Now, how long did you work, a couple of days or a couple of weeks?

A Just two weeks.

Q Two weeks from the 19th? A Yes, sir.

Q And then you were at home until you came on here? A Yes, I came down here with my mother.

BY MR. SIMPSON:

Q I want you to tell the Judge and these jurors the truth, the absolute truth. You did not work in Wolf's restaurant, you know that, don't you? A I did work at Wolf's restaurant.

Q When did you go to work at Wolf's restaurant? A The 19th.

Q As a dishwasher? A Yes, sir.

Q When did you leave there? A I don't remember.

Q When did Wolf break up that place? A I don't remember.

Q Is your memory poor on that subject? A I don't know.

Q Do you know any person that you worked with at Wolf's?

MR. MARKEWICH: If your Honor please, I object to that as wholly immaterial.

THE COURT: I will allow it.

BY THE COURT:

Q Do you remember the name of anybody else that worked there when you worked there? A I do.

Q Just give him the name, one name? A Elly Bocker.

BY MR. SIMPSON:

Q Did she work there when you worked there? A Yes, sir.

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Q How many times did you work at Wolf's? A Twice.

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

Q Why, it is so long ago? A Oh, it is a long time ago.

Q Well, the first time you went to work at Wolf's, what did you do there? A Washed dishes.

Q And the second time did you wash dishes? A The same thing.

Q Well, after you left Wolf's did you do any work? A No, sir. I stayed at home.

Q Corresponding with the sailor boy all the time, weren't you? A No, sir.

Q He did not write you any letters? A I didn't write any more letters from my home town to him.

Q Did you receive any letters in your home town from him? A No, sir, because my mother did not allow it.

Q But you had previously written him, had you not, before you went home? A Yes, sir.

Q How many letters altogether? A Just about three.

Q How many letters did he write you? A Four or five.

Q And where were they addressed to? A 468 West 23rd street.

Q 468 West 23rd street? A When we came from home down here.

Q No, but before you came back to New York again where did he address letters to you? A Mrs. Sasso, in Brooklyn.

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Q Mrs. Sasso's house? A Yes, sir.

Q After you left Sasso's you did not get any letters from him, did you? A No.

Q When you came back to New York on the 23rd of May to take your sister home, did you write to the sailor boy? A I did.

Q Where did you write him to? A Brooklyn Navy Yard.

Q And did he meet you? A Yes, sir.

Q Did he meet you daily, or weekly? A Well, whenever he got off. Maybe in a week he would meet me twice, sometimes once.

Q Well, did he promise to marry you? A Oh, no.

Q There was not going to be any marriage? A No, sir.

Q Do you know where he lived? A In Kentucky.

Q Outside of the Brooklyn Navy Yard? A In Kentucky, he told me.

Q He told you he came from Kentucky? A Yes, sir.

Q Well, when you got back here on the 23rd of May, when was the first time you saw the sailor boy, after that date?

A About three days after.

Q And that was pursuant to a letter which you wrote him?

A Yes, sir.

Q And where did you go to after you met him? A We went to a show.

Q Went to a show? Now, do you know the name of the show you went to? A Yes, right up from where I live, the Grand.

Q The Grand? A Yes, sir.

Q Did you go to any dance? A No, sir.

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Q At no time with him? A I never went out with him anywhere, only when I came down the second time to New York I went to a show with him.

Q Where else? A The Grand. Then we went to another place.

Q No dance? A No, sir.

Q Now, on the 14th day of June, - I withdraw that question.

Q Now, you came down on the 23rd and did you get a position on the 23rd? A Yes, sir, Child's restaurant.

Q Child's restaurant? A Yes, sir.

Q You were a waitress there, weren't you? A No, tray girl.

Q A tray girl? What date was it you got that position? A Well, I don't know.

Q Was it a day after you came or two days or three days? A I don't know. Major Allen has the date.

Q Major Allen has the date? A Yes, sir.

Q Who is Major Allen? A A policewoman.

Q Oh, a policewoman? A Yes, sir.

Q A major? You gave her the date? Well, I ask you the date? A I don't know the date.

Q Why don't you remember the date? A Well, I don't remember, that's all.

Q Well, you remember everything else? Why can't you remember the dates? A I don't remember.

Q It was only a month or two ago. Well, you got a position

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there as tray girl, sometime in May, is that right? A Yes, sir.

Q Before your birthday? A No, sir.

Q After your birthday? A Yes, sir.

Q Now, your birthday was the 30th of May, wasn't it, Decoration Day? A Yes, sir.

Q And from the time you came here on the 23rd up to and including Decoration Day you had not worked, is that right? That is only a week, did you work that week? A No, I don't know whether I did or not.

Q You don't know whether you did or not? Well, how long did you work at Child's? A Three weeks.

Q Three weeks?, Now, I want to get these things right. I want you to think? A (No answer).

BY THE COURT:

Q Were you working there up to the day you were assaulted? A Yes, sir.

Q Well, you had been in town three weeks, had you not? One week in May and two weeks in June? Well, had you worked all that time? A I did.

Q Then you must have gone to work very soon after you got here? A I did. My sister and I both got a job.

Q Do you remember how many days? We do not expect you to know the exact day or date of everything you ever did in your life, but do you remember about how many days you were here before you got that job? A About four or five.

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Q Four or five days? Then you got the job and worked on it up to the day you were assaulted? A Yes, sir.

Q Were you working that very day? A Yes, sir, I was. I was just after coming home from work.

BY MR. SIMPSON:

Q Now, let us see. You got here on the 23rd, you saw the sailor boy about the 26th? A I did.

Q Were you working then? A I was.

Q You were working then at Child's? A Child's restaurant.

Q When you saw him three days afterwards you were working there? A Yes, sir.

Q Now, what time of the day on the 14th day of June was it that you went to work? A Eleven o'clock.

Q In the morning? A Yes, sir.

Q And you worked there until what hour? A Five.

Q From eleven to five? A Yes, sir.

Q Were those your regular hours? A They were. Then I asked for longer hours.

Q Then you asked for longer hours? A Yes, sir. From eleven until four it was.

Q Eleven to four? A Yes, sir.

Q Then you asked for longer hours? A Yes, sir.

Q You wanted longer hours? A Yes, sir.

Q Did your sister work there with you? A She did.

Q Well, did you get longer hours? A I did:

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Q Now, give us those other hours? A From eight to five.

Q Eight in the morning until five at night? A Yes, sir.

Q At that time you were living on West 23rd street in the same furnished room and it was occupied by you and your mother when you brought your sister on here? A Yes, sir.

Q Did you ever receive any boys up there? A No, - have I seen any boys up there?

Q Yes, up at 23rd street? A No, sir.

Q Did you ever see the sailor boy there? A George McCoy?

Q Yes? A Yes, I met him. That night I was to meet him in West 24th street.

Q No, I mean before this night, before that night? A Did he ever come before this night?

Q Yes? A Yes, sir, he brought me home.

Q He brought you home? A Yes, sir.

Q Now, you left Child's restaurant, you say, a little after five on the 14th of June? A Yes, sir.

Q Who went with you? A I came home myself.

Q Where was your sister? A She was not working that day.

Q She was not working that day? A She got another place.

Q She quit Child's restaurant? A Yes, sir.

Q When did she quit Child's? A She worked for about three weeks and then she stopped and she got another place right near my mother's home because she wanted to be near the baby.

Q Oh, your sister had a baby? A Yes, sir.

Q Where was her husband? A He went away.

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Q Well, then both of you came on to New York looking for a job, is that right? A No, sir.

Q That is after she got out of the Misericordia Hospital-- well, I withdraw the question.

Q Your mother brought your sister on to New York to be delivered of the baby at the Misericordia Hospital, is that it? A No, sir.

Q Where was the baby born? A My mother did not fetch her at all.

Q Well, she came on herself? A No, I came with her on the 14th of March and we went to Father McGanley's up in the Bronx and Father McGanley told us he could get her a place at the Misericordia Hospital.

Q I understand, and that was to deliver a baby? A Yes, sir, to have a child.

Q To have the child? A Yes, sir.

Q And after the child was born, or when was the child born? A I don't know.

Q Was it born between the 14th of March and the next time that you came on here? A No, sir, it was born sometime in April.

Q Well, while you were working at Sasso's? A Yes, sir.

Q After the baby was born you left Sasso's, is that not a fact, to go home with your sister and the baby? A No, I went home myself because my father wrote a letter.

Q Well, had your sister already gone home? A No, sir, she was there yet.

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Q But while you were home your sister came home with the baby? A No, she didn't come home at all.

Q Well, what became of the baby? A She had it.

Q She had it here in New York? A Yes, sir.

Q At the time she and you were living on 23rd street she had the baby with her? A No, she had the baby in the Misericordia Hospital.

Q Yes? A And when I left the Sasso's I went home and she wrote a letter and told my mother that she is all right now, that my mother should come down and take her home.

Q Yes? A So my mother and I came down and we went to the Misericordia Hospital to get my sister, and my mother paid her bill, her confinement bill, and we were going to take the train that night home and we missed it. So we had to get a furnished room.

Q You were going home on the night of the 23rd of May? Now, do not let me confuse you. If you do not understand me, please ask me to repeat. You say you got here on the 23rd of May with your mother to take your sister home? A Yes, sir.

Q And you missed the train? A Yes, sir.

Q And you had to take a furnished room? A Yes, sir.

Q That is right? Now, when did the baby go home? A We couldn't go home, we didn't go home. Ain't we here yet?

Q You have been here since that time? A Yes, sir.

Q Well, why didn't you go home next day when you missed the train the night before? A Then we saw the paper, we got a

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paper that night and we saw in the paper that we could get good work, so we asked my mother and she said all right, for a couple of weeks.

Q She let the two of you stay here for a couple of weeks?

A And her too..

Q Was your mother looking for work too? A No, she stayed in the room with the baby.

Q The father of the baby you say you do not know where he is? A No, sir. They were married about a year ago.

Q Was he a sailor or soldier? A No, he was not neither.

Q Did he belong up at Pennsylvania? A Yes, sir.

Q In the same town? A Yes, sir.

Q Why wasn't the baby confined in Pennsylvania?

MR. MARKEWICH: I object to that as wholly immaterial and no relevancy to the issue at all.

THE COURT: Objection sustained.

Q The baby, yourself, your sister and your mother are still here in New York? A Yes, sir.

Q Now, see if I am right, and if I am wrong, tell me: You came here the 14th of March?

THE COURT: Now, we will not go all over that again. You have been over it three times and it is perfectly clear.

MR. SIMPSON: It is very important. Your Honor says it is perfectly clear and I will accept your Honor's statement on that.

THE COURT: It is perfectly clear, down to the time she came here to New York. If you want anything more after

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that you can ask it.

MR. SIMPSON: All right, your Honor.

Q When did you go to work for the Telephone Company? A I don't remember when I worked there.

Q Why don't you remember? A I don't remember, that's all.

BY THE COURT:

Q Well, was it the first time you were here or the second time you were here? A The first time.

BY MR. SIMPSON:

Q Sure about that? A Yes, sir.

Q The first time you were here, and the first time you were here you say was March 14th? A Yes, sir.

Q How long did you work for the Telephone Company? A (No answer).

BY MR. MARKEWICH:

Q How long did you work for the Telephone Company?

A Just about three days, two or three days I worked with them.

BY MR. SIMPSON:

Q Well, coming down to the 14th of June, what time did you get to the corner of 24th street and Tenth avenue or Eleventh avenue? A After eight o'clock.

Q Let us fix the time, it is very important. Was it after nine o'clock? A It was after eight o'clock.

Q How long after eight o'clock? A It was about half past.

Q About half past? A Yes, sir.

Q Are you sure about that? A Yes, sir.

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Q How do you know it was half past eight? A Because I know the time I left the house. It was twenty minutes after when I left the house and I waited there for about ten or fifteen minutes, so it must have been half past eight.

Q Well, when was it that you saw this defendant, what time was it then? A I don't remember. It was about twenty minutes after eleven, or eleven o'clock.

Q After eleven o'clock? A After eleven o'clock.

Q When you say he did the thing that you said he did, it was after eleven? A No. He done it before.

Q Now, what time was it, before? A Well, that I don't know.

BY THE COURT:

Q Do you know what time it was when you got to the station house? A (No answer).

BY MR. SIMPSON:

Q You do not know what time you got to the station house, do you? A No, sir.

Q And you don't know what time this defendant was brought into the station house? A They were brought in the same time I was brought in.

Q This defendant was brought in with you? A Yes, sir.

Q Were you ever a waitress? A A waitress?

Q Yes? A No, sir.

Q Sure about that, sure you never were a waitress? A No I was not a waitress.

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

Q Now, I want you to look at this boy. Had you ever seen him before that night, as you described, in your life? A No, sir.

Q Had you ever known him by name or otherwise? A No, sir.

Q And how long a time was this defendant in your presence?  
A About half an hour.

Q Did this defendant do anything to you by way of assaulting you or beating you? A No, sir. He tried to stop some of the other boys.

Q He tried to stop some of the other boys? A Yes, sir.

Q From doing what? A From having intercourse. Then when they hit me he told them to stop, that that was enough.

Q That was the last batch of the three batches that you say you had trouble with, is that right, the last ones? Well, now, tell me, tell the Court and jury, was the place upon which you were situated at that time, the lighter, was there any light about the place by which you could discern faces? A Yes, sir, there was a big light come up in the corner like, from, I don't know where it came from but it came from the corner and shone right down on me.

Q The light was thrown right down on you? A Yes, sir.

Q And you remembered all these faces? A I do, I know every one.

Q Every one, and when the officer brought them into the station house he said; "Is this one?" And you said, "That is

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one?" A Sure, I know the ones that were with me.

Q Did you say that any one that was brought in there - I withdraw the question.

Q Now, any of the young men that were brought into the station house, and all of the young men that were brought in, you said they had something to do with you, is that right? A I don't understand what you mean?

Q Well, I will withdraw that question. Every person brought in by the police officer, that was brought before you, you said "That is one of them?" A Not every one.

Q Not every one? A No, sir.

Q You said that Greenhalgh, the defendant, was brought in at the same time you were brought into the station house? A Yes, sir.

Q And you don't know what time of day or night that was? A No, sir.

Q Well, I do not understand when you say you were both brought in. Where had you come from? A From the dock.

Q From the dock to the station house, is that right? A Yes, sir.

Q And when you were being brought in, Greenhalgh was being brought in, is that right? A They came right in the same automobile as I came in.

Q This defendant came in at the same time? A Yes, sir.

Q You saw him in the custody of the policeman, is that right? A I did.

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Q How many more were with Greenhalgh when he was arrested?

A Four more.

Q Four more boys? A Yes, sir.

Q Sure of that? A Yes, sir.

Q Cannot be mistaken as to that? A No, sir.

Q Now, let's see, this defendant with three or four others were brought down to the pier where you were, isn't that a fact? A Yes, sir.

Q They were in a patrol wagon, weren't they? A Yes, sir.

Q You were asked there whether Glenn and Greenhalgh were the men and you said "No," at first, isn't that a fact? A No, I said "Yes," the first time.

Q As to this defendant and Glenn? A The man said "Pick out the men that were with you," and I did and I picked him out and I picked out Greenhalgh and I picked out the other ones too.

Q You picked out Greenhalgh? A Yes, sir.

Q And who is Greenhalgh? A I don't know. Another boy that was with them too.

Q Well, isn't it a fact, I will put it to you again, that the detectives came there, or the police officers came to the pier where you were with a wagon load of men, four or five in a patrol wagon? A Yes.

Q And took them out of the wagon, isn't that so? A Took them men out of the wagon?

Q Yes? A No, sir. The patrol wagon stopped about a block away and the policemen, they were not all dressed in blue uniforms.

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Q They were not all dressed in blue uniforms, some were detectives and some policemen in uniform? A Yes, and they brought them in from across the street.

Q Where were you then? A Right out in front of the dock house.

Q When they brought them over? A They lined them up.

Q Lined how many up? A About eight. They put three other men in.

Q How did you know they put three other men in? A Because I know, I saw the other men put in.

Q You saw the other men put in? A No, I didn't, but I know that those men were not with me, and they put them with the five men, and I just picked out the five that were with me.

Q You are sure there were three men lined up with the five others? A Three different men were lined up.

Q That made eight? A Yes, sir.

Q Now, you cannot be mistaken about that? A Well, I just can't say whether it was three or two, I am not sure.

Q There were more than five? A Yes, more than five.

Q Sure about that? A Yes, sir.

Q Weren't you in the dock when the officer brought up these five men, including this defendant? A I just was coming out the door.

Q When they brought up the five men, five of them? A Yes, sir, five.

Q And the officer said to you, pointing to this defendant,

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"Is he one of them?" And you said, "No," and the officer then had a talk with you and then you said, or this officer then again said, "Are you sure?" And you said, "Well, yes, he is one of them." A I didn't say "No," the first time. I said, "Yes." The policeman asked me was he the man, and I said, "Yes," in the beginning, and I still kept my word, yes, because he is the boy that was with me. I am not blind. I know who was with me.

Q How many times have you seen this boy altogether after you caused his arrest? A I saw him that night in the station house. They lined them up again.

Q Yes? A First at the dock house, then at the station house, then down in Jefferson Market I saw him.

Q And here to-day? A And here to-day.

Q Well, how many days have you seen him while coming here as a witness? A About two days.

Q How many times have you been down in this court room?  
A I don't know.

Q Was it more than four or five times? A I don't know how many times I was down here.

Q You don't know how many times you were down here?  
A No, sir.

Q And all those times you were down here you saw Greenhalgh?  
A I know as often as I come down here I saw him.

Q Sure? A Standing outside.

Q But prior to that night you never saw him in your life,

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to your knowledge? A I never saw him until that night that he interfered with me.

Q Well, you said on your cross-examination or on your direct examination that you stood on the corner of 24th street and Tenth avenue? A Yes, sir.

Q Waiting for an appointment? A Yes, sir.

Q That is right? A Yes, sir.

Q There were three boys sitting on the curb? A Yes, sir.

Q One boy said something to you, is that right? A Yes, sir.

Q Was that boy this defendant? A No, sir.

Q Was he among those three? A No, sir.

Q Well, when that boy said something to you, did he insult you? A No, he just asked me them two questions.

Q He just asked you a few questions? A Two.

Q Two, and that was what? A Could I shimmy and could he go along down to the water with me.

Q Well, did you know what shimmy meant? A I did.

Q Did you ever shimmy? A No, sir.

Q And you refused to go down to the water-front with him, did you? A I did. I says that I knew the road myself. He didn't go then.

Q Well, why did you go down to the water-front? A I wanted to see the ships.

Q Well, you had a date with a sailor? A Well, he didn't come.

Q Well, he might have been a few minutes late? A No. He

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told me if he was not there at eight o'clock the ship would go up the river.

Q The ship would go up the river? A Yes, sir.

Q Where was his ship that went up to the river? A A tug-boat.

Q A tug boat? A Yes, sir.

Q Why, he was a Naval sailor, wasn't he? A Yes, sir.

Q And a tug boat would go up the river? A Yes, sir.

Q Was it tied up to 24th street dock? A I don't know.

Q Is it an open dock there? A I don't know.

Q I say, is the dock open? A Where he is at?

Q Where you were walking to the water-front? A Yes, down there it is, Pier 65.

Q A big dock, lots of people come there, don't they? A I don't know.

Q Were you the only one on the dock? A I was the only one that was walking there.

Q Why didn't you go home? A Well, it was early and I wanted to take a walk.

Q Well, you think walking on the dock at that hour of night was nice on your part? A Well, I didn't know.

Q Had you ever walked on that dock before? A Right to the Park, there is a park there.

Q There is a park there? A Yes, sir.

Q On the dock? A No, right across the street.

Q Well, then, why didn't you go over to the park? A Well,

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I wanted to see the water. I wanted to see the ships.

Q Isn't it a fact that you invited some of those boys to go with you? A No.

Q And that you were sore on this sailor for disappointing you? A No.

Q Well, you have said that a hand was put over your mouth and something was put on your nose and then you were unconscious, is that right? A No.

Q Were you ever unconscious, that night? A I don't remember.

Q You were not unconscious at all? A I don't remember. I know I was after coming to --

Q Well, after coming to, what was the first thing you knew or noticed? A All these men standing around me.

Q Standing around you? A Yes, sir.

Q Then why didn't you let out a scream? A Why didn't I?

Q Yes? A I couldn't -- I was scared so much I couldn't open my mouth. The men were all standing around with all their pants open.

Q Men were standing all around you with their pants open, and you couldn't scream? A I couldn't say a word.

Q That is the best answer you can give? A I couldn't say a word.

Q Well, now, when those men were standing around you, was this defendant there? A No.

Q So he had nothing to do with you in the beginning? A No.

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Q Well, when those men were standing around, or while they were standing around you, you did not scream one word?

A I did not, I couldn't say nothing.

Q You could not say anything? A Because when he choked me I couldn't open my mouth.

Q Let me see. When he choked you you couldn't open your mouth? A I couldn't open my mouth.

Q Meaning who choked you? A One of the boys that grabbed me.

Q One of the boys choked you? A Yes, sir.

Q But when you came to you have told the Court and jury that the men were standing around, and you were so scared you couldn't scream? A I couldn't. My throat was sore.

Q Your throat was sore, and that is why you could not even holler? A When the sailor first did it I hollered and there was a man at a window standing right across the way, I hollered and I waved my hand and he never came.

Q A man in a window? A Man standing at the window drinking water.

Q Where, in a house? A In the dock house.

Q In the dock house? A Yes, sir.

Q And you saw that man? A I saw that man.

Q Well, was that the man that you saw afterward? A Yes, sir, that's the man that gave me the water.

Q That is the man that gave you the water? Well, now, you have told the Court that a number of men had done various

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things to you - you had an opportunity to scream while the first bunch went away and the second bunch came on? A No. In the first crowd there were eight and there were three of them held me while the other five had intercourse.

Q Well, now, they <sup>all</sup> had ~~all~~ their intercourse? A Yes.

Q Then they went away? A And the three stayed there.

Q And the three stayed and they had their hands over your mouth? A They did.

Q And there came how many more? A Then after them five had went out of the eight, there were three stayed.

Q Yes? A And when the five <sup>that</sup> had intercourse went there was five more came.

Q Five more came? Now, when the five more came you had not screamed then either? A I did.

Q You kept screaming? A I hollered as loud as I could.

Q They did not hold your mouth, did they? A They did. They said, "If you don't shut up we will throw you overboard."

Q Who said that? A One of the boys.

Q Was it Greenhalgh? A No, sir.

Q Was he there? A No, sir.

Q After the other five had relations with you or connections with you, as you say, they beat you up and kicked you and you were not unconscious, you knew everything that was going on? A No. They all didn't kick me and beat me. Some of them did, slapped me in the mouth, that's what they did, and punched me, but Garrity - the last crowd that came with him, the last crowd

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when he was there, that's the one that beat me and kicked me. Jordan and Garrity did not have intercourse with me.

Q They did not have any intercourse with you but they beat you up, you say? A Not Jordan, Garrity did.

Q That was after you say these men had intercourse with you? A Yes.

Q And then after you got off the lighter, you went where? A I ran off, and when I ran I fell, I started, and when I went to run I tripped.

Q Now, can you tell the Court and jury about how far from the street proper to the end of that dock, about how far a distance it is? A I don't know.

Q Was it a lock dock, a pretty long dock, wasn't it? A I don't know.

Q Well, was it as long as from the block to Ninth to Tenth avenue? A No. It was just like a box.

Q Just like a block? A Just like a box.

Q Just like a box? A Shaped like a box.

Q And the dock was covered? A No, the lighter. They send things from one side of the river to the other on them.

Q I know, I am not speaking of the lighter. I am speaking of the dock itself. How long was that dock, do you understand me? A The house?

Q No, the dock? You say you walked on a dock to the river front?

MR. MARKEWICH: The pier, call it.

Q All right, the pier, how long was that pier? A It is

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like a pavement, and then right there there is logs, so nobody can go any further. Well, there is where I stood.

Q But can you tell the Court and these jurymen how long approximately that dock is? A I couldn't tell you.

Q You walked on the dock quite a distance before you got to the end of the dock or pier, do you understand me? A I don't understand me.

BY THE COURT:

Q Was there room for more than one boat to be moored alongside the dock, one in front of the other or only room for one boat, if you remember? Was there any other boat in front or behind this lighter? A No, nothing, just the water.

Q Just the one boat there? A That is all.

Q Would there have been room for any boat, was the dock long enough to have two boats alongside or in front of each other?

MR. SIMPSON: Well, I will take the fourth jurymen's statement. He knows that dock there.

THE FOURTH JUROR: I understand she was not on the dock, she was on the street, she was not on the dock at all.

Q I understood you to say you went down on the dock, to the very end of the dock? A Yes, the stones are here, then them logs are there, and the water is out there (Indicating).

Q Where you went, were you out in the river with water on both sides of you? A No, I was down where the trolley cars and automobiles and everything passed.

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BY MR. SIMPSON:

Q Oh, that is where you were? A Yes.

Q Then you were on the street? A Yes.

BY THE COURT:

Q Well, where the dock begins, but not where it ends, is that it? A Yes, sir.

BY MR. SIMPSON:

Q The trolley cars run up and down Eleventh avenue?

A Yes, sir.

Q And automobiles run up and down Eleventh avenue, is that right? A Yes, sir.

Q And Eleventh avenue runs just like my face is now pointing, north and south?

MR. MARKEWICH: I do not think we have Eleventh avenue there.

Q Well, it is the last street to the water-front? A Yes, sir.

Q There is a stringpiece or logs? A Yes, sir.

Q So that you cannot tumble into the water or back up into the water, is that right? A Yes, sir.

Q And that is where you were standing, is it? A Yes, sir.

Q On the street? A Yes, sir.

Q Where the cobblestones and everything are, is that right?

A Yes, sir.

Q You did not go on a dock? A No, sir.

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Q Alongside of that you say was this lighter? A Yes, sir, a big rope had it held there.

Q A rope was holding it from floating away? A Yes, sir.

Q And you stepped from the street onto the log, and from the log onto the lighter, is that it? A No, sir.

Q Well, how could you get onto the lighter? A When I stood there I was ready to turn when these men grabbed me.

Q You were right almost overlooking the water, is that right? A Yes, I was right to the water, right out to the water.

BY THE COURT:

Q How far were you from this lighter? A I was like this block, and then the lighter was the next (Illustrating).

Q How far away? A Just about a block or maybe not a block yet.

BY MR. SIMPSON:

Q Well, they carried you a block? A I don't know whether I had been carried or whether I was taken there in some kind of wagon. I know I was pulled like, that's all I remember, until I woke up and found myself on this lighter.

Q I do not know whether I asked this question: The last batch you say of which this defendant was one, consisted of how many? A I don't know. A whole lot.

Q A whole lot? A Old men too.

Q Well, was anybody holding you when this defendant had intercourse with you? A Yes.

Q Who was holding you? A I don't know the one.

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Q Is he any one of these defendants? A No.

Q Any one of the people you have identified? A No.

Q Well, would you say to this Court and jury that Greenhalgh asked the others to let you alone and not mistreat you?

A He did.

Q And did you not in the station house in the presence -  
Question withdrawn.

Q Were you in the station house when the doctor came?

A Yes.

Q Was the defendant in the station house when the doctor came? A Well, they were taken to another room. They were there because they came in when I come in, and the doctor was there, and in fifteen minutes he came in.

Q Did you hear the defendant say to the police officers, "Let the doctors examine me and see whether I had anything to do with her?" A No.

Q, You did not hear that? A No, sir.

Q Did the defendant in your presence and hearing admit that he saw you or had anything to do with you? A No, sir.

Q And is it not a fact that the defendant stated in your presence and hearing that he was not there and that he had nothing to do with you, and that he asked to be examined as to his private parts to prove that he had not anything to do with you? A He said, when they asked him was he there with me, he said "No."

Q Yes, that is all.

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RE-DIRECT EXAMINATION BY MR. MARKEWICH:

Q Now, after the defendant Greenhalgh asked the other man to leave you alone, then did he have intercourse with you himself? A Him, yes.

Q That is all.

WAEELSTEIN TOMPKINS, M.D., called as a witness on behalf of the People, testified as follows:

(Residence: 158 East 37th street).

DIRECT EXAMINATION BY MR. MARKEWICH:

Q Doctor, you are a physician and surgeon admitted to practice in this State? A I am.

Q Are you the physician at the Florence Crittenton Home? A I am.

Q On or about the 14th day of June of this year did you examine Miss Flynn, the prosecutrix in this case? A I did, on the 15th day of June.

Q On the 15th day of June? A Yes.

Q Where did you see her? A At the Home of the Crittenton League, 427 West 21st street.

Q Did you make an examination of her? A I did.

Q Can you tell the gentlemen of the jury just what you found? A Yes, I found her lying on a bed in a half fainting condition. She had to be assisted to be able to stand up. She was bruised about her face, about her mouth, her lips were swollen and red. She had a scratch of a fingernail across her chest. She was torn and bleeding about the vulva. The hymen was lacer-

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ated and bleeding. Her thighs, both thighs were bruised and her left breast was badly swollen, and her neck was swollen where she had been strangled.

MR. SIMPSON: I ask to strike out the conclusion of the witness.

BY THE COURT:

Q Just describe her appearance? A Her neck was swollen and the throat inside was so swollen that she was hardly able to speak.

BY MR. MARKEWICH:

Q Have you been treating her since then, Doctor? A Yes.

Q Can you state in what condition her throat is now? A At present it is externally swollen. Her thyroid gland - she has had had quite a goitre ever since the affair.

MR. SIMPSON: I move to strike that out. Pardon me, your Honor, this is a conclusion on the part of the witness.

THE COURT: What do you say is a conclusion?

MR. SIMPSON: The witness says ever since the affair she has had goitre.

BY THE COURT:

Q Well, ever since that day? A Since that day, her thyroid gland has been swollen. The inside of her throat at present is comparatively or practically well.

Q Now, Doctor, you say as to the private parts, you see these gentlemen are laymen and you must explain to them. You

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said about the vulva, what was that? A That is what we call the external genital part.

Q What was its condition? A It was swollen and bruised and red and blood was flowing from the tears in the hymen.

Q And the hymen was completely lacerated, you say? A Completely lacerated, in many places.

MR. MARKEWICH: That is all, Doctor, thank you.

CROSS-EXAMINATION BY MR. SIMPSON:

Q Well, was she fully developed for sexual intercourse?

A Was she fully developed?

Q Yes? A She was small or she would not have been so badly torn. She is just of the average development.

Q Of your own knowledge and your own information, without any which had been imparted to you by reason of this unfortunate affair, can you tell his Honor and these gentlemen of the jury whether she had previously been chaste? A I looked particularly for any old healed tears, and I found none.

Q I did not ask you that question?

MR. SIMPSON: I ask to strike out the answer as not responsive.

THE COURT: I will allow the answer to stand.

BY THE COURT:

Q You mean the tears of the hymen? A Of the hymen - would the hymen show any previous attack or intercourse?

MR. SIMPSON: Your Honor will grant me an exception to your Honor's allowing the answer to stand, it not being responsive?

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Q Now, the question is, did that lead you to any conclusion as to whether previous to that night she had ever had intercourse? A I would say that she had never had intercourse before that night or the previous day.

BY MR. SIMPSON:

Q You would so state? A I would so state. The only evidence would have been old healed tears, and I looked for them and found none.

Q And you stand upon that answer now to the question, that from that examination on the 15th day of June, you as a physician will say to this Court and jury that the girl prior to that date was chaste? A So far as any evidence I could find

Q As a medical woman you say that you could find no evidence? Would you say she had been previously chaste? A I would say that she had been previously chaste.

Q That you would say from your examination? A I would say from any evidence I could find.

Q Well, that is all.

RE-DIRECT EXAMINATION BY MR. MARKEWICH:

Q How long have you been a physician? A I have been a physician for twenty-two years and for thirteen years I had charge of the clinic in this specialty at the New York Hospital.

Q Thank you, that is all, Doctor.

GEORGE MC COY, called and duly sworn as a witness on behalf of the People, testified as follows:

(Address: Brooklyn Navy Yard).

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## DIRECT EXAMINATION BY MR. MARKEWICH:

Q McCoy, how long are you connected with the United States Navy? A Eight years.

Q Are you acquainted with Miss Flynn, this girl (Indicating)? A I was.

Q Did you have an appointment to meet her on the night of the 14th of June, 1930?

MR. SIMPSON: I object to that, stating dates on the part of the District Attorney, as leading.

THE COURT: Well, do not lead him. Ask him if he can recall.

THE WITNESS: Why, I could not recall whether it was the 14th or 15th.

Q Yes? A I believe though, it was the 14th.

Q You believe it was on the 14th? A Yes, sir.

Q Where were you supposed to meet her? A Eleventh avenue and 24th street, the nearest I recall.

BY THE COURT:

Q Do you remember what day of the week you were to meet her? A The 14th or 15th, I believe it was the 15th.

Q Do you remember what day of the week? A Monday, I believe.

BY MR. MARKEWICH:

Q What time of day or night were you supposed to meet her? A Between eight and eight-thirty.

Q Did you meet her that night? A No, sir.

Q That is all, McCoy.

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## CROSS-EXAMINATION BY MR. SIMPSON:

Q How long do you know this girl? A About three months.

Q When did you first meet her and where? A About three months ago, about four months ago, in Brooklyn.

Q Do you know when it was, the first time you met her, what month? A No, sir, I don't.

Q Well, now, we have the second or the third of August now. This unfortunate affair came off on the 14th of June. How long prior to the 14th of June was it that you became acquainted with her? A About April, the nearest I can recall.

Q About April, as near as you can recall? Do you know under what circumstances? A That I met her?

Q Yes? A Why, the girl was lost in Brooklyn, and I carried her over home, 23rd street.

Q You took her over home? A Yes, sir.

Q To where? A 23rd street.

Q 23rd street near where? A To her home address. I believe it was between Ninth and Tenth avenues.

Q After that time had you visited there? A Not her home but I have seen her afterwards.

Q You saw her afterward? A Afterwards.

Q Did you write her or did she write you? A Yes, sir.

Q There was correspondence between you? A Yes, sir.

Q You knew where she lived outside of New York? A Out of New York?

Q Yes? A No, sir.

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Q Did you know she lived in Pennsylvania? A Oh, I knew that she had formerly lived in Pennsylvania.

Q Formerly lived there? A But I understood she had moved here.

Q You understood she had moved here? A Yes, sir.

Q At any time during your acquaintanceship with her do you recall her going home or going away from New York? A No, sir.

Q Not during all that time? A No, sir.

Q How often did you see her after your first acquaintance with her, weekly or monthly? A Well, just whenever I got the opportunity, I was engineer on a tug boat, and we are only here one or two days a week and I seen her, well, say on an average of once a week.

Q About once a week? A Yes, sir, about an average.

Q From the time you first became acquainted with her down to the time of this happening? A Yes, sir.

Q Now, your appointment, you say, was for Eleventh avenue and 34th street? A The nearest I can recall, I don't know the avenues, but I told her at the place I had seen her before. I believe it to be Eleventh avenue.

Q Where was the place you had seen her before? A That's what I am saying now.

Q Yes? A I believe it was Eleventh avenue, and 34th street..

Q Right along this stringpiece, was it, where the cars

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come down, going north and south? A I don't know the latitude right there. Down a block from the ferry house.

Q A block from the ferry house? A Yes, sir.

Q And that is the 23rd StreetbFerry? A Yes, but this was over on 24th street.

Q This was at 24th street? A Yes, sir.

Q On the same line with the ferry? A No, sir, one block over from the ferry.

Q That would be east? A 24th street.

Q East of the ferry? A I don't know the latitude of it.

Q Don't you know the latitude? A I don't know which way that would be.

Q The avenues run north and south in this city? A Well, I know the lettered street was 24th street.

THE COURT: 24th street, one block from the ferry house. Now, that is plain enough.

MR. SIMPSON: Well, one block from the ferry house on 23rd street.

THE COURT: Well, he means a block across down from the ferry house.

THE WITNESS: Here would be the ferry house here, 23rd street coming down, say from Seventh avenue (Illustrating).

Q Yes? A Well, one block from here to the right as you go from the water-front.

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Q You know how to go from Seventh avenue? A Yes, sir.

Q And it would be one block before you hit the ferry, is that right? A One block before you hit the ferry, then to the right one block.

Q Yes, that would be 34th street and Tenth avenue? A Perhaps. I don't know the avenues.

Q It was not near the water-front that you met, was it?

A Well, it was one block from her house.

Q At any time you met her, or on that particular night, was the appointment at the foot of 34th street? A Right around there somewhere.

Q Right at the foot of 34th street? A Right around there somewhere. I knew the place but not the street.

Q You knew her sister, did you? A No, sir.

Q Never met her sister? A Never.

Q Did you ever meet her mother? A Never.

Q That is all, or one more question: Do you know, or did you keep the appointment that night? A I was there but I couldn't wait. I stayed about fifteen minutes.

Q What time was that, about? A I left sometime around about eight-thirty.

Q And you did not see her then there, A I didn't see her. It may have been sooner or later, but that's the nearest I can come to it.

PATRICK M O K E O N, called and duly sworn as a witness on behalf of the People, testified as follows:

(Residence: 343 West 58th street).

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## DIRECT EXAMINATION BY MR. MARKEWICH:

Q Mr. McKeon, are you employed on the Chelsea Docks, or what docks are you employed on? A I am supposed to be roundsman for three docks, two in New York and one in Hoboken.

Q For what concern? A For the Panama Steamship Company, your Honor.

BY MR. MARKEWICH:

Q Now, on the night of the 14th of June, 1920, do you recall having seen this girl?

MR. MARKEWICH: (Calling) Miss Flynn!

MR. SIMPSON: It is conceded upon the record that he saw the girl.

THE COURT: All right, then, go on.

Q Well, what time of night was it, do you recall? A Between half past nine and ten o'clock, I think, as near as I could get to it.

Q Is this the girl (Indicating the first witness)? A Yes, sir.

Q Will you be good enough to tell the jury in what condition you found that girl?

BY THE COURT:

Q Well, where was she, in the first place, what dock was it? A It was Pier 45, North River.

Q Where is that? A Pier 65, I mean.

Q Pier 65, where is that? A At the foot of 25th street your Honor, I think.

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BY MR. MARKEWICH:

Q Go on? A I just came from Hoboken and made my rounds on Pier 65 and went up in the office a few minutes to make my report up there and was on my way to 67th when this young lady came to me and said, "For God's sake, save me." I said, "What's the matter, little girl?" And she said, "A lot of boys are following me."

MR. SIMPSON: I object to this as incompetent, immaterial and irrelevant.

THE COURT: Yes, objection sustained. Strike it out.

BY THE COURT:

Q Do not say what she said. Where were you when she came to you, on the dock or on the street or where? A I was on the street, I just left the dock.

Q From which direction did she come? A She came like -- she was coming from the south.

Q Can you tell whether she came from that same dock that you were on or from another dock, or where? A She couldn't come from the dock I was on, your Honor.

Q She came from the south? Now, all right, now tell us what you saw about her? A So I told the gateman - the gateman came to the gate after me - I told him to let her in, and he let her in. I walked in after her and she asked could she get a drink of water and wash her hands, or something like that. I said "Certainly," and I said, "Where do you live?" And she said "23rd street." Well, she washed her hands and had a drink

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of water and she came out and she stood there for a little while.

Q Well, now, what you were asked was to tell the jury what you saw about her, what her condition was, about her clothes, her face, her hair or anything you noticed about her? A Well, I tell you, your Honor, I couldn't see anything the matter with the girl. She looked to me all right. I didn't examine her very closely, I didn't think anything of it.

BY MR. MARKEWICH:

Q Did you notice the condition of her hair? A She had her hat in her hand.

Q Did you notice the condition of her face? A It didn't look bad, sir.

Q What? A It did not look anything bad to me.

Q It did not look bad to you? A No, sir.

Q Did you see the condition of her clothes? A They were all right.

Q Did you see the condition of her dress? A I didn't notice anything on it.

Q After she came out of the dock-house what did she do? A She said she lost a pin.

Q Yes? A And she came out to find out and she came back to the dock again and said she found it.

BY THE COURT:

Q Where did she go to find the pin? A On the lighter.

Q Where was this lighter? A Well, it was between Pier 65 and the Anchor Line Pier. The lighter did not belong to the

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Panama Company, so I didn't take any notice of it. If it was a Panama lighter it would be my duty to go aboard it.

Q Which dock was it moored at? A It was nearer to the Panama.

Q It was not against either dock? A No, sir.

Q How did you get aboard of her? A I didn't go aboard of her.

Q Well, how did anybody get aboard her? A Step right off the street onto it. It was one of these flat lighters. It was not between - it lay alongside with the head of it towards the Panama and the end of it towards the Anchor Line.

Q I see, and the side of it up against the street? A The street, what we call the "Farp."

BY MR. MARKEWICH:

Q The lighter was tied right there? A It was with the long way towards the street.

Q What happened after the girl came back with the pin from the lighter? A The police came and she came out on the dock and the police came. That's all I know about it.

Q Do you know who sent for the police? A Well, I ain't exactly sure whether it was I or the gateman. There was only the two of us there. It may be me. I wouldn't say it was not.

Q Well, you say you did not see anything the matter with the girl? A I certainly did not, sir.

Q What did you send for the police for, or why did you send for the police? A Sir?

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Q Why did you send for the police? A Because she did not want to stay there. I told her if she waited until twelve o'clock, that there were three of us that went to the elevated station and when we were relieved we could take her over to where she lived, and she was fretting and she said she didn't want to wait until twelve o'clock. So she was on my hands and I had to go on my rounds and I didn't know what to do and we called up the police station to send an officer to take her home, and instead of that the patrol wagon came.

Q Did you see any men around there? A Not one, sir.

Q All right, that is all.

CROSS-EXAMINATION BY MR. SIMPSON:

Q One moment, Mr. McKeon, just a few questions. You see, I am defending this man and this gentleman is here for the District Attorney and I have a right to ask questions the same as he has? A Yes, sir.

MR. MARKEWICH: He does not need that explanation,

Mr. Simpson.

Q Did the girl when she first approached you tell you that she had been assaulted and beaten up? A No, sir.

Q And did she say, "For God's sake, help me," did she?

A No, sir.

Q Did she ever use any such terms or words to you? A I beg your pardon?

Q Did she use any words like that? A No, sir.

BY THE COURT:

Q Well, did you not tell the jury that her first words to

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you were, "For God's sake, save me?" A Yes, your Honor.

Q Then why did you say she did not use such words? A I couldn't get rightly what he said, your Honor.

Q Well, then, do not answer unless you hear the question and know what you are saying.

BY MR. SIMPSON:

Q Have you ever met me or seen me or spoken with me in your lifetime? A No, sir.

Q You said to the Court and to the jury that this girl as she approached you, you said you saw nothing about her that indicated any struggle or anything of that kind, is that right?

A That is right, sir.

Q Did she speak to you rationally? Do you know what "rationally" means? A I do, sir, I understand. She spoke rationally to me.

Q When she asked you to go back to get her pin or something that she had lost on the lighter, did she up to that time say she had been assaulted or beaten up by anybody? A No, sir.

BY THE COURT:

Q Well, what were you going to save her from? A I asked her what happened and she said, "They picked up my clothes," and that's all she did say to me, your Honor. She said, "They picked up my clothes," so I got the notion myself that there was something wrong, and I didn't ask any more questions.

Q Did a crowd hang around that place? A There is always a crowd of some kind around there, your Honor.

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Q Are you afraid of that crowd? A Not a bit, sir. I am around there now two years and I don't know one in it.

By MR. SIMPSON:

Q There is a park around there, isn't there? A No, sir.

Q But it was you that called the police, however, as far as you can recall? A Yes, sir.

Q And that you did not want her around there at any rate, unless she would wait until twelve o'clock? A Yes.

Q That is all, Mr. McKeon.

MR. MARKEWICH: Does your Honor want me to call some more witnesses, or will you declare a recess now? It is almost one o'clock?

THE COURT: Yes, there is no use in calling any more now.

Gentlemen of the Jury, the law requires that every time a criminal case is adjourned, the Judge should request the jury not to form or express any opinion about the guilt or innocence of the defendant until the case is finally submitted to the jury. That is to say, to keep your judgment in balance until you hear all the evidence. Do not make up your minds in advance about the case. I must request you not to discuss this case with anybody or allow anybody to discuss it or speak of it in your presence or to you about it.

We will take a recess until to-morrow morning at ten o'clock.

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(The Court thereupon adjourned the further trial of  
the case until WEDNESDAY, AUGUST 4, 1920, at 10:00 o'clock  
A. M.).

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THE PEOPLE v. GREENHALGH.

New York, August 4th, 1920.

- : TRIAL RESUMED : -

M I C H A E L   T A T E, called and duly sworn as a witness on behalf of the People, testified as follows:

(Residence: 410 West 35th street).

DIRECT EXAMINATION BY MR. MARKEWICH:

Q   Mr. Tate, are you a watchman on Pier 65, North River?

A   Yes, sir.

Q   Were you a watchman on that pier on the night of the 14th day of June, 1920?   A   Yes, sir.

Q   Do you remember having seen this girl, Miss Flynn (Indicating) on that dock on that night?   A   Yes, sir, I suppose that was the girl then. I didn't see the girl since.

Q   Well, what time of night did you see her for the first time?   A   Well, it was around after ten o'clock, probably half past ten. I didn't know exactly the time.

Q   What part of the dock did you see her?   A   She was up at the gate, beside the gate up at the front.

Q   You mean right near the street?   A   Yes, sir, or the "Farm", rather.

Q   They call it the "Farm"?   A   Yes, sir.

Q   Can you tell the Gentlemen of the Jury if you had observed the condition of her face, her clothing, and so on?

A   I couldn't tell nothing of the condition of her face, but her hair was hanging down and she come into the door from the farm, and her dress was dark and she had no hat on. Her hair

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was hanging down. That's all I could describe of her appearance, as I was too far away, I was over 200 feet down the dock. All I know, her hair was hanging down and she had no hat.

Q Had you seen any men around there? A No, sir.

Q You had not seen any men? A No, sir.

Q Did you see any taxicab around there? A No, sir.

Q Do you know this defendant, this boy (Indicating)? A No, sir.

Q Do you know McElliogett? A McElliogett, yes, sir.

Q One of the defendants in this case? A Yes, sir.

Q Do you know Garrity? A I know his father, that's all I know. I might know the boy if I seen him.

Q Do you know Jordan? A No, sir, not personally.

Q Well, do you know Baker? A No, sir.

Q Or Glenn? A No, sir.

Q Did you hear any outcry that night? A No, sir, I did not. I heard different noises, but I heard no more of the kind you speak of. There is always noises down there, men hollering on the barges and floats, taking the lines, and things like that, there are all kinds of noises there.

Q All right, that is all.

CROSS-EXAMINATION BY MR. SIMPSON:

Q Did you hear a woman scream? A No, sir, I did not.

Q At any time? A No, sir.

Q What time was it that you got to your dock before you saw that girl with her hair hanging down her back? A I went

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to work at four o'clock in the afternoon.

Q You went to work at four o'clock? A Yes, sir.

Q And were you constantly in and about the dock there?

A Yes, sir.

Q Did you at any time hear a woman screaming? A No, sir.

Q You did not? That is all.

RE-DIRECT EXAMINATION BY MR. MARKEWICH:

Q Do you remember what you told the police officer on the night when the men were arrested?

MR. SIMPSON: Wait a moment, I object to that.

THE COURT: Well, what is your objection?

MR. SIMPSON: I object to any statement, that he told the police officer.

THE COURT: He is not asked for the statement now. He is asked whether he remembers having made a statement. I will allow that.

MR. SIMPSON: The defendant respectfully excepts to any statement.

THE COURT: He is not asked for a statement. He is asked whether or not he made one. That calls for an answer yes or no.

BY THE COURT:

Q Do you remember making any statement to a policeman?

A Well, of what nature was it, I would like to know?

Q Any statement to a policeman? A No, sir, not--

BY MR. MARKEWICH:

Q Did you make any statement about this case? A No, sir,

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not about the case, no, not privately or otherwise. Any statement I made I made in the presence of the officer and that lady officer there and Mr. Driscoll is down in the station house.

Q You mean Mr. Driscoll, Assistant District Attorney at the Second District Magistrate's Court? A Well, the first thing in regard to this case was down at the police station at eleven o'clock that night.

Q Do you remember having told Mr. Driscoll that Jake, another watchman, told you not to say a word about this case?

MR. SIMPSON: I object to that statement. I ask your Honor to tell the jury to disregard the statement of the District Attorney.

THE COURT: Objection sustained. You cannot impeach your own witness. The jury will disregard the question.

MR. SIMPSON: The jurors are told by your Honor to disregard the question of the District Attorney?

THE COURT: That is what I said, yes.

Q You talked to me yesterday, didn't you? A Not the way you speak. My answer was different.

Q Did you say anything to me about Jake yesterday? A I said that he said not to make public talk, but not in reference to the case if I knew anything about it, not to tell anything, but he said not to make public talk around the whole dock.

Q Not to make it public? A Yes, sir. That was natural for any man to say to another man.

MR. SIMPSON: I object to all this, your Honor.

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THE COURT: Yes, you should object and not wait until he says it.

THE WITNESS: Well, I had no chance to make a proper statement.

MR. SIMPSON: Will your Honor admonish this witness now?

THE COURT: Well, what he says is in answer to a question and you did not object.

MR. SIMPSON: I object to it and I ask to strike out anything the witness has said in response to the question of the District Attorney.

THE COURT: I sustain the objection, but the question having been put without objection, I will not strike it out.

MR. SIMPSON: And the defendant respectfully excepts.

MR. MARKEWICH: Well, that is all of this witness.

RE-CROSS EXAMINATION BY MR. SIMPSON:

Q Wait a minute. Did you ever see this boy in your life (Indicating defendant)? A No, sir, not to my knowledge.

Q Did you ever state to any police officer or the District Attorney, that this boy was connected with any such affair as this one? A No, sir.

Q Did you ever tell the District Attorney that? A No, sir.

WILLIAM E. SHAW, called and duly sworn as a witness on behalf of the People, testified as follows:

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(Residence: No. 3 Franklin Terrace, 36th street and Ninth avenue).

DIRECT EXAMINATION BY MR. MARKEWICH:

Q Are you a watchman on Pier 65, North River? A I am.

Q Have you been a watchman at the same place on the night of the 14th of June, 1920? A Yes, sir.

Q You have been a watchman there how long? A Well, on that pier, we generally get sent around to different piers, but I guess I have been on that pier now this last three or four months.

Q You are a watchman how long? A Two years for the company.

Q Did you see Miss Flynn (Indicating) on Pier 65, North River, on the night of June 14, 1920? A Yes, sir.

Q About what time of night was it? A Five minutes after eleven.

Q Were you able to observe her condition, that is, her appearance? A I didn't notice anything the matter with the lady's appearance.

Q Nothing the matter with her? A No, I didn't notice anything the matter with her appearance when I saw her.

Q Did you see any marks on her face? A I didn't see any marks. The lady had her head down. I couldn't see whether she was young or old. She was bent over lacing her right shoe when I saw her. I didn't see the lady's face at all.

Q Did you hear any outcry or any noise? A No, I didn't hear no noise.

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Q Did you see any men on that dock or pier? A No, there was no men only watchmen on the pier.

Q Did you see any men going on the lighter or off the lighter?

THE COURT: The lighter was not at this dock.

THE WITNESS: The lighter was not at the dock.

Q At what dock was it? A It was lying between the between Anchor Line, piers 64 and 65. The lighter belonged to the Anchor Line.

Q Well, are you on the dock all the time? A On the dock all the time, stationed on the dock at that time.

Q Or were you on the farm? A No, there was nobody on the farm.

Q You heard no noise? A I heard no noise.

Q Did you see whether there was anything the matter with the girl's clothing? A I didn't notice anything the matter with the lady's clothing.

Q You did not, all right, that is all.

MR. SIMPSON: No questions.

BY MR. MARKEWICH:

Q Pardon me. I want to ask you, how long do you reside in that vicinity? A What, in the neighborhood I am in?

Q Yes? A Well, about fifty-seven years.

Q Do you know Garrity around there? A I don't know him.

Q Do you know McElliogett? A I know him. He is the only one I do know.

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OFFICER N I C H O L A S G R I L L, 92nd Precinct, called and duly sworn as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. MARKEWICH:

Q Officer, how long are you connected with the Police Department of this city? A Twelve years.

Q What precinct were you connected with on the night of the 14th of June, 1930? A The 18th Precinct.

Q Detective Bureau? A Yes, the Detective Bureau.

Q Did you on that night receive a telephonic call from some one? A I did.

Q What time of night was it? A About five minutes to eleven.

Q In answer to that telephonic call, did you, accompanied by Officer Broderick, go to Pier 65, North River? A I did.

Q Now, just tell us what you saw when you got to the pier and what you did? A We left the station house in the patrol wagon, Detective Broderick, Westervelt and McNamara, and we went down West 25th street towards the river in the patrol wagon. As we neared 13th avenue we noticed three men, young men, coming over, coming east on 25th street, coming from 13th avenue. I jumped off the patrol wagon and I spoke to this defendant in company with Glenn. 15 feet in the rear was another young man by the name of John Baker. I told them to wait a moment. I, or Detective Broderick, walked down to the corner, walked around the corner and he come back with two others, John Jordan

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and Garrity. With the five men we walked across to Pier 65. Just as we got near the door of Pier 65, a door opened.

BY THE COURT:

Q Wait a minute. Who were the other two? A Garrity and Jordan.

Q Go on? A As we neared the pier, the door opened and one of the watchmen by the name of McKeon, and a girl, come out of the door. We asked them what the trouble was. They told us --

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

BY MR. MARKEWICH:

Q Never mind what they told you. Just tell us what condition you found the girl in? A She had her hat in her hand and her hair was all disarranged. Her face was all dirty and she had a scratch mark on her right breast, which seemingly looked like a fingernail mark.

Q How were her clothes? A Her clothes were disarranged. Her garments were hanging down. Her bloomers were hanging down and her dress was torn in the back from the hooks, her dress opened from the back.

We put the five young men up against the door and asked her whether she could identify any of these men. She looked them over and she said, "Yes, every one of these men is the ones who assaulted me."

We then took the five men with the young lady to the station house.

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Q Well, never mind that. Did you see any taxicab around there when you arrived? A When we neared 13th avenue I jumped off and there was a big touring car with about eight or ten young men started off at a high rate of speed, and went east on 25th street. We were unable to get the number of the machine.

Q Where did you say you got this defendant? A This defendant was about 35 feet away from 13th avenue, going east on 25th street, in company with Glenn. John Baker was in the rear about fifteen feet.

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

Q What did you say to him and what did he say to you in relation to this case only? A We asked him in the station house what he was doing down there, and he said he was just taking a walk.

Q All right, that is all, Officer.

CROSS-EXAMINATION BY MR. SIMPSON:

Q Let us see. Did you arrest this defendant? A I did, in company with Detective Broderick.

Q And any policeman? A Two other detectives, Westervelt and McNamara.

Q Were there any policemen in uniform? A One man in uniform.

Q Isn't it a fact that the policeman in uniform took him over? A No, sir. We were all together.

Q Isn't it a fact that a policeman in uniform took this boy Greenhalgh and Glenn over to the pier? A No, we all walked

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together going across the street.

Q Did he take him over or did he not? A No, he was there, the police officer in uniform was there.

Q Officer Broderick was there, wasn't he? A Yes, sir.

Q He was in plain clothes? A Yes, sir.

Q Didn't he jump out of the patrol wagon and turn over Glenn and the defendant Greenhalgh to the police officer? A No, he walked over with us.

Q Did the police officer take Glenn and Greenhalgh over there? A The police officer was in company with us. He walked across the street.

Q When the boy, this defendant, got over there, the five of them, you say five of them were put up against the wall? Do you recall any statement on the part of the girl as to the identification of Greenhalgh? A All she says was "They were all there and they all attacked me."

Q "They were all there and they all attacked me?" Isn't it a fact that the boy Greenhalgh with the others standing there, when the girl came out, isn't it a fact that first one of you men said to her, "Are these the men?", to which she made the reply, "No, I can't identify them," whereupon one of the men, one of you detectives, said to the girl, "Very well, we will lock you up?" A That is not true.

Q That is not true? A Absolutely not.

Q And thereupon she came out again and said, "Well, never mind, I will appear against them in the station house?" A That is not true.

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Q That is not true? You did not hear it? A I did not hear it.

Q You heard everything that went on, did you, there? A I am sure I did, I was there.

Q You were there? The police officer in uniform was there? A Yes, sir.

Q And was he there from the time that this defendant was turned over and placed on the line until the time they went in the patrol wagon? A He was there at all times.

Q And his name is what? A I don't recall his name.

Q Well, is he here? A I don't see him.

Q Have you seen him around here? A No, sir.

Q Did you have any talk with this defendant in the station house? A We did, we all did.

Q I didn't ask you if "we" did. Did you? A Yes, sir.

Q Did you speak to this boy regarding his whereabouts that night and what part he played in this transaction, if any? A We all --

Q No, did you? A Yes, I asked him.

Q What did you say to him and what reply did he make to you, if any? A I asked him what he was doing down there and he said he was taking a walk.

Q And what else did he say? A That's all.

Q Did he say that he was, did he say that he had had any relations with this girl? A No, he did not.

Q Did he at any time say that he was on the lighter?

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A No, he did not.

Q Did he say he was near the lighter? A No, he did not.

Q Did you ask him those questions? A No, I did not.

Q Did anybody in your presence and hearing ask him those questions? A Well, I don't know, I don't remember.

Q You do not remember? A I don't remember that.

Q Isn't a fact that this boy said, "I was not there, I had nothing to do with it?" A I don't know. We were in and out that office at different periods.

Q In and out of the office, You don't know what the policeman did or said? A The policeman was not there in the station house.

Q I mean at the dock, or any place? A I know everything that was going on at the dock, I was there.

Q You were there all the time, not going in and out?

A No, we were not going in and out at all. We were right in front of the pier.

Q You remember the doctor in the station house? A What did you say?

Q When the doctor arrived at the station house? A I saw him.

Q Did this boy ask to be examined, to show his privates?

A I don't know that. I didn't hear him say so.

Q Did not the doctor start to examine some of the boys?

A I don't recollect that. I wasn't there at the time.

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Q You were not there at the time? A No, sir.

Q Did you hear this boy ask all the time to be examined?

A I don't know.

Q You don't know or you don't recollect? A I don't know. It was not said in my presence, while I was there.

Q Weren't you there all the time? A No, sir, not in the station house. We were in and out of the office there.

Q In and out of the office? If anything was said that was favorable to this boy, to exculpate him of anything, you did not hear that? A I would be only too glad to help him out if anything was said in his favor, I would be only too glad to tell the Court.

Q You say that you did not examine this boy to ascertain— you, as a detective, to ascertain whether he was on the lighter or whether he had anything to do with this girl, yes or no?

A I asked him that question, I asked him and he answered me. We were busy and there were four or five other detectives busy there, doing the best we could.

Q Well, anybody in your presence? A Not in my presence, at the time, I was in and out of the office.

Q Well, that is all, Officer.

OFFICER JOSEPH BRODERICK, 37th Precinct, called and duly sworn as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. MARKEWICH:

Q Officer, how long are you connected with the Police De-

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partment? A Eight years.

Q On the 14th of June, 1930, were you connected with the Detective Branch of the Police Department? A I was.

Q Attached to what precinct? A The 18th Precinct.

Q On the night of the 14th of June, 1930, did you receive a telephonic communication at the precinct? A I did.

Q And in response to that telephonic call or communication where did you go? A To West 25th street.

Q Accompanied by whom? A Officer Grill, McNamara and Westervelt.

Q And tell us what you saw and what you did following that telephonic communication? A Well, we jumped in the patrol wagon and told the driver to take us to West 25th street, to Pier 65, North River. On the way over 25th street, between 11th and 13th avenues, on the north-west, or on the north-east corner of 25th street, we saw a touring car. Before we could get to the touring car it pulled away.

On the corner walking south, Garrity and Jordan were walking south. Greenhalgh and Glenn were walking east on 25th street. About 30 or 40 feet east of 13th avenue in front of Greenhalgh and Glenn, Baker was walking alone.

Officer Grill took hold of the three and remained at 25th street and Thirtsentth avenue, on the north-east corner, while I went down about forty feet south on 13th avenue, on the east side, where Jordan and Garrity were standing. Garrity had walked into a doorway, and I asked him what he was doing

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in the doorway there.

Q Never mind that. Go on? A We then brought the five defendants over to Pier 65, North River. When we got about eight feet from the pier, the girl, the complainant, and Mr. McKeon, the roundsman there, came out, and said, "This is the girl who was assaulted."

MR. SIMPSON: I move to strike out that statement.

THE COURT: Yes, motion granted, strike it out.

Q Go on? A So we then called the girl over and lined the five defendants up under a big lamp which was attached to the pier. We asked her if these were any of the men, and she said, she looked them all over first and she pointed each one of the five defendants out, Jordan, Garrity, Glenn, Greenhalgh and Baker, as the men who had assaulted her.

We then got into the patrol wagon and came to the 18th Precinct station house. We took the five men upstairs while an ambulance was summoned for the girl.

Q Now, tell us if you recall the condition of that girl, her physical condition and also the condition of her clothes?

A Her hair - she had her hat in her hand and her hair was hanging down back, <sup>and</sup> over her face. Her face was bruised, the right side of her chest was scratched, bleeding. Her stockings were hanging down and her garters were hanging down. She had a one piece tan suit, and the buttons were torn off that, so it was hanging over her shoulders.

Q Did you go on the lighter after you went on the pier?

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A I did.

Q Did you find anything on the lighter? A I found a handkerchief.

Q These handkerchiefs (Indicating)? A Yes.

Q Did you find anything else? A Some hairpins.

Q These hairpins (Indicating)? A Yes, and some buttons belonging to the dress.

BY THE COURT:

Q Did you compare them with the buttons on her dress?

A I did.

Q Now, Officer, just tell us about this deck of this lighter, what was on it, how full was it - what was the appearance of the deck of the lighter? A Well, on the north end of the lighter there was a sort of a house, that was locked, and on the lighter, that is where she was taken, behind that house.

MR. SIMPSON: I move to strike that out, that is where she was taken.

THE COURT: Yes, strike it out.

Q Where was it you found these hairpins and buttons? A On the north end of the lighter, back of the house.

Q Away from the street? A Away from the street.

Q That is, there is a deck house on the deck? A Yes, sir.

Q On the side of the deck house away from the street, towards the river you found these articles? A I did.

BY MR. MARKEWICH:

Q Were the handkerchiefs dry or were they wet? A They were wet.

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CROSS-EXAMINATION BY MR. SIMPSON:

Q Any blood on the handkerchiefs? A No, sir.

Q How high or how tall was this deck house, from the floor of the lighter proper? A I should figure about ten foot.

Q Ten foot high? How wide was the deck house? A Six or eight feet.

Q Now, what else was on the lighter? A I didn't notice anything else on the lighter.

Q Was it clean? A Clean.

Q Sure about that? A I am pretty sure about it.

Q You investigated every part of that lighter, didn't you? A No, I didn't. I didn't go over the whole lighter.

Q Didn't you go all over it? Well, for the benefit of this jury, will you describe what a lighter is? A Well, to the best of my belief, the best way I can describe it, it is a flat boat, it has got, the way this boat was situated, it has a house on it about 10 by 8. It was where they put on trains, they generally put trains and automobiles on them.

Q It would carry trains and automobiles, is that it?

A That is what they generally carry, yes.

Q Were there any tracks on this lighter? A Well, there were no tracks on that lighter, but that is what they generally use them for.

Q They generally use them to put trains where there are no tracks? A Or automobiles, or boxes, square boxes.

Q In other words, it is a scow? A No, it is not a scow,

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it is a lighter.

Q It is not a scow? A A scow is where you put things down in the bottom.

Q I mean the build was a scow, like? A It is a lighter, that is all I know.

Q There are no holes in the surface of it? A No, sir.

Q And that part was clean? A To the best of my knowledge.

Q You did not see any automobiles or carriages on there, did you? A No, sir.

Q Did you interrogate this boy Greenhalgh? A No, sir.

Q You said nothing to him? A Well, not at first.

Q Well, at any time? A I had a conversation, yes.

Q Now, tell the Court and jury what that conversation, if any, was? A After <sup>the</sup> girl had identified or picked him out as one of the men who had assaulted her, I asked him if that was so. He said "No." I asked him what he was doing over there at the time, and he said, "Out taking a walk." He says he couldn't stand around the corners as the police would chase him. That's all the conversation I had with him.

Q Was there anything else? A That's all.

Q Were you in the back room of the station house or upstairs when the ambulance doctor came? A I was.

Q Did you hear the boy ask to be examined? A No, sir.

Q Did he ask for permission to be examined? A No, sir.

Q Did he protest his innocence so far as any relation with

the girl was concerned? A Only as I told you in conversation.

Q Nothing else? A That's all, not afterwards.

Q Did you know this boy? A Well, I may have -- I have been around there in the neighborhood about eight years.

Q I say, do you know the boy? A No, I do not.

Q You were in the police court in this case, were you not?

A Yes, sir.

Q Did you testify that you asked this boy Greenhalgh whether he had any intercourse with the girl and he denied it? A I did you that before, that he denied it.

Q You asked him that question? A I asked him if he was there on the boat and he said "No."

Q Did you ask him whether he had any intercourse with the girl? A I did.

Q What did he say to that? A He denied it, he said "No."

Q Yes, that is all, Officer.

RE-DIRECT EXAMINATION BY MR. MARKEWICH:

Q Were there any automobile trucks on the pier right in front of the lighter? A Yes, there were. They call that the farm.

RE-CROSS EXAMINATION BY MR. SIMPSON:

Q Were there any trucks, automobiles, standing anywhere near the lighter? A Yes. I should figure about 30 feet away, 40 feet away.

Q 30 feet away? A Or 40 feet away, out on the farm.

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Q In other words, you call the farm a sort of a resting place for trucks without horses, staying there for the night, is that it? A No, that's where they call the farm where horses back in and where they leave freight there, freight is packed up there.

Q Were there any automobiles or trucks in front of this lighter? A There were trucks out further, but not in further, at about 40 feet.

Q In other words, this lighter lay between piers 64 and 65? A Yes.

Q Right plumb up against the dock, the street, the bulk-head of the street? A Yes, up against the street.

Q Where you could step on and off? A Yes, sir.

Q Now, directly in front of that there were no automobiles or trucks? A Not directly in front of it, no.

BY MR. MARKEWICH:

Q Well, you mean not right near the lighter but about 30 feet away in front of that lighter? A About 30 feet out in front of it.

BY MR. SIMPSON:

Q Out directly in front of the lighter? A Yes, sir.

MR. MARKEWICH: That is all. Now, if your Honor please, I want to offer these in evidence, the bloomers and the garters that the girl testified were torn from her.

THE COURT: They are received in evidence.

(They are marked People's Exhibit 1 in evidence).

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MR. MARKEWICH: Then I want to offer this second exhibit, the handkerchiefs and the pins and buttons that the police officer found.

MR. SIMPSON: I have no objection.

(Received and marked People's Exhibit 3 in evidence)

MR. MARKEWICH: I would like to offer this birth certificate, if your Honor please.

THE COURT: Well, is there any objection to that?

MR. SIMPSON: I object on the ground that it is incompetent and not the best evidence.

THE COURT: Objection sustained. If you want to prove her age you can call her mother.

MR. MARKEWICH: The mother is sick. That is the People's case, your Honor.

MR. SIMPSON: The People having rested, I now move that your Honor take from the consideration of the jury the first count of the indictment, which charges the defendant with the crime of rape in the first degree, on the ground that the People have failed to sustain facts sufficient to constitute the offense set forth in that count.

THE COURT: Mr. District Attorney, what corroboration is there?

MR. MARKEWICH: I consent that your Honor take away that count from the consideration of the jury, and submit it to the jury on the second and third counts.

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THE COURT: I think I will not do that. I shall submit an attempt.

MR. SIMPSON: Will your Honor allow me to put my various motions into effect and then have your Honor's ruling?

THE COURT: Yes, you may make your motions at any length you see fit.

MR. SIMPSON: Your Honor has taken away the first count of the indictment?

THE COURT: I shall take away the count charging rape in the first degree, but I shall submit, under the powers conferred on me, the crime of attempted rape in the first degree, because the courts have held that in an attempted rape there need be no corroboration.

MR. SIMPSON: Well, may I argue upon that proposition with your Honor, that there is no evidence here that this defendant attempted to rape this girl, from the girl's own statement? However, if that is your Honor's ruling I must abide by it..

THE COURT: You do not contend that the girl consented, do you?

MR. SIMPSON: No, your Honor, I do not.

THE COURT: If he had intercourse with her against her will and consent, that is rape, and if he tried to have intercourse with her against her will and consent, that is attempted rape.

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MR. SIMPSON: Will your Honor kindly give me an exception? I ask your Honor to take from the consideration of the jury the second count of the indictment which charges the defendant with the crime of assault in the first degree, on the ground that there is no evidence --

THE COURT: Well, I will grant that motion.

MR. SIMPSON: Your Honor grants that motion? I ask your Honor to take away from the consideration of the jury the third count of the indictment.

THE COURT: That charge is assault with intent to commit rape. I will submit that to the jury.

MR. SIMPSON: Defendant respectfully excepts. Upon the whole case I ask your Honor to direct the jury to acquit, upon the ground that the People have failed to sustain facts sufficient to constitute the offense set forth in the indictment.

THE COURT: The motion is denied.

MR. SIMPSON: The defendant respectfully excepts. I ask your Honor to say to this jury that your Honor's denial of my several motions is not to be accepted by them as any evidence of your Honor's opinion as to the guilt or innocence of this defendant.

THE COURT: That is so, gentlemen. My ruling simply means a ruling that there is a question of fact that must be submitted to you, and that the Court, as such, has no opinion on the facts, because you are the judges of the

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facts and not the Court.

THE DEFENSE.

CHARLES GREENHALGH, the defendant, called and duly sworn as a witness on behalf of the defense, testified as follows:

(Residence: 511 West 29th street).

DIRECT EXAMINATION BY MR. SIMPSON:

Q Now, Greenhalgh, I want you to speak up loud and clear and distinctly, if you can. You will be your own best witness. How old are you? A Nineteen.

Q Where were you born? A New York City.

Q Have you ever been convicted of any crime in your life? A No, sir, never arrested before in my life.

Q Did you serve in the military service of the United States? A Yes, sir.

Q Did you enlist? A Yes, sir.

Q How long were you in the service? A Two years.

Q Were you over on the other side? A Yes, sir, a year and a half on the other side.

Q A year and a half on the other side? Did you engage in battle over there? A Yes, sir, every one.

Q Did you receive honorable mention? A Yes, sir.

Q Were you discharged from the army? A Yes, sir.

Q Did you receive an excellent discharge? A Absolutely, everything.

MR. SIMPSON: I offer in evidence the defendant's

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discharge from the army.

MR. MARKEWICH: I do not see the materiality of it, if your Honor please.

THE COURT: Objection sustained.

MR. SIMPSON: I am trying to prove character, your Honor.

THE COURT: The objection is sustained.

MR. SIMPSON: And the defendant respectfully excepts.

Q What company were you in? A H Company.

Q Company what? A "H."

Q What battles were you engaged in? A St. Mihiel, Baccarat, Luneville, Chateau Thierry, The Argonne, Sedan, The Ouroq.

Q Did you receive honorable mention, a citation? A Yes, sir.

Q What battle? A The Champagne.

Q Now, Greenhalgh, you have heard this girl testify here?  
A Yes, sir.

Q On the 14th day of June, were you working? A Yes, sir.

Q Whom were you working for? A S. & H., electrical contractors, West 42nd street.

Q Where were you living? A 511 West 29th street.

Q At the same place? A Yes, sir.

Q After your day's work did you go home then? A Yes, sir, I went right home.

Q After your dinner, what if anything did you do? A I sat in the front room and played the piano all night.

Q Playing the piano? A Yes, sir.

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Q Was it a warm day or cold day? A Warm day.

Q Who was in the house at that time? A Mr. and Mrs. Morrison.

Q Mr. and Mrs. Morrison? A Yes, sir.

Q Anybody else? A No, only the children, that's all.

Q And the children? A Yes, sir.

Q What time, if any time, did you leave the house? A Half past ten.

Q At half past ten? A Yes, sir.

Q Were you ever on a lighter between Piers 64 and 65, North River? A Absolutely not, no, sir.

Q Did you have any sexual intercourse with this girl?

A No, sir, I never seen her in my life before.

Q Now, tell us, from the time you were arrested until the time you were taken into the station house everything that took place? A I left the house at half past ten, seeing that it was warm, and I asked the man I boarded with what the scores were in the paper. He told me what it was and I wouldn't believe him from the story I heard that day. I went out and I met Glenn on 28th street with several other fellows.

BY THE COURT:

Q You met whom? A Lawrence Glenn, and I asked him about it. Him and I started to argue about it and we had a dispute, and we were going to go and get a paper. We walked along Tenth avenue and the stores were all closed, and then we walked to 23rd street. I said, "You can get a paper down at the ferry."

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And he said "No." I said "I will, the ferry is always open."

Well, we went down to the ferry and looked around the ferry house and couldn't get no paper. We come up and walked along the river front, and being it was warm that night, I only had my working clothes on and never changed them yet. Then we walked along the river front and through 25th street. I just happened to turn the corner of 25th street about 40 or 50 feet off the corner, and we were still arguing about it, when a wagon come down. We never took notice of the wagon and never seen nobody around there, when an officer jumped off and grabbed us, and the remark was, "Here is two more of them so-and-so," mentioning a name. We says "What's the matter?" They says, "You will find out what's the matter when we get over there."

Then they bring us over to the pier, and a girl steps out from the pier. They says, "Is this them?" She says, "No." They says, "Well, we will lock you up then," and then she said, "Well, I will go down to court and testify against them all," thinking she would get out of the case. They said "All right, you will have to get in the wagon now."

Then we went in the wagon and went to the 20th street station house. A doctor come there and we asked for examination from the doctor right away to see if we had anything to do with her. He looked at us and he walked out of the station house and he wouldn't examine us. Then we went down to Headquarters. That's absolutely all I know about the girl at all. The girl I never seen before in my life. I have sisters of my own.

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Q Well, that is all, Greenhalgh.

CROSS-EXAMINATION BY MR. MARKEWICH:

Q Where do you live? A 511 West 29th street.

Q Do you live there with your parents? A No, sir.

Q With whom? A My guardians, Mr. and Mrs. Morrison.

Q Do you know Baker? A No, sir.

Q Were you out walking alone that night? A I come out of the house about half past ten. I only met Glenn on the corner. He just told me he come from a show, him and his brother were together.

Q Who and his brother? A Larry and his brother.

Q Larry who? A Glenn.

Q Larry Glenn? A And his brother.

BY THE COURT:

Q Who were the men you were with when you were arrested?

A Glenn.

Q Anybody else? A No, sir.

BY MR. MARKEWICH:

Q How long do you know Glenn? A About three months.

BY THE COURT:

Q Was not Baker arrested at the same time you were? A I couldn't say. I didn't see nobody at all.

BY MR. MARKEWICH:

Q How long do you know Glenn? A About three months, since he was home from the army, he had a welcome home party and I was invited up to that party.

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Q And you walked along with Glenn? A Yes, sir.

Q Where did you meet him that night? A 28th street and Tenth avenue.

Q That was after you left your home? A After I left my home, yes, sir.

Q And you say you left your home about what time? A Half past ten.

Q Are the Morrisons here now? A Yes, sir.

Q Who were in the house that night? A Mr. and Mrs. Morrison were in the house. The child was going away to the country next day and he was getting ready the child's clothes for the country, for the next day. I says, "How were the scores today?" He says, "I don't know." First he told me he did and I said he didn't know. Then I went out of the house. He told me to stop the piano at ten o'clock. He said the neighbors were complaining, and I stopped at ten o'clock and sat there with him watching him getting ready the child's clothes.

Q What time did you come home from work that night? A Five o'clock.

Q When did you have your dinner? A Six o'clock.

Q You were through with your dinner when? A Half past six.

Q From half past six until half past ten you remained in the house? A In the house.

Q It was a warm night? A Yes, sir.

Q When you left the house you walked in what direction?

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A Up 29th street as far as Tenth avenue. I only lived three doors off Tenth avenue.

Q Did you walk up Tenth avenue or down? A Up Tenth avenue.

Q As far as what street? A 29th street. I live on 29th street about four doors west.

Q What did you do when you got to the corner of 29th street? A I walked up to 28th street. I was standing on the corner there waiting for Glenn. I stay there nearly every night on the corner there, talking about different things, base ball games.

Q You remained standing on the corner? A About five minutes.

Q Then Glenn came along? A Yes.

Q And the two of you walked where? A We walked along to 23rd street, all along the east side of Tenth avenue, and trying both sides of the street for a paper.

Q Down to 23rd street? A Yes, sir.

Q Then you walked west? A West on 23rd street.

Q Until you got where? A To the ferry house.

Q Then what did you do? A Walked in the ferry house and looked for a paper.

Q Then you walked north? A Then we walked north. We stood around the ferry there looking for a paper. Then we walked along the river front. We went up along 13th avenue, not 13th avenue.

Q What time was it you reached 23rd street ferry? A It

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was about a quarter to eleven, I guess.

Q A quarter to eleven? A Somewhere around there. I am not sure.

Q Did you hear anything in the vicinity? A No, sir.

Q Did you hear any trouble around there? A No, sir, never heard of a thing that was happening around there, until the officers picked us up.

Q You just walked along? A Walked along, just speaking about the game.

Q You did not know anything about what had happened on the lighter at all? A No, sir. We asked the officer, "What's the matter?" He says, "You will find out right away what's the matter." I said, "What are you arresting us for, we didn't do nothing." He says, "You will find out right away what's the matter." Then he brought us over to the pier and the girl stepped out of the pier. Then she said what she did say about this whole case.

Q Did you notice the condition of the girl at the time you saw her? A No, sir, I didn't take no notice of her at all.

Q You took no notice of her at all? A No, sir.

BY THE COURT:

Q Well, if she was making a charge against you would you not have noticed her? A Well, your Honor, there were so many around there, I looked at the girl and I says, "Girl, you want to get another look and make sure you have got the right ones."

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She says, "I know you, it is all of them." That was after the officer told her he was going to arrest her, that she did not tell the truth.

BY MR. MARKEWICH:

Q You are sure that was after that she said that? A Yes. He said, "Do you know these fellows, these boys?" She said, "No." Then he says, "I will have to arrest you." Then she said, "All right, then lock them up, I will press the charge and I will go to court in the morning." Then the officers put us all in the patrol wagon and took us to the 20th street police station.

Q When did you get back from the army? A April 29th.

Q Of this year? A Yes, sir, - 1919.

Q I suppose you are working now? A Yes, sir.

Q Where? A Pier 76, North River.

Q Working at Pier 76, North River? A Yes, sir.

Q Doing what kind of work? A I collect bills for the loaders down there.

BY THE COURT:

Q What was it you wanted to get the paper for? A The baseball scores.

Q And you walked from where to where? A Along Tenth avenue to 23rd street. We tried both sides of the street to 23rd street.

Q On Tenth avenue? A Yes, sir.

Q Then which way did you go? A Then we went as far as 23rd street and Tenth avenue and looked around. Then I said.

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"We will get one down at the ferry for sure."

Q You walked from Tenth to Eleventh avenue? A Yes, sir.

Q And from Eleventh to Twelfth avenue? A Yes, sir.

Q Then down to the ferry? A Yes, that is only two blocks down.

Q Did you get a paper there? A No, sir, there were no places open down there.

Q Had you ever bought a paper there before at that hour of the night? A Yes, sir, when I wanted to go to Jersey.

Q Do you know why it was you could not buy one that night? A Well, maybe it was a little late, I don't know, it was Monday night.

Q What time was it you were arrested? A Eleven o'clock, at or about.

BY MR. MARKEWICH:

Q You say you wanted to get the baseball score at eleven o'clock that night, or about half past ten? A Yes, Glenn and I had such a heavy dispute about the game.

Q Did you read the paper that afternoon after you came home from work? A No, sir, there was a paper in the house and I generally bring it in or Mr. Morrison generally brings it in: He generally brings the "Journal" in and I generally bring the "Journal" in, but he started to holler, "What's the use of having two papers in the house at the same time?"

Q All right, that is all.

BY THE COURT:

Q How long was it after you were arrested before this

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doctor came? A We were in the station house about ten minutes.

Q That was about ten minutes after eleven? A Yes, sir.

Q What did you think an examination would show? A It would show - we says we all wanted to get examined. I said to the doctor, "I want to get an examination."

Q What did you think an examination of you would show?

A Well, I should think it would show something.

Q Well, what? A If you had anything to do with the girl, like that.

Q Well, what would that show? A If you had intercourse with her.

Q How would it show that? A Well, the doctor should know.

Q Well, how can the doctor tell by examining a man if he had intercourse an hour before?

MR. SIMPSON: I object to your Honor's question, asking for the expert opinion of the witness.

THE COURT: Well, I am trying to get his idea.

MR. SIMPSON: I take an exception.

THE WITNESS: Well, I have seen it done in the Government hospitals, in the army hospitals I have seen it done.

Q Seen what done? A Doctors examining men, telling them they had intercourse within an hour or two hour's time.

Q You have seen that in Government hospitals? A Yes, sir, when the officers got them coming from disorderly houses

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on the other side, the officers put them under arrest and the doctors says, "If you examine them within an hour or two hours time it can be told if you had intercourse with a woman."

BY MR. SIMPSON:

Q That is what they did in the army? A Yes, sir.

ALFRED MORRISON, called and duly sworn as a witness on behalf of the defense, testified as follows:

(Residence: 511 West 29th street).

DIRECT EXAMINATION BY MR. SIMPSON:

Q Mr. Morrison, what is your business? A Teamster.

Q You are employed where? A The American Express Company.

Q How long have you been connected with them? A About three months.

Q Have you ever been convicted of any crime? A Yes, sir, once.

Q For what? A Receiving stolen goods.

Q Are you married? A Yes, sir.

Q Have you children? A Yes, sir, two.

Q Do you recall the 14th day of June, 1930? A Yes, sir.

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

Q Did you see him that night? A Yes, sir. I was in his company that night.

Q Does he live with you? A Yes, sir.

Q You are his guardian, are you? A Yes, sir, I am.

Q Has he a father or mother? A No, sir.

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Q How long has the boy been with you? A Eight years.

Q You have looked after him? A Yes, sir.

Q Was he in the house all of that evening? A He was in my house that evening up until about twenty minutes after ten. He was playing the piano and I told him to stop about ten o'clock. So then I bought some new rolls that day - I got a self player piano and he was trying the new rolls, and about ten after ten I says, "Stop, Charlie, don't play that no more, you will annoy the tenants."

So with that I went back to the kitchen, I was marking up my child's clothes. He was going to the country next day for two weeks and I had to mark all his underwear and his overalls and his stockings and everything that goes along with it. So with that he come out with his cap on. I am pretty sure it was his cap. I says, "Where are you going?" I says, "Why don't you stay in, it's after ten o'clock, it is time to go to bed and get a sleep," because I knew the work he was doing was pretty hard work, and he went out and I says, "Well, you hurry up back and bring back the buns with you for the morning's breakfast," and he went out that night and that's the last I heard of him until the next night when I come home from work and the missus of mine told me about the statement she seen in the paper.

MR. SIMPSON: That is all. You may examine.

CROSS-EXAMINATION BY MR. MARKEWICH:

Q What time did you come home from work that night?

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A I come home that night, I should say around six o'clock.

Q Did you find him home when you got there? A Yes, sir, he was home.

Q What time does he usually get up to go to work? A What time did he usually get up? Seven o'clock, I generally wake him before I go out and I leave the house at seven.

Q What did you do during that night, did you stay home during the entire night? A During that night, yes, sir. Supper was kind of late that night, I should judge about six-thirty or quarter to seven. I sat there reading awhile and then the wife of mine asked me to mark up these clothes. I started on that job I should judge a little after eight.

Q Did you bring home a newspaper that night? A No, sir. Well, I am not sure whether it was a newspaper, I am interested in a serial book that the wife of mine buys every week.

Q Did you talk to the defendant about this case? A Did I talk to the defendant about this case? No, sir.

Q Did you see the defendant after he was bailed out? A Yes, sir.

Q Did you talk to him about it? A I just asked him the idea of the thing and he just told me, I guess, the same as he has told you gentlemen now.

Q And did you talk to him about the time he left your house that night? A No, sir, I didn't talk to him about that time at all.

Q Did you at any time talk with him about the time he left your house on the night of the 14th of June? A Did I talk to

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him about that time? No, sir.

Q Did you talk to your wife about it? A Yes, I spoke to my wife about it. I told her I didn't think where he should be mixed up in it, if he left the house at that time.

Q Well, you didn't know what time this happened, did you? A Well, from what I heard around the avenue, I understood what time it happened.

Q From whom did you hear it on the avenue? A Well, among the boys talking around there.

Q What boys? A The boys that might have been interested in the case, just hearsay talk among the fellows standing on the corners, from what they had seen in the paper.

Q Do you know James Garrity in this case? A No, sir.

Q Do you know McElliogett? A I know McElliogett.

Q Do you know Baker? A No, sir. I know Baker by sight, I didn't know his name until --

Q Do you know Jack Jordan? A No, sir.

Q Do you know Glenn? A Glenn, yes, sir, I know Glenn.

Q Do you know the watchman on Pier 65? A No, sir. I know one gentleman, I didn't know whether he is watchman there.

Q Do you know Mr. Tate? A No, sir.

Q Or Mr. Shaw? A I know Shaw, yes, sir.

Q Do you know McKeon? A No, sir, I don't know McKeon.

Q Did you speak to Shaw about this case? A No, sir.

I didn't even know Mr. Shaw was interested in the case until I seen him outside this morning and I just bid him the time of day.

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Q All right, that is all.

RE-DIRECT EXAMINATION BY MR. SIMPSON:

Q Is this boy steady in his habits? A Yes, sir, very steady, and I always looked after him too, and made sure he was steady.

MR. SIMPSON: That is all, the defendant rests, your Honor.

- : R E B U T T A L : -

VERONICA FLYNN, a witness for the People recalled, testified further as follows:

BY MR. MARKEWICH:

Q Miss Flynn, on the night of the 14th of June, 1920, when the police officer arrived at the dock house, together with the defendant and four other men, did the police officer tell you that if you did not identify these men he would place you under arrest? A No, sir.

Q Well, that is all, Miss Flynn.

MR. SIMPSON: No further questions.

MR. MARKEWICH: That is all, that is the People's case.

(TESTIMONY CLOSED).

MR. SIMPSON: I want to renew my motion again at the close of the whole case, that your Honor take away from the consideration of this jury the third count of this indictment which charges the defendant with the crime of assault in the second degree, upon the ground that the People have failed to show facts sufficient to constitute the count set

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forth in the indictment.

THE COURT: Motion denied.

MR. SIMPSON: Defendant respectfully excepts.

I also ask your Honor to take from the consideration of the jury the third count of the indictment which charges the defendant with the crime of assault in the second degree - or I refer to the second count, your Honor.

THE COURT: Well, I have already taken that away.

MR. SIMPSON: That was already taken away. Then your Honor is going to submit this, as I understand it, as an attempt to commit the crime of rape in the first degree?

THE COURT: And also on the third count, assault with intent to commit rape.

MR. SIMPSON: Assault with attempt to commit rape in the second degree?

THE COURT: Assault in the second degree, namely, assault with intent to commit a felony, namely, rape in the first degree. I shall submit the first count as an attempt and I shall submit the third count to the jury. The second count is taken away from the jury.

MR. SIMPSON: The defendant respectfully excepts and again renews the motion that your Honor advise the jury that your Honor's denial of my motion does not indicate any opinion of the Court.

THE COURT: Yes, I again state to the jury that that indicates no opinion of the Court at all.

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MR. SIMPSON: And that it is purely a question of law?

THE COURT: Yes, I so charge.

Well, Mr. Markewich, I have been considering the matter further and I have finally come to the conclusion that it would be error if I were to submit attempted rape, in view of the fact that the statute makes a failure of an attempt part of an attempt. Therefore, I shall submit the case under the third count, as assault with attempt to commit rape.

MR. MARKEWICH: Yes, sir.

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