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CASE #2323

STATE OF NEW JERSEY,
County of Essex,
The People of the State of New Jersey,
vs.
PATRICK SULLIVAN,
Defendant.

2807

New York, June 10, 1917.

The defendant is indicted for rape in the second degree and assault to the second degree.

Indictment filed May 27, 1917.

APPEAL AND CROSS:

For the People: AMBROSE DISTRICT ATTORNEY GENERAL, JR.

For the defendant: HENRY CRAMER & COMPANY.

A jury is duly impaneled and sworn.

Dr. Wallace sworn to the jury.

ALICE M. SULLIVAN, of 14 West End, Rutherford, New Jersey, a witness called on behalf of the People.

Before duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALLACE:

Q Now Alice, I want you to try to tell me that these 12 gentlemen can hear what you have to say. They want to hear your story and I want you to tell in a tone of voice so that they will hear, do you understand?

A Yes sir.

Q Where do you live, Alice?

A I live in Rutherford, New Jersey.

BY THE COURT:

Q All right, if you will look to the juror who is furthest away from you and just speak to him as if you were speaking to him. Then everybody will hear you.

BY MR. WALLACE:

Q Now sit one way, Alice?

Q Now sit here to the side of the juror?

Q Now sit in front of him.

Q When will you forget?

Q 1916 or 1917?

Q You will be 16 the year of July, 1917, is that right?

Q Yes.

Q And you are now 17?

Q Do you know a girl named Gladys Green?

Q The girl who lives with her mother in Rutherford, New Jersey?

Q Do you remember about what date that was?

Q That was the 22 of April.

Q About the 22 of April?

Q Will you tell these gentlemen just what you did when you were in New York?

Q Where did you go first when you came to New York?

Q He went to the Travelers Aid Society?

Q And where to that?

Q The place where you found them?

Q And then did the Travelers Aid Society people send

NY 100-10000

Q. All right, if you will look to the juror who is farthest away from you and just speak to him if you were speaking to him, then everybody will hear you.

NY 100-10000

Q. How old are you, Alford?

A. I am fourteen.

Q. Where were you born in the state of New Jersey?

A. I was born in Newark.

Q. When were you fourteen?

A. The 20th of July.

Q. 1917 or 1918?

A. 1917. I will be 18 next month.

Q. You will be 18 the 20th of July, 1917, is that right?

A. Yes.

Q. And you are now 17?

A. Yes sir.

Q. Do you know a girl named Gladys Brown?

A. Yes sir.

Q. Do you recall coming to New York with Gladys from

Butterfield, New Jersey?

A. Yes sir.

Q. Do you remember about what date that was?

A. That was the 22 of April.

Q. About the 22 of April?

A. Yes.

Q. Will you tell these gentlemen just what you did when

you came to New York?

A. We met a furnished room.

Q. Where did you go first when you came to New York?

A. We went to the Travelers' Aid Society.

Q. And where is that?

A. On Lexington Avenue.

Q. How long did you remain there?

A. Just one night.

Q. And then did the Travelers' Aid Society people send

you back to Jersey?

A. Yes.

Q. They put you on the train?

A. We rode to Patterson

and got the next train back.

Q. When you got back to New York where did you spend that

night?

A. We went to the Martha Washington Hotel.

Q. Then the following day did you leave the Martha Washington

Hotel?

A. Yes, we did.

Q. Where did you go then?

A. I went to my aunt's, in

the Bronx.

Q. What did you tell your aunt?

A. I told her that we

were to a party in the City and we had missed the train home.

Q. Did you stay there over night?

A. Yes, we did.

Q. Did you tell her you were going back home again?

A. Yes.

Q. After that where did you go?

A. We went to 43rd

Street and got a furnished room.

Q. At 43rd Street?

A. At 43rd Street.

Q. What was the number of the house, do you remember?

A. 102.

Q. Was it at that place that you first met this defendant?

A. Yes sir.

Q. You and Gladys had a room in this house, did you?

A. Yes.

Q. A furnished room?

A. Yes.

Q. And how did you happen to make the acquaintance of this

defendant, Patrick Sullivan?

A. Oh, we could see right

away to his studio from our window.

THE COURT: All right, must you have the witnesses to speak

somebody else. It is hard for me to hear you. I have

heard everybody out of the court room except those named

in the trial so that you might not be embarrassed. Now talk

so that everybody hears you.

Q. Did I understand you to say that the window of your

room looked out upon the window of his studio?

A. Yes sir.

Q. Did you first see him in the studio window?

A. Yes.

Q. When happened that, did you first see him?

A. Yes.

Q. And as a result of that observation did you make his

acquaintance?

A. Yes, we did.

Q. When did you first meet the defendant to speak to him,

not across from the room but on the street or any where else?

A. I think it was on a Friday night.

Q. About what time?

A. About 7 o'clock.

Q. Who was with you at that time?

A. Gladys Brown.

Q. Was anyone with the defendant?

A. Yes.

Q. Where did you meet Mr. Smith and Mr. Sullivan?

A. They were right around to the door themselves.

Q. Do the door of your house?

A. Yes.

Q. And did you have a talk with them there?

A. Yes sir,

we did.

Q. What was said at that time between you and the de-

fendant, Smith and Gladys Brown?

A. They asked us to go

for a drink.

Q. Where did you go?

A. We went up to the corner

of 43rd Street.

Q. And what is that place, a saloon?

A. Yes sir.

Q. Did you meet what was named a drink there, I think?

A. Did you go into the back room at that saloon there?

A. Yes.

Q. Did you have any drink?

A. Yes.

Q. What did you drink?

A. Glass of beer.

Q. Did you meet the habit of drinking once in month?

A. No sir.

Q. How did you happen to drink it so that someone

they asked us what we would have.

A. You thought that would be good. I didn't know.

I didn't suspect it.

Q. Well now, present to this witness with the defendant

and Gladys Brown with him, did you have any further conversation

with him?

A. They made an appointment for a Friday night.

Q. They made an appointment for Saturday night?

A. Yes sir.

Q. Did you see him again late in the night and Saturday

night?

A. Yes.

Q. Did you meet him on Saturday night?

A. Yes sir, we

did.

Q. Approximately did you meet him?

A. They were right

around for us to the door.

Q. When you met them were around for you, the defendant

and Mr. Smith and Mr. Sullivan.

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Q Where did you get it? A We went up to the corner of Third Street.
Q And what is that place, a saloon? A Yes sir.
Q Third Street and what avenue? A Sixth Avenue, I think.
Q Did you go into the back room at that saloon there?

A Yes.
Q Did you have any drinks? A Yes.
Q What did you drink? A Drinks de Mout.
Q Did you have in the habit of drinking cross de mout?

A No sir.
Q How did you happen to drink it on that occasion?
A They asked us what we would have.
Q You thought that would be good? A I didn't know.
I didn't suspect it.

Q Well now, pursuant to this saloon with the defendant and some drinks with him, did you have any further conversation with him? A They made an appointment for Saturday night.

Q They made an appointment for Saturday night? A Yes sir.
Q Did you see him again between that time and Saturday night? A No.

Q Did you meet him on Saturday night? A Yes sir, we did.

Q Whereabouts did you meet him? A They came right around for us to the door.

Q When you saw they came around for you, who did you meet? A Mr. Smith and Mr. Sullivan.

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Q What happened when they came around us that evening?
A They took us up Third Street again.

Q They took you to the same saloon? A Yes sir.
Q Did you have anything to drink at that time? A We had the same thing.

Q How many drinks did you have at that time, do you remember? A Just one.

Q Did you have this conversation in the saloon, as that conversation with these two defendants, I mean with the defendant and the other man? A He asked us to go to his apartment.

Q The defendant asked you to go to his apartment? A Yes.
Q Did you go to his apartment with him? A Yes, we did.

Q From Third Street? A Yes.

Q How did you get there? A He hired a man cab.

Q You and this defendant, Gladys Brown and Smith all went to his apartment? A Yes.

Q About what time of the day or night was that? A That was about eight o'clock, I think.

Q And what happened when you got to the defendant's apartment on that night, which I think you said was Saturday, wasn't it? A Yes.

Q What happened? A We sat in the living room talking and they gave us a drink of sherry wine.

Q What happened after that? A He asked us to go to the bedroom with him. I went in the bedroom with him.

Q You went into the bedroom with the defendant? A Yes.

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Q What happened when you got in the bedroom with this defendant? A We sat on the bed.

Q You sat on the bed with him? A Yes.

Q Did you have any talk with him or did he say anything to you at that time? A Yes, he was talking to me.

Q Tell the jury what he said. A He asked me to have intercourse with him.

Q Did he say it in that way? What did he say in so many words? A I don't know just what he said. He did not say it that way.

Q What did he say if anything? A I told him I was unwell.

Q Did he say anything in addition to asking you to have intercourse?

MR. CROFT: I object to that. She said he did not say it in that way.

Q What did he say? A I don't just know what he said.

BY THE COURT:

Q What did he say if anything? A I told him I was unwell, and he said he wanted me to prove it to him.

BY MR. WALLACE:

Q What did you say to that? A No.

Q You said you would not? A Yes.

Q Did he make any attempt to investigate to find out

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whether you were unwell or not? A No.

Q How long were you in the bedroom with the defendant on that occasion? A Only about ten minutes.

Q What happened after that? A We left the bedroom and we went out in the living-room.

Q Did you find the other two people there, Gladys and Smith? A Yes, they were there.

Q What were they doing? A They were sitting down.

Q Sitting whereabouts? A On the sofa, I think.

Q How long did you remain in the apartment after that?

A Only about half an hour.

Q Did they take you home or did you go home yourself?

A Mr. Smith took us home.

Q In a taxi, or on the elevated? A In the elevated.

Q At the time you were in the apartment with the defendant, did you make another engagement with him or see it after that? A He made an engagement for Sunday.

Q What did he say about that? A He wanted us to go to the apartment.

Q He asked you to come up there again Sunday night?

A Yes.

Q That was the following night? A Yes.

Q What did you say? A I did not say "yes".

Q And you did not say "no" either? A No.

Q When did you next see the defendant? A He was to

whether you were unwell at that? A No.

Q How long were you in the bedroom with the defendant on that occasion? A Only about ten minutes.

Q What happened after that? A We left the bedroom and we went out in the dining-room.

Q Did you find the other two people there, Gladys and Maytha? A Yes, they were there.

Q What were they doing? A They were sitting down.

Q Sitting whereabouts? A On the sofa, I think.

Q How long did you remain in the apartment after that?

A Only about half an hour.

Q Did they take you home or did you go home yourself?

A Mr. Maytha took us home.

Q In a taxi, or on the elevated? A In the elevated.

Q At the time you were in the apartment with the defendant, did you make any further engagement with him or was it after that? A He made an engagement for Sunday.

Q What did he say about that? A He wanted us to go to the apartment.

Q He asked you to come up there again Sunday night?

A Yes.

Q That was the following night? A Yes.

Q What did you say? A I did not say "yes".

Q And you did not say "no" either? A No.

Q When did you next see the defendant? A He was to

come around Sunday evening, and we were to let him know then.

Q Did he come around Sunday evening? A Yes.

Q Who was present when he came around Sunday evening?

A Just Gladys and I.

Q Where did he come, in your house, or did you meet him in front of the door? A Right down in front of the door.

Q What did he say at that time? A He asked me if I would go with him.

Q So with him where? A To his apartment.

Q What did you say? A Gladys and him had a private conversation.

Q What do you mean -- a conversation which you did not hear? A Yes.

Q And after that what did you say -- what did he say to you, and what did you say to him? A He asked me to go with him.

Q Did you go? A Yes.

Q How did you get up to the apartment this time? A In the elevated.

Q Where is this apartment? A On Manhattan Avenue.

Q No. 10 Manhattan Avenue? A Yes.

Q The City and County of New York? A Yes.

Q Now, is it an elevator apartment? A Yes, it is.

Q On the first occasion that you went up there, did you go upstairs in the elevator? A Yes, I did.

Q On the second occasion that you went there, did you go upstairs in the elevator? A Yes.

Q What transpired, if anything, in the elevator at the time you went up on the second occasion? Was the elevator boy there? A Yes.

Q Did the defendant have any conversation with him that you heard? A Sunday night?

Q Yes. A Yes, he told him that he wanted to be disturbed.

Q The defendant told the elevator boy that he was not to be disturbed? A Yes.

Q Did anything else happen? Did he give the elevator boy anything? A Yes, he gave him a quarter.

Q What happened, if you know, up in the defendant's apartment on this 29th of April, 1917? A Well, I had sexual intercourse with him.

Q What was the first thing that happened when you went in? Tell us the whole story. Did he take you into the dining-room first? A Yes, sir.

Q What did you do in the dining-room? A I took my hat and coat off.

Q Did you have anything to drink? A No, I did not have anything to drink.

Q Had you had your supper? A Yes.

Q Before you came up there? A Yes.

Q How long were you in the dining-room with the defendant? A Not very long.

Q Did you go into his bedroom again? A I went in alone.

Q Did you take off any of your clothes? A I took off my shoes and my dress.

Q Is that all? A That is all.

Q Did you then lie down in the bed? A Yes, sir.

Q Did the defendant come in? A Yes.

Q Was he undressed? A Yes, he was.

Q What did he have on, anything? A He had a suit of pajamas on.

Q Did he go to bed with you? A Yes.

Q What happened after he got to bed with you? A He had sexual intercourse with me.

Q Right away? A No.

Q How long were you in bed with the defendant before he had intercourse with you? A About two hours.

Q Did you have any conversation with him at all?

A Yes, sir; he was talking to me quite a while.

Q What was he talking about? A He was telling me all about his business.

Q Just tell the jury what you told me in my room, the way you told me. What happened after you had been in bed for a while with the defendant? A I had intercourse with him.

Q That is not what happened; that is the result of what

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Q How long were you in the dining-room with the defendant?
A Not very long.

Q Did you go into his bedroom again? A I went in alone.

Q Did you take off any of your clothes? A I took off my shoes and my dress.

Q Is that all? A That is all.

Q Did you then lie down in the bed? A Yes, sir.

Q Did the defendant come in? A Yes.

Q Was he undressed? A Yes, he was.

Q What did he have on, anything? A He had suit of pajamas on.

Q Did he go to bed with you? A Yes.

Q What happened after he got to bed with you? A He had sexual intercourse with me.

Q Right away? A No.

Q How long were you in bed with the defendant before he had intercourse with you? A About two hours.

Q Did you have any conversation with him at all?
A Yes, sir; he was talking to me quite a while.

Q What was he talking about? A He was telling me all about his business.

Q Just tell the jury what you told me in my room, the way you told me. What happened after you had been in bed for a while with the defendant? A I had intercourse with him.

Q That is not what happened; that is the result of what

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happened. How did you come to have intercourse with him?
A He asked me to.

Q That was after you had been in bed a long time, was it?
A Yes, sir.

Q Had you been asleep at that time? A I had.

Q Did he wake you up? A No, I woke up.

Q What did the defendant say to you when you woke up?
A He told me he found out I was not unwell.

Q What did he say after that? A He asked me to have intercourse again.

Q What did he say and how did he say it? A He asked me what I thought he brought me there for.

Q What did you say to him? A I told him what he promised. He said he would not touch me.

Q When had he promised that? A He told Gladys that.

Q How do you know he told her? A She told me.

Q Before you came up there? A Yes.

THE COURT: Strike out what Gladys told her and the jury will disregard it.

Q What happened after that? A I had connections with him.

Q Did you keep your clothes on or take them off? A He told me if I do not undress myself, he will undress me.

Q And you undressed? A I did, and he got me a pair of pajamas to wear.

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Q Did you put them on? A Yes, sir, I did.

Q And you went back ~~me~~ to bed with him? A Yes.

Q And after that he had sexual intercourse with you?
A Yes.

Q How many times during that evening did he have connection with you? A Twice in the evening and in the morning.

Q And once in the morning? A Yes.

Q Had you ever had intercourse with any other man before that? A No, sir.

Q Are you sure about that? A I am.

Q Did you bleed? A Yes, I did.

Q Did anything else happen to you? Did you faint? A Yes.

Q What did the defendant do then? A He got some water for me. He got me a glass of water.

Q Did he do anything for you in the morning? A He told me that he made a regular girl out of me.

Q Where did you go in the morning? A I went right home to 42nd Street.

Q Did you see the defendant after ~~that~~ that? A I saw him through the window.

Q You never were in his company after that date? A No.

Q Where did you go the next night after that? A Monday night, I did not go any place.

Q You stayed home? A Yes.

Q Where did you go Tuesday night? A I think Gladys and

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I went out with Mr. Stanton.

Q Another one of the men from the studio? A We just went to dinner with him.

Q Where did you meet that night; at your own house?
A Yes.

Q Where did you go after that? A We went home again.

Q That was Tuesday or Wednesday night? A Tuesday night.

Q Where did you go Wednesday or Wednesday night? A I think Mr. Clardy took us to Mrs. Higgins' house.

Q He also worked in the studio? A Yes.

Q He took you to a woman named Mrs. Higgins? A Yes.

Q Did you have a talk with Mrs. Higgins? A He did.

Q Was Gladys with you at that time? A Yes.

Q Did you go to live with Mrs. Higgins in the same house after that? A Yes.

Q Did she get you a job? A Yes, she did.

Q Whereabouts? A In a 5 and 10 Cent Store.

Q How long were you working in the 5 & 10 Cent Store?
A Just one day, then we went to Rutherford, we were sent back.

Q Who came there, the Chief of Police of Rutherford?
A Yes.

Q And took you back home? A Yes.

BY THE COURT:

Q Did you make a complaint of your injury? A No, Gladys did.

I went out with Mr. Norton.

Q Another one of the men from the studio? A We just went to dinner with him.

Q Where did you meet that night; at your own house?

A Yes.

Q Where did you go after that? A We went home again.

Q That was Tuesday or Wednesday night? A Tuesday night.

Q Where did you go Wednesday or Wednesday night? A I

think Mr. Clardy took us to Mrs. Higgins' house.

Q He also worked in the studio? A Yes.

Q He took you to a woman named Mrs. Higgins? A Yes.

Q Did you have a talk with Mrs. Higgins? A He did.

Q Was Gladys with you at that time? A Yes.

Q Did you go to live with Mrs. Higgins in the same house after that? A Yes.

Q Did she get you a job? A Yes, she did.

Q Whereabout? A In a 5 and 10 Cent Store.

Q How long were you working in the 5 & 10 Cent Store?

A Just one day, then we went to Rutherford, we were sent back.

Q Who came there, the Chief of Police of Rutherford?

A Yes.

Q And took you back home? A Yes.

BY THE COURT:

Q Did you make a complaint of your injury? A No, Gladys did.

Q You did not make any complaint? A I did not, no.

Q Did you say to anybody what had happened? A I told Gladys Bowen.

Q When did you tell Gladys Bowen? A I told her the next day after it happened.

BY MR. WALLACE:

Q Did you also have a conversation with Mrs. Higgins about it? A Gladys told her and then she questioned me about it.

MR. GREENTHAL: I object to that and move to strike it out.

THE COURT: Strike it out.

Q When Mrs. Higgins questioned you, did you tell her about it? A Yes.

MR. GREENTHAL: I object to the question.

THE COURT: Sustained; strike out the answer.

Q At the time you met this defendant the first time, how were you dressed? A I had this hat and this dress, but it was a lighter blue. I dyed it.

Q Stand up, please. (The witness stands up). You had on that dress? A Yes.

Q And that hat? A Yes. (The witness resumes her seat)

Q Was your hair done up that way? A Yes.

Q You say you had the same dress, only it was a lighter blue and you have since had it dyed? A Yes.

Q Now, the time you first came to New York, the day you went to the Travellers' Aid Society, who took you there, if anybody? A I met two young men.

Q What happened after you met these two young men?

A They brought us there.

Q Did you have any conversation with them? Did they take you to a restaurant or anything? A Yes.

Q They bought you a dinner? A We had lunch.

Q And they took you to the Travellers' Aid Society?

A Yes.

Q You didn't know these two men before you met them that time? A No, sir.

Q How much money did you have when you came from New Jersey? A Gladys and I, we had \$4.

Q You had it between you, you mean? A Yes.

MR. WALLACE: Your witness.

EXAMINATION BY MR. GREENTHAL:

Q You say you arrived in New York on April 22nd? A Yes.

Q Is that the first time that you were in New York? A No.

Q That is not the first time? A No.

Q When had you been to New York prior to April 22nd?

A Why, only visiting my aunt.

Q When was that?

THE COURT: Mr. Greenthal, if you care to, you

might reserve your cross examination of this witness for a little while, and Mr. Wallace might examine the next witness on the direct, if that is agreeable.

MR. WALLACE: That is agreeable to me.

MR. GREENTHAL: That is agreeable to me.

THE COURT: Allie, you might step outside a few minutes, and do not talk about the case with anyone outside

CLARENCE BOWEN, of 21 Erie Avenue, Rutherford, New Jersey, a witness sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. WALLACE:

Q Gladys, try and tell your story up to that the Jurymen can hear you. Now, how old are you? A Fifteen.

Q When, what is your birthday? A December 13th.

Q You live in Rutherford, New Jersey, the same town as the complaining witness, Alice McCleary? A Yes, sir.

Q Did you come here with her on the 22nd of April? A Yes.

Q Did you go to the Travellers' Aid Society that first day you came? A Sunday evening.

Q I am talking about the first day you came here, when, as I understand, you met a couple of young men and went to the Travellers' Aid Society, is that right? A Yes, sir.

MR. GREENTHAL: I object to that as leading.

THE COURT: Do not lead.

might reserve your cross examination of this witness for a little while, and Mr. Wallace might examine the next witness on the direct, if that is agreeable.

MR. WALLACE: That is agreeable to me.

MR. CHRISTIAN: That is agreeable to me.

THE COURT: Alice, you might step outside a few minutes, and do not talk about the case with anyone outside.

GLADYS BOWEN, of 21 Erie Avenue, Rutherford, New Jersey, a witness sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. WALLACE:

Q Gladys, try and tell your story so that the jury can hear you. Now, how old are you? A Fifteen.

Q When was your birthday? A December 22nd.

Q You live in Rutherford, New Jersey, the same town as the complaining witness, Alice McCleary? A Yes, sir.

Q Did you come here with her on the 22nd of April? A Yes.

Q Did you go to the Travellers' Aid Society that first day you came? A Sunday evening.

Q I am talking about the first day you came here, when, as I understand, you met a couple of young men and went to the Travellers' Aid Society, is that right? A Yes, sir.

MR. CHRISTIAN: I object to that as leading.

THE COURT: Do not lead.

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Q Just tell these gentlemen what you did when you got here from Rutherford, New Jersey. A Sunday evening when we came, we landed here about twelve o'clock, and met two gentlemen, and they took us to the Travellers' Aid Society. Monday morning we got out about eight o'clock. A lady came and put us on the train for Rutherford. We didn't go to Rutherford. We went to Paterson, and then we came back to New York. We looked for a room. We got a furnished room between 71st and 72nd Street and stayed there that night. Then the next night we went to Alice's aunt's. The next day we got across on 42nd Street which we had for awhile week.

Q What number on 42nd Street was that? A 120.

Q East or west? A West.

Q When did you first see this defendant? The first time you ever saw him in your life, I mean? A On a Thursday afternoon when we were in that room, on 43rd Street.

Q Where did you see him that time? A In his studio right across from our window.

Q You looked out of the rear window of the house 122 West 42nd Street? A Yes.

Q And you saw the defendant in a studio in a window across the yard from you? A Yes.

Q Did you flirt with him? A Yes.

Q As the result of that flirtation, did you meet the defendant? A I met Mr. Smyth first.

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Q The woman works in his studio, or is associated with the defendant? A He works in the studio with Mr. Sullivan.

Q When did you meet Smyth? A I met him Friday afternoon about five o'clock.

Q Where? A Down at the door, at my door.

Q Did you have a talk with Mr. Smyth? A Yes.

Q Now, when did you first see the defendant? A We saw both Mr. Smyth and Mr. Sullivan that same evening.

Q About what time? A About 9:20, I guess.

Q Where did you see them? A They both came to our door.

Q Did you have a talk with those two men at the door there?

A Yes, we did. Then we went to the corner and had a drink.

Q The corner of 43rd Street, you say? A Yes.

Q What is that, a saloon? A Yes, sir.

Q After having a drink in the saloon -- what did you drink, by the way? A We had a creme de menthe.

Q After having that drink, what if anything did you do? A They came right back to our home again.

Q You went back home? A Yes.

Q When did you next see this defendant? A I saw him Saturday evening again.

Q Who was with you at that time? A Mr. Smyth.

Q What happened, where did you see him at that time?

A They came down to the door for us.

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Q Did you go any place with them that night? A Yes.
Q Where did you go then? A First we had a drink.
Q At the same place? A No, sir, a different place.
Q A different saloon? A Yes.

Q Where was that saloon? A I don't know where, I don't remember.

Q Where did you go from that saloon? A Mr. Sullivan had a taxi, and he took us up to his apartment.

Q At No. 10 Manhattan Avenue? A Yes.

Q When you got up to this apartment -- this was a Saturday night, you say? A Yes.

Q When you got up to his apartment, what happened, if anything between you and Smyth and Sullivan and the other girl?

MR. CHRISTIAN: I object to whatever happened with Mr. Smyth.

Q Well, what happened in the apartment that you saw between the defendant and Alice McCleary? A Mr. Sullivan and Alice went into the bedroom.

Q How long were they in the bedroom? A They were in there about fifteen minutes.

Q And they came out again? A Yes.

Q Did anything happen when they came out? A No.

Q Did either of them say anything? A No.

Q Did you go any place with them that night? A Yes.
Q Where did you go then? A First we had a drink.
Q At the same place? A No, sir, a different place.
Q A different saloon? A Yes.
Q Where was that saloon? A I don't know where, I don't remember.

Q Where did you go from that saloon? A Mr. Sullivan had a taxi cab, and he took us up to his apartment.
Q At No. 10 Manhattan Avenue? A Yes.
Q When you got up to this apartment -- this was a Saturday night, you say? A Yes.
Q When you got up to his apartment, what happened, if anything between you and Gayth and Sullivan and the other girl?

MR. SHERIDAN: I object to whatever happened with Mr. Gayth.

Q Well, what happened in the apartment that you saw between the defendant and Alice McCleary? A Mr. Sullivan and Alice went into the bedroom.

Q How long were they in the bedroom? A They were in there about fifteen minutes.

Q And they came out again? A Yes.
Q Did anything happen when they came out? A No.
Q Did either of them say anything? A No.

Q In the meantime you and Gayth were in the dining-room?
A Yes, sir.
Q After you all four together were in the dining-room again, how long did you remain there? A After Mr. Sullivan and Alice came out, Mr. Gayth and I went in.
Q After Mr. Gayth and you went in, how long were you in the bedroom with Gayth?

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

THE COURT: I am only receiving it as bearing upon the length of time that the complaining witness was inside the defendant's apartment on the first night.

MR. SHERIDAN: I take an exception.

MR. WALLACE: Well, I withdraw the question.

Q You came back to the dining-room again in the course of time? A Yes, sir.

Q Then did you leave the apartment with Alice McCleary?
A Yes, sir.

Q Who went with you? A Mr. Gayth. Mr. Sullivan came down to the door of his apartment, and Sullivan left us. He had to go some place, he said, so Mr. Gayth took us home.

Q When did you next see the defendant? A I saw him Sunday evening.

Q Where? A He came down to the door.

Q He came to the house? A Yes.
Q Did he come upstairs? A No, we saw him downstairs.
Q Who was present at that time? A Alice was with me.
Q You, Alice and this defendant? A Yes.
Q Will you state what took place at that time between you and Alice and this defendant? A Alice went to Mr. Sullivan's apartment that evening. They left me about 9:30.
Q She went away with him? A Yes.

BY THE COURT:

Q Did you have any talk with the defendant before Alice went to the apartment? A Yes, I did.

BY MR. WALLACE:

Q Tell the jury. A Before Mr. Sullivan came around, Alice had a fainting spell.

BY THE COURT:

Q What talk did you have with Sullivan at the apartment?
A I was not up to the apartment with Mr. Sullivan.

Q Before Alice started to go on Sunday night to the apartment, and after the defendant had come down to the doorway of the 43rd Street house, what talk did you have with Sullivan? A I told him that I did not think it was right for Alice to go with him this evening, as he was not feeling very well, and he promised me he would not touch her at all.

BY MR. WALLACE:

Q Did you tell him anything about her having a fainting

spell? A I did.

Q He said he would not touch her? A He had.

Q And they went off together? A Yes.

Q When did you next see Alice? A She came home next morning at nine o'clock.

Q Did she have a talk with you? A Yes.

Q What did she say?
Objected to; objection sustained.

BY THE COURT:

Q Was complaint of injury made to you? A Yes, she told me.

Q Yes or no? A Yes.

BY MR. WALLACE:

Q Did you see the defendant thereafter? A I only saw him from the window, but we never met him after that.

MR. WALLACE: Your witness.

CROSS EXAMINATION BY MR. SHERIDAN:

Q You say that you left Rutherford, New Jersey on the 2nd of April? A We did.

Q What train? A It was ten something from Passaic.

Q What time did you arrive in New York? A Twelve o'clock.

Q At the foot of 43rd Street? A Yes, sir.

Q Was it there that you met these two young men you

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Q Did you see him?
Q He said he would not touch her? A He had.
Q And they went off together? A Yes.
Q When did you next see Alice? A The same home next morning at nine o'clock.
Q Did she have a talk with you? A Yes.
Q What did she say?
Objected to; objection sustained.
BY THE COURT:
Q Was complaint of injury made to you? A Yes, she told me.
Q Yes or no? A Yes.
BY MR. WALLACE:
Q Did you see the defendant thereafter? A I only saw him from the window, but we never met him after that.
MR. WALLACE: Your witness.
CROSS EXAMINATION BY MR. GROSVENOR:
Q You say that you left Rutherford, New Jersey on the 22nd of April? A We did.
Q What train? A It was ten something from Passaic.
Q What time did you arrive in New York? A Twelve o'clock.
Q At the foot of Third Street? A Yes, sir.
Q Was it there that you met these two young men you

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speak of? A No.
Q Did you know where you were going when you arrived in New York at twelve o'clock at night? A We did not.
Q Had you been in New York before that time? A No.
Q You never had been in New York? A Yes, I had been before, but never alone.
Q Who was with you? A My friend, Alice McCleary.
Q How many times had you been in New York with Alice McCleary before April 22nd? A Never before with her.
Q You had been with other girls? A No, only with my aunt.
Q You never were in New York before April 22nd?
THE COURT: She said never before except with her aunt.
Q Were you ever in New York prior to April 22nd with the McCleary girl? A No.
Q Sure about that? A I am.
Q Had you any trouble at home when you left on the 22nd of April?
MR. WALLACE: I object to it as immaterial, incompetent and irrelevant.
THE COURT: I think I will sustain the objection.
Q When you arrived in New York at the foot of Third Street did you see a police officer? A Yes, we did.
Q Did you talk with him? A No.

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Q Did you know where you were going to stop over night?
A No.
Q You had no idea at all? A No.
Q After you arrived at Third Street, did you take a car, or did you walk? A I walked a little ways.
Q How far did you walk? A Until we got on the "L", then we took it up Third Avenue.
Q That is Ninth Avenue and Third Street "L"? A Yes.
Q Did you go on the "L"? A Yes.
Q Where did you ride to? A We only rode up a little ways, then we got off and met these two fellows.
Q Where did you get on? A I don't know what street.
BY THE COURT:
Q Did you ride uptown or was it downtown? A We got off at Third Avenue, that is all I know.
BY MR. GROSVENOR:
Q You could not really go from Third Street and Ninth Avenue to Third Avenue and 23rd Street, could you? No elevated runs that way. Did you go uptown or downtown?
THE COURT: You assume it was the Ninth Avenue "L" she took. She may have walked over to Third Avenue.
Q How many blocks did you walk across before you took the elevated? A Not very far.
Q Will you say about ten or three blocks? A Yes.
Q When you arrived at Ninth Avenue, from the ferry, did

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you go right upstairs on the elevated, or did you cross Ninth Avenue? A We went up on the elevated.
Q Did you go downtown or uptown?
MR. WALLACE: What difference does it make, your Honor?
THE COURT: We will find out. She may be interested.
Q Do you know whether you went uptown or downtown? A I don't know.
Q How long did you ride before you got off the elevated?
A I only rode a couple of stations, and my friend got sick.
Q Then you went down to the street? A Yes.
Q Was it there you met the two young men? A Yes.
Q You met them downstairs? A No, not down there.
Q Where did you meet those two men? A We walked a couple of blocks and we met these two fellows.
Q On Ninth Avenue was it you met the two men? A Yes.
Q Did you talk with them first or did they talk to you?
A First they said, "How do you do", and they came up to us, and they started talking, and they wanted to know where we were going.
Q Did you talk then? A We told them we left home and we did not know where we were going.
Q Did you go anywhere with them? A They took us to supper.

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Q You go right upstairs on the elevated, or did you cross Ninth Avenue? A We went up on the elevated.

Q Did you go downtown or uptown?

MR. WALLACE: What difference does it make, your Honor?

THE COURT: We will find out. She may be interrogated.

Q Do you know whether you went uptown or downtown? A I don't know.

Q How long did you ride before you got off the elevated?

A I only rode a couple of stations, and my friend got sick.

Q Then you went down to the street? A Yes.

Q Was it there you met the two young men? A Yes.

Q You met them downstairs? A No, not down there.

Q Where did you meet those two men? A We walked a couple of blocks and we met these two fellows.

Q On Ninth Avenue was it you met the two men? A Yes.

Q Did you talk with them first or did they talk to you?

A First they said: "How do you do", and they came up to us, and they started talking, and they wanted to know where we were going.

Q Did you tell them? A We told them we left home and we did not know where we were going.

Q Did you go anywhere with them? A They took us to supper.

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Q Whereabouts? A It was on Ninth Avenue.

Q Did you have something to drink? A No.

Q What did you eat? A We had a club sandwich and a cup of coffee.

Q Then what happened? A Then we were walking around; finally they took us to the Aid Society.

Q How long were you walking around before you were taken to the Aid Society? A About a half hour and a half.

Q Do you know what time you arrived at the Aid Society?

A About two or half-past two, something like that.

Q And you were walking around with these two men for an hour and a half? A Yes.

Q Then they left you at the Aid Society? A Yes.

Q Had you ever met those young men before? A No.

Q Ever meet them after? A No, never met them after.

Q You remained over night in the Society's office? A Yes.

Q And then they took you down to the ferry and placed you on a train? A Yes.

Q And sent you back to Rutherford? A Yes.

Q What time was that? A This was near noon time when they put us on the train.

Q And instead of going direct to your home with the McNairy girl, you got off at Paterson and came back to New York? A Yes.

Q Where did you go when you came back to New York? A I

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went to find a furnished room.

Q Did you find one? A Yes, between 71st and 72nd Street.

Q Were you acquainted with the neighborhood of 71st and 72nd Street? A No.

Q Had you ever been there before? A No.

BY THE COURT:

Q On what avenue was that furnished room? You say it was between 71st and 72nd Street. On what street or avenue was it? A I don't know, between those two places, right around the corner. I don't know what street. I am not acquainted with New York.

Q Was the street running up and downtown? A It went that way, yes (indicating).

Q Was it a street on which there was an elevated railroad? A No.

BY MR. QUENTHAL:

Q You testified in the City Magistrate's Court, did you not? A Yes.

Q You testified as a witness in this case in the Police Court? A Yes.

Q Did you testify there that you engaged a furnished room between 71st and 72nd Street on Third Avenue? A We did.

Q You did? A Yes.

Q Who directed you to that furnished room house? A No.

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body did. We found it ourselves.

Q What time did you arrive there? A About five o'clock.

Q Where did you get off after you arrived in New York; you came across the same way, the 22nd Street ferry, the second time. When you left Paterson, and you came back to New York? A Yes.

Q You came across the same ferry, the 22nd Street, didn't you? A Yes.

Q And did you walk from 22nd Street ferry to 71st Street? A We did.

Q What car did you take? A We walked.

Q You walked from 22nd Street, west, way up to 71st or 72nd Street, looking for a furnished room? A We did.

Q Do you know the name of the lady that kept that furnished room? A No, I do not.

Q Now, did you stay in that house, how long? A One night.

Q You say no one directed you there? A No.

Q And from there you went to the aunt's house, that is Alice McNairy's aunt's house? A Yes, next evening.

Q How long did you remain there? A One night.

Q Did you ever stay over night in the Martha Washington Hotel? A Yes, that was the next evening.

Q What evening? A Wednesday night.

Q So that you did not go from the aunt's house direct to 43rd Street and engage an apartment? A No.

Q Did any one question you in the Martha Washington Hotel?

body did. We found it ourselves.

Q What time did you arrive there? A About five o'clock.

Q Where did you get off after you arrived in New York; you came across the same way, the 32nd Street ferry, the second time.

When you left Peterson, and you came back to New York? A Yes.

Q You came across the same ferry, the 32nd Street, didn't you? A Yes.

Q And did you walk from 32nd Street ferry to 71st Street?

A We did.

Q What car did you take? A We walked.

Q You walked from 32nd Street, west, way up to 71st or 72nd Street, looking for a furnished room? A We did.

Q Do you know the name of the lady that kept that furnished room? A No, I do not.

Q Now, did you stay in that house, how long? A One night.

Q You say no one directed you there? A No.

Q And from there you went to the aunt's house, that is Alice McCleary's aunt's house? A Yes, next evening.

Q How long did you remain there? A One night.

Q Did you ever stay over night in the Martha Washington Hotel? A Yes, that was the next evening.

Q What evening? A Wednesday night.

Q So that you did not go from the aunt's house direct to 43rd Street and engage an apartment? A No.

Q Did any one question you in the Martha Washington Hotel

as to what you were doing in New York? A No.

Q Did you have your hair up or down at the time? A Oh.

Q You had on what dress? A I had this dress on.

Q Did they ask you in the hotel where you lived? A We

just put our names down and where we came from in the book.

Q And they assigned you to a room? A Yes.

Q Now, where is that hotel? A A gentleman took us there.

Q What is the name of that gentleman that took you to the hotel? A He never told us his name.

Q Where did you meet him? A One evening, on Wednesday

evening we were walking along, and we flirted with this man.

Q You were walking along what street? A I don't know.

Q Was it around 71st and 72nd Street and Third Avenue? A No.

Q Was it away from that house? A Yes.

Q Was it between the time you had engaged the room in

72nd Street and the time you went to the aunt's house? A No,

it was Wednesday evening.

Q Was that after you had engaged a room at the hotel?

A No, we engaged that after we met him.

Q Can you tell us where you met that man? A I don't know

now.

Q You don't know on what avenue it was? A No.

Q You say you flirted with the man? A Yes.

Q Was he an elderly man or a young man? A An elderly man.

Q How old will you say the man was? A About forty-three or forty-five, around there.

Q Where did he take you to? A He took us to a cabaret.

Q Where was this cabaret he took you to? A Why, it was

the Parisian.

Q Where is that, on Eighth Avenue, on the west side? A I

don't know anything at all about that.

Q Was Alice McCleary with you at the time? A Yes.

Q Did you meet any other men at that place? A Why,

there were a good many in there. I only danced with one other

fellow.

Q Was Alice introduced to any men in that place? A So.

Q Was she with the elderly man while you were dancing

with this other man? A Yes.

Q How long did you remain at the cabaret? A Until about

half-past two.

Q In the morning? A Yes, sir.

Q Did you have anything to drink? A White Rock.

Q Did you drink any wine? A No.

Q Did Alice drink anything? A No, only the White Rock.

Q After you had a talk with this elderly man, he took you

to this hotel? A Yes.

Q You arrived there about what time? A Three o'clock.

Q Did he suggest to you that you should engage a furnished

room on West 43rd Street? A He did not tell us which one to go to, no.

Q But he did suggest to you that you should engage a furnished room? A Yes.

Q And you should stay overnight in the Martha Washington Hotel and next morning you should engage the furnished room?

A Yes.

Q After you had engaged that room, did you tell him who you were living? A Yes.

Q Who wrote to him? A Wrote him.

Q You met him? A Yes, we met him.

Q That was next morning? A Yes.

Q After you had engaged the room in West 43rd Street?

A We saw him Thursday the next time, and he took us to dinner.

Q Where did you meet him on Thursday? A I met him on the corner.

Q Corner of 43rd Street? A No.

Q What corner? A It was only a couple of blocks away from the Martha Washington Hotel.

Q Did you meet him before or after you had engaged the room in West 43rd Street? A We had dinner with him first.

Then he looked over the paper and he saw where all these furnished rooms were, and he marked them out for us.

Q He selected the place? A Yes.

Q Did he go with you to 43rd Street? A No, we went our-

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room on West 43rd Street? A He did not tell us which one to go to, no.

Q But he did suggest to you that you should engage a furnished room? A Yes.

Q And you should stay overnight in the Martha Washington Hotel and next morning you should engage the furnished room? A Yes.

Q After you had engaged that room, did you tell him where you were living? A Yes.

Q You wrote to him? A Wrote him.

Q You met him? A Yes, we met him.

Q That was next morning? A Yes.

Q After you had engaged the room in west 43rd Street?

A We saw him Thursday the next time, and he took us to dinner.

Q Where did you meet him on Thursday? A I met him on the corner.

Q Corner of 43rd Street? A No.

Q What corner? A It was only a couple of blocks away from the Martha Washington Hotel.

Q Did you meet him before or after you had engaged the room in West 43rd Street? A We had dinner with him first. Then he looked over the paper and he was where all these furnished rooms were, and he marked them out for us.

Q He selected the place? A Yes.

Q Did he go with you to 43rd Street? A No, we went our-

selves and got the room.

Q Then you went back and reported that fact to him? A Yes.

Q Where did you meet him when you told him you had engaged a room in West 43rd Street? A In the Times Building.

Q And you know where the Times Building was at that time?

A Yes, we found it out.

Q Was this Alice McLeary girl with you at the time?

A Yes.

Q Did this old gentleman take you any where? Did you go out with him any place after you had reported the fact that you had engaged this room in 43rd Street? A He asked us what kind of a room we had, and he came up and saw it.

Q He looked at the room? A Yes.

Q Was Alice there at the same time? A She was.

Q What kind a room did you have there? A It was a very large room.

Q How many beds? A One.

Q You and Alice occupied that bed? A Yes.

Q What time did this elderly gentleman arrive at your furnished room on Thursday? A Half-past six.

Q At night? A Yes.

Q How long did he stay there? A He only stayed there about half an hour.

Q Did you go out with him? A No.

Q He went away and let you two girls in the apartment?

A Yes.

Q When next did you see him? A The next evening I was talking with him about six o'clock.

Q Where did you meet? A In the Times Building.

Q By appointment? A Yes.

Q Was Alice along with you? A No.

Q Was there any other man with the old gentleman? A That evening Alice did not go with me and she was home in bed sick. But there was some other gentleman there.

Q Some other gentlemen with Alice? A No, with this other fellow. Alice was alone in the room.

Q Did any other man ever call at her apartment outside of this old gentleman? A Not to see Alice.

Q Do you know a man named Mr. Sexton? A Not up in the room.

Q Do you know a man named Mr. Sexton? A I do.

Q Do you know a man named Hutchinson? A I do.

Q Do you know a man named Lynch? A I do.

Q Do you know any other men around that neighborhood?

A I know Mr. Clardy.

Q When for the first time did you meet Mr. Clardy? A One evening Mr. Sexton came down to the door.

Q When for the first time did you meet Mr. Clardy? A That evening Mr. Sexton called up Mr. Clardy to meet us on 43rd Street, and he did.

Q How long after you had engaged this furnished room on West 43rd Street, did you meet Mr. Clardy? A Mr. Clardy-- on a Monday.

Q What day of the month was that? Was that before or after you had met Mr. Sullivan? A After.

Q How long after? A Mr. Sullivan, for the first time on a Friday, and this was Monday I met Mr. Clardy.

Q Did you tell Mr. Clardy that you had met Mr. Sullivan? A Not yet that night, no.

Q At any time? A Yes.

Q Did you tell him that you had been up in Mr. Sullivan's apartment? A Yes.

Q When did you tell him that? A I told him that a few days after.

Q How many days after? A About ten or three days after I told him.

Q Now, getting back to this old gentleman you speak of, how many times had you been out with him? A About four or five times I saw him.

Q Is he the only man you have been out with? A No, not so.

Q You have been out with other men, have you? A Yes, another fellow.

Q What is his name? A Morris Greenberg.

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Q How long after you had engaged this furnished room on West 43rd Street, did you meet Mr. Clardy? A Why, Mr. Clardy-- on a Monday.

Q What day of the month was that? Was that before or after you had met Mr. Sullivan? A After.

Q How long after? A Mr. Sullivan, for the first time on a Friday, and this was Monday I met Mr. Clardy.

Q Did you tell Mr. Clardy that you had met Mr. Sullivan? A Not yet that night, no.

Q At any time? A Yes.

Q Did you tell him that you had been up in Mr. Sullivan's apartment? A Yes.

Q When did you tell him that? A I told him that a few days after.

Q How many days after? A About two or three days after I told him.

Q Now, getting back to this old gentleman you speak of, how many times had you been out with him? A About four or five times I saw him.

Q Is he the only man you have been out with? A No, not me.

Q You have been out with other men, have you? A Yes, another fellow.

Q What is his name? A Morris Greenberg.

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Q Were you ever out automobile riding with a man, along with Alice? A Morris Greenberg.

Q Was Alice with you at the time? A She was.

Q You remember when that was? A I met Mr. Greenberg on a Friday evening.

Q Was that before or after you met this old gentleman you speak of? A After.

Q Were you still going out with this old gentleman when you met Morris Greenberg? A I only saw him once after that.

Q Did he give you any money? A He paid for that night in the Martha Washington, and he gave me about \$3 for that.

Q You say you went out riding with this man, Morris Greenberg, and Alice was with you at the time? A Yes, she was with me the time I met him.

Q What time was it you met Morris Greenberg? A About 8:30, just as we were coming from supper.

Q Was anyone then with Morris Greenberg? A No, he was all alone.

Q Do you remember meeting Morris Greenberg at half-past one in the morning? A At one o'clock.

Q When was that? A I saw him Saturday evening at one o'clock, also Sunday.

Q Was that the same day or night that you speak of that Alice went with Mr. Sullivan up to his apartment, Saturday night? A Yes.

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Q Were you up in the apartment Saturday night? A Yes, the four of us.

Q After Rayth took you back to 43rd Street, you met Greenberg? A Yes.

Q And you met him at one o'clock that morning? A Yes.

Q Was Alice with you at the time? A No, not that night.

Q What night was Alice with you when you went out automobile riding? A She did not go Saturday night and Sunday night, but she went along with us Monday evening.

Q In the same car with you and Greenberg? A Yes, sir.

Q Was there any other man in the car? A No, sir.

Q Where did you go? A We went around for a drive around Central Park.

Q Did you stop at any saloon or cafe? A No.

Q How long did you remain out? A Only out about an hour and a half.

Q You say Alice was with you on that Monday night? A Yes.

Q Was Alice with you on Tuesday? A No, she only went twice riding with me.

Q Well, where was Alice on Tuesday? A We were together on Tuesday.

Q Were you out? A Yes, we went out for a walk, just us two.

Q How far did you walk? A We were walking around. We were trying to get a position.

Q How long did you walk? A I was out for a couple of

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hours.

Q Did you meet any men or flirt with any men? A No.

Q Sure about that? A Yes.

Q Now, how about Wednesday; did you find employment on Wednesday? A I went to different stores. I told them I was seventeen and they did not believe that. They wanted the birth certificate.

Q And Alice was with you also Wednesday? A Yes.

Q How long did you walk around, couple of hours? A Yes.

Q Had you been in any saloons that day or night? A No, only that once I was in the saloon.

Q Are you sure about that? A Yes.

Q You are also positive now that when you arrived in New York on the second occasion you got on the elevated and you rode for about ten or fifteen minutes. Are you sure about that? A Yes.

Q You are also sure that no one directed you to this furnished room apartment between 71st and 72nd Street on Third Avenue? A No one did; we found it ourselves.

Q And you walked from 43rd Street on the west side over to Third Avenue all the way up to 71st and 72nd Street, looking for a furnished room? A Yes.

BY THE COURT:

Q Did you find that by looking at a newspaper? A On 43rd Street?

Q The 71st Street place? A No, we found that ourselves.

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Q Did you meet any man or flirt with any man? A No.
Q Sure about that? A Yes.
Q Now, how about Wednesday, did you find employment on Wednesday? A I went to different stores. I told them I was seventeen and they did not believe that. They wanted the birth certificate.
Q And Alice was with you also Wednesday? A Yes.
Q How long did you walk around, maybe an hour? A Yes.
Q Had you been in any saloons that day or night? A No, only that once I was in the saloon.
Q Are you sure about that? A Yes.
Q You are also positive now that when you arrived in New York on the second occasion you got on the elevated and you rode for about ten or fifteen minutes. Are you sure about that? A Yes.
Q You are also sure that no one directed you to this furnished room apartment between 71st and 72nd Street on Third Avenue? A No one did; we found it ourselves.
Q And you walked from 22nd Street on the west side over to Third Avenue all the way up to 71st and 72nd Street, looking for a furnished room? A Yes.
BY THE COURT:
Q Did you find that by looking at a newspaper? A On 43rd Street?
Q The 71st Street place? A No, we found that ourselves.

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We were walking along and saw the sign on the door.
MR. ORSHWAL: That is all.
RE-DIRECT EXAMINATION BY MR. WALLACE:
Q Do you know a man named Paul Washington (Phonewrong)?
A Yes.
Q How long have you known him? A I went with him about a week and a half.
Q When was that? A That was after I went to 42nd Street I met him.
Q Is he a friend of yours or a friend of Alice's? A A friend of mine.
Q Why did you come to New York? A Well, we had a little trouble at home.
Q What did you intend to do here when you came here?
Objected to as immaterial; objection sustained; and question withdrawn.
MR. WALLACE: That is all.
ALICE M. CLIFTON, recalled for cross examination, testifies as follows:
CROSS EXAMINATION BY MR. ORSHWAL:
Q Had you been to New York with Gladys before April 22nd?
A No, not with Gladys.
Q That is the first time you had been to New York with

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Gladys? A Yes, sir.
Q Had you ever been to New York before that time with any other girl? A Not with any other girl.
Q Where did your mother live in the Bronx? A 129th Street.
Q And what avenue? A Between 129th and 128th Street.
Q On what avenue? A Lexington, I think it is.
Q Had you been there before? A Yes.
Q How many times? A About four times.
Q Were you alone? A No, with my parents.
Q Did you know how to get there without the aid of your mother? A Yes.
Q How many times had you been there without your mother? A I was never there before without her, until Gladys and I went.
Q When you came on from Rutherford, New Jersey, and wanted to go to your mother's home in the Bronx, how would you go? A We went from 129th Street and took the Third Avenue "L".
Q I mean before April 22nd, when you wanted to go to your mother's home, how would you go?
Objected to as immaterial, and question allowed.
A From Rutherford?
Q Yes? A I take the Erie train and ride to Jersey City, and take the Chambers Street ferry, and take the street-car to Third Avenue and take the "L".
Q When you ride up on the "L" and get off at what street,

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129th Street? A Yes.
Q Now, on the 22nd of April when you came to New York, did you come across 22nd Street ferry, or Chambers Street? A Chambers Street.
Q When you arrived at the foot of Chambers Street, where did you get? A We walked up Chambers Street and came to an elevated, and took the elevated.
Q Is that the same elevated you were in the habit of taking in going to your mother's? A No, I don't think so.
Q Don't you know? A No.
Q Was it before you got on the elevated that you met these two young men or after? A After we got off.
Q Did you ride uptown or downtown? A Uptown.
Q How far uptown did you ride? A About 44th Street, I think.
Q Was it 42nd Street? A Yes, about that.
Q You rode from Chambers Street to 42nd Street? A Yes.
Q What time did you arrive at 42nd Street? A It was about 11:20.
Q Sure about the time? A It was about twelve o'clock.
BY THE COURT:
Q You mean noon or midnight? A Midnight.
BY MR. ORSHWAL:
Q Then when you came over from Rutherford, New Jersey, and you arrived in New York, did you know where you were going to stop that night? A No.

120th Street? A Yes.

Q Now, on the 22nd of April when you came to New York, did you come across 42nd Street Ferry, or Chambers Street? A Chambers Street.

Q Then you arrived at the foot of Chambers Street, where did you get? A We walked up Chambers Street and came to an elevated, and took the elevated.

Q Is that the same elevated you were in the habit of taking in going to your mother's? A No, I don't think so.

Q Don't you know? A No.

Q Was it before you got on the elevated that you met these two young men or after? A After we got off.

Q Did you ride uptown or downtown? A Uptown.

Q How far uptown did you ride? A About 44th Street.

I think.

Q Was it 42nd Street? A Yes, about that.

Q You rode from Chambers Street to 42nd Street? A Yes.

Q What time did you arrive at 42nd Street? A It was about 11:30.

Q Sure about the time? A It was about twelve o'clock.

BY THE COURT:

Q You mean noon or midnight? A Midnight.

BY MR. GRANT:

Q Then when you came over from Rutherford, New Jersey, and you arrived in New York, did you know where you were going to stop that night? A No.

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Q You had no idea at all? A No.

Q Did you have any baggage with you? A No.

Q Nothing at all? A Nothing at all.

Q You had how much money, you say, 50? A No.

Q Now did you come to get off at 42nd Street and Ninth Avenue? A I was feeling ill.

Q When you got down in the street, what did you do? A We walked up the street.

Q Towards Ninth Avenue? A Yes, I think so.

Q How far did you walk before you met these two men?

A We did not walk very far, about a block.

Q Did you tell these two young men you were feeling ill.

I felt better then.

Q Did you talk first, or did they talk to you? A They spoke to us.

Q What did they say to you? A They said: "How do you do", and they followed us.

Q How far did they follow you? A About half a block and then they walked with us.

Q After they had a talk with you, where did they take you?

A To a restaurant.

Q Whereabouts? A On Lexington Avenue.

Q So that you went from Eighth Avenue to Lexington Avenue?

A We were on Third Avenue.

MR. WALLACE: I object to that as a misinterpretation of that testimony.

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BY THE COURT:

Q What line of elevated road did you go on at this particular time, just before you got off? A About 42nd Street.

Q What elevated road were you riding on? A Third Avenue.

Q On the Third Avenue Elevated? A Yes, sir.

BY MR. GRANT:

Q You got off at the foot of Chambers Street, is that not?

A Yes.

Q How far did you walk from the time you got off the ferry boat until you took the elevated, how many blocks? A About two blocks.

Q You know how many blocks are between Chambers Street Ferry and the City Hall on the Third Avenue Elevated? A No, I could not say that I do.

Q You know that there is an elevated station at Warren Street and Greenwich, that is about two or three blocks from the ferry? A Yes.

Q Is that the train that you took? A I guess it must have been.

Q Then you rode up to 42nd Street? A Yes.

Q Now, whether it is the Ninth Avenue, or whether it is the Third Avenue, did you walk east or west after you got off at 42nd Street? A We walked west.

Q Going towards the East River, could you see the water as you walked? A No.

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Q When you were walking from Ninth Avenue going east, could you see bright lights on Ninth Avenue and Broadway? A Yes.

Q Did you pass the bright lights coming from the west side towards Lexington Avenue?

BY THE COURT:

Q Did you pass the Times Building? A I did not follow.

Q You know the Times Building? A Yes, but I don't think I passed that.

BY MR. GRANT:

Q How long were you in company with these two young men before they took you to the Travellers' Aid Society? A About an hour and a half.

Q You were in the lurch room all this time? A Yes.

Q So that you arrived at the Travellers' Aid Society about half-past six or two o'clock? A About that.

Q Now, did you tell the young man you came from Rutherford?

A No.

Q Did they advise you to go back to this place, and then go back to where you belonged? A Yes.

Q They told you that? A Yes.

Q And after you had remained in the Hotel room they sent you back to Rutherford? A Yes.

Q And placed you on the train? A Yes.

Q Who suggested getting off at Paterson and coming back to New York? A I don't know; I guess I did.

Q When you came back to New York, what time did you arrive?

Q When you were walking from Ninth Avenue going east, could you see bright lights on Ninth Avenue and Broadway? A Yes.
Q Did you pass the bright lights coming from the west side towards Washington Avenue?
BY THE COURT:
Q Did you pass the "Time Building"? A I did not notice.
Q You know the "Time Building"? A Yes, but I don't think I passed that.
BY MR. OSWALD:
Q How long were you in company with these two young men before they took you to the "Travellers' Aid Society"? A About an hour and a half.
Q You were in the lunch room all this time? A Yes.
Q So that you arrived at the "Travellers' Aid Society" about half-past one or two o'clock? A About that.
Q Now, did you tell the young men you came from Rutherford?
A No.
Q Did they advise you to go back to this place, and then go back to where you belonged? A Yes.
Q They told you that? A Yes.
Q And after you had remained in the Society rooms they sent you back to Rutherford? A Yes.
Q And placed you on the train? A Yes.
Q Who suggested getting off at Paterson and coming back to New York? A I don't know; I guess I did.
Q When you came back to New York, what time did you arrive

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in New York? A About two o'clock.
Q Two o'clock in the afternoon? A Yes.
Q Did you come over the same way, Chambers Street? A Yes, the very same way.
Q Did you take Gladys, the other witness, along with you, and direct her where to go and how to go? A Did I take her?
Q Were you the one that was leading her along where to go and where to stop? A I don't know where to stop myself.
Q When you got off the ferry at Chambers Street, just tell us where you went. A We went to Third Avenue.
Q How did you get to Third Avenue? A I think we took a trolley car.
Q What car did you take? A I do not know what car it was.
Q Did the car take you directly to Third Avenue? A No, we had about two blocks to walk, and then we took a car and rode to Third Street.
Q You took a car from Chambers Street to Third Street?
A Yes.
Q So that you took a car on the west side? A Yes.
Q And around Chambers Street, is that so? A Yes.
Q And when you got on that car, that car took you to Third Street and Third Avenue, is that so?
THE COURT: MR. DUBOIS said that. She said they took a car and that that car did not take them to Third Street, and that they took another car and went up on.

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BY THE COURT:
Q Is that so, young lady? A Yes.
BY MR. OSWALD:
Q How did you come to get off at Third Street and go to this house between Third and Fourth Street and Third Avenue? A I don't know how I came to get off there.
BY THE COURT:
Q Was it just accidental or did you know about this house?
A No, it was just accidental.
BY MR. OSWALD:
Q What time did you get to the house? A About three o'clock or 3:30.
Q In the afternoon? A Yes.
Q And you stayed there all the night? A Yes.
Q And then where did you go from that place? A We went to my aunt's, I think.
Q Up in the Bronx? A Yes.
Q You remained there over night? A Yes.
Q Then where did you go from there? A We went to 42nd Street.
Q You went direct to 42nd Street from your aunt's home?
A Yes.
Q Are you sure about that?
BY THE COURT:
Q When you left your aunt's, where did you go first?
A Then we went downtown.
Q Whereabouts downtown did you go? A I think we went

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back to 42nd Street.
Q Didn't you meet an old gentleman? A We met a man, yes. He was not an old gentleman.
BY MR. OSWALD:
Q You went from your aunt's home direct to 42nd Street, is that so? A Yes.
Q You are sure about that? A Yes.
Q And who engaged that room? A I did.
Q Was anybody with you at that time? A Gladys was.
Q How did you come to select that particular room? A This man that we met sent us there.
Q A man sent you there? A Yes.
Q Do you know his name? A No.
Q Where did you meet him? A We met him, I think it was on Broadway.
Q Do you remember when you met him? A No, I don't.
Q Was it right after you had left your aunt's home? A Yes.
Q Did you flirt with the man? A Why, no, he was standing on the corner, and when we walked up the street, he was right alongside of us.
Q Did you talk to him first, or he to you? A He spoke to us.
Q How old was the man? A I think he was about forty years old.

back to 42nd Street.

Q Didn't you meet an old gentleman? A We met a man, yes. He was not an old gentleman.

BY MR. GREENSTADT:

Q You went from your aunt's home direct to 42nd Street, is that so? A Yes.

Q You are sure about that? A Yes.

Q And you engaged that room? A I did.

Q Was anybody with you at that time? A Gladys was.

Q How did you come to select that particular room? A This was the room that we met us there.

Q A man went you there? A Yes.

Q Do you know his name? A No.

Q Where did you meet him? A We met him, I think it was on Broadway.

Q Do you remember when you met him? A No, I don't.

Q Was it right after you had left your aunt's home? A Yes.

Q Did you flirt with the man? A Why, no, he was standing on the corner, and when we walked up the street, he was right alongside of us.

Q Did you talk to him first, or he to you? A He spoke to us.

Q How old was the man? A I think he was about forty years old.

Q Did you tell him that you came on from Rutherford, New Jersey? A I did not tell him right away.

Q But you did subsequently tell him? A Yes.

Q Did he ask you where you were stopping? A Yes, and I told him we were up in the Bronx at my aunt's.

Q Was it at that time he suggested you take a furnished room? A Yes.

Q So that you had not been anywhere else between the time you left your aunt's home, and the time you met this old gentleman, and he suggested that? A No.

Q That you should take an apartment on 42nd Street?

A Yes.

Q Was he also up in that apartment? A He didn't go, no.

Q At no time? A No.

Q Did you see him again in the street? A Yes, he made appointments with us.

Q Where did you go with him? A He took us to dinner.

Q Whereabouts? A In the cabaret.

Q Where was that? A I don't know where.

Q What time was it you left your home to meet this man?

A About eight o'clock.

Q What time did you get home? A About twelve o'clock.

Q Are you sure it was twelve o'clock? A Yes.

Q So later than that? A No.

Q Did you do any dancing in the cabaret? A Yes, we did.

Q With whom? A Just with this man.

Q Were there any other men there with Gladys? A No.

Q What did she do? A It was just the three of us.

Q What were you doing -- sitting down and drinking? A We had White Rock water.

Q What else? A That is all.

Q Nothing to eat? A No, we did not have dinner there.

Q So that Gladys was with you all the time, and with this man? A Yes.

Q Gladys never left your side? A No.

Q Sure about that? A Positive.

Q Did this old gentleman take you home to 42nd Street?

A Yes.

Q Did you walk from the cabaret show? A Yes, we did.

Q How long did it take you to walk from the cabaret show to your home? A I think we walked until -- we walked a block or so, and we got on the car. We had to ride home.

Q Can you tell the jury about what time you got home?

A About twelve o'clock.

Q Did the man go up into your apartment? A No, he did not.

Q Did you see the man after that? A Yes, twice.

Q How many times after? A About two more times.

Q Where did you meet him on these different occasions?

A In the Times Building.

Q By appointment? A Yes.

Q Did you meet him there alone? A No, always with Gladys.

Q Did he take you out anywhere? A No, he only took us to dinner.

Q Did he take you to a cabaret show? A No, not any more. He just took us home.

Q Did he give you any money? A He did not give it to me.

Q Did he give it to Gladys? A Yes.

Q How much? A I don't know.

Q Did she tell you how much she got from the man? A I don't think so.

Q Did you ask her? A No.

Q How do you know she got money from the money? A She told me she got it.

Q When was that, on the first, second or third occasion that they were out together? A I think the second.

Q Did you ask her why this man gave her money? A No.

Q You were not interested to know? You did not seem how she got the money? Is that right? A (No response).

Q Did Gladys have any money of her own when she came out?

A Yes.

Q How much? A So.

Q How much did you have? A I didn't have anything.

Q You had no money at all? A No.

THE COURT: I think, Mr. Greenstadt, I will trouble you to sever the examination of this witness, if it does not interfere with your case.

MR. GREENSTADT: Very well, your Honor.

(The witness leaves the stand after having been instructed by the Court not to discuss the case with any one).

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Q By appointment? A Yes.

Q Did you meet him there alone? A No, always with Gladys.

Q Did he take you out anywhere? A No, he only took us to dinner.

Q Did he take you to a cabaret show? A No, not any more. He just took us home.

Q Did he give you any money? A He did not give it to me.

Q Did he give it to Gladys? A Yes.

Q How much? A I don't know.

Q Did she tell you how much she got from the man? A I don't think so.

Q Did you ask her? A No.

Q How do you know she got money from the man? A She told me she got it.

Q When was that, on the first, second or third occasion that they were out together? A I think the second.

Q Did you ask her why this man gave her money? A No.

Q You were not interested to know; you did not care how she got the money; is that right? A (No response).

Q Did Gladys have any money of her own when she came on?

A Yes.

Q How much? A \$5.

Q How much did you have? A I didn't have anything.

Q You had no money at all? A No.

THE COURT: I think, Mr. Greenthal, I will trouble you to suspend the examination of this witness, if it does not interfere with your case.

MR. GREENTHAL: Very well, Your Honor.

(The witness leaves the stand after having been instructed by the Court not to discuss the case with any one).

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WILBERT CHAYLER, of 38 West 126 Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HALLADAY:

Q Driven, what is your business? A Elevator runner and switchboard operator.

Q Where are you employed? A 10 Manhattan Avenue.

Q Were you employed there during the latter part of the month of April and May, 1937? A Yes sir.

Q Do you know the defendant, Patrick Sullivan? A Yes sir.

Q At that time did he occupy an apartment at that number? A Yes sir.

Q Do you recall him bringing any girls up to that apartment? A Yes sir, one night.

Q How many different girls have you brought up there for him? A One about he came in with two young ladies.

Q Was this towards the latter part of April 1937? A Yes sir.

Q And you were on duty every night in the latter part of April and in May, 1937, were you not? A During that week.

Q Do you recall him coming in the night after he came in with the two girls?

THE COURT: Do not lead him.

Q Did you see him there on any other occasion with one girl? A Yes sir. One night he came in there with a

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lady. - all the time she lady comes in with him all the time.

Q Did you say he comes in with one girl all the time? A Yes.

Q Do you know that girl's name? A Yes.

Q What is her name? A That is his wife - Miss Thomas.

Q Was she his wife at that time? A I could not say.

Q Had she been married? A I could not say that either.

Q Do you say you recall one night he came up there with two girls? A Yes.

Q Was either of those two girls Miss Thomas? A No.

Q The day following that day he was there with the two girls did you see the defendant? A No.

Q Sure about that? A I went off early next morning.

Q Did you see him the following night? A I think I did.

Q Who was with him that night? A Miss Thomas, if I am not mistaken.

Q Are you sure it was Miss Thomas who was with him on the following night? A Quite sure.

Q What do you mean by quite sure. You know Miss Thomas, don't you? A Yes.

Q Are you sure it was Miss Thomas that was with him the following night? A Yes.

Q On this occasion did he give you any money? A It

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was the night before when he came in with two ladies he gave me a quarter that night.

Q On the 12th of April when he came in with the two ladies did he give you any money? A Yes sir, it was the two ladies he came in with when he came on the quarter.

Q At this point Miss Halladay is requested to leave the court room and stand at the rear.

Q I indicate to you Miss Halladay not you if that is not the girl you saw this defendant with in the elevator on the night that you say you think it was Miss Thomas?

A Yes sir.

Q Did you ever see this girl in your life? A No sir.

Q Was she one of the two girls that came up there the day he gave you a quarter? A No sir.

Q Are you sure about that? A Yes sir.

Q Are you positive? A Yes sir.

Q Do you remember having a conversation with me in my room? A Yes sir.

Q Do you remember trying to get to me that the night of the 29th you remembered seeing the defendant with a dark colored girl?

MR. GREENTHAL: That is objected to.

THE COURT: Allowed.

MR. GREENTHAL: Excuse me, if your Honor please.

A I don't remember seeing a dark colored girl.

was the night before when he came in with two ladies he gave me a quarter that night.

Q On the 25th of April when he came in with the one lady did he give you any money? A No sir, it was the two ladies he came in with when he gave me the quarter.

Q At this point if the lady is brought into the court room and stands at the well,

Q I instructs to you Alice Sullivan and ask you if that is not the girl you saw this defendant with in the elevator on the night that you say you think it was Miss Thomas? A No sir.

Q Did you ever see this girl in your life? A No sir.

Q Was she one of the two girls that came up where the day he gave you a quarter? A No sir.

Q Are you sure about that? A Yes sir.

Q Are you positive? A Yes sir.

Q Do you remember having a conversation with me in my room? A Yes sir.

Q Do you remember saying to me to me that the night of the 25th you remembered seeing the defendant with a dark haired girl?

MR. CHRISTIAN: That is objected to.

THE COURT: Allowed.

MR. CHRISTIAN: Objection, if your Honor please.

A I don't remember saying a dark haired girl.

Q Do you remember saying to me "this man came in on the 25th of April and gave me a quarter. At the time he gave me the quarter he had a dark haired girl with him".

MR. CHRISTIAN: Objection is an incompetent, irrelevant and immaterial, the conversation had was not in the presence of the defendant.

THE COURT: Allowed.

Objection taken.

A Yes sir.

Q It was the time on the 25th of April when he came in that he did give you a quarter? A Yes sir.

Q Now, you had a conversation with this defendant since he has been arrested, haven't you? A Yes sir.

Q Whereabouts did you have that conversation with him? A In his apartment.

Q Did you see him there? A Yes sir. He did not come to me there.

Q He did not come to me to get some information for him.

Q Is that the reason you went to his apartment? A Yes.

Q Did he talk to you about the matter? A Yes sir.

Q Are you prepared to state now that the lady that you saw going up in the elevator with this defendant on the 25th of April was Miss Thomas? A I put the date a little ahead up. I would not swear to that.

Q You would not want to swear to that? A No sir, because I might have the date wrong.

MR. BALLACE: That is all.

CRUEL EXAMINATION BY MR. CHRISTIAN:

Q Do you remember the Sunday? A Yes sir.

Q Do you remember when he came in there Saturday with two girls? A Yes sir.

Q Do you remember the following Sunday, the following day, on a Sunday? A Yes sir.

Q Were you in the elevator at the time? A I think I was.

Q Don't you know whether you were? A The following day was what?

Q On a Sunday? Were you on duty on Sunday? A Yes sir.

Q What time did you go on? A Twelve o'clock.

Q How long did you stay there? A Until Sunday morning nine o'clock.

Q Did you see Mr. Sullivan on Sunday? A Yes sir.

Q What time? A He came in the early part of the evening.

Q Did you see him at the time? A Miss Thomas.

BY THE COURT:

Q I thought you said you were off duty from 12 o'clock Sunday until Monday morning at nine o'clock? I was on duty at 12 o'clock and I went off at 6 o'clock and came on at seven on Sunday and re-off at nine o'clock Monday morning. I always watch every Sunday.

BY MR. CHRISTIAN:

Q Now, just tell the court and jury what conversation

you had with Mr. Sullivan in his apartment, at the time he sent you out for observation? A He just said to me, "Whenever you get a chance for me I don't want you to tell anything but the truth, William." And I said, "I won't, Mr. Sullivan." That is all he had to say to me.

BY MR. CHRISTIAN:

Q And you are telling the truth about it? A Yes sir, I am.

Q You now recollect an attack conducted by the defendant's counsel that on the 25th of April when you saw Mr. Sullivan in the elevator he had a lady with him? A Yes sir.

Q You know a certain Miss Thomas because you have seen her come into the apartment for several weeks? A Not several months. He was only in the apartment, if I am right, about a month, so his name will be when I heard his name yesterday.

Q For how long a time have you seen Miss Thomas go into his apartment? A Shortly after he moved in.

Q How many times have you seen her, after that? A Several times.

Q Did you a good look at her? A Yes.

Q Do you recall of your being sitting about Miss Thomas, is there? A No.

Q You would not possibly make a mistake as to her

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you had with Mr. Sullivan in his apartment at the time he went out for cigarettes? A He just said to me, "Whenever you get a chance for about 1 hour, wait for me to tell anything but the truth, William." And I said, "I wouldn't, now wouldn't," that is all he had to say to me.

Q And you are telling the truth now? A Yes sir, I am.

Q You now recollect an exact examination by the defendant's counsel that on the 10th of April when you saw Dr. Sullivan in the elevator he had a lady with him? A Yes sir.

Q You know a certain Alan Thomas because you have seen her going into the apartment for several months? A Not several months. He was only in the apartment, if I am right, about a month, so the about told me when I heard him the other day.

Q For how long a time have you seen Alan Thomas going up into the apartment? A Shortly after he moved in.

Q How many times have you seen her, not in? A Several times.

Q Did you know Alan Thomas before? A Yes.

Q Do you recall of your being mistaken about Alan Thomas, is that? A No.

Q You could not possibly make a mistake as to her

identity, could you? A No sir.

Q Now you are willing to swear, there being no possibility of your being mistaken, that on the 10th of April you saw this defendant in your elevator with a lady and that lady was Alan Thomas, is that right? A Yes sir.

Q You are willing to swear to that, without any possibility of error? A Yes.

Q It was Alan Thomas? A Yes.

Q It could not have been any other woman, is that right? A Yes sir.

THE COURT: We will take a recess now.

Sentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the case is submitted to you. We will take a recess until 2 o'clock.

WILL CONTINUE. P. 2.

P. 2. I L L I A T T A V A D E G A S S, of 45 West 75 Street, a witness called on behalf of the People being duly sworn, testified as follows:

SUBJECT EXAMINATION BY MR. WALLACE:

Q You are a physician, Dr. T? A Yes.

Q And not for the Society for Prevention of Cruelty to Children and other organizations for that? A Yes sir.

Q Did you make an examination of one Alan Sullivan?

A Yes sir, I will have to consult the record made at the time.

After looking at the record, yes sir, Alan Sullivan.

Q About what day did you examine him? A I examined him on the 10th day of May, this year, at the room of the Society, 207 Fourth Avenue, at 5 o'clock in the afternoon.

Q Tell the jury what was the result of your examination? A I examined her private parts and I found her hymen completely relaxed, and torn, indicating complete penetration of her genital organs by some blunt object.

MR. WALLACE: That is all.

BY MR. WALLACE: Do you know?

I L L I A T T A V A D E G A S S, recalled for further cross examination:

EXAMINATION BY MR. WALLACE continued:

Q When, after you left the court room did you see Gladys? A Yes sir.

Q Did you go out with her? A We went to dinner together.

Q Did you talk about this matter? A No sir.

Q Did you talk about this matter? A No sir.

Q You saw Alan Thomas, you saw Gladys? A Yes.

Q You saw Gladys with you? Yes.

Q George Gladys? A No.

Q When you arrived at home in West 45th Street on April 10th, that is on a Sunday, did you see Gladys? A Yes sir.

Q Where was she? A In the room.

Q And she is dead? A Yes sir.

Q Was a man in bed with her? A Yes.

Q What is his name? A Marvin Rosenberg.

Q Who opened the door for you? A Gladys.

Q How was she dressed? A She had her petticoats

on.

Q Were her eyes closed? A Her eyes were.

Q Her mouth was open? A No.

Q Was she dressed or undressed? A She was undressed.

Q Did you have any conversation with Gladys when you

put down that Sunday morning? A Yes.

Q Did you tell her where you were? A She knew

where I was.

Q Did you tell her? A Yes, I did.

Q How much after you arrived home? A I don't know

how much after.

Q After Gladys left, what time did he go out? A

About 5 o'clock, 10 o'clock.

Q Who else did you see besides Gladys on Sunday?

A Not any one else.

Q Nobody at all, is that right? A Yes sir.

Q Did you go to your kitchen on that morning and look

over towards Dr. Sullivan's place of business? A Yes.

Q Did you see him?

A Yes, I saw him.

Q Are you sure about that; now you tell me, what

was he doing in Dr. Sullivan's apartment when Gladys, is that

right? A Yes.

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Q Was a man to bed with her? A Yes.
Q What is his name? A Morris Greenberg.
Q Who opened the door for you? A Gladys.
Q How did she dress? A She had her pajamas on.
Q Was she in bed? A Morris was.
Q Morris Greenberg? A Yes.
Q Was he dressed or undressed? A He was undressed.
Q Did you have any conversation with Gladys when you got home that Sunday morning? A Yes.
Q Did you tell her where you came? A She knew where I was.
Q Did you tell her? A Yes, I did.
Q How soon after you arrived home? A I did not tell her until Morris left.
Q After Morris left, what time did he leave? A About 8 o'clock, 10 o'clock.
Q She also did you see Gladys again on Monday?
A Not any more.
Q Nobody at all, is that right? A Yes sir.
Q Did you go to your studio on the morning and look over towards Mr. Sullivan's place of business? A Yes.
Q Did you see him? A No.
Q Are you sure about that; now you told nobody what happened up in Sullivan's apartment except Gladys, is that right? A Yes.

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A Now, take Tuesday morning, or all day Tuesday did you see anyone to talk with outside of Gladys? A I saw Mr. Gladys and Mr. Stanton.
Q On Tuesday, in the morning or in the afternoon?
A I think it was in the evening.
Q What time? A Around six o'clock.
Q Where was that? A He was right around to the door for me.
Q Did Mr. Gladys go upstairs to your room? A No.
Q Where did you meet him, downstairs? A Yes.
Q Was that by appointment? A Yes.
Q When had you made an appointment with Mr. Gladys before meeting at your door on Tuesday? A He mentioned from the studio to be downstairs.
Q Mr. Gladys noticed to you to come downstairs?
A Yes.
Q And you went down in the evening? A Yes.
Q And you met him? A Yes.
Q And was Mr. Stanton there? A Yes.
Q Was Gladys with you? A Yes.
Q Did you tell Gladys anything about what happened in Sullivan's apartment? A No.
Q Did you tell anything to Stanton about that? A No.
Q Where did you go with Gladys and Stanton? A They took us to dinner.
Q Where did they take you to dinner? A I don't

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know where it was.
Q Around your neighborhood? A It was not very near us, no.
Q About how far? A About four blocks.
Q You sat down at a table with Mr. Gladys and Mr. Stanton?
A Yes.
Q Nothing was said about Mr. Sullivan? A No, not a thing.
Q And you did not tell them anything about Mr. Sullivan?
A No.
Q Had you met this old gentleman on that day or evening?
A No.
Q Now, getting down to Wednesday, did you see anybody to speak to outside of Gladys? A Mr. Gladys took us to Mrs. Simpson Wednesday night.
Q Do remember testifying to the City Reporter's report on Friday: "Did you speak to anybody on Wednesday?" A Mr. Stanton and Mr. Hutchinson. Do you know Mr. Hutchinson?
A Yes.
Q Did you see him on Wednesday? A I don't remember.
Q You answered further, "Did you tell them anything?" A No, I did not tell them anything. Do you had no conversation with Mr. Hutchinson or with Mr. Stanton as to what happened to you, or you any in Mr. Sullivan's apartment, is that right? A Yes.
Q Where did you go with Mr. Hutchinson on Wednesday?

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A They took us for a look ride on Fifth Avenue.
Q Where did you get on the boat? A We walked over to Fifth Avenue. I don't know what street we got on at.
Q Did you go walking on top of the boat? A Yes.
Q You had no difficulty in getting on top of the boat, did you? A Yes.
Q After two or three rides? A We rode two or three times about 100 blocks.
Q When did you get off? A Yes.
Q Where did you get off? A It must be the same place.
Q And how long did you stay there? A About an hour.
Q Did you come back on the boat again? A No.
Q What time did you get home? A We met Mr. Stanton. He was to meet him, to take us to Mrs. Simpson.
Q You were to meet Mr. Gladys after you met the Hutchinson man and Stanton? A Yes.
Q Where did you meet Mr. Gladys? A Mr. Hutchinson, Stanton took us there we were supposed to meet him.
Q Where were you to meet him? A At a friend's house, at his friend's house.
Q Where is that? A 120 Street.
Q What is the name of the friend? A Mrs. Gertrude.
Q When did you make that appointment? A Monday.
Q By that time you had not told Mr. Gladys anything about your breakfast? A No, not a thing.

100 Chap took me for a bit 1924 on P. 17th Avenue.
 2 3 Where did you get on the boat 4 He walked over to
 5 P. 17th Avenue. I don't know what street he got on at.
 6 7 Did you see anything on top of the boat 8 Yes.
 9 10 You had no difficulty in getting on top of the boat,
 11 did you to Miss Street 12 Yes.
 13 14 How far did you ride 15 He rode up to about 1111
 16 about 1112 Street.
 17 18 When did you get off 19 Yes.
 20 21 Where did you go to 22 He went in to see Elmore.
 23 24 Did you know did you know Elmore 25 I don't know him.
 26 27 Did you know him to the New Spain 28 No.
 29 30 What time did you get home 31 He got out, Elmore
 32 was here to meet him, to take him to Mrs. Birmingham.
 33 34 You were to meet Mr. Elmore after you met Mr. Birmingham
 35 and not Elmore 36 Yes.
 37 38 Where did you get Mr. Elmore 39 Mr. Birmingham
 40 didn't know where he was supposed to meet him.
 41 42 Where were you to meet him 43 At a friend's
 44 house, at the friend's house.
 45 46 Where is that 47 1112 Street.
 48 49 What is the name of the friend 50 A Mrs. Greenback.
 51 52 When had you made that an statement 53 Yesterday.
 54 54 How are you Mr. Elmore.
 55 56 Up to that time you had not told Mr. Elmore anything
 57 about your troubles 58 No, not a word.

Q Did you meet Mr. Gladys on that Wednesday evening?
A Yes.
Q About what time? A About 6:20.
Q Were Gladys with you at the time? A Yes, she was.
Q Did Mr. Stittman and Mr. Boston leave you there with Mr. Gladys? A Yes, they left on.
Q What kind of a place is this in the street where you met Mr. Gladys? A It's one and a half life life there.
Q Did Mr. Gladys leave there? A No, just a friend.
Q Did Mr. Stittman and Mr. Boston take you right into the apartment and leave you there? A No, they left in the door.
Q Did you go out anytime? A Yes.
Q Did you see Mr. Gladys? A No, later.
Q How long after you arrived there did he come? A He got there about 8 o'clock and he came in at 8:20.
Q Then did you leave the way and go on with Mr. Gladys anywhere? A He took us down to Mrs. Stittman's house.
Q He to that time up to the time he took you down to Mrs. Stittman's house, you did not talk anything to anybody about your trouble? A No.
Q How long did you stay down at Mrs. Stittman's house? A We got back there that day.
Q Did you give up your apartment in 44 Street? A Yes sir, so did.
Q Did you ever hear Mr. Gladys say to Gladys or Mrs.

Q Are you sure about that? A I am.
Q Were you ever out automobile or is a that was out
side of the window you speak of when you went with Dr. Del-
lone and Dr. Dwyer? A No, I was not.
Q At no other time? A No other time.
BY MR. DUNN:
Q Did you go with Greenberg? A Yes, I did.
Q You went out once with Greenberg? A Yes.
BY MR. DUNN:
Q When was that? Was that before or after you found
Dr. Greenberg in Gladys's bed? A That was before.
Q How many days before? A One or two.
Q What time did you go out in the automobile with
Gladys and Dr. Greenberg? A One o'clock.
Q In the morning? A Yes.
Q Where did you meet Dr. Greenberg? A We came
right up to the door for us.
Q Did he call you down or were you waiting for him?
A Well, we were down.
Q Was it by a statement that caused you to go out automo-
bile riding? A Yes sir.
Q Where did you ride to? A We took us through the
park.
Q Are you sure there was no man with you that time?
A I am sure, yes, positive.
Q Did Greenberg and Gladys get out of the automobile
and leave you in there? A No, they did not.

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Q Did you get out? A No.
Q Did you continue on riding? A No sir.
Q What time did you get home? A Just a quarter of
two or two o'clock.
BY MR. DUNN:
Q In the morning? A Yes.
BY MR. DUNN:
Q Was that the only occasion that you were out
riding? A That is the only time I was out.
Q Are you positive of about that? A I am positive.
Q Now, this Mrs. Higgins, who introduced you to that
lady? A Dr. Gladys.
Q When was it? A It was Wednesday night.
Q Was that after you had been out automobile riding
with Dr. Greenberg? A Yes.
Q It was after you had been out with Dr. Hitchcock?
A Yes.
Q And after you had been out with Dr. Staton? A Yes.
Q Did you tell her about your troubles? A No, I
did not.
Q You never told her a word? A No, I did not.
Q You were introduced to her by Dr. Gladys? A Yes.
Q For the purpose of obtaining a position for her?
A Yes.
Q And you remained there over night in her apartment?
A Yes sir, so did.

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Q And you continued to remain there until you were
sent home? A Yes.
Q How long did you stay there? A Well, I think
it was, until Monday, the following Monday.
Q How many days? A About four.
Q Do you know whether or not this lady communicated
with your parents? A No, I don't know, I don't think
she did.
Q Did you tell her where you lived? A Yes.
Q Did you tell her where you came from? A Yes.
Q Did you write to your parents? A No.
Q Where were you when you were taken in custody by the
sheriff ofutherford, Dr. Jernst? A I was at Mrs. Higgins.
Q Now, Gladys, do you remember Dr. Higgins making an
appointment with Dr. Gladys and this lady to go with you to
a doctor, do you remember that? A No, I don't remember
anything about that.
Q Remember when there was a conversation had between
Dr. Gladys and this lady and you were operating your condition?
A Yes.
Q Was you have anything about it? Did this lady tell
you that Dr. Higgins was anxious to get you to go to a
doctor and be examined? A No, they did not tell me about
that.
Q What is this lady's business? A She is in the
theatrical business.

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Q Do you remember this question being asked of you on
page 21 of the examination in the hospital's report, (reading)
"Do you have any conversation that about what you stood up
in Dr. Higgins's apartment? A I told her." Do you
remember that question being put to you? A Yes.
Q Did she ask you before you told her anything about it?
A No, she did not ask me.
Q Do you remember this question being put to you, (read-
ing), "Did she ask you?" A Yes." Do you remember what
that answer was?
Q Yes, (reading), "Did she ask you?"
BY MR. DUNN: Read her troubles.
Q Was there any IF what Gladys told her was right and I said
yes?
Q Yes, it is that that the very first reason that you
appears to about your troubles is that of Gladys, so you say,
was Dr. Gladys? A It was the first reason you appear to about
that? A Yes, so you say. I did not tell him anything
at all about it.
Q How many times did you go out with Dr. Gladys and
this lady?
Q Only twice.
Q Do you remember you testified to three different
occasions? A Yes, that was that.
BY MR. DUNN:
Q At the time that you went to Mrs. Higgins's house—
what kind of a house was she live in, a apartment house?

Q Do you remember this question being asked of you as you sit at the witness stand in the Magistrate's court, (reading) "Q Did you have any conversation then about what happened up in Mr. Sullivan's apartment?" A I told her. Do you remember that question being put to you?" A Yes.

Q Did she ask you before you told her anything about it?" A No, she did not ask me.

Q Do you remember this question being put to you (reading) "Q With the old man?" A Yes." Do you remember asking that answer?"

BY MR. WALLACE: Did she ask that?

BY MR. WALLACE: About her troubles.

A Who asked me if what Gladys told her was right and I said yes.

Q Isn't it a fact that the very first person that you spoke to about your troubles outside of Gladys, as you say, was George Clardy? Is he the first person you spoke to about that?" A No sir, he was not. I did not tell him anything at all about it.

Q How many times did you go out with George Clardy all night?

A Only twice. Do you remember you testified to three different occasions when it was then three? A No.

BY MR. WALLACE: At the time that you went to Mrs. Marion's house-- what kind of a house was she live in, a boarding house?

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A Yes. Q She had a room in a boarding house? A Yes. Q Did you stay in her room or did she procure another room for you and Gladys? A He took us to Mrs. Daylan's, a friend of hers. Q This was run as a boarding house or a rooming house? A A rooming house. Q When you got a place to stay until you were taken back home, is that right? Yes. Q Were you ever at the Martha Washington Hotel? A Yes, I was.

Q You were asked by the defendant's counsel where you went when you came from your aunt's and you said that you went right to 43rd Street, New York, and that you went to the Martha Washington Hotel, if you remember? I think it was on a Tuesday night.

Q Was it before you went to 43rd Street? A Yes.

Q Was this old gentleman that took you two girls to the Martha Washington Hotel? A Yes, he did.

Q And it was after that you looked in the paper and found the 43rd Street address and went there? A Yes.

Q How long did you stay at the Martha Washington Hotel? A Just one night.

Q Why didn't you tell that to the defendant's counsel when he asked you where you went? Did you forget it, or what reason did you have for not telling it? A I thought I

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did tell it. BY MR. WALLACE: Q The old gentleman took you to this hotel, the Martha Washington Hotel; now did you meet him the next morning? A Yes, I did. Q Did he tell you that he wanted to see you the next morning? A Yes. Q Where did you meet him? A On the corner of a restaurant. Q In a restaurant or on the street? A On the street. Q What time was it? A Why, it was noon time. Q Did he have a newspaper in his hand at the time he met you? A Yes, he did. Q Did he suggest where you should look for a room? A Yes. Q Did he tell you to West 43rd Street? A Yes. Q Did he go with you to the apartment? A He walked with me. BY MR. WALLACE: Q You say he walked with you to the apartment? A He did not go all the way. BY MR. WALLACE: Q How far did he walk with you up to the apartment? A No. Q To the door? A (No response). Q Did he give you or Gladys any money at the time?

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A He did not give me any. Q Did he give any money to Gladys? A Yes, I think he did. Q Do you know how much money? A No. Q Do you know whether or not it was with that money that she paid the room rent? That did not pay for all of it, no. Q How much was the room to let? A \$5. Q How much did Gladys pay? A \$5. Q The balance of your rent? THE COURT: She said that. Q After you rented the room at the room was rented by Gladys, you said defendant had met this old gentleman? A Yes. Q Where did you meet? A He just took a walk. Q How many more times did you see this old gentleman after you had rented the room and had given the money to Gladys? BY MR. WALLACE: (silence) been all over that. THE COURT: Yes. BY MR. WALLACE: That is all. Q Did you go to 43rd Street, at 43rd Street, a witness called up half of the people, before they were tested as witnesses? BY MR. WALLACE: BY MR. WALLACE: Q Mr. Clardy, what is your business? A Interviewing

Q Did he give me any money?
A Yes, I think he did.

Q Do you know how much money?
A No.
Q Do you know whether or not it was with that money that she paid the room rent?
A That it's not pay for all of it, no.

Q How much was the room to her?
A \$5.
Q How much did Gladys pay?
A \$5.
Q You had no money of your own?

THE COURT: She said that.
Q After you rented the room or the room was rented by Gladys, you went downtown and sat with this old gentleman?
A Yes.

Q Where did you get it?
A Just took a walk.
Q How many hours there did you see this old gentleman after you had entered the room and had given the money to Gladys?

MR. WALLACE: Let have been all over that.

THE COURT: Yes.

MR. WALLACE: That is all.

Q I D O C K E T, of 221 West 20 Street, a witness called on behalf of the People, being duly sworn, testified as follows:

EXHIBIT EXHIBIT BY MR. WALLACE:

Q Mr. Gladys, what is your business?

Q Were you formerly employed by the defendant, Sullivan?
A Yes.

Q For how long a period did you work for him?
A About five months.

Q When did you stop working for him?
A I don't know the date. It is about a month ago, a little over a month.

Q This is the 15th of the month; about the 15th of May that you stopped working for him?
A It is about five weeks ago, about the first week in May.

Q Do you know these two young girls, Alice Bentley and Gladys Brown?
A Yes.

Q When did you first make their acquaintance?
A Saturday, April 20th.

Q Are you sure of the date?
A Yes sir.

Q How did you first make their acquaintance?
A I was working in the office, and Jim Sexton, one of the animators, was out and he had placed them from the back window in the studio, and went down to meet them in front of their house and he phoned in to me that he had them in front of the Gray Drug Company, I think it is, on the corner of 43rd Street and Broadway.

Q You went out and met them?
A Yes.

Q The studio, I understand, overlooked the window of the room in which they were stopping?
A Yes, about 60 feet apart. The lights of the room were shining between those windows.
A Yes.

BY THE COURT:
Q The windows are on about the same level?
A Practically on the same level.

BY MR. WALLACE:
Q Did you first meet them on Saturday, April 20th?

A Yes.

Q What if anything happened at the time you met them?
A First, have you seen the girls here today?
A Yes.

Q You were out to lunch with them?
A Yes.

Q Who else was there at lunch with you?
A Their mother, Mrs. Smith, Mrs. Simpson and myself.

Q How were they dressed the day you met them?
A I think they were dressed the same as they are today.

Q What happened on the day that you first met them at the 20th of April?
A As I walked up Broadway to, I think it was 44 Street, at the Giant's restaurant.

Q Did you take them to there and buy their dinner?
A Yes. We had dinner in there and then directly out of there and went in Broadway down to front the New York Theater and from there I left them. I left them with Sexton. He was the other fellow.

Q Is he still working for defendant?
A I believe so.

Q When did you meet these girls?
A Monday evening I saw the little blond girl.

Q Gladys Brown?
A Gladys Brown, yes sir.

Q Where did you see her?
A She was in the studio.

of the house and I saw her in the studio. This was Monday evening. I started with her, and went down in front of the house, went over to 43rd Street and met her there and brought her to the studio and placed her here as the defendant's room, and so forth. Then we went down Central Avenue and there at the time and we all went down, when we the studio up and Gladys brought her, and I brought her to a cheap away restaurant on 43rd Avenue between 4th and 5th Streets, and from there I brought her to the studio of the place in front of the house and left her.

Q The little dark girl was not there at that time?
A I didn't see anything of her that day.

Q How long have you known the defendant, Sullivan?
A About four years, a little over four years.

Q Did you ever have any trouble with her before this conversation?
A No, I have not any trouble with her and her mother.

Q Did you get enough to break up your business conversation with her?
A No.

Q Did you ever have any trouble with her before this conversation?
A No, I have not any trouble with her and her mother.

Q In reference to these girls?
A No, on Monday evening I saw her in the studio.

Q What happened?
A That was on April 20, the day when she, Sunday.

Q Did you see the defendant?
A Yes.

Q How was the studio with you?
A Yes.

Q Now Mrs. Simpson present at that time? A Yes sir.
Q You told us you were out with those girls and took
one of them to a cheap cheap place and brought them back. I
believe that was a Sunday? A Sunday evening.
Q You had the blond girl? A Yes.
Q When did you meet her then after Sunday evening?
A I think I met her Monday, during the day.
Q Were you out with those tonight? A No.
Q Did you have them out tonight? A I brought them
to my house. The girls with them would stay somewhere
more and I brought them up to try and their voices and
kill their bluffs. I wanted to see how the girls. They
were noisy and they started.
Q Did you take them to Simpson's, or put them there?
A I will answer that. I did not, but I intended to. They
went out with Jim Barker and I followed up to 125 Street
Q That is Simpson's? A Yes Simpson lives in 125
Street.

Q When you went to 125 Street did you meet them up
there? A No, I did not. I put a chair, a table. I
planned to sit and talk to them. I was to try and get
to Simpson's while he was out on some place on 37 Street and
we would go there. Sometime before I left the studio, the
girls planned some they would not wait on me as to Simpson's,
but I told them the situation, to go to 125 Street 125
Street, Simpson's house, and it would be all right, because

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I had already told Simpson to be there and told Mrs. Simpson.

Q Now, Simpson? I object to this.

THE COURT: All right, it was the jury Simpson's.

Q When did you arrive past the point? What is the
last time you met them? A I think I saw them Saturday
after I got home back. I did not see.

Q Did you take them to my house's name Simpson?

A That was Friday.

Q You were out with those Saturday night? A I just

brought them into the house and brought them a cup of coffee

and a piece of pie.

Q Did you have intercourse with either of those girls?

A No, I did not.

Q Did you ever ask them to have intercourse? A No.

Q What was your interest? A I was curious to

find out.

Q Now, Mrs. Simpson. Objected to.

THE COURT: Objection sustained.

Q Now Friday I asked you to take them from some

place up town to my house. Simpson's house? A It is

not a house. It is a theatrical house, and I

told her to put the show upstairs back.

Q Objected to not objection sustained.

Q You took them on Friday to Mrs. Simpson's? A Yes.

Q And you left them there? A No, I brought them

back to the bar of their house that night.

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Q Did they go back to Mrs. Simpson's that next day or
all alone? A They went back alone in the afternoon.

Q Did you have a talk with Mrs. Simpson when you

brought them over there? A Oh, yes.

Q Now, then you stated that you were present in Mr. Simpson's

studio on or about the 7th of May when Mrs. Simpson

was there with you? A Yes.

Q Now the defendant present, William? A Yes.

Q Now Mrs. Simpson was there about? A Yes.

Q She also was there because of your exhibit? A She

physicist or Mrs. Lee.

Q Mrs. Lee and who else? A William Simpson and John

Barker.

Q That is the one known as John Barker? A Yes, William

Barker and William Simpson and John Beyer.

Q Now, then?

Q What state is it you are talking about? A Simpson's

studio.

Q Located where? A 125 East 125 Street.

Q That is the studio from the window of which you say

you could see the window of the room occupied by the girl?

A Yes, sir.

Q Now, then?

Q There was a conversation there in the studio that

day between you and Mrs. Simpson and the defendant, or between

Mrs. Simpson and the defendant in which you participated,

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or listened to? A Yes.

Q Tell the jury what took place on that occasion in that

studio between the defendant and Mrs. Simpson or report what

that took place? A I walked in the front room of the studio

the first. Mrs. Simpson was directly seated on a chair up the

stairs, at Mrs. Lee. That was the subject of the trial.

Q Now, then, what was the trial?

A Yes, I had no

and no reason that I needed to go to the trial. I

walked in the door, but did not see Mrs. Simpson and

the other girls. I was in the front room, but I did not

see Mrs. Simpson. I was in the front room, but I did not

see Mrs. Simpson. I was in the front room, but I did not

see Mrs. Simpson. I was in the front room, but I did not

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see Mrs. Simpson. I was in the front room, but I did not

or listened to? I see.

Q Tell the jury what took place on that occasion in that studio between the defendant and Mrs. Sterling or anyone else that took part?

A I walked in the front room of the studio first. Mrs. Sterling was directly behind me similar to the witness, or Mrs. Lee. But she was seated on that small five o'clock.

Q The next thing, nothing for that. Yes, I had no had no reason that I needed to get my rifle ready. When I walked in the door, but not to get my rifle and I heard me if I had the address of the woman's club, he had to look up my my of the woman's club. I told him I did not. I told him I wanted to talk to him, I said, "Sit down". He said, "What do you want by this?" I said, "Sit down, and have you sit down". Finally he was done. I told him I belonged to an organization, and thought I was a well-known member of it, the attention is just to remind me as it ever was, the climate of California. I think these girls, one of them was a son of a bitch.

Q Now, respectfully, I object to all this.

BY THE COURT:

Q Tell the jury what you said to challenge? I see sir.

THE COURT: Go ahead.

A (testimony) I told him that I would not tell the testimony, before in the organization, but I had to do what I did. That is all that I can tell, and I told him that he had that girl

and that Mrs. Sterling had examined her. I did not know that she had examined her until she placed me.

Q THE COURT: Strike that out.

BY THE COURT:

Q Now you say attending and install he what you said to Sullivan and what he said to you and nothing else, do you understand?

A Yes.

Q Now he asked, "What if I could have to do the right thing, he would have to get that girl examined by a doctor, that was either a friend of his or a friend of hers."

A What did he say? I did not say anything, your honor. He looked and gave a nervous look at both of us.

THE COURT: Strike out after the words, "he did not say anything".

A (testimony) Then Mrs. Sterling came in and started to talk to him, because I was out. I was out and I walked back to my desk and Mrs. Sterling talked to him. I don't remember everything she said, but it was friendly what I have already said.

THE COURT: Strike that out and the jury will disregard it.

BY THE COURT:

Q What if anything did the defendant say in response to what Mrs. Sterling said to him? A He said, "What do you want me to do?" Then he got up and walked over and put his hat on the far side of the studio and went to walk down, he

said, "If you want to talk with me again, come again". He went upstairs, "Oh, oh, not so loud".

Q "If you are downstairs with that?" A Yes, I pushed him back. Mrs. Sterling said, "My husband is out of your studio, I came here to talk, I am not going downstairs". Then we went back into the back room of the studio and he asked her, "What do you want me to do?" He said that again. She told him the same thing.

Q WHAT? A She told him that she wanted him to have the girls examined by a physician, either a friend of hers or a friend of his.

Q What did he say? A He said, "All right". She said, "What are in front of the United States Street, corner of 42nd Street, the Fifth Avenue, I think. He said he would."

Q And that ended the talk? A Yes sir, practically.

THE COURT: I think all that went before to the witness in view of what defendant said at the last.

THE COURT: What I have stricken out remains out, the witness at that.

Q Did they fix the time for this examination in front of the United States Street?

A Oh, no, I think it was.

I was not to be present there. It was just the doctor.

Q The doctor said, I think Mrs. Sterling said perhaps Mrs. Lee.

Q You were not to meet them; you did not make a date to meet them?

A No.

Q At the time that Mrs. Sterling spoke to Sullivan

before that time said, he would meet her and arrange for the doctor, did she say anything to him with regard to the hallway girl? Did she arrange anything with regard to the hallway girl? A She said it looked as though hallway girl but I had such an bad shoulder and her body was here (indistinct). It looked as though she had some disease or something.

Q And that was why she wanted the doctor? A Yes.

THE COURT: That witness.

THE COURT: Directing the witness.

Q After this conversation regarding having the girl examined by a doctor, did she call him a girl from the hospital? A Yes sir.

Q Now, you say the first time that you saw the girl was on Friday or a Saturday, with you sir? A Saturday.

Q That would be the date of birth? A The date.

Q What day of the day was it? A About the 15th.

Q Is that correct? A Yes sir.

Q And you were at the studio at the time? A Yes.

Q Did those two little girls come to their apartment directly opposite the studio? A When I met them you went

then you first met them? A I saw them about after-

noon, we have all different times from the back entrance.

BY THE COURT:

Q I understand that you were in the studio and saw them

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before Sullivan said he would meet her and arrange for the doctor, all the day talking to him with regard to the Gallantry story - all the common fallacies of anything with regard to the Gallantry story? A who said it looked as though Gallantry said he had run on her shoulder and her holy name here (indistinct). It looked as though the Red name (name of saint?) was there.

Q That is the studio that you have been talking about?

Q Did you first learn at six o'clock at night? A No, they were not there then. It was a phone call came in from the Drug Drug Company about 11:30 and not then.

Q And you went out with them? A Yes.
Q Where did you take them to? A Jones's restaurant.
Q Were you interested in the girls at that time? A
No. I was not.

Q You had no particular interest in them at all? A
was curious to see a couple of kids of that age - -
Q Did you ask them where they lived? A Yes, I did.

her to a cheap busy restaurant.

Objected to and objection withdrawn.

Q After you took the girl to a cheap busy hotel on Sixth Avenue, you brought her home to 42nd Street? A Yes.

Q Were you alone with her? A Yes.

Q You left Clark on Sixth Avenue? A In front of the studio building on 42nd Street.

Q Then you went around to 42nd Street with the girl?

A Yes.
Q How long did you go to her home? A About twenty minutes after eleven, I guess it was, because a quarter after.

Q And you stayed there till after midnight? A A little while.

Q How long? A Perhaps about ten minutes.

Q Did you see her again that night? A No, I did not.

Q Did you see her next day, on Sunday? A No, no.

Q When? A I think it was around noon.

Q Was that by appointment? A Yes.

Q You had an appointment to meet her on Sunday? A No, I did not have an appointment previously but I saw her from the studio and I wanted to see her some more.

Q About what time? A About noon, I think.

Q And you went down and met her there? A At the bottom of the steps, in front of the house, of her home.

Q Where did you take her to? A I did not take her

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somewhere that I remember. I just had a little talk with her.

Q You were deeply interested in this little girl?

A Yes. I wanted to get the stomach of it.

Q You talked to her about her home in Lathford, New Jersey? A Yes.

Q You knew that where she lived? A I did not.

Q Did you advise her to go home? A I certainly did.

Q When next did you see her, and that night did you see her again? A I don't think so.

Q But, he says, how is it? A I don't think so.

Q "Is the following girl and the blonde girl reading?"

A Yes.

Q Did you call of them? A Yes.

Q That time of the day or night was thirty? A I think it was two o'clock in the afternoon.

Q Was that by appointment or through invitation? A I pointed to her to come in.

Q Did you want to see her and you met with that? A Yes.

Q Did little like the invitation to you? A Yes.

Q Did you see her again about Sullivan? A Only

I had heard from some days that they had been, but when

he had a part of conversation with him Saturday. I don't

know what it was, whether they kept it.

Q Did you speak to her about that? A Yes.

Q That is the blonde girl? A Yes.

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Q And she told you? A She said she had met them both.

Q Anytime else she told you about Sullivan? A No.

Q Sure about that? A Yes.

Q Did you ask the blonde girl where Sullivan had been? A No.

Q You were not interested in that, were you? A No.

Q You were with them on Wednesday? A Wednesday, I think, after I was home working it was about 11 o'clock at night and I talked with them and went down in front of the house and took both of them around to the apartment on Sixth Avenue. And I had forty cents and I went all but a nickel on coffee and tea and brought them back to the house.

Q That was Wednesday night, about 11 o'clock? A Yes, I think it was.

Q How long were you in their company that night? A About two minutes.

Q Did you take them home? A I brought them home.

Q How far did you go to Thursday, did you see them on Thursday? A I think so.

Q Where did you see them, in the street? A No, from the studio.

Q Did you beckon to them to meet you downstairs? A I don't remember. I don't think I did. I am not sure.

Q Did you see them in the street on Thursday? A I

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think so, yes.

Q About what time? A About 11 o'clock, I think.

Q At night? A Yes.

Q How did you come to see them it was fifteen at night and that through acquaintance of Sullivan? A I am not

positive whether I happened to know to meet them at night, but I think I met them Thursday in front of the house about 11 o'clock, and they were going to see Sullivan on Thursday

to see, and after that night. I was going to see them. I was waiting a little while and I left them in front of Sullivan's and went home. I did not go home.

Q Did you ever take them out to see Sullivan? A No.

Q Never at any time? A No.

Q Absolutely? A Absolutely.

Q Did you ever take them out to an automobile or hotel with you? A No.

Q You had considerable trouble with Sullivan. You were not on good terms. You always had disputes and quarrels regarding pictures and things? A He picked me up.

Q But you did have trouble with him? A Yes.

Q And were interested very much in that line business?

A Yes.

Q You told Mr. Sullivan to stop out of town and go to Australia? A I did not. I don't think.

Q You never had any such talk with him? A No, sir.

I did not.

A With the dark complexioned girl, Alice.

Q Did she make complaint to you of any conduct on the part of this defendant? A Yes.

Q Did you make examination of the body of Alice McCleary?

A Yes, I did.

Q Will you state what the condition of her body was at that time?

MR. DISTRICT ATTORNEY: That is objected to.

THE COURT: I think this witness may state what she observed, what she actually saw with her eyes, without drawing any conclusions.

MR. DISTRICT ATTORNEY: Exception, if your Honor please.

A Alice McCleary, when I saw her body --

Q Tell us what you saw. A There were marks on the back of the neck, likewise on the abdomen. On the bottom of the abdomen were bruises.

Q The abdomen was bruised? A Yes.

Q And there were marks on the neck? A Yes.

Q Did you attempt to get the girl a position in some store? A On Friday night.

Q Did you take them somewhere where they got a room?

A Yes, 728 Eighth Avenue, with Mrs. Boylan.

Q Did you thereafter visit the defendant's studio in company with Mr. Clardy? A The following afternoon with Mrs. Leo or Leon.

Q Was Mr. Clardy there, too? A Yes.

Q Did you have a conversation with the defendant? A Yes, in front of every one in the office.

Q How many were there besides you and Mr. Clardy and Mrs. Leo? A Possibly five or six. I did not count them. They were all men.

Q How that you knew or did not know? A I did not know them.

Q Will you state to the jury what you said to the defendant and what he said to you? A I accused Mr. Sullivan on Monday afternoon.

THE COURT: Strike that out.

BY THE COURT:

Q Now, Madame, will you kindly give us as nearly as possible the words that you used to Sullivan and the replies that he made to you? A I told Mr. Sullivan that he ~~was~~ had seduced this girl, Alice McCleary, that he had taken her to his apartment on Sunday night, April, I believe it would be, 26th, and that she remained there all night, and after he had taken her up in his apartment and had connections with her, that she told me that she had a glass of water brought to her bed. Mr. Sullivan did not deny that statement.

MR. DISTRICT ATTORNEY: I move to strike out the last.

THE COURT: Strike it out.

Q What did Mr. Sullivan say? A He did not say anything at all, only for me to come outside and talk to him,

and that I refused to do.

BY MR. WALLACE:

Q Then did you have a further conversation with him?

A Not until the following day.

Q Was there anything at all said at that time about a doctor? A Yes.

Q Then you had a further conversation? A Yes.

Q Will you tell that? A I wanted Mr. Sullivan -- I asked Mr. Sullivan to take me with this girl and Mrs. Leo to the doctor's on account of this trouble on her part. I told him my doctor that we cared to pick out, not one that he knew or that I knew. He promised to meet me at seven o'clock at 42nd Street and Broadway at the United Cigar Company, but I was not there with the girl.

Q We are still in the studio and you are talking to Mr. Sullivan. A Yes.

Q He has promised to meet you at seven o'clock in front of the United Cigar Store -- what happened after that in the studio? Was there any more conversation? A No, only to make this appointment.

Q After making the appointment, you left? A Yes.

Q What date was it you had this first conversation in the studio, do you remember? A It was a Monday afternoon. I guess that would be May 7th.

Q When was the appointment made for that evening? A That evening at seven o'clock.

Q Did you go there and keep the appointment, yes or no? A No.

Q Now, when did you next see the defendant? A The following day, on a Tuesday afternoon.

Q Where? A At my house.

Q Did you go to your house? A Yes.

Q Where were you living then? A 220 West 45th Street.

Q Was he alone? A No, with Mr. Clardy, he was.

Q Did you have a conversation with him? A Yes.

Q Will you state what that conversation was with Sullivan?

A Mr. Sullivan wanted to know from me what he would do, and what I did not keep my appointment on Sunday night. I told him it was impossible, as the girls were taken away from my house on Sunday night by the Chief of Police of New York. Then he told me that he had heard -- that he would have to pay \$2 for the appointment for this doctor, I believe it was. That he would even although I was not there to keep the appointment, he would have to pay it.

Q Was that the time he gave the bill to Mr. Clardy? A He laid the bill on the table. I was the one that picked the bill up.

Q In other words, because you did not keep the appointment, he wanted you to pay the bill? A No, he did not say that. He simply was perturbed because I was not there, that he had to pay this \$2 bill. I told him I did not have anything to do with the case, the girls were taken away. He asked me what he will do. I said "It is nothing that I can tell you to do, it

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Q Did you go there and keep the appointment, yes or no? A No.
Q Now, when did you next see the defendant? A The following day, on a Tuesday afternoon.

Q Where? A At my house.
Q He came to your house? A Yes.
Q Where were you living then? A 220 West 46th Street.
Q You do agree? A No, with Mr. Clardy, he was.
Q Did you have a conversation with him? A Yes.
Q Will you state what that conversation was with Sullivan?

A Mr. Sullivan wanted to know from me what he would do, and why I did not keep my appointment on Monday night. I told him it was impossible, as the girls were taken away from my house on Monday night by the Chief of Police of New York. Then he told me that he had heard -- that he would have to pay \$5 for the apartment for this doctor, I believe it was. I told him that even although I was not there to keep the appointment, he would have to pay it.

Q Was that the time he gave the bill to Mr. Clardy? A He laid the bill on the table. I saw the one that picked the bill up.

Q In other words, because you did not keep the appointment, he wanted you to pay the bill? A No, he did not say that. He simply was perturbed because I was not there, that he had to pay this \$5 out. I told him I did not have anything to do with the case, the girls were taken away. He asked me what he will do. I said: "It is nothing that I can tell you to do, it

rests with the family of the girl; and that was the end of the conversation.

Q What was his manner at that time?

Objected to and objection sustained.

Q How long were the girls in Mrs. Boylan's house? A From Saturday afternoon to Monday night when the Chief took them away.

Q During that time did you communicate with the parents? A No.

Q Did any one communicate with their parents? A Mrs. Leon did.

Q Is Mrs. Leon here today? A I don't know.

Q Mrs. Leon was with you when you went over to the studio the first time? A Yes.

Q Is Mrs. Leon also an actress? A Yes.

Q What was Sullivan's exact language on Tuesday afternoon when he came to see you, as near as you can recollect? A On Tuesday afternoon that Sullivan came to see me, when he said: "What will I do", he said: "My God, Mrs. Higgins, will you tell me what I can do". I said: "There is not anything that I can tell you to do", and there was a repetition of that several times.

MR. WALLACE: That is all.

CHIEF EXAMINATION BY MR. CONNELLEY:

Q How long have you known Mr. Clardy? A Three years.

Q Are you married? A No.

Q You are not married? A I beg your pardon, I am a divorcee.

Q You say you know Mr. Clardy about three years? A Yes.

Q Are you a personal friend of his? A Well, an acquaintance; I could not call him a personal friend.

Q You saw him quite often in the three years? A No.

Q When did you first meet Mr. Clardy? A I met him through some friends of mine about three years ago in 40th Street, between Broadway and Sixth Avenue, the number I have forgotten, and then some theatrical people.

Q What kind of a place is that? A A furnished room house; there is a doctor living downstairs, Dr. Forst, I think.

Q Did Mr. Clardy live there? A No.

Q Did you live there? A Yes, sir.

Q Did Mr. Clardy come to the house? A Yes, to visit these other people, but not me.

Q When was the first time you spoke to Alice McLeary? A On a Friday night.

Q Do you know what day of the week? A That would be May 4th, I think, the first time I met her, on a Friday evening.

Q Who brought her to your home? A Mr. Clardy.

Q Did you then ask the girls where they lived? A No, I talked more to the girls to try to discourage them.

Q Did you ask them where they lived? A No, I don't think that I did. I did Saturday.

THE COURT: We will take an adjournment now.

Declines of the jury: You are admonished not to converse among yourselves on any subject connected with this trial, or form or express any opinion thereon until the same is submitted to you. The court stands adjourned until half-past ten tomorrow morning.

THE COURT: We will take an adjournment now.
Gentlemen of the Jury: You are admonished not to converse among yourselves on any subject connected with this trial, or form or express any opinion thereon until the case is submitted to you. The court stands adjourned until half-past ten tomorrow morning.

CASE #2323

PEOPLE vs. PATRICK SULLIVAN.

TRIAL CONTINUED.

June 20, 1937.

MRS. P. H. A. L. L. S. O., of 155 West 46 Street, a witness called on behalf of the people, before duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALLACE:

Q Mrs. Lee, what is your business? A A profession, a performer.

Q Do you know Mrs. Simpson? A Yes sir.

Q Did you go with Mrs. Simpson to the studio of Patrick Sullivan? A Yes.

Q On one occasion? A On a Monday.

Q What month? A I really could not say. I never paid that much attention to it.

Q Who else was with you? A Mr. Clardy.

Q Will you tell these twelve gentlemen what happened in that studio between you and Mrs. Simpson and Mr. Clardy and the defendant; what conversation you heard between Mrs. Simpson, Clardy and the defendant Sullivan? A When I went in Mr. Clardy was already there, and Mrs. Sullivan and I had gone in and she started talking to him.

Q When you saw Mrs. Sullivan, do you know Mrs. Simpson?

A Mrs. Simpson, as she was speaking to Mr. Clardy and there was a little argument over some girls that Sullivan was supposed to have enticed to his studio.

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MR. GRANTHAL: I move to strike that out.
THE COURT: Strike it out.

BY THE COURT:

Q Madam, we were not there, will you have the kindness to tell me what was said by any person to the man who is being tried and what he said in reply and talk so that every juror can hear you? A Well, I could not just say what the beginning of it was.

BY MR. WALLACE:

Q Tell me all you remember of what was said? A I remember Mr. Sullivan asking her what she came there for and she said she came to see about two girls, in reference to these girls from Rutherford. He said, "What girls", she said "You know, I mean the girls that came from Rutherford". He said, "What do you want me to do?" She said, "I want you to take that girl to a doctor". I did not know anything about the girls at all until I had got there. I sat down in a chair and I listened to these two folks talking. He admitted --

MR. GRANTHAL: I move to strike out what he admitted.
THE COURT: Strike it out.

Q What did he say? He said, "All right, I will meet you tonight at 7 o'clock and I will take the girls to a doctor".

Q Did you communicate with the parents of these girls? A Yes sir, as soon as I found out.

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MR. WALLACE: Your witness.

DIRECT EXAMINATION BY MR. GRANTHAL:

Q Now have you known Mr. Clardy? A I never met Mr. Clardy until Saturday night.

Q How long have you known Mrs. Simpson? A About three weeks before that.

MR. GRANTHAL: That is all.

MR. A. L. L. S. O. M. C. S. A. N. Y., of Rutherford, New Jersey, a witness called on behalf of the people, before duly sworn, testified as follows:

BY THE COURT:

Q When you answer questions will you have the kindness to speak loudly enough so that all the jurors can hear you? A Yes.

MR. WALLACE: It is suggested on the record by defendant's counsel that this girl, Miss Sullivan, the complainant witness in this case, was born in New York, on the 20th of July, 1907.

MR. GRANTHAL: Yes sir.

MR. WALLACE: And now I put 14 years of age.

DIRECT EXAMINATION BY MR. WALLACE:

Q Now Madam, did you ever have a talk with the colored television boy, named Albert Brown? A Yes sir.

Q Where did you have that conversation? A In Manhattan Avenue, I think.

Q Who was with you at that time? A Officer Cooper.

MR. BALLGAY: Your witness.

QUESTIONS BY MR. BALLGAY:

Q Now how long you know Mr. Clardy? A I never met Mr. Clardy until Saturday night.

Q How long have you known Mrs. Clardy? A About three weeks before that.

MR. BALLGAY: That is all.

MR. BALLGAY: A L I T T L E M O O N L Y, of Rutherford, New Jersey, a witness called on behalf of the people before this court, testified as follows:

BY THE COURT:

Q When you answer questions will you have the kindness to speak loudly enough so that all the jurors can hear you? A Yes.

MR. BALLGAY: It is suggested on the record by defendant's counsel that this girl, Alice McLeary, the prosecutive witness in this case, was born in Brooklyn, on the 10th of July, 1905.

MR. BALLGAY: Yes sir.

MR. BALLGAY: And she is but 14 years of age.

QUESTIONS BY MR. BALLGAY:

Q Now when did you ever have to talk with the witness, Clardy, named William Clardy? A Yes sir.

Q Where did you have that conversation? A In Manhattan Avenue, I think.

Q Who was with you at that time? A Officer Cooper

and my girl.

Q Officer Cooper of the New York Police Department?

A Yes sir.

Q And Alice? A Alice.

MR. BALLGAY: That is all, I will call this witness later in rebuttal.

EXHIBIT C O N F E S S I O N, a witness recalled by Mr. Ballgay testified as follows:

BY THE COURT:

Q Did you meet on a certain occasion this Mrs. Alice McLeary accompanied by her daughter, Alice McLeary, and accompanied by the police officer at No. 10 Manhattan Avenue?

A Yes sir.

Q Did you have a talk there with Mrs. McLeary? A Yes sir.

Q In the presence of her daughter and in the presence of a police officer? A Yes sir.

BY MR. BALLGAY:

Q Now when you were on the witness stand before I asked you if there was any possibility of your being mistaken when you said that on the 28th of April, 1917, you took Halliday to the elevator to his apartment in the evening and that there was a lady with him and that that lady was a Miss Thumby, I asked you if you would possibly be mistaken in that statement, do you recall that? A Yes sir.

Q Do you recall my asking you that? A Yes sir.

Q And you at that time said you could not possibly be mistaken, do you recall that? A Yes.

Q That this lady was also Thumby and no other person in the world? A Yes.

Q That you had seen Alice Thumby on various occasions? A Yes.

Q And that that was Alice Thumby that you took up the 28th of April on to the elevator, in that city? A Yes sir.

Q Now you testified in the Magistrate's court, didn't you? A Yes sir.

THE COURT: I say, Mr. Ballgay, say if you desire to interrogate the witness, Mrs. McLeary regarding any talk that she may have had with this witness you can only do it if you bring it to the attention of the witness.

MR. BALLGAY: I will do that.

Q Do you recall in the Magistrate's court being asked this question and giving this answer (read): "Do you remember seeing him coming up in the elevator on the 28th of April, 1917, sometime that evening and that night?"

THE COURT: That is Monday. A Yes sir. A Who was with him at that time? A There was a young lady with him. Do you recall saying that? A Yes.

Q That was true, was it? A Yes sir.

Q Do you recall being asked this question and giving the following answer, (read): "Did Mr. Halliday talk to

you? A Yes sir. A Did he give you anything? A He gave me 25 cents." Do you remember that? A Yes.

Q That is true? A Yes sir.

Q Do you remember being asked further this question on page 24, (read): "Do you think if you saw this young lady again you could know her?" A Yes sir, I could not remember, she was up to the house the other night.

Q Did you see her yourself? A That night? A Yes.

Q Yes sir? Now, the law says in the Magistrate's court in answer to the question of the court that if you should see that young lady again you should know her and tell me why, "Yes sir, I could not remember." I don't remember what I said.

Q You don't remember whether you said on that time that if you saw this lady you would not remember if you ever saw her sister? A No sir.

Q If you said it at that time was it true?

RESPONSE: A Yes, were sister with it that time. A Yes sir. A And that was Mary shortly after the conversation?

A Yes sir.

Q You were trying to tell the truth? A Yes sir.

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

Q When you were asked this question (read): "Is she a young looking girl or middle aged?" A Young girl.

Q Very young? A Little young. Do you remember

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Q Now, A. He said, "Did he give you anything?" A. He gave me 25 cents. Do you remember that? A. Yes.

Q That is true? A. Yes sir.

Q Do you remember being asked further this question on page 84, (reading) "Q BY THE COURT: Do you think if you saw this young lady again you would know her?" A. He said, "I could not remember, she was up to the house the other night." Q Did you see her yourself? A. That night? A. Yes. A. Yes sir? Yes, she was up to the apartment's court to answer to the question of the Court that if you should see that young lady again you would know her and she said, "No sir, I could not remember." A. I don't remember what I said.

Q You don't remember whether you said at that time that if you saw this lady you would not remember? If you ever saw her again? A. No sir.

Q If you said it at that time was it true? A. No response.

Q You were under oath at that time? A. Yes sir.

Q And that was very shortly after the conversation?

A. Yes sir.

Q You were trying to tell the truth? A. Yes sir.

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

Q When you were asked this question (reading), "Q Now was a young-looking girl or middle-aged?" A. A young girl.

Q Very young? A. Quite young. Do you remember

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anytime that? A. Yes sir.

Q Do you remember being asked still further by the Court (reading), "Q That time did he arrive there with this young lady?" A. Somewhere around the hour of 10 o'clock.

Q Do you think if you saw her again you would be able to recognize her? A. I don't think so. Did you say that?

A. Yes sir.

Q At that time you said that you had seen them in the bar, he with the young lady on the 26th of April and that you had taken them upstairs, but you did not think you could remember that lady or recollect at that time, if you saw her again you would not recognize her. You testified to that effect? A. Yes sir.

Q And now you tell this Court and the jury in the trial of this important case that the woman that you took up on that occasion was Miss Thomas, a woman that you have known for a long time, that you have seen her a number of times, and you would not possibly be mistaken in that. Now, why did you change your testimony? The only reason was --

Q Why did you change your testimony? A. I must have got the dates mixed up.

Q It was not a question of date here.

THE COURT: Do not argue with the witness.

MR. WALLACE: That is all.

THE EXAMINATION BY MR. ORIENTAL:

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Q Are you sure about the dates now, Mr. Cross? A. So sir.

MR. ORIENTAL: That is all.

BY MR. WALLACE:

Q Are you sure about anything? A. Yes sir.

Q What are you sure about?

THE COURT: We will not go into that. You have the witness's evidence.

Q That date was it that you had this conversation with Mrs. Alice McGilvery and the police officer in 10 Manhattan Avenue? A. I don't know the date, but I am quite sure it was on a Saturday evening around the early part of the evening.

Q Do you remember then asking you whether or not you took a little girl up to Sullivan's apartment? A. Yes.

Q MR. ORIENTAL: Objected to as incompetent, irrelevant and immaterial, in the absence of the defendant. THE COURT: I will allow it.

Q Do you recall then asking you that question? A. Yes.

Q Did you state at that time that it was Miss Thomas that you took up in the bar that night?

MR. ORIENTAL: Objected to as incompetent, irrelevant and immaterial. The conversation was in the absence of the defendant.

THE COURT: If the People contend that this witness has made on prior occasions a statement inconsistent

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with the evidence as given by him on the trial, they may bring that alleged conversation to his attention, and in the event that he does not remember having said what they claim that he did, or that he did not say it, then they are at liberty to offer testimony in rebuttal of that. Of course, the defendant is not bound by what this witness may now say. It merely goes to the question of the witness's credibility.

MR. MR. WALLACE: Objection, if your Honor please.

A. Did I state that?

Q Did you say I saw it was Miss Thomas that you took up? A. No sir.

Q You did not say anything about Miss Thomas in the Manhattan's court, did you?

BY THE COURT:

Q When you saw the young girl, (Miss McGilvery, of 10 Manhattan Avenue, were you in a room whether she was a young girl that you had taken up on the evening of April 26th? A. Yes sir.

Q And what answer did you make at that time in response to that question? A. I told the detective, Mr. Cooper, that I didn't remember her.

BY MR. WALLACE:

Q Did you mention the fact that you did remember that you took Miss Thomas up? A. So sir.

Q The first time you ever mentioned Miss Thomas was

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Q Now you saw a boat the dates are, Mr. Cooper?

A No sir.
MR. COOPER: That is all.

BY MR. WALLACE:

Q Are you sure about anything? A Yes sir.
Q What are you sure about?

MR. COOPER: We will not go into that. You have the witness's evidence.

Q That date was it that you had this conversation with Mrs. Alice McHenry and the police officer in 10 Manhattan Avenue? A I don't know the date, but I am quite sure it was on a Saturday evening around the early part of the evening.

Q Do you remember then asking you whether or not you took a little girl up to Sullivan's apartment? A Yes.

Q MR. COOPER: Objected to as incompetent, irrelevant and immaterial, in the absence of the defendant THE COURT: I will allow it.

Q Do you recall then asking you that question? A Yes.
Q Did you state at that time that it was Miss Thomas that you took up in the car that day?

MR. COOPER: Objected to as incompetent, irrelevant and immaterial. The conversation was in the absence of the defendant.

THE COURT: If the People contend that this witness has made on prior occasions a statement inconsistent

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with the evidence as given by him on the trial, they may bring that alleged conversation to his attention, and in the event that he does not remember having said what they claim that he did, or that he did not say it, then they are at liberty to offer testimony in rebuttal of that. Of course, the defendant is not bound by what this witness may have said. It merely goes to the question of the witness's credibility.

MR. COOPER: Exception, if your Honor please.

A Did I state that?

Q Did you tell them it was Miss Thomas that you took up?

A No sir.

Q You did not say anything about Miss Thomas in the McHenry's story, did you?

BY THE COURT:

Q When you saw the young girl, Alice McHenry, at No. 10 Manhattan Avenue, were you then asked whether she was the young girl that you had taken up on the evening of April 10th? A Yes sir.

Q And what answer did you make at that time in response to that question? A I told the detective, Mr. Cooper, that I didn't remember her.

BY MR. WALLACE:

Q Did you mention the fact that you did remember that you took Miss Thomas up? A No sir.

Q The first time you ever mentioned Miss Thomas was

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when you took the witness stand in this court room yesterday?

A Yes sir.

Q You did not say anything about Miss Thomas to me when you were talking in my office about taking her up on the 10th of April? A No sir.

J D A N O, S U T T E R, of 120 Convent Avenue, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WALLACE:

Q Mr. Sutter, you are a special representative of the Society for the Prevention of Cruelty to Children? A I am.

Q Do you know the defendant, Patrick Sullivan? A Yes sir.

Q Have you ever had any conversation with him? A Yes sir.

Q Whereabouts did you have any conversation with Patrick Sullivan? A 120 West 42nd Street, City and County of New York.

Q Is that the studio of Sullivan? A Yes sir.

Q When was this conversation held, as you remember?

A On May 10, 1917, at about 1:30 P.M.

Q Who was present at the time when you had this conversation with the defendant? A Officer Cooper of the Second Precinct Detective Bureau and a man named Street Rayth, who was connected with Sullivan.

Q Cooper, Rayth, yourself and Sullivan? A Yes.

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Q Now that the first time you ever saw and talked with the defendant? A Yes.

Q Will you kindly state to the jury and Court what you said to the defendant and what he said to you upon that occasion? A Well, on May 10, 1917, at about 1:30 P.M., I went to the 12th floor of 120 West 42nd Street with Officer Cooper. Officer Cooper entered the room in which was the studio belonging to the defendant, and Mr. Sullivan and a man who I learned was Street Rayth went out into the hall and a crowd of Mr. Sullivan or he remembered taking two girls from the hall and taking them from their room where they had hidden with screens from their rear windows, to the apartment on the 12th floor of April 10th. He said that he did. I told the girl, Alice McHenry, whom I saw previously and asked him if that was one of the girls that he had known there. He looked at her for a moment and said that he could not say. I asked the girl to remove her hat and she did not. He said that it was one of the girls that he had come to the apartment with. I said, "This girl charges you with having taken her share on the following night and also having perpetrated an act of sexual intercourse with her."

Q Will you give us that again? A After the girl removed her hat he said he recognized the girl as one of the two girls that he had taken to his apartment on the night of the 10th. I said, "This girl charges you with having taken her to your apartment on the following night and also having perpetrated an act of sexual intercourse with her."

Q One that the first time you ever saw and talked with the defendant? A Yes.

Q Will you kindly state to the Jury and Court what you said to the defendant and what he said to you upon that occasion? A Well, on May 10, 1937, at about 1:30 P.M. I went to the top floor of 182 East 42 Street with Officer Cooper. Officer Cooper entered the room in which was the studio belonging to the defendant, and Mr. Sullivan and a man who I learned some days ago was not the defendant and I asked of Mr. Sullivan if he remembered taking two girls down they had flirted with Cooper from their rear window, to the apartment on the night of April 28th. He said that he did. I told the girl, Alice Hollenbeck, brought in his presence and asked her if that was one of the girls that he had known there. He looked at us for a moment and said that he could not say. I asked the girl to remove her hat and she did and he said that it was one of the girls that he had known to the apartment with. I said, "This girl charges you with having taken her there on the following night and having had or participated in act of sexual intercourse with her."

Q Will you give us that again? A After the girl removed her hat he said he recognized the girl as one of the two girls they had taken to his apartment on the night of the 28th. I said, "This girl charges you with having taken her to your apartment on the following night and with having participated in act of sexual intercourse with her in

your apartment". He said that he had not taken her there that night; they only went there the one night.

Q Was there any further conversation at that time? A There was some further conversation. He said that he had expected me, - I am a neighbor of Cooper and myself. He said there had been two women who had come to his studio and told him he was charged by a young girl with having seduced her and given a license.

MR. SULLIVAN: That is all.

UPON EXAMINATION BY MR. COOPER:

Q Did you also see said on the way from Sullivan's place of business to the Station House? Was there anything said about Chicago? Do you remember saying to Sullivan you expected to find him in Chicago and not in New York? A I believe I did say something like that, I expected, - I was surprised that he did not run away.

Q Do you remember the conversation where the name of Mr. Glady was mentioned? I would not say that there was any conversation about Mr. Glady, but I don't consider that there was any conversation of any importance; that he was an employee of the defendant or something of that sort.

MR. COOPER: That is all.

EDWARD COOPER, an officer of the Second Branch Detective Bureau, Shield No. 307, a witness called on behalf of the People, being sworn, testified as follows:

SIRUY EXAMINATION BY MR. WALLACE:

Q Officer, do you know this defendant (indicating defendant)? A Yes sir.

Q When did you first see him? A At his place of business at 182 East 42nd Street.

Q Who was with you at that time? A Mr. Butts.

Q Anybody else? A Alice Hollenbeck.

Q Did anybody else? A The Chief of Police of Buffalo.

Q Mr. Sullivan? A Yes sir, Burnham.

Q Did Mr. Butts and the defendant have conversation in your presence? A Yes.

Q Just tell the Jury what happened on that occasion?

A I walked into the office and I asked for Sullivan, he said, "This is me". The defendant said, "This is me". I said, "Is Mr. Butts here now?" He said, "Yes". I said, "I am a police officer, would you mind coming outside?" He said, "Well, I expected you". He walked outside, and I went and called Alice Hollenbeck and when she came up Mr. Butts said to the defendant, "Do you remember taking this girl to your apartment at No. 182 Manhattan Avenue on April 28th?" He said he could not remember the girl. So Mr. Butts told the girl to talk, - told Alice Hollenbeck to tell the Jury but when she took off her hat Butts said, "Yes, that was the girl."

Q Did the defendant say anything? A The defendant

said not say anything. So Mr. Butts asked him, - Mr. Butts said to the defendant that the girl had charged him with taking her up in his apartment on April and having sexual intercourse with her and he said he did not.

Q What, if anything took place after that? A I then brought him over to the Second Branch Detective Bureau. He denied having taken her up in his room on April 28th. He said over in the Second Branch Detective Bureau that he did have her up there on April 28th.

Q Did you see with Alice Hollenbeck and Mrs. Hollenbeck on that occasion? A Yes.

Q About what time did you see him in this, Officer? A That was on the 10th of May about 7:00 in the evening, something like that.

Q Did you there see Elliott Green, the retired elevator runder? A I did.

Q Did you have conversation with him? A I did. I asked him whether or not he had seen Alice Hollenbeck on the 28th of April in the apartment of Sullivan.

MR. COOPER: That is objected to.

THE COURT: I do not think you have laid any foundation for that. I will exclude it.

MR. WALLACE: Elliott Green said, I think, that it was another girl.

THE COURT: Now say said he told the officer at that time that he could not say that that was the girl that he had

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did not say anything. Mr. Butte asked him, - Mr. Butte
asked the defendant that the girl had charged him with
taking her up to his apartment on April and having sexual
intercourse with her and he said he did not.

Q What, if anything took place after that? A I then
brought this over to the Second Street Detective Bureau. He
asked having the girl in his room on April 20th. He
said that in the Second Street Detective Bureau that he
did have her there on April 20th.

Q Did you go with Miss McCleary and Mrs. Sullivan to
the apartment No. 10 Manhattan Avenue? A I did.

Q About what time did you go this, officer?
was on the 10th of May about 7:30 in the evening, something
like that.

Q Did you there see Elliott Green, the colored elevator
runner? A I did.

Q Did you have a conversation with him? A I did.
I asked him whether or not he had taken up Miss McCleary
on the 10th of April to the apartment of Sullivan.

MR. GRANT: That is objected to.

THE COURT: I do not think you have laid any founda-
tion for that. I will exclude it.

MR. SULLIVAN: Elliott Green said, I think, that
it was another girl.

THE COURT: The boy said he told the officer at that
time that he would not say that that was the girl that he had

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taken up. It is excluded. It would be legal error to
admit it.

MR. SULLIVAN: Your witness.

MR. GRANT: No objection.

MR. SULLIVAN: People rest.

DEFENDANT'S REST.

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PATRICK SULLIVAN, the defendant, of 40 West 55th
Street, called as a witness on his own behalf, being duly
sworn, testifies as follows:

DIRECT EXAMINATION BY MR. GRANT:

Q Now, Mr. Sullivan, I want you to speak up loud so that
the jury can hear you. A All right.

Q What is your business? A Animated cartoonist.

Q Where is your place of business? A 128 West 42nd Street.

Q How long have you been engaged in that line of business?

A A year and a half about.

Q Will you kindly describe to the jury the room that you
occupy in this building and how they are situated? A Yes, it
is a room about as wide as this, and about half as deep, and in
this room there are photo tables, about fourteen. Everybody
works with electric light underneath. They work through glass.
You put your paper on the glass and the electric light reflects.
You can see through several sheets of paper.

Q They have plenty of light in all their rooms? A Yes.

Q No curtains or anything to conceal any person? A Only
when the sun comes in to darken the electric light.

Q How many people have you employed? A Twelve, three
girls.

Q Three girls and nine men? A Yes.

Q How long have you been in this building on West 42nd
Street? A Eight months, I think it is.

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Q Do you remember the 10th day of April, 1917? A I do.

Q Did you on that day or in the evening see Alice McCleary?
A Yes.

Q Where did you see her for the first time? A I saw her
on the Thursday afternoon. Mr. Smith and I went down, going up
to have lunch, and then, suddenly, we walked along the street
to see what the place looked like, as there are other things we
to interest us.

Q What is that? A We went out to lunch, Smith and I,
and we walked around 42nd Street, and entered the door of this
building where these girls were, then we saw of them.

Q Which one? A The little blond one.

Q That is right? A The smallest one of the two, I don't
know her name.

Q Tell the Court and jury when was the first time you met
Alice McCleary, the complainant. A That was on a Sunday
night.

Q Where did you see her? A From the window of the
building of the studio, whatever you call it, where I am.
Mr. Smith and I were going out. Mr. Smith was coming up to my
apartment.

Q Did you go downstairs? A The girls were in the other
window, and they were like that (indicating), and I just did
that, and they pointed downstairs.

Q They were down? A Yes, walked downstairs. We walked

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Q Do you remember the 28th day of April, 1917? A I do.
Q Did you go that day or in the evening see Alice McCleary?

A Yes.
Q Where did you see her for the first time? A I saw her on the Thursday afternoon. Mr. Rayth and I went down, going out to have lunch, and then, suddenly, we walked along the street to see what the place looked like, as there are other things that are to interest me.

Q What is that? A We went out to lunch, Rayth and I, and we walked around the street, and outside the door of this building where these two girls were, there we saw of them.

Q Which one? A The little blond one.

Q That is blonde? A The smallest one of the two, I don't know her name.

Q Tell the Court and jury when was the first time you met Alice McCleary, the complainant. A That was on a Saturday night.

Q Where did you see her? A From the window of the building of the studio, whatever you call it, where I am. Mr. Rayth and I were going out. Mr. Rayth was coming up to my apartment.

Q Did you go downstairs? A The girls were in the other window, and they waved like that (indicating), and I just did that, and they pointed downstairs.

Q They came down? A Yes, walked downstairs. We walked

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around 43rd Street.

Q Tell the Court all that happened on the 28th, Saturday.

A We went down around 43rd Street, and saw both the girls talking to some fellow there, as we walked by. One of the girls followed us and grabbed me by the arm.

Q Which one? A The little one.

Q The blonde? A That blonde one. They grabbed me by the arm and we went to the corner. This was on the 28th, Saturday. Mr. Rayth and I waited at the corner, and they were coming on just as fast as we were walking. They arrived at the corner and she introduced us then to Alice, and then said: "They don't you be a smart and buy us a drink".

Q Who said "that"? A Alice -- no, blonde.

Q That is the blonde girl? A Yes, and she said her other friend was not feeling well, so I bought them a drink. I don't know whether it was Rayth or I brought both of them up home, I would not remember that. I told them I would have to leave them, that I had to go to work and also had to do some business with Mr. Rayth. I engaged a taxicab and Rayth and I were about to get in, when the girl ran across the road to us after we had left them and said: "Take us for a ride". I said: "I have got an appointment, I have got to get home". They said: "Don't be mean". I said: "Jump in, I am only going as far as my apartment", so they came up to the apartment. That was around twenty-five minutes of ten or half-past nine.

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Q After you arrived in your apartment, tell what happened. A I played the mandolin for them for a while -- no, I got the drawings for Rayth first. I let them sit in the sitting-room, and then they saw the mandolin, and they asked me did I play, and I played two or three times.

Q Did you at any time while you were in your apartment take Alice McCleary into the bedroom? A No.

Q Did you ever place her on the bed? A No.

Q Or ask her to have sexual intercourse with you? A No.

Q Did Mr. Rayth in your presence take the blonde girl into the bedroom? A No, we never left the sitting-room.

Q You were right in the dining-room all the time all the time? A Absolutely, yes.

Q How long did you remain in your apartment? A It must have been around twenty minutes at the most.

Q Then what happened? A Well, I had an appointment. I used my telephone from there to say I would be on my way over. I had an appointment with Miss Thomas, who I am in the habit of seeing every evening.

Q Miss Thomas you were engaged to be married to at that time? A Yes.

Q And you are now married to her? A Yes.

Q When were you married to Miss Thomas? A The 21st of last month.

Q Of May, 1917? A Yes.

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Q Where did you go after you left your apartment on the 28th? A Walked down to 100th Street, that is down Manhattan Avenue to 100th Street, and then from there to Columbus Avenue where I left Mr. Rayth and those girls on the corner, while I walked up Columbus Avenue to 104th Street.

BY THE COURT:

Q Do you mean to say you left the girls inside of your apartment with Mr. Rayth? A No, sir.

Q They left before you did? A No, we went with them.

Q You went out with them? A Yes.

BY MR. COUNSELLOR:

Q They went to the elevated? A Rayth took them to the elevated station to take them downtown, while I went down to Miss Thomas's apartment and met her outside. It was just ten o'clock when I got there because she passed a remedy about my keeping the appointment.

Q Did you at that time make an appointment to meet the McCleary girl the next day? A No.

Q You did not? A No.

Q Did you see the McCleary girl on Sunday night at any time? A No, sir.

Q Did you have her in your apartment on Sunday, April 29th? A No, sir.

Q She testified that you met her in front of her apartment building in West 42nd Street, and that you took her up to your

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Q Where did you go after you left your apartment on the 25th?
A Walked down to 100th Street, that is down Manhattan
Avenue to 100th Street, and then from there to Columbus Avenue
where I left Mr. Rayth and those girls on the corner, while I
walked up Columbus Avenue to 104th Street.

BY THE COURT:

Q Do you mean to say you left the girls inside of your
apartment with Mr. Rayth? A No, sir.
Q They left before you did? A No, we went with them.
Q You went out with them? A Yes.

BY MR. QUINN-TAMM:

Q They went to the elevated? A Rayth took them to the
elevated station to take them downtown, while I went down to
Miss Thomas's apartment and put her outside. It was just ten
o'clock when I got there because she seemed a remark about my
keeping the appointment.

Q Did you at that time make an appointment to meet the
McCleary girl the next day? A No.

Q You did not? A No.

Q Did you see the McCleary girl on Sunday night at any
time? A No, sir.

Q Did you have her in your apartment on Sunday, April
25th? A No, sir.

Q She testified that you met her in front of her apartment
building in West 42nd Street, and that you took her up to your

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apartment, and there you had sexual intercourse with her. Did
any such thing occur? A No, sir, it is impossible.

Q Did Gladys tell you on the 25th of April that Alice
McCleary was ill and that you should be very careful with her?
A I never saw her.

Q You are positive about that? A Sure.

Q Will you kindly tell the Court and jury where you were
on Sunday, April 25th? A Yes. Do you mean the day or the
evening, what part?

BY THE COURT:

Q We will start at about ten o'clock in the morning,
Sunday, April 25th. A Well, eleven o'clock; will that be
better? At eleven o'clock Miss Thomas came over to my apart-
ment, so she is in the habit of doing every Sunday. She
comes over to fix up the place with me. I had nobody to
keep the apartment. Saturday night when I met her we bought
delicatessen food for having breakfast. She has breakfast
with me. We had breakfast there Sunday about eleven o'clock.
She always keeps her appointment. Then I phoned to Mr.
Rayth's place around one or two o'clock it was. I had an
appointment with Mr. and Mrs. Rayth for dinner.

Q In other words, you stayed in your apartment from
about eleven o'clock in the morning on Sunday until one or
two o'clock? A Yes, maybe after

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Q And during that time the lady who was then Miss Thomas
was with you? A Yes, sir.

Q For the whole time? A The whole time.

Q And during that time ~~xxxx~~ you telephoned on one occa-
sion, along about two o'clock, to your office associate or em-
ployee, Mr. Rayth, is that so? A Yes. From there we walked
to 66th Street and Broadway.

Q That is to say you and Miss Thomas? A Yes.

Q After you left the apartment at about half-past ten?
A Yes. I could not figure on the exact time, but it is

around that. We went to 66th Street from there, took the
subway to take a ride. She wanted to see the Battery. She
had never seen it. We went down to the Battery and I think
we walked around there for a while, and we went in to the
Aquarium. I don't know what time that could be, because it
was not very long before they blew a whistle and we had to
come out. I had the appointment with Mr. and Mrs. Rayth at
six o'clock that evening for dinner at their place.

BY MR. QUINN-TAMM:

Q Where did Mrs. Rayth live at that time? A 14th Street
where she is living now.

BY THE COURT:

Q What number? A 301, I think it is, West, near Ninth
Avenue. It is about five doors this side of Ninth Avenue.

Q Were you with Miss Thomas up to the time that you went

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to the Rayth's? A Yes.

Q She went to the Rayth's with you? A Yes, I telephoned
to Rayth at half-past five saying we were on our way so. That
was from a little cafe across the Battery where we sat down and
had a drink. We went to Rayth's place and reached there
around six o'clock. I think the dinner appointment was seven
o'clock. We got there early and we sat and talked. Rayth
and I looked over drawings as he is very clever. I was inter-
ested in his work and I looked over his drawings. We had
dinner and left there around ten o'clock. I am sure it was
around ten o'clock or 10:15. Then we took the Ninth Avenue
elevated home to my apartment. Miss Thomas and I reached home,
say, around half-past ten or a quarter to eleven. I could not
figure on the exact time, but around that time. Miss Thomas
remained in my apartment until twelve o'clock or half-past
twelve, maybe.

BY MR. QUINN-TAMM:

Q Then what happened? A I took her home.

Q Where did she live at that time? A In the Edguate
Apartment.

Q Where is that? A Columbus Avenue, about two doors
north of 104th Street.

Q What time do you say you arrived at her apartment?
A I could not reckon, about six or seven minutes after I left
my apartment.

Q Then where did you go? A Back to my apartment again.

to the Myrth's? A Yes.

Q Who went to the Myrth's with you? A Yes, I telephoned to North at half-past five saying we were on our way up. That was from a little cafe across the Battery where we sat down and had a drink. We went to Myrth's place and reached there around six o'clock. I think the dinner appointment was seven o'clock. We got there early and we sat and talked. Myrth and I looked over drawings as he is very clever. I was interested in his work and I looked over his drawings. We had dinner and left there around ten o'clock. I am sure it was around ten o'clock or 10:15. Then we took the Ninth Avenue Elevated home to my apartment. Kneelands and I reached home, say, around half-past ten or a quarter to eleven. I could not figure on the exact time, but around that time. Kneelands remained in my apartment until twelve o'clock or half-past twelve, maybe.

BY MR. GRIFFITH:

Q Then what happened? A I took her home.

Q Where did she live at that time? A In the Hildgate Apartment.

Q Where is that? A Columbus Avenue, about two doors north of 104th Street.

Q What time do you say you arrived at her apartment?

A I could not reckon, about six or seven minutes after I left my apartment.

Q Then where did you go? A Back to my apartment again.

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Q You stayed there until Monday morning? A Yes.

Q And then Monday morning where did you go? A To my office. I think it was that morning that I met Kneelands at the elevated coming down in the cars. It was nothing unusual for me to meet her because we got the same cars going down the same way.

Q Did you after that see this Kneelands girl? A Yes.

Q When? A At my place of business.

Q Who was with her? A Mr. Clardy. He had both of them there. It was one night, when one of the pictures was just finished. It was to be assembled. The Universal wanted their pictures in a hurry. I worked with one of the boys on Mr. Anderson's picture. I assembled it so as to project it the first thing in the morning, to get his money for it. When I came back from the laboratory with Mr. Anderson, Mr. Clardy was there. I have a guess there, an old-school. Mr. Clardy was sitting with both these girls on my couch in my office or the studio.

Q Did the girls say anything to you? A No, not a word.

Q Did you say ~~any~~ anything to her? A No, I just said: "How do you do". They said: "How do you do".

Q Do you remember when that was, how many days after Saturday that you saw the girls? A I could not recollect; it might have been two or three days after. Two or three evenings it was.

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Q When next did you see the Kneelands girl? A I don't know whether I saw her after that from the window or not, because in passing the window you might see them over there.

Q Did you ever go out with the girls? A No.

Q You remember her coming into your place of business after that at any time? A No.

Q At no time? A No.

Q Did the girls make any complaint against you? A No.

Q Did she say anything to you? A Not a word.

Q Do you know Mr. Clardy? A Very well.

Q How long have you known him? A Four years, it must be.

Q How long has he been in your employ? A He was in my employ four years ago when I had a vaudeville act. I could not work my vaudeville act because I was connected with McClure's Newspaper Syndicate, where my work entailed all the effort I could put into it, without bothering with vaudeville. But I thought by billing a little vaudeville act on the side I could pick up a little more money. I advertised for a man to work it and Clardy was one of the applicants.

Q That was four years ago? A Yes.

Q How long did he remain in your employ? A About eight months. We could not make it go.

Q When next did you see him? A About a year later he came back and asked me to let him put the act out again. I made him a present of it. He seemed to think that I did not

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treat him right with the act, and in return for that, I said: "Take the act for anything you want; I shall make you a present of it, if you think there is any money in it".

Q How long has he been in your employ at the present time?

A About five months.

Q During the time that you had him in your employ, had you had any trouble with him? A Yes.

Q Will you tell the Court and jury what trouble you had with Clardy? A Mr. Clardy seemed to think that I was, I don't know -- something of a wreck or something because I worked on the basis that I split up money with the boys. I worked on this business through hard work, and it has taken me a year to do it, or a year and a half. I worked on the basis of my own -- I got a dollar a foot for my product. I finance everything and find a market -- where and everything. I give the boys 50 cents a foot ahead, and take 50 cents and stand all expenses. The ideas and everything I give them. My Clardy did not seem to think that was enough and when he made his first picture, he seemed to be very disappointed over his efforts and seemed to think I was to blame. None of the other boys thought that, but he did. The second picture it should have run 450 feet, while I am supposed, and it ran 350 feet, and Clardy told several people that I could have made it run 450, and that it was a piece of cake on my part for the other 100. I wanted to give him the other 100 to keep him quiet, but he

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treat him right with the art, and in return for that, I said:
"Take the art for anything you want; I shall make you a present
of it, if you think there is any money in it".

Q How long has he been in your employ at the present time?
A About five months.

Q During the time that you had him in your employ, had
you had any trouble with him? A Yes.

Q Will you tell the Court and jury what trouble you had
with Clardy? A Mr. Clardy seemed to think that I was, I don't
know -- something of a crook or something because I worked on
the basis that I split up money with the boys. I worked on
this business through bare work, and it has taken me a year to
do it, or a year and a half. I worked on the basis of my own --
I got a dollar a foot for my account. I finished everything
and find a market -- camera and everything. I give the boys
50 cents a foot sleep, and take 50 cents and stand all expenses.
The ideas and everything I give them. Mr. Clardy did not seem
to think that was enough and made when he made his first visit-
ture, he seemed to be very dissatisfied over his efforts and
seemed to think I was to blame. None of the other boys thought
that, but he did. The second picture it should have run 450
feet, which I was willing, and it ran 440 feet, and Clardy
told several people that I would have made it run 450, and that
it was a sign of white on my part for the other 10. I
wanted to give him the other 10 to keep him quiet, but he

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would not take it. After that he continued calling up to
twelve o'clock midnight and told me I was a parasite and various
other things. I thought the boy was a little strange and
felt sorry for him. I determined after that not to have him
back in my office again. He came around every night and I
would not ask him to go out because he had nothing to do and
seemed to be enjoying himself. I did not want him. Then a
couple of my employees told me, "Why don't you give George a
chance again?" I said: "All right, I will let him come
back". He came back, and there was a great change in him as
far as I knew. He did not seem to have any of the old impulses
in him. He seemed to be happy and laughing. I never entered
his into confidence the second time. Maybe that is the reason.
It seems at the same time he was unbecomingly as well as all my
office staff, trying to disorganize the place, but I didn't
know it until this trouble came up. I didn't know until then.

Q Was that the reason you discharged him? A I didn't
discharge him at all the first time. I told him better to
give it up. He seemed to think I did not treat him right.
That was when the picture ran 440 feet, or 410 less. When
Clardy came up and threatened me that I had given the girl a
disease this night, it kind of scared me when he approached
me in this manner. I had an appointment with Miss Bayor, the
artist, on this day that Clardy approached me. It was
Monday, I think. Clardy came upstairs and I asked him the

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address of the Lunts' Club. He said: "I don't know." He
said: "You sit down. I want to talk to you". I said: "What
is the matter with you, George?" He said: "Sit down, that is
all". I said: "What is the trouble? Something on your
mind?" He said: "I have got you where I want you". I
said: "Yes? What is it?" I laughed at him. I didn't
believe at the time he was all there. I thought he was men-
tally deficient. He then Mrs. Higgins rushes in with an-
other young lady, Mrs. Lee, I believe her name is, and Mrs.
Higgins, the lady, accused me of giving this girl a disease.
I said: "What". She said: "You did give her syphilis". I
said: "Is that so". She said: "Yes, the girl is broken
out all over". I said: "It is terrible. What do I going to
do about it". She said: "You have got to do the right
thing". Then George Clardy came up again with some other
threat, pointing his finger at me, threatening, and he said:
"It is up to you now, it is up to you now". Naturally, the
first thing I thought of was blackmail, knowing that I have a
business, this boy is jealous of it. So I said: "What will
I do about it". So Mrs. Higgins said: "I want you to take her
to a reputable doctor, ~~not~~ an uninterested doctor". I said:
"All right, when will I see you". "Well, the girl?" She
said: "She is not here". I said: "When will you have her
here". She said: "I will meet you outside, I will not have
her here". I said: "What time". I said: "Make your own

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time". I said: "If you want to see, all right". She said:
"Make it seven o'clock". At seven o'clock came and I was
down at the corner to meet them at the place arranged, the
sign story. In the meantime I asked my doctor, Dr.
Constable, my physician, and I asked him about it. He said:
"Jenny, bring them up to me; it is a shameless". I said:
"Will you wait there and I will get them up to you in one way".
I waited from seven to half-past eight. No one and a gentleman
called Mr. Robert West. ~~He~~ showed up. Then I showed
over at half-past seven. I said: "Doctor, send me a bill as
I will get it in the morning! What coming in up will I re-
ceived a bill for 50 or 100, I forget which it was, and I came
into the office and Clardy was sitting there, and I said:
"Here is something for you". He said: "That has got
nothing to do with me". With that he walked out of the of-
fice. Then all the office looked at me in amazement. I said:
"Wait, we will see what the finish of this is". Then George
came up and asked me to go down to see Mrs. Higgins. I went
down to see her. I asked her what I should do. She said
something is the effect -- they looked at one another and they
did not seem to want to open themselves out in any way. I
said: "You people surely can suggest something. What will you
do about it". Then they looked at one another. I said I
could not wait there all day. I came back to the office. So
I walked back with Clardy and I tried to get in some way of him.

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artist, on this day that Clardy approached me. It was
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her here". I said: "What time". I said: "Make your own

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time". I said: "If you want to see me, all right". She said:
"Make it seven o'clock". So seven o'clock came and I was
down at the corner to meet them at the place arranged, the
olger store. In the meantime I called up my doctor, Dr.
Constable, my physician, and I asked him about it. He said:
"Freddy, bring them up to me; it is a shakedown". I said:
"Will you wait there and I will get them up to you in ten days".
I waited from seven to half-past eight, then a gentleman
called Dr. Robert Hunt. He said: "Then I phoned
over at half-past seven. I said: 'Doctor, send me a bill so
I will get it in the morning!' Hunt arrived in my mail I re-
ceived a bill for 50 or 100, I forget which it was, and I came
into the office and Clardy was sitting there, and I said:
"Here is something for you". So he said: "That has got
nothing to do with me". With that he walked out of the of-
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do about it". Then they looked at one another. I said I
could not wait there all day. I came back to the office. So
I walked back with Clardy and I tried to get in some way of him.

time". I said: "If you want to see, all right". He said: "What it seems a'fraid". He seems a'fraid and I was down at the secret to meet them at the place arranged, the cigar store. In the meantime I called up my doctor, Dr. Conestable, my physician, and I asked him about it. He said: "Hurry, bring them or to me. It is a challenge". I said: "Will you wait there and I will get them up to you in one way". I waited from seven to half-past seven. Mr. North and a gentleman called Mr. Robert West. Nobody showed up. Then I phoned over at half-past seven. I said: "Doctor, send me a bill so I will get it to the morning". Next morning in my mail I received a bill for \$5 or \$10, I forget which it was, so I came into the office and Clardy was sitting there, and I said: "Here is something for you". He said: "That has got nothing to do with me". With that he walked out of the office. Then all the office looked at me in amazement. I said: "Well, we will see what the finish of this is". Then George came up and asked me to go down to see Mrs. Higgins. I went down to see her. I asked her what I should do. She said something to the effect -- they looked at one another and they did not seem to want to open themselves out in any way. I said: "You people surely can suggest something. What will you do about it". Then they looked at one another. I said I could not wait there all day. I came back to the office. So I walked back with Clardy and I tried to get in some way of him.

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He said: "I will not say anything, I will not say anything". So the whole thing was a mystery to me. That is all I know about that.

Q How long after that did you see Mr. Butte? A Oh, probably a week and a half.

Q A week and a half after? A Yes.

Q What conversation did you have with Mr. Butte in the presence of Officer Conner? A Mr. Butte came up and asked me, he said: "Who is Sullivan". I said: "I am Sullivan". He said: "I want to have a talk with you". I saw Mr. Cooper had a shoulder on him, and I promptly called Mr. North out. Mr. North came out and he said: "Who is this fellow". He said: "It is North". He said: "How, who here, we want you". So he said: "Do you know this girl, Alice McGilvery, whatever the name is. I looked at her, and I said no. He said: "Come up here". He called her up. She was standing below on the stairs. He brought her up and placed her there and I could not recognize her because she seemed to have changed. It was a girl that looked like twenty or twenty-one when she was living across the river, but when she came up with Mr. Butte she looked like ten. She had little button shoes on, and the dress seemed to have been trimmed off. So I could not recognize her until I looked at her face again. Then I recognized her, and I walked when I did. He said: "You know that you are under arrest". I said: "I would not be at all

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surprised, anything that happened? He said: "You better come down to the station-house". I said: "All right". He said: "North, you come along, too".

Q What conversation did you have with Butte on the way to the station-house? A Mr. Butte said to me: "I thought you would be able to be a better pilot than that", something to that effect. I said: "Would you ride then up". He said: "No". I said: "How would you expect me to if you could not".

Q Was there anything else said? A I told him the whole thing, it started off on a case of Cleveland and they fell down on it, and they wanted to get on to something else.

Q Was anything said about that they expected to find you in Chicago? A He said: "Sullivan, I did not expect to find you here, walking along the street". He said: "I thought I would be able to pick you up in Chicago". I said: "No". He said: "It is a serious charge". I said: "You should run away. I have not done anything, why didn't you telephone me? I would have come over to the station-house to you".

Q Did you stop at any time call Clardy or any person that you had sexual intercourse with Alice McGilvery? A No.

Q You never saw her? A Never.

BY JUDGE NO. 12:

Q After Clardy pointed his finger at you and he said: "I got you where I want you", after that conversation, did you discharge him from your employ? A No.

Q Did he remain in your employ after that? A Yes.

Q How long? A Well, all the time I was locked up, three or four days, in all that time I was not in the office. Nobody had authority to discharge him. I was locked up and I did not give any authority to anybody, but when I came out of prison, I discharged him, after I came out. You see I could not very well discharge him at first, because it is hard to explain a business to you. A day will not make much work on a day here and make something like a thousand dollars, or make about 700 dollars, and all that time I am working away for the material and my help and lights and everything goes on.

Q But you did discharge him afterwards? A Yes, it is hard to discharge him and leave him take the benefit of all that stuff away from you. That is a loss of \$200.

BY MR. DISTRICT ATTORNEY:

Q Did you discharge him when you were released from jail? A At once. He knew in and 'thick his coat off to go work.

BY MR. DISTRICT ATTORNEY: That is all.

CROSS EXAMINATION BY MR. WAHLE:

Q How long have you been in this country? A Nine years, maybe.

Q Are you a citizen of the United States? A No, I am not worthy to say.

Q How long have you been in the business of collecting and

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Q Did he remain in your employ after that? A Yes.

Q How long? A Well, all the time I was locked up, three or four days, in all that time I was out in the office. Nobody had authority to discharge him. I was locked up and I did not give any authority to anybody, but when I came out of prison, I discharged him, after I came out. The way I could not very well discharge him at first, because it is hard to exclude this business to you. A boy will not know what work on a cigarette and what something like a thousand cigarettes, or what about the business, and all that time I was very busy for the material and my help and things and everything else on.

Q But you did discharge him afterwards? A Yes, it is hard to discharge him and have him have the benefit of all that stuff away from you. That is a loss of time.

BY MR. CHRISTIAN:

Q Did you discharge him when you were released from jail? A At once. He came in and took his coat off to go to work.

MR. CHRISTIAN: That is all.

CRIME RECONSTRUCTION BY MR. WELLS:

Q How long have you been in this country? A Since 1920, maybe.

Q Are you a citizen of the United States? A No, I am not pretty to say.

Q How long have you been in the business of educated man-

hood? A Two and a half years.

Q Prior to that, what business were you in? A Certainly for newspapers.

Q By whom were you employed? A McClure's Newspaper Syndicate.

Q How long did you work for them? A Two years.

Q And prior to that what was your business? A Doing some stuff for the Evening World, daily world work.

Q How long were you employed by the Evening World? A I was doing special work. I was only getting paid on results.

Q How long? A Five months.

Q What did you do before that? A I was working part time for most news people for about a year and a half.

Q What did you do before that? A I think that about covers it.

Q Have you ever been an express carrier? A Never.

Q What did you do in England? Certain work for various publications.

Q How long did you live at 11 Manhattan Avenue? A One month.

Q Where did you move from there? A 41 West 43rd Street.

Q Where did you live before you lived at 11 Manhattan Avenue? A The Florida.

Q How long did you live there? A One year and a half.

Q How is it you only spent a month at 11 Manhattan Avenue?

A I was about to be married. I was going to be married and the expense was too great. It was too far away.

Q Where have you lived since you have been married?

A 41 West 43rd Street.

Q Is that an apartment house? A No.

Q What kind of a house is it? A An apartment for me and my wife. There is two rooms and bath in there. The whole call it an apartment.

Q How long have you known this lady that is now your wife? A One year this summer.

Q Where did she live when you met her first? A Madison Avenue where I rented a room and a half.

Q Are her father and mother living? A Her mother is.

Q During the time that you were living at the premises 11 Manhattan Avenue, how long since did she come there? Did she come there every day? A Every day.

Q Or every night? A Not every day, every evening.

Maybe it would be only five or ten, maybe five or ten hours, it all depended.

Q Did she ever come there and stay there all night?

A Never.

Q How long has she been engaged to you? A Three and a half months. It is about three months or four months.

BY MR. CHRISTIAN:

Q Do you remember an occasion when you gave the elevator

to her? A It is pretty hard to remember because I often do that. That is nothing unusual.

Q You say an elevator you did not? A It all depends. Sometimes twice a week. There are two elevators here.

Q Do you mean to say that while you were at No. 11 Manhattan Avenue you did not know one elevator gave to the man who has been a witness in this case? A Oh, yes. I have after given the elevator for him for a long time and things like that.

I never saw one a week to give the boy a quarter or something.

BY MR. WELLS:

Q The first time you saw her ever saw either of these girls in this case was on Thursday afternoon? A I saw one, that was the third one.

Q Prior to that had you no memory of an occasion when either of these girls in your studio been flying around the house with them?

A Anybody coming by the window would say to them: you do. That is nothing.

Q You had seen them over there? A Oh, yes.

Q How long a time had you seen them over there? A I don't know, they seemed to be there four or five days prior to this.

Q And on Thursday your attention was attracted to the blind girl, did you first flirt with her? A No, walked along the street, and she was standing in front of her door.

Q Did you walk around there for the purpose of meeting

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28 cents? A It is pretty hard to remember because I often do that. That is nothing unusual.

Q You say on one occasion you did it? A It all depends. Sometimes twice a week. There are two elevator boys.

Q Do you mean to say that while you were at No. 10 Manhattan Avenue you on more than one occasion gave to the man who has been a witness here 28 cents? A Oh, yes. I have often given him change for going for cigarettes and things like that. I receive on once a week to give the boy a quarter or something.

BY MR. WALLACH:

Q The first time you saw you ever saw either of these girls in this case was on Thursday afternoon? A I saw one, that was the blond one.

Q Prior to that had you in company or in company with other men in your studio been flirting across the window with them? A Anybody working by the window would say to them: "How do you do". That is nothing.

Q You had seen them over there? A Oh, yes.

Q How long a time had you seen them over there? A I don't know; they seemed to be there four or five days prior to this.

Q And on Thursday your attention was attracted to the blond girl. Did you first flirt with her? A No, walked along the street, and she was standing in front of her house.

Q Did you walk around there for the purpose of meeting

her? A No.

Q Who was with you? A Mr. Smyth.

Q Isn't it a fact you flirted with them and then walked around for the purpose of meeting them? A No.

Q You had not seen them that day from the window? A Yes.

Q You did not expect to find them when you got around there? A There was only one there. I did not expect to find any. When I went downstairs they were both at the window.

Q You walked around there for some other reason than, a reason other than to find these girls? A Certainly.

Q On seeing around there you saw one of them? A Yes.

Q Tell us what took place the first time you ever saw either of these girls. A She said: "How do you do", see? And she said: "Aren't you the boys from across the road". I said: "Yes".

Q When did she say this to? A Me; and she asked me who was Mr. Baxton, and I told her he was Mr. Sullivan's son.

Q In a sort of a jocular way? A Yes. They said:

"Who is Mr. Sullivan?". "He is the big, stout gentleman, he is a great, big, fat man you see sitting there". That is all.

Q It was a sort of a jollying match? A Yes.

Q This was about what time of the day or night? A About five o'clock, somewhere around there.

Q Where were you going when you left the studio that day?

A Walking around, talking to Smyth.

Q Having a little walk? A Yes, to get a little bite to eat.

Q You had nothing in particular to do? A No, as we often talk over things.

Q After this little jocular interchange with the young lady, what happened? Did you leave her? A Nothing happened.

Q You walked away? A Yes.

Q You made no engagement to see her again? A No.

Q Did Smyth make any date with her? A No.

Q Did Smyth ever tell you he had made any date with this little blond girl? A Never.

Q You know, of course, he is under a charge also? A Yes, I know that.

Q When these girls, for all practical purposes, passed out of your life until Saturday, except you might have seen them across the window? A Yes, every day.

Q But you had no further talk with them and did not meet them until Saturday? A No.

Q Saturday you were working in your studio until about what time? A About 8:30.

Q And you had been out to dinner up to that time, I suppose? A Yes, had been below in Child's.

Q And then you left the studio at 8:30? A Yes, with Mr. Smyth.

Q He was a married man? A Yes.

Q How long has he been married? A I don't know. He has been some considerable time.

Q How long have you known him? A Eight years.

Q Has he been married ever since you knew him? A Yes, I met Smyth in London.

Q He is a fellow mountaineer of yours? A No, I am an Australian.

Q And he is an Englishman? A Yes, there is a difference.

Q After going out at 8:30 with Smyth, did you walk around the block again into 42nd Street? A Yes, the girls beckoned us to come down.

Q That was in response to that flirtation? A Yes.

Q When you got around there, whom did you find there?

A I found some gentleman with the two girls.

Q Do you know that gentleman? A No.

Q Had you ever seen him before? A No.

Q Ever seen him since? A No, it was quite dark.

Q This gentleman was with them when you got there? A Yes, they were standing on the steps talking to him.

Q Did they leave that gentleman and come to you? A The little blond one rushed after me; she grabbed me by the arm. She said: "Wait up at the corner".

Q And you went some where? A By the time we arrived at the corner, they were right behind us.

Q Otherwise you would not have united? A Certainly, I

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Q How long has he been married? A I don't know. He has been some considerable time.

Q How long have you known him? A Eight years.

Q How long has he been married ever since you knew him? A Yes, I met Rayth in London.

Q He is a fellow countryman of yours? A No, I am an Australian.

Q And he is an Englishman? A Yes, there is a difference.

Q After going out at 8:30 with Rayth, did you walk around the block again into 42nd Street? A Yes, the girls beckoned me to come down.

Q That was in response to that flirtation? A Yes.

Q When you got around there, whom did you find there? A I found some gentlemen with the two girls.

Q Do you know that gentleman? A No.

Q Had you ever seen him before? A No.

Q Ever seen him since? A No, it was quite dark.

Q This gentleman was with them when you got there? A Yes, they were standing on the stage talking to him.

Q Did they leave that gentleman and come to you? A The little blond one rushed after me; she grabbed me by the arm. She said: "Wait up at the corner".

Q And you went some where? A By the time we arrived at the corner, they were right behind us.

Q Otherwise you would not have waited? A Certainly, I

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would have waited.

Q But they being there, what did you do next? A They suggested: "Are you going to buy me a drink"; the blond one said that the taller one did not feel very well.

Q You remember the blond girl telling you that the dark girl did not feel very well? A Yes.

Q After that what happened? A We had a drink.

Q Where did you go? A This cafe on the corner.

Q 42nd Street and Ninth Avenue? A Yes.

Q No question about the fact you took those two little girls in there and bought them a drink? A No.

Q That much of their story is true? A Oh, they were not little girls then.

Q You say they were not dressed as on the stand? A No; they told me what their age was, nineteen or twenty.

Q And you believed it? A Certainly.

Q They were not dressed just as they were on the witness-stand; will you say that? A Certainly, I will.

Q You are positive of that? A Yes.

Q What did you talk about in the saloon? A Oh, just about the boys in the office that they went out with.

Q Was Rayth with you? A Yes. She spoke about Gladys and Maxton.

Q And Hitchhimen? A Yes, as I remember. That is all the conversation there was.

Q After that conversation, what happened then? A Well, I

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told them I was sorry, I could not spend any more time, I would have to run upstairs with Rayth and get his some stuff, that I had an appointment.

Q You had to go up to your house to get some material for Rayth? A Yes. I engaged a taxicab.

Q Where did you live at that time? A 10 Manhattan Avenue.

Q You were in such a hurry that you got a cab? A That is nothing unusual for me to do.

Q You frequently ride in cabs? A Often.

Q You patronize cab service largely? A No, sometimes I have plenty of time and I will do it.

Q At all events you called a taxicab? A Yes.

Q Then after you called a taxicab, you said good-by to the girls? A Yes, and they said: "Take us for a ride".

Q And you could not very well refuse them? A I did not want to at first, and they said: "Ah, come on".

Q And you yielded? A Certainly.

Q And you rode with them, and the terminus of that ride was your flat? A Yes, they knew that.

Q And you knew it? A Yes.

Q Now, when you got to the flat, did you dismiss the taxicab? A Yes.

Q And then you invited them up? A Yes.

Q Of course, you had not thought of that when you got them into the taxicab the first time? A No, I had no intention of

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taking them with me.

Q But having arrived at your flat, you thought it would be all right to take them up? A Yes, because I was not going to remain long. Rayth was going down with them again.

Q So they all went upstairs with you? A Yes.

Q What floor did you live on? A The second floor.

Q Who was the elevator boy? A That boy that testified here.

Q Sure about that? A Sure, as far as I remember; there are two of them, but they look alike.

Q Did you give him a quarter on that occasion? A I would not say that. It is very hard for me to say.

Q Did you give him a quarter on that occasion and say you did not want to be disturbed for a while? A No.

Q Did you ever say that? A I had in my other apartments when I had people bothering me.

Q But never on my occasion in 10 Manhattan Avenue? A No.

Q Nor was any young lady in your apartment, nor did you ever give the elevator boy a quarter and ask not to be disturbed?

A Never.

Q When you got in the flat, what did you do there? A I got Rayth his reference that he wanted.

Q Where were the girls? A Hitchhimen in the sitting-room.

BY THE COURT:

Q Before you opened the door of the flat while you were

talking them with me.

Q But having arrived at your flat, you thought it would be all right to take them out? A Yes, because I was not going to remain long. Ruth was going down with them again.

Q So they all went upstairs with you? A Yes.

Q What floor did you live on? A The second floor.

Q Who was the elevator boy? A That boy that testified here.

Q Sure about that? A Sure, as far as I remember; there were two of them, but they look alike.

Q Did you give him a quarter on that occasion? A I could not say that. It is very hard for me to say.

Q Did you give him a quarter on that occasion, and say you did not want to be disturbed for a while? A No.

Q Did you ever say that? A I had in my other apartments when I had people bothering me.

Q But never on any occasion in 10 Manhattan Avenue? A No.

Q Nor was any young lady in your apartment, nor did you ever give the elevator boy a quarter and ask not to be disturbed? A Never.

Q When you got on in the flat, what did you do there? A I got Ruth his reference that he wanted.

Q There were the girls? A Sitting in the sitting-room.

BY THE COURT:

Q Before you opened the door of the flat while you were

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standing outside, there was nobody in the flat; you kept no servants? A Never anybody there.

BY MR. WALLACE:

Q They sat in the dining-room? A Yes.

Q Did you give them another drink? A No. They wanted one.

Q No sherry? A No, they saw sherry there.

Q But you would not give them any? A No.

Q You did not mind giving them some de menthe in the saloon? A That sherry belonged to another person. It was none of my property.

Q After that, while you got your mandolin down? A Yes.

Q And you played them a few selections? A Yes.

Q And all this time your young wife was waiting for you?

A No. My appointment was ten o'clock.

Q You did not have any appointment with her? A At ten o'clock.

Q You just filled in the time? A Yes.

Q After those mandolin solos you went out of the flat?

A Yes, to keep my appointment.

BY THE COURT:

Q What article that you had in your flat did you take from the flat when you left it, anything? A Yes, some drawings of monkeys that Mr. Ruth took. He took them.

BY MR. WALLACE:

Q Ruth took some of his own drawings? A Some of his own

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drawings, but they are really my property, of course, that he made himself.

Q Of course, you heard these two girls testify as to what took place in the flat? A Yes.

Q You heard the little blond girl say that she sat in the dining-room with Ruth, and sat there a while, and you took the other girl to the bedroom? A Yes.

Q Then when ~~she came out~~, she went in the bedroom with Ruth? A I heard that.

Q And, of course, that is not all? A No.

Q You merely played the mandolin and showed them some drawings and then went out? A Yes.

Q Do you frequently have girls there and play mandolin to them in that fashion? A No.

Q This was an exceptional occurrence? A Certainly.

Q After coming out, you walked down to 104th Street, was it?

A 104th Street and Columbus Avenue.

Q There you said good-by to the girls? A Yes.

Q You went where? A Up to the Highgate Apartments.

Q What is the address of the Highgate Apartments? A I don't know the number, but near the Campus Restaurant on 104th Street.

Q On Columbus Avenue? A Near 104th Street, about two blocks north of 104th Street.

Q And there your young wife at that time lived? A Yes.

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Q Does she still live there? A No.

Q And before this, she lived there with her mother? A By herself. Her sister had an apartment in the same house.

Q She had an apartment there? A She had an apartment there opposite her sister's apartment.

Q Where was her mother at that time? A Her mother lived in Barenton, Pennsylvania.

Q When you lived in the Thuenia, was she living there with her sister or her mother? A With her sister, both sisters.

Q What is her sister's name, what was her sister's name? A One is named Glustead.

Q Glustead (spelling), G-l-u-s-t-e-a-d? A I think that is it.

Q And that is the one lives on Columbus Avenue? A They have moved since. You asked me about the Thuenia.

Q What were the names of the sisters? A The other one was Hubbard.

Q These three girls lived together in an apartment in the Thuenia? A By, they are married, the other two. Mrs. Hubbard, she lived in a room opposite her sister, not with her.

Q Is the sister still living there? A No, she moved Saturday to Jersey, she and her husband.

Q At the time you left these people on 104th Street on Saturday, and went down, did you go to Miss Thomas? A Yes.

Q Did you go to Miss Thomas's room in this apartment or did

Q Does she still live there? A No.

Q And before this, she lived there with her mother? A By herself. Her sister had an apartment in the same house.

Q She had an apartment there? A She had an apartment there opposite her sister's apartment.

Q Where was her mother at that time? A Her mother lived in Norristown, Pennsylvania.

Q When you lived in the Phoenix, was she living there with her sister or her mother? A With her sister, both sisters.

Q What is her sister's name, what was her sister's name? A Oh, is name Clustend.

Q Clustend [spelling], C-l-u-s-t-e-n-d? A I think that is it.

Q And that is the one lives on Columbus Avenue? A They have moved since. You asked me about the Phoenix.

Q What were the names of the sisters? A The other one was Tubbell.

Q These three girls lived together in an apartment in the Phoenix? A No, they are married, the other two. Mrs. Purcell, she lived in a room opposite her sister, but with her.

Q Is the sister still living there? A No, she moved Saturday to Jersey, who and her husband.

Q At the time you left these people on 100th Street on Saturday, and went down, did you go to Miss Thomas? A Yes.

Q Did you go to Miss Thomas's room in this apartment or did

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you meet her downstairs? A Downstairs. When I arrived there she was coming out of the hall.

Q Was anybody else there? A No.

Q Where did you go that night? A We went to a delicatessen store and bought some stuff and then from there to my apartment on Koshakton.

Q What delicatessen store? A I don't know. There are several of them on Columbus Avenue.

Q Which one did you go to? A The one on Columbus Avenue near 100th Street.

Q Which side of the avenue? A On the east side. And from there we went to my apartment. The delicatessen food was for Sunday's breakfast.

Q You arrived at your apartment at what time? A Eleven.

Q You stayed there all night, did you? A I did.

Q That time did the young lady leave? A About twelve, maybe half-past eleven.

Q Did you tell her about the two girls you had up there in the afternoon? A No.

Q Then you slept there until ten or eleven o'clock the following morning? A Yes.

Q Now, you never had any such adventure on Saturday as these two girls describe, that one went in the bedroom with you? A No.

Q And in substance the whole thing is pure fabrication?

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A Absolutely fabrication.

Q And you never went there at all with them? A No.

Q On Sunday you arose about ten o'clock? A About a quarter to eleven, because I was not up very long.

Q When you got up there was nobody in the apartment but yourself? No one had been there all night? A No.

Q You are sure about that? A Certainly.

Q Then you got up did you breakfast alone or did Miss Thomas come back and have breakfast with you? A On Sunday morning.

Q Yes. A Eleven o'clock we had breakfast together.

Q She came back and you had breakfast together? A Yes, at eleven o'clock. That is what I got the stuff for at the delicatessen store.

Q After breakfast, what did you do? A Cleaned the apartment, made the bed.

Q Fixed things or generally? A That is what she generally does Sunday.

Q After doing this what happened then? A I should be saying I would be down, but it seems Mr. Ryth was out for a walk. I could not reach him. His landlady answered the phone.

Q You phoned him because you had an appointment with him for dinner? A He told me to call him up and let him know positively whether I would come down or not so that his wife

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would not make any preparations that would be unnecessary.

Q Where did he live?

A 14th Street, I think 231 West.

Q What address is that near?

A Between Eighth and Ninth, close to Ninth.

Q Is that apartment a private house?

A Private.

Q Does he occupy the whole house?

A No, one room and a kitchenette.

Q You were to take dinner in the house with him?

A In his house.

Q You called him up about 4:30?

A Yes.

Q And then you went out with Miss Thomas?

A Yes.

Q Where did you go?

would not make any preparations that would be unnecessary.

Q Where did he live?

A 14th Street, I think 321 West.

Q What address is that near?

A Between 14th and 15th, close to 15th.

Q Is that apartment a private house?

A Yes.

Q Does he occupy the whole house?

A No, one room and a kitchenette.

Q You were to take dinner to the house with him?

A To his house.

Q You called him up about 12:00?

A Yes.

Q And then you went out with Miss Thomas?

A Yes.

Q Where did you go?

A Withstreet, walked over to 14th Street and took the subway down to the Battery, walked around for a while and walked into the Aquarium. We could not have been there later because the whistle blew and we came out as I stated before. Then we thought about Mr. Bayth. He thought it better to call him up. He went around to a little cafe there and got food and had a drink. I called up Bayth. That was around 1:00, telling him I was on my way so take to his place. He reached his place at 1:15.

Q Did you go to his place? A By the subway and got off at 14th Street and walked all the way down. It was a very cold day.

Q You called around from the subway? A Yes. On the way down I purchased a hat of ready for Mrs. Bayth.

Q And when you got there you were with Mrs. Bayth?

A Yes.

Q What floor does Mrs. Bayth live on? A The first floor up. The first story leading up to the house on the porch. It is not that floor but one floor up.

Q That would be the second floor above the ground? A Above the basement, yes.

Q Front or rear? A Front.

Q It is a large room in the front? A Very large, very big.

Q When you got there, who did you find? A Mr. and Mrs. Bayth.

Q Any one else? A No.

Q Was dinner prepared or did you have to wait? A We had to wait until 1:15.

Q After waiting until 1:15 did you eat dinner? A Yes sir.

Q Do you remember what you had for dinner? A It was roast beef, potatoes, being an English dish.

Q How long were you eating this dinner? A About an hour.

Q That would be about 2:15 when you got through eating dinner? A Yes.

Q Did you remain talking and smoking perhaps after dinner? A Yes.

Q Until about what time? A Until after 10 o'clock.

Q All this time there was just you and Miss Thomas and Mr. and Mrs. Bayth? A Yes.

Q And after 10 o'clock when did you go to that house? A It must have been a quarter after ten or twenty after.

Q And how did you go home? A On the 14th Street elevated.

BY THE COURT:

Q Did Miss Thomas go to 10 Manhattan Avenue with you?

A Yes.

Q You went upstairs on the elevator? A Yes.

BY MR. WALLACE:

Q Miss Thomas went with you to 10 Manhattan Avenue?

A Yes.

Q And you got into the elevator together? A Yes.

Q What was about 11 o'clock? A Well, I think it must have been somewhere around that.

Q If you did not leave until a quarter after ten on 14th Street and you went on the 14th Street & it must have been in the neighborhood of 11 o'clock? A That was about three about twenty minutes to twenty-five minutes.

Q Perhaps it was a little earlier? A Yes.

Q And the elevator boy, Brown, took the elevator?

A Yes.

Q Did you give him a quarter on that occasion? A I don't remember that.

Q You were only in that apartment about a month?

A I know.

Q And you know that this particular day is a day upon which you are charged with a very serious offense? A Yes.

Q When you heard of that charge your mind immediately reverted to that, and you endeavored to think it over? A It seems that it is either Saturday or Sunday that I gave him 25 cents. As a rule it is either Saturday or Sunday they generally expect this these amounts.

Q Did you tell him that you did not want to be disturbed on that occasion? A No.

Q You went up to your apartment? A Yes.

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Q Miss Thomas went with you to 10 Manhattan Avenue?
A Yes.

Q And you got into the elevator again? A Yes.
Q What was about 11 o'clock? A Fully, I think it must have been somewhere around that.

Q If you did not leave until a quarter after ten at 14th Street and you went on the 9th Avenue & it must have been in the neighborhood of 11 o'clock? A That was only about twenty minutes to twenty-five minutes.

Q Perhaps it was a little before? A Yes.
Q And the elevator boy, Cohen, was in the elevator?
A Yes.

Q Did you give him a quarter on that occasion? A I don't remember that.

Q You were only in this apartment about a month?
A I know.

Q And you know that this particular day is a day upon which you are charged with a very serious offense? A Yes.

Q When you heard of that charge your mind immediately reverted to that, and you endeavored to think it over. A It seems that it is either Saturday or Sunday that I gave him 25 cents. As a rule it is either 3-burday or Sunday they generally expect this these apartments.

Q Did you tell him that you did not want to be disturbed on that occasion? A No.

Q You went up to your apartment? A Yes.

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Q How long did you remain there with Miss Thomas?

A About an hour; maybe a little longer or less.

Q After you had been there an hour, she left? A Yes.

Q You were then alone? A Yes.

Q How long did you remain there alone, until Monday morning?
A Until the following evening. It was morning then.

Q When she left the apartment, did she leave alone or did you accompany her home? A If I remember rightly I accompanied her to her home. Sometimes I did and sometimes I did not. Sometimes she would not want me to, other times I would insist upon it.

Q This was one of the times you insisted? A I would not remember that.

Q Of course all this time you were utterly innocent of the fact you were going to be charged with any crime on that day? A Surely.

Q You did not hear anything about it. The girls were not there. The McLeary girl was not there? A No.

Q She did not spend that entire night with you?

A Certainly not.

Q Consequently there was nothing for you to think about? A No.

Q When was the first time that you heard of this case and you knew that you were accused of having had the McLeary girl there on Sunday night? A It was when I

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these girls again. I mean when after Saturday. You and you did not see the McLeary girl at all. A Not one night; maybe two or three nights after they were up in my place of business. Mr. Lynch brought them up.

Q That would not have been Monday night? A It was either that or Tuesday night.

Q It was either Monday night, the 20th or Tuesday night, the 21st of May? A Yes.

Q About what time of the night was it on Monday or Tuesday of April 20 or May 1 that you saw these two girls and Gladys in the studio? I think you said it was night.

A It was night, yes, half-past seven.

Q About seven thirty to the evening? A Yes.

Q What time do you ordinarily close the studio, or does it remain open all night? A It does not remain open all night. Before this trouble I used to let the boys have the key to come back, if they wanted to work at night.

Q What time did you usually leave there? A 8:30. Sometimes I would work nights.

Q On this particular Monday or Tuesday night, what time had you left there? A I had left there at four o'clock to go to the laboratories and wait there for some films.

Q What laboratories? A Hedwick Laboratories, 725 7th Avenue, a branch of the Universal Film Company.
Q How many times did you go there? A About three

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times.

Q Do you go there Monday? A No not days.

Q You recall it was either Sunday or Tuesday and it was a day on which you went to the Hedwick Laboratories? A Yes. Because I came back with some film, one of Mr. Anderson's, whose picture it was. I was to return it. It was a rejected picture, to the Universal and I had to make some more.

Q I thought you said you went to the other studio? A The Laboratory, I said.

Q Did you go also to the Universal Studio? A No.

Q You went to this Laboratory and got this rejected picture there? A Yes.

Q And brought it back to your studio? A I think I did go to the Universal on this day, but when I came back there was a messenger sent back there with an extra set of this film.

Q Who was Anderson? A One of my employees.

Q How long has he been in your employ? A Eight months.

Q How long have known him? A About the same time.

Q What is his first name? A William.

Q Where does he live? A I never know where, I don't know where. I have the address in a book in the office.

Q Was he one of the men who was in that studio when Mr.

Q Eight or nine days after? A Yes.

Q Who was with them? A George Chardy.

Q Anybody else? A He brought them up.

Q He brought them up? A Yes.

Q And where were you at that time? A I was there working with Mr. Sullivan and Mr. Cruikshank.

Q Mr. Sullivan, Mr. Cruikshank and yourself were working in the studio when George Chardy appeared with the two girls? A As a matter of fact, I think they were up in the studio when I got up there. I had been out for something to eat.

Q And this was how long after that Sunday, April 28th? A Well, I really couldn't say how long after, but I know it was on a Tuesday.

Q Would you say it was about a week? A It would be about a week.

Q And about a week after that -- was it in the morning or evening? A Evening.

Q About what time in the evening? A Why I should think about seven or eight. I generally come back about seven.

Q What do you mean by that? A When I had something to eat.

Q You mean you were there that day and went away and came back about seven o'clock? A Yes.

Q And this was about a week after the Monday following the Saturday when you were up in Mr. Sullivan's Apartment? A Yes.

Q Did you come back alone? A I believe Mr. Cruikshank

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came back alone.

Q What is Mr. Cruikshank's business? A He is an artist too.

Q Does he work for Mr. Sullivan? A Yes.

Q Now, coming in with Mr. Cruikshank who did you find in the studio? A George Chardy and the two young ladies and I believe there was Mr. Anderson.

Q You and Mr. Cruikshank? A Yes.

Q Is that all? A That is all.

Q That is all the people who were there? A I believe so.

Q What did you say when you came into the studio? A Mr. Chardy was sitting on the sofa with the young ladies, one each side of him.

Q How is that? A Mr. Chardy seated on the sofa with one lady on each side of him.

Q What was he doing? A Just had his arms around them and laughing and talking with them I think.

Q What was Anderson doing? A He was helping Mr. Sullivan photograph.

Q Where was Mr. Sullivan? A Standing at the back.

Q He was already in there? A Yes.

Q Now, I asked you before who was there and you said you, Mr. Anderson, Mr. Cruikshank, Mr. Chardy and the two girls and now you say that Sullivan was there? A Of course, I meant Sullivan was there because he was photographing with Mr. Anderson.

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Q What the time you arrived at the studio there was Mr. Sullivan, Mr. Anderson, Mr. Chardy, and the two girls?

A Yes, sir.

Q And you came in with Mr. Cruikshank? A Right.

Q And Mr. Cruikshank was working in the studio, was he? A That's right, yes.

Q And while he was standing working-- does he stand or sit when he works? A Stands.

Q While Mr. Anderson was standing there working, Mr. Chardy was sitting there on the sofa with his arms around both girls? A That's right.

Q Was there anything said at that time? A Well, when they said I couldn't hear because the camera made such a noise you can't hear what people are saying.

Q Did you sit there long or did you immediately get up?

A No, I did some work. I was there about an hour.

Q You say that all this time Mr. Chardy sat there with his arms around the two girls? A I couldn't say because I was in the back on the side where there was a partition, I could hear them laughing and talking.

Q And did you see him go out? A Yes, I believe I did.

Q When did he go out? A That would be about nine I should think roughly.

Q How do you fix the time? A Well, because very soon after that I went home.

Q And Chardy and the young girls left before you went

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home, is that right? A Yes.

Q Did you hear Mr. Sullivan say anything to Mr. Chardy at that time? A No, nothing at all.

Q Now, this was sometime after the time that Mr. Sullivan was supposed to have had one of these girls up in his apartment, was it? A Yes.

Q Was it at least a week? A Quite a week.

Q And still Chardy said nothing to him about the girls?

A Nothing at all.

Q And he said nothing to Chardy?

A No.

Q Any time was so trouble about the girls at all? A No.

Q Everybody was together in the studio apparently everybody was unable? A Quite.

Q Now, when did you next see these girls? A Only from the window. Never seen them since.

Q Were you in the studio when Mr. Chardy called in together with Mrs. Higgins? A Yes, I was in the back of the studio.

Q Did you hear what transpired at that time? A Well, the first part of the conversation I didn't hear. The second part I did.

Q Kindly tell us what you did hear? A I heard a scuffle, and I was at the further end of the studio behind a screen and I heard talking, and then I heard a little scuffle and I thought that--

Q Never mind what you thought. Tell us what you saw or heard? A Well, I heard George Chardy's voice during this scuffle.

Now, is that right? A Yes.

Q Did you hear Mr. Sullivan say anything to Mr. Chardy at that time? A No, nothing at all.

Q Now, this was sometime after the time that Mr. Sullivan was supposed to have had one of these girls up in his apartment, was it? A Yes.

Q Was it at least a week? A Quite a week.

Q And still Chardy said nothing to him about the girls?

A Nothing at all.

Q And he said nothing to Chardy?

A No.

Q And there was no trouble about the girls at all? A No.

Q Everybody was together in the studio apparently everybody was amiable? A Quite.

Q Now, when did you want see these girls? A Only from the window. Never seen them inside.

Q Were you in the studio when Mr. Chardy called in together with Mrs. Stiggins? A Yes, I was in the back of the studio.

Q Did you hear what transpired at that time? A Well, the first part of the conversation I didn't hear. The second part I did.

Q Kindly tell us what you did hear? A I heard a scuffle, and I was at the further end of the studio behind a screen and I heard talking, and then I heard a little scuffle and I thought that--

Q Never mind what you thought. Tell us what you saw or heard? A Well, I heard George Chardy's voice during this scuffle.

file, and I ran out.

Q What was the voice saying, if you remember? A I couldn't say.

Q Now, you ran out from behind the partition? A Yes, to the other end of the studio.

Q And what did you see and what did you hear? A When I got there Chardy was very hot and talking to Mr. Sullivan.

Q Who else was present? A Two ladies. I didn't know who they were at the time.

Q Two ladies and Chardy and Sullivan? A Yes.

Q Is that all that was in that group? A No. Mr. Anderson and Mr. Sperrman, I believe.

Q And Perivang? A Yes, Perivang.

Q Start? A No, I don't think so.

Q Sure? A I don't think so.

Q Walter Starr? A I don't think he was there.

Q Are you positive he was there or positive he wasn't there? A Well, I am pretty certain he was not because I had to pass his chair where he was.

Q If he was there you didn't see him? A No, I did not see him.

Q What did you see happen between these people? A Well, when I got there Chardy was still waving his arms very much excited, and from what I could remember of the conversation there he said, "Now we have got you, what are you going to do."

Q We have got you, what are you going to do? What did Sullivan say? A He didn't say anything.

Q Got a key? A Well, not that I can remember. He simply sat in the chair.

Q And said nothing? A Said nothing.

Q And then what did any one say after that? A Well, I really can't remember the conversation because it was so disjuncted and so wild that I could not put Mr. Chardy's conversation together.

Q What did Mrs. Stiggins say, if anything? A I don't believe she said anything while I was there.

Q After you heard Chardy say, now we have got you, what are you going to do, or something like that, did you remain there until the excitement had abated? A Yes.

Q It was all over when you left? A Yes, sir, I stayed there until he went out. I went back to my corner.

Q And all you can tell us of all the conversation that transpired there was that you heard Chardy say, "Now we have got you, what are you going to do?" A He said that several times.

Q Yes, that is all the conversation that you can remember? A That is all.

Q Is that right? A That is right.

Q You don't remember having heard Mr. Sullivan say anything? A I don't remember his saying anything.

Q But you do remember that there were a number of other people there? A I remember Anderson, Mr. Sperrman and Mr. Perivang, and beyond that I don't think there was any one.

BY THE COURT:

Q Any other women besides those you have mentioned? A Yes, ladies, I believe.

BY MR. WAJAC:

Q Who was there? A Mrs. Stiggins and some other ladies.

Q Was there any other ladies besides that? A No, no one.

Q What time was it? A That I couldn't say. It was in the evening, I think.

Q What time in the morning? A Somewhere around ten I think. I didn't notice the time, I couldn't say really.

Q Was Mr. Jones there then? A Jones?

Q Miss Thomas, rather? A No.

Q She was not there? A No.

Q What day was it? A It was about Tuesday, I believe, but I really couldn't say.

Q Now, on the day that you first flirted with these girls and went around and met them on Sunday was Miss Thomas in the building at that time? A I really couldn't say-- not when we went around, no.

Q Now, on Thursday when you went around to meet these girls was Miss Thomas in the building at that time? A I think so.

Q Did she know you went around to meet these girls? A I don't think so.

Q Did she know that flirting was going on with these girls across the window? A Yes. All the fellows were waving from the

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Q Any other women besides those you have mentioned? A No, ladies, I believe.

BY MR. WELLS:

Q Who was there? A Mrs. Stiggins and some other ladies.

Q Was there any other ladies besides that? A No, no one.

Q What time was it? A That I couldn't say. It was early on the morning, I think.

Q What time in the morning? A Somewhere around ten I think. I didn't notice the time, I couldn't say really.

Q Was Mr. Jones there then? A Jones?

Q Miss Thomas, rather? A No.

Q She was not there? A No.

Q What day was it? A It was about Tuesday, I believe, but I really couldn't say.

Q Now, on the day that you first flirted with these girls and went around and met them on Sunday was Miss Thomas in the building at that time? A I really couldn't say-- not when we went around, no.

Q Now, on Thursday when you went around to meet these girls was Miss Thomas in the building at that time? A I think so.

Q Did she know you went around to meet these girls? A I don't think so.

Q Did she know that flirting was going on with these girls across the window? A Yes. All the fellows were waving from the

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window. The windows were always wide open.

Q Now, were you present again at a conversation that took place between Mr. Sullivan and Mr. Butts? A No.

Q You were there when Mr. Butts and Mr. Burdman and Mr. Hoover and Alice McCleary came to the studio? A Yes, sir, I was there.

Q That was the day you were arrested, wasn't it? A That's right.

Q What took place on that occasion? A Hardly anything was said excepting Mr. Butts and the detective who arrested me, Mr. Cooper, I believe it is, came into the studio. Mr. Hoover came in and asked me outside, and when we got outside Mr. Butts was there with this girl, and he asked Mr. Sullivan if he recognized her and he said he did.

Q Now, the first thing that happened was Mr. Hoover came in and called Mr. Sullivan, is that right? A That's right.

Q And you came out afterwards? A Yes, Mr. Sullivan called me out.

Q What did you say when you came out, anything? A Nothing at all.

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Q What did you hear Mr. Sullivan say? A All I heard him say was Mr. Butts asked him if he recognized the young lady and he said yes.

Q He said he recognized her? A First he did not.

Q First he didn't and then he did? A Then he did.

Q First he said he didn't recognize her? A Yes.

Q Any time he said he did recognize her? A Yes.

Q Now, did you hear him say to the detective I expected this? A No.

Q You did not? A No.

Q Did you hear him say he wouldn't be surprised at all by being arrested or anything of that sort? A I heard nothing of that sort.

Q And you were there? A Yes, sir.

Q Did you go with Mr. Sullivan to keep an appointment to take this girl to a doctor? A No.

Q You did not? A No. I was up in the studio at that time.

Q Didn't you hear Mr. Sullivan at that time say something about making an appointment to take the girl to the doctor's? A Before we were arrested?

Q This was before Mrs. Stiggins came? A Yes, I heard of that after.

Q Didn't you hear at the time that Mrs. Stiggins was there, didn't you hear her accuse Mr. Sullivan of having given this

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girl Myhillie said having raped her and didn't you hear Mr. Sullivan say he would meet her at seven o'clock and take the girl to a doctor? A I didn't hear that. Mr. Sullivan told me all this after.

Q And you were there when the woman was there? A Only part of the time.

Q You said you were there until she left? A Yes, but the first part of the conversation I didn't hear. It was not until Mr. George Clardy grabbed hold of Mr. Sullivan.

Q One of the first things said was now we have got you where we want you, we have got you -- it was after that that Mrs. Stiggins said something about this girl having been given the syphilis by this man or having some rash on her -- did you hear that? A I don't remember.

Q Well, it is a thing that you would remember if you did hear it, wouldn't you? A Yes, I should.

Q You think you would? A Yes.

Q Rather an important thing, wasn't it? A Well, I am rather confused but I know Mr. Sullivan told me just after we talked it over there many times.

Q Didn't you remember what you heard yourself at that time? A I can't say that I do.

Q Have you got a bad memory? A Yes, I have a bad memory for times and dates, everything. I know Mr. Sullivan made an appointment at night.

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Q Girl myphillie and having raped her and didn't you hear Mr. Sullivan say he would meet her at seven o'clock and take the girl to a doctor? A I didn't hear that. Mr. Sullivan told me all this after.

Q But you were there when the woman was there? A Only part of the time.

Q You said you were there until she left? A Yes, but the first part of the conversation I didn't hear. It was not until Mr. George Clardy grabbed hold of Mr. Sullivan.

Q One of the first things said was how we have got you where we want you, we have got you -- it was after that that Mrs. Higgins said something about this girl having been given the myphillie by this man or having some rash on her -- did you hear that? A I don't remember.

Q Well, it is a thing that you would remember if you did hear it, wouldn't you? A Yes, I should.

Q You think you would? A Yes.

Q Rather an important thing, wasn't it? A Well, I am rather confused but I know Mr. Sullivan told me just after we talked it over there many times.

Q Don't you remember what you heard yourself at that time? A I can't say that I do.

Q Have you got a bad memory? A Yes, I have a bad memory for times and dates, everything. I know Mr. Sullivan made an appointment at night.

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Q Did you go with him? A No. I saw him go out with these gentlemen, Mr. Ross, a friend of his, and I went back there 15 or 20 minutes past seven at the top of the street where they were to meet and they were all standing there.

Q But you were not with Mr. Sullivan when he went to meet this woman? A No.

Q You weren't interested? A No.

Q You didn't care whether the girl had myphillie or not? A No.

Q As far as you were concerned? A No.

Q You had no interest in it? A No.

Q What floor do you live on at the place on 14th street? A Second -- first floor.

Q What time on Saturday or on Sunday afternoon did the defendant go there with the lady who is now his wife? A About six o'clock.

Q Six o'clock? A Just about that time.

Q And what time did you sit down to dinner? A About seven.

Q About seven? A Yes.

Q And how long did it take you to consume dinner? A Well, I should think we were sitting -- we only have one dining room and kitchen -- we were sitting there some considerable time.

Q How long did it take you to eat dinner? A Well, I should

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think we were sitting three-quarters of an hour.

Q How do you know it was six o'clock when the defendant got there? A Well, because when he came in he said to me I was a little early. I said, yes, you are early, I said, we should have dinner at seven. It was just six.

Q How do you know? A Because I looked at my watch.

Q He came in and said I am a little early, and you said yes, we are going to have dinner at seven and you looked at your watch and it was then six o'clock? A Yes. He had rung up about five to say he was down at the battery and he was coming along.

Q How many times a week does the defendant dine with you? A He has only dined with me three or four times since we have been here.

Q Did you ever dine with him? A In town, yes.

Q And sitting there and eating until what time did you say it was? A Seven.

Q How long did you sit at the table? A About three-quarters of an hour, I should think.

Q About quarter of eight? A Something like that.

Q And I suppose you cleared away the dishes and things? A Yes.

Q And sat there? A Yes.

Q And what did you do after that? A I think we sat and talked. We principally talked about London and the old

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times we had there and I was showing him a lot of my latest drawings and sketches.

Q Talked until about ten o'clock? A That's right.

Q And that's the time your wife took the watch and said it is now ten o'clock? A Yes, I think so.

Q Oh, no -- it was after they were gone she said it was ten or five or ten minutes or something like that? A Yes.

Q When was it first called to your attention that the time that they were at your house was going to be of importance? A Mr. Sullivan at our house.

Q That is when it was first brought to your attention that the time that they were there on Sunday was going to be of importance? A Well, I think when the trouble came about I remember the day when the time was.

Q When was that? A Directly we were arrested.

Q And when did you first talk about it? A I don't think we have talked about it only just with my wife. We said Mr. Sullivan was there and ate dinner.

Q And the of course remembered looking at her watch at ten or fifteen minutes after and you remembered looking at your watch at six o'clock? A She didn't remember my looking at my watch at six o'clock. I was at the field just as Mr. Sullivan came at the house.

Q How remembered she looked at her watch at ten o'clock? A Yes.

Q How remembered she said? A He was then standing

times we had there and I was showing him a lot of my latest drawings and sketches.

Q Talked until about ten o'clock? A That's right.

Q And that's the time your wife took the watch and said it is now ten o'clock? A Yes, I think so.

Q Oh, no -- it was after they were gone she said it was ten or five or ten minutes or something like that? A Yes.

Q When was it first called to your attention that the time that they were at your house was going to be of importance? A Mr. Sullivan at our house.

Q That is when it was first brought to your attention that the time that they were there on Sunday was going to be of importance? A Well, I think when the trouble came about I remember the day when the time was.

Q When was that? A Directly we were arrested.

Q And when did you first talk about it? A I don't think we have talked about it only just with my wife. We said Mr. Sullivan was there and ate dinner.

Q And she of course remembered looking at her watch at ten or fifteen minutes after and you remember looking at your watch at ten o'clock? A She didn't remember looking at my watch at ten o'clock. I was at the hall just as Mr. Sullivan came to the house.

Q She remembered she looked at her watch at ten-fifteen? A Yes.

Q She remembered that is right? A We were both standing

together. She always winds up the watch.

Q So. I am talking about the conversation you had about your wife looking at the watch at the time they left, when did you talk this over with your wife? A We talked it over several times.

Q When? A I really couldn't say when it was.

Q Well, the day you were arrested, did you see your wife that day? A No.

Q Did you see her the next day? A I think it was two days after I believe.

Q Where did you see her? A I first saw her --

Q Where did you first see your wife after you were arrested? A In the police court in 50th street I believe.

Q Did you talk with her about it then? A She mentioned it to me. She remembered the whole evening.

Q What did she say to you? A She told me that of course you remember Mr. Sullivan was there on that Sunday night.

Q And that was in the police court? A No, upstairs in the waiting room.

Q Was that before you were brought before the Magistrate?

A After. I couldn't tell you which day it was.

Q Now, when you were arrested you were brought before the City Magistrate? A Yes.

Q Is that right? A Yes.

Q And the witnesses against you were heard, is that right?

A I believe so.

Q Well, you know you were in a court? A Yes, sir.

Q You know there was an examination of witnesses? A Yes.

Q Now in the case of Mr. Sullivan? A Yes.

Q You were both examined at the same time? A Yes.

Q Now, at that time did you say, why it was a very simple matter, Mr. Sullivan and I were down dining with our wives -- did you bring your wife down to tell the story? A Didn't say anything.

Q Didn't offer any information whatever? A We didn't speak that day.

Q You were represented by counsel? A Yes.

Q The same counsel who represents you now? A I believe we had another one. He was just changed and then we had Mr. Greenthal.

Q And you made no explanation whatever at that time, did you? A No.

Q Your wife was there? A No.

Q No, she didn't come up that day? A Oh, yes, she was there, of course she was there, outside in the waiting room.

Q Mrs. Sullivan was there or Miss Thomas was there that day? A I think so, yes.

Q They didn't take the stand at all and tell about it at that time, did they?

Objected to. Objection sustained.

Q Did you make any statement that day at all? A No, at all.

Q Nothing at all? A No, sir.

Q Did Mr. Sullivan make any in your presence?

Objected to. Objection sustained.

Q Now, when did you talk to your wife about this again? A Well, I think the first time it was mentioned when she came up to see me at 50th street and she said what funny thing, on the 19th Mr. Sullivan and Miss Thomas were up place, and she enumerated everything that happened in evening.

Q Recalling after that that it was quite after ten o'clock before that that they left? A She remembered was the time they left.

Q And then when was the next time you talked with her? A Well, I couldn't say just definitely like that.

Q When did you get out of jail? A We were in about ten days I think.

Q You were in about ten days? A I think so.

Q Right of you? A Yes.

Q You were arrested on the 10th of May, is that right? A That's right.

Q And you were twelve days up there? A We were all the time in 50th street.

Q You weren't brought down to the Tombs? A No.

Q Who went on your bond, who bailed you out? A I

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Q Did you make any statement that day at all? A Nothing at all.

Q Nothing at all? A No, sir.

Q Did Mr. Sullivan make any in your presence?

Objected to. Objection sustained.

Q Now, when did you talk to your wife about this dinner again? A Well, I think the first time it was mentioned was when she came up to see me at 50th street and she said what a funny thing, on the 29th Mr. Sullivan and Miss Thomas were in our place, and she enumerated everything that happened that evening.

Q Recalling after that that it was quarter after ten or a little before that that they left? A She remembered exactly the time they left.

Q And then when was the next time you talked with her about it? A Well, I couldn't say just definitely the day.

Q When did you get out of jail? A We were in about ten days I think.

Q You were in about ten days? A I think so.

Q Both of you? A Yes.

Q You were arrested on the 10th of May, is that right?

A That's right.

Q And you were lodged upstairs? A We were all the time in 50th street.

Q You weren't brought down to the Tombs? A No.

Q Who went on your bond, who bailed you out? A I bailed

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myself out.

Q You paid cash? A Yes.

Q How much? A I put up a bank book and a certificate. I really couldn't tell you how much it was now.

Q With a surety company? A No. Mr. Greenhal arranged that for me. I gave him my bank books and certificates, something of value. I forget how much it was. Several hundred pounds I believe. I have got them all written down.

MR. WALLACE: That is all. I ask that the witness be kept in the court room and not allowed to go outside and communicate with anybody, your Honor.

THE COURT: The witness will remain in the body of the court room.

EMELINE ELLEN SMYTH, residing at 331 West 14th street, called and sworn as a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. GREENHAL:

Q Are you a married lady? A Yes.

Q What is your husband's name? A Ernest William Smyth.

Q When were you married to him? A I have been married to him twenty years last March.

Q Where were you married? A In London, England.

Q And how long have you been in the City of New York?

A Since September 5th last year.

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Q Come here with your husband? A Yes.

Q Where did you go to live? A At 331 West 14th street.

Q Have you been there ever since? A Ever since.

Q What is your husband's business? A Cartoonist and artist in general.

Q What was his business in New York? A An artist.

Q Do you know Mr. Sullivan? A Very well, yes.

Q Do you know a Miss Thomas? A Yes.

Q Did you see them or either of them on Sunday April the 30th or 19th? A Yes.

Q About what time? A About six o'clock, around about six or 6:15.

Q Did they come to your home pursuant to a telephone call or appointment? A Well, Mr. Sullivan telephoned to my husband

about ten o'clock but Mr. Smyth was out for the time and he wouldn't leave any message, he simply said I will ring up later, which he did. He telephoned somewhere around five to say that they were down at the Battery and that they would probably be on their way shortly.

Q Now, do you know about what time they arrived at your home? A About six o'clock or 6:15 as near as I can tell.

Q What time did you have dinner? A Around about seven.

Q And what did your dinner consist of? A Roast beef, Yorkshire pudding, hot vegetables, fruit salad, biscuits, cheese and coffee to finish up with.

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Q Up to what time did Mr. Sullivan and Miss Thomas remain in your apartment? A Around about ten o'clock.

Q And then they left together? A They left together.

CROSS EXAMINATION BY MR. WALLACE:

Q How long have you been in this country, Mrs. Smyth?

A Since September 5th last year.

Q September 1916? A 1916.

Q And why did you leave England, you and your husband?

A Well, my husband wished to come over here and have a change and have work.

Q Had you known Mr. Sullivan in England? A Yes, sir, I knew him, not very intimately, I met him at my husband's studio on several occasions.

Q Were you very intimate with him since you came to this country? A Just the last few as I have seen him recently, on the 29th was the first occasion I met Miss Thomas.

Q The 29th was the first time you met Miss Thomas? A Yes.

Q How was she introduced to you on that occasion? A Well, as Miss Thomas appeared in Mr. Sullivan.

Q And did you know that she was coming to dine with us that day? A Yes.

Q Had you invited her? A Yes, sir.

Q That was the first time? A Yes.

Q And of course you prepared a dinner for them? A Yes.

Q You prepared that dinner yourself? A Yes.

Q By what time did Mr. Sullivan and Miss Thomas remain in your apartment? A Around about ten o'clock.

Q And then they left together? A They left together.

CRIMINAL INVESTIGATION BY MR. WALLACE:

Q How long have you been in this country, Mrs. Smyth? A Since September 5th last year.

Q September 1916? A 1916.

Q And why did you leave England, you and your husband?

A Well, my husband wished to come over here and have a change and have work.

Q Had you known Mr. Sullivan in England? A Yes, sir, I knew him, not very intimately, I met him at my husband's estate on several occasions.

Q Were you very intimate with him since you came to this country? A Just the last/week I have seen him recently on the 29th was the first occasion I met Miss Thomas.

Q The 29th was the first time you met Miss Thomas? A Yes.

Q How was she introduced to you on that occasion? A Well, as Miss Thomas engaged to Mr. Sullivan.

Q And did you know that she was coming to dine with us that day? A Yes.

Q Had you invited her? A Yes, sir.

Q That was the first time? A Yes.

Q And of course you prepared a dinner for them? A Yes.

Q You prepared that dinner yourself. A Yes.

Q And what time did you expect them? A Well, I expected them any time between six and half past because I had ordered my supper for seven o'clock.

Q Now, what time did they arrive? A About six to six-fifteen.

Q How do you fix the time? A Well, because they telephoned about five o'clock to say that they were at the Battery and that they were on their way up and I had fixed my supper for seven o'clock and they were there quite a long time before it was ready.

Q They were there quite a long time before supper was ready? A Yes.

Q You didn't look at the clock did you? A No, not exactly, because I always cooked to rule.

Q I say, at the time they came you didn't look at the clock? A No.

Q Where is the clock? A On my table.

Q In the living room or the kitchen? A In the living room.

Q As I understand it you have only one large room there which you use as a living room and bedroom and then you have a kitchen off that? A Yes.

Q Now, you sat down to dinner you think about seven? A Yes.

Q Sure about that? A As near as possible it was seven o'clock.

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Q Did you look at the clock at that time? A Yes, because I had my dinner for the time.

Q And how long were you seated at the table where you ate? A Well, I didn't hurry, I should say an hour or perhaps an hour and a quarter.

Q And then when you were through with that dinner what did you do then? A We sat and we talked.

Q How long did you talk? A Well, until about an hour I should think an hour and three-quarters, an hour and a half, a little more than that.

Q Until what time? A Until around about quarter to ten or ten minutes to ten.

Q How do you know that it was about a quarter to ten or ten minutes to ten when you stopped talking? A Because I went with Miss Thomas to put her clothes on and we just waited for a minute or two while she was putting them on, and when they went away my husband and I had a talk over the evening when we were preparing to go to bed and I said to Mr. Smyth, we are not much later than usual and that was around about half past ten.

Q That was around about half past ten, is that right? A Yes.

Q You looked at the clock after the Thomas girl and Mr. Sullivan had gone and you sat and talked with your husband for a while and then you said we are not much later than usual, it is now half past ten, is that right? A Yes.

Q And you didn't do anything at that time -- you didn't

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think anything about the importance of the time? A No.

Q When was it first called to your attention that it was important for you to know the time when Mr. Sullivan and Miss Thomas were there that Sunday? A Well, simply because you saw my husband --

Q So, wait a minute, When was it first called to your attention that it was of importance for you to know the time when Mr. Sullivan and Miss Thomas were there? A Well --

THE COURT: Not now, but when.

A I had ordered my supper for seven o'clock and Mr. Smyth --

Q So, just a minute.

BY THE COURT:

Q You don't understand the question. You were not asked, Madam, why you consider it, but when was it first brought to your attention that it was of importance to know the time? A Simply because they found --

BY MR. WALLACE:

Q No, Madam. You know there has been some trouble, don't you? A Yes.

Q You know that your husband and Mr. Sullivan have been accused of a serious offense? A Yes.

Q When did you first learn of that charge? A The day they were arrested.

Q Now, after they were arrested at some time after that you became aware of the fact that they were accused of having

think anything about the importance of the time? A No.

Q When was it first called to your attention that it was important for you to know the time when Mr. Sullivan and Miss Thomas were there that Sunday? A Well, simply because you see my husband --

Q No, wait a minute. When was it first called to your attention that it was of importance for you to know the time when Mr. Sullivan and Miss Thomas were there? A (Well--)

THE COURT: Not why, but when.

A I had ordered my supper for seven o'clock and Mr. Smyth --

Q No, just a minute.

THE COURT:

Q You don't understand the question. You were not asked, Madam, why you consider it, but when was it first brought to your attention that it was of importance to know the time? A Simply because they found --

MR. WALLACE:

Q No, Madam. You know there has been some trouble, don't you? A Yes.

Q You know that your husband and Mr. Sullivan have been accused of a serious offense? A Yes.

Q When did you first learn of that charge? A The day they were arrested.

Q Now, after they were arrested at some time after that you became aware of the fact that they were accused of having

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done something on Sunday? A Yes.

Q You were then told that it was important to know just what time they were in the house on Sunday, is that not? A Yes. Objected to. Question allowed.

MR. GUNNTHAL: I object to your putting the answer in the witness's mouth. It is not fair to me.

Q Now, when was that first brought to your attention, that is what I want to know, when did you tell that, when was the talk about that? A When they were arrested.

Q Where? A Then I went to see my husband.

Q Whereabouts was this? A In the prison.

Q You talked to your husband in the prison? A Yes, in the jail.

Q And that was up in 53rd street? A 53rd street.

Q And what did you say to your husband and what did he say to you at that time? A Well, I said how surprised I was to hear of this case and he said that was on the Sunday, on the 29th and I said it is not at all difficult to call back to the Sunday because Mr. Sullivan and Miss Thomas were at our house on both occasions, May the 29th and on the following Saturday.

Q Mr. Sullivan and Miss Thomas were not only at your house on the 29th, but they were there on the following Saturday? A Yes.

Q Did he come there to dinner at that time also? A Yes.

Q Is that the only time that he was there to dinner?

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A Yes, Mr. Sullivan alone.

Q And how many times was he there to dinner alone? A The same before.

Q And then once after that with Miss Thomas? A Yes.

Q So it wasn't difficult for you to remember that on the two preceding Sundays they had been at your house? A Yes.

Q And you called that to your husband's attention? A Yes.

Q What did you say to him? A I said it was not difficult at all because our Sundays are always spent at home and if we have any friends it is on that occasion, on Sunday, when my husband is home, and I said I know we were home last Sunday and I know we were home on the previous Sunday.

Q When did you next talk about it to your husband, about the case, when did you see him again, how long was he locked up? A About five days.

Q And did you then talk about the case with him? A I sat down and told him about it.

Q Did you talk about being there on that Sunday? A Yes.

Q What did you say at that time? A I didn't say when, it was so easy to remember.

Q Didn't he say to you or did he say to you that it was important to fix the time when they were there on Sunday, the time of day it was? A He might have done so, I don't know, I think he did. I don't know.

Q And did you know at that time that he had been up to

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Mr. Sullivan's apartment with these two girls on the morning? A No.

Q Did you tell him that? A No, not until after he was arrested.

Q And after he was arrested, after he got home with you, did he talk with you about the importance of the time when Miss Thomas and Mr. Sullivan were at your house on the 29th? A Yes.

Q Have you talked to anybody else about that? A No.

Q Have you talked to Mr. Greenleaf? A No.

Q The attorney about it? A No.

Q Have you talked with Mr. Sullivan about it? A No.

Q Did he at all? Not enter the day into the case at all.

A No, I can say that I have really not talked to him at all about it.

Q Have you seen Mr. Sullivan since that time? A No, yes, I have seen Mr. Sullivan.

Q Was he up at your house since the last time he was there to dinner? A No.

Q Where have you seen him? A Just at the office.

Q Did you go to the office? A Occasionally when my husband was working there.

Q When you saw him at the office did you talk to him about the case? A No.

Q Didn't say a word to him? A No, I didn't talk to him about it.

Mr. Sullivan's apartment with these two girls on the balcony?

A No.

Q He didn't tell you that? A No, not until after he was arrested.

Q And after he was arrested, after he got home with you, did he tell you about the importance of the case when Miss Chance and Mr. Sullivan were at your home on the 19th? A Yes.

Q Were you talked to anybody else about that? A No.

Q Were you talked to Mr. Greenthal? A No.

Q The attorney about it? A No.

Q Have you talked with Mr. Sullivan about it? A No.

Q But at all? Not enter the day into the case at all.

A No, I can say that I have really not talked to him at all about it.

Q Have you seen Mr. Sullivan since that time? A Oh, yes, I have seen Mr. Sullivan.

Q Was he up at your house since the last time he was there to dinner? A No.

Q Where have you seen him? A Just at the office.

Q Did you go to the office? A Occasionally when my husband was working there.

Q When you saw him at the office did you talk to him about the case? A No.

Q Didn't say a word to him? A No, I didn't talk to him about it.

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Q Do the only one you have talked to about this case at all since it happened is your own husband? A Yes.

Q How many times have you been to the studio since the case happened? A About three times.

Q Was Mr. Sullivan in it on those occasions? A Yes.

Q Did you talk to Mrs. Sullivan about it? A No. She was always busy.

Q Was the attorney for Mr. Sullivan ever there when you called at the studio? A Never.

BY MR. GREENTHAL:

Q Were you advised by me not to talk with anybody about this case? A Yes.

MILDRED WALKER, residing at 46 Fifth Avenue, called and sworn, as a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. GREENTHAL:

Q Miss Walker, where are you employed? A Mr. Sullivan.

Q How are you employed there? A I do photographing for him.

Q And how many are there in Mr. Sullivan's employ? A Well, there is two employees the same as myself and Mr. Sullivan's wife and another girl -- nine I think employed by him, I don't know.

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Q Now, did you know George Hardy? A Yes.

Q And how long did you know him? A Well, he came there to work last year, I don't remember just what month it was, it was in the fall some time.

Q Now, did you ever hear Mr. Hardy have a conversation with Mr. Stirling or any other person wherein Mr. Sullivan's name was mentioned?

THE COURT: Now, pardon me, but I think the same rule applies here as with the prosecution. If Mr. Hardy made any statement inconsistent with the evidence given by him at the trial, it will be necessary for you to recall him, I will allow you to do that and direct his attention to it. If the purpose is merely to show bias on his part you may interrogate the witness.

MR. GREENTHAL: He admitted he did have some trouble with him.

MR. WALLACE: This is contradictory, your Honor, it is not inconsistent.

MR. GREENTHAL: No, no. He testified to that voluntarily. Now, I want to show his motive for making this charge against Mr. Sullivan.

THE COURT: I will allow you to show it. We will take an adjournment now. You are admonished, gentlemen of the jury, not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you. The Court will adjourn until tomorrow at half past ten. (The further trial of the case was then adjourned to tomorrow, June 21st, 1937, at 10:30 o'clock a.m.)

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PEOPLE vs. PATRICK SULLIVAN.

TRIAL RESUME.

June 21, 1937.

MILDRED WALKER, recalled for further examination.

Testified as follows:

BY MR. GREENTHAL:

Q Do you remember when Mr. Sullivan was arrested? A Yes.

Q Do you know how long he was in jail? A He was arrested, I think it was on Thursday, and he was in jail about four or five days.

Q During the time that Mr. Sullivan was in jail, did you see Hardy? A He used to come to the studio every day.

Q Did he have a conversation with you or with anyone? A Yes.

Q Did you hear his conversation with any person in the group regarding Mr. Sullivan? A Yes.

Q Tell the Court and jury what you heard him say concerning Sullivan? A He told me before Sullivan was arrested, he came over and asked me if I knew that Mr. Sullivan and Margery were going to be married. I said, no, I didn't know anything about it.

Q What was the date of that conversation? A I think the day before he was arrested. I am quite sure it was the day before and so then he said he was going to tell me something but I must not tell and if I told he would kill me. I said, "What is it?" He said, "I will not tell you". Then he

WILLIAM D. WALLACE, recalled for further examination.
Testified as follows:

BY MR. CHRISTIAN:

Q Do you remember when Mr. Sullivan was arrested? A Yes.

Q Do you know how long he was in jail? A He was arrested, I think it was on Thursday, and he was in jail about four or five days.

Q During the time that Mr. Sullivan was in jail, did you see Clardy? A He used to come to the studio every day.

Q Did he have a conversation with you or with anyone?

Q Did you hear him have a talk with any person in the shop regarding Mr. Sullivan? A Yes.

Q Tell the Court and jury what you heard him say concerning Sullivan? A He told me before Sullivan was arrested, he came over and asked me if I knew that Mr. Sullivan and Margery were going to be married. I said, no, I didn't know anything about it.

Q What was the date of that conversation? A I think the day before he was arrested. I am quite sure it was the day before and so then he said he was going to tell me something but I must not tell and if I told he would kill me. I said, "What is it?" He said, "I will not tell you". Then he

told me Sullivan had taken two girls up in his studio. He told me what happened up there and he said, "If Mr. Sullivan gets out of this all right and they don't do anything to him, God help him, because I will fix him myself."

Q What else did you hear? A I said, "I don't think it is fair." He said, "Well, it is so all right?" He said, "I am going to fix him if he gets out of it all right."

Before that when Sullivan was in jail I heard him talking in another room to Hutchinson and someone else. I don't know who.

He said he would get back at Sullivan if it took him three years to do it. Then he said something about a vaudeville sketch. That was before this trouble came up, after the holidays some time. I was photographing a picture. George came down there, he did not like the way the picture was being photographed. He said Sullivan was not doing right by him. He said Sullivan sold a vaudeville sketch, or he stole one from him. I don't remember which, and he lost about \$1500 and Sullivan was to blame for it, and he would get back at him for that.

Q Did you ever hear Clardy say anything regarding the two little girls? A Yes he was talking about them every day.

Q Where was this? A In the studio, he always talked about them.

Q Before or after Sullivan was arrested? A Before;

he used to talk about them every day, before.

Q What did he say before the arrest, and can you fix the time? A I could not say the exact date but it was before the trouble came up at all. I think it was before Sullivan knew the girls.

Q What did you hear him say? A We used to see the girls in the window and they used to look out and flirt with the fellows, you know. I said, "George, what are the girls going to do in New York, are they going to work?" George said, "I don't think they want to work." I said, "They can't live on nothing, how will they get along?" He said, "It is my private opinion that they come down here to be a couple of street walkers and they don't know how to go about it." I said, "They better go out of the room then, they can't stand around the window and expect to make a living." He said, "That is what they want to do but they don't know how to go about it." I said, "That is their own business if they want to do that." He thought they were not strong enough physically to stand the life, and he said they would either drive east or west and probably land in the East River. He said they could do as they pleased, that was their business.

Q Did you ever hear Mr. Clardy speak to the girls from the studio to their room? A Yes.

Q What did he say? A One night we were up there, photographing. He would work nights sometimes to get pictures

finished.

The court: I do not think what he may have said to the girls is competent in this case unless it was something he may have said to them regarding Sullivan indicating bias on his part.

MR. CHRISTIAN: I withdraw the question, Your Honor.

MR. CHRISTIAN: That is all.

CHURCH REEXAMINATION BY MR. WALLACE.

Q How young lady, how old are you? A 22.

Q How long have you been in New York? A 4 years.

Q Where were you born? A West Wisconsin, near here.

Q With whom do you live in New York? A I am living by myself now. I used to live with my sister until she was married.

Q How long have you known the defendant? A Since a year ago last March I went to work for him.

Q You have been working for him since a year ago last March? A Yes.

Q That is over a year? A Yes.

Q Did you ever visit his apartment? A No.

Q What do you do for the defendant, what is your employment? A I photograph his cartoons for him. I do his camera work.

Q How long has Clardy been working for the defendant and you know? A He came there last Fall, I believe it was in November.

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stated. The court: I do not think what he may have said to the girls is competent in this case unless it was something he may have said to them regarding Sullivan indicating bias or bigotry.

MR. CHRISTIAN: I withdraw the question, Your Honor.

MR. CHRISTIAN: That is all.

EXAMINATION BY MR. WILLIAMS.

Q Now young lady, how old are you? A 28.

Q How long have you been in New York? A 4 years.

Q Where were you born? A West Buchanan, New York.

Q With whom do you live in New York? A I am living by myself now. I used to live with my sister until she was married.

Q How long have you known the defendant? A Since a year ago last March I went to work for him.

Q You have been working for him since a year ago last March? A Yes.

Q That is over a year? A Yes.

Q Did you ever visit his apartment? A No.

Q What do you do for the defendant, what is your employment? A I photograph his cartoons for him. I do his camera work.

Q How long has Gladys been working for the defendant that you know? A He came there last Fall, I believe it was in November.

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Q But he worked for him up to what time? A He worked there I think it was around Christmas time, he had some trouble about a picture, then he left.

Q And came back again? A Then he wrote a letter to Sullivan and told him he realized that he said lots of things.

Q Did you see the letter? A Yes.

Q Who showed it to you? A Mr. Sullivan.

Q When? A It was after Christmas or after New Years.

Q He showed you the letter at that time? A Yes.

A After reading that letter you know Gladys came back, or after that letter was received? A Not right after that; it must have been a month after that.

Q He continued to work for Sullivan up to the present time? A Yes.

Q Did you during that time see them have quarrels in the studio? A I never saw them have any quarrels, no.

Q I believe you stated that after Sullivan was arrested, Gladys told you that he was going to marry Miss Thomas?

A Before he was arrested he asked me if I knew they were going to be married, I said I did not.

Q When did he ask you this? A On the day before Sullivan was arrested.

Q Gladys asked you whether you knew that Sullivan was going to marry Miss Thomas? A He asked me before that.

Q And you told him you did not? A I told him I did not.

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not know anything about it.

Q You never heard of it? A No.

Q How long had you been working in that studio? A Over a year.

Q How long had Miss Thomas been working there? A She came there before Christmas.

Q What does she do in the studio? A She traces.

Q She was there several months? A Yes.

Q During all that time you never heard once that she was going to marry Mr. Sullivan? A No. I knew they were friendly. We were not very familiar with each other.

Q There was no talk in the studio about his marrying her? A No.

Q When did you first know that they were to be married?

A I was with them when they got married.

Q Is that the first you knew about it, except what Gladys told you a day before Sullivan was arrested? A She was married on the 21st and I knew it Saturday previous to that.

Q That was about the 10th or 17th of May? A No. It was before that. The 21st came, I think, on Monday; Saturday must have been the 19th.

Q You knew on the 19th of May that they were going to be married? A Yes.

Q That is the first you know about it? A Yes, that is the first I knew for sure. I heard rumors, but I was not

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certain. Q You had a conversation with Gladys concerning Sullivan and those girls? A Yes.

Q When did you have that conversation? A It was the day before Sullivan was arrested.

Q At that time you did not know he was going to be arrested? A No. I did not know anything about it. I do not know that he knew the girls.

Q What did you think Gladys meant when he said if he got out of this he would get him? A I don't know what he meant. He was always full of bull anyway, making a lot of remarks about things.

Q You thought he was just talking? A Yes.

Q And you did not pay much attention to him? A No.

Q Was that the first time you heard him make any threats against Sullivan since he came back to work? A No.

Q When did you hear him make a threat before that time? A While I was photographing a picture for George.

Q How long before this other conversation was that?

A That was before the trouble even came up. It was after New Years.

Q Away back last January? A Yes.

Q Who was present when you had this conversation or when he made these threats? A George and the camera boy, that is all.

verbal.

Q You had a conversation with Gladys concerning Sullivan and those girls? A Yes.

Q When did you have that conversation? A It was the day before Sullivan was arrested.

Q At that time you did not know he was going to be arrested? A No. I did not know anything about it. I do not know that he knew the girls.

Q What did you think Gladys meant when he said if he got out of this he would get hit? A I don't know what he meant. He was always full of bull anyway, making a lot of remarks about things.

Q You thought he was just talking? A Yes.

Q And you did not pay much attention to him? A No.

Q Was that the first time you heard him make any threats against Sullivan since he came back to work? A No.

Q When did you hear him make a threat before that time?

A While I was photographing a picture for George.

Q How long before this other conversation was that?

A That was before the trouble even came up. It was after New Year's.

Q Any back last January? A Yes.

Q Who was present when you had this conversation or when he made those threats? A George and the camera boy, that is all.

Q Who he met? A I don't know what his name is, Jack something. He turns the camera.

Q What did Gladys say at that time? A He began to cry. He said like a crazy man while I was there. He said I was not getting the photograph out right. I said, "I am doing it as Sullivan tells me to do." I said, "I take orders from Sullivan and not from you". He began crying.

Q Actually weeping tears. A Yes, just like a baby. He ran around the studio and acted like a crazy man. He got me so nervous I could not work. I told Mr. Sullivan that if he did not leave me alone he would not get the photograph from me, so Sullivan told him to keep away from me.

Q He had a grudge against him? A Yes.

Q Then did he make a threat against Sullivan? A Yes. He said he and Sullivan had a vendetta against each other and that George had to pay off a policy, a thing of \$1500.

Q Is that the threat? A I am going to tell you. That he could not keep up this policy so he lost all his money and Sullivan was to blame. He said, "I will get back at him if it takes me three years to do it."

Q Did you tell Sullivan that? A No.

Q Why not? A In a business place like that I hear lots of remarks. I do not like to carry tales. It only makes trouble.

Q He was not very secretive about those threats? A Yes.

Q Didn't you think it was your duty to warn Sullivan what a dangerous man he had in his employ, that was going to get square with him? A He always seemed to have a grudge against Sullivan. I thought Sullivan knew it. I did not think he knew what he was talking about.

Q Did you tell Sullivan that? A Not at the time.

Q When did you first have a talk with Sullivan about this conversation with you in the studio? After Sullivan was arrested? A No. I never talked to him about it at all.

Q Who asked you to come up as a witness? A I was subpoenaed.

Q By whom? A I think Mr. Greenthal subpoenaed me.

Q Before you were subpoenaed did you know what you were going to testify to? A No.

Q Did you talk it over with anybody? A No.

Q You did not tell anybody what you knew about it? A No, only what I heard George say.

Q Did you tell anybody what you heard George say before you came here? A No, I did not tell Sullivan.

Q Did you tell his lawyer? A No.

Q Did you tell anybody at all? A I might have said something, maybe to one of the girls, that I thought George was crazy to talk that way. I did not dare say anything. George told me he would kill me if I told anybody.

Q When did he tell you that? A The day before Sullivan

was arrested he told me about the trouble, he said, "If you tell Billy, I will kill you."

Q Who is Billy? A He meant me.

Q You knew Billy? A Yes.

Q He said, if you, Billy, tell anybody he will kill you? A Yes.

Q This was on the occasion of the second conversation you had with him? A Yes, the second conversation. It was after the trouble. This was the conversation regarding the trouble.

Q When you say after the trouble what do you mean by the after the arrest of Sullivan? A No, the day before the arrest of Sullivan. That is the only talk I had with George about this.

Q At that time he threatened to kill you? A Yes, it I told.

Q Why did he threaten to kill you, if you did what? A If I told what he told me, about the whole thing. He told me I must not tell anybody.

Q He told you what? A He told me that Mr. Sullivan had the girls up in the studio.

Q Were you there when Mrs. Higgins and Mr. Ward came in before that? A No, I was up there once only when Mrs. Higgins came. She came to borrow some money of George. I think, and George borrowed it from one of the fellows to give

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was unavoidable told me about the trouble, he said, "If you will help, I will help you."

Q Who is Billy? A He went on.

Q You are Billy? A Yes.

Q He said, if you, Billy, will anybody he will help you? A Yes.

Q This was on the occasion of the second conversation you had with him? A Yes, the second conversation. This was after the trouble. This was the conversation regarding the trouble.

Q When you say after the trouble what do you mean by that, after the arrest of Sullivan? A No, the day before the arrest of Sullivan. That is the only talk I had with George about this.

Q At that time he threatened to kill you? A Yes, it is told.

Q Why did he threaten to kill you, if you did what? A If I told what he told me, about the whole thing, he told me I must not tell anybody.

Q He told you what? A He told me that Mr. Sullivan had the girls up in the studio.

Q Were you there when Mrs. Higgins and Mr. "Larky" came in before that? A No, I was up there once only when Mrs. Higgins came. She came to borrow some money of George. I heard, and George borrowed it from one of the fellows to give

to her.

Q Were you there when Mrs. Higgins came up with George and George said something about Sullivan and about the girls? A No. I was only up there once when she came there.

Q You didn't know then that Gladys and Mrs. Higgins came there before he talked to you and accused Sullivan of having the girls in the room, in the presence of you or fifteen people? A I was out there.

Q You didn't know that? A I was out to lunch.

Q Just when he told you that Sullivan had these girls in his room he said if you told anybody he would kill you? A Yes, he said he had the girls in his studio, not in his room. He did not tell me in his room.

Q You also say he talked to you about these girls and told you he thought they came here to be street walkers? A Yes.

Q When did you have this conversation? A It was right after the girls came there and we began to see them looking out of the window.

Q That is the third conversation then? A He used to talk to me about the girls every day, before Sullivan knew the girls, I guess.

Q About what time was it that he had this conversation? These girls were only in this room a week. A I think longer than a week.

Q How much longer than a week? A I should say about

two weeks they were there. I used to see them every day.

Q Would you see the boys in the studio flirting across with them? A They would flirt with anybody.

Q Would you see boys in the studio flirting across with them? A I saw two of the boys flirting with them.

Q "High two"? A Mr. Barton and Mr. Robinson.

Q Did you ever see "Larky" flirt with them across the street? A Yes, he used to flirt at them across the street and not then to come over. He did not flirt.

Q Tell us everything you know, as right ahead. A I was up there one night photographing and George looked over in the window and the girls were in the window. One of them had their coat on. She just came in the house I believe. Margie and I were in another room. He called over at the girls, he said, "How much money did you make tonight?" I said to George, "That is not a very nice thing to say, what do you want to talk to the girls that way for?" He laughed. Then he asked the girls to come over. He went down to the gate to let them in. It looked after six o'clock, he had a key. I guess the girls misunderstood for they did not come over. He came back and did not like it because they did not come over.

Q When did this take place? A Before he told us about Mr. Sullivan.

Q Before he told you about Sullivan? A Yes.

Q It had to be before he told you about Sullivan? A Yes.

Q Because after that Sullivan was arrested, the next day? A Yes.

Q How long before he told you about Sullivan was it? A It must have been about a week. I don't know exactly, but I should say about that length of time.

Q This was another conversation you had with him. This was not the same conversation you had when he said the girls were street walkers? A No.

Q That was another conversation? A He used to talk about the girls every day.

Q It was a common topic of conversation. A Yes.

Q Tell us about the story where they said the girls came here to be street walkers. A I asked him what the girls were going to do. I saw them standing in the window. I said, "Have they got a job?" He said, "No." I said, "They can't live without any money, what are they living on?" He said, "I don't know. I take them out to lunch once in a while." He said, "To tell you the honest truth, I think they come down here to be street walkers but they don't know how to go about it."

Q Can you fix the date of this conversation? A No, if we saw the girls first come there.

Q How long had they been there? A I thought they were there about two weeks.

Q How long had they been there when you had this conversation with Gladys? A They had been there probably four

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Q Because after that Sullivan was arrested, the next day?

A Yes.

Q How long before he told you about Sullivan was it?

A It must have been about a week. I don't know exactly, but I should say about that length of time.

Q This was another conversation you had with him. This was not the same conversation you had where he said the girls were street walkers? A No.

Q That was another conversation? A We used to talk about the girls every day.

Q It was a common topic of conversation. A Yes.

Q Tell me about the story where they said the girls came to be street walkers. A I asked him what the girls were going to do. I saw them standing in the window. I said, "Have they got a job?" He said, "No." I said, "They can't live without any money, what are they living on?" He said, "I don't know, I take them out to lunch once in a while." He said, "Do tell you the honest truth? I think they come down here to be street walkers but they don't know how to go about it."

Q Can you fix the date of this conversation? A No, it was when the girls first came there.

Q How long and they been there? A I thought they were there about two weeks.

Q How long had they been there when you had this conversation with Clardy? A They had been there probably four

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or five days.

Q Had they been in the studio up to that time? A But that I know of.

Q Did you ever see them in the studio? A No, not in the studio.

Q Is there anything more you know about Mr. Clardy or the girls? A No.

Q You were asked to nobody before you came here to be a witness? A Except I think George said he was up in their room once because he said the little girl was sick, the girl with the dark hair, he said, "She seemed to be very feverish."

Q Did he say he was in their room? A He did not say he was up there. He said the girl was sick in bed and was seemed feverish, and I thought he probably must have been up there.

Q When did he say that? A Before this trouble came up at all, I don't know the date.

Q When he told you he thought they had come here to be street walkers, he also said that he told them to go ahead if they wanted to? A He said it was none of his business and they could do what they pleased. He said it was all right if they thought they could stand it.

Q The last time he talked to you he was very much excited because Sullivan had apparently seduced these girls? A Yes, I said, "George, you did not seem so worried about their morals at first."

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Q What did he say to that? A He did not say anything.

Q Didn't he say, "I am not worried about their morals but I want to get even with Sullivan?" A No, he did not say that.

MR. WALLACE: That is all.

BY MR. OSHENSTAL:

Q You never spoke about this once to me? A No.

BY MR. WALLACE:

Q Nobody questioned what you were going to testify to, neither the defendant nor his friend knew what you would say when you came up? A No.

BY MR. OSHENSTAL:

Q You were employed there? A Yes.

Q You know George Clardy? A Yes.

Q You saw him there every day and night while you were there and he was there? A Yes.

ANDREW CLEVELAND HUTCHINSON, of 240 West 41 Street, a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OSHENSTAL:

Q How long have you lived in the City of New York?

A Since 1911.

Q Where are you employed? A In Mr. Sullivan's studio?

Q How long have you been employed by Mr. Sullivan?

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A Since February 1st, this year.

Q How are you employed there? A I am an assistant portraitist.

Q Do you know a man named George Clardy? A Yes sir.

Q How long do you know him? A Since February 1st.

Q Since you have been employed with Sullivan? A Yes.

Q Do you remember about the time Mr. Sullivan was arrested? A I have a vague idea.

Q Did you have a conversation with Mr. Clardy after Mr. Sullivan was arrested? A Yes sir.

Q Will you kindly tell the Court and jury what conversation that was? A When I heard that he was arrested, I went up to Mr. Clardy.

BY MR. WALLACE:

Q What date was that? A I cannot give the exact date.

Q How long after Sullivan was arrested? A About the day of his arrest.

Q The same day he was arrested? A I would think so.

Q Where was the conversation held? A In the office.

BY MR. OSHENSTAL:

Q Go ahead and tell me the conversation in the studio?

A The conversation was in the back end.

Q That is this, a studio or a drawing-room? A A drawing-room where I do my drawing.

Q It is not a studio, it is more of a drawing room?

A Since February 1st, this year.

Q How are you employed there? A I am an estimated
carpenter.

Q Do you know a man named George Clardy? A Yes sir.

Q How long do you know him? A Since February 1st.

Q Have you been employed with Sullivan? A Yes.

Q Do you remember about the time Mr. Sullivan was
arrested? A I have a vague idea.

Q Did you have a conversation with Mr. Clardy after
Mr. Sullivan was arrested? A Yes sir.

Q Will you kindly tell the Court and jury what conversation
that was? A When I heard that he was arrested I went
up to Mr. Clardy.

BY MR. WALLACE:

Q What date was that? A I cannot give the exact date.

Q How long after Sullivan was arrested? A About
the day of his arrest.

Q The same day he was arrested? A I should think
so.

Q Where was the conversation held? A In the office.

BY MR. CHASTRA:

Q Go ahead and tell me the conversation in the studio.

A The conversation was in the back end.

Q That is this, a studio or a drawing-room? A A
drawing-room where I do my drawing.

Q It is not a studio, it is more of a drawing room?

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A It is more of an office. I said to Clardy, "What is this
you are doing to Pat Sullivan?" He said, "I am doing my
duty". I used bad language about "doing your duty". I
said, "What is your game, revenge?" He said, "Yes, my God,
it is revenge. Pat Sullivan handed me a dirty deal several
years ago and I have intended to get back at him if it took
me fifty years. He stole an act, a vaudeville act, and had
me working on the stolen act. That man is a crook. He has
left a crooked trail behind him." And he was going to make him
pay for it it took him fifty years. I said, "Don't you
think this is a pretty dirty trick?"

Q Will you tell us that again, please, and speak loud?

A I said, "Don't you think it is a pretty dirty trick?" He
said, "You should worry about that, the business will go on
just the same, I will see to that." He said, "I will look
after the business end of it. Somer will look after the
photography, he knows more about it than Sullivan
does. This office will be reorganized. We need more system
here." He said, "Don't you think Somer can run this business,
he knows more about photography than Pat does." Just then
Somer walked up and the conversation stopped.

Q Was anything said by Clardy wherein the word Australia
was used? A Yes, some days after this conversation.

Q When was that? A About two days after.

Q That was while Sullivan was still in jail? A Yes.

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Q Was this in the studio? A Yes sir, in the studio,
about in the front end this time, not the drawing room.

Q Who was present at that conversation? A I was over
in one corner, sitting on a table. Nobody was close enough
to me to hear it. He was speaking very low in one end of the
room. He said, "I am mighty sorry that Pat Sullivan is in
jail; I did not intend for him to be arrested. I want to him
and pleaded to him like a brother to leave the country." He
said, "I pleaded with him to beat it, I am mighty sorry that he
is in jail."

Q What is that, after he said, "I am mighty sorry that
Pat Sullivan got arrested. I pleaded to him like a brother
to leave the country." Did he say where he should go to?
A Well, he mentioned Australia, but he expressed leaving the
country in general, to beat it anywhere, to get away from
New York, I expect.

BY THE COURT:

Q Are you related to the defendant? A No.

Q How long have you known him? A Since February 1st.

Q Of this year? A Yes sir.

Q How long have you known Clardy? A The same time,
since February 1st.

MR. CHASTRA: That is all, your witness.

CHARGE EXAMINATION BY MR. WALLACE:

Q Are you related in any way to the defendant? A No sir.

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Q How old are you? A 38.

Q Where were you born? A Charleston, North Carolina.

Q How long have you worked for the defendant? A Since
February 1st this year.

Q Who did you talk to about this case before you came
here as a witness? A I have talked it over with a friend
or nine, a man named Somer.

Q Did you talk to the defendant about it? A No.

Q Did you talk with Sullivan about it at all? A No.

Q Since the thing happened, did you see him come back
in the studio? A Only in a general sort of way, like,
"When is your case coming up?" and "How do things look?"
things like that.

Q You also had occasion to flirt with these two girls
across the street? A Yes.

Q When did you first make their acquaintance? A Mr.
Barton introduced me to them on Wednesday about the 20th.

Q That was the day or day after they had appeared at the
window for the first time? A Yes.

Q The 25th of April? A Yes.

Q They had only been there for a day or so? A Yes.

Q You had seen them in the window before you were in-
troduced by Barton? A Yes.

Q And before you went around that day, as I suppose
you did, you wanted to them? A No, I did not want to them.

Q How old are you? A 22.

Q Where were you born? A Charlotte, North Carolina.

Q How long have you worked for the defendant? A Since February last year.

Q Who did you talk to about this case before you came here as a witness? A I have talked it over with a friend of mine, a man named Connor.

Q Did you talk to the defendant about it? A No.

Q Did you talk with Sullivan about it at all? A No.

Q Since the thing happened, and since he has been back in the studio? A Only in a general sort of way, like, "When is your case coming up?" and "How do things look?" things like that.

Q You also had occasion to flirt with these two girls across the street? A Yes.

Q When did you first make their acquaintance? A Mr. Saxton introduced me to them on Wednesday about the 20th.

Q That was the day or day after they had appeared at the window for the first time? A Yes.

Q The 20th of April? A Yes.

Q They had only been there for a day or so? A Yes.

Q You had seen them in the window before you were introduced by Saxton? A Yes.

Q And before you went around that day, as I suppose you did, you waved to them? A No, I did not wave to them.

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Q He made a date with them for you? A Yes.

Q When did you meet the two girls? A In front of the house on 43 Street.

Q You went around there to meet them? A With Mr. Saxton.

Q Where did you go from there? A I suggested a bus ride on Fifth Avenue.

Q You took them for a bus ride? A Yes.

Q Are you a married man? A No.

Q After you took them for a bus ride, what happened then? A I took them to 125 Street and they got off the bus there and then phoned to Clardy. They had a date with Clardy that night. We stopped in the drug store and phoned to him. He told the girls to meet him at the place on 143 Street, that is Cavanaugh's and to have me take them there.

Q You took the girls there? A Yes, after dinner on 125 Street.

Q You took them to dinner first? A At Child's, and went to this place on 143 Street.

Q Did you leave them there? A Yes.

Q Were you out with them on any other occasion? A One time.

Q When about was that? A At noon.

Q How long after the first trip? A Two or three days afterwards. They made a date at the window to take lunch

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with me and I met them in the street at noon.

Q Who was with you then? A My friend, Connor.

Q On either of these two occasions did you make any improper advances to these young ladies? A I did not.

Q Sure about that? A Absolutely.

Q Did the man who was with you? A He did not.

Q Did you suggest that you take them up to your apartment or flat or anything of that sort? A No.

Q As far as you were concerned your behavior was perfect? A Absolutely.

Q How did they act with you? A Like perfect ladies.

Q Did you know that Sullivan had then up to his flat? A Not until I heard about it some time afterwards.

Q Were you present in the studio when Mrs. Sigston and Clardy called and made a scene? A I was out at lunch at that time.

Q How long did you work in the studio, since February? A Yes.

Q Did you know Margery Thomas? A Yes.

Q How long was she working there? A She was there when I came.

Q Now, did you know that she was in the habit of going up to Sullivan's flat? A I did not.

Q So all you really know is these two conversations that you allege you had with Clardy? A I had a third

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conversation with him. I had several conversations. It was repetition, about the same things.

Q On the day that Mr. Sullivan was arrested you say you were in the office or studio and Clardy came in, is that right? A I think it was the day that he was arrested, I am not sure.

Q You are not sure of the date? A No.

Q Well, it was after he was arrested at least? A I am not sure about that. Mr. Sullivan was not there.

Q You must be sure about that; don't you know whether it was before or after he was arrested? A There was one remark made in the presence of Saxton that makes me think he was arrested at that time. Clardy turned to Saxton and said, "Your picture will go through just the same as if Sullivan was here."

Q You also said to him, "What is this you are doing?" A Yes, "You bet."

Q So, he must have been doing something at that time? A He was threatening, or had already done so.

Q He was not merely threatening, because he had been threatening so often that that was common place. He must have done something, because you would not have said, "What is this you are doing?" A Hardly.

Q He it was after he had done something to Sullivan, wasn't it? A Yes.

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conversation with him. I had several conversations. It was repetition, about the same thing.

Q On the day that Mr. Sullivan was arrested you say you were in the office or studio and Clardy came in, is that right? A I think it was the day that he was arrested, I am not sure.

Q You are not sure of the date? A No.

Q Well, it was after he was arrested at least? A I am not sure about that. Mr. Sullivan was not there.

Q You must be sure about that; don't you know whether it was before or after he was arrested? A There was one remark made in the presence of Barton that makes me think he was arrested at that time. Clardy turned to Barton and said, "Your picture will go through just the same as if Sullivan was here."

Q You also said to him, "What is this you are doing?" A Yes, "To get."

Q So, he must have been doing something at that time? A He was threatening, or had already done so.

Q He was not merely threatening, because he had been threatening so often that that was common place. He must have done something, because you would not have said, "What is this you are doing?" A Hardly.

Q So it was after he had done something to Sullivan, wasn't it? A Yes.

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Q He said, "I am doing my duty" in reply to your question A Yes.

Q And you used bad language? A Yes.

Q So I take it you not only knew at that time that Clardy was doing something but you knew what he was doing? A I was getting at his motive, so that bad language was used.

Q You knew what he was doing at that time? A I was trying to get at what he meant by it.

Q You knew what he was doing at that time? A Why yes, I knew he was having him arrested.

Q And you knew he had had him arrested. That was the reason you used the bad language? A No, I used bad language to pump him up, to get at the motive for the arrest.

Q You were doing a little detective work? A For my own curiosity, for my satisfaction.

Q What was that language, by the way? A I said, "To hell with your duty."

Q "What are you getting after Sullivan for?" A I knew it was not his duty.

Q I asked you what you said? A That is what I said.

Q You said, "To hell with your duty"? A Yes.

Q And you said there is a motive besides that, revenge? A Yes.

Q He said, "Yes, it is revenge"? A Yes.

Q "Yes, by God, it is revenge"? A Yes, those were his words.

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Q Then you knew by that time he wanted revenge? Yes.
Q Then he told you about the stolen vanderville act? A Yes.

Q And he said, "I will get back at him if it takes 50 years"? A That is it.

Q Not two or three years, he was willing to go 50 years? A Yes.

Q What did you say to that? A I did not make any reply. He did all the talking himself.

Q By that time your curiosity was satisfied? A Pretty well satisfied as to his motive.

Q He also said at that time something that gave you an inkling that he had another motive, didn't he? A Well, he did not say so, but I knew what it was.

Q He did say it, didn't he? A His idea was to get sold of the business.

Q But he did say that? A He said he could run it just as well.

Q And that someone else there knew all about the photography and he could take care of the business and just as well without Sullivan? A Yes.

Q He explained that to you; that his motive number two? A Yes, he explained all that.

Q He said, "Messer", whatever his name is, was the man that could do the photography as well as Sullivan? A Yes.

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Q And then Messer came along? A Yes.
Q You did not tell that to Messer? A I did not answer the question.

Q The conversation stopped? A Yes, because I did not want to reflect on Messer's ability.

Q Then subsequent to this you had another conversation with Clardy? A I did.

Q This was over in the corner that he came up and spoke to you quietly? A Yes.

Q So no one else could hear? A Yes.

Q And on that occasion did he say to you? A He said he is very sorry that Sullivan was arrested, that he did not intend for him to be arrested, that he advised him and pleaded with him to leave the country.

Q So he could get the business? A He did not say that but that is why, I should think.

Q He said, "I want to him and pleaded with him to leave the country"? A Yes.

Q Did Sullivan ever tell you that Clardy had come to him and pleaded to him to leave the country? A No.

Q Since this case has been going on? A No.

Q Do you know whether Sullivan ever told anybody that Clardy went to him and pleaded with him to leave the country? A I do not.

Q Do you know that Sullivan was on the witness stand here

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Q What year? A 1917.

Q You were subpoenaed by the District Attorney, were you not? A Yes sir.

Q When were you served with that subpoena? A The subpoena was handed to me by Sullivan yesterday morning at about 10 o'clock when Sullivan came out of the elevator.

Q Mr. Sullivan gave you the District Attorney's subpoena, is that right? A Yes sir.

Q You know George Clardy? A Yes sir.

Q You knew the girls, Ellen McQuerry and Winny Jones? A Yes sir, I knew the girls. I did not know them by name.

Q How did you come to be acquainted with them? A By looking from window to window, from 125 West 42 Street across to their apartment on 43 Street.

Q Did you go out with the two girls? A Yes.

Q Who was with you? A On the first occasion Mr. Clardy.

Q George Clardy? A Yes.

Q Where did you take the girls to? A He went to, I believe, 44th or 45th Street, I don't know which street, but the name of the restaurant is Gluck's Hungarian Restaurant. We had something to eat there. Then we walked down the street and I thought we would go to a show some place and George said he had an engagement with some woman, I believe with Mrs. Higgins, so he had to leave, and I took the girls back to their rooms at 43 Street and left them at the door, after

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speaking to them a few minutes.

Q Were you out on another occasion with the two girls? A Yes.

Q Who was with you then? A Mr. Hutchinson.

Q Did you ever have any conversation with Mr. Clardy in reference to Sullivan? A Mr. Clardy spoke to me on several occasions.

Q Tell me what he said and when was it? A I think it was after Sullivan's arrest.

Q Where was the conversation? A In the office.

Q Tell me what was said and who was present? A George was sitting in the back with myself and Hutchinson, and Clardy said that Sullivan was going to get what was coming to him, and he was a crook, and that amongst other things he had stolen an act and had had George Clardy working it. He said that he was a parasite and different things like that. I went away and he spoke some more words to Hutchinson. That he said then I don't know.

Q Were you present at any other conversation where in Sullivan's name was mentioned? A By Mr. Clardy.

Q Yes, and what time was that? Was that after the conversation you speak of? A It was while Mr. Sullivan was in the cell. Mr. Clardy said, -- I was worrying about my picture which I had just about out, and it would have to have Mr. Sullivan's supervision. I said to George, "See what I don't know how my picture is going to come out". He said,

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"Oh, you needn't worry about the picture, Mr. Warner, he can take care of the photograph and of this thing and you don't have to worry. The business will go along without Sullivan just as well, or not better."

Q That was Sullivan's business all the time? A Yes, that was Sullivan's business all the time.

Q You say you were employed there as an animated cartoonist? A Yes.

Q Where was your office? A Right there. We all worked together in 125 West 42 Street.

Q How worked with you? A We all worked on our own pictures. There are ten cartoonists there.

Q Did George Clardy say anything to you yesterday out in the hallway? A He didn't say anything to me yesterday. It was the day before yesterday. I was sitting with Mr. Hutchinson, and we had been talking.

BY MR. WALLACE:

Q About this case was it? A Yes sir. Mr. Clardy came along and he walked up and down and looked me right in the eye. I looked him in the eye. He walked back and forth. Then he came close and finally said, "Don't talk, Slim, you're yellow". I had a pink shirt on at the time.

Q If he had said the thing today you might see some reason for it? A Yes, I got a yellow shirt on today.

Q And on the occasion he did say it there seemed to be

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no reason for saying that? A No sir.

Q You got a little bit more at George about that? A I did not say anything. He told me not to talk and I did not talk. He said, "Don't talk, Slim, you're yellow".

Q Were you talking at the time? A I was just talking about different cartoons and so forth, and Hutchinson had a newspaper in his hand and we were killing some time waiting to be called upon.

Q Have you ever had any trouble with George before? A No sir.

Q You are known as Slim Warner? A Yes, Slim Warner.

Q You have been working for the defendant since February 23rd? A February 23rd.

Q During all that time how long was Margery Thomas working there? A She has been working there ever since I have been working and before then I suppose.

Q When did you first hear that she was going to marry this defendant? A I didn't hear she was going to marry him until after they were married.

Q What was about the first of May, after Sullivan got out of jail? A It was about a month ago.

Q You talked with these girls across the way somewhere with the other boys in the studio? A Yes.

Q You were perhaps the first to make their acquaintance? A Yes.

no reason for saying that. A. No sir.

Q You got a little bit more at George about that?

A I did not say anything. He told me not to talk and I did not talk. He said, "Don't talk, Slim, you're yellow".

Q Were you talking at the time? A I was just talking about different cartoons and so forth, and sometimes had a newspaper in his hand and we were killing some time waiting to be called upon.

Q Have you ever had any trouble with George before?

A No sir.

Q You are known as Slim Daxton? A Yes, Slim Daxton.

Q You have been working for the defendant since February 1934? A February 25th.

Q During all that time how long was Margery Thomas working there? A She has been working there ever since I have been working and before then I suppose.

Q When did you first hear that she was going to marry this defendant? A I didn't hear she was going to marry him until after they were married.

Q What was about the first of May, after Sullivan got out jail? A It was about a month ago.

Q You flirted with these girls across the way in common with the other boys in the studio? A Yes.

Q You were perhaps the first to make their acquaintance? A Yes.

Q And you introduced Slim Gray and Antonson and a few more boys to them? A I introduced Gladys and Antonson to them.

Q The first time you went out with them you went out with George Gladys? A Yes.

Q They waved and you waved and you went around there? A Yes.

Q And spoke to them in 42 Street and took them to Glavin's restaurant? A Yes.

Q Did you make any improper advances to them at that time? A No sir.

Q Did Gladys make any improper advances to them at that time? A No sir.

Q You just went there and had a little bite to eat and were going to take them to a show? A Yes.

Q When Gladys had an engagement? A Yes.

Q He went away and probably took back to their boarding house? A Yes.

Q And everything was just as respectable as it could be? A Yes. Everything was smooth and nice, nothing said out of the way.

Q You were also out with them with Mr. Hutchinson? A Yes.

Q That was a day or so after? A About four or five days afterwards, less than a week.

Q A little flirtation? A Yes.

Q And you walked around? A Yes.

Q And had a one right? A Yes.

Q And had dinner in Harlem? A Yes. We went down to the Pennsylvania Station. We thought we would go to Washington Park, but this one went to the Pennsylvania Station.

Q And you had to pay another fare? A Yes, we went back to 110 Street, got off there and went to 142 Street, to Child's and then went by taxi. We had a bite to eat there and sat there a little.

Q You left the girls where you had arranged to meet them so that they could meet Gladys? A Yes, 412 West 142 Street. We left them at the house. I suppose Gladys was upstairs there.

Q That was Cavanaugh's? A Yes.

Q That time everything was lovely? A Yes.

Q Perfectly respectable? A Perfectly.

Q No bad conduct? A No sir.

Q Just a harmless little flirtation? A Yes.

Q So far as you know from your personal observation and the conduct with these girls they were all right? A They seemed to be good girls.

Q They did not seem to be very old, did they? A They seemed to be about - -

Q Thirty? A No, not thirty.

Q Twenty? A Well, the girls said we were about eighteen.

Q I asked you what they appeared to be to you? A Well, I should think them to have been around the age that they told us they were.

Q How old did they seem to be to you? A They seemed to be around eighteen.

Q Just a little over eighteen? A Possibly. I am not a good judge of women's ages.

Q You are not so old yourself? A No sir.

Q How old are you? A I will be nineteen next August.

Q So all you know about it really is the two conversations that you had with Gladys after the thing happened? A Yes sir.

Q The first conversation was the time you and George Gladys and Antonson went in Sullivan's studio after Sullivan was arrested? A Yes.

Q At that time was the conversation with you or with Hutchinson? A It was with Hutchinson and I together.

Q Did you hear Hutchinson swear at Gladys? A No I didn't.

Q Did you hear him say, "To hell with your duty"? A No.

Q Did you hear him reproach Gladys for having taken this action against Sullivan? A That I did not hear.

Q What did you hear Gladys say on that occasion? A

Q Twenty? A Well, the girls told me they were eighteen.

Q I asked you what they appeared to be in fact? A Well, I should think them to have been around the age that they told me they were.

Q How old did they seem to be to you? A They seemed to be around eighteen.

Q Just a little over eighteen? A Possibly. I am not a good judge of women's ages.

Q You are not so old yourself? A No sir.

Q How old are you? A I will be nineteen next August.

Q So all you know about it really is the two conversations that you had with Clardy after the thing happened? A Yes sir.

Q The first conversation was the time you and George Clardy and Hutchinson went in Sullivan's studio after Sullivan was arrested? A Yes.

Q At that time was the conversation with you or with Hutchinson? A It was with Hutchinson and I together.

Q Did you hear Hutchinson swear at Clardy? A No, I didn't.

Q Did you hear him say, "to hell with your duty"? A No.

Q Did you hear him reproach Clardy for having taken this action against Sullivan? A That I did not hear.

Q What did you hear Clardy say on that occasion? A

I heard Clardy say that Sullivan was going to get it this time, that he was a crook, and that amongst other things he had stolen this act, and sometime ago Mr. Clardy was on the stage and that he was working this act for Sullivan and he did not know it was a stolen act. He said he was a parasite.

Q He recited the story of the stolen act? A Yes.

Q Or 50 years revenge, is that not? A (No response).

Q Did he tell you, "By God," he was going to have revenge on Sullivan if it took 50 years to do it? A I did not hear him say that.

Q He then said Sullivan was a crook and a parasite and was going to get what was coming to him this time? A Yes.

Q Did he say he persuaded a couple of girls to commit perjury in order to see that Sullivan was going to get what was coming to him? A No.

Q Did he say he had inveigled Sullivan and Bayth into a taxi cab with two girls as a preliminary? A No.

Objected to and objection sustained.

Q That is about all you remember of the conversation at that time? A Yes.

Q And then three or four days afterwards, but while Sullivan was still in jail, you had another conversation with Clardy? A Yes.

Q It was also in the studio? A Yes.

Q Who was present that time? A Mr. Clardy and Hutchinson

I believe. It seems to me pretty nearly the whole staff was present. There might have been a couple missing, for instance I may say Hegeman was there and he might not have been there, but there were a number of people present and all of the staff.

Q Did they all hear this conversation? A I believe they were all standing around listening to them. I guess they heard them.

Q Were they there for the purpose of hearing it, or did they hear it accidentally? A They were there for the purpose of hearing.

Q They knew it was coming? A George called them all around, - "Listen my children,"

Q Then he told the story? A Yes.

Q What were you doing on that occasion? A He started in and I said, "George."

Q You started the conversation? A So, George put them altogether. I said, "See what, look at the state of things in the office." I said, "See what, George, I don't see how my picture is going to get through. Here it's finished. It would be photographed if Sullivan was around. My picture will be out possibly tomorrow if Sullivan was around. He said, "Oh, your picture will be all right. It will go through just the same. As soon as photograph, he knows all about photographing just as good if not better than Sullivan and your picture will go through all right," and all that.

Q When did they start to gather around, when you spoke first or just as George said this about seeing taking the photographing? A It seemed they all gathered around when George came in. They all gathered around, they knew there was something up.

Q Was that all that George said at that time? A Yes sir that was practically all.

Q Did he go out again or did he go to work? A I believe he sat down to work, - oh, Mr. Sullivan came in.

Q I thought you said this was while Sullivan was still under arrest? A It must have been after the trouble, after he accused Sullivan.

Q But before Sullivan was in jail? A Before me, for saying it was before he was in jail.

BY THE COURT:

Q You are not certain about that? A No sir.

BY MR. WALLACE:

Q You are not certain whether it was before Sullivan was arrested? A I know somebody came in and struck up the conversation. I am so used to seeing Sullivan coming in and out.

Q Don't you see from the very context of the conversation it must have been when he was under arrest. You were worrying about how you were going to do your picture without his assistance? A Yes.

Q So it must have been after he had been taken away

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Q When did they start to gather around, when you spoke first or just as George said this about seeing doing the photographing? A It seemed they all gathered around when George came in. They all gathered around, they knew there was something up.

Q Was that all that George said at that time? A Yes sir that was practically all.

Q Did he go out again or did he go to work? A I believe he sat down to work, - oh, Mr. Sullivan came in.

Q I thought you said this was while Sullivan was still under arrest? A It must have been after the trouble, after he accused Sullivan.

Q But before Sullivan was in jail? A Pardon me, for saying it was before he was in jail.

BY THE COURT:

Q You are not certain about that? A No sir.

BY MR. WALLACE:

Q You are not certain whether it was before Sullivan was arrested? A I know somebody came in and broke up the conversation. I am so used to seeing Sullivan coming in and out.

Q Don't you see from the very context of the conversation it must have been when he was under arrest. You were worrying about how you were going to do your picture without his assistance? A Yes.

Q So it must have been after he had been taken away

from just? A Yes, it must have been so.

Q So he could not have come in at that time, because if he was there he could have done your picture and sooner would not have been mentioned, is that right? A Yes, that is right.

Q Who did you talk to about this case before you appeared here as a witness? A Why, I talked to Mr. Sullivan's lawyer, Mr. Greenthal.

Q No question about that fact, is there? A No sir. I had to Greenthal's office.

MR. WALLACE: That is all.

MR. GREENTHAL: That is all.

A FREDERICK TUCKER, of 66 West 107 Street, a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GREENTHAL:

Q What is your business, Mr. Tucker? A Stocks and bonds.

Q Where is your place of business? A 60 Broad Street.

Q Do you know the defendant, Patrick Sullivan? A Yes.

Q How long do you know him? A A little over two years.

Q Do you know other people that know the defendant?

A Yes.

Q Do you know his reputation for morality? A As far as I have been associated with him, yes sir.

Q Yes or no? A Yes.

Q Good or bad? A Good.

Q MR. GREENTHAL: Your witness.

CROSS EXAMINATION BY MR. WALLACE:

Q Did you ever talk about his reputation for morality with anybody? A No sir.

MR. WALLACE: That is all.

WALTER B. ISAAC, of 317 West 45 Street, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GREENTHAL:

Q What is your business? A I am at present in the Export business.

Q Exporting what? A Some steel and food stuff.

Q Where is your office? 10 Park Row.

Q Do you know the defendant? A I do.

Q How long do you know him? A Possibly four or five years.

Q During that time have you seen him frequently? A Up to about a year ago I saw him now frequently.

Q Prior to that time you had seen frequently in his company? A Yes.

Q Do you know other people that know Mr. Sullivan?

A Yes.

Q And during those three years that you knew him? A Yes.

Q Do you know his reputation for morality? A Yes.

Q Is it good or bad? A It is good.

Q You always heard him spoken well of by everybody? A Yes.

MR. GREENTHAL: Your witness.

CROSS EXAMINATION BY MR. WALLACE:

Q With whom have you ever discussed his reputation for morality? A Among his friends.

Q Now his that conversation happen to come up? A In the same way that conversation comes up among friends or any body we know.

Q Who did you speak to about it? A A great many.

Q Name one? A Mr. Orlington, he is in office.

Q When did you speak to Orlington about his reputation for morality? A I used to see them altogether two or three years ago at the Orlington home. In fact, Sullivan at that time was living with Mr. Orlington and his wife.

Q You knew Sullivan from having met him socially at the Orlington home? A Yes, and at other places.

Q Socially or in business? A Socially.

Q That is two or three years ago? A When I first met him at that time probably four or five.

Q What is the last time you saw the defendant before you came here today? A I saw him today.

Q When was the last time you saw him before that? A

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Q Do you know his reputation for morality? A Yes.
Q Is it good or bad? A It is good.
Q You always heard him spoken well of by everybody?
A Yes.

MR. GRANTHAUS: Your witness.

DIRECT EXAMINATION BY MR. WALLACE:

Q With whom have you ever discussed his reputation for morality?
A Among his friends.

Q How did that conversation happen to come up? A In the same way that conversation comes up among friends or any body we know.

Q Who did you speak to about it? A A great many.

Q Where one? A Mr. Oughton, he is in office.

Q When did you speak to Oughton about his reputation for morality?
A I used to see them altogether two or three years ago at the Oughton home. In fact, Sullivan at that time was living with Mr. Oughton and his wife.

Q You know Sullivan from having met him socially at the Oughton home?
A Yes, and at other places.
Q Socially or in business?
A Socially.

Q That is two or three years ago?
A When I first met him at that time probably four or five.

Q What is the last time you saw the defendant before you came here today?
A I saw him recently.

Q When was the last time you saw him before that?
A

Probably three or four months.

MR. WALLACE: That is all.

EDWARD F. A. G., of 200 West Washington Avenue, a witness called on behalf of the Defendant, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. GRANTHAUS:

Q Mr. Frame, what is your business?
A Salesman.

Q Where are you employed?
A Union Ward Paper Company.

Q How long have you been in their employ?
A About seven years.

Q Do you know the defendant, Patrick Sullivan?
A I do.

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

Q You know other people that know the defendant?
A I do.

Q Do you know his reputation for morality?
A I do.

Q Is it good or bad?
A Good.

Q How often have you seen Mr. Sullivan in the last two years?
A Possibly 20 or 30 times.

MR. GRANTHAUS: That is all.

DIRECT EXAMINATION BY MR. WALLACE:

Q Did he buy cards and paper from you?
A Paper, yes.

MR. WALLACE: That is all.

EDWARD M. L. A. S. S. G., of 107 West 104 Street, a witness called on behalf of the Defendant, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. GRANTHAUS:

Q What is your business?
A Manager of the Phoenix Apartment House.

Q Where is that?
A 107 West 104 Street.

Q Do you know the defendant Patrick Sullivan?
A Yes sir.

Q How long do you know him?
A About a year.

Q He formerly lived in your apartment?
A Yes.

Q How long ago?
A I should think he left there perhaps the latter part of April. I cannot give the date exactly.

Q Do you know other people that know Sullivan?
A Yes sir.

Q Do you know Mr. Sullivan's reputation for morality?
A Yes, I think I do.

Q No doubt about it?
A No, no doubt.

Q Is it good or bad?
A It is good as far as I know.

Q You never heard anything said against him?
A I never did.

MR. GRANTHAUS: That is all.

DIRECT EXAMINATION BY MR. WALLACE:

Q Your acquaintanceship with him merely consisted of the fact that you were superintendent of the house in which he lived?
A Yes, I am manager of the house.

Q Did you see him go in and out?
A Yes.

Q Were you socially acquainted with him; did you visit his apartment?
A No.

Q Have you done any business with him?
A Yes.

Q In what way?
A Collecting rent from him.

Q That is the only business you ever did with him?
A Yes.

Q Do you know, when he went in and out of the house he behaved himself?
A Yes.

Q That is the extent of your knowledge of him?
A Yes sir, he was a perfect gentleman in the house.

MR. WALLACE: That is all.

ALEXANDER DOWNS O'BRIEN, (which the witness says is his official name) true name, ALFRED DOWNS, of 2005 Fifth Avenue, a witness called on behalf of the defendant, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. GRANTHAUS:

Q What is your business?
A Well, I am an artist.

Q What kind of an artist, animated artist?
A Well, yes.

Q Where were you employed in the month of April, 1917?
A I think I was engaged with the firm "Hutton" in the Gray Building, 20th Avenue, about that period.

Q When did you enter Sullivan's employ?
A I am not exactly in his employ. I worked in collaboration with Sullivan.

Q Where was your office? Where did you do your work, in Sullivan's office?
A I don't think I was working with Sullivan just at that period but I frequently called to see Sullivan in the evening.

Q Do you know who he was? A "Following next door him."
Q That is the only business you ever did with him?
A Yes.

Q Do you know, when he went to and out of the house he became friendly? A Yes.

Q That is the extent of your knowledge of him? A The way he was a perfect gentleman in the house.

Witnessing that he did.

ALEXANDER DOUGLAS GORDON, (which the witness says is the witness name) was born, ALEXANDER DOUGLAS, at 2000 Fifth Avenue, a witness called on behalf of the defendant, being duly sworn, testified as follows:

EXHIBIT EXAMINATION BY MR. PROSECUTOR.

Q What is your business? A Well, I am an artist.
Q What kind of an artist, sculptured artist? A Well, yes.

Q Where were you employed in the month of April, 1937?
A I know I was engaged with the firm "Hartman" in the Goddard Building, 4th Avenue, about that period.

Q When did you enter Sullivan's employ? A I am not exactly in his employ. I worked in collaboration with Sullivan.

Q Where was your office? Where did you do your work, in Sullivan's office? A I don't think I was working with Sullivan just at that period but I frequently called on him Sullivan in the evening.

Q Did you know at that time a man named George Mackay?
A Yes, I knew of Mackay.
Q Did you ever have a conversation with him? A Just a casual conversation as one would in an office.

Q Do you remember the time Sullivan was arrested?
A Yes, of course, I was with Sullivan then, in that period.

Q Were you working for Sullivan at that time? A Collaborating with Sullivan.

Q What time you were there? A Yes.

Q How long do you know him? A I should say some seven possibly ten or twelve months.

Q How often, did Mackay ever have conversation with you in reference to Mr. Sullivan? A Well, there is one particular conversation. It was when I first visited Sullivan's place of business. I was leaving Sullivan's premises about a fifteen to the evening. I cannot give you the day but it would be about last March or April one evening. I met Mackay in the street and Mackay joined me there and I was accompanied by Mrs. Smith at the time. Mackay informed me that he had some acquaintance or dialogue or was with Sullivan. He walked down as far as Broadway, then he continued to walk down as far as 4th Avenue. Right on the corner of the street he stopped Sullivan as a liar.

Q What did he say? A Liar and blackguard and rogue, and that sort of thing. He told me he had a dialogue with Sullivan.

Q Did he tell you about Mackay? A I think he referred to some black ball enterprises, they had been working at some date or another many years ago, some old standing affair of their own.

Q Did you ever have any other talk with Mr. Mackay where Mr. Sullivan's name was mentioned? A Allow me to continue. After recognizing him as a blackguard and a rogue and that sort of thing, he said he would wait for his revenge, he would be coming at you, he would have revenge on Sullivan for some wrong or another which I have nothing about. Anyway he said he would see him, Sullivan, at some day, at some period.

Q That conversation you say was some where in secret? A Sometime around March or April, one evening. I remember it was winter time as it was raining and cold.

Q Did you see Mackay at any time while Sullivan was confined in prison? A He used to visit frequently and he had no conversation with me at any time during that period. He came in and out of this place or business.

MR. PROSECUTOR: That is all.

EXHIBIT EXAMINATION BY MR. PROSECUTOR.

Q How long have you known the defendant "Sullivan"? A Well, I knew of Sullivan for many years but I have known him personally for some time past.

Q Did you know him in the old country? A In England, no.

Q How long have you known Mackay? A Since I have been associated with Sullivan's place of business.

Q Where you were associating with Sullivan, that is some time in March or April, 1937? A I should imagine that would be about it.

Q The next time you had any information that there was any trouble between Sullivan and Mackay was that one occasion when Mackay had had the following conversation with you, that was in March or April on a cold rainy night when Mackay, Mackay walked from the street? A Yes.

Q To the house? A Yes.

Q And at that time Mr. Mackay threatened the defendant as a blackguard and a liar and a low fellow? A Yes, words to that effect.

Q You gathered from his conversation that he was excited about it, a matter which excited, that Mackay had had a matter of people before? A Yes.

Q And it was still raining when he was walking right in March or April, 1937?

EXHIBIT EXAMINATION BY MR. PROSECUTOR.

Q Well, it was still raining when? A Yes.

Q And he at that time stated he would wait for years to have his revenge, is that not? A Yes.

Q And you went past and told Sullivan about it? A Yes, I don't think so. I don't think I made any reference to him.

Q How long have you known Clardy? A Since I have been associated with Sullivan's place at business.

Q Since you were associating with Sullivan, that is some time in March or April, 1917? A I should imagine that would be about it.

A The first time you had any information that there was any trouble between Sullivan and Clardy was that one occasion when Clardy had one of the following conversations with you, that was in March or April on a cold rainy night when Clardy, you and Rayth walked from the studio? A Yes.

Q To the Avenue? A Yes.

Q And at that time Mr. Clardy stigmatized the defendant as a blackguard and a liar and a few other things? A Yes, words to that effect.

Q You gathered from his conversation that he was excited about it, a little small sketch, that they had had a number of years before? A Yes.

Q And it was still exciting him on a cold rainy night in March or April, 1917?

Objected to and question withdrawn.

Q Well, it was still exciting him? A Yes.

Q And he at that time stated he would wait for years to have his revenge, is that so? A Yes.

Q And you went back and told Sullivan about it? A So, I don't think so. I don't think I made any reference to

Sullivan about the conversation. I thought it was an affair entirely their own. I may have mentioned it at a later date.

Q You did not warn him that this revengeful person was on his trail? A I had no interest in the matter.

Q What is the sum total of your acquaintance with George Clardy? A That is about all.

Q You had no other conversation with him about Sullivan? A No, not in reference to this case.

Q Where you in the office of Sullivan during March or April, 1917, as frequently? A So, just occasionally at an evening.

Q While Clardy was there? A No, I don't think Clardy would be, only perhaps once or twice.

MR. WALLACE: That is all.

MR. GOSSETT: That is my case, outside of the doctor. I expect him here.

THE COURT: We will take a recess until half past one. Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you.

THE COURT: Takes a recess till half past one o'clock.

TRIAL CONTINUED.

1:30 P.M.

WILSON CHASES, recalled by Mr. Wallace in rebuttal, testified as follows:

RECALL BY MR. WALLACE:

Q Witness, during the recess you had a conversation with me in my room? A Yes sir.

Q With me and Mr. Butts, Mr. Cooper and the Assistant District Attorney Levy? A Yes sir.

Q Do you now wish to correct the testimony that you have given previously in this trial? A Yes sir.

Q You will recall that you were asked concerning the Eve Day of April, 1917? A Yes sir.

MR. GOSSETT: I object to this, your answer, it is not rebuttal.

THE COURT: What do you want to correct? What did you say before that you desire now to correct?

A About taking up Miss Thomas, I said that it was Miss Thomas that went up with me, Sullivan.

Q Now do you want to change your testimony in that regard? A I don't remember really now it was that went up with Mr. Sullivan.

BY MR. WALLACE:

Q When you say you don't remember who it was, do you mean that, or did you mean that you remember that it was some unknown girl but not Miss Thomas?

Objected to and objection sustained.

Q Was it Miss Thomas you took up on that occasion or some woman that you do not now know? A Some woman that I do not know.

BY MR. GOSSETT:

Q You don't know whether it was Miss Thomas or any other woman? A Yes.

Q You don't remember who it was? A No sir.

Q You suggested that you should go up to the District Attorney's office? A Mr. Wallace asked me to come up with him.

Q You went up there with the detective? A Mr. Wallace, Mr. Cooper and Mr. Butts.

Q Who else? A That is all and Mr. Levy came in afterwards.

MR. GOSSETT: That is all.

MR. WALLACE: In response to the question of Mr. Gossett the issue is again confused, your honor.

BY THE COURT:

Q As you sit there are you able to say whether Miss Thomas was the woman who went up on the elevator with you? A No sir, I am not.

Q When you say you are not, what do you mean by that? A I don't remember who it was that I took up.

BY MR. WALLACE:

Q You know Miss Thomas quite well? A Yes sir, I do.

Q Was it Miss Thomas or not? A It was not Miss Thomas.

Q It was not Miss Thomas? A Yes sir.

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BY MR. CHASE:

Q You don't know whether it was Miss Thomas or any other woman? A Yes.

Q You don't remember who it was? A No sir.

Q Who suggested that you should go up to the District Attorney's office? A Mr. Wallace asked me to come up with him.

Q You went up there with the detective? A Mr. Wallace, Mr. Cooper and Mr. Raine.

Q Who else? A That is all and Mr. Levy came in afterwards.

MR. CHASE: That is all.

MR. WALLACE: In response to the question of Mr. Chase, the issue is again confused, your honor.

BY THE COURT:

Q As you sit there are you able to say whether Miss Thomas was the woman who went up on the elevator with you? A No sir, I am not.

Q When you say you are not, what do you mean by that? A I don't remember who it was that I took up.

BY MR. WALLACE:

Q You know Miss Thomas quite well? A Yes sir, I do.

Q Was it Miss Thomas or not? A It was not Miss Thomas.

Q It was not Miss Thomas? A Yes sir.

Q It was some other girl, it was not Miss Thomas? A No sir, it was not Miss Thomas.

Q You are sure it was not Miss Thomas? A Yes sir.

Q Because you know Miss Thomas?

Objected to and objection sustained.

Q Why did you say it was Miss Thomas when you were on the stand before?

Objected to and objection sustained.

MR. WALLACE: This young man having apparently and deliberately made a statement I want to give him a chance to correct it and give his explanation.

MR. CHASE: I object to that remark, that is unfair to say in front of these jurors.

THE COURT: I think I will let it go at that. He does not want to know why.

MR. WALLACE: That is all.

MRS. MARGARET SULLIVAN, recalled on behalf of the People, testified as follows:

BY MR. WALLACE:

Q How long did you live, Mrs. Sullivan, at 910 Columbus Avenue? A Well, I don't know just how long we lived there.

Q How long did you live there?

MR. CHASE: Objected to. He has been over that. It is not relevant.

THE COURT: Objection sustained.

Q Under what name were you known at 910 Columbus Avenue?

MR. CHASE: Objected to, no foundation laid for it.

THE COURT: Objection sustained.

Q What was your real name when you lived at 910 Columbus Avenue? A Thomas.

Q Your real name was Thomas? A Thomas.

Q Isn't it a fact your name is Gallagher? A Yes.

Q Then your real name is not Thomas? A No.

Q What is your real name, or what was your real name at that time? A My real name was Gallagher.

Q Why did you say Thomas? A Well, that was just a stage name I had, and I was known by that name and I thought there was no reason why I should not give the name of Thomas I was married under my real name, Gallagher.

Q How long were you engaged to the defendant?

Objected to and objection sustained.

D. H. HERBERT L. CONSTABLE, of 100 West 59 Street, a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CHASE:

Q What is your occupation or profession, Doctor? A Physician.

Q For how long a time are you engaged in that profession?

A Since 1905, 25 years.

Q Where is your office? A 180 West 58 Street.

Q Where was your office in April or May, 1917? A The same place.

Q Do you know the defendant, Patrick Sullivan? A Very well.

Q How long have you known him? A Seven or four years.

Q Do you know him socially and in a business way? A In a way.

Q Do you remember receiving a telephone communication from Sullivan in or about the latter part of April or May part of May? A Yes, which one do you mean? - In or to some place?

Q Regarding the bringing the girl to your office.

A Yes sir.

Q Did you make an arrangement with Sullivan that he was to bring the girl to your office for examination? A Yes sir.

Q And do you remember what day it was? A No.

Q Did you make an appointment? A He was to come there by six. He had an appointment to meet her around six. I told him I would wait for him until he got there.

Q How long did you wait? A Until seven o'clock.

Q Did Mr. Sullivan or the girl appear? A No sir.

Q Did you render your bill to Sullivan? A I have not yet.

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Q "Where is your office?" A 180 West 26 Street.
Q Where was your office in April or May, 1937? A The same place.
Q Do you know the defendant, Patrick Sullivan? A Very well.
Q How long have you known him? A Three or four years.
Q Do you know him socially and in a business way? A Yes sir.
Q Do you remember receiving a telephone communication from Sullivan in or about the latter part of April or any part of May? A Yes, which one do you mean? - to go to some place?
Q Regarding the bringing the girl to your office.
A Yes sir.
Q Did you make an arrangement with Sullivan that he was to bring the girl to your office for examination? A Yes sir.
Q And do you remember what day it was? A No.
Q Did you make an appointment? A He was to be there by six. He had an appointment to meet her around six. I told him I would wait for him until he got there.
Q How long did you wait? A Until seven o'clock.
Q Did Mr. Sullivan or the girl appear? A No sir.
Q Did you render your bill to Sullivan? A I have not yet.

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Q Did you give him a bill? A Yes.
Q How much was it? A \$5.
Q During the three or four year that you have known Sullivan how often have you seen him or seen in his company?
A At times every day, and very frequently at all times.
Q Are you acquainted with people that know Mr. Sullivan?
A Yes sir.
Q Do you know his reputation for morality? A Yes sir.
Q Is it good or bad? A Good.
Q Did you ever hear anything said against Mr. Sullivan regarding his character? - A I never have.
Q Am a quiet and peaceable man? A I never have.
MR. GREENSTEAL: That is all.
CROSS EXAMINATION BY MR. WALLACE:
Q How many times have you treated Sullivan? A I suppose fifty or sixty times, at least.
Q Is he a pretty sick man? A Heart trouble, yes sir, nervous.
Q How old is he? A "hat I don't know.
Q Did you ever treat any young ladies for him? A No.
Q Did you ever treat any girl at 110 Street for him?
A No sir.
Q Or in Manhattan Avenue? A No sir.
Q Or in Columbus Avenue? A No sir.
Q You are his regular doctor? A Yes sir.

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Q So far as you know he is all right? A Yes sir.
MR. WALLACE: That is all.
ALBERT FUCHS A. S., of 46 West 119 Street, a witness called on behalf of the defendant, being sworn, testified as follows:
DIRECT EXAMINATION BY MR. GREENSTEAL:
Q What is your business? A I am with the Universal Film Company.
Q Where is your place of business? A 1800 Broadway, New York.
Q Do you know the defendant, Patrick Sullivan? A I do.
Q Your firm was doing business with Patrick Sullivan?
A Yes.
Q For how long a time? A Well, between a year and two.
Q You are still continuing to do business with him?
A Yes.
Q How long do you know Sullivan personally? A A little over a year, I should say.
Q Do you know other people that know Sullivan? A Yes.
I do.
Q Do you know his reputation for morality? A Yes.
I do.
Q Is it good or bad? A Good.
Q Did you ever hear anything said against Sullivan's character? A Not to my knowledge.

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Q Never at any time? A Never.
MR. GREENSTEAL: That is all.
CROSS EXAMINATION BY MR. WALLACE:
Q Did you ever hear he took any girl up to his flat?
A I heard it lately.
Q How did you come in contact with Sullivan? A He is doing work for the Universal.
Q And you are a business connection of his? A Yes, I know him socially, too.
Q Did you ever call at his house? A Several times.
Q So far as you know he is all right? A As far as I know, yes.
MR. WALLACE: That is all.
MR. WALLACE: The People rest.
MR. GREENSTEAL: The defendant rests.
MR. GREENSTEAL: I ask your honor at this time on all the evidence adduced on behalf of the prosecution and the defendant, that your honor advise the jury to acquit this defendant.
THE COURT: Motion denied.
MR. GREENSTEAL: Exception, if your honor please.
MR. GREENSTEAL: came up to the jury.
MR. WALLACE: came up to the jury.
~~THE COURT: The jury, very polite and pleasant and did the defendant's duty, as they are all agreed to do.~~

Q Never at any time? A Never.

MR. GONSTHAL: That is all.

CHARGE EXAMINATION BY MR. WALLACE:

Q Did you ever hear he took any girl up to his flat?
A I heard it lately.

Q How did you come in contact with Sullivan? A He
is doing work for the Universal.

Q And you are a business connection of his? A Yes,
I know him socially, too.

Q Did you ever call at his house? A Several times.

Q So far as you know he is all right? A As far as I
know, yes.

MR. WALLACE: That is all.

MR. WALLACE: The People rest.

MR. GONSTHAL: The defendant rests.

MR. GONSTHAL: I ask your honor at this time on all
the evidence, adduced on behalf of the prosecution and the
defendant, that your honor advise the jury to acquit
this defendant.

THE COURT: Motion denied.

MR. GONSTHAL: Reception, if your honor please.

MR. GONSTHAL: Wrote up to the jury.

MR. WALLACE: Wrote up to the jury.

~~THE COURT charges the jury, very briefly and to the point
and find the defendant guilty of rape in the second
degree.~~

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THE COURT'S CHARGE TO THE JURY.

THE COURT: The defendant Patrick Sullivan, gentlemen
of the jury, is charged with the crime of rape in the second
degree, also with the crime of assault in the second
degree and also with the crime of abduction. In order
to simplify the issue presented to you, I have concluded to
withdraw from your consideration the counts charging the
crime of assault in the second degree and the count charging
abduction, and to submit this case to you under the
first count in the indictment, namely, that which charges
the defendant with the crime of rape in the second degree.
The other two counts are not withdrawn because of any belief
on the part of the Court that you might not properly con-
sider under them in the light of the evidence adduced up-
on this trial the question of the defendant's guilt of
those crimes. As stated, they are withdrawn only in order
that the issue in reality presented by the evidence may
be somewhat simplified in your consideration of the case
by leaving you to determine as the only question whether
or not the defendant is guilty of the crime of rape in the
second degree.

The law which defines that crime is couched in very

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simple and plain language. Omitting certain words from
the definition not necessary to be considered, you are
told that a person who perpetrates an act of sexual inter-
course with a female not his wife under the age of 18
years under circumstances not amounting to rape in the
first degree is guilty of rape in the second degree.
Broadly speaking the crime of rape in the first degree
which is regarded as the graver crime from certain stand-
points is distinguished from the crime of rape in the
second degree in that in the crime of rape in the first
degree there is the element of force or violence. The
theory of the law is that a person may have sexual inter-
course with a woman over 18 years of age if she consents
to such intercourse being had, without subjecting himself
to criminality under the statute which defines the crime
of rape in its first degree, but that contrariwise where
the woman is under the age of 18 years it is criminal for
one who is not her husband to perpetrate an act of sex-
ual intercourse with such person, and criminal irrespec-
tive of whether such person offers resistance or is
willing that the act should be perpetrated. In other
words, the law is based upon the proposition that public
policy is against the perpetration of an act of sexual
intercourse by a man upon a woman under the age of 18
years who is not his wife, whether she is willing or not

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that it should be perpetrated. Recurring again, and
reading for the second time the words of the law which
define the crime of rape, you are told that it is the
law that a person who perpetrates an act of sexual inter-
course with a female not his wife under the age of 18
years under circumstances not amounting to the crime of
rape in the first degree is guilty of the crime of rape
in the second degree. It makes no difference whether
the person upon whom the act was perpetrated, that
may be the female, at the time when it was perpetrated, was
a girl of chastity or one impure and immoral, and the cir-
cumstances which otherwise might have if testimony was
adduced upon it at a trial would be affecting the degree
of sentence which otherwise might attach to the statements
of such a girl as a witness in her own behalf. In other
words, it is immaterial that the jury may be satisfied that
the law testifying to the commission of such an act was
an immoral girl and not been an immoral girl prior to the
state referred to that they might discredit her story,
that if they credited her story and the other elements
were established required by the law they would be bound
to return, if true to their verdict, a verdict of guilty.
In this case it is a matter of common sense that the
complaining witness on the 18th of April last was under
age of 18 years, and beyond the prosecution and the test

that it should be perpetrated. Assuming such, and reading the record, the words of the law which define the crime of rape, you are told that it is the law that a person who commits an act of sexual intercourse with a female not his wife under the age of 18 years under circumstances not amounting to the crime of rape in the third degree is guilty of the crime of rape in the second degree. It asked us to determine whether the person upon whom this act was perpetrated, that is to say the female, at the time was 18 years of age, and was a girl of chastity or was before and married, and the only finding that circumstances would have if testimony was adduced upon it at a trial would be affecting the degree of evidence which otherwise might attach to the statements of such a girl as a witness in her own behalf. In other words, it is reasonable that jury was satisfied that the one testifying to the commission of such an act was an honest girl and had been an honest girl prior to the whole referred to that they would disregard her story, that if they credited her story and the other elements were established required by the law they would be bound to return, at once to their seats, a verdict of guilty.

In this case it is a matter of common sense that the complaining witness on the night of April 19th was under the age of 18 years, and beyond the commission and the testimony

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may in that regard you have the right to judge of the girl's age by her appearance as a witness on the stand. It is not a matter of dispute that on April 19th last the complaining witness was not the wife of the defendant and the time in this case is simply and solely this: - Did the defendant on April 19th, 1937, perpetrate an act of sexual intercourse upon the complaining witness, so that when you desire to deliberate, it is to that question that you will address yourselves.

It is the law that in connection the rape can be laid upon the testimony of the female testified unsupported by other evidence. I need not say, you must take the testimony of the complaining witness and in the event that you believe it, you say to yourselves that she has told you the truth that this defendant did perpetrate an act of sexual intercourse upon her upon April 19th, 1937, you then ask yourselves whether outside of and apart from her testimony there is corroborative evidence. - That is to say, testimony that supports what she has said.

It is the intention of the People that in this case there is such corroborative evidence, and the People contend in that respect in part at least, that such corroborative evidence is found in an alleged statement that has been made by the defendant to the witness clearly, in part by the testimony of Dr. 1937, and in part by the testimony

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in the case that the complaining witness was not over the age of 18 years but was under the age of 18 years on April 19th last, and in part by the evidence that on that day she was not the wife of the defendant. That is, some corroborative evidence whether consisting of facts or admissions must at least be of such a character and quality as to produce the guilt of the accused by connecting him with the crime. The corroborative must extend to every material fact essential to constitute the crime.

A good deal of testimony was received in this case offered on behalf of the defendant bearing on the alleged chastity of him of the witness clearly. That testimony is only to be considered in connection with the prosecution as to what evidence, that is to say, what belief you will attach to the evidence of clarity.

This is a criminal action. The defendant is a criminal action he proposed to be innocent until the contrary be proved, and in case of a reasonable doubt as to whether the guilt is satisfactorily shown he is entitled to an acquittal.

The burden of proof is upon the prosecution. That burden requires that before you can lawfully find the defendant guilty you must be satisfied from the evidence beyond any reasonable doubt of his guilt. And every doubt is a reasonable doubt. It is only a reasonable

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doubt which warrants and requires a verdict of not guilty, in the absence of an affirmative belief based upon the evidence that a defendant is innocent and not guilty. A reasonable doubt is a doubt that is founded on reason. A doubt that is founded by reason. It is not a wish, it is not a suspicion, it is not the notion of unreasonable sympathy. If you believe the defendant to be innocent you will acquit him. If you entertain a reasonable suspicion that you will acquit him, but if you do not believe you have no reasonable doubt that he is guilty of the crime of rape in the second degree as charged in this indictment you will find the guilty of the crime of rape in the second degree.

Now you the exclusive jurors of the State, where was the defendant at about 10 o'clock on Monday evening, April 19th last, and thereafter until the following Monday were you at about half past nine in front of the premises on West Street, a man in white he said he was accompanied by the complainant and her suspension did he have a talk with the witness Gladys at those premises at about that hour, and did he after that talk and a little later leave the witness Gladys Solinsky, who is the complainant, from those premises to Dr. 1937 Madison Avenue, and did he there at some time between that hour and Monday night and Monday morning perpetrate an act of sexual intercourse

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doubt which warrants and requires a verdict of not guilty. In the absence of an affirmative belief based upon the evidence that a defendant is innocent and not guilty. A reasonable doubt is a doubt that is founded on reason. A doubt that is sustained by reason. It is not a whim. It is not a caprice, it is not the notion of unreasonable sympathy. If you believe the defendant to be innocent you will acquit him. If you entertain a reasonable doubt regarding his guilt you will acquit him, but if on the evidence you have no reasonable doubt that he is guilty of the crime of rape in the second degree as charged in this indictment you will find him guilty of the crime of rape in the second degree.

You are the exclusive judges of the facts. Where was the defendant at about 10 o'clock on Sunday evening, April 25th last, and thereafter until the following Monday morning? Was he at about half past nine in front of the premises on 43rd Street, a room in which is said to have been occupied by the complainant and her companion; did he have a talk with the witness Gladys at those premises at about that hour, and did he after that talk and a little later take the witness Alice McCleary, who is the complainant, from those premises to No. 10 Manhattan Avenue, and did he there at some time between that hour on Sunday night and Monday morning perpetrate an act of sexual intercourse

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upon the complaining witness in that apartment? Or was this defendant at about the hour first named in a room occupied by the witness Edyth and his wife, and did he thereafter go from that room to the apartment house where he, the defendant, lived accompanied by the witness who afterwards became the defendant's wife? In other words, to restate the initial question, did the defendant during the night of April 25th last in his apartment at No. 10 Manhattan Avenue perpetrate an act of sexual intercourse upon the complaining witness Alice McCleary? Certain witnesses have testified that that they were acquainted with the defendant, that they knew his reputation for morality, and that that reputation was good. That is spoken of sometimes, - that kind of evidence, - as character evidence. The Court of Appeals has held that in certain cases evidence of good character may create a reasonable doubt where but for the introduction of such evidence no doubt would exist in the minds of the jurors. That statement does not mean that jurors are required to doubt the guilt of a defendant because of the introduction of testimony of that kind. Despite the introduction of testimony of that kind a jury may be satisfied beyond a reasonable doubt of the defendant's guilt. That the Court of Appeals means is that in determining the question of the defendant's guilt, evidence

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of that kind is to be considered and is to be given such weight, if any, as in the opinion of the jury is the light of all the evidence in the case, it is entitled to. Now you may retire.

Jury retire and return and render a verdict finding the defendant guilty of rape in the second degree.

The defendant reserves all rights to make any motion until June 26th, to which date the defendant is remanded for sentence.

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