

START

2551

CASE

1732

CASE #2551

- I N D E X -

	Direct	Cross	Redirect	Recross
Isabella Goodwin	2	20	28	39
Adele D. Priess	31			
Otto H. Schultze	36			
Adele D. Priess	45			
Otto H. Schultze	47	51		
Adele D. Priess	52	58	62	
Bertha Schmulenson	65			

CASE # 2551

- I N D E X -

	Direct	Cross	Redirect	Recross
Bertha Schmulenson	76	81	107	109
Josephine Ehrlich	111			
Bendit Nelson	115	117	125	125
Josephine Ehrlich	126	131		
Frieda Schifrin	147	149	150	150
Tillie Feinberg	153	155		
Bessie Schmulenson	159	165	183	
Isaac Naiburg	186	187		
Paul Harrison	189	189		
Isabella Goodwin	192	193	195	

CASE #2551

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

3048

-----X
THE PEOPLE

Before:

-against-

Hon. Charles C. Nott, J.,

BERTHA SCHMULENSEN.

and a Jury.
-----X

New York, January 10th, 1919.

Indicted for Attempted Abortion.

Indictment filed August 28th, 1917.

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A P P E A R A N C E S :

ASSISTANT DISTRICT ATTORNEY LEWIS ABRAMS, for the People.

MESSRS. ALEXANDER KAMINSKY and NICHOLAS ALEINIKOFF, for
the Defense.

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Transcript of Stenographer's Minutes.

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Frank S. Beard,
Official Stenographer.

CASE #2551

THE PEOPLE'S TESTIMONY.

I S A B E L L A G O O D W I N, of Police Headquarters, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Mrs. Goodwin, as I ask you questions, will you talk so that your voice reaches me, and in that way all the gentlemen in the box will hear you? A Yes, sir.

Q What is your full name? A Isabella Goodwin.

Q Are you a member of the Metropolitan Police Force of the City of New York? A I am.

Q And how are you graded? A Acting Detective Sergeant, First Grade.

Q And how long have you been connected with the Police Department? A Going on twenty-three years.

Q Are you a married woman? A I have been. I am a widow.

Q Have you a family? A Yes, I have had six children.

Q Do you recall the 21st day of August, 1917? A I do.

Q Do you know the defendant, Bertha Schmulenson? A Yes, sir.

Q Had you ever known her prior to that time? A I had not.

Q Now, did you visit the premises of Bertha Schmulenson?

A I did.

Q At 204 East Broadway? A Yes, sir.

Q Did you see her there that day? A Yes, sir.

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

Q Were you accompanied by anybody? A Yes, sir.

Q Who? A By then detective Adele D. Priess.

She was a detective at that time. She is doing welfare work at the present time, and she is now designated as matron.

Q But at that time she was also a detective of the Police Department? A She was.

Q Now, did you have any conversation with Mrs. Schmulenson?
A Yes, sir.

Q Will you tell us exactly what transpired between you; all that you said, and that she said? A We walked up three flights of stairs, and knocked at the door -- Detective Briess and myself -- and the door was opened by the defendant, to whom Mrs. Priess introduced me.

Q Let me ask you this. Do you know whether or not Mrs. Priess had been there prior to your visit? A Mrs. Priess had made arrangements, ---

MR. KAMINSKY: I object to that.

THE COURT: Yes; sustained.

BY MR. ABRAM:

Q Do you know whether or not Mrs. Priess had seen the defendant before you saw her on that occasion?

MR. KAMINSKY: Objected to.

THE COURT: I will allow that if she can testify to that of her own knowledge.

A Mrs. Priess said, "This is the woman whom I spoke to you about before," and she told the defendant my name was Mrs. Johnson,

1737

PAGE 17-2551

and the defendant invited us in, and told us to be seated.

She asked me how old I was, and I told her I was thirty-eight, and she asked me if I had any children, and I said I had two children, aged two and seven.

And she also spoke of a Mrs. Smith, who, we had said, had recommended us.

Q You told her that you had been recommended by Mrs. Smith?

A Yes, sir.

Q And when you said your age was thirty-eight, that was not true; was it? A It was not.

Q When you said you had only two children, that was not true; was it? A No, I had no children two and seven.

Q And when you said your name was Johnson, was that true?

A No, sir. And I told her I had my last menstruation on the 7th of July, and she said she would have to examine me.

And I said to her, "Do you put something into the womb, do you put anything into the womb?" And she said, "No, I clean you out, and let you take it home in a bottle."

She then took me into a hall bedroom, and told me to lie upon the bed, which I did.

She placed her finger into the vagina, pressing on the uterus, and with the other hand pressing forcibly outside of the abdomen.

We returned to the room in which Mrs. Priess was, and she said to Mrs. Priess, --- said to me, in the presence of Mrs. Priess, "You are five weeks pregnant."

Q Five weeks pregnant? A Yes, sir. "I will not be able to do something for you now. You will have to come back in about three quarters of an hour."

Q Pardon me. You told her that you had last menstruated on July 7th? A Yes, sir.

Q And then considering the date that you went there, August 30th, that would make it five weeks, would it not? A Yes, sir. And she said, "You will have to pay me twenty-five dollars." And I gave her fifteen dollars in the presence of Mrs. Prieess, and we left the premises."

Q And was anything said about when you were to return? A Yes, sir, in three quarters of an hour.

Q And you say you gave her fifteen dollars then? A Yes, sir.

Q And did you return in three quarters of an hour? A Yes, sir.

Q Now, tell us what happened then? A At that time she told me to go into the kitchen with her, and remove all of my clothing. She said, "Even your stockings, because I might get blood on them, the stockings."

I took off everything, my shoes and stockings and everything but a union suit.

She told me to take off everything but my shirt, and I said I had a union suit on, and she said I should keep that on. And she removed part of her clothing.

Then she told me to get up on a --- she then told me to drink a liquid which she offered me, and I told her I was afraid to drink it, because I had just eaten some pears, and I was afraid

CASE #2551

1739

1740

CASE #2551

it would upset my stomach.

Q Was that the fact, that you had eaten some pairs? A Yes, I had eaten pairs, but I didn't want to drink the medicine.

Q So you refused to drink the medicine which she offered you? A Yes, sir. The medicine is here, in this package (indicating). She then told me to get up on a round extension table, which I did. She douched the vagina with hot water.

She then took the glass attachment, with which she had douched me from the rubber tube, and put a steel instrument on the rubber tube.

She then took a speculum, and touched -- and by touching the vagina, the speculum is inserted, the vagina being an open space -- she touched the vagina with the speculum, on which I made a little noise, and got off the table, and that was the signal for Mrs. Priess.

I neglected to state that I went in there and said to Mrs. Priess, "See how I am. I am in my union suit."

And I heard Mrs. Priess say that she was going to give the defendant ten dollars, but I didn't see her give it to her.

Q You didn't see Mrs. Priess give the defendant the ten dollars? A No, sir.

Q Now, after the defendant touched your vagina, and inserted slightly the speculum you speak of, and you made the noise, what happened then, when the signal was given? A In a very few minutes, two detectives came in, Detectives Fehrentz and Sayer, they entered, and placed the defendant under arrest.

Mrs. Priess found the twenty-five dollars, which the defendant had ---

BY MR. KAMENSKY:

Q Did you see it found? A I did.

Q Was it found in your presence? A It was in my presence, yes. In that little Bedroom, on a washstand.

BY MR. ABRAMS:

Q Have you the twenty-five dollars? A The bedroom was between the front room where Mrs. Priess was sitting, and the room in which I had been with the defendant.

Q (Question repeated) A Yes, that is the mark that Mrs. Priess put on, her initials, P. (Indicating).

Q Now, prior to going to Mrs. Schmulenson's house, and before giving her any money, did you place any initial or mark on any of the money which you intended to pay her? A Mrs. Priess marked the money with her initials.

BY THE COURT:

Q Where did you say the money was found? A On the top of a washstand in the middle room, bedroom.

BY MR. ABRAMS:

Q Will you show us please, where this mark is that you referred to? A Here is one mark, right here (indicating).

Q You refer now to the initial P., in blue ink, on the bosom of Abraham Lincoln's shirt (indicating the bill)? A Yes. They are all marked on the pictures there.

Q That is marked on a five dollar bill; is that correct?

1741
CASE #2551

A Yes, sir.

Q And the letter P. is also marked on the two ten dollar bills, on the stock in the portrait of Jackson? A Yes, sir.

Q Now you say that the twenty-five dollars was found on the top of a washstand? A Yes, sir.

Q And were you there when it was found? A Yes, sir.

Q Who got it? A Mrs. Priess. These other instruments I found on a chair by the table (indicating).

MR. KAMINSKY: Now I object to the witness volunteering any information without any questions.

THE COURT: Yes. Just ask her questions, and let her answer them.

MR. KAMINSKY: And I object to this display before the jury of articles and appurtenances, without any warrant for the display of the same, as far as I can see.

THE COURT: Well, unless they are to be offered in evidence, they should not be displayed. Are they to be offered in evidence?

MR. ABRAMS: Indeed they will be offered in evidence, sir. I am just trying to separate the exhibits, which I had never seen until this moment.

MR. KAMINSKY: Couldn't they have been distributed upstairs?

MR. ABRAMS: No, because I never saw them before this moment.

MR. ABRAMS: I offer this money, twenty-five dollars, in evidence, if your Honor please.

MR. KAMINSKY: No objection.

1742

CASE #2551

(Marked People's Exhibit 1.)

Q Mrs. Goodwin, are you able to designate which of these two bottles contains the medicine which was offered to you?

A Yes, that far bottle there (indicating).

Q Do you know what it contains? A No. I only recognize the smell.

Q Do you recognize the smell? A Yes. She poured some of that into a cup, and some water, and offered it to me.

Q From this bottle (indicating)? A Yes, sir.

Q And have you had this bottle continuously in your possession ever since? A No, property clerk had it.

Q And you brought it down here in the same package?
A Yes, sir.

MR. ABRAMS: I offer the bottle in evidence.

MR. KAMINSKY: Let me look at it.

THE COURT: Any objection?

MR. KAMINSKY: Why, no, not at this time.

BY MR. ABRAMS:

Q Do you know what that bottle contains, Mr. Goodwin?

A No, sir.

Q But you recognize it by its distinctive smell?

A Yes, sir.

BY MR. KAMINSKY:

Q Is that the only way you recognize it?

MR. ABRAMS: Now, pardon me. I am examining.

THE COURT: Yes, one at a time.

BY MR. ABRAMS:

Q And you have had that bottle in your possession, or rather, it has been in the possession of the property clerk ever since the arrest of the defendant? A Yes, sir.

MR. KAMINSKY: May I examine her now as to the bottle, before it is admitted in evidence?

THE COURT: I asked you if you had any objection, a little while ago, and you said you had not, but I will permit you a brief examination as to the bottle now.

BY MR. KAMINSKY:

Q Have you had the contents of the bottle analyzed? A No, sir.

Q And what smell do you recognize? A IT smells like aromatic spirits of ammonia.

MR. KAMINSKY: That is all. I have no objection to its going in evidence, your Honor.

(It is marked People's Exhibit 3.)

BY MR. ABRAMS:

Q Then you did not take any of it, did you? A I did not.

Q Now you spoke of being douched? A I did.

Q Do you know what was used for that? A No.

Q Was there any pan or pot, or vessel or instrument used?

A Oh, I thought you meant did I know what was put in the water.

Q No. Is this the douche (indicating)? A Yes, sir.

Q I notice in this vessel there is some cotton. That was not in there at the time, was it? A No, sir.

Q That was placed in there when you took it? A Yes, sir.

CASE #2551

Q And you say that this is the can or vessel that was used? A Yes, sir.

Q And you say when the douche was used, it had a glass tube on it? A Yes, that tube was attached to it (indicating).

Q Well, was the glass tube attached to the top of this rubber tube, or where? Or how was it attached? A I couldn't tell you how it was attached, but after that was removed, this steel instrument was put on.

Q Oh, I see. Then at the time the douching was done, this steel instrument was not on there; is that right? A No, I saw the defendant attach that afterwards.

Q Now, I am showing you this arrangement, and I am asking you whether it looked as it does now, when you were being douched? A Yes sir, about that.

MR. ABRAMS: And I offer in evidence the douche pan, with the glass top.

MR. KAMINSKY: No objection.

(Marked People's Exhibit 3.)

Q And you say, after the douching, the glass top was removed, and the steel instrument, which was on when I first showed it to you, was attached to it? A Yes.

MR. ABRAMS: And I ask that that be marked People's Exhibit 3-A.

THE COURT: It is received.

(Marked People's Exhibit 3-A.)

Q Now, you tell us that after the douching, this Exhibit

3-A was placed on Exhibit 3. And what did the defendant do with it then? A She attached that to the rubber tube.

Q Well, what did she do with it, after she attached it?
A I didn't see what she did with it after that.

Q Now I show you an instrument, and ask you whether you ever saw that before? A I did.

Q Do you know from your professional experience what this is called?

MR. KAMINSKY: I object to that as incompetent, immaterial and irrelevant.

BY THE COURT:

Q Well, have you seen instruments similar to that before?
A Yes.

Q How many? A A number, a large number.

Q During the twenty years of your experience on the police force? A Yes, sir.

THE COURT: I will allow it.

MR. KAMINSKY: Exception.

A Yes, sir.

BY MR. ABRAMS:

Q Well, what is this instrument which I show you?

A A speculum.

Q And do you know what it is used for?

MR. KAMINSKY: I object.

THE COURT: Well, you may ask her what that is used for, if she knows.

MR. KAMINSKY: I object to the question.

MR. ABRAMS: Question withdrawn.

Q Did you take this speculum from the premises of Mrs. Schmulenson? A I did.

Q Now, tell this jury, please, exactly what Mrs. Schmulenson did with this speculum, with reference to yourself? A I saw her hold it, and approach me, and touch,--thereby slightly inserting the speculum into my vagina, - my vagina.

Q And at the time she inserted this in your vagina, in what hand did she have it? A I am not positive.

Q Did she have any other instrument in her other hand at the time? A No, sir, I didn't see any.

Q She simply inserted it? A Yes, sir.

Q In this way or that way (illustrating)? A She just had touched me with it when I stopped it.

Q Just a slight insertion? A Yes, a very slight insertion.

Q Now, there are a number of steel instruments here, and I am going to ask you whether you know where they came from?

MR. ABRAMS: One moment. I offer in evidence the speculum, and I withdraw the other question for the time being.

MR. KAMINSKY: Now, I object to the mannerism of the District Attorney, testing the instruments on the point of his finger, evidently intending to show the jury whether they are sharp or not.

THE COURT: Yes, that should not be done.

1747
CASE #2551

Simply offer them in evidence, if you want to.

BY MR. ABRAMS:

Q I have here a number of instruments, and I ask you if you have ever seen them before? A I did.

Q Where? A In this Defendant's premises.

Q I show you several bottles, and ask you whether you ever saw them before? A Yes, sir.

Q Where? A In the defendant's premises.

Q Did you bring them here? A I did.

Q Do you know what is contained in the bottle I hand you (indicating)? A No, I don't know the contents of any of the bottles.

Q You don't know the contents of any of them? A No, sir.

MR. ABRAMS: I ask that these bottles be marked as one exhibit.

THE COURT: Wait a minute.

BY THE COURT:

Q Where were these bottles and instruments found? A They were all in her premises.

Q I know, but whereabouts? A Around the kitchen.

Q Well, were they in one place, or scattered around? A They were not all in one place.

Q Well, where were the bottles? A I don't remember at the present time.

Q Well, where were these steel instruments? A Some of them were on a chair alongside of the table upon which I was, and others

CASE #12551

of them we found in various parts of the premises.

Q You saw them when you returned the second time? When you came back the second time, you saw them when you saw the instruments? A Oh, yes. I didn't see them the first time at all.

Q When you came back to this apartment, the second time, some were on a chair, with some other instruments, near the table where you lay? A Yes, sir.

THE COURT: I will admit the instruments, but sustain the objection as to the bottles, in default of any proof as to the contents.

MR. ABRAMS: If your Honor please, I merely offer them for identification now.

THE COURT: Then the offer in evidence is withdrawn, and they may be marked for identification.

(They are marked People's Exhibit 5 for identification.)

BY MR. ABRAMS:

Q Now, Mrs. Goodwin, I will ask you to come down from the chair, and pick out the instruments that you remember seeing on the chair alongside of the table on which you were lying? A I can only point out the three instruments which I have just enumerated. The others I couldn't just say.

Q Were they lying there? A Some of them were, and others we found.

Q Do you know whether this box was lying there (indicating)? A That was not lying there. Mrs. Priess found that in a little suit case.

Q In a little suitcase? A Yes, sir.

Q And do you know whether or not these forceps were there?

A I couldn't say.

Q Were these instruments there (indicating)? A Some of them were.

Q Now, I show you one. Can you tell us what that is, if you know, please?

MR. KAMINSKY: I object to that, as there is no proper foundation laid.

THE COURT: Well, she said she saw it in the premises. But I sustain the objection, on the ground that there is no foundation laid as to her expert knowledge as to what it is.

BY MR. ABRAMS:

Q Mrs. Goodwin, in your experience of some twenty years in the Police Department, how many cases of this kind have you had, about?

MR. KAMINSKY: I object to that, on the ground that it is not the proper way of testifying as to her expertness in regard to medical instruments.

THE COURT: Objection overruled.

MR. KAMINSKY: Exception.

BY MR. ABRAMS:

Q Approximately? A About forty cases.

Q And during that time have you become familiar with, and acquainted with the various instruments that are used in midwifery? A I have a knowledge of some of them.

1750

CASE #2551

Q And are you able to tell us from your knowledge in that great number of cases what this instrument is, and what it is used for (indicating an instrument)? A I never saw one like that before.

Q Are you able to tell us from your knowledge of instruments what this instrument is used for? (Indicating another instrument)

A That is used to scrape the womb.

Q Is it known as a curet? A Yes, sir.

MR. KAMINSKY: Now, if your Honor please, I don't know how that proves her expertness, that she was in forty cases as a witness, unless she proves that she has a knowledge of such things.

THE COURT: Well, she says that she has become familiar with certain instruments, at least their names, and I will allow her to testify to the names.

MR. KAMINSKY: I respectfully except, if your Honor please.

BY MR. ABRAMS:

Q Do you know what this instrument is (indicating another instrument)? A That is either a catheter or a bougie.

Q Used for what? A For packing the womb.

Q Is it ever used for opening the womb? A Yes, sir.

THE COURT: Well, I do not think the witness is qualified to speak of all the uses of these instruments. I will ^{ask} ~~ask~~ her to tell the names. You can easily call a qualified expert on the subject.

MR. KAMINSKY: And I desire to interpose an objection to the entire line of testimony.

CASE #2551

THE COURT: Objection overruled.

MR. KAMINSKY: Exception.

BY MR. ABRAMS:

Q Do you know what the name of this instrument is (indicating another instrument)? A No, I don't.

Q Do you know what this is (indicating another instrument)?

A Packing scissors. I mean, --- I don't think I am so familiar with all those instruments as to give testimony. I don't feel justified as to that. But as to the speculum and the other things I have mentioned, I am.

MR. KAMINSKY: And therefore I move that her testimony be stricken out.

THE COURT: No, I will allow her to give the names of those that she does know.

MR. KAMINSKY: I take an exception.

BY MR. ABRAMS:

Q Are you able to tell us what this is used for (indicating another instrument)?

THE COURT: I suggest that you call someone else as to that, and not waste any more time on this point with this witness.

MR. ABRAMS: Very well, sir.

Q Some of these instruments were found on a chair alongside of the table on which you were? A Yes, sir.

MR. ABRAMS: I offer in evidence this bunch of instruments, steel instruments, which the witness testified were

1752

CASE #2551

lying alongside of the table upon which she was lying, on the day in question.

THE WITNESS: Mr. Abrams, I beg your pardon. I don't remember that all of those instruments were lying there.

Q Were some of them lying there? A Yes, sir. They were in the same premises, either in the little bedroom or the kitchen.

THE COURT: I will allow them.

BY MR. ABRAMS:

Q This box which I show you, which contains some instruments, do you know where that was found? A Mrs. Preiss found that in a little suitcase.

Q Where? A I don't know whether it was in the bedroom or where it was exactly.

Q But in the premises? A Yes, sir.

MR. ABRAMS: Then I offer all the instruments.

MR. KAMINSKY: Objected to.

BY THE COURT:

Q Did you see her find it? A Yes, sir, I saw her take it out of a very small suitcase.

THE COURT: Well, I think it may be marked for the present for identification, until the suitcase is proved to belong to the defendant.

MR. ABRAMS: Then I will exclude the box from the offer, for the present, and I will just offer the instrument.

(Marked People's Exhibit 5.)

Q This cotton that I show you, where was that cotton

taken from? A That was in the kitchen.

Q Alongside of your table? A Somewhere around there.

MR. ABRAMS: I offer it in evidence.

(Marked People's Exhibit 5.)

THE WITNESS: I am not positive whether any of those instruments --

THE COURT: Now wait a moment, Mrs. Goodwin, while the exhibit is being marked.

BY MR. ABRAMS:

Q What were you going to say? A I am not positive whether any of them were in the bedroom. Mrs. Priess found most of them.

Q But they were in the premises there? A Yes, sir.

CROSS EXAMINATION BY MR. KAMINSKY:

Q Mrs. Goodwin, you say that you have had a great deal of experience in investigating cases of this kind? A I have had experience in these cases.

Q In fact, you were assigned, or you were assigned at that time, to a special squad that had charge of those matters?

A This and other matters.

Q And you testify that this woman gave you certain medicine?

A I testified that she offered me certain medicine.

Q And you took this bottle of medicine with you?

A I did.

Q And you had it in the Police Court? A I did.

Q And you have had it in your possession ever since that time? A No, the property clerk had it.

Q Why didn't you have it analyzed? A I didn't think it necessary.

Q You didn't think it necessary? A No, sir.

Q Don't you know as a police investigator that, if anything could be disclosed in this medicine such as was in any way connected with abortion, that it would be a piece of testimony, damning testimony, against the defendant? A I didn't think that the medicine was used for that purpose, sir.

Q And you didn't take the trouble of analyzing it? A I didn't think it was necessary.

Q Now, on the 22nd of August, you testified in the Magistrate's Court, didn't you? A Yes.

Q And that was but a day or two after this arrest, was it not? A Yes, sir.

Q It was August 22nd, 1917? A Yes, the day after the arrest.

Q And your memory was very much more fresh then than it is now as to the case; was it not? A I guess it was.

Q Did you say anything in the Police Court about this woman inserting an instrument into you? A When the speculum touches the vagina, it is inserted.

Q Do you mean that that is sufficient evidence in order to obtain a conviction? A No, sir, I mean that it was inserted, when it touches the vagina, the vagina being an open space.

Q Well, couldn't it touch the entrance, only? A Yes, that is, the outside of the vagina, but when the vagina is touched with an instrument, the instrument is inserted.

Q Now, I will read you from your testimony, and ask you whether you remember this: "Q. Now I show you this syringing apparatus, and ask you if she used it? A. Yes, but she had the glass syringe on that, and, after she syringed me, she took that off, and put this on, and, as soon as she touched me with the speculum, I told her I felt pain, and that was the cue to call the detectives." Was that your testimony? A Yes, sir.

Q Now, isn't it a fact that you have used the word "insert" only at this trial? A I have.

Q For the purpose of making the case stronger? A It is not, sir.

Q Now you remember your testimony in the Magistrate's Court, do you not, when this question was asked you: "Q. And what was said between you and Mrs. Priess and Mrs. Schmulenson at the time? A. Detective Priess told this woman that I was her friend, whom she had spoken to her about, yesterday, and this defendant asked me, and I told her, the defendant, I was in the family way; that I was last sick on the 7th day of July; and she said, 'I will have to examine you.' She took me into a bedroom, and directed me to get up on the bed, and she placed her finger in the vagina, pressing against the womb, and forcibly pressing on the outside of the stomach. We then returned to the room in which Detective Priess was seated, and the defendant said, in the

1756
CASE #2551

presence of Mrs. Priess, 'You are five months pregnant.'" Do you remember that testimony? A No, sir, that is a typographical error. I never made any such statement.

MR. KAMINSKY: Well, do you concede that these are the minutes of the Magistrate Court?

MR. ABRAMS: Yes, I do.

BY MR. KAMINSKY:

Q Now will you describe to the jury, Mrs. Goodwin, the location and the character of the rooms as they lay in that particular flat? Just the outline of that flat, the ground plan, so to speak? A Well, the front room here faces the street (illustrating) and then there is a little bedroom.

Then there is a glass partition here (illustrating) and then another bedroom, and another glass partition, and then a room ordinarily used as a dining room, but in this case it looked as if it was used and fitted up as a kitchen.

And a very small room off that, and then another bedroom, off that again.

Q Well, how many rooms would you say were in that flat? A Five rooms, and a very small kitchen, -- maybe six rooms, you might call it.

Q Now, the room in which you say you were placed on the table, the second time. That wasn't the kitchen; was it? A Well, that is the room that I called the kitchen. It was fitted up as a kitchen.

Q Don't you know, as a matter of fact, that there was a

kitchen next to it? A There is a very small kitchen, but this room was fitted up as a kitchen.

Q And do you know whether the room door was open or closed, the room in which you went with the defendant? A I think it was closed, to the best of my recollection it was.

Q Now, the two bedrooms that you speak of are two rooms that lie between the frontroom, as you call it, and the large room where you were examined; is that right? A Yes, sir.

Q In other words, there is a front room, facing the street, and a small room right next to it, which is known as a little bedroom; is that right? A Yes, sir.

Q And then there is a dark space, which is partitioned off into a bedroom --- into two bedrooms? A Yes, sir.

Q One with a door towards the front room, and the other without a door towards the front room, is that correct?

A Well, one of them I didn't examine very well. But, if you will tell me which room you mean -- I mean the room that I saw best, was the one between this room in which I was lying on the table, and the front room.

Q Yes. There is one small bedroom that you had to pass, in order to get from the front room to the room which we will designate as the room in which you were examined? A Yes.

Q And there was another small bedroom, parallel to it, without a door, that would allow you to pass from one room to another? A You are not speaking of the little bedroom at all,

just now, are you?

Q No, of the middle room? A The bedroom in which the washstand was, that is the one that was between the front room and the room in which I was lying upon the table.

Q Now, the next bedroom you couldn't pass through in order to get from one room to the other; could you? There was merely a door from the room where you were examined into that room?

A Yes.

Q That is correct? A Yes, that is correct.

Q And then the room in which you were examined was facing the yard, so to speak? A Well, I wasn't examined in that room,

Q Well, the second time? A I wasn't examined the second time at all.

Q Well, next to the room where you were douched? A Yes.

Q There was a small bedroom? A Yes.

Q And so a person could be in one of the small bedrooms, the one that did not contain a passage, without your seeing any person? A Yes, but there was no one in that bedroom.

Q Now, I didn't ask you whether there was or not. I asked you whether a person could be there without your seeing them?

A Yes.

Q And a person, or several persons, could be in the small kitchen, without you observing them? A They could.

Q Now, Mrs. Goodwin, when you first came to Mrs. Schmulenson's apartment, you came with Mrs. Priess? A I did.

Q Now, isn't it a fact that shortly after you arrived, two

ladies, one of whom was in a pregnant condition, and another who had a baby, a small child, held in her arms, entered the apartment? A Two women entered the apartment.

Q And didn't Mrs. Schmulenson say to you, in the course of the conversation, "these are my patients, and I am going to treat you as well as I have treated the woman whose baby you see."?

A I didn't hear her pass that remark.

Q Wasn't there a talk between you and Mrs. Schmulenson, in which she pointed with pride to the result of her work as a midwife? A She said something about these women being her patients, but she didn't say that she was going to treat me as well.

BY THE COURT:

Q Was that the first or second time you went there? A The first time.

BY MR. KAMINSKY:

Q One of the women showed pronounced signs of pregnancy?

A Well, that isn't very fresh in my recollection at this time.

Q Now, why did you ask Mrs. Schmulenson to see you when these women were away from the apartment? A I didn't ask her to see me when they were away from the apartment.

Q Didn't you say that you were going away for three quarters of an hour? A I did not. She requested me to go away for three quarters of an hour. She said she wouldn't be ready for me until three-quarters of an hour. I didn't make this suggestion; she did. I had no intention of leaving the premises at all.

Q And you went away for three quarters of an hour? A I did.

CASE #2551

Q Now, Mrs. Goodwin, when you testified directly you said something or other about not knowing anything about the additional ten dollars that Mrs. Priess gave her? A No. I said I didn't see Mrs. Priess give her the money, but she said that she give her the additional ten dollars.

Q When was that said? A When I was in the kitchen.

Q And Mrs. Priess was in the front room? A Yes, sir.

Q And isn't it a fact that Mrs. Priess called Mrs. Schmulenson out of the kitchen into the front room? A She did.

Q And you were on the table just after being douched at that time? A No, I was not. That was before I got on the table at all.

Q Now, isn't a fact that while you were being douched, Mrs. Priess called to Mrs. Schmulenson, and, when she came back to the room, she found you with an instrument in your hand? A That is not a fact, sir.

THE COURT: I think we will take a recess here.

(The Court admonished the Jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until two o'clock.)

1761

CASE #2551

AFTER RECESS.

I S A B E L L A G O O D ^{W I} ~~M~~ A N, being recalled for further cross examination:

MR. KAMINSKY: I have no further questions.

REDIRECT EXAMINATION BY MR. ABRAMS:

Q Mrs. Goodwin, on cross examination you were asked about the situation of the room. You said that there was a kitchen and a smaller kitchen; is that right? A Yes, sir. Well, some people might call that a dining room, but I contend that the room might have been used for a kitchen.

Q One was alongside of the other? A Yes.

Q Now the room in which you were, was that a larger room than the one you referred to, the larger room? A Well, the room that I was in is usually called a dining room, but it looked to me as if it was used for a kitchen.

Q Now you were asked by counsel with reference to the front room, and the room intervening between the rooms and the kitchen? A Yes.

Q Through which anybody could pass? A Yes.

Q Were you able to see through into that room? A You could see through the glass partition of it, yes.

Q Did you look through that glass partition? A I did not.

Q Were you there when Mrs. Priess called the defendant, to give her the other money? A Yes, sir.

Q Was that passageway then open? A Yes.

Q Did you see anybody in there? A I didn't see anybody

in there.

Q Now, when the signal was given, and the police came in, you were still in your union suit, weren't you? A Yes, sir.

Q Where did you go then? A I went into a bedroom.

Q Was that the room that you referred to as next to the one with a passage through it? A It was a dark bedroom, and that led into the dining room or kitchen.

Q And you went in there? A Yes, sir.

Q Was anybody else in there? A No, sir.

Q Now, when you left the first time, to come back about three-quarters of an hour after, when you did get back, were the ladies that you had seen there in the first instance there? A No, sir, there was only the defendant and Mrs. Priess and myself.

RECROSS EXAMINATION BY MR. KAMINSKY:

Q Just a minute, please. Now, Mrs. Goodwin, for the purpose of making it clear to the jury, I show you a little plan, roughly drawn, of the rooms, and ask you whether that is not your recollection of the location of the premises, fr. representing the front. There is the front room, and there is the little side hall room? A Yes.

Q And then there are three little bedrooms, one having a door here, and the other here (illustrating)? A Yes, sir.

Q And that is the blind or dark bedroom (indicating)? A Yes.

Q Not having a door? A Yes.

1761

CASE #2551

Q And here is the dining room which you choose to call the kitchen (indicating)? A Yes, sir.

Q And here is the real kitchen (indicating)? A Yes.

Q And first you entered into this room (indicating)?

A The first time, yes.

Q Then you were examined here (indicating)? A Yes.

Q And then you passed through this room, the second time? A In the beginning, I was only in these two rooms. When I returned, yes.

Q And then you passed into this room (indicating)? A Yes.

Q But you were never in this room (indicating)? A I was in there. I went in there to dress myself when the detectives came.

Q Oh, I mean after the arrest? A Yes, after the arrest.

MR. KAMINSKY: I offer it in evidence.

MR. ABRAMS: No objection.

(It was admitted, without objection, and marked Defendant's Exhibit A.)

MR. KAMINSKY: Now I would like the jury to look at this plan.

Q Now, Mrs. Goodwin, when you testified in the Police Court in answer to a question: "Q. Now, when you were examined by the defendant, did she use any medicine of any kind? A. She did not." --- that was your testimony, was it not? A Yes, she didn't use any medicine. She offered me some, but didn't use any, but at the time she examined me, she didn't use any or offer any.

Q Now, would you mind refreshing your recollection and telling me whether or not you were not introduced as Mrs. Keller, or wasn't that name used at all? A No, as Mrs. Johnson.

Q Are you positive of that? A Yes, sir, positive.

A D E L E D. P R I E S S, a Police Matron, attached to the Fifth Deputy Commissioner's Office, a witness called on behalf of the People, being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Mrs. Priess, on the 31st day of August, 1917, were you a member of the Municipal Police Department of the City of New York? A I was.

Q And what was your rating at that time? A I was assigned as an acting detective sergeant, Second grade.

Q You were just assigned there? A Yes, sir.

Q That was not a permanent position? A Well, it was an assignment.

Q And at the present time, are you connected with that department? A I am a police matron. I was a police matron then also.

Q Yes, you were a police matron at the time you were assigned to this special work? A Yes, sir.

Q And you are still a police matron? A Yes, sir.

176

CASE #2551

Q Attached to what part of the Police Department? A Fifth Deputy Police Commissioner's Office.

Q How long have you been connected with the department?

A Twenty-three years.

Q Are you a married woman? A Yes, sir.

Q And have you had children? A I have.

Q Now, do you know the defendant, Mrs. Schmulenson? A Yes, I do.

Q Do you recall going to the premises No. 204 East Broadway, on the 21st day of August, 1917? A I do.

Q And who were you accompanied by? A By Detective Isabelle Goodwin.

Q Had you visited those premises prior to that time?

A Yes, sir.

Q When? A At 9.30 August 20th, 1917.

Q The day before? A Yes, sir.

Q Now, on the occasion of your visit on the 20th of August, 1917, whom did you see there? A The defendant, Mrs. Schmulenson.

Q Anybody else? A No, sir.

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

Q Will you tell us just exactly what conversation was had between you, as near as you can recall? A I knocked at the door, and was admitted by this defendant.

I said, "Mrs. Schmulenson?" And she said, "I am Mrs. Schmulenson."

And I said, "I would like to speak to you," and the defendant invited me to be seated.

BY THE COURT:

Q On what day was the first visit? A August 30th, sir, at 8.30 P. M.

And I said, "I have a friend who lives in Steuben County, and I expect her to come down for five days. Now, she is married, and she has two children. The youngest is two years old, and she thinks she is in the family way for about six weeks, and she don't want to have a baby. Can you do something for her?"

And the defendant said, "Who sent you here?" And I said, "I heard of you through Mrs. Smith," and she said, "Where does she live?" And I said, "My friend knows about her."

I then said to the defendant, "Will you do something for her?" And the defendant said, "Yes. She can come here."

And I said, "What do you say?" And the defendant said, "I will tell her when she comes."

And I said, "Well, if my friend should come tomorrow, I will bring her here at two o'clock."

Oh, previous to that, I said, "Don't you want to come to my house, because I am afraid my friend won't be able to find this place?" And the defendant said, "Why, you can come with her."

And I said I would come with her, at two o'clock the following day, if my friend arrives, and, if she didn't arrive, I would telephone.

176
CASE #2551

And the defendant thereupon handed me this card (indicating a card) and said, "When you telephone, just say what time you will come. Don't say anything else, because I will have to be very careful."

MR. ABRAMS: I offer the card in evidence.

MR. KAMINSKY: No objection.

(It was admitted and marked People's Exhibit 6.)

Q All right. Go ahead now? A I then left the premises.

Q You left the premises? A Yes, sir. Shall I go on?

Q Yes. A On the following day, August 31st, at two P. M., I again visited the premises at 204 East Broadway, accompanied by Detective Isabella Goodwin. We were admitted by the defendant. She asked us to be seated. She then left the room, and was gone about five minutes. I heard voices in the back. I then heard a door close.

The defendant returned to the room, and I said, "Mrs. Schmulenson, this is my friend, Mrs. Johnson, of whom I spoke to you, yesterday."

The defendant said something about Mrs. Smith, how do you know Mrs. Smith? And I don't recall what Mrs. Goodwin said.

However, Mrs. Goodwin said, "I was last sick July 7th."

The defendant said, "How many children have you?" And Mrs. Goodwin said, "I have two living and two dead." "One is two years old, and the other is seven. I had something done, a year ago, and everything came away very nicely."

The defendant said, "I will have to examine you."

She then took Mrs. Goodwin into another room, --- I would designate it as a hall bedroom -- which was adjoining the room in which we were sitting.

Shortly thereafter the defendant and Mrs. Goodwin returned. The defendant said, "You are five weeks pregnant." Mrs. Goodwin said, "Do you open the womb, and put something in, and leave it there?" And the defendant said, "No, I clean you out, and you can take it away in a glass."

While we were conversing, two women called, and the defendant thereupon asked Mrs. Goodwin and myself to step into the rear room.

We were in there, and the defendant said --- Mrs. Goodwin asked her how much she charges -- and the defendant said twenty-five dollars.

And the defendant said, "But I can't do anything just now. It takes me about three quarters of an hour to get things ready; and, if you will come back in three quarters of an hour, I will be ready for you. I would like you to pay something now."

Thereupon Mrs. Goodwin paid the defendant fifteen dollars, a ten dollar bill and a five dollar bill, which had been previously marked by me, at Police Headquarters. We then left the premises.

Q I show you People's Exhibit 1, and ask you whether that is the money you say you marked? A Yes, sir.

Q And \$15 of that money Mrs. Goodwin had? A Yes, sir, had paid to the defendant.

Q She paid it in your presence? A Yes, sir.

Q In other words, after you marked the money, did you give it to Mrs. Goodwin? A Yes, sir.

Q Go ahead? A We then left the premises, and returned shortly after three o'clock.

BY MR. ABRAMS: Pardon me. If your Honor please, may I ask this witness to step aside for a moment, and call Dr. Schultze, who must be in court, in another matter, at a quarter of three?

THE COURT: Do you want him to testify as to the instruments?

MR. ABRAMS: Yes, sir, as to the instruments.

THE COURT: Very well.

O T T O H. S C H U L T Z E, of the District Attorney's Office, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q What is your profession? A Physician.

Q What is your full name? A Otto H. Schultze.

Q Where do you live? A 47 East 58th Street.

Q Are you a duly licensed practitioner of medicine in the State of New York? A Yes, sir.

Q A graduate of what institution? A The College of Physicians and Surgeons, of New York City.

Q When were you graduated? A In June, 1889.

Q And have you been steadily engaged in practise since?

A Yes, sir.

177

Q And have you acted in any capacity for the City of New York, at any time? A Yes, sir; as Coroner's physician on the County of New York from 1896 to 1897, and Coroner's physician in the borough of Manhattan from December, 1902, to April, 1915, and Medical Assistant to the District Attorney of New York County from that date to the present time.

Q You state you were a Coroner's physician from 1902 to 1915, in the Borough of Manhattan? A Yes, sir.

Q And what is your title as assistant to the District Attorney? A "Medical Assistant to the District Attorney of New York County."

Q And you are an employee of the City of New York? A Yes, sir.

Q Doctor, you have testified in a great many cases, have you not? A Yes, sir.

Q Murder cases and abortion cases? A Yes, sir.

Q And, in the course of your practise, have you learned the names and the nature and the reason for the use of certain medical instruments? A Yes, sir.

Q Surgical instruments? A Yes, sir.

Q And have you also done obstetrics work? A Yes, sir.

Q Have you studied gynecology? A Yes, sir.

MR. KAMINSKY: Oh, there is no question as to his qualifications.

MR. ABRAMS: Why, I have qualified him now. Your concession comes too late.

CASE #2551

Q I hand you People's Exhibit 3, and ask you what ordinarily this can and this tube are used for? A This is a can for holding fluids, and a rubber hose; and the can is raised, and creates a flow of fluid through the hose, and the glass tube is a long glass tube, blunt at the end, with openings on the side.

That may be used for flushing the vagina, and it may be used for flushing the cavity of the uterus.

Q Is the tube that you speak of now a tube usually used by women? A No. Ordinarily, it is much shorter than that tube.

Q But it is essentially for a woman's use? A Yes, sir.

Q Is it a sort of tube that would be used for rectal flushings? A No, sir, you wouldn't use a glass tube for that purpose.

Q I show you People's Exhibit 4, and ask you doctor, if you can tell us what that is? A That is a vaginal speculum, to be introduced into the vagina, and then the two blades can be opened, so that an insertion can be made through the opening of the vagina, and the vaginal portion of the uterus, and through which instrumental manipulation may be performed.

Q Is that the kind of an instrument that is used for aborting? A The instrument, of itself, would not produce an abortion.

Q But is it used in the course of an abortion? A It may be used for the purpose of opening the vagina, and for the purpose of introducing through this opening, and the opening of the uterus.

us, an instrument which can pass through this opening.

Q And may I ask you whether the purpose of the distention of this instrument is not for the purpose of distending the vagina, opening it up? A Yes.

Q So as to enable one who would use it to get to the uterus easily? A Yes, sir.

Q I show you a number of instruments, marked People's Exhibit 5, now tied together, and which I untie. Now, doctor, I am going to hand you this bunch of instruments, and ask you to take them up, in turn, and tell the jury the names of the instruments, and the purposes for which they are used? A This is a dilator, and is used for the purpose of introducing it into the opening of the uterus, and stretching it (indicating).

MR. ABRAMS: May I ask, for the purposes of the record, that that be marked People's Exhibit 5-A?

THE COURT: Yes.

(It is so marked.)

BY MR. ABRAMS:

Q You say that that is for the purpose of dilating?

A Yes, sir.

Q It is inserted in the parts? A Yes, sir, in the canal of the opening of the uterus.

Q Go ahead? A This instrument is a volcellum, which works like a scissors (illustrating) and has two hooks, one on each side, which comes in apposition. It is for the purpose of grasping the lip of the womb, and holding it steady, for the purpose

of the introduction of a uterine sound.

That is just like a probe, and can be bent to any shape, which is an instrument for the introduction into the cavity of the uterus, to determine its position, or its size.

If such an instrument is introduced into the cavity of the uterus containing the living foetus, it may penetrate the sac in which the foetus is contained, or may even penetrate the foetus, and cause an abortion.

This is an instrument which should never be introduced into the uterus of a pregnant woman.

MR. ABRAMS: Now I ask that that instrument be marked People's Exhibit 5-B.)

(It is so marked.)

MR. KAMINSKY: And I ask that the last statement of the doctor be stricken out.

THE COURT: Motion denied.

MR. KAMINSKY: Exception.

BY MR. ABRAMS:

Q And this instrument is called what, doctor? (Indicating another instrument). A A uterine sound.

(It is marked People's Exhibit 5-C.)

Q Now, take up the next one? A This is another uterine dilator. When the handles are pressed together (illustrating) it dilates the canal in which it is introduced. It is smaller in shape than the one marked Exhibit 5-A.

(It is marked People's Exhibit 5-D.)

Q Now, take up the next one, doctor? A This is a solid uterine dilator. That is introduced into a canal for the purpose of stretching it.

Q In other words, the solid one is introduced some time, instead of the other dilators that you spoke of? A Yes, sir.

(It is marked People's Exhibit 5-E.)

THE WITNESS: And this is a solid dilator.

(It is marked People's Exhibit 5-F.)

THE WITNESS: And here is another one. And these are marked of different calibre, and are marked with the number.

Q These two that you hand me now are also solid dilators? A Yes, sir; for the purpose of dilating the canal into which they are introduced.

Q Now, the numbers, 5 and 6, which are stamped on these two instruments, what do they mean? A That is, the 5 is smaller than 6.

(They are marked People's Exhibit 5-G.)

THE WITNESS: And here is one marked 3; also a solid dilator.

(It is marked People's Exhibit 5-H.)

THE WITNESS: And here is another one, marked 4.

(It is marked People's Exhibit 5-I.)

Q What next? A These three instruments are sharp curets, uterine curets, and they are used for removing material by scraping from the inner surface of the uterus. They are

1775
CASE #2551

three uterine curets of different sizes (indicating).

Q When you say sharp, doctor, what do you refer to?

A The margin, in distinction to a dull curet.

Q Now, will you tell the jury just how they are used?

A They are used for cleaning the inner surface of the uterus.

Q By cutting or scraping? A By scraping.

(They are marked People's Exhibit 5-J.)

1776
CASE #2551

1

Q Go on, please, doctor. A And here is a sharp spoon, which has the same effect of the sharp curet, only the spoon is closed instead of being open, as the sharp curet is.

Q And is it used for the same purpose? A Yes, for scraping the surface of the inner walls of the uterus.

(It is marked People's Exhibit 5-K.)

Q Now, the next one, doctor. A This is a sharp curet. It has a canal that passes through the handle and through the instrument itself, for the purpose of irrigating at the same time, that is, flushing with fluid, the rubber tube being tied at the end of a handle, at the time that the scraping or the cureting is done, the fluid washing out the material that is scraped out. And this is simply an instrument for keeping the canal open. It is simply to clean the canal out.

Q It is used for flushing? A It is a flushing curet, a flushing, sharp curet. It might also be called an irrigating curet.

Q Now, what is the next instrument there, and the last one? A This is a forceps, a long forceps. It has two handles, and it is constructed like a scissors, for the purpose of grasping material between the blades at the end, so as to take a good purchase on that material. Its length and calibre is such that it could be introduced into the cavity of the uterus, for the purpose of grasping material in the uterus, and extracting it. That would be used ordinarily for the purpose of removing material from the

1777
CASE #72551

uterus, or it might be used for extracting a bullet from a deep canal (illustrating).

Q Is it a packing instrument? A It is not a good packing instrument, because it is serrated here (indicating), whereas packing forceps are ordinarily smooth. They might be used for that, though not used properly.

Q Now, these different instruments that you have looked at and identified, let me ask you whether the dilator, which is A of People's Exhibit 5; the volsellum, which is B; the uterine sound, which is C; the dilator, which is D; the solid uterine dilators, and the uterine curet, and the irrigating curets, are they or are they not essentially and peculiarly instruments that are used on the female parts of a woman? A Yes, sir.

MR. ABRAMS: Will you step aside now for a moment, doctor?

THE COURT: Wait a moment? Why not get through with the doctor now?

MR. ABRAMS: That is just what I am trying to get my friend to arrange with me. Some of these articles that I have here were found by Mr. Priess, as testified to, in different parts of the premises, and I will have to recall Mrs. Priess to show exactly where they were found, and then I will have this witness identify them.

THE COURT: Very well.

A D E L E D. P R I E S S, being recalled by the
District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Mrs. Priess, these bottles, marked People's Exhibit 5 for Identification, do you know where they came from? A There were two chairs there, and they were on one of the two chairs near the table where Mrs. Goodwin was lying.

Q Did you gather them up? A I did.

MR. ABRAMS: They are offered in evidence.

THE COURT: I will not admit them until you show what they contain.

BY MR. ABRAMS:

Q Do you know what they contain? A Well, I know one contains tablets, but I don't know what the others contain. These four bottles were on the chairs there, and the other was an empty bottle, this one here (indicating).

Q These four bottles were there? A Yes, sir. And I think that is the liquid that was in the vessel, that we poured into there, the liquid that was poured into the cup; that was offered to Mrs. Goodwin to drink.

Q And that bottle contains the very liquid that was offered to Mrs. Goodwin? A Yes, sir.

Q And these bottles, People's Exhibit 5 for Identification, were on the chair? A Yes, sir; and one, I know, had tablets in it.

Q And they were there on the chair, alongside of Mrs.

1779

CASE #2551

4 46
Goodwin? A Yes, sir; alongside of the table, in the back room, where Mrs. Goodwin was lying.

THE COURT: I will admit them now.

(They are marked People's Exhibit 7 in evidence.)

MR. KAMINSKY: May I ask a question here?

THE COURT: Yes.

BY MR. KAMINSKY:

Q Is it not a fact that you took these bottles from the shelves in the bedrooms, in the two bedrooms? A No, sir.

Q Didn't you inspect those two rooms? A Yes, sir.

Q And didn't you take those bottles there? A No, sir; just one empty bottle. There were other bottles besides these, but I didn't take them.

Q Were you present when a drink was poured out from one of these bottles, and given to her to drink? A I recall it being poured out into a cup or glass, that was offered to Mrs. Goodwin, and that it was afterwards put into that bottle (indicating).

BY MR. ABRAMS:

Q And do you know where Mrs. Schmulenson got the liquid?

A No, sir.

Q I show you a metal case and ask you if you remember seeing that. A Yes.

Q These two metal cases? A Yes, sir.

Q Where did you get them? A There was a little suit case in the bottom of a closet in the dining room, in the rear room, where

the table was on which Mrs. Goodwin had been lying, and there was that aluminum button in it also (indicating).

Q And they were found, you say, in a room where? A In the rear room. I call it the dining room. In a closet.

Q Where Mrs. Goodwin was lying? A Yes, sir.

Q In that same room? A Yes, sir.

MR. ABRAMS: I offer them in evidence.

THE COURT: She says they were found in a valise. There is nothing to prove that it was the defendant's valise.

MR. KRAMINSKY: Yes, sir; found in a valise in a closet in a room.

BY MR. ABRAMS:

Q Is that right? A Yes, sir; that's right.

BY THE COURT:

Q Did you show those to Mrs. Schmulenson? A Mrs. Schmulenson was in the room when I took them.

Q Did she say anything about the valise? A She said nothing.

MR. ABRAMS: Then I offer them for identification only.

THE COURT: Yes.

(They are marked People's Exhibit 8 for identification.)

O T T O H. S C H U L T Z E, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q I show you People's Exhibit 3, and ask you if you can

CASE #2551

tell us what that instrument is, and what its relation to People's Exhibit 3 is? A This is a flushing catheter, for the purpose of introducing the catheter into the cavity of the uterus, and is connected here with a hollow tube, the end of which opens into the end of the opening of the catheter, which has a slit on each side, and is blunt on the point.

The fluid that can be introduced passes through the tube, and out into the cavity of the uterus, into which this tube has been introduced.

Q To what would that be attached, if being used? A To the syringe -- to the rubber tube, with a vessel attached.

Q This vessel and this rubber tube (indicating)? A Yes, sir. The douche apparatus. It is for the purpose of washing out the cavity of the uterus.

Q Doctor, will you examine People's Exhibit 2, and tell us if you can, from the smell and appearance, what that contains. A Well, it contains a turbid, thin fluid, with flocculi suspended in it.

Q Is it a nerve medicine of some kind? A I don't know it is. It has some odor, but I wouldn't care to pass any opinion on it.

Q Have you any idea what this bottle is which I show you, and which is a part of People's Exhibit 7? A It has some odor-like carbol or lysol. It is a dark, oily-looking fluid, and adheres to the sides of the bottle, but what it is I couldn't

positively state.

Q And carbol or lysol is used for what purpose? A As a disinfectant.

Q Now, I show you another bottle, part of People's Exhibit 5, and ask you if you can tell what it contains. A I couldn't be sure from the odor.

Q I show you an empty bottle, and ask you whether there is any odor there that would indicate what its contents are? A There is a condition of the cork which indicates that it was iodine (indicating).

Q And I show you another bottle, part of People's Exhibit 5, and will you tell us what that contains, if you can? Do you know what the container itself is? A It is a bottle with ribbed points on it, and such a bottle as poisons are usually placed in, and contains tablets that are triangular in shape, and colored blue.

Q Can you tell us what they are? A And so it is very probable that it is bichloride of mercury, without testing the tablet.

BY MR. KAMINSKY:

Q And that is used as a disinfectant, is it not? A Yes, sir.

BY MR. ABRAMS:

Q And you say it is your opinion, without an analysis or a test of the tablet, that they are bichloride tablets? A From the character of the bottle, and that the tablets are triangular, instead of round, and are colored blue instead of white -- the

1783

CASE 772551

precuations recently introduced to distinguish -- make it appear to me, as far as I can judge, that they are bichloride tablets.

Q Now, doctor, in your experience as a medical practitioner, as Coroner's Physician, and as Medical Assistant to the District Attorney of the County of New York, are you able to tell us whether or not the instruments which were shown you, People's Exhibits 3 and 5, are instruments used by midwives in the course of their profession? A A midwife cannot legally possess any such instruments.

Q That is the law, is it? A It is.

Q May a midwife megally perform an abortion?

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

THE COURT: Well, the doctor is not here to tell us what the law is.

MR. ABRAMS: Well, he knows. He is an expert.

THE COURT: He is a medical expert, but you are asking him questions of law now.

MR. ABRAMS: Well, I will withdraw the question.

BY MR. ABRAMS:

Q Having told us that midwives should not be legally in possession of these instruments, I ask you whether a midwife, under the license which she gets as a midwife, is legally entitled to perform an abortion?

MR. KAMINSKY: I object to that.

THE COURT: The same ruling.

Q Is aborting, whether legal or illegal, a part of midwifery?

MR. KAMINSKY: Objected to.

THE COURT: I will allow it.

MR. KAMINSKY: Exception.

A It is not.

CROSS EXAMINATION BY MR. KAMINSKY:

Q Dr. Schultze, can you, from the examination of these instruments, tell the jury whether these instruments were manufactured in the United States or in Europe? A I think I could tell if the manufacturer's mark is on them. I haven't examined them as to that. I don't think, offhand, that you could tell by simply glancing at an instrument whether it was of American manufacture or foreign manufacture.

Q Well, will you examine them and see whether you can give us any light on that subject? A Well, if there is any mark, of course I can.

Q Well, just examine them, please. Step down to the table, with his Honor's permission. Pay particular attention to the speculum, if you will. A (The witness examines the exhibits). I can't find any mark on them.

Q Very well, doctor. I show you this tray, marked as Defendant's Exhibit B for Identification, and ask you if from your experience, taken in conjunction with people's Exhibit -- with this other tray -- do you know whether this is of American make

or not; whether that is usually found among American physicians, or whether it is peculiarly and typically of European arrangement? A That is simply two trays, and I don't think I can answer the question that you ask. It is simply two trays, simply fitting into each other, for the purpose of packing them, and they are evidently used for boiling instruments.

Q But you don't see it very often in that way, do you?

A In American kits, I don't know that I have seen just that shape. It is a rather odd sort of shape.

Q And you say that this speculum is not used for an abortion?

A It is used for ocular observation, or to provide a space through which an instrument can be introduced.

Q But it is not used, of itself, to procure an abortion?

A No, sir.

A D E L E D. P R I E S S, being recalled by the

District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Now, Mrs. Priess, do you recall what you last spoke of before you left the stand, to give way to Dr. Schultze? A I spoke about being conducted to the dining room, and about the defendant saying that it would take her three quarters of an hour to get ready, and I think I testified -- yes, I did -- about Mrs. Goodwin having paid her fifteen dollars, and then we left the premises.

And we returned again shortly after three o'clock, and we went

to the front room.

The defendant asked Mrs. Goodwin to step into the rear room, and Mrs. Goodwin and the defendant passed through a bedroom into the dining room.

Q This bedroom, did that contain ~~Y~~ did that adjoin the front room? A Yes, sir.

Q And you can pass through? A Yes; there are two doors, one leading into the front room, and the other into the dining room.

Q And so she went through that room into what you call the dining room? A Yes, sir.

Q Was that the room in which Mrs. Goodwin was afterwards lying? A Yes, sir.

Q And in which the table was situated? A Yes, sir.

Q All right. A And Mrs. Goodwin and the defendant were talking in there. I didn't hear all of the conversation.

Q Now, Pardon me. When Mrs. Goodwin went from the front room into that dining room, or, as she says, fitted up as a kitchen somewhat, were there any persons in the bedroom through which she walked? A No, sir. I sat near the doorway, and I could see into the rear room, because there is a glass window leading into the front room, and there is one leading into the rear room.

Q All right. A I saw Mrs. Goodwin removing some of her clothing. The defendant also removed some of her clothing.

I called out, "Do you want the ten dollars you owe her?" Thereupon the defendant came into the front room, and I paid her

ten dollars.

As she passed back into the middle bedroom, as she passed through there, I noticed that she stopped, lingered for a little while, and then went into the kitchen.

I also heard Mrs. Goodwin say, "Do you want me to take my stockings off?" And the defendant said something which I couldn't hear.

I saw Mrs. Goodwin get up on a table. The defendant stood before her -- I couldn't see what she was doing -- and after about ten minutes, I heard Mrs. Goodwin say, "Oh, I feel faint".

Q That was the signal, was it not? A Yes, sir. I thereupon waved my handkerchief out of the window, and went back to the dining room, and Mrs. Goodwin was seated, and the defendant was standing there, with the speculum in her hand.

Q When was it that the defendant offered to Mrs. Goodwin what are now the contents of the bottle (indicating)? A As I recollect it, it was just before Mrs. Goodwin got on the table, and it was either in a cup or a glass; I can't remember which now.

Q Now then, when you waved your handkerchief out of the window -- by the way, did you say that you waved your handkerchief? A Yes.

Q And that was a signal? A Yes, sir; and the two detectives that I have named, who were seated on the stoop opposite, came up.

Q And those are the two gentlemen that are now in the service

of their country? A Yes, sir. And there was a knock at the door, and Mrs. Goodwin opened the door, and the two detectives came in. And I beckoned to Mrs. Goodwin to go into the bedroom. She had only on her union suit.

Q And was that the bedroom that you had passed through?

A No, sir; it has only one door leading into the dining room.

Q Was anybody in that room? A I wasn't in that bedroom. Mrs. Goodwin went in there.

Q You saw her go in there? A Yes, sir.

Q Well, what next? Did you see Mrs. Goodwin go into that room you speak of? A I did.

Q Go ahead, please. A I took the speculum out of the defendant's hand, as the two detectives entered the room, and she was placed under arrest. I then asked her for the money, and she didn't reply.

When Mrs. Goodwin came bak out of the bedroom, I went into the bedroom that I speak of, that had the two doors, and I looked through that room, and I finally found the money on a little wash-stand, right underneath the cover.

Q Was that the place that you spoke of near where the defendant stopped, and hesitated as she went through? A Yes, sir; she hesitated in that room.

Q And that is where you found the money? A Yes, sir. The defendant had removed some of her clothing, too. All the defendant wore, after Mrs. Goodwin went into the dining room, was an

undergarment, and a petticoat and her ties and stockings.

Q She had removed her clothing before speaking? A Yes, sir; she had a kimono on previously, previous to that.

And I looked through the rooms -- oh, finally I gathered all these things that are there (indicating the District Attorney's table), all of those instruments were in one of those two pans, with a liquid.

Q With a liquid? A Yes, sir.

Q Is this the pan that you speak of (indicating)? A Yes, I think that's the pan I found them in.

MR. ABRAMS: I offer that in evidence.

(It is admitted and marked People's Exhibit 10.)

THE WITNESS: All these instruments, except the speculum and that glass tube were alongside or inside of that pan.

Q People's Exhibit 3-A was on Exhibit 3? A Yes, sir.

Q And this glass tube was where? A On the chair alongside of that pan.

Q And all these instruments here (indicating), were in a liquid in the pan? A Yes, sir.

Q Where was the cotton? A It was on one of the chairs there, at the side of the table. There were two chairs there.

Q I am referring to People's Exhibit 5 now, this cotton.

A Yes, sir.

Q And that is all there was about it, was it? A Yes, sir.

1790

CASE #2551

Q And the arrest was made? A Yes, sir; and I went through all the rooms, except that little room in which Mrs. Goodwin had been dressing.

Q Now, these two Exhibits which I show you, which have been marked for identification, where were they? A In the little suitcase in the closet in the dining room.

Q They were not out in the room proper? A No, sir.

Q And you don't know what they are, do you? A No, sir.

Q One moment. No, that is all. A There was another pan, looking like that (indicating), that was in the room also, but I didn't take that.

Q A pan like Exhibit 10? A Yea, sir.

Q Now, are you able to state positively whether anybody was in the front room where you sat, on the occasion of the making of the arrest? A No, there was no one there.

Q Was there anyone in that room there through which Mrs. Goodwin passed, and in which you afterwards found the ten dollars? A No, sir.

Q Was there any body in that room in which Mrs. Goodwin was lying? A No.

Q Was there anybody in that little room or kitchen which adjoined the dining room? A Only a little dog that was lying there.

Q And you were not in the blind or dark room that Mrs. Goodwin spoke of? A No, sir.

CROSS EXAMINATION BY MR. KAMINSKY:

Q Of course, madam, you have to cover the kitchen and the dog, you have to cover them? A I know all about the kitchen.

Q Now, you were here this morning, weren't you? A Yes, sir.

Q And you heard me ask Mrs. Goodwin whether or not you could tell whether there were any persons in that room, that bedroom, that didn't have that other entrance, that through entrance?

A Yes, sir.

Q And you heard her testify that she couldn't tell? A Yes.

Q And isn't that the reason now why you place her as dressing herself in that blind room?

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

She is not placing anybody anywhere.

THE COURT: Well, he may ask her if that is the reason why she testified Mrs. Goodwin went there.

BY MR. KAMINSKY:

Q Is that the reason? A No, it is not.

Q Now, Mrs. Priess, in what language did you speak to Mrs. Schmulenson, when you first came to see her? A The first evening?

Q Yes. A I spoke German.

Q German? A Yes.

Q And what did she speak? A She spoke a sort of Yiddish, a mixed-up language.

Q Didn't she say that she didn't understand German, and asked you if you spoke Russian or Polish? A She asked me that, but she

1792

CASE #2551

understood my questions, apparently, because she asked them.

Q Isn't it a fact, when you began to talk German, she asked you if you could explain yourself in Polish or Russian? A She said that she could speak Polish or Russian.

Q Now, isn't it a fact that you saw her about three o'clock in the afternoon, and not in the evening? A I saw her about 8:30 P. M., as I testified.

Q Now, Mrs. Priess, I want to call your attention to a part of your last testimony to the District Attorney. Do you remember when Mr. Abrams, the learned Assistant District Attorney, asked you, "Where did you find the instruments?" And you answered, "All except the speculum and the glass tube, were in the box"? A Yes.

Q And then Mr. Abrams showed you that other tube, and you corrected yourself, didn't you? A I don't think it was because he showed it to me.

Q I didn't ask you why. But you recall that incident, don't you? A Yes.

Q And didn't you correct yourself, because of the fact that you wanted the jury to believe that this instrument was attached to the rubber tube? A No. I don't think I was quite finished when Mr. Abrams had that instrument in his hand, I don't think I was quite finished. I was starting to make my exceptions when Mr. Abrame had that tube in his hand.

Q And so Mr. Abrame interfered with your answer? A I don't

think he did.

Q Now, Mrs. Priess, do you recall two ladies coming into the apartment of Mrs. Schmulenson, on the occasion of your first visit, with Mrs. Goodwin, about three o'clock? A Two women came in there, but it wasn't three o'clock.

Q What? A It wasn't three o'clock. It was more like a quarter past or half past two.

Q Very well. I will accept your time. And do you remember those women? Can you describe them? A I couldn't describe them.

Q Well, did you notice whether one of them was in the last stages of pregnancy or not? A I don't know whether I noticed it then. If you had asked me about it a few days after, I would have remembered. I don't remember now how they looked.

Q And don't you remember that one of the women --

MR. ABRAMS: At this time I will ask that all the witnesses for the defense be excluded.

THE COURT: Very well. All witnesses on both sides will be excluded.

BY MR. ABRAMS:

3048

Q Now, don't you remember some conversation between you and Mrs. Goodwin and Mrs. Schmulenson in reference to the baby that accompanied one of the women? A There was some conversation, but I can't recall it.

Q Now, let us see if you can refresh your recollection as to that conversation. Didn't Mrs. Schmulenson say, "I will take

such good care of your friends that she will have as pretty a baby as this one, who I helped into this world"? A She did not.

Q Well, what was the conversation, if you remember? A I don't remember; I don't recall it. It was something like, "This woman is a customer of mine", or something to that effect.

Q Now, is it not a fact that ^{you} ~~what~~ really asked Mrs. Schmulenson was to have Mrs. Goodwin, who was then known by some other name, taken care of by Mrs. Schmulenson, as a midwife? A I did not.

Q By the way, Mrs. Priess, your rating is determined in the Police Department by the number of credit marks that you get for convictions, is it not? A No, sir.

Q Aren't any credit marks given you for convictions?

A No, sir.

Q Well, has that system been abolished?

MR. ABRAMS: I object to that question. I think the insinuation is obvious and I object to the counsel's question.

THE COURT: Objection sustained.

BY MR. KAMINSKY:

Q And is it not a fact, Mrs. Priess, that Mrs. Schmulenson was in the other room with Mrs. Goodwin, and you went out and gave her the additional ten dollars? A I called in, "Do you want to pay the ten dollars you owe?" And Mrs. Schmulenson then came back to the room where I was seated, and I gave her the ten dollars.

Q Well, she didn't ask you for the ten dollars? A Well, she

came to get it.

Q But you called Mrs. Schmulenson, didn't you, into the front room, for the purpose of giving her the additional ten dollars? A I didn't call Mrs. Schmulenson. I called out to Mrs. Goodwin, "Do you want to pay the ten dollars you owe?" Whereupon Mrs. Schmulenson came to the room where I was, and I gave her the ten dollars.

Q But the reason you called out was to have Mrs. Schmulenson come into the front room? A No, because I thought she would call me into the other room, and I wanted to call to her for that purpose.

Q And what did she say after she went back to that room where was Mrs. Goodwin was, that you heard Mrs. Goodwin say something, and the signal was given? A No, it was about ten minutes after that.

REDIRECT EXAMINATION BY MR. ABRAMS:

Q Now, which of these was attached to the tube, when you got the tube and the pan (indicating)? A The metal one.

MR. ABRAMS: That is the People's case.

THE COURT: The People's rest.

MR. KAMINSKY: I respectfully ask your Honor to instruct the jury to acquit, on the ground on the ground that the People have failed to prove their case.

Dr. Schultze, the People's witness, has testified that this instrument could not be used for the purpose of abortion,

1796

CASE #2551

and therefore there couldn't be any attempt.

THE COURT: No. He said that it could not be used by itself for the performance of an abortion.

MR. KAMINSKY: But there was no element of proof that she had any other instrument in her hand, or that she had anything else whatsoever. The sole testimony is that she touched the complaining witness.

THE COURT: It is claimed that she performed an overt act which was necessary to perform the full act, and that is sufficient in the law.

MR. KAMINSKY: I respectfully except. And I ask your Honor to charge the jury that your Honor's ruling on this proposition of law has nothing to do with the facts of the case.

THE COURT: Yes, I so instruct the jury.

MR. KAMINSKY: I ask your Honor to dismiss the indictment, and to direct a verdict of acquittal, on the ground that the People must prove not only the criminal attempt, but also ^{tending} an act/to effect the commission of the crime; and that, if the act merely tends to show guilty purpose, but does not tend to effect the commission of the crime, then there is no attempt, in a legal sense.

THE COURT: Well, that proposition of law is sound. I deny the motion.

MR. KAMINSKY: I take my exception. Now, if your Honor

1797

CASE #2551

please, in view of the fact that we cannot finish the case today, and as I expect an important witness, would it not be better to adjourn the case now until Monday?

THE COURT: Well, we will lose forty minutes of time. How many witnesses will you have altogether?

MR. KAMINSKY: Six witnesses.

THE COURT: Well, if you have any of your witnesses here, you may take up the time until four o'clock.

1798
CASE #2551

THE DEFENSE:

BERTHA SCHMULENSON, of 271 East Broadway,
the defendant, being duly sworn as a witness in her own
behalf, testified as follows:

MR. KAMINSKY: Now, I think we will get along very much
faster, if we have a Russian interpreter, because she speaks
very little English.

THE COURT: Very well.

(The witness testified through the Official Interpreter,
Mr. Rosenthal.)

DIRECT EXAMINATION BY MR. KAMINSKY:

Q How old are you, Mrs. Schmulenson? A Forty.

Q How long are you in this country? A Eleven years.

Q And where were you prior to coming to this country? A In
Kief.

Q And what were you doing in the City of Kief? A I was
practicing as a midwife.

Q Are you married or single? A I am a widow.

Q Have you any children? A Four children I had.

Q And how old is your oldest child? A I had a son, who would
be twenty-one years, but he died.

Q And who was the next one? A A girl.

Q Now, Mrs. Schmulenson, how long have you lived in the prem-
ises that you now occupy? A Do you mean where I live now or where
I lived before?

1799

CASE #72551

Q Where you lived before, when the arrest took place?

A Two years.

Q Do you remember the day of your arrest? A The 21st of August?

Q The day before your arrest, do you remember the day before your arrest? A Yes, sir; it was on the 20th of August.

Q Do you remember Mrs. Priess, the last witness for the prosecution, being in your premises on that day? A Yes, sir.

Q What time of the day was it when she first came there? A About three o'clock.

Q Now, will you tell to the jury in your own way what took place between you and Mrs. Priess, on the day prior to your arrest?

A She came, and she spoke German. I asked her, when she started to talk to me, whether she could speak Yiddish, or Russian or Polish to me, and she said no.

And I understood from what she told me in her language that she had a cousin, who she wanted to come to me, that her cousin was pregnant, and she wanted to come to my house the next day at two o'clock, but she wanted that nobody should be present, because she was bashful.

And she asked me whether I would be there at two o'clock, whether I myself would be there, and I told her that I would, and with that, she left.

Q Now, when did you see her next, Mrs. Schmulenson? A On the 21st of August, the next day, she came at two o'clock, as she

1900

CASE #2551

had said she would come.

Q Now, one minute. Who was in your premises when you saw Mrs. Priess and Mrs. Goodwin come into your home? A A few minutes before, a certain Mrs. Ehrlich had come, and my daughter was there.

Mrs. Ehrlich comes to me every Tuesday to have me do some massage on her.

Q Now, just one moment. When you spoke to Mrs. Priess, on the day -- on the first day that you met her -- did you give her your card? A Yes, sir.

Q Did you tell Mrs. Priess to be careful about telephoning to you, because you were afraid, or something of that kind? A I didn't tell her anything of the kind.

MR. ABRAMS: Just one moment. It is quite evident that this witness does understand English pretty well, because she started to answer the question before it was completed.

MR. KAMINSKY: She understands English, your Honor, but cannot speak it.

THE COURT: Well, we always get along quicker, I find, with interpreters. Proceed.

BY MR. KAMINSKY:

Q So that there was no conversation about a telephone, was there? A No, sir.

Q Now, you say that the next day Mrs. -- what was the name?

1901
CASE #2551

A She introduced her cousin to me as Mrs. Fuller.

Q When you say her cousin, you mean Mrs. Goodwin, who testified as the first witness? A Yes, sir. But she called her Keller.

Q Now, you say that Mrs. Ehrlich was there? A Yes, she was in the front room.

Q Was anybody in the bedrooms? A My daughter had gone into the bedroom. It was a dark room.

Q And was anybody in the kitchen or in the dining room, at that time? A The first time, nobody was there in the kitchen.

Q Well, I am talking about the first time. Now, when Mrs. Priess and Mrs. Goodwin came in, was there a talk between you and them in the front room? A I led them into the front room, not into the dining room.

Q Now, tell this jury what you spoke to them in that front room. A She came in and she said, "Here is my cousin," and I took her into the bedroom.

Q When you say the bedroom, you mean the front hallroom? A Yes, sir; the front bedroom, and there I examined her.

Before we went into the bedroom, I asked her when she was sick, and she told me on the 13th of July; and I asked her, "Why do you come to me so soon?" And she answered me that she felt bad.

And then I took her into the front room and I examined her. When I came out with her, Mrs. Priess asked me how long she had been pregnant.

Q Now, when you examined her, did you use any instruments on her? A No, only with my hands.

Q Now, go ahead. A At that time she was very fat; now she is thinner. And her stomach was very fat. I said, "Mrs. Priess, I can't tell you now how long she has been pregnant, because her stomach is very fat".

I told her I would put her on that able, and examine her once more. Then Mrs. Priess said to Mrs. Keller, "Sit down", and they both sat down.

Mrs. Keller started to say something, and then I asked Mrs. Keller, "Do you speak Russian, Polish or Yiddish?" And she said, No, she didn't. And then the bell rang, and I went to the door and opened the door, and then two women came in, Mrs. Shiffren and Mrs. Feinberg.

Q Were there any children that came along with them? A Mrs. Shiffren had on her arms a child, which child I had helped to bring into the world.

Q And what was the condition of the other one? A Mrs. Feinberg was pregnant, and in October she gave birth to a child, and I helped to bring the child to life.

Q Now, was there any conversation between you and these two police officers, or rather, these two ladies that you now know as police officers, in reference to the two ladies that then came in?

1
A When the two ladies came in through the door, I turned to Mrs. Priess, and Mrs. Keller, and I said, "Do you see? This is a child which I have helped to bring into the world, and now I am attending to the other woman, who will soon give birth to a child."

And I told her, "Give me twenty-five dollars, and I will attend to you so that you will have no trouble when the time comes to give birth, for I will attend to you as I have to these ladies."

Q And what was said then? A Then Mrs. Priess and Mrs. Keller got up and said, "We see that you are now busy. We will leave you now, and we would rather come later."

And I told her, "There is no necessity for your leaving me. I could take you into another room, and examine you."

They said, "We will leave you some money on account, and we will return in about half an hour or three quarters of an hour, but see to it that nobody should be here, because Mrs. Keller is very bashful. We are going out now to have something to eat, and then we will come back."

Q Now, after they left, did any of the ladies that were in your premises leave also? A No, they remained, the ladies remained.

Q And did they go away after that? A Half an hour later, they left.

Q Now, did anyone come into your premises before Mrs. Priess and Mrs. Goodwin returned? A Yes, sir; Mrs. Ehrlich came, and she remained until the end.

Q Oh, you mean the lady that first came? A Yes, sir.

1804
CASE #2551

Q Now, how soon after the time that Mrs. Goodwin and Officer Priess left you, did they come back? A About half an hour or three quarters of an hour or later.

Q And what room did they walk into? A I took them to the front room, and Mrs. Priess remained on the threshold, and she asked me, "Mrs. Schmuelenson, are you alone?" And I said, "Yes."

Q Now, as a matter of fact, were you alone in those premises at that time? A No, I wasn't alone, but I told her that because I remembered that she had told me that she was bashful, and wanted me to be alone.

Q Now, will you tell who was in the premises -- tell the jury -- and who were the persons who were in the premises at that time? A Mrs. Ehrlich was there, and my daughter.

Q And where was Mrs. Ehrlich at the time? A In the dining room.

Q Now go ahead and tell us what happened between the two officers and you? A Mrs. Priess asked me whether I was alone, and I said yes.

Then Mrs. Priess called Mrs. Keller, and she said, "Come in, come in. She is alone," because Mrs. Keller had remained in the hall.

As I had received fifteen dollars on account already, I told Mrs. Ehrlich that I will do the massage later; that I had no time to do it now.

Q You mean Mrs. Ehrlich, who came to you for a massage?

A Yes, sir.

1905

CASE #2551

Q Go on? A I had told Mrs. Ehrlich and my daughter, before they came back, if they should come back, that they should go into the kitchen, and that I would say that nobody was there.

Q Well, go ahead? A Because I had to take Mrs. Keller into the dining room, and put her on the table, because the table there was larger than in the other room.

Q Now what happened? Just come down to the situation there?

A I told her, "Before I will examine you, I will have to make you a douche."

Q Where was it you told her that? A In the dining room. I told her to take off her clothes, and even to take off her drawers, because I told her that while I would make the douche, the drawers would become wet.

Q Now, where was this syringe at the time that you spoke to her? A On the wall.

Q And where was this glass tube, or whatever you call it? A This glass tube was in this box here (indicating), together with the instruments.

Q And where were the instruments? I mean, where was this tray, with the instruments, with the glass tube? A It was on a chair, but the other half was on top of it. So it was covered.

Q And will you show this jury in what position these instruments, and this glass tube were, when you had this conversation with Mrs. Goodwin?

MR. KAMENSKY: With the Court's permission, may she step down here?

1896

CASE #2551

THE COURT: Yes.

A (The witness goes down to the District Attorney's table.) In this position it was (indicating). It was on the chair, and I moved the chair over to the table, and this here I hung on the wall, and I poured water into it; and as at the end of the rubber tube there was no holder, the water came flowing out.

Then I opened this metal box (indicating) took off the cover, and then I looked for the holder, and took out this glass tube, and put it into the rubber pipe, and I washed her.

Q All right. Now, sit down. Don't get excited. Did you, at that time, or shortly after that time, hear the voice of Officer Priess?

MR. ABRAMS: I object to that, as leading and suggestive.

BY MR. KAMINSKY:

Q All right. Question withdrawn. What was the next thing you heard? A Mrs. Keller said to me, "Mrs. Schmulenson, go and take from Mrs. Priess ten dollars."

Q Was it before or after you syringed Mrs. Goodwin? A I just had taken the soap, and started to wash her.

Then she pushed me aside, and she said, "Go to Mrs. Priess, and take the ten dollars."

And I told her, "Leave this for later."

And then she called out, "Mrs. Priess, call Mrs. Schmulenson, and give her the ten dollars," and she said, ---

Q Who said? A Mrs. Priess. She called out loud, "Mrs.

1997

CASE #2551

Schmulenson, come here, and I will give you the ten dollars."

Q And what did you do? A And, as she didn't allow me to do the washing, I put away the pipe, and went into the other room to Mrs. Priess, into the third room. I went to Mrs. Priess, and she gave me the ten dollars, and I put them away.

Q Where did you put it away? A On a table, a small table.

Q In what room? A In the middle room.

Q Yes. A Then, when I came back, I saw Mrs. Keller holding in her hand this instrument (indicating), called the speculum. This hereinstrument was held in her hands.

Q Well, what did you do? A I asked her, "Why did you take that?" And then I took the chair, and pushed it away, and I pushed the chair to the wall on which this syringe was hanging, and, together with the instruments, I pushed it away.

I took away from her the instrument, and then she started to holler, "I am fainting."

So I asked her, "Why do you faint? Because I took it away from you?"

And then Mrs. Priess came rushing into the room, and grabbed me by the arm, and said, "What did you do to her?" And I answered her, "I didn't do anything to her."

Then the men came in, and arrested me.

Q Now, Mrs. Schmulenson, did you attempt to perform an abortion on Mrs. Goodwin? A Nothing of the kind.

Q What is that? A Nothing of the kind.

Q Did you ever tell her that you will take it out, and give

1808
CASE #2551

6
it to her in a glass, so that she could take it home? A I never said that. I wasn't even able to talk to her as much as that.

MR. KAMINSKY: Your witness.

THE COURT: We will suspend here. We will not begin the cross examination now.

(The Court then admonished the Jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Monday morning, January 13th, 1919, at tenthirty o'clock.)

1909
CASE #2551

TRIAL RESUMED:

New York, January 13th, 1919.

B E R T H A S C H M U L E N S O N, the defendant, on
the stand.

THE COURT: Do you want to go on without the interpreter? I see he is not here.

MR. KAMINSKY: Yes, sir; we will. I will proceed, until he comes, at any rate. I think she understands English enough for a few questions.

THE COURT: Very well. Proceed.

DIRECT EXAMINATION (Continued) BY MR. KAMINSKY:

Q You are a licensed midwife, are you not, Mrs. Schmulenson?

A Yes, sir.

Q Duly licensed by the Board of Health? A Yes, sir.

Q Do you remember, in 1911, having a talk with Dr. Sobel, the chief of one of the departments of the Board of Health?

A (No answer).

Q (Question repeated through the same Official Interpreter).

A Yes, sir.

Q Now, what did you talk to him about? A I made application to get a permit for a midwife, and a nurse was sent to my house, and she asked me what I had brought along from Russia, and I told her that I had a container with instruments, a bag of instruments. She said, "Take it all along with you and show it to Dr. Sobel".

I went with the instruments and the bag to Dr. Sobel, and he examined the bag and the instruments.

He said, "This bag here you will use for your practice. Take out all the instruments which you don't need for your practice, but keep them wherever you please, but not in this bag."

And I had these two pans like containers, and I put the instruments in there.

If you will give me the instruments, I will show you how I had them in this bag and how I took them out, and showed them to the doctor, and what I did with them afterwards.

Q Now, will you show, using these instruments, the position in which they were in this bag?

MR. ABRAMS: I cannot understand, if your Honor please, and I do not think that it is very relevant, as to what position they were in the bag, because they were not found in the bag.

THE COURT: Well, I do not know what claim is made as to how they were found.

MR. ABRAMS: But she wants to tell how they were in the bag, and how afterwards she took them out. I will concede that, if she wants, they were in the bag at some time.

MR. KAMINSKY: We don't want any concession.

THE COURT: Well, it is not material for her to sort them out, unless she contends that they were in that position when they were found, at the time of the arrest. You

may ask her where the instruments were at the time of the arrest.

BY MR. KAMINSKY:

Q Where were the instruments at the time of the arrest?

A They were in this metal box, and they were on a chair which I pushed away.

Q Now, why did you push that chair away?

THE COURT: Resume your seat, please. Have her resume her seat, please.

A Because she was on the table, and she had to step off the table, and I had to push away the chair.

BY THE COURT:

Q Now, let me see if I understand you. When Mrs. Goodwin, or whatever name you knew her by, was there, where were these instruments? A They were on a chair.

Q Where was the chair? A The chair was standing near the door leading into the kitchen.

Q Was the chair by the table? A Yes, it was near the table.

Q Well, were the instruments lying loose on the chair, or were they in something? A They were in this here box, and covered up (indicating).

Q How long had they been on that chair? A I don't remember. This box was covered, and standing on the chair for some time.

Q Well, if you did not use the instruments, why didn't you put them away? Why did you keep them on a chair in the room? A Because it happened that a doctor who assists me had to perform an opera-

CASE #2551

tion, and he may need those instruments.

Q Well, did he perform operations in your room? A No, no, not there.

BY MR. KAMINSKY:

Q In other words, you keep instruments so as to be handy for any doctor who gets a night call?

MR. ABRAMS: I object to that as most suggestive, and as virtually incorporating the answer in the question.

THE COURT: I will allow it. She has virtually said that.

A I had no other place to keep them, and, besides, whenever I got a call from a doctor, I would have them handy, and take them along with me to the doctor.

BY MR. KAMINSKY:

Q Now where was the glass point that was attached subsequently to the syringe, when Mrs. Goodwin came into the room? A It was together with the instruments.

Q Now, what was the occasion of putting the box on the chair, and opening it, when? A The box was on the chair, and I opened it only for the purpose of getting that glass tube out.

Q And the glass tube was together with all the instruments in that box? A Yes, sir. There ought to be also a holder. I don't know where that is now.

Q I show you a sketch purporting to represent the premises, and I ask you if this represents the layout of your apartment?

A Yes, sir.

Q I want you to point out with your finger the dining room

1813
CASE #2551

where this table was? A This is the dining room (indicating). And here is the table, and there was the chair.

Q Now the table we will mark for the purpose of identification, and facilitating matters, "O". That is the table (indicating)? A Yes, sir. The table was in the center, and I pushed the table over there (indicating).

Q Now, where was the chair on which you put the box containing the instruments? A It was near the wall to the kitchen (indicating).

Q We will call that "B". Is there at that point a door between the kitchen and the dining room? A Yes, sir.

MR. ABRAMS: If your Honor please, my friend is asking very suggestive questions. Let him ask where the door is.

MR. KMMINSKY: All right.

Q Where is the door?

MR. ABRAMS: But the harm is done now.

A Here is the window, and here is the door leading into the kitchen, and there was a pipe (indicating).

Q Now, I am going to mark that door leading from the kitchen into the dining room "C". And A is the table, and B is the chair?

A Yes, -- no -- C is the chair.

Q No, C is the chair, is it not? A Oh, yes, the chair. And then there is the door, the window, the chair and the couch (indicating).

Q Now, how many feet away from the table was that chair?
chair

A The/originally was away from the table, near the wall, but I

pushed it over from the wall to the table, in order to give her a chance, getting off the table, to step on the chair first, before she stepped on the floor.

Q Did you touch any part of the body of Mrs. Goodwin with an instrument?

MR. ABRAMS: I object to that as already asked and answered several times.

THE COURT: I will allow it. I don't recall that it was asked.

A No, I had only started to wash her with soap.

Q Were you called out from the room before or after you washed her with soap?

THE COURT: I understood that this examination, today, was to be confined to instruments, but you are now reopening the whole case.

MR. KAMINSKY: All right. I will ask no more questions. She is your witness.

CROSS EXAMINATION BY MR. ABRAMS:

Q Have you a dog? A (No answer)

Q (Question repeated by the interpreter)? A No, sir.

Q Have you a dog? A (Witness speaks in Polish)

THE COURT: Tell her to answer the question, please.

(The question repeated through the Interpreter.)

A I don't know whether I had a dog at that time. I had a dog, but I don't know whether exactly at that time I had the dog.

Q You don't remember that on the 21st day of August, 1917,

you had a dog; you don't remember that; do you? A I don't remember.

Q Will you swear that you did not? A I had dogs at various times, and they were stolen on me, and I can't tell exactly whether at that time I had a dog.

Q You don't remember, do you, that on the day that Mrs. Goodwin was lying on the table -- at least, before you placed her on the table, that she told you that she didn't want the dog around, because she was nervous, and that you put the dog in that little kitchen, alongside of the dining room? A When she says so, it may be so. Maybe it was so, if she says so.

Q Now you came over when, when did you come to this country?

A (No answer)

MR. ABRAMS: Now, this lady has been here for a good many years, and I will try her in English.

A The 21st of September, that is past ten years.

Q And when did you have a conversation with the doctor in the Health Department? A (No answer)

Q (Question repeated through the Interpreter) A I had a letter -- I believe seven years have passed.

Q In other words, you had a conversation with the doctor, when you got your certificate as a midwife, didn't you? A When I applied for the permit that I was to get out.

Q And when did you apply for the permit? A I have a letter, and that will show.

MR. KAMINSKY: Here is the letter.

BY MR. ABRAMS:

Q (Question repeated) A I don't remember. I can't say from this, because that has been changed already.

Q Now, here is the letter produced by your counsel. Will that tell you when you applied for the permit? A May 4th, 1911. That must be at that time.

Q You received this letter, didn't you, that I show you? .
A Yes, sir.

Q And what did the letter say? A That I should come.

Q So you read English? You knew that was May 4th, 1911, and that the letter said that you should come? A I couldn't read it at that time. I didn't understand it, and to him I went with an interpreter.

Q Well, what time were you to go there? A I remember in the day time it was.

Q Who was the doctor that you were to go to? A It was to the Board of Health, a doctor of the Board of Health.

Q (Question repeated) A I don't know. I handed in this letter, and spoke to one person.

Q Did you subpoena Dr. Sobel to attend at this trial?

MR. KAMINSKY: I object to that.

THE COURT: Objection overruled.

MR. KAMSINKY: Exception.

A No.

MR. ABRAMS: I offer the letter in evidence.

MR. KAMINSKY: No objection.

1917
CASE #2551

(It is marked People's Exhibit 11.)

BY MR. ABRAMS:

Q Have you ever been admitted to practise medicine in the State of New York? A No, I have got a license to practise midwifery.

Q We understand that, but I ask you if you have received a license to practise as a doctor? A No, I received a license as a midwife.

Q How old is your daughter? A I think, on the 24th of February she will be twenty years old.

Q What does she work at? A At the present time she does not work.

Q What was she working at last? A She worked in a store on East Broadway.

Q Doing what kind of work? A Saleslady.

Q And what was she doing before she was a saleslady? A She didn't work much.

Q I show you two boxes. Do they belong to you? A Yes, sir.

Q And were you there when Mrs. Priess got these two boxes?

(No answer)

MR. ABRAMS: Wait a moment, Mr. Interpreter, I will put the question to her, and ask her to answer in English.

MR. KAMINSKY: Objected to. Your Honor has ruled that out already, those two boxes.

THE COURT: No, they were ruled out because there was no proof that the instruments belonged to her, at that time.

1918
CASE #2551

BY MR. ABRAMS:

Q This instrument I show you, is that a sterilizer? A Yes, sir

Q And do these instruments belong to you (indicating)?

A Yes; that is a sterilizer.

Q Now, what is this instrument? What is it used for, and answer my question in English? A I have no words for that, because I don't know it in English.

THE COURT: Well, if you can name it in English, tell it, and if not, tell it in Russian.

(Question repeated through the official interpreter.)

A That is a catheter. It is an instrument by which urine is drawn from a woman. They use it in Russia.

BY MR. ABRAMS:

Q And do they use it in the United States? A I don't know. I never used it in America, because --

Q Now, I am asking you a question. Don't you know that they use catheters to draw water from women in the United States? Now answer me in English. You talk English very nicely? A Now, listen --

Q Answer in English. A (Witness speaks in Polish) I can't speak English.

THE COURT: We will have to have it one way or the other. There is nothing gained by switching from Russian to English, and then back again. There are evidently things that she cannot explain in English, though it is perfectly evident that she speaks some English.

MR. ABRAMS: Then I will proceed through the Interpreter,

sir.

BY MR. ABRAMS:

Q Don't you know that in the United States catheters are used to draw water from women? A I want to tell you that the doctor has told me distinctly that such an instrument is not used in America, and he told me I shall buy one made of red rubber, and I have one.

Q Now, I show you another instrument. Will you tell me, or will you tell the jury what that is. A The doctors use it for cleaning, to clean out.

Q Yes, that is a curet; is it not? A It is an instrument for cleaning.

Q For scraping the uterus inside? A Yes, sir. The inside of a woman.

MR. ABRAMS: Now, I ask that these instruments which have been identified by the defendant as being her property, be marked in evidence.

MR. KAMINSKY: I object to that, as they have nothing to do with the case. They were found in a bag, locked up, or placed in a closet, but there is nothing pertinent in them to connect them with the case.

THE COURT: Objection overruled.

MR. KAMINSKY: Exception.

(They are marked People's Exhibit 13.)

MR. ABRAMS: If your Honor please, I object to this conversation, and the giving of evidence before the jury,

1820
CASE #2551

in a pretended conversation between counsel for the defendant.

THE COURT: Well, I have already requested counsel to indulge in no conversation or colloquy, in the hearing of the jury, but to address any remarks or objections to the Court.

BY MR. ABRAMS:

Q This pan, will you kindly take it out, please. Now, on the day that you were arrested, you didn't have this pan in that bag, did you? A I had it in the other part, covered up.

BY THE COURT:

Q Well, you have not answered the question. You do not answer the question. Did you have it in the bag? A No, it was on top of the other box, covering the other over.

MR. ABRAMS: I now ask that it be marked in evidence.

MR. KAMINSKY: No objection.

(It is marked People's Exhibit 13.)

Q And you say that all this was on the chair (indicating)?

A Yes, but some of the things we took from their places where they were lying.

Q But some of the instruments were in this pan? A Yes. Some other instruments, they looked around all over, and took them where they found them.

Q Was there anything in the pan besides instruments? A Lysol was there, and some disinfectant to wash the hands after one examines.

CASE #2551

Q And the lysol was in the pan, and the instruments were in the pan, to clean them; weren't they? A No, the lysol was in a bottle.

Q But what was in the pan? A I had to open it out to get the glass tube. I needed a glass tube.

Q But didn't you tell us just now that there was some lysol in this pan? A A bottle was in there, and I took out the bottle.

Q Which bottle? Any one of these (indicating)? A Yes, this one (indicating).

Q And that was in the pan? A Yes, sir.

Q Now, was there any liquid in the pan, besides what was in this bottle? A Yes, sir.

Q What kind of liquid? A Water, mixed with lysol.

Q And who put the water, and the lysol in the pan? A When I started to wash her, she said that the water was hot.

THE COURT: Now wait a minute. You were not asked what she said. You were asked who put the liquid in the pan. Now that is a simple question. Please pay attention to the questions, and then answer them.

(The question is repeated by the interpreter.)

A I poured the lysol into the bag, into the syringe.

BY MR. ABRAMS:

Q Did you have lysol and water in the pan? A In the empty half of the box, one half of it. There was standing a cup there, and then she said the water was too hot, and I poured out some of the water into that cup, and got cold water.

Q Why didn't you tell us that the top was on the under case, with the instruments in it? A No, I had taken it off. I put it this way (illustrating) and poured the water.

I took off the upper part of this metal box (indicating), and I put it down, and placed the syringe inside, and poured in the water, and started to wash her.

She said the water was very hot, and then I went into the kitchen and got some cold water, and poured some of the hot water into the other half of the box, and poured some cold water into the syringe, so as to cool the water, and in the cup there was lysol, with water.

Q And when you poured into the other half, you poured into the half that contained the instruments, didn't you? A Yes, where the instruments were.

Q And what you were pouring into the other half, containing the instruments, was water with lysol in it; was it not? A Yes, water with lysol, because in the container there was water with lysol.

Q Now, did you syringe Mrs. Goodwin? A I only started to wash her. Then she sent me away first to get her some cold water; that the water was too hot, and, when I came back, and wanted to start to work, she said, "Go in the other room, and get your ten dollars."

Q Why, didn't you tell this jury that you did not syringe her, or had not done anything to her at all, but what you had done was to take a piece of soap, and started to wash her parts? A Yes,

1923
CASE #2551

I said it.

Q So that you didn't syringe her? A I wanted to do that, but she said at first that the water was too hot, and, when I came back and brought some cold water, she said, "Now, go into the other room, and take the ten dollars."

She said, Mrs. Priess, call Mrs. Schmulenson, and give her the ten dollars."

Q Now, answer yes or no, please, Mrs. Schmulenson. At the time that you were arrested, the pan, marked People's Exhibit 10, was on the chair, with instruments in it, and had lysol and water in the pan; is that right? A Yes, sir.

Q And the other exhibit, People's Exhibit 13, I think, that was where? A On top -- it was, as I showed before, covering the other one.

Q What? When you were arrested? A No, that remained.

Q As it is now? A It wasn't clean, but, as I wanted to put it in the bag, I cleaned it first, in order not to make the bag dirty.

Q I thought you told us that, because you had a chance to use it, you were arrested? A The other half that had remained here.

Q Oh, you hadn't taken this half out of your bag at all; is that right?

MR. KAMINSKY: Now, if your Honor please, the District Attorney saw her produce that other half here, from the counsel table.

THE COURT: I don't know whether she did or not, but the

1924
CASE #2551

question is whether there is any objection to the question.

MR. KAMINSKY: Yes, sir, I do object to it, as an attempt to mislead the jury by a misstatement of the evidence.

(Overruled. Exception.)

A It was together with the instruments, but she was to take it.

Q When you say "she" you mean Mrs. Priess or Mrs. Goodwin?

A Yes, sir.

Q But I am trying to find out this. When you were arrested, this pan was on the chair, with lysol and instruments in it?

A Yes, sir.

Q And this other pan was where? A I showed you before how it was, and it was in this condition (illustrating). At first, it was covered, as I will indicate, but, when I had to use the tube, I took off the upper cover, and put it alongside the other part, and put the syringe in there as it is now.

BY THE COURT:

Q Well, where was it when you were arrested; that is the question? A It remained at home, as it is now, but they took only one half away.

Q Now, come back to your seat here. We are not asking you what they took. When Mrs. Goodwin jumped up from the table, and Mrs. Priess came in, where was that other half? A Both parts on one chair.

BY MR. ABRAMS:

Q When had you used these instruments now contained in this pan, the last time? A I don't remember when I was called.

Q How many months ago? A Maybe a month or maybe a couple of weeks.

Q Who was the doctor, and where does he live, that used your instruments the last time? A Dr. Nelser.

Q Did you subpoena him to come here? A Yes, sir.

MR. KAMINSKY: Yes, he is in court.

BY MR. ABRAMS:

Q Now, when did he use last your instruments before the arrest? A I don't remember when.

Q How long about? A Maybe a month or maybe six weeks, or maybe a couple of months. I don't remember.

Q You had a bag in which these instruments fitted, did you not? A I wrapped them in paper. That depends upon how it happens. Sometimes I wrap it in paper, and take it along.

Q Tell me the name of any other doctor that ever used your instruments, and where he lives? A There is a doctor Scharfin. I only go with him to confinement cases.

Q I am asking you, when did he ever use your instruments? A Very seldom.

Q When is the last time Dr. Scharfin used any of your instruments? A I don't remember when he used them. I don't remember exactly that he used them at all.

Q Yes. You won't swear that he ever used them, will you? A No.

Q What other doctor ever used your instruments? A Nelser.

Q But you don't remember how long before you were arrested

he used them? A No, sir.

Q How many times did he use them? A I don't remember.

Q Do you remember whether he used them as many as twenty-five times? A No.

Q Ten times? A Yes.

Q He used them ten times? A Yes, sir.

Q Hadn't he instruments of his own? A He has two offices, one uptown and one downtown.

Q I am not asking you that.

MR. KAMINSKY: One moment. That is an explanation.

THE COURT: She was not asked for an explanation.

She was asked if he had instruments of his own.

A Yes, he has instruments of his own.

BY MR. ABRAMS:

Q Is there any other doctor in the world that you now know of, that ever used your instruments? A No, sir.

Q And the only doctor that you can speak of is Dr. Nelseer? And he has his own instruments, and you don't know how many times he used your instruments? A Yes.

Q Now, did you go on the case/when he used instruments?

A Yes.

Q Now, when Mrs. Priess and Mrs. Goodwin came to your house on August 21st, 1917, at about two o'clock --- the first visit that day -- who was in your house besides yourself? A My daughter and Mrs. Ehrlich. Do you mean when Mrs. Goodwin came, or both of them came?

Q When both of them came, on the day that you were arrested, on August 31st? A My daughter and Mrs. Ehrlich were there.

Q Didn't you tell us that Mrs. Feinberg and Mrs. Shifren were there? A They came after Mrs. Keller and Mrs. Priess had been there already, outside of Mrs. Ehrlich and my daughter.

Q Well, when Mrs. Goodwin and Mrs. Priess came there, the first time, you say that your daughter and Mrs. Ehrlich were there?

A Yes, sir.

Q Were Mrs. Feinberg and Mrs. Shifren there? A They came later.

Q And then when Mrs. Goodwin and Mrs. Priess came there, there were Mrs. Ehrlich and your daughter, and Mrs. Shifren and Mrs. Feinberg? A In one room there was Mrs. Priess, and Mrs. Keller, and then came Mrs. Shifren and Mrs. Feinberg; and, in the dining room, was Mrs. Ehrlich, and in the bedroom was my daughter; and Mrs. Priess and Mrs. Keller, I showed into the front room.

Q Where was Mrs. Feinberg and Mrs. Shifren? A I showed them also into the front room.

Q So, when you were in the ^{front} room, you now say Mrs. Feinberg and Mrs. Shifren, and Mrs. Priess, and Mrs. Goodwin were together in the front room? A Yes.

Q And your daughter was in the bedroom, you say? A Yes, in the dark bedroom.

Q And where was Mrs. Ehrlich? A In the dining room.

Q Now did you have Mrs. Ehrlich in the dining room, and your daughter in the dark bedroom? A Mrs. Ehrlich came there a

few minutes before Mrs. Priess and Mrs. Keller, and I had to massage her on the couch in the dining room. There I usually did the massaging.

Then my daughter went into the dark bedroom, and she drew the blinds, so as to shut out the light from outside.

Then the bell rang, and Mrs. Goodwin and Mrs. Keller came in -- Mrs. Priess -- and I opened the door of the front room, and I left them enter the front room.

Q And did Mrs. Shifren and Mrs. Feinberg stay there? A Yes, sir.

Q Did they stay there until you took Mrs. Goodwin in on the table?

MR. KAMINSKY: Now, if your Honor please, this is a deliberate attempt to confuse the witness. She testified, time and time again, that Mrs. Keller went away for three quarters of an hour, and the table incident occurred three-quarters of an hour afterwards.

THE COURT: This is cross examination, and I will allow it.

MR. ABRAMS: But, if your Honor please, I don't like my friend's characterization. I am not trying deliberately to mislead the witness, or do anything else that is wrong.

THE COURT: Well, proceed, please.

BY MR. ABRAMS:

Q Mrs. Priess, and Mrs. Goodwin went away, after the first visit? A Yes.

Q Were Mrs. Feinberg and Mrs. Shifren there? A Yes, sir.

Q And did Mrs. Ehrlich remain in the dining room? A Yes, sir.

Q And your daughter in the bedroom? A Yes, sir.

Q Now, after Mrs. Priess and Mrs. Goodwin went away, did Mrs. Feinberg and Mrs. Shifren stay there? A Yes.

Q Until Mrs. Priess and Mrs. Goodwin came back? A Yes, sir.

Q Did your daughter stay there until they came back? A Yes, sir.

Q Where was your daughter when they came back? A I sent her to the kitchen, together with Mrs. Ehrlich.

Q And where were Mrs. Shifren and Mrs. Feinberg then? A They went away.

Q That is what I am asking you. Did Mrs. Feinberg and Mrs. Shifren go away? A Yes.

Q Now, Mrs. Goodwin whom you knew as Mrs. Keller or Kelly, she said she wanted to be alone there, didn't she? A Yes, sir.

Q She was bashful, wasn't she? A Yes.

Q And even though she wanted to be alone, and was bashful, you didn't have her there alone, did you? A No, sir.

Q Didn't you tell this jury, on Friday, that Mrs. Ehrlich came there to be massaged, and that you told Mrs. Goodwin and Mrs. Priess, that they could come back later? A Mrs. Priess?

Q Yes. A I told her?

Q Yes, didn't you tell them? A No. They said they had to go out and get something to eat, and then they would come back,

1830
CASE #2551

later, they said, "Because you are busy now, and we will go away. You have two women here."

Q Who were the two women? A Mrs. Shifren and Mrs. Feinberg.

Q Well, what were you doing with them? A When they came in, when the two women came in, I started to talk to them, and then the others got up, and they said, "We see you are busy, and we will come back in three quarters of an hour."

Q Well, Mrs. Feinberg and Mrs. Shifren were visiting you? A Because one of them was in the family way already, the last month.

Q And Mrs. Ehrlich was there for the purpose of getting massaged? A Yes, sir.

Q Well, when Mrs. Goodwin and Mrs. Priess left, did you massage Mrs. Ehrlich, or Miss Ehrlich, whichever it is? A Well, then there remained Mrs. Shifren and Mrs. Feinberg, and I had to talk to them.

Q So that you didn't then massage Miss or Mrs. Ehrlich? A No, sir.

Q Is it Miss or Mrs. Ehrlich? A Mrs.

Q Mrs. Ehrlich? A Yes, sir.

Q Now, didn't you tell Mrs. Ehrlich to go away until after you had gotten through with Mrs. Goodwin and Mrs. Priess? A Nothing of the kind. I told her to wait, and I will get through with these people, and it will take about half an hour.

Q Well, Mrs. Priess and Mrs. Goodwin were gone about an hour? A Only about half an hour.

CASE #2551

Q Well, why didn't you attend to Mrs. Ehrlich at that time?

A I had Mrs. Shifren and Mrs. Feinberg there.

Q Well, what were you doing with them? A Why, I had to talk to them. I had to talk to one of them especially, because she said that she felt that the child had gone down somewhere, and I had to examine her.

Q And did you examine her? A Yes.

THE INTERPRETER: She means by that: "She asked me some questions."

BY MR. ABRAMS:

Q And did that take half an hour? A Yes, a little more than that.

Q Now, Mrs. Schulenson ---

BY THE COURT:

Q How long had Mrs. Ehrlich been in your place before Mrs. Keller came in the first time? A Just a few minutes.

Q And she sat then in your place waiting for you an hour or three-quarters of an hour, while they were away? A Not an hour; about half an hour.

Q Well, wasn't she there ahead of these other two women, Mrs. Feinberg and Mrs. Shifren? A Well, she came in about five minutes before anyone came there.

Q Well, why didn't you take her up first? A As I said before, I made the preparations to work upon Mrs. Ehrlich, to massage her, and for that purpose I sent my daughter into the other room, and I put Mrs. Ehrlich on the couch, and then the bell rang,

1952
CASE #2551

and Mrs. Priess, and Mrs. Keller came.

Q You don't answer my questions. Why didn't you take up Mrs. Ehrlich first, and massage her? She came before the others? A Well, after Mrs. Keller left, there were Mrs. Feinberg and Mrs. Shifren.

Q But they came there after Mrs. Ehrlich. Why didn't you attend to her first, after Mrs. Keller and Mrs. Priess left? A Well, I couldn't leave them, and go to massage Mrs. Ehrlich.

Q Why not? A Why? There was one woman with a child in her arms, and another woman about to give birth to a child. I had to talk to them.

BY MR. ABRAMS:

Q Well, when did that woman give birth to the child?

A October 1st. And here is a postal card about it.

Q Well, but she wasn't to be confined then. August 21st, we are talking about now? A It was about the last stages.

Q But was confined on October 6th, the postal card says?

A Yes.

BY THE COURT:

Q Did Mrs. Ehrlich lie on the couch all the time, waiting for you to come in? A Oh, no.

Q What was she doing? A She was sitting there.

BY MR. ABRAMS:

Q When and where? A I didn't see that, because I went into the front room.

Q And where did you leave her? A Sitting in the kitchen.

Q Now, when you examined Mrs. Goodwin, where was Mrs. Ehrlich?

A In the dining room.

Q And the bedroom in which you examined Mrs. Goodwin first, when you pressed on her stomach, that was the bedroom opening into the dining room? A From the front bedroom to the front room.

Q That was the room that you had to go through to the dining room? A No. With Mrs. Keller I went to the front room, the front bedroom.

Q When you examined Mrs. Goodwin, the first time, and pressed on her stomach, I mean, what room was that in? A This room (indicating).

Q That is the hall bedroom alongside of the parlor? A Yes.

Q Now, where is the room that you go through to go to the dining room? A The front room, then the middle room, and the dining room, and here is the kitchen (indicating).

Q Now, all the time you examined Mrs. Goodwin in the bedroom, you left Mrs. Ehrlich sitting in the dining room, all alone? A Yes.

Q And why was your daughter in the bedroom alone, and Mrs. Ehrlich in the dining room alone, all the time? A Well, I told you once before that I had sent my daughter into the bedroom, because I was just about to massage Mrs. Ehrlich.

Q Now, when you found out that you were not going to massage Mrs. Ehrlich, why did you leave Mrs. Ehrlich sitting in the dining room all alone, and your daughter in the bedroom alone, all that time? A After Mrs. Priess and Mrs. Keller left, I went with Mrs.

Shipman and the other lady, into the dining room, and I asked Mrs. Ehrlich to be kind enough to wait just a little longer; that I would then attend to her; because the ladies, Mrs. Keller and Mrs. Priess, had left with me fifteen dollars, and said that they would come back in half an hour.

Q Tell this jury how long Mrs. Ehrlich was in there altogether, from the time that she came, until the time that she left? A She was in the kitchen until after my arrest.

Q So she got there before two o'clock; did she? A A few minutes before Mrs. Keller and Mrs. Priess arrived there.

Q And remained there until after three? A Yes, she remained there until I was arrested.

Q Now, Mrs. Schmulenson, you examined Mrs. Goodwin twice, you say, in the hallbedroom, alongside of the parlor, the first time? A The hall bedroom that goes to the front.

Q What did you examine her for? A She told me that she was in the family way, that she was pregnant, and she wanted I should find out how long she had been pregnant.

Q And do you want this jury to understand that you could by a physical examination tell, with any certainty, whether or not a woman was pregnant, if she had not menstruated in five weeks? A No, nobody can tell that.

Q Well, why were you conducting a physical examination? A Well, I am making a living from that. If a woman comes to me to be examined, and asks me my advice, I examine her, and get

paid for it.

Q Examine her for what? A she came to me, and said she was pregnant, and she felt bad, and asked me to examine her.

Q She told you that the last time she had menstruated was July 7th, didn't she? A On the 13th of July.

Q On the 13th of July? A Yes.

Q And you examined her on the 21st of August? A Yes.

Q Five weeks after? A Yes.

Q And she told you that she was in the family way? A She said she felt bad, and asked me to examine her, to tell her how long she had been pregnant.

Q And do you say to this jury that you could examine a woman, five weeks after she had menstruated, and tell how long she had been pregnant? A Sometimes it is possible.

Q It is possible? A Yes, sometimes it is possible to say, and sometimes it is not.

Q It is possible to tell pregnancy five weeks after menstruation? A Yes.

Q By a physical examination? A What do you call physical?

Q Well, examining a woman physically, measuring, etc. ?

A Well, that is the reason I wanted her to lie down on the table, and I would examine her, because there are various ways of examining, there are different ways of examining.

For instance, when I see that the womb --- when I can't see the womb, there are other signs.

1836

CASE #2551

Q What are those signs? A When the body has some blue marks, and things of that kind. Then I have other signs. The lips of the woman become blue.

BY THE COURT:

Q What? In five weeks after pregnancy? A Sometimes; yes, sometimes, if the womb doesn't show it, then the lips show it.

BY MR. ABRAMS:

Q Do you mean to tell this jury that there is any physical indication about a woman's womb that shows that she is pregnant, if she fails to menstruate five weeks after her last menstruation? A Sometimes the womb shows it.

Q It does? A Yes.

Q Five weeks afterwards? A Very seldom, though.

Q Did you ever see it? A Yes.

Q Now, then, you examined Mrs. Goodwin in the bedroom?

A Yes, sir.

Q Did you find out whether she was pregnant or not? A First of all, she wouldn't let me examine her.

Q Then what did she come there for? A (No answer)

by THE COURT:

Q Did you examine her? A I told her I would have to have another examination, and for that reason I put her on the table.

BY MR. ABRAMS:

Q I am asking you, did you examine her in the bedroom?

A Yes.

Q Did you find out whether she was pregnant? A I was not

CASE #2551

sure.

Q You say that she didn't want to let you examine her?

A Well, there is a way of letting oneself be examined, and then there is another way. It depends upon how the woman breathes, so that one could touch the womb with the hand.

Q Well, did you try to touch her womb with your hand?

A Yes.

Q And she wouldn't let you? A She had a very fat stomach, and that made it hard.

Q Made it hard to touch the womb? A Yes.

Q Then she didn't stop you from examining her? A She didn't stop me, but she didn't breathe properly, so as to make it easier to examine.

Q Did you tell her how she should breathe? A Yes.

Q And she wouldn't breathe as you wanted her to? A No, she didn't breathe exactly as I wanted her to.

Q And then you couldn't tell whether she was in the family way or not? A No, sir, certainly not.

Q Then why did you take her into the dining room? A Then I said, "I can't tell this way. I have to take her into the other room, and put her on the table. I can't examine her this way."

Q Well, didn't you have a couch in that room where you examined her? A Well, yes, but that room was dark, and I could not see plainly. It was right near the wall.

Q Now, didn't you tell the jury first came the chair, and then the table, and then the couch? A Yes.

Q And wasn't the couch nearer the window than the table?

A Well, but I would get more light, because the table was higher.

BY THE COURT:

Q When you first examined her, did you insert your hand or fingers into the vagina? A Yes, sir.

Q Well, did you use any sterilizing fluid then? A Yes, I went first to wash my hands.

Q Did you wash her then? A Yes.

Q Then why did you wash her the second time? A Well, I had to make a more thorough examination then inside, and put in my fingers there.

1839
CASE #2551

Q Well, you did that the first time, didn't you? A Well, I thought that I ought to have more disinfection when I put her on the table, and I put my hands in then.

Q Well, but you put your hands in the first time, didn't you? A Yes, the second time I didn't put in my hand.

Q Well, why did you wash her the second time, not the first, if all you were doing, the first time, was to examine her? A Well, the first time I thought I could easily find out whether she was pregnant or not, but the second time I had to make a different kind of examination.

Q Well, why did you have to wash her, a second time, if all that you were doing was to examine her? A But I had to examine her body, to see, after the washing, whether the color of the skin was rosy or blue. This is one of the signs that we have.
BY MR. ABRAMS:

Q Now, Mrs. Schmulenson, did you hear your lawyer speak to the jury here on Friday? Did you hear your lawyer talking to the jury on Friday? A I heard, but I understand very little.

Q Did you hear him tell the jury that the reason you kept these instruments so many years was because you -- you intended to prove that you wanted to keep those instruments for your daughter, when she took up the study of medicine? A Yes, for my children. And I have two boys and a daughter.

Q I am not talking about your boys now.

MR. KAMINSKY: And I must object to the tone the

District Attorney assumes, if your Honor please.

MR. ABRAMS: But she has prolonged this examination almost interminably by these evasions.

THE COURT: Well, even if she has, it is not necessary that she should be addressed in so loud a tone.

MR. ABRAMS: But I did not care to hear about her boys. I am referring now to her daughter. I am now referring to your daughter. You said that you expected your daughter to study medicine, some day.

A Now, I have three children.

BY THE COURT:

Q Now, answer the question yes or no. A Yes, that was right.

BY MR. ABRAMS:

Q And didn't you hear your lawyer say also that you gave a list of the instruments to the Board of Health, and they said that you could put you/keep them as long as you kept them/away, and didn't permit them to be used? A Yes.

Q Did you get the twenty-five dollars? A Yes.

Q Did you keep it? A Yes, but if she had demanded the return of the money I would have returned it.

BY THE COURT:

Q What was the \$25 paid for? A She had told me that she was pregnant, and at that time there came in a Mrs. Scharfin and Mrs. Feinberg, and I told her, "You see, here is one woman

1971
CASE #2551

who has given birth to a beautiful child, and here is another woman about to give birth to a child. I attended to them before they gave birth to their children, and if you want me to attend to you before the birth of your child, I will charge you \$25".

Q But do you get paid \$25, eight months before the delivery of a child? A If she doesn't want to pay me that money, she shouldn't bother me; that's all.

Q Well, I ask you again, and I want you to answer my question. Is it your custom to get paid eight months in advance for your fees? A That depends upon the case. In this case, for instance, I couldn't understand her very well, and I really wanted to get rid of her, and I told her it would cost \$25, and I felt she wouldn't give the \$25, and would go away and not bother me any more.

Q You didn't want the case, is that it? A She wanted to remain and pay. Why not?

MR. ABRAMS: I have no other questions.

REDIRECT EXAMINATION BY MR. KAMINSKY:

Q In other words, Mrs. Schmulenson, that was a test whether or not this woman was genuine or not in her intentions to engage you?

MR. ABRAMS: I object to the question, as leading and suggestive.

THE COURT: Objection sustained. It is leading.

BY MR. KAMINSKY:

1942

CASE #2551

Q Do many people come to you and talk to you about cases, Mrs. Schmulenson? A Yes, sometimes they come and talk and talk, and don't pay anything, and go away.

Q Well, then, how is it that you guard yourself against the waste of your time in cases of that kind?

MR. ABRAMS: I object to the question.

THE COURT: Objection overruled.

MR. ABRAMS: She has already said that they very often, and don't pay, so she doesn't guard herself.

THE COURT: Objection overruled.

A Some people come and make an arrangement and say, "Now, you start in to attend me now, and at the end, when everything will be over, I will pay you a certain amount."

BY THE COURT:

Q What is your regular fee for a delivery? A Well, that depends upon the standing of the patient. If she is able to pay more, I demand more.

BY MR. KAMINSKY:

Q Are your children matriculated with the Medical Department in Albany? A Yes.

Q What are their names? A Bessie and Louis. And Willie is going to High School, Stuyvesant School.

Q Now, look at this instrument. Did you ever put this instrument into the rubber tube, People's Exhibit 3-A? A No, I had the glass tube.

Q And when you came back from your conversation with Mrs. Priess, you saw Mrs. Goodwin handling these instruments, is that right? A Yes.

RE-CROSS EXAMINATION BY MR. ABRAMS:

Q Louis goes to what school? A Willie goes to Stuyvesant High School, and Louis goes to the Preparatory School in East Broadway, and he made an examination, passed an examination for certain counts, to go to the Medical School.

Q Well, he doesn't go to any medical school, does he?

A He is to be examined in taking the counts, and when he has the counts --

Q I am asking you, does he go to any medical school? A He has to inform certain institutions of what profession he selects, and then he knows what counts he will have to pass.

Q You mean that there is a Regents Examination that your son must pass? A Yes, sir.

Q Is anyone of you children going to a medical school now? A No, sir.

Q Or did any of them ever go to a medical school? A No, sir.

Q Have you a daughter that is studying medicine? A No, not up at the present time, but she has passed an examination to enter the medical college.

Q Didn't you tell us that your daughter was working on East Broadway as a salesgirl? A Yes, before last year.

Q Didn't you say that before she worked on East Broadway

1947
CASE #2551

she worked at other things? A Two years ago --about a year and a half ago -- she worked as a saleslady on Broadway, on East Broadway, for Tischman.

Q And when did she stop working? A On the Hebrew Passover she stopped working.

Q When was that? A Whenever that Hebrew Passover occurred.

Q How many months ago was that? A This Easter will be two years.

Q Two years ago this Easter, she stopped working as a saleslady? A Yes.

Q Now, don't you remember that I asked you what your daughter was working at, and you said as a saleslady on East Broadway?

A Yes, before.

Q And then I asked you what she did before she worked as a saleslady, and you said she worked at anything? A Yes; in the summer time, she doesn't do any work.

Q Well, in the winter time, what does she work at? A Different work she can find.

Q Well, when ^{was} she working last as a saleslady?

MR. KAMINSKY: I object to that as immaterial, irrelevant and incompetent.

THE COURT: Yes, I think you have gone into this far enough. Objection sustained.

BY MR. ABRAMS:

Q Did she ever go to any college?

(Objected to. Sustained.)

MR. KAMINSKY: I offer this diagram in evidence, unless there is an objection.

MR. ABRAMS: None at all.

(It is marked Defendant's Exhibit F.)

BY MR. ABRAMS:

Q Does this bag belong to you? A Yes, sir.

MR. ABRAMS: I offer it in evidence.

(No objection. Marked People's Exhibit 14.)

J O S E P H I N E E H R L I C H, of 328 East 14th Street,
a witness called on behalf of the defense, being duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. KAMINSKY:

Q Mrs. Ehrlich, are you single or married? A Married.

Q And how long have you been married? A Four years.

Q You will have to raise your voice, Mrs. Ehrlich. This last gentleman must hear you. Have you any children? A Yes, one child.

Q And who attended you at your confinement? A The midwife to attend my child?

Q Yes? A It was in the hospital; no midwife.

Q How long do you know Mrs. Schmulenson? A I know Mrs. Schmulenson one year.

Q One year? A Yes, sir.

BY THE COURT:

Q Do you mean you know her now one year? A No; it's more. Altogether it will be about two years.

BY MR. KAMINSKY:

Q Two years? A Yes, sir.

Q And how long had you known her on the 21st day of August, 1917? A In that time how long I know her?

Q Yes? A It was the twenty-one of August.

Q And how long did you know her on that day? A It was only one week.

Q What? A One week.

Q That's all you knew her, one week? A Yes.

Q And what did you go up there for? A To make message on my feet.

Q Now, do you remember 21st of August, 1917? A Yes, sir.

Q What time was it that you went to see Mrs. Schmulenson?

A It was before, or it was two o'clock. I don't remember exactly.

Q And where did you go into when you entered the apartment?

A In the dining room.

Q You went through what door? A From the hall.

Q From the hall door into the dining room? A Yes.

Q Did you have a talk with her? A With who?

Q With Mrs. Schmulenson? A Yes, we were sitting, and we didn't say anything, and just when we sit down the bell rings, and she goes to the front door and two women came.

Q Did you see them? A No, I just heard like one woman said to her, "This is my cousin, Mrs. Kelly." She says that to Mrs. Schmulenson.

Q And where did that conversation take place? A And then I heard like Mrs. Schmulenson took one of the women --

Q Now wait. Where did that talk take place? A In the front room. She takes her in the front room. And after I heard like she takes one woman into the front bedroom, and then she came back.

MR. ABRAMS: Now, if your Honor please, I must object to this. She does not testify that she saw that done.

BY MR. ABRAMS:

Q Did you see her taken into the front bedroom? A No. I was in the dining room.

THE COURT: Now wait a moment. You will have a chance in cross examination.

MR. ABRAMS: Well, I am objecting now because she says that she heard her go in.

THE COURT: Well, I suppose she means she heard a voice that she recognized.

THE WITNESS: I heard a woman say to Mrs. Schmulenson, "Can't you tell her how long she's in the family way?" And she said, "No, I can't tell. She has a very fat belly." And then the bell rings and comes in two other women, and I see them here. They are right here.

CASE #2551

BY MR. KAMINSKY:

Q Do you see them in the courtroom here? A I didn't see them then, but I just heard them come in, but I seen them in the court here on Friday, and today.

And Mrs. Schmulenson said to another woman, "Here is coming another two women, and they are both in the family way, and when I took the baby, see what a nice baby I took, and if you give me \$25 I attend to you like I attended to her."

Q And after that what happened? A And after that Mrs. -- one woman said to her, "I'll give you \$15 deposit", and she said, "We will come back later, but nobody shall be in your house."

Q And did you hear them go away? Did you hear the door slam after them? A And I heard Mrs. Schmulenson say, "I'll take you in another room now and give you another examination", and one woman said, "No, we'll be back later," and they went away.

Q Now, did you see those women come back? A Yes, sir; I was at that time waiting in the front room for the massage.

BY MR. ABRAMS:

Q What? A In the dining room. And Mrs. Schmulenson said to me, "If those two women come back, I want you to go into the kitchen, and make yourself very quiet, because that woman is very bashful."

BY MR. KAMINSKY:

Q Now, will you tell this jury what you were doing in that

apartment, when these two women came back? A So that time the bell was ringing.

Q No. What were you doing while they were away? A I was sitting on the chair, waiting for my massage, and I and Mrs. Schmulenson were sitting together at the lunch -- I and her daughter and Mrs. Schmulenson -- and she said, "Sit down in the chair" --

MR. KAMINSKY: If your Honor please, would you let me now take this witness from the chair, because Dr. Nelson is here, and he is a busy practitioner?

THE COURT: Very well.

B E N D I T N E L S O N, of 1851 Madison Avenue, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KAMINSKY:

Q Dr. Nelson, you are a duly licensed physician, licensed to practice medicine in the State of New York? A Yes, sir.

Q How long have you been so licensed? A For twenty or twenty-one years.

Q Prior to that time where did you get your medical education? A What do you say?

Q Where did you get your medical education? A In Russia, University of Kief.

Q And later on you were admitted to practice in this State?

1950

CASE #2551

A Yes, sir.

Q How long have you known Mrs. Schmulenson? A About ten years.

Q And what is her profession? A She is a midwife and a nurse.

Q And did you have occasion to call her to your cases as midwife and nurse? A Yes.

Q And how often would you employ her on the average? Give us some idea. A Very often after the five years I know her, but now I'm not so busy with this kind of practice, and so I don't call her so often as before.

Q Now, you have instruments in your office? A Yes, sir.

Q You have two offices, have you not? A Yes, sir.

Q Uptown and downtown? A Yes, for the last five years.

Q Do you keep a complete set of instruments, used for childbirth, in your downtown office? A I have some instruments, but not the whole set.

Q Did you, on any occasion, use the instruments of Mrs. Schmulenson? A Yes, sir.

Q Now, tell the jury all about that. A Well, when making my calls, it happened sometimes that I find a case of a hemorrhage, requiring operative treatment at once. And so I used to call her by the phone, and as I knew she had some instruments for scraping, I used to call her by the phone and tell her to bring her instruments along, incase of emergency.

Q Now, doctor, do you know other people who know her?

A People?

Q Yes, do you know other persons who know Mrs. Schmulenson?

A You mean doctors?

Q Doctors or people. Doctors are people sometimes. A (No answer).

BY THE COURT:

Q Do you know any of her friends? A No, I don't.

BY MR. KAMINSKY:

Q Well, you have been using her professionally for a number of years? A Yes, sir.

CROSS EXAMINATION BY MR. ABRAMS:

Q What institution did you attend in the State of New York, doctor? A What's that?

Q Did you ever attend any institution in the State of New York? A No.

Q You were admitted to practice in Russia; is that right? A Yes, sir.

Q When you came over here to the United States, did you go to any college? A No, sir.

Q How were you admitted to practice here? A I underwent an examination here.

Q Where? A You mean the building where I had an examination?

Q No, give us the town or city. A New York City.

1852
CASE 772551

Q And did you receive a diploma or license to practice from the State of New York? A Yes, sir.

Q When was that? A It was in 1904.

Q 1904? A Yes, sir.

Q Now, how long do you say you have been in practice? A 21 years.

Q When did you get here? A In 1904.

Q In 1904? A Yes, sir. I was practicing in Russia before.

Q In Russia? A Yes, sir.

Q But you got here in 1904? A Yes, sir.

Q And you were admitted to practice in 1904? A Yes, here in New York.

Q Well, but you got here in 1904? A Yes.

Q And you were admitted to practice in the same year? A Yes.

Q And you have been practicing in New York for fifteen years?
A Yes, sir.

Q Do you want us to understand that you were admitted to practice before you became a citizen? A Yes, before I became a citizen.

Q You got a license from the State to practice medicine in the United States, even though you were not a citizen? A Yes, sir.

Q And did you say that you were a citizen? A I am a citizen now.

Q When did you become a citizen? A About --

MR. KAMINSKY: I object to the question, because I be-

CASE #2551

lieve that your Honor can take judicial cognizance of the fact that, in those times, a man need not be a citizen to be admitted to practice.

MR. ABRAMS: And I think that in 1904 citizenship was requisite to the issuance of a license.

THE COURT: Objection overruled.

BY MR. ABRAMS:

Q When did you become a citizen? A About six years after I came here.

Q And you were practicing six years in the State of New York without being a citizen? A Yes, sir.

Q You are a specialist now, are you? A No, I am a general practitioner.

Q Well, do you do gynecological work? A Yes, sir.

Q Are you an obstetrician? A Yes, sir.

Q In your early days of practice, you did a good deal of that work? A Yes, sir.

Q But in later years you haven't done so much? A No, sir.

Q When did you last use Mrs. Schmulenson? A The last time I used her was about four months ago, I think.

Q Was it a confinement case? A Yes.

Q Well, her duties as midwife were to assist you? A The last time?

Q No, her duty as midwife was to assist you, was it not?

A Yes.

CASE #2551

Q In what respect? A Well, for instance, to watch the woman in labor at night, and call me up in time to deliver her.

Q And you would do the delivering? A Yes, sir.

Q She had nothing to do with the delivering? A If the case is her own, she delivers the woman herself, but if it is my case, she has to call me at the time of delivery, to call me to deliver.

Q Now, do you mean to tell us that if the case is her own, and it is a forceps case, she does it? A No, I didn't say that. In cases of hard labor, she would call me to help her. In case of a tear, she would call me to repair it.

Q Now, you say that you have a set of instruments? A Yes.

Q And you also told us that they were not complete? A No, I said that my set of instruments in my house is complete, but I have some instruments downtown in my office there.

Q And that is not complete? A No, not complete; that's right.

Q And as a physician you never thought you owed it as a duty to those whose might need your professional services to have a complete set of instruments in order to meet an emergency, did you?

MR. KAMINSKY: I object to that.

THE COURT. Overruled.

MR. KAMINSKY: Exception.

A Well, in case of emergency -- that means in case I find a case where an operation is necessary -- on my way downtown

or so, I am almost as far from my downtown office as my uptown office. They are usually cases where I find patients at home in their own house, and it is just as easy for me to get my instruments from the downtown office as the uptown office.

Q Yes, at any time that you need your instruments, they are always available, aren't they? A They are available, yes, but it sometimes takes time to get them.

Q Did you ever confine a woman in Mrs. Schmulenson's house?

A No, sir.

Q Did you ever treat a woman in her house? A Never.

Q How often did you use Mrs. Schmulenson's instruments?

A Several times.

Q Why did you use them? A I don't remember, except because, in case of emergency, I wanted her to help me to prepare the operation, and at the same time, to bring her instruments along.

Q Well, why didn't you have your instruments in case of emergency? A Because this was easy and quicker.

Q And in other words, you were ready to use instruments that were old and not in use any longer, and may not have been sterilized, instead of your own instruments that you knew all about?

(Objected to. Sustained.)

Q How many emergencies did you find in your practice where you used Mrs. Schmulenson's instruments? A Several times.

Q Now, tell us the name of the emergency case that required you to use Mrs. Schmulenson's instruments, prior to August 21st

1917? A August?

Q Yes, August 21st, 1917. A I don't remember that case.

Q How many months before August 21st, 1917, did you use Mrs. Schmulenson's instruments? A How many times?

BY THE COURT:

Q No. How long a time before that date? A How long before?

BY MR. ABRAMS:

Q Yes. A I don't remember that.

Q How many months or years? A Well, I told you already that usually it happened to me the first five or six years, but at the last five or six it happened very seldom, and I don't remember that.

Q I see. In 1904 or 1905 or 1906 or 1907 or 1908, did you use her instruments frequently? A Yes.

Q And after this first five years you didn't have to use her instruments? A I don't remember.

Q You don't remember using her instruments after the first five years? A The last five years I may have used them, but I don't remember.

Q How many years ago, as best you can recall, was the last time you used Mrs. Schmulenson's instruments? A I don't remember that.

Q Would you say it was ten years ago? A No.

Q Or eight years? A No; maybe five or six years ago.

Q Doctor, whenever you use instruments, you always try to

sterilize them and make them antiseptic, don't you? A Yes.

Q And for that purpose did you use lysol very often?

A Yes.

Q And sometimes bichloride tablets? A Yes.

Q Let me show you this bottle. Do you know what is in that bottle? A Yes, bichloride tablets.

Q Bichloride tablets? A Yes.

Q And look at this bottle, and tell us if you can what is in that bottle. A Lysol.

Q And those are used to clean the instruments, are they not?

A Yes, sir.

Q Those medicines? A Yes.

Q And also used by the person who works on a female; for instance, the hands are washed, aren't they? A Yes.

Q In the lysol solution? A Yes.

Q Is iodine used sometimes in that kind of an operation?

A In the operation, yes.

Q For instance, suppose a woman aborted from some natural cause, or by an accident, before you would use your hands at all, you would cleanse them, wouldn't you? A Yes.

MR. KAMINSKY: I object to that as immaterial, irrelevant and incompetent.

THE COURT: Yes. Objection sustained.

BY MR. ABRAMS:

Q And these things that we speak of are used in the course

of making instruments clean, as well as your hands? A Yes, sir.

THE COURT: He has already said so.

Q Now, when did Mrs. Schmulenson tell you she had instruments? A I don't remember when she told me about that, but I knew that she has instruments. I knew that she came from Russia, and brought some instruments from there.

Q How do you know that? A Because she told me, but I don't remember when. You asked me when.

Q Did you ask her to show you the instruments? A The first time she told me?

Q Yes? A I don't remember that.

Q Well, when you first saw the instruments, where did you see them? A Probably at the case, when I told her to bring them along.

Q You told her to bring the instruments, without seeing them? A Perhaps.

Q And the instruments that she has are similar to the instruments used by practitioners in the United States, aren't they? A Yes, sir.

Q And do you remember whether she brought the instruments in this bag, when she brought them (indicating)? A Yes.

Q And when she brought instruments, they were always in the bag, were they not? A Yes, in the bag.

Q And do you remember whether they were not packed in something else, when they were not packed in the bag (illustrating)?

A Yes, sir.

Q And when they were packed in the bag they were usually in here (were they not (illustrating)? A Yes, sir.

REDIRECT EXAMINATION BY MR. KAMINSKY:

Q Lysol is used for disinfection purposes, is it not?

A Yes, it is.

THE COURT: He has already said so.

BY MR. KAMINSKY:

Q For douching? A Yes.

Q And for gargling? A Yes.

RECROSS EXAMINATION BY MR. ABRAMS:

Q For vaginal douching? A Yes, sir.

BY MR. KAMINSKY:

Q Doctor, can you, from an examination of these instruments tell me and tell the jury whether these instruments are manufactured in Russia, or where they were manufactured?

THE COURT: Well, is it disputed that they were manufactured in Russia?

MR. ABRAMS: Not at all, sir. And it makes no difference, for the purposes of this case, where they were manufactured.

MR. KAMINSKY: Very well, then. That is all, doctor.

BY MR. ABRAMS:

Q You say that lysol is used for a gargle? A Yes, a very light solution.

1960
CASE #2551

J O S E P H I N E E H R L I C H, being recalled by counsel
for the defendant, testified as follows:

DIRECT EXAMINATION (Continued) BY MR. KAMINSKY:

Q Now, you said you were sitting on the lounge, and talking for about half hour between the first instance of the woman that you knew as Mrs. Kelly, and her second reappearance, is that right?

A Yes, sir.

Q Now, where were the other two ladies? A The other two ladies?

Q Yes. Keep up your voice. A The other two ladies went away.

Q They went away? A Yes, sir.

Q And how many minutes, to your best recollection, passed after the two ladies went away, before Mrs. Kelly or the woman you knew as Mrs. Kelly, returned? A I suppose about half an hour.

Q Now, what happened when they rang the bell -- they rang the bell? A Yes.

Q And where were you then? A I was in the dining room.

Q Well, did anything happen after they rang the bell?

A Mrs. Schmulenson went to open the door, and before she went to open the door, she said to me that she shall go to the kitchen, because she thinks that two women is coming -- she says that to me and her daughter -- these two women are coming, and they are very bashful, and they don't want anybody to be in the house, "And you

shall go in the kitchen". She said that to me and her daughter.

Q Now, I show you this diagram, Defendant's Exhibit F, and ask you whether this is a correct representation of the flat where you were. A Yes, sir.

Q Now, will you point out to the jury in what room you were when Mrs. Schmulenson told you to go away, or to go into the kitchen? A I was in the dining room.

Q Now, point to the dining room. That is the parlor and that is the front (indicating). A I wasn't in the front room, and this is the dining room (indicating).

Q Now, which is the room next to the dining room? A The kitchen.

Q Now, were you in this room (indicating)? A Yes, in the kitchen.

Q Now, was there a door between the dining room and the kitchen? Can you read what is marked or written on that paper? A No, I can't read.

Q So you were in the kitchen? A Yes.

Q Where were you sitting with reference to the door that leads from the kitchen into the dining room? A Where was I sitting when the two women came?

Q No, when you were in the kitchen. A I was sitting on a chair.

Q Now, who else was sitting on a chair? A Mrs. Schmulenson's daughter.

CASE #2551

Q Could you see a part of the dining room from the place where you were sitting in the kitchen? A You couldn't see, but we heard.

Q Was the door closed or open? A When Mrs. Schmulenson come the second time, she left the door a little open, and we could see just a little. You could see a little bit then.

Q Well, what part of the room could you see? Could you see the table? A Yes, the table and everything that was near that when we sat looking.

Q Well, could you see the whole table or a part of the table?

A No, just a little bit.

3048

Q A part of the table? A Yes, sir.

Q And did you hear somebody come into the dining room?

A Yes, sir.

Q Now, did you hear somebody come into the dining room?

A Yes, sir.

Q Who was it? A Mrs. Schmulenson, and I suppose it was Mrs. Kelly.

Q Well, you heard Mrs. Schmulenson's voice in the dining room? A Yes, sir.

Q And you know her voice? A Yes, sir.

Q And then you heard another lady's voice in the dining room? A Yes, sir.

Q Now, what happened there? A And then we heard like Mrs. Schmulenson say to her, "Take off your drawers and skirt before

the examination. I will make you a douche, and you will get wet, and won't feel comfortable to go home".

And then we heard like Mrs. Schmulenson move the table and the chair, and then we heard like Mrs. Schmulenson say to Mrs. Kelly, "What for you took off everything? I told you to take off only your drawers and your skirt?"

And she said, "I have on me a combination."

And then we started to look in, I and Mrs. Schmulenson's daughter.

And we saw that Mrs. Kelly was on the table, and Mrs. Schmulenson opened her box, where she put the other cover on the chair, and then Mrs. Kelly asked her, "Are you going to use any instruments?" And Mrs. Schmulenson said, "No, I am looking for a tube and a holder for the pipe."

Q Now, did you hear anybody else's voice in there at that time? A No.

Q Did you hear anybody else just at that time? A Yes, we heard like Mrs. Priess calling Mrs. Schmulenson, to give her the ten dollars.

Q What did you hear that voice say in the back room? A She said, "Come here in the dining room"-- or the front room, do you mean?

Q Well, what did she say, wherever it was? A She said she will give her the ten dollars, and Mrs. Schmulenson said she will leave it for later.

And Mrs. Kelly said, "Call her, and she'll give you the ten dollars".

And then Mrs. Schmulenson took the syringe and put it on the cover which was standing on the chair, and then she took out -- then she went away, and then when she went away, Mrs. Kelly stands in front of the table, and took out the glass tube from this pipe, and then she took another metal thing and put it on the syringe.

Q Now, look at these instruments, and see if you can find the metal instrument that you say she put on the pipe. A I don't know if I find it. It was a long one.

Q And it was a metal instrument? A Yes, but a long one.

Q And then what happened? A And then she took in her hand another instrument, and then Mrs. Schmulenson returned back.

So she moved the chair away and she said, "What for you took that instrument?" And she said, "I wanted to see what kind of instrument that is".

And so she took the instrument from her hand, and she started to holler and faint.

And Mrs. Priess come in, and said, "What did you do to her?" And she said, "Nothing". "I just took away from her the instrument, and she start to holler and faint".

And then we heard, a few minutes later, somebody says, "Come in".

And lots of murderers was all over there then, and Mrs.

1865

CASE #2551

and Mrs. Schmulenson's daughter and I were scared, and I was scared too, and two men came in, the detectives, and we went out.

MR. KAMINSKY: Your witness.

CROSS EXAMINATION BY MR. ABRAMS:

Q Now, you have told us everything, have you not? A Yes.

Q Do you live with your husband? A Yes.

Q Where? A 328 East 14th Street.

Q How long have you been married? A Four years.

Q And you have a child? A Yes, one child.

Q And Mrs. Schmulenson had nothing to do with the birth of that child? A No, I had it in the hospital.

Q When did you become acquainted with Mrs. Schmulenson?

A When?

Q Yes. A When I read in the Russian paper that she is a Russian midwife, and she is making massage.

Q What does your husband do for a living? A He is a foreman in a straw factory.

Q And what does he earn a week? A \$40.

Q \$40 a week? A Yes, sir.

Q And you became acquainted with Mrs. Schmulenson after you read an ad in the paper? A Yes, that she was a Russian midwife.

Q And you live in 14th Street? A Yes.

Q And she lived down on East Broadway? A Yes.

Q Did you see any other ads of Russian midwives? A I don't remember.

Q The only Russian midwife that you knew of was one away down on East Broadway? A What?

Q (Repeated).

MR. KAMINSKY: I object to the characterization, "away down".

THE COURT: Very well. Sustained.

BY MR. ABRAMS:

Q Did you see any other ads in the Russian paper? A I don't remember.

Q Well, why did you go to her? A Well, when I was in Russia, a Russian doctor used to make massage on my feet, and I read in the Russian paper that she is a Russian midwife, and I went to her.

Q How much did she charge you for the massage? A Fifty cents.

Q And when did you go with her last before she was arrested? A Tuesday, Thursday and Saturday. I went there three times a week.

Q To have your feet massaged? A Yes, sir.

Q Before she was arrested? A Yes, sir.

Q What was the day that she was arrested? A The twenty-one of August.

Q I know. You told us that. But what day of the week was it? A I don't remember.

Q What? A It was Tuesday, I suppose.

Q You suppose it was Tuesday? A Yes.

Q But you are sure it was the 21st of August? A Yes.

Q How do you know that? A Because it was that time when I came there.

Q Did you write it down somewhere? A No, but I remember the day.

Q What day was it when you went there before that? A What day it was when I went there before that?

Q Yes? A I didn't went before, only that day, Tuesday.

Q Then the only time you went to her house was the day she was arrested? A I came after that time.

Q No. I am asking you next. The only time you ever went to her house was the day she was arrested? A Yes, and it was Tuesday.

Q Did you go there after that? How many times in your life did you go to Mrs. Schmulenson's house? A I used to make massage--

Q How many times did you go there altogether? A It was about one year.

Q But how many times did you go there in all your life?
A Three times.

Q How many times before she was arrested did you go there?
A It was one time.

Q What day was that? A I suppose on the second day. I don't remember exactly.

Q Well, you told us that the day she was arrested was August 21st? A Yes, sir.

1968
CASE #2551

Q Now, you went there once before that, you say. What was the number of that day? A I suppose it was Thursday, but I don't remember exactly.

Q No. What was the date when you went there, after the arrest? A I know only one day when I came there.

Q The only day you know was August 21st? A Oh, I was there the second time to her house, and they told me she was arrested, and I wanted to find out what was the matter, because I heard everybody in the house was nervous and excited, and she was arrested, and her daughter told me she is arrested.

Q Didn't you see policemen there on August 21st? A I wasn't inside.

Q While you were in the kitchen, you could look out and see the table and everything? A I just saw two men standing there.

Q Did you see any policemen there? A No, sir.

Q Did you see Mrs. Schmulenson arrested? A No. Just at that time we went away.

Q When you were in the kitchen and could see the table and everything, when you could see Mrs. Schmulenson take the instrument out of Mrs. Goodwin's hand, did you see policemen come there?

MR. KAMINSKY: I object to that, unless the witness is told what the District Attorney means by policemen. Men in uniform or detectives or what?

THE COURT: She can say whether she saw them or not.

A I saw two men.

BY MR. ABRAMS:

Q They weren't in uniform, were they? A I don't remember.

Q And you don't remember whether Mrs. Schmulenson was arrested at all or not, do you? A She was arrested the twenty-one of August. I remember that.

Q Yes. And you were there, weren't you? A Sure I was there.

Q Well, why did you go there afterwards, when you heard the house was all nervous and excited, and you heard Mrs. Schmulenson was arrested, and you wanted to find out about it? A I go on the other day, because I am afraid they do something to me if I go in that day. I seen them when they come in.

Q But they didn't do anything to you when they arrested her?

A I was afraid. I see that Mrs. Schmulenson's daughter went down and then I went down, too.

Q Was Mrs. Schmulenson's daughter in the bedroom at any time?

A She was in the bedroom the first time when the woman came, but she was then in the kitchen with me together, Mrs. Schmulenson's daughter.

Q Now, when you came there a little before two o'clock to have your feet massaged, Mrs. Schmulenson took you to the dining room, did she? A I was in the dining room.

Q Well, when you went in, did you go straight into the dining room? A Yes, I went straight in the dining room.

Q You were pretty well acquainted with that house, weren't

1970

CASE #2551

you? A Not so much.

Q How many times had you been there before that? A Before, I wasn't there.

Q You were never there before that day? A No, I just came to make massage.

Q That was the first time, is that right? Now, look at me, not at counsel for the defendant? A (No answer).

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until two o'clock.)

1871
CASE #2551

AFTER RECESS:

J O S E P H I N E E H R L I C H, her cross examination
being continued, testified as follows:

CROSS EXAMINATION (Continued) BY MR. ABRAMS:

Q The last question I asked you before recess, Mrs. Ehrlich, was whether the day on which Mrs. Goodwin and Mrs. Priess came to the house, whether that was the first time you came to the house.

A I want you should ask me in Russian or in Jewish. I don't understand very well English. I understand, but I can't answer in English.

THE COURT: Well, you speak English well enough. Proceed.

BY MR. ABRAMS:

Q Now, had you ever been to Mrs. Schmulenson's house, before the day on which these men came into the apartment? Were you ever there before? A Saturday.

Q You were there Saturday? A Yes, sir.

Q Were you there the Saturday before she was arrested?

A Yes, sir.

Q Eh? A Yes, sir.

Q Was that the first time you were ever there? A Yes, sir.

Q Eh? A Yes, sir.

Q Speak louder, please. You only knew her for a week at that time, didn't you? A (No answer.)

MR. KAMINSKY: Speak up. Nobody can hear you.

(The question is repeated by the interpreter.)

THE WITNESS: I want you to explain me in Russian or Jewish, and I can answer you.

THE COURT: Well, put the question to her, Mr. Interpreter.

(It is repeated through the Interpreter.)

A Yes, I knew her one week before she was arrested.

BY MR. ABRAMS:

Q And how many times did you visit her in that house before she was arrested? A Three times.

Q And one August 21st, 1917, when you went there, you went right into the dining room, didn't you? A Yes, I went right into the dining room.

Q Now, when you were in the dining room who was in the front room? A When I came, no one was there yet.

Q Who do you say were the first people that came to the house after you got there? A Mrs. Priess and Mrs. Kelly.
did

Q When/you found out that Mrs. Priess's name was Mrs. Priess? A The second time I found it out.

Q What do you mean by the second time? A When Mrs. Kelly called out to Mrs. Priess, "Give Mrs. Schmulenson ten dollars".

Q Well, could you see Mrs. Priess? A No.

Q You were in the back all the time; weren't you? A I was sitting in the dining room all the time.

Q And Mrs. Priess was in the front room all the time?

A Yes, sir.

Q And you couldn't tell who Mrs. Schmulenson or Mrs. Kelly were talking to, could you? A She spoke to Mrs. Kelly. Mrs. Priess said to Mrs. Kelly, "Let's go into the room. Nobody is there."

Q When was that? A When they went away and said they would come back in half an hour. When they came back the second time, that's the time it was.

Q Well, but you didn't see Mrs. Priess, did you? A I didn't see her. I heard her.

Q But I asked you when you found out who Mrs. Priess was, what her name was? A I saw when Mrs. Priess ran into the room, and take her by the hand, and asked what did they do to her.

Q That was when you first saw Mrs. Priess? A Yes.

Q Now, when you sat in the dining room, Mrs. Schmulenson was in the front room, you say that two ladies came in, isn't that right? A Mrs. Schmulenson was sitting with me in the dining room, and when the bell rang, she went to open the door.

Q And who came in when she opened the door? A I heard only one woman say, "This is my cousin, Mrs. Kelly".

Q At that time was Mrs. Shifrin or Mrs. Feinberg there?

A They came a few minutes later.

Q And you could hear everything that was said where you sat, couldn't you? A Not everything.

Q Well, you have detailed a lot of conversation. You

1874
CASE #2551

say that you heard that yourself? A I heard that, after Mrs. Kelly was taken to the other room, Mrs. Schmulenson went out into the other room, and a woman said, "Can't you tell me in what condition she is?" And she said, "No, I'll have to examine her first".

Q In what language did Mrs. Schmulenson speak? A She spoke English, but very bad.

And I heard Mrs. Schmulenson tell her, "If you can talk Russian or Yiddish I would understand it better".

Q When Mrs. Schmulenson was talking about the lovely baby that she brought into the world, what language did she speak?

A She spoke in English, but very badly.

Q And did Mrs. Feinberg and Mrs. Shifrin stay there? A They remained, but the other two ladies went away before.

Q And then when they remained, Mrs. Schmulenson came back to where you were sitting, did she? A The two women came into the room where I was, and Mrs. Schmulenson also came in.

Q Into that dining room? A Yes, sir.

Q And then you sat down and had lunch, did you? A No, but Mrs. Schmulenson told me, "When you will hear the two ladies come back, then you will go back with my daughter to the kitchen".

Q Yes. I know, but you were sitting down at lunch with Mrs. Schmulenson at that time, weren't you? A No, we didn't have anything to eat.

Q Didn't you tell this jury that Mrs. Schmulenson and her

daughter and you were sitting at lunch together? A No, I didn't say anything of the kind. I said I was sitting on the lounge, not at lunch.

Q All right then, if you meant lounge instead of lunch.

I don't want to do anything improper. Then you and Mrs. Schmulenson and her daughter sat in the dining room on the lounge?
A Yes, sir.

Q Now, when you were sitting on the lounge, you and Mrs. Schmulenson and her daughter, where were Mrs. Shifrin and Mrs. Feinberg? A They had gone.

7 Q Oh, how long after -- I withdraw that. Didn't you say that Mrs. Feinberg and Mrs. Shifrin also came into the dining room and sat down with you? A I didn't say that.

Q All right. How long after Mrs. Kelly and Mrs. Priess left did Mrs. Shifrin and Mrs. Feinberg go? A They took half an hour until they came back.

Q I didn't ask you that. I'm asking you how long after Mrs. Priess went away with the woman that she called her cousin was it that Mrs. Shifrin and Mrs. Feinberg left the house? A I think about fifteen minutes later, or about that.

Q Now, after Mrs. Shifrin and Mrs. Feinberg left, fifteen minutes after Mrs. Goodwin and Mrs. Priess left, did Mrs. Schmulenson then come back into the dining room? A Yes, sir.

Q And where did Mrs. Schmulenson's daughter go, when Mrs. Schmulenson entered her dining room? A The girl was there, too.

1876

CASE #2551

Q And the three of you were talking? A Yes, sir.

Q And how long did you stay there before Mrs. Goodwin came back? A About half an hour.

Q What were you doing during that time? A I was sitting on a chair, and then when the bell rang, and Mrs. Priess and Mrs. Goodwin came back again, Mrs. Schmulenson said to me, "This woman is bashful. Go into the kitchen. I don't want her to know that anybody is here".

Q She said that, "This woman is bashful. Go into the kitchen. I don't want her to know that anybody is here". Is that right? A Yes, she told me that before the ladies had entered, when she went to the door to open it.

Q Yes. Had she a dog there? A Yes.

Q There was a dog there? A Yes.

Q Where was the dog? A I believe the dog was in the kitchen.

Q Yes. Mrs. Schmulenson put a dog in the kitchen, didn't she? A I don't remember that.

Q Did you see Mrs. Schmulenson get these instruments from anywhere (indicating)? A I saw when she opened the box.

Q How? A I saw when she opened the box.

Q This box here (indicating People's Exhibit 14)? A I don't remember.

Q What box did you see her open? A It seemed to me a metal box.

Q Where did she take it from? A When Mrs. Kelly was on the

1977

CASE #2551

table, going to the table -- then I saw it was that Mrs. Schmulenson kicked the box, not the box but the chair -- pushed the chair.

Q Pushed the chair up to the table? A Yes, sir.

Q And where did she get the box that was put on the chair?

A There were standing there a chair, and on the chair was the box.

Q Was that box on the chair when you first went in to the dining room? A Yes, I saw she was standing a chair and a box on it.

Q And do you know whether Mrs. Schmulenson expected Mrs. Goodwin and Mrs. Priess? A The first time, no.

Q She didn't expect them? A I don't know.

Q I see. Did you see Mrs. Schmulenson put some liquid into this box, marked People's Exhibit 10? A No.

Q You did not? A No.

Q Did you see her put liquid into Exhibit 3? A No, I didn't.

Q Did you see her pour any liquid from People's Exhibit 3 into the box marked People's Exhibit 10, containing instruments?

A I heard that one woman said the water was hot, and then I saw Mrs. Schmulenson go to the kitchen, and she took cold water.

Q And you were in the kitchen? A Yes.

Q And the door was open, slightly open? A When she went out the second time, then she left the door open.

1878

CASE #2551

Q Why, didn't you tell us, when she put you in the kitchen, she left the door slightly open, and you started to look out? A I didn't understand you exactly before, what you were asking me.

Q Well, when Mrs. Schmulenson told you to go into the kitchen, she left the door slightly open, didn't she? A No, she closed the door.

Q Well, who opened it? A The door opened itself. It is such a door that it doesn't close tight.

Q I see. And could you see Mrs. Goodwin lying on the table? A Yes, sir.

Q Did you see her undress? A She was undressed.

Q No, did you see her undress? A I saw her undress.

Q She undressed right there in the dining room where she was standing, did she? A But she went to the side.

Q To the side of the room? A Yes.

Q Did she go out of the room? A No, sir.

Q And you could see her all the time that she was in the room? A Not all the time.

Q But you know that she was at the side of the room? A I remember that she went to the side.

Q Well, you saw her when she came in, all dressed, didn't you? A We saw her when she was standing there near the table.

Q Was she dressed then? A She was undressed.

Q Now, did you see her before she undressed? A No.

Q Why, couldn't you see her when she came into that room?

A We were not looking at that time.

Q Oh, at that time you were not looking? A Yes, sir.

Q Now, when you saw her undressed, what did she have on?

A She had a kind of a union suit, a combination.

Q Did she have her shoes and stockings on? A It seems to me that she had no stockings on. I don't remember exactly.

Q Did she have any shoes on? A I don't remember.

Q Did you hear Mrs. Schmulenson tell her to take her drawers off? A Yes, sir.

Q Did she take her drawers off? A She went to the side and I believe that she did.

Q Why, didn't you tell us that she had a union suit on?

A Well, I don't know what was going on under the union suit.

Q You don't know what was going on under the union suit?

A No.

Q Well, if there was anything going on under the union suit, and they were drawers on Mrs. Goodwin that had to be taken off, you could have seen her take them off, couldn't you?

MR. KAMINSKY: I object to that question as based on a supposition and as argumentative.

THE COURT: Objection overruled.

MR. KAMINSKY: Exception.

A No, I didn't see it.

BY MR. ABRAMS:

1980

CASE #2551

Q Now, when you went back there, you say, after August 31st, to find out about whether Mrs. Schmulenson was arrested or not -- didn't you? A I came back on Wednesday, to find out what had been there.

Q Well, didn't you? A I see that something was going on, but I didn't know exactly what it was.

Q Well, but you saw the police officers come in, didn't you? A I didn't see any policemen. I only heard someone say, "Come in", and some people came in.

Q What people? A I didn't see them, but I'm sure they were men.

Q But you were in the kitchen and the door was open and you could see in?

MR. KAMINSKY: I object to that as a repetition, and argumentative.

(Objection sustained.)

Q Were you with Mrs. Schmulenson at lunch, today? A I was downstairs with her daughter. We were downstairs to get lunch, but she sat at another table.

Q But you all went to lunch together, didn't you? A Yes, sir.

Q Did you talk about the case? A No, sir.

Q Now, when Mrs. Goodwin was on the table and got off the table, did you see anybody else help her to get off? A No.

Q You didn't see anybody put a chair near the table, so that she could step off the table, did you? A When we

CASE #2551

looked in, we saw her lying on the table.

Q I am not asking you that. I am asking you about when she got off the table. A No, we didn't.

Q Did you see anybody push the chair away from the table?
A No, sir.

MR. KAMINSKY: I object to that as having been gone over and over.

MR. ABRAMS: No, I never touched on it.

THE COURT: Well, it has been asked and answered now, at any rate.

MR. ABRAMS: That's all.

F R I E D A S C H I F R I N, of 197 Monroe Street, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KAMINSKY:

Q Mrs. Schifrin, you are a married lady, are you not? A Yes. I want to talk Yiddish.

Q Have you any children? A (No answer.)

Q (Question repeated through the same Official Interpreter).

A Yes, I have three children.

Q How long have you known Mrs. Schmulenson, the defendant? Now, wait until the interpreter asks you the question. You want to talk Yiddish, don't you? A Yes.

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

1982

CASE #2551

Q And was she the midwife for you at the birth of any of your children? A Yes, my boy.

Q How old is he now? A Two years and four months.

Q Were you in her premises on the 21st of August, 1917?

A I was in her house.

Q Did you have your baby with you at the time? A Yes, the baby was in my arms, and my sister in law was with me.

Q And what is the name of your sister in law? A Tillie Feinberg.

Q And was your sister in law present at that time? A Yes, she was present.

Q Now, Mrs. Schiffrin, when you came in to see Mrs. Schmulenson on that day, who was in the parlor with her? A Two ladies were there. One I believe was Mrs. Priess, and the other was -- what's that name?

Q Mrs. Kelly? A Yes, two ladies.

Q Was there any talk between you and Mrs. Schmulenson or between Mrs. Priess and Mrs. Kelly in reference to your baby?

A Yes, Mrs. Schmulenson said to the ladies, "Do you see that beautiful baby? This lady" -- pointing to me, -- "has a son, and I will take a baby soon from the other lady", meaning my sister in law.

Q Was she speaking in English or Yiddish or what? A She ^{not} spoke English, but I can/understand.

MR. ABRAMS: Then I ask that that be stricken out, that she didn't understand what she said.

BY THE COURT:

Q Did you understand what she said to these two women? A I understand, but I can't talk; I can't speak the language.

BY MR. KAMINSKY:

Q Now, what did you see Mrs. Schmulenson and these two ladies do, while you were present in the parlor? A She said to the ladies, after she had said what a beautiful baby I had, she said, "Now, if you will give me twenty-five dollars, I will attend to you the same way as I attended to this lady, who has had a baby, and the other lady who is about to have a baby."

Q And did you see those ladies walk out of the apartment?

A Yes.

Q Then what happened? A They went away, and we remained.

Q Did you see Mrs. Schmulenson go anywhere with the ladies?

A No, we remained with Mrs. Schmulenson and the ladies went away.

CROSS EXAMINATION BY MR. ABRAMS:

Q Did you see one of the ladies or both of them go into the side bedroom with Mrs. Schmulenson before they went away? A No, sir.

Q So that you didn't see either of the ladies go into the side bedroom with Mrs. Schmulenson? A No, sir. The ladies went away, and we remained.

BY THE COURT:

Q But he asks whether they went into any room with the defendant,

CASE #2551

before they went away? A No.

BY MR. ABRAMSON

Q And you were there all the time with them? A I remained there until Mrs. Schmulenson had finished talking to me, and then I went away.

Q Well, after Mrs. Schmulenson got through talking with you, did you go away with Mrs. Feinberg? A Yes, I went with my sister-in-law.

Q How long were you there altogether? A About an hour.

Q You were there about an hour? A I don't know. Perhaps less. I don't know. They went away, and we remained.

Q And after Mrs. Goodwin and Mrs. Priess left the house, did you go out walking with Mrs. Schmulenson anywhere? A No where.

Q You stayed there in the front room? A Yes, sir.

Q Didn't you go out of the front room until you went home?

A No.

REDIRECT EXAMINATION BY MR. KAMINSKY:

Q You don't know how long Mrs. Keller and Mrs. Priess were with Mrs. Schmulenson before you came in, do you? A No.

RECROSS EXAMINATION BY MR. ABRAMS:

Q What time did you get there? A After two o'clock.

Q After two o'clock you got there? A Perhaps at two o'clock, or after two o'clock.

Q Did Mrs. Feinberg go out of the room at any time while you were there? A No.

Q She stayed right in the front room? A No, she went away

with me.

Q No. I mean all the time you were there, she was in the front room with you? A With me, yes.

Q How many times had you visited Mrs. Schmulenson before that day, in the house? A Many times.

Q And did you know her whole apartment? A Oh, yes, I know her apartment.

Q But all the time that you were there, on August 31st, you and Mrs. Feinberg and Mrs. Schmulenson and Mrs. Goodwin and Mrs. Priess were in the front room? A Yes, sir.

Q And you didn't go into any other room, you or your sister-in-law? A No, sir.

BY MR. KAMINSKY:

Q One minute. Did you see Mrs. Ehrlich and the daughter of the defendant in the apartment while you were there? A Yes, sir.

Q Where did you see them? A In the parlor -- no, in the dining room -- when I was going out.

Q And you went out through the dining room, didn't you?

MR. ABRAMS: I object to that as leading.

THE COURT: Objection sustained.

Q Through what door did you go out? A I went through the dining room door.

Q There is a door leading into the hall from the dining room? A Yes, sir.

BY MR. ABRAMS:

Q You came in the front way? A Yes.

Q And you were in the parlor? A Yes.

Q And you went out of the dining room door? A Yes, sir.

Q And asked you if you went into any other room, that day, except the parlor, and you said no? A I went through to the parlor first, and then I passed through the other rooms.

Q And went right out? A Yes.

Q You didn't sit down on the lounge in the dining room, did you? A I only passed through; that is all.

Q You didn't stay in the dining room for half an hour, did you?

MR. KAMINSKY: There is no such testimony, that she stayed there half an hour.

A I passed through with my sister-in-law.

Q Did your sister-in-law sit down to talk? A I don't know. Perhaps my sister-in-law may have done that, but I was busy with my child, because the child was crying.

Q But you went right out, didn't you? A I went out.

Q And your sister-in-law went with you, didn't she? A Well, I can't tell you exactly, because I had the baby in my arms, and the baby was crying, and I was busy with the baby.

Q Well, don't you know whether your sister-in-law went out with you, or whether she stayed or not? A I don't know that.

BY MR. KAMINSKY:

Q Did you hear any conversation about money, between Mrs. Priess, and Mrs. Keller, and Mrs. Schmulenson? A Yes.

Q That is the conversation that you said about that twenty-

five dollars? A Yes.

BY MR. ABRAMS:

Q Well, that was in English, wasn't it? A Yes.

Q What did she say? A "Give me twenty-five dollars, and I will do the same like I do with Mrs. Shifrin and Mrs. Feinberg."

Q Well, was the lady in the family way, the lady who was to pay the twenty-five dollars? A Very likely she was. How can I tell?

T I L L I E F E I N B E R G, of 353 Dumont Avenue, East New York, a witness called on behalf of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KAMINSKY:

Q Mrs. Feinberg, how long do you know Mrs. Schmulenson?

A I have to talk?

Q Yes. You talk English? A No.

Q Do you want to talk Yiddish? A Yes.

Q (Question is repeated through the official interpreter)?

A Two years and a half.

Q And where did you live on the 21st day of August, 1917?

A NO. 131 Monroe Street.

Q Now, was Mrs. Schmulenson the midwife who took care of you when you were pregnant? A Yes.

Q When did you give birth to the baby? A The first of October.

Q Now talk to the Interpreter, and wait until he puts the

1981

CASE 77-2551

question. Was it this year or last year? A I don't remember. The child is sixteen months old.

Q Then it must have been 1917?

MR. KAMINSKY: Will you concede it?

MR. ABRAMS: I will concede that she had the baby in October, 1917, and that is as far as I will go.

MR. KAMINSKY: That is sufficient.

Q Were you in Mrs. Schmulenson's apartment on the 31st of August, 1917? A Yes, sir.

Q You remember that day, do you? A Yes.

Q And with whom did you go into her apartment? A With my sister-in-law.

Q And when you got in there, did you find anybody there with her? A We met there two ladies.

Q Now, will you tell the jury in your own way what happened from the time you entered the apartment, until you left the apartment on that day? A We rang the bell, the parlor door, and we went into the house.

Mrs. Schmulenson opened the door, and she took my sister-in-law's baby in her arms, and she said to the ladies, "See this baby. If you give me twenty-five dollars, I will attend to you in the same manner as I did attend this lady here."

Then Mrs. Prieess got up and said, "Take the fifteen dollars as a deposit, and we are going to leave you now. We will come later.

And Mrs. Schmulenson said, "If you want to, I can take you

CASE #2551

in another room, and there I will examine you."

And she said, "No, never mind. You are busy now. We would rather come later."

They went away, and we went into the ^{dining} room with Mrs. Schmulenson.

We saw there a tall young woman, and Mrs. Schmulenson's daughter. She came out of the bedroom.

And then we said goodbye and we went away, and that is all.

CROSS EXAMINATION BY MR. ABRAMS:

Q You heard Mrs. Schmulenson say to the lady, "Give me twenty-five dollars, and I will take care of you, the same as I did of her."? A Yes, sir.

Q And Mrs. Priess said, "We will give you now fifteen dollars as a deposit, and we will come back."? A Yes, sir.

Q And Mrs. Schmulenson said, "If you want, I can take you into another room, and I can examine you there."? A Yes.

Q And Mrs. Priess said, "Never mind."? A Yes, sir.

Q Now, after they left, where did you go? A Home.

Q Well, when you came in, into what room did you go? A The parlor.

Q And how long did you remain in the parlor? A Half an hour. And then we went to the dining room.

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

Q Did you go out with Mrs. Shifren? A Yes.

Q Was there anything the matter with her baby? A Yes.

Q What was the matter with the baby? Sick? A No. I was sick.

CASE #2551

Q Was there anything the matter with Mrs. Shifren's baby?

A No.

Q You went in with Mrs. Shifren, didn't you? A Yes.

Q And you came out with her? A Yes.

Q Isn't it a fact that Mrs. Shifren left the parlor with you, and walked right through the rooms, and out, and didn't stay in the dining room at all? A No.

Q She did stay there? A Perhaps about ten minutes.

Q No longer? A No.

Q Mrs. Shifren stayed there ten minutes; did she? A Yes.

Q In the dining room? A Along with me.

Q And did you see a table in the dining room? A Sure.

Q Did you see these instruments in the dining room (indicating)? A No.

Q Did you see a chair in the dining room, and these instruments on the chair? A No, sir.

Q Did you see this in the dining room, People's Exhibit 3?

A No, sir.

Q And you were there ten minutes? A Yes.

Q And where did you sit? A I didn't sit.

Q You stood? A I was standing.

Q You were not sitting on the lounge at all? A No.

Q And where did Mrs. Shifren go? Did she stand up or sit down? A We were standing about ten minutes, and we went away together, after about ten minutes.

Q What were you doing during these ten minutes? A Talking.

1990
CASE #2551

Q Talking about what? A About my confinement.

Q Did Mrs. Schmulenson's daughter go into the bedroom while you were there? A Yes.

Q She didn't come into the kitchen? A No, sir.

Q Sure about that? A Yes.

Q And where did the other young lady go? A She sat right there. She sits on the chair.

Q You are sure of that? A Yes.

Q Did you know whether this lady that was to pay the twenty-five dollars was in the family way or not? A Well, I don't know. I didn't talk with her about it.

Q Did you hear Mrs. Schmulenson say anything about it being hard to examine her because she had a fat belly? A No.

Q You didn't hear that? A No. I told you all about what I heard, and what I saw.

Q Did you see the money paid? A Yes.

Q And which lady paid the money? A The one with the specks, the eyeglasses.

Q And what is her name? A Mrs. Priess, I think.

Q And when did you find that out? A I heard them talking.

Q Oh, I see. You heard her speak to Mrs. Priess, and call her by her name? A Yes.

Q She spoke to Mrs. Priess, and called her by her name? A Yes, sir.

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

Q You are sure of that; are you? A Yes, that she spoke to

her, and called her by her name.

Q You heard Mrs. Schmulenson speak to Mrs. Priess, by the name of Mrs. Priess; heard her call her by that name? A Yes.

Q Now, what day was that? A August 21st.

Q How do you know? A Because I know.

Q When was your child born? A April 1st.

Q Why, your child was born in October, wasn't it, instead of April? A Yes, in October. That is right.

Q And do you remember your mother's birthday?

(Objected to. Sustained.)

A No, sir, I don't remember it.

Q How many children have you? A Four.

MR. ABRAMS: If your Honor please, it may be proper and right that your Honor should sustain the objection, but I don't think it is proper for counsel to stand behind my back and laugh loudly at your ruling.

THE COURT: Well, I have observed several times that the counsel for the defendant has departed from the strict standard of propriety on the part of trial counsel, and I trust that it will not occur again.

MR. KAMINSKY: But the District Attorney has smirked at the jury a number of times when perhaps your Honor hasn't seen it. I think he is the last one to ask your Honor to reprimand me for impropriety.

THE COURT: Well, I do not see why both of you cannot try this case in an orderly way, without colloquy or

remarks.

MR. ABRAMS: That is all with this witness.

BESSIE SCHMULENSEN, of 371 East Broadway,
a witness called on behalf of the Defense, being duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. KAMINSKY:

Q Miss Schmulenson, you are the daughter of this defendant? A Yes, sir.

Q Are you at the present time taking regent counts?
A Yes, sir.

Q To fit you for what profession? A For the study of medicine,
because I have intentions of doing so.

Q Do you remember the 31st of August, 1917? A Yes, sir.

Q The day of your mother's arrest? A Yes, sir.

Q Do you remember the day before that, Miss Schmulenson?
A I do.

Q Do you remember a lady, whom you now know as Mrs. Pries, coming into your mother's apartment? A Well, yes, I do.

Q What time of the day was it that she came on the day prior to your mother's arrest; do you remember? A Well, I can't tell you the correct time. It was some time in the afternoon; about three or four o'clock. I don't know the exact time, because I didn't look at the time.

Q Well, where were you in the apartment in question, when Mrs. Pries came in to speak to your mother? A In the bedroom;

CASE #2551

what is called the dark bedroom, the blind bedroom.

Q And can you hear the voices in the front room? A Yes, sir, because there are windows leading both to the dining room and the front room.

Q It is a blind bedroom, is it not? A Yes.

Q And the light gets to it from the windows in the other room? A Yes.

Q Now do you remember what was said by your mother or Mrs. Priess on that first occasion when Mrs. Priess came there? A I do.

Q Was the window open or closed? A The window was open, I think. I don't remember exactly.

Q Now, all right. Just what was said? A Mrs. Priess came in, and asked my mother if she was a midwife, Mrs. Schmulenson, and my mother said she was.

And she told her that a cousin of hers, by the name of Mrs. Keller, was pregnant, and she would like to see my mother, and whether she could come the next day at two o'clock, and my mother said she could.

And she asked my mother if she would be alone, because Mrs. Keller was bashful, and she said she would, and then she left.

Q And were you in the house the next day, when Mrs. Priess and Mrs. Keller came along? A Yes.

Q And what time was it to the best of your judgment? A Also about the same time, I should think, in the afternoon.

BY MR. ABRAMS:

Q About what time? A I don't know. I didn't look. I am sure that it was also about three o'clock, I should say. I don't remember exactly. It was also about the same time, I think.

BY MR. KAMINSKY:

Q Where were you when Mrs. Priess and Mrs. Goodwin came into the apartment? A When they came into my mother's apartment, I was in the same bedroom, at that time, as on the day before.

Q Now, will you tell the jury what you overheard and what you saw personally from that moment until the time your mother was arrested, in your own way, and take it easy. Don't be excited, but just go right ahead? A Well, it was about three o'clock of that same day that Mrs. Priess and Mrs. Kelly came in, and Mrs. Priess introduced Mrs. Kelly to my mother, and she said it was her cousin that she spoke of the day before.

And my mother asked Mrs. Kelly when she was sick last, and she said it was the 13th of July.

Then my mother asked her what made her come so soon, and she said, Mrs. Kelly said, she wasn't feeling well; that was the reason why she came.

My mother told her, Mrs. Kelly, to follow her into the hall - bedroom, which is connected with the front room, and my mother was there with Mrs. Kelly for a few minutes, and, when she returned, Mrs. Priess asked my mother how long Mrs. Kelly was pregnant, and my mother answered that she couldn't tell, because she had such a fat belly, and she said she would have to take her on the

1996
CASE #2551

table, to re-examine her.

And then Mrs. Priess asked her if she would do it -- no, Mrs. --- my mother asked Mrs. Kelly whether she wants her to examine her now.

Just then the bell rang, and two women came, and Mrs. ---- my mother --- pointed to these two women, and said, "You see these two women. I attended them. This is my baby, and I will take care of you -- I will attend you, as I attended to her."

Q Those two women came in after your mother had examined Mrs. Kelly? A Yes, after she came out with her, just as she was telling Mrs. Priess that she would have to re-examine her.

Q Now, who was in the apartment at that time, who else?

A Mrs. Ehrlich, in the dining room.

Q Now, then, what happened, when Mrs. Feinberg, and the other lady came in? A When Mrs. Feinberg and Mrs. Scheffrin came in, my mother said, "Do you see these two women? One is my patient, and this is my baby, and, if you want me to, if you will give me twenty-five dollars deposit, I will take care of you, as I took care of these two women."

And Mrs. Priess said she would give her fifteen dollars deposit, and my mother said all right.

And then Mrs. Priess gave her the fifteen dollars, and my mother asked her whether she wants her to examine her now.

BY THE COURT:

Q Wait a minute. no I understand that your mother had just told the woman that she could not tell whether she was pregnant

1997
CASE #2551

or not? A Yes, because she had such a fat stomach, and she must put her on the table to examine her.

Q And when she paid the money before she knew whether she was pregnant? A Yes. And my mother said she would reexamine her, and she said something, and my mother asked her if she speaks Russian, Polish or Jewish, because she don't understand her very well.

And Mrs. Priess, I think it was, answered that she didn't.

Then she gave her the fifteen dollars, and she said she would return in half an hour.

My mother said, she take her and examine her now, and she said no; as she hadn't had any dinner, she would return in half an hour, and they left.

And then Mrs. Schifren and Mrs. Feinberg and my mother went into the dining room, and they had a conversation together.

And my mother told me and Mrs. Ehrlich that, if the bell is going to ring in about half an hour, we should go into the kitchen, because Mrs. Kelly says she wants to be alone.

And then Mrs. Feinberg and Mrs. Schifren left, and a few moments later, the bell rang, and we went into the kitchen.

After that I heard a woman and my mother went into the dining room, and my mother told her to undress herself, that is, to take off her dress and her underclothing, because she will get wet, because she is going to make her a douche before she examines her. And then we heard a table and a chair move, and some more motions going on, and my mother coming into the kitchen, and took a kettle of hot water, and went out.

1928
CASE #2551

Q Was the door open or not? A Yes. It was not in good order, and was always open a little bit.

And, after that, I heard my mother say, "Why did you undress yourself altogether?" And Mrs. Kelly answered, that she had a union suit, and she would have to undress entirely, because she couldn't separate it.

And my mother said, "Step on a chair, so that it will be easier for you to get on the table."

And just then I looked in, because I heard Mrs. Kelly say -- that is, I heard my mother ask her why she was undressed, and she said, she had to take off her union suit, and I wanted to see what she looked like, and I looked in.

And I saw my mother looking among a box of instruments, and I heard Mrs. Kelly ask my mother if she is going to use those instruments, and my mother said she was not, that she was only looking for a tube, and a holder, for the pipe.

And she found the glass tube, and put it on the pipe, and put it in the syringe.

And Mrs. Ehrlich was right in back of me, and so Mrs. Enrlich motioned that there was nothing to see, and we sat down very quietly.

And then I heard Mrs. Kelly say that it was too hot, and my mother said, all right, she will make it cooler.

And she went back to the kitchen, and took some cold water, and went out again.

And, right after that, I ---- yes, I heard Mrs. Kelly say

CASE #2551


to my mother, "Go and take the ten dollars from Mrs. Priess."

Mrs. Priess remained in the front room. My mother said, "Leave it for later," and Mrs. Kelly said, "No, take it now."

And she called out loud, "Mrs. Priess, call Mrs. Schmulenson, and give her the ten dollars," and Mrs. Priess said, "Yes, come here, Mrs. Schmulenson, and get the ten dollars."

And we looked in then, because everybody was talking about the ten dollars, and we couldn't understand just what it was.

And we saw my mother spill some water out from that syringe, I think you call it, and spill in some cold water.

And Mrs. Kelly said to her, "Go and take the ten dollars," and she said, "all right, I will go and take it." 

And she went in and got the ten dollars, I suppose. I don't know what she did there.

And, in the time that she was away, Mrs. Kelly got up, and she bent down, and took a certain instrument from the box, and took off the glass tube, and put that in, and picked up an instrument, and was examining it.

And my mother, when she came back, said, "Why did you do that?" And she said, "Are you going to use that?" And my mother said, "No, why did you do it?"

And she moved away the chair with the instruments, and Mrs. Kelly said she felt faint, like fainting. And Mrs. Priess came in, and asked my mother, "What did you do to her?" And my mother said, "Nothing."

And then there was a lot of excitement, --- we didn't know

1900

CASE #2551

what it was -- and we heard men's voices coming in, and so ---- and so then Mrs. Ehrlich and I got very frightened, and there was a lot of excitement, and we understood there was something wrong, and we decided to go out of the kitchen door, because we didn't know what it was, and we thought that we had to see what it was. And that is all there is to it.

MR. KAMINSKY: Your witness.

CROSS EXAMINATION BY MR. ABRAMS:

Q And that is all there is to it? A That is all.

Q Now you say that Mrs. Kelly picked up an instrument. Is this the instrument, People's Exhibit 4? A That she held in her hand?

Q Yes. A I think so, yes; that is the instrument.

Q And your mother said, "Why did you do that?" A Yes.

Q And Mrs. Kelly said, "I feel faint." A No, my mother took it from her.

Q Your mother took it from her? A Yes.

Q And so, when your mother was arrested, she had it in her hand, didn't she? A I don't know about that.

Q Well, you were there, and looking right at them? A Yes.

Q How did you know that her name was Mrs. Priess? A She introduced herself as such.

Q When? A On Monday. She said she was Mrs. Priess or Price, or some other name like that.

Q Now August 21st was Monday? A No. August 20th was Monday, the day Mrs. Priess came herself, and she said, "Are you

190
CASE #2551

Mrs. B. Schmulenson, the midwife?" And she said, "Yes, I am."

And she said she would like to speak to my mother, and my mother asked her in.

Q And when your mother went into the kitchen, she had to open the door to get in, to get the hot water or the cold water, didn't she? A Yes, sir.

Q Did you have a dog that day? A I think we did.

Q Well, don't you know? A Well, I will tell you. We had several dogs, and we have two at present, but the ones we had before these two we gave away.

Q Well, I am asking you about whether you had dogs on that day? A Well, we had many dogs, but kept changing them all the time.

Q Did you hear Mrs. Kelly say anything about not wanting the dog in the room? A No, I don't remember that.

Q And did you see your mother take the dog and put it in the kitchen? A I don't remember.

Q Was the dog in the kitchen when you went there? A Well, I don't remember.

Q Yes or no? A Just a minute. Let me think. I don't remember the exact feature of the dog, because we had so many.

Q Yes. You remember all the other incidents of that day, don't you? A Yes, but we had so many dogs. One was killed in that same apartment.

Q How old are you? A Twenty.

Q How long have you been in this country? A I think it is

1902

CASE #2551

about eleven years or so.

Q What do you work at? A Well, at present I am not working.

Q Well, when were you working last, or where? A At Tischman's.

Q When was that? A At that time I was working.

Q After you worked there, where did you work? A J. Stone's.

Q And what was the business? A Boy's washable suits.

Q And how long were you working then? A I don't remember exactly.

Q How long have you been out of employment? A When?

Q Before today? A I don't know exactly.

Q You don't know how long you have not been working?

A Well, I haven't been working during the summer.

Q Well, what were you doing all this winter? A All this winter?

Q Yes. A I have been working.

Q Where? A J. Stone.

Q That is what I am asking you? A But you didn't tell me what time.

Q Are you working there now? A No.

Q When did you leave? A I haven't left, and I am not working there. I couldn't state that I left.

Q When did you stop work? A I think it is about three weeks ago. I don't know.

Q And when did you begin to work? A I don't remember.

Q And how many weeks did you work at J. Stone's? A I don't

1903
CASE #2551

know.

Q And where did you work before the summer season of last year started? A I wasn't working then.

Q How long had you been out of employment then? A I don't know.

Q Why, you didn't have anything to do since the time you left Tischman's; did you? A Yes, I did. I told you I did.

Q Where did you work outside of Tischman's and Stone's? A Oh, yes. I worked at Beck's store.

Q Where is that? A At the 14th Street store.

Q How long ago? A I don't remember. It is some time ago.

Q Is it two years since you left Tischman's? A I don't remember. I don't think so.

Q The only place that you have worked at since you worked at Tischman's, up to the present time, is Stone's washable suit house? A Yes, and Beck's shoe store.

Q And how many weeks, months, or years did you work for Beck's? A I don't remember exactly.

Q When did you start and when did you quit? A I don't remember. I don't remember the time I started or the time I left.

Q When did you start to take regents examinations? A Well, I started that quite some time ago, but I didn't continue.

Q How long ago? A I think it was about three years ago or four years ago. I don't remember exactly.

Q Do you go to school at the present time? A I do.

1907

CASE #2551

1905

CASE #2551

Q What school? A Eron.

Q Eron? A Yes.

Q Did you ever take an examination in Albany? A Not in Albany. Here in New York.

Q Where? A Grand Central Palace.

Q When? A Well, it was January or September. I don't remember just when.

Q You have been going to school for three years steadily?

A Not steadily.

Q And what school did you go to? A I just told you, Eron, in Manhattan.

Q And how long have you been going there? A I just told you, three or four years. I don't remember just exactly.

Q How many counts have you? A I don't know just how many I have.

Q You don't know how many counts you have? A I didn't add them up.

Q How many examinations did you take? A Well, I took several. Some I didn't pass.

Q And how many did you have to get? A Well, you have to have seventy-two.

Q Well, how many have you? A Well, I didn't add them up.

Q How many do you think you have, approximately? A I will tell you in a minute. About forty-five or fifty. I don't know just how many I had.

Q Can you tell me the subjects you had? A Yes.

Q Well, do so, please? A I took German, chemistry, three years English.

Q Third year you mean? A No, three years in English. The first year is elementary.

Q You took the first, second and third year of English? A Yes, the three years together. Three years are required, and four are elective. Have you got chemistry down there, too?

Q Yes. A Then American and English history, economics, ancient history, algebra. How much is that altogether?

Q Well, we will stop there, because you have told us all the subjects, haven't you? A Yes.

Q And, with all that education, and with all of that study, with the intention of some day studying medicine, do you think it was the correct thing for you to go into the kitchen, with a strange woman, Mrs. Ehrlich, while your mother was exposing the person of this lady? A Exposing the person of which lady?

Q The lady that went on the table.

MR. KAMINSKY: I object to that, as immaterial, irrelevant and incompetent.

THE COURT: Objection overruled.

MR. KAMINSKY: Exception.

A What was that question, please?

BY THE COURT:

Q Do you think it was proper to go and look into the room where your mother was exposing the person of this woman? That is the question? A Well, I didn't consider it proper or im-

1906

CASE #2551

proper at the time. I didn't analyze it. Curiosity prompted me to look.

BY MR. ABRAMS:

Q But your curiosity didn't prompt you to find out what was in the kitchen at the time? A What was in the kitchen?

Q What did Mrs. Priess tell you was in the dining room?

A She didn't tell me anything about the dining room, but I knew just what to expect in the dining room.

Q Well, as long as your curiosity prompted you to go as far as that, did your curiosity prompt you to investigate this valise?

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

THE COURT: Objection sustained.

Q Did you see the valise there, that day? A Well, I always did.

Q Where did you see it? A In the house, of course.

Q And did you see it that day in the house, this valise?

A I don't know, I couldn't say, perhaps, I don't remember. I see it so often, so that I couldn't possibly tell whether I saw it or not on a particular day.

Q Didn't you see your mother take this tray out of the valise?

A No, I saw it on a chair in the dining room.

Q Who placed it there? A I don't know.

Q Did you see your mother place it there? A No, sir.

Q Was it on the chair before you went into the kitchen?

A Yes.

Q Was it there the day before? A I don't know whether it

1997
CASE #2551

was or not. I couldn't possibly say.

Q As a matter of fact, didn't your mother keep these instruments in this case? A Eh?

Q (Question repeated) A I heard what you said.

Q Well, then, why did you say eh? A Whether she keeps it in that case?

Q Yes. A No, she doesn't.

Q And did you see the instruments in the douche? A I did not look inside of the douche.

Q Did you see any liquid in the douche? A I didn't look inside of the douche.

Q And at the time that you saw the douche, was it on the chair, near the table where Mrs. Goodwin was lying? A It was on a chair near the table on which Mrs. Kelly was lying.

Q Now you were in the dark, in the blind room, weren't you?

A What time do you refer to?

Q Well, on both days you were in that room, weren't you?
A No, not all the time.

Q That is, you didn't stay there from the 20th of August right along until the afternoon of the 21st, did you? A No, sir.

Q Now, you heard, you say, the conversation that occurred between Mrs. Ehrlich and your mother, didn't you? A Yes; and I knew that it wouldn't be very pleasant for Mrs. Ehrlich to have my mother undress her foot -- no, I mean Mrs. Ehrlich wouldn't like it, if I were present when my mother massaged her.

Q You mean that she wouldn't like anybody to be present when she took off her stocking? A Yes, I think so.

Q But Mrs. Ehrlich didn't object when your mother had a woman lying undressed on the table, didn't object to looking in at that scene?

MR. KAMINSKY: Objected to.

THE COURT: Allowed.

BY THE COURT:

Q Did she say anything in the way of objection? A Well, I can't answer for Mrs. Ehrlich, but I told you before, that we did not analyze it at the moment, and Mrs. Ehrlich didn't have any intention of looking in, but I motioned to her that I was going to look in, and we both smiled, and she looked in, too.

BY MR. ABRAMS:

Q And from where you stood in the kitchen, could you see the dining room very well? A Yes. Curiosity prompted me to see when she took off her union suit.

Q You saw her undressed? A Yes, I did, on the table.

Q On the table she undressed? A No. You asked me if I saw her undressed?

Q No, undress? A Oh, no, I didn't.

Q Now, when did you see -- when you first saw Mrs. Goodwin, how was she attired? A Mrs. Goodwin?

Q Yes. A I couldn't say. I was lying down when Mrs. Priess and Mrs. Goodwin went in. They just passed the window of the room.

Q You were lying down with Mrs. Priess, you say? A No, I

1995
CASE #2551

didn't say that. I said when Mrs. Goodwin and Mrs. Priess came in.

Q No. When Mrs. Goodwin went into the dining room, how was she dressed? A I didn't see Mrs. Goodwin then. I wanted to see her standing up, but she was lying on the table then.

Q Was she naked? A Yes.

Q Did she have her shoes on? A I don't remember.

Q Oh, you were curious? A Certainly I was, but not for the shoes.

Q Now, what time was it that she was lying on the table?

A It was some time in the afternoon.

Q Of course, I know that, but what time was it? A I could not tell you that, what time it was.

Q Well, see if I can help you a little. Do you want any assistance? A Well, all right, if you will give it to me.

Q You said that when Mrs. Priess and Mrs. Goodwin came there on the 31st they came about two o'clock? A No, I said that Mrs. Priess and Mrs. Kelly came together, for the first time, on the 31st of August, Tuesday.

Q And when did they come? A In the afternoon.

Q Well, what time did you say before? A Well, about three o'clock, the first time, but I am not sure.

Q Then you are guessing about a lot of things; are you not?

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

THE COURT: Objection sustained.

Q Well, you say that they came about three o'clock?

1910

CASE #2551

A Sometime in the afternoon. I think it was three o'clock or so. I couldn't say positively.

Q And when was it your mother told you how bashful Mrs. Goodwin was? A The first time I heard it when Mrs. Priess said that herself, and, on Tuesday, my mother told me, after Mrs. Priess and Mrs. Kelly had left the first time that if the bell should ring in half an hour, we should go into the kitchen, because Mrs. Kelly was bashful.

CASE #2551

though

Q And then/you knew she was bashful, you still listened to what was going on the dining room, and peeped through the door?

A Well, I didn't hear it all, perhaps.

Q Well, but you heard your mother say that Mrs. Goodwin had a fat belly, and she would have to reexamine her? A Yes, I heard that.

Q And you heard your mother say that, just as the bell rang, to admit Mrs. Schiffrin and Mrs. Feinberg -- you heard your mother say, "I could take you into another room"? A No, not at the very time the bell rang.

Q But she said to Mrs. Goodwin about going into another room, before or after they came? A After they came, I think. Let me see.

Q Now, Mrs. Schiffrin and Mrs. Feinberg stayed in the front room? A Yes.

3048

Q And Mrs. Ehrlich was in the dining room? A Yes.

Q And you were in the blind bedroom? A Yes.

Q And you remained in there all the time? A Not all the time.

Q How long did Mrs. Goodwin and Mrs. Priess remain in the front room before they left? A They remained until my mother introduced these two women, and told them, if they would give her \$25, she would take --

BY THE COURT:

Q Not what happened, but how long, is the question? A How long when?

Q How long did they stay? A Well, I couldn't possibly state how long they stayed. I didn't measure the time.

BY MR. KAMINSKY:

Q And then they went away, didn't they? A Mrs. Priess and Mrs. Kelly left.

Q And Mrs. Schiffin and Mrs. Feinberg remained there? A Yes, sir; remained.

Q And did your mother talk to them? A Yes.

Q Did you remain in the bedroom there then? A No, sir.

Q Didn't you hear what the conversation was between your mother and them? A I didn't go in to hear it.

Q Well, but couldn't you hear it from where you sat or lay? A Well, I didn't remain long there.

Q Well, how long? A Well, only a few minutes. When Mrs. Priess and Mrs. Kelly left and Mrs. Priess and Mrs. Kelly said they would be back in half an hour, and when my mother had these two women there, I went into the dining room, where Mrs. Ehrlich was.

Q And you were not interested in what your mother was going to say to those two ladies? A No, sir. Neither was I interested in what my mother was going to say to Mrs. Priess or Mrs. Goodwin.

Q Then you didn't hear any of the conversation between your mother and Mrs. Feinberg and Mrs. Schiffin? A No, sir.

Q How long have you known Mrs. Ehrlich? A In fact, I don't think I know her well at all.

Q Well, how many times had you seen her there, at your mother's apartment? A I never measured. Once or twice she came in my presence, and my mother told me she was to massage her, and I didn't pay any attention to how often she came.

Q Well, when you went into the dining room, did you talk to her? A I did.

Q What did you talk to her about? A I don't remember. I smiled at her, I suppose.

Q You remember that you smiled, don't you? A Well, I don't even remember that.

Q Well now, you and Mrs. Ehrlich were sitting in that dining room while Mrs. Schiffrin and Mrs. Feinberg were in the front room?

A While they joined us.

Q (Question repeated). A Not long. Immediately after they joined us; my mother and Mrs. Feinberg and Mrs. Schiffrin joined us.

Q Now let me see if I get this right. You went into the dining room immediately after Mrs. Priess and Mrs. Goodwin went away, and Mrs. Schiffrin and Mrs. Feinberg and your mother came immediately into the dining room and you were all together?

A Well, I can't say it was immediately, but, when I knew that my mother was talking to these two women, and Mrs. Ehrlich was not to be massaged, and that she was sitting in the dining room alone, and I know it is an embarrassing thing to be left alone in a strange apartment, I went in to relieve her embarrassment.

1917
CASE #2551

Q And so you went back with Mrs. Ehrlich? A Yes.

Q And you saw these two ladies come out, Mrs. Goodwin and Mrs. Priess? A I heard them go out when I was in the dining room.

Q And you didn't stay in the bedroom, but you went out, so as not to hear the conversation between the two ladies, Mrs. Feinberg and Mrs. Schifrin and your mother? A Well, I didn't leave for that purpose.

Q But you didn't hear any of the conversation between them? A No, sir.

Q And then you and Mrs. Ehrlich were in the dining room together when your mother and those two women entered the dining room? A Yes.

Q How long did they remain there? A Not very long. My mother was asking Mrs. Feinberg how long she was sick, and I didn't pay any attention.

Q Are you sure that that didn't occur in the front room? A Well, perhaps it did. I don't know.

Q Well, you heard your mother ask her about being sick? A About who was sick?

Q Mrs. Feinberg or Mrs. Schifrin? A Not in the front room. When these two women left, Mrs. Goodwin and Mrs. Priess, I left the bedroom and joined Mrs. Ehrlich in the dining room, because she was alone.

Q Yes. And your mother spoke to Mrs. Feinberg and Mrs.

Schiffrin in the dining room? A Well -- well; I couldn't say positively. I believe she said that. The conversation was general after that, and they remained only a few minutes, and left.

Q How many minutes would you say? A I couldn't possibly say.

Q Well, are you sure now they didn't remain in the parlor for half an hour? A Yes.

Q You are sure of that? A Yes.

Q Absolutely sure? A Yes.

Q Did you have any talk with Mrs. Ehrlich today? A Oh, yes; today.

Q Did she tell you what she testified to? A She did not.

Q She didn't say a word about the trial? A No, nothing about what she said here. I didn't have the chance.

Q She didn't say anything about what she was asked here?

A No, sir.

Q Didn't tell you what she testified to? A No, sir.

Q And did either of the other ladies tell you anything about it? A I didn't speak to them, I only spoke to my mother.

MR. KAMINSKY: I object to this line of questioning, in all fairness, for this reason, that counsel for the People asked me yesterday whether I was going to ask whether the witnesses for the People lunched together, and I said I was not, and I thought, naturally, that that agreement was mutual.

1916
CASE #2551

THE COURT: Well, proceed.

MR. ABRAMS: But, your Honor, may I not reply to this very improper and unfair remark of counsel?

THE COURT: No. The jury are only interested in getting through with this case at some time. Proceed.

BY MR. ABRAMS:

Q And you say that your mother and Mrs. Feinberg and Mrs. Schiffrin remained in the dining/^{room} for about an hour after Mrs. Goodwin and Mrs. Priess went away? A I don't think so. I don't know; I don't think so.

Q Didn't you just say so? A I don't know. I don't think so.

Q Now, you didn't see Mrs. Goodwin get on the table, did you? A No.

Q And you didn't see her get off, did you? A No. We weren't there when she got off.

Q Where were you? A We left.

Q Before she got off the table? A We didn't see her get off. I don't know whether it was before or after she got off.

Q Where was she when you left? A Well --

Q (Question repeated). A She was on the table when I left.

Q You are sure of that? A Yes. The last I heard of her she said she was fainting.

Q Don't you remember telling this jury that Mrs. Goodwin, after she got off the table, took up an instrument, and that your mother came in and said, "Why did you do that?" And that then

Mrs. Goodwin said she felt faint, and your mother took it out of her hand? A Well, that's what I said just now. I don't change it.

Q Was she on the table? A Yes.

Q She was? A Yes.

BY THE COURT: -

Q Was she on the table while she was making this change in the instruments? A She was, but she sat up.

Q She sat up and reached over to the chair? A Yes.

Q And took this instrument and placed it in the rubber tube? A Yes.

Q Did your mother go through the same room that you were in to get to the kitchen, or the dining room, or come in some other way? A She went in through the same way she had when she went to get the money from Mrs. Priess, and she came back that way.

THE COURT: Let me see the plan of this apartment.

MR. KAMINSKY: Here are both of the plans, your Honor, but this is on a larger scale, your Honor, and represents the front.

THE COURT: Very well. Proceed.

BY MR. ABRAMS:

Q Now, you just told the Court that you saw Mrs. Goodwin reach over and take the instrument. Did she stay on the table?

A She did.

1918

CASE #2551

Q Who took her off the table? A I wasn't there when she was taken off, or whether she left it or not I don't know.

Q Where were you? A I left.

Q Why? A Because the excitement had frightened me.

Q Well, you didn't know what was the matter, did you?

A Well, I knew something was the matter.

Q You were in your own home, in your mother's home, and your mother was not doing anything that to your mind was wrong, and you got frightened and ran out of your own home? A I did.

Q And Mrs. Ehrlich ran out with you? A I believe she followed me.

Q Were you afraid you would be arrested? A I?

Q Yes? A I didn't do anything to be arrested for.

Q Well, why did you run? A I don't know. I was simply frightened.

Q Well, why did you leave your mother when some people were doing to her that which they had no right to do? A Well, I didn't think for the moment. I felt nervous and excited and I didn't know then what I was doing.

BY THE COURT:

Q Before you went out did you tell anybody that you saw Mrs. Goodwin change these instruments? A No, sir.

BY MR. ABRAHMS:

Q You were there when the men came in, weren't you? A Yes.

Q And when the men came in where did you see Mrs. Goodwin?

CASE #2551

A I believe she was in the dining room.

Q Yes. Off the table, wasn't she? A I suppose she went off the table; I don't know.

Q Why yes, she was off the table, wasn't she? A I don't know. I didn't see her get off the table.

Q Well, why do you say that? A I don't make a positive statement, but I suppose so. I don't suppose she would lie on the table when the men came in there.

Q But you were there when the men came in? A I wasn't in the room; I was in the kitchen.

Q Did you see where Mrs. Goodwin undressed? A I believe it was in the dining room, but I wouldn't say, because I didn't see.

REDIRECT EXAMINATION BY MR. KAMINSKY:

Q Now, Miss Schmulenson, I just want to make this point clear. You were in the kitchen adjoining the dining room, and your mother evidently walked out from the dining room to the front room, to have a conversation with Mrs. Priess? A Yes, to take the money.

Q And you saw the change of the instrument, while Mrs. Goodwin was alone in the dining room? A Yes, sir.

Q And there was no occasion for your mother to pass you on the way back to the dining room? A No, because I was in the side room.

Q And you were frightened? A Yes.

Q And you went out of what door when you went out? A Out of the kitchen door leading into the hall.

1920

CASE 77-2551

RECROSS EXAMINATION BY MR. ABRAMS:

Q Well, as long as you had no reason for being in this kitchen that you say you were in, looking at a woman who was all undressed, and receiving confidential treatment, didn't you think that it was an additional reason why you should be right there with your mother when these men came in?

MR. KAMINSKY: I object to that question on the ground that she had a very good reason for being in the kitchen, in first place.

THE COURT: Well, I do not sustain it on that ground, but I sustain it.

BY MR. ABRAMS:

Q Let me ask you this question. Didn't you think that as long as you were in your own home, and strange men came in, in the presence of these two women, and when one was on the table or at the table, naked, that that was a very good reason why you should remain there to see what was going on? A Well, I didn't analyze it at the moment. I was nervous and frightened, and the first thing that offered me was the door, and I ran out.

Q Why did you run out? A Because I was frightened.

Q Did you call the police? A No, sir; I didn't think the police were necessary. I didn't consider it at the time.

Q You knew your mother was upstairs, and there were two women there, and two men came in, and without knowing why they came in, and frightened as you were, you ran downstairs and didn't

1921
CASE #2551

call a police officer?

MR. KAMINSKY: I object to that as having been asked before.

(Objection sustained.)

Q Did you tell anybody when you got downstairs that something had happened in your mother's house? A Should I answer that?

BY THE COURT:

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

BY MR. ABRAMS:

Q Who? A Mr. Naiburg -- well, I stepped in to tell him that something had happened up in our apartment, but he wasn't there.

Q And where did you go from there? A To Cammeyer's, 20th Street and Fifth Avenue.

Q Why did you go there? A Because my brother worked there, and I imagine I went there to tell him.

Q Did you tell him? A I did not.

Q Why not? A Because the store had moved.

Q Did you find out where? A Yes.

Q Did you go to where it had moved to? A No, I ran back home.

Q Where did you leave Mrs. Ehrlich? A I didn't see Mrs. Ehrlich after that.

Q Why, she ran out with you, didn't you? A Not with me.

1922

CASE #2551

I think she ran after me, but I didn't see her.

Q Now, where was this neighbor that you stopped in to see, Naiburg? A He is in Broadway.

Q Whereabouts? A East Broadway and Rutgers.

Q How far from your house? A Two blocks, I think, or a block and a half.

Q You didn't scream on the way downstairs, did you? A No, I'm not in the habit of screaming.

Q I say, you didn't try to attract the attention of anybody, did you? A No, sir.

BY MR. KAMINSKY:

Q In other words, when you ran out, you ran to your nearest friend, two blocks away? A Yes.

MR. KAMINSKY: Now, if your Honor please, I expect some character witnesses, and in view of the lateness of the hour --

THE CAPTAIN: Mr. Naiburg is here, is outside.

MR. KAMINSKY: Then call him in.

I S A A C N A I B U R G, of 36 West 111th Street, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KAMINSKY:

Q Mr. Naiburg, are you a married man? A Yes, sir.

Q Where are you in business? A 167 East Broadway.

1923
CASE #2551

Q And do you know Mrs. Schmulenson? A I do.

Q How long do you know her? A About five years.

Q And do you know other people who know her? A Well, I know many people in the neighborhood that know her.

Q Do you know what her reputation in the neighborhood is for truthfulness and honesty? A Yes, I do.

Q Is it good or bad? A Good.

CROSS EXAMINATION BY MR. ABRAMS:

Q When did the question arise as to her reputation for truthfulness? A Just now.

Q Who did you ever speak to her about her reputation for truthfulness? A I didn't speak about her reputation to anybody.

Q Who ever spoke to you about her reputation for truthfulness?
A Nobody.

Q Well, you were just asked what her reputation is in that neighborhood. A Yes.

Q Who ever told you her reputation was good? A She lives --

Q Who ever told you? A Oh, what people?

Q Yes. A I know a number of people who know her, and they spoke always of her as a nice woman.

Q Well, but who ever spoke to you about her reputation for honesty and truthfulness? A There was never any question about dishonesty.

Q Of course, then nobody ever raised the question of her honesty? A No, sir.

192

CASE #2551

Q But you were just asked what her reputation for truthfulness and honesty was in the neighborhood, and you said it was very good? A Yes, sir.

Q Well, who told you that it was very good? A Well, I know a certain Mr. Harrison.

Q Well, what did he say about her? A In fact, I never asked about her reputation, but I consider her very good, and all the people in the neighborhood where she lives considers her.

Q Well now, it is not a question of what you consider her; the question is how you found out what the people in the neighborhood regarded her as having a good reputation for truthfulness and honesty. Did you ever discuss that matter with anyone, and if so, with whom? A Well, I didn't discuss it with anybody.

Q What you have stated now is what you think of the woman? A Yes.

Q Are you related to Mrs. Schmulenson? A No, sir.

Q Do you know the girl? A Sure I know her.

Q You are the man that she ran to see on the 21st of August 1917? A I see her almost every day.

Q But do you remember the day Mrs. Schmulenson was arrested? A Yes, sure.

Q Now, the daughter has just testified that when the officers came in and her mother was arrested, she ran in to see you?

A Yes.

Q Are you the Mr. Naiburg she says she went to see? A Yes.

1925
CASE #2551

Q And did you see her? A Sure I did.

Q Do you understand my question? A No, I don't understand the question. I didn't see her then.

Q What is your business? A I am a steamship agent.

P A U L H A R R I S O N, of 31 Canal Street, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KAMINSKY:

Q Mr. Harrison, are you a married man? A Yes, sir.

Q What business are you in? A Druggist.

Q Do you know Mrs. Schmulenson? A Yes, sir.

Q How long do you know her? A A few years.

Q Did you visit her in her home? A No, sir.

Q Do you know other people who know her? A Well, I know Mr. Naiburg.

Q And other people besides him? A Certainly.

Q Do you know what her reputation for truthfulness and honesty in the neighborhood where she lives is? A Yes.

Q What is it? A Well, as far as I know her, she has always been honest and truthful. I don't know anything wrong about her what I could say.

CROSS EXAMINATION BY MR. ABRAMS:

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

Q He is a friend of yours? A Yes.

1926

CASE #2551

Q Does Mrs. Schmulenson buy any drugs at your place? A Yes.

Q She has been buying drugs for years? A Yes.

Q In fact, some of these very medicines, these Exhibits, come from your place, do they not?

MR. KAMINSKY: I object to that, whether they come from his place or not.

THE COURT: Objection overruled.

A I don't know.

Q This is your label, is it not (indicating)? A That's my label, but I don't know whether that comes from my place or not.

BY MR. KAMINSKY:

Q That is your label? A Yes.

BY MR. ABRAMS:

Q Well, you mean when you say she is honest, that whenever you sold her any drugs, she paid for them? A Yes, sir.

Q And you never had any other transactions with her, did you?

A No, sir.

Q You never had any conversation with anybody about her truthfulness and honesty, did you? Yes or no? A Well, about what?

Q About her truthfulness and honesty? A Yes, sir.

Q Was that question ever raised by anybody? A I don't quite understand you.

Q Well, let's see. I don't want you to misunderstand me. You said, a little while ago that her reputation in the community for honesty and truthfulness was very good. Now, who ever told you that it was? A Well, I know Mr. Neiburg.

CASE #2551

Q Well, did he ever discuss with you whether she was a truthful and honest woman? A Yes, he dealt with her, and he said she always paid her bills.

Q And she always paid her bills to you? A Yes, sir.

Q And then what you are telling now is your own impression of Mrs. Schmulenson backed up by what Mr. Nieburg, her friend, told you about her? A Yes, sir.

MR. KAMINSKY: That is the Defendant's case, if your Honor please.

THE COURT: Any rebuttal?

MR. ABRAMS: Just one question from one of the witnesses, and then I am through.

1928
CASE #2551

REBUTTAL.

ISABELLA GOODWIN, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Mrs. Goodwin, before you got on the table in Mrs. Schmulenson's house, on the 21st of August, 1917, did you see a dog there? A I did.

Q Will you please tell us what was said between you and Mrs. Schmulenson as to the dog?

MR. KAMINSKY: I object to it, as not proper rebuttal.

THE COURT: I do not see how it is rebuttal. If you believe that it is of any importance, you may reopen the case, if you will be brief.

MR. ABRAMS: No, sir, I don't care to reopen the case. I asked the mother and the daughter if they had a dog, and they said they didn't remember.

THE COURT: I will allow it.

A Well, I told her I was afraid of strange dogs, and she said she would take it to the kitchen, and tie it up, and I went with her into the kitchen, while she tied it up, I went in with her.

Q Was anyone in that kitchen at that time? A No, sir.

Q Was Mrs. Ehrlich there? A No, sir.

Q Or was the defendant's daughter there? A No, sir.

Q It has been stated by one of the witnesses here, that while lying on the table, you got up from the table, and

192
CASE #2551

removed from the tube a piece of glass, and put on it a metal instrument. Did you do anything of the kind? A I did not.

Q And it has been also stated here, that you took hold of this instrument, (indicating) and that Mrs. Schmulenson came in, and asked you why did you do that, and you said, "I feel faint," and that she took it away from you; is that true? A No, sir, it is not true.

Q And the arrest was made while she had that instrument in her hand; was it not? A Yes. And Mrs. Priess took the instrument from her.

Q As she was about to insert that into your person? A Oh, no, not then. When she inserted the instrument slightly, I screamed, but I didn't touch the instrument until Mrs. Priess took it away from her hand.

CROSS EXAMINATION BY MR. KAMINSKY:

Q Why did you go into the kitchen, when she went in there with the dog? A I wanted to see that the dog was tied, because I am afraid of strange dogs, and that is the reason I followed her to the door of the kitchen.

Q Now you said just now that you followed her to the door of the kitchen. How far did you go into the kitchen? A I stood right on the threshold there.

Q And could you see who was in the kitchen? A There was nobody there.

Q Was there not a door there into the kitchen? A No, I could see the entire kitchen.

Q Now, will you tell me, Mrs. Goodwin, why it is that

1930
CASE #2551

you failed to tell the jury on direct examination that you went in there to watch the dog being tied up in the kitchen? A I didn't think of it until after I left the stand, and I reminded Mr. Abrams of it out in the hall, and asked him to recall me.

Q Is it not because you were informed of testimony to the effect that there were two women in the kitchen? A It was not because of that, because I had never heard that testimony.

Q Isn't it because you heard or were informed that there were two women in the kitchen? A I hadn't been informed that there were two women in the kitchen.

Q Weren't you here when I opened the case, Mrs. Goodwin? A No, sir. I have been excluded ever since I gave my testimony.

Q Weren't you excluded at the time my witnesses went on the stand, at the motion of the District Attorney? A I was the first witness, and was excluded from the time of my own testimony, and I heard nobody else's testimony, no other witnesses at all. I was told to leave the room, and I did as directed.

Q Isn't it a fact that you and Mrs. Priess were sitting in the body of the court room when the District Attorney made a motion to exclude all witnesses, and that then you walked out with Mrs. Priess? A Yes.

MR. KAMINSKY: That is all.

THE WITNESS: No. I walked out before Mrs. Priess did. I walked out as soon as I got through testifying. I was only there two or three minutes, and I walked out before Mrs. Priess, and didn't hear her testimony.

CASE #2551

REDIRECT EXAMINATION BY MR. ABRAMS:

Q Did you ask her to take the dog out of the room before you were undressed? A Yes, sir, because I was afraid that the dog might bite me if I attempted to arrest her for any overt act, and because I am afraid of strange dogs.

MR. KAMINSKY: I object to that, about an overt act, and move to strike that out.

THE COURT: Yes, strike it out.

BY THE EIGHTH JUROR:

Q Were you dressed or undressed at the time the dog was taken out of the room? A I don't remember, sir, but it was before I went on the table, but I don't remember whether I was dressed or undressed at the time.

BY MR. ABRAMS:

Q Now, when you undressed, Mrs. Goodwin, did you undress to the skin? A I took everything off but a union suit, and this defendant was partly disrobed.

Q Did you have any drawers on underneath your union suit?

MR. KAMINSKY: I object to this line of questioning. It has been gone over before, and I submit it is not proper rebuttal.

THE COURT: Objection sustained.

MR. ABRAMS: That is all. That is the entire case.

THE COURT: Do both sides rest?

MR. KAMINSKY: Yes, sir.

MR. ABRAMS: Yes, sir.

1932
CASE #2551

(The Court then admonished the Jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Tuesday Morning, January 14th, 1919, at 10.30 o'clock.)