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New Jersey Court of Errors and Appeals

Petition

(Filed Aug. 2, 1919)

In Chancery of New Jersey

To his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey:

The petition of Donald J. Sargent, of Jersey City, Hudson County, New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to Frances L. Sargent, his present wife, the defendant in this suit, on September 22, 1909, by Rev. Addison Moore, a Minister of the Gospel, in the Borough of Manhattan, City, County and State of New York.

2. Defendant, since her marriage to your petitioner and during various days in the month of November, 1917, the exact days whereof are not more certainly known to petitioner, committed adultery with a man, whose name is unknown to petitioner, and whom petitioner is unable to describe, at No. Kensington Avenue, Jersey City, aforesaid.

3. Defendant, since her marriage to your petitioner and at a time not more certainly known to

New Jersey State Library

petitioner and at places unknown to your petitioner, committed adultery with a man or men unknown to your petitioner, and whom your petitioner is unable to describe, and as a result of such adulterous intercourse, contracted a venereal disease known as Gonorrhea from which she is now suffering.

4. Defendant, since her marriage to your petitioner, and from the months of September, 1918 to July, 1919, inclusive, the exact dates whereof are not more certainly known to petitioner, at No. 24 Kensington Avenue, Jersey City, aforesaid, at Port Richmond, Staten Island, N. Y., and in the automobile of petitioner, while it was in the charge of the defendant, and at other places unknown to your petitioner, committed adultery with one Charles Simmons, of Jersey City, aforesaid.

5. Defendant, since her marriage to your petitioner, and on the 11th day of July, 1919, at No. 24 Kensington Avenue, Jersey City, aforesaid, committed adultery with Charles Simmons aforesaid.

6. Petitoner and defendant were bona fide residents of the State of New Jersey, where this cause of action arose and they have ever since continued to be bona fide residents of the State of New Jersey, down to the commencement of this action, residing at No. 24 Kensington Avenue, Jersey City, aforesaid.

7. No children were born of the marriage aforesaid.

8. Your petitioner prays that the marriage between your petitioner and the defendant may be

dissolved for the cause aforesaid, according to the statute in such case made and provided, and that he may have such further relief as may be just.

And your petitioner will ever pray, etc.

WILLIAM HUCK, JR.,
Solicitor for and of counsel
with petitioner.

State of New York,
County of New York, } ss:

Donald J. Sargent, being duly sworn according to law, on his oath deposes and says:

That he is the petitioner named in the foregoing petition, and that his said petition is not made by any collusion between him and the defendant, but in truth and good faith for the causes set forth in the said petition.

DONALD J. SARGENT.

Subscribed and sworn to before
me a Notary Public in and for
the County and State of New
York, in the City of New York,
Borough of Manhattan, this 30th
day of July, 1919.

Helen Leonard,
Notary Public, Bronx Co. No. 64
Bronx Co. Register's No. 263
Cert. filed in N. Y. Co. No. 544
N. Y. Co. Register's No. 16261
Cert. filed in Steusen Co.
Comm. expires March 30, 1920.

(Seal)
(Certificate annexed)

Answer

(Filed Sept. 3, 1919)

In Chancery of New Jersey

Between Donald J. Sargent, Petitioner, and Frances L. Sargent, Defendant.	}	On Petition for Divorce.

The answer of Frances L. Sargent, defendant, to the petition of Donald J. Sargent, petitioner.

1. This defendant admits it to be true that petitioner and defendant were married as in said petition is alleged.

2. This defendant denies that since her marriage and during various days in the month of November, 1917, she committed adultery as alleged in paragraph 2 of the petition, or in any other manner, or at any other time or place with any person.

3. This defendant denies that since her marriage to petitioner, she committed adultery as alleged in paragraph 3 of the petition, or in any other manner, or at any other time or place with any person.

4. This defendant denies that since her marriage to petitioner and from the months of September, 1918 to July, 1919, inclusive, she com-

mitted adultery with Charles Simmons, as alleged in paragraph 4 of the petition, or in any other manner, or at any other time or place with any person.

5. This defendant denies that since her marriage to petitioner, and on the 11th day of July, 1919, at No. 24 Kensington Avenue, Jersey City, she comimtted adultery with Charles Simmons, as alleged in paragraph 5 of the petition, or in any other manner, or at any other time or place with any person; but on the contrary this defendant says that she has ever faithfully observed her obligations as the wife of the petitioner.

6. This defendant admits it to be true that the petitioner and this defendant were bona fide residents of the State of New Jersey when this supposed cause of action arose as alleged in the petition, and that this defendant has ever since continued to be a bona fide resident of this State down to the time of the commencement of this action, residing at Jersey City, in the County of Hudson but whether the said petitioner has, ever since said supposed cause of action arose, continued to be a bona fide resident of this State as alleged in said petition, this defendant is without information, and neither admits or denies the same.

7. This defendant admits it to be true that no children were born of the marriage aforesaid.

Answer

AFFIRMATIVE DEFENSES

This defendant, further answering, says:

1. That the petitioner communicated a venereal disease to the defendant and at the time was himself suffering with the said disease and was under medical treatment therefor, on or about the tenth day of September, nineteen hundred and eighteen.

2. That the petitioner employed a colored chauffeur to operate an automobile in which defendant rode, and during some part of the year 1918 he paid the said chauffeur ten dollars a week in excess of his salary if the said chauffeur would report to the petitioner the doings of the defendant, the petitioner informing the said chauffeur that he desired to get rid of the defendant and that if the said chauffeur would aid him in this he would give him a large sum of money.

3. That the said chauffeur was unable to truthfully report any misconduct on the part of the defendant and thereupon the said chauffeur in his conduct became offensive to the defendant and the defendant informed the petitioner thereof and requested him to discharge the said chauffeur, which he refused to do, but continued him in his employ.

4. That thereafter, on or about the 11th of July, 1919, the said petitioner told the defendant that he was going away, and he had previously, unknown to the said defendant, placed in the home of the said defendant at 24 Kensington Avenue, certain persons whom he had employed to spy upon the defendant, and while the defendant

was alone in the said house with the servants, on the 11th of July, 1919, and in her room, certain private detectives knocked on the door and accused her of having been guilty of misconduct with her chauffeur, which was not true, and a certain attorney, William Huck, Jr., the solicitor of the petitioner, was with the said detectives and ordered the defendant herein to leave the house; that the defendant was forced, because of the threatening attitude of the said detectives and the solicitor, and the absence of her husband, to leave the house, although she was not guilty of any wrongdoing at that time or at any other time; and the defendant alleges that the petitioner conspired with the said detectives and certain colored servants in the house of the petitioner to falsely accuse the defendant of acts of adultery because the petitioner had for a long time theretofore been desirous of severing his marriage ties with the defendant and had offered the said chauffeur before referred to, whose name is Charles Simmons, a large sum of money if he could, as the petitioner described it, "frame" the defendant "up," and for this purpose the said petitioner encouraged the said Charles Simmons in his freedom about the house and in terms of familiarity with the petitioner, and presents of money, to aid the petitioner in making false accusations against the defendant and endeavoring to make the circumstances so appear that said circumstances would reflect upon the probity and chastity of the defendant, although the truth is that at no time did the defendant commit any act of adultery either with the said Charles Simmons or with any other person, although the conduct of the peti-

tioner at all times was such as to attempt to encourage the commission of acts of impropriety by the chauffeur, by soliciting the said Charles Simmons to commit such acts and by affording him opportunities so to do by the absence of the petitioner from his home.

This defendant prays to be hence dismissed, with her reasonable costs and charges in that behalf most wrongfully sustained.

FRANCES LOW SARGENT,
Defendant.
ALEXANDER SIMPSON,
Solicitor for Defendant.

Replication

(Filed Sept. 11, 1919)

In Chancery of New Jersey

Between Donald J. Sargent, Petitioner, and Frances L. Sargent, Defendant.	}	On petition, etc.

The petitioner joins issue on the answer of the defendant.

In reply to the affirmative defense set forth in paragraphs 1, 2 and 3 of Defendant's affirmative

defense, Petitioner denies the same in toto and joins issue thereon.

The petitioner further denies the allegations set out in paragraph 4 of said affirmative defense, except that he admits that prior to July 11, 1919, after being suspicious of defendants' acts of infidelity, that his attorneys caused detectives to be placed in the home of defendant and admits that said detectives, who were white persons, knocked on the door of his wife's bedroom and accused her of having been guilty of misconduct with her chauffeur and says that such was in fact the case and that on the said occasion the said chauffeur, to avoid being caught actually leaped from the second story bedroom window of the defendant to the ground with defendant's connivance and escaped.

Petitioner joins issue on said affirmative defense.

WILLIAM HUCK, JR.,
Solicitor of petitioner.

Final Decree

(Filed Dec. 29, 1920)

In Chancery of New Jersey

Between Donald J. Sargent, Petitioner. and Frances L. Sargent, Defendant.		On Petition for Divorce.

This cause coming on to be heard before the Chancellor upon the petition of the petitioner for divorce and the answer of the defendant in the presence of William Huck Jr. and Merritt Lane of counsel with petitioner and Alex Simpson of counsel with defendant and the proofs offered by the respective parties having been heard and the arguments of counsel having been considered and the Court being of the opinion that the petitioner has not sustained the allegations of his petition.

It is on this 28th day of December 1920, by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, Ordered adjudged and decreed and the said Chancellor doth hereby Order Adjudge and Decree that the petitioner's petition be and the same is hereby dismissed with costs to be taxed on which taxed costs there shall be included an additional counsel fee of Two hundred dollars (200.00).

EDWIN R. WALKER, C.

Respectfully advised.
James F. Fielder,
Advisory Master.

Conclusions of Advisory Master

(Filed Dec. 29, 1920)

In Chancery of New Jersey

46-713

Between Donald J. Sargent, Petitioner, and Frances L. Sargent, Defendant.	On Petition for Divorce.

Fielder, Advisory Master:

The petition, filed August 2, 1919, charges defendant with having committed adultery (A) on various days in the month of November, 1917, with an unknown man at petitioner's home on Kensington Avenue, Jersey City; (b) at times and places unknown, with a man or men unknown, as a result of which she contracted gonorrhea; (c) from September, 1918 to July, 1919, the exact dates not being known to petitioner, at petitioner's said home and at Port Richmond, Staten Island and in petitioner's automobile and at other places unknown, all with Charles Simmons; (d) on July 11, 1919, at petitioner's said home, with Charles Simmons. The answer, filed September 3, 1919, denies the charges of adultery and alleges that petitioner communicated the venereal disease to defendant and that he conspired with detectives and servants to falsely accuse defendant of adultery with Simmons and that petitioner soli-

cited Simmons to commit adultery with her and afforded him opportunities to do so. On the hearing, no proof was offered to show adultery with any man other than Simmons and with him the petitioner endeavored to show that defendant committed three specific acts, the first at Jeffersonville, N. Y., on or about October 14, 1918; the second at petitioner's Kensington Avenue home, on or about May 1, 1919, and the third at the same place on July 11, 1919.

Before referring to the voluminous testimony tending to prove these acts, the social status of the parties concerned must be considered. Simmons, the alleged paramour, is a negro chauffeur, employed by the petitioner from July, 1918 to July 11, 1919, to drive an automobile used by petitioner and his wife. He is a coffee colored negro, showing the characteristics of his race, save that his hair is straight; about thirty years old; about six feet tall and of slender build; intelligent but speaking ungrammatically and I would say of not a prepossessing appearance. As to his appearance the three negro women who testified for petitioner, said that they did not consider him good looking, one of them describing him as a "gawky Indian." He was married and from about the same month in 1918 to April 5, 1919, his wife was employed in the Sargent household as a domestic servant. Simmons and his wife lived in the Sargent home from July, 1918, to April 5, 1919. Mr. Sargent appears to be about forty years old and Mrs. Sargent a few years younger. They were married September 22, 1909, and for three years prior to July 11, 1919, had resided in their home on Kensington Avenue, in a fashionable part of

Jersey City. He has the appearance, manner and bearing of a man of education and culture. That he is a man of some wealth is apparent from the fact that he is paying his wife $300 a month alimony *pendente lite*. He had been Master of a Masonic Lodge in this city and a member of several social clubs, whose functions he attended with Mrs. Sargent. He and his wife moved in good social circles and entertained and were entertained by people prominent in social, religious and financial life. She appears to be a woman of modest demeanor and of refinement and education and she possesses beauty of face and form. She was a member of various women's organizations, of a Browning Society, of musical clubs and she was a church attendant. There is no evidence whatever to indicate that outside of her home, while in company of men or women of her social circle, or in the company of the co-respondent, she misconducted herself in any way, or was guilty of any act of impropriety, indiscretion or even frivolity. Nor is there any evidence to show any act in her home which might subject her to suspicion or criticism other than with this negro chauffeur. All the evidence as to her conduct and acts, except as to the Jeffersonville occurrence, relates to what happened in her home and it is upon such evidence I must rely to adjudge her guilty of all or any of the three acts of adultery mentioned.

The thought of this cultured, refined and modest appearing white woman in sexual relation with any negro, is revolting to the senses. The acts and conduct with which she is charged by witnesses for petitioner are peculiarly contrary

to the universal teachings and practice of the white society to which she belonged, which is absolutely opposed to any business or social alliance between the races and association of the nature charged against her with a black man, is repugnant to white women of her social standing, is unnatural and rarely found to exist. So objectionable is it to the white race, that in many states of our Union marriage between the races is prohibited. To convince me that defendant has departed from the traditions of her race and has fallen so low in the human scale and has been so grossly immoral as to place herself among the most debased of womankind, the evidence must be so convincing and compelling as to leave no doubt whatever existing in my mind as to her guilt.

Our courts have said that the burden of proof is upon him who asserts the adultery and that burden must be clearly sustained. To establish adultery the circumstances must be such as to lead the guarded discretion of a reasonable and just mind to the conclusion of guilt. The judgment must not be rash and intemperate, moving upon appearances that are equally capable of two interpretations. If the circumstances, taken both singly and together, admit of two interpretations, that interpretation which favors innocence should be adopted (*Berckmans v. Berckmans,* 17 N. J. Eq., 453; *Culver v. Culver,* 38 N. J. Eq., 163; *Hurtzig v. Hurtzig,* 44 N. J. Eq., 329; *Luderitz v. Luderitz,* 88 N. J. Eq., 103) and this rule our courts have followed in determining the evidence insufficient to establish adultery in many cases. (*Osborn v. Osborn,* 44 N. J. Eq., 257; *Brown v. Brown,* 63 N. J. Eq., 348; *Farrow v. Farrow,* 70 N. J. Eq., 777; *Letts v. Letts,* 79 N. J. Eq., 630; *Earl v. Earl,*

81 N. J. Eq., 444; *Cooper v. Cooper,* 82 N. J. Eq., 581-660; *McKenna v. McKenna,* 84 N. J. Eq., 190.)

All the direct evidence to prove acts of familiarity, to indicate illicit inclination, to prove opportunity and to prove adultery, comes from the lips of two white detectives and four negroes. The detectives were employed by petitioner after he says he was informed of his wife's relations with Simmons by one of the four negroes and the four negroes were employed as house servants in and about the Sargent home, one of them being a detective placed therein to spy on the wife. All these negroes, save one and including the negro woman detective, are still in the petitioner's pay.

I shall first consider the testimony tending to show inclination and opportunity.

Ida Lewis, a negress, testified that she was employed at general housework in the Sargent home from some time in 1918 and still works there for the petitioner; that previous to 1918 she had been in Mrs. Sargent's employ but had been discharged for stealing some trunks filled with linen and had been taken back; that Mrs. Sargent told her she thought it perfectly proper for whites and blacks to intermarry if they loved each other and that witness disagreed with her and Mrs. Sargent argued in favor of mixing the races while witness argued against it; that Mrs. Sargent told witness she thought Simmons handsome; that witness heard Simmons curse and swear at Mrs. Sargent, who said she was afraid to tell her husband about it; that Mrs. Sargent showed witness a photograph (of a white man) and said it was the picture of her lover or sweetheart and said

she did not love her husband; that witness stood in the doorway of Mrs. Sargent's bed room, saw Mrs. Sargent in bed in her night dress, with her bare feet sticking out from under the covers and Simmons standing at the foot of the bed and when he saw witness he ran into a closet and neither Mrs. Sargent nor the witness said anything to each other; that on another occasion witness saw Simmons in Mrs. Sargent's bed room and Mrs. Sargent was dressed only in her underwear, corsets, shoes and stockings and when witness came to the open door, Simmons ran out past witness and no one said a word.

Charlotte Lunford, an uneducated negress, who does not know her age, testified that she was employed at general housework and as cook in the Sargent home from some time in 1916 until, as she says, Mrs. Sargent drove her out of the house shortly after July, 1918, when Simmons and his wife came there to work and she returned again in about three months and still works there for the petitioner; that Mrs. Sargent did not like her and witness did not like Simmons, or Simmons' wife, or Mrs. Sargent's treatment of Simmons and his wife, because witness had to wait on them; that a month after Simmons was employed she observed acts of intimacy (although Mrs. Simmons was then living at the house); that two months after Simmons was employed she saw them drinking together in Mrs. Sargent's bed room several times and witness was sent by Mrs. Sargent for glasses and cracked ice (presumably to the kitchen where Mrs. Simmons was working) and witness drank wine and whiskey with Simmons and Mrs. Sargent in the latter's bed room; that Sim-

mons went to Mrs. Sargent's room every day and sometimes three times a day and witness saw Simmons in that room lots of times drinking wine and several times when Mrs. Sargent was in her night dress with a robe over it, or was in bed; that Mrs. Sargent told witness she thought Simmons nice and handsome; that witness once heard Mrs. Sargent call Simmons "sweetheart" and "Dearie" over the telephone and she once saw Simmons hug Mrs. Sargent in the second story hall after Simmons had walked past witness in the first story hall to go upstairs to Mrs. Sargent.

Viola Jones, a negress, testified that she was employed at the Sargent home as a nurse for the Sargent's adopted baby, from the first Monday in June, 1919 and still works there for the petitioner; that she was a detective in the employ of the detective agency petitioner had engaged and was "planted" in the house and had done detective work in three other divorce suits; that it was Mrs. Sargent's custom to breakfast in bed; that once Mrs. Sargent told witness she wanted to see Simmons as she intended going out and Simmons came to the bed room and stayed there five minutes and in the presence of witness got a drink of whiskey and invited Mrs. Sargent to have a drink, too and that Mrs. Sargent declined the whiskey, but said she would have wine and Simmons got her a bottle of wine; that Mrs. Sargent asked witness if she did not think Simmons handsome; that Simmons took a bath on the attic floor where witness's bed room was located and after taking the bath put on a suit of Sargent's underwear and asked witness for powder, which witness got and took to the open bath room door and handed to

Simmons while he was in his undershirt and was putting on his drawers; that in addition to a telephone extension in the attic there was a "dictaphone" (dictagraph?) in her room, placed there by the detectives, over which she and the detectives could hear everything that happened all over the house; that over the telephone extension she heard three conversations between Mrs. Sargent and Simmons, once she asked him to come to get something to eat, another time she told him she could not talk to him because the servants were listening and in the third conversation she asked Simmons to come to the house and he inquired if Mr. Sargent was there and she replied "No" and Simmons came later.

Mack Jetter, a negro, testified that he was employed by petitioner in 1918 and until the spring of 1919, cutting grass and removing garbage at the Sargent home, but is not now in petitioner's employ; that on an occasion when he was engaged in washing windows in the second story of the house, between nine and ten o'clock in the morning, Mrs. Sargent, from her bed room, called Simmons who was downstairs, to come up and Simmons came up the back stairs and walked into the room; that when Simmons went in, witness was ten feet away and then moved up to within five feet of the door and heard Simmons say to Mrs. Sargent: "What do you want me for?" and her reply: "You know what I want. Why didn't you come before"; that the bed room door was open sufficiently wide for witness to see that Mrs. Sargent was lying in bed with her arms outstretched and that Simmons took her hand and that she pulled him to her and witness then walked away;

that he never told this story to anyone up to the day he testified. In the first part of his testimony he fixed the date of this occurrence as the Spring of 1919 and later on he said it was the latter part of October or the first of November, 1918.

August S. Tienken, a detective employed by petitioner's solicitors about the middle of May, 1919, was secreted in an attic room in the house, with the knowledge of all the servants, on eight or ten occasions from May 22 to July 11, two of such occasions being when the solicitors had informed him that Sargent would be away from home all night and on one occasion he remained in the attic room three consecutive days and nights. He had run an extension line from the house telephone to his attic room and he listened in on telephone conversations. A signal wire had been run, under his direction, along the attic stairs from a push button placed at the bottom of these stairs at the second floor, to the attic room he occupied and at his end there was a buzzer or flash. He had given Charlotte instructions to press the button whenever she caught Simmons and Mrs. Sargent in her bed room under compromising conditions. He testified that the automobile went out a great deal and in June and July he had it trailed when Simmons and Mrs. Sargent were in it; that while in his attic room he heard mumbling sounds of conversation between Mrs. Sargent and Simmons in her room five or six times, continuing from twenty-five to forty minutes; that on one occasion he heard them talking and laughing in her bed room as late as 9:30 p. m. for twenty-five minutes; that he could distinguish nothing that was said; that over the telephone extension he heard

Mrs. Sargent call Simmons "Dearie"; that when he commenced operations May 22, he talked with Charlotte, gave her instructions and found her faithful to him; that he has no record of the dates he was in the house, or of the dates he heard the talks in Mrs. Sargent's room, or of the dates he listened to telephone conversations.

Albert W. Wilsdon, a detective associated with Tienken, commenced work on the case May 26 and installed signal wires and the telephone extension. He stayed in the attic room on four occasions, twice over night and the other two times for but a few hours. He testified that he heard the mumbling voices of a man and woman in Mrs. Sargent's room twice, once in the morning and once in the evening; that he followed the automobile on various occasions when Mrs. Sargent and Simmons were in it, riding a bicycle or motorcycle. He could not give dates for any of the occasions to which he testified, further than to say they all occurred during the period from May 26 to July 11.

Mrs. Sargent and Simmons positively deny all these alleged occurrences.

I think this case a striking example of the reason for the rule that while the testimony of detectives, paid spies and household servants is competent, it should be scrutinized carefully and should not be relied on unless it is corroborated (*Cane v. Cane,* 39 N. J. Eq., 148-150; *Hurtzig v. Hurtzig,* 44 N. J. Eq., 329-334; *McGrail v. McGrail,* 48 N. J. Eq., 532, reversed 49 N. J. Eq., 348; *Brown v. Brown,* 63 N. J. Eq., 348; *Farrow v. Farrow,* 70 N. J. Eq., 777; Slack v. Slack, 89 N. J. Eq., 589-594).

Conclusions of Advisory Master

If this testimony is to be believed, it shows this woman to be a reckless, abandoned adultress, careless to the point of indifference, in her relations with Simmons, carrying on her liaison with wide open doors, intent only on gratifying an abnormal, licentious desire, at all times of the day and night, giving no heed to the presence of her servants who came and went about the house freely, attending to their household duties and, indeed, making the servants her associates and confidants in her illicit affair with Simmons. The composite story is so improbable as to be unbelievable and because of its incredibility and its source, I decline to accept it as true. To accept such a story would be to say that every woman in her home is at the mercy of servants who, for pay or to satisfy a grudge, might relate a tale which only their mistress and the alleged co-respondent could deny. I know it has been said that the denial of the defendant is entitled to but little weight, but I understand by that, that when the guilt is indubitably established, the defendant's denial is of little value. It would be an unfair rule that, with relation to testimony such as I have quoted, her denial under oath should be cast aside merely because she is the defendant. I think the rule is that where there is an endeavor to establish circumstances from which it is sought to draw an inference of her guilt and her veracity is unimpeached, her testimony should be given the same weight as any other witness, except only as affected by her interest.

Let us see what the testimony I have been considering amounts to. No definite date was given for any occurrence testified to, which made

refutation impossible except by a circumstantial denial. The servant witnesses, with the exception of Jetter, not only had ill feeling towards Mrs. Sargent and Simmons, but they were in petitioner's pay up to the time they testified. None of the specific instances cited by the servants, except Viola, tending to prove improper attachment between Mrs. Sargent and Simmons appear to have occurred while the detectives were in the house and so, for the period of over seven weeks while the detectives were there and Mrs. Sargent and Simmons were under the closest surveillance, no act transpired which the detectives thought of sufficient importance to call them from their hiding place and furnish them with the evidence they were eager to find and were there to find, although petitioner was away from his home each business day and on at least one occasion prior to July 11, remained away from home for a night or nights and the defendant is pictured by her servants as a woman devoured by a passion for a negro servant which she could not control. Simmons was at the house daily and the servant spies were on the watch to catch him with Mrs. Sargent. When they went out in the automobile they were followed by a detective, but no evidence of what he saw having been offered, the inference, of course is that he saw nothing wrong. I would not doubt that Simmons went occasionally to Mrs. Sargent's room, especially during the period he lived in the house. The duties of his position required that he should receive orders from her and perhaps on some of these occasions Mrs. Sargent was not dressed in street costume. It is not strange that a servant like Simmons should have the run

of the house and it is well known that familiarity with the continuous presence of a servant in the house, results in the mistress being careless of her state of dress in his presence.

It was Simmons' conduct with Mrs. Sargent, as reported to Sargent by Charlotte about May 3, 1919, which moved Sargent to place detectives in his home, so that apparently Simmons was the only man under suspicion and he is the only man against whom testimony was directed. That being so, I cannot understand why it was thought necessary to run an extension telephone line to the attic room to listen to conversations with a man whose duties called him to the house daily and to whom, therefore, there would be little to say over a telephone, especially of an incriminating nature. The two detectives testified prior to Viola. They spoke of but two mechanical devices installed to aid in their work, namely, the extension telephone line and the signal wire and they made no mention of a dictagraph, but Viola told of a "dictaphone" which she described as an instrument with a receiver in the attic, by means of which she could hear all over the house and over which she could hear everything. Because of her testimony and also because I cannot see the necessity for an extension telephone line, I am led to believe that the extension telephone was in reality a dictagraph—an instrument with which the detectives, in the nature of their business, must have been familiar and would be likely to use. In any event, according to Viola, the dictagraph was there and as the detectives failed to mention it, the inference is that they deliberately endeavored to suppress the fact of its existence, because they heard

nothing over it which would incriminate Mrs. Sargent. The one spot in the house where they surely would place the transmitting end of this instrument, was Mrs. Sargent's bed room and if Simmons was in that room on the many occasions and for the length of time the detectives say he was, they would not have had to testify to "mumblings" from the room, but would have had actual conversations to report.

Another circumstance which indicates the improbability of the testimony as to undue familiarity and sexual intimacy between the persons in question, is the fact that during practically the whole period covered by the witnesses from whom I have quoted, Mrs. Sargent was suffering from gonorrhea and its effect upon her system. October 1, 1918, Sargent went to a physician and for six or eight months thereafter he was under treatment for that venereal disease. A few days after October 1 he told his wife he feared he had the disease and that he thought it a recurrence of an attack he had had twelve years prior, before marriage and October 9th he took her to his physician, who told her she had the disease too. From about the middle of October to early in January, 1919, Mrs. Sargent was sick in bed as the result of the disease and from January to July she suffered from inflammatory rheumatism as an after result and was under the doctor's care and preparing for an operation, which was performed September 3, 1919. I pause here to say that I cannot determine from the evidence whether the petitioner or the defendant had gonorrhea first. I observe, however, that he was the one who first spoke of having it; that she apparently

was not aware she had it until he took her to his physician; that he was the first to seek treatment; that one of his medical witnesses testified that it was not possible to have a recurrence of the disease from an old attack twelve years after the old attack had been cured and that if the petitioner was sure he had not contracted it from a woman other than his wife, it impresses me as strange that he did not employ his detectives in October, 1918. It does not seem likely that during this period of her illness and suffering, Mrs. Sargent would have indulged continuously in intercourse with Simmons and I note here that the act of familiarity covered by Jetter's testimony and which, if true, would indicate that adultery was about to be committed, occurred according to the date he last fixed, at a time when she was sick in bed. I conclude this comment on the evidence concerning inclination, desire and opportunity, with reference to the fact that as to the telephone conversation testified to by Charlotte, wherein that witness said she heard Mrs. Sargent call Simmons "Dearie" or "Sweetheart," Charlotte was proved to have told a falsehood. This was the only instance covered by her testimony to which a date was attached and defendant was able to call three reputable and disinterested ladies to testify that on the occasion fixed by Charlotte, the telephone conversation did not occur.

I shall now take up the three specific acts of adultery which petitioner's counsel contends have been proved. The first is alleged to have occurred at Jeffersonville, N. Y., but is not set out in the petition. The petitioner therefore could not have learned of it until after his petition was

filed and he apparently did not think his evidence sufficiently strong to amend his petition and set it up. The testimony with reference to it was given without objection from defendant's counsel. It appears that Mrs. Sargent and her sister, Mrs. Kuchman, went by automobile from Jersey City to visit a sick friend, who was dying in a sanitorium at or near Jeffersonville. The trip was planned by petitioner and Simmons drove the automobile. The party spent the night of October 14, 1918, at a hotel in Jeffersonville and Mrs. Sargent and Mrs. Kuchman were assigned a room together and Simmons was assigned a room nearly opposite, across a hall. The proof of the alleged adultery depends entirely upon the testimony of Mrs. Elizabeth L. Lathrop, a resident of New York City, who refused to come to this state to testify, her evidence having been given before a Master in New York City. She had known the Sargents five years, had visited their home and they had visited hers and she called herself Mrs. Sargent's friend. She also knows Simmons. She testified that before the trip to Jeffersonville, Mrs. Sargent told her that Simmons had a great physical attraction for her and she for him and that she "was going to have him"; that on this occasion Mrs. Sargent had come to witness' home in her automobile with Simmons driving and that Mrs. Sargent told witness she (Mrs. Sargent) had told Simmons she was going to tell witness of their attraction for each other; that Mrs. Sargent wanted witness to go with her on the automobile trip to Jeffersonville as chaperon because she (Mrs. Sargent) "intended to stay with him" (Simmons); that

witness told Mrs. Sargent she was crazy and Mrs. Sargent said she realized it, but could not help it, because she felt that way toward Simmons. that witness refused to go under such conditions; that because of this statement by Mrs. Sargent, witness then wrote Mrs. Sargent a letter stating that she would probably never see Mrs. Sargent again; that subsequently Mrs. Sargent told her that she had taken the trip in question but never told her about staying with Simmons at Jeffersonville; that in the spring of 1919, witness had painted some china for Mrs. Sargent and Simmons came to get it and told witness that on the occasion of the trip to Jeffersonville, Mrs. Sargent had stayed all night with him at the hotel and that she had tried to get connecting rooms, but could not and that Mrs. Sargent was in his room and that Mrs. Kuchman, who was on the trip with them, made no objection to Mrs. Sargent staying in his room; that in or about May, 1919, Simmons told her Mrs. Sargent was about to discharge him and he asked witness to find him a place, which witness did, but Simmons would not take it; that witness then sent for Mrs. Sargent, who came to witness' home in her car with Simmons, when Mrs. Sargent told witness that Simmons wanted to leave her employ and Mrs. Sargent said she was glad to have him go and hoped he would, but witness said nothing to Mrs. Sargent about what Simmons had told her of the Jeffersonville trip; that after the raid she met Mrs. Sargent, when Mrs. Sargent told her about the raid and that Simmons had been shoved into her room and the door locked on the outside; that witness went on a two or three-day au-

tomobile trip to Massachusetts July 4, 1919, with Mr. and Mrs. Sargent (Simmons drove the car on this occasion); that witness had been with Mrs. Sargent and Simmons in the automobile on several occasions and the only act of familiarity she saw was that "more than once she (Mrs. Sargent) cast a glance at him, a significant look, just as one might recognize anyone," which the witness would not have remarked except for what Mrs. Sargent had told her about Simmons.

Mrs. Lathrop's testimony is uncorroborated and is denied by Mrs. Sargent and Simmons. It amounts to this: that Mrs. Sargent told her she intended to defile herself on this trip to Jeffersonville by committing adultery with a negro and she wanted Mrs. Lathrop to debase herself and to become a *particeps criminis*, by accompanying her and that Simmons afterwards told her the adultery had been committed (which means that Mrs. Kuchman was a party to it) but that Mrs. Sargent made no such admission. This uncorroborated story cannot be accepted as proof of adultery, because the fact of the actual commission of the act depends on what Simmons told the witness and Simmons' statement cannot be received as evidence against Mrs. Sargent (*Graham v. Graham*, 50 N. J. Eq., 701; *Kloman v. Kloman*, 62 N. J. Eq., 153; *Howard v. Howard*, 77 N. J. Eq., 186). At the most, it goes to affect his credibility in his denial. But this story is so improbable, I am loath to accept it. It is contrary to human experience that the defendant should confide to another her intention to commit adultery and especially an act of so revolting a nature and it is also contrary to human experi-

ence, that if such confidence were given, Mrs. Lathrop would not in disgust promptly terminate her friendship with so degraded a woman. But we find Mrs. Lathrop continuing her intimacy with Mrs. Sargent, even after Simmons told her the act had been committed.

In addition to Mrs. Sargent's denial of adultery at this time and place, there are the supporting facts that a few days before this trip, Mrs. Sargent had discovered she had gonorrhea and that she had undergone an operation for the removal of a polypoid growth at the neck of her womb and her condition while at Jeffersonville was such that she had to secure the service of a physician, so that she could scarcely have been in a condition to indulge in a night of sexual intercourse. In further corroboration of Mrs. Sargent's denial, is the testimony of Mrs. Kuchman that she and her sister occupied the same room together the whole night and that Mrs. Sargent did not commit adultery with Simmons. I consider this charge fully disproved.

The second act of adultery alleged depends wholly on a story told by Charlotte Lunford. She did not fix the date of the incident to which she testified but it seems to have been about May 1, 1919. She testified that Mrs. Sargent and Simmons came home about 9 p. m. and went to Mrs. Sargent's bed room, the witness accompanying them; that Simmons brought a bottle of wine and a bottle of whiskey to the room and witness made some sandwiches and the three sat in the bed room eating and drinking; that in opening the bottle, some wine was spilled on the wall, furniture and floor; that some time during the evening

Mrs. Sargent removed her clothing and, wearing nothing but a night gown, robe and slippers, lay on the floor; that Simmons removed his coat and leggings and lay "like a dog" on the floor beside Mrs. Sargent; that witness asked Simmons whether he was not going upstairs to the servants' quarters to sleep and he replied "No, I am going to sleep here;" that witness then went upstairs, leaving Mrs. Sargent and Simmons in separate rooms on the bed room floor and when she came down at 6 o'clock the following morning, they were still in the separate rooms, each in bed; that witness went back to her own room and slept until 8 o'clock when Mrs. Sargent called her and then Simmons came up to the servants' bath room, washed his face and hands and went out. Mrs. Sargent denies this story as related by Charlotte, but says there was an occasion when wine was spilled in the room in question. She says that when she left home that morning to attend a function in New York, she told Charlotte to place a bottle of wine on ice because she expected to bring a friend to spend the night; that she returned about 11 p. m., but the friend did not come with her; that Charlotte told her she had not put the wine on ice, but she directed Charlotte to bring it to her room and when Charlotte opened the bottle the contents spurted on the wall; that she told petitioner about it the next day; that Simmons did not enter the house that night; Simmons also denies the incident. The impression Charlotte's story makes on my mind is that it is incredible. I cannot believe that this white woman would entertain two negroes in her bedroom and while almost naked, perform the

antics testified to with Simmons and commit adultery practically in the presence of Charlotte. Bearing in mind, too, that Charlotte allied herself with the detectives for the purpose of furnishing evidence to the petitioner and was and still is in the pay of the petitioner, I refuse to accept her uncorroborated story as true as against defendant's denial.

The third act of adultery is alleged to have occurred on the night of July 11, 1919. This is the night on which the so-called "raid" took place and the proof depends on the testimony of Charlotte, Tienken and Wilsdon, denied or explained by Mrs. Sargent and Simmons. The story told by the two detectives is that they were concealed in the attic room that night; that they had arranged the signals with Charlotte and saw her on and off during the evening; that at 9:15 Simmons came up to the attic, tried the doors, including theirs and went downstairs to the bedroom floor; that they heard continued mumbling voices coming from Mrs. Sargent's room; that at 9:50 they were outside their room, looking down the attic stairs and saw Mrs. Sargent in her night dress and pink robe, walk past the foot of the attic stairs and that Simmons was behind her and they heard her say: "Stop, Charles"; that she went to the bath room, remained there five minutes and returned to her room, from which direction they continued to hear voices; that at 10:40 they were on the way down the attic stairs and saw Charlotte pressing the button at the end of the signal wire and heard someone cry: "Charlotte, Charlotte"; that they rushed down the stairs to Mrs. Sargent's room, found the door

fastened and Tienken locked the door on the outside with a key he carried; that they heard someone open a window inside the room and Tienken ran down one flight of stairs to the front door, which he was delayed in opening by a chain bolt thereon and when he finally got out he saw Simmons running down the street five hundred feet away; that Tienken then looked up at the window in Mrs. Sargent's room and saw her standing there in her night dress and pink robe; that when Tienken found Mrs. Sargent's room door fastened, Wilsdon ran to a window from which he saw Simmons jump from a window in Mrs. Sargent's room and run away and he also saw Mrs. Sargent in her night dress and pink robe; that they then telephoned Mr. Huck, petitioner's solicitor of record, who arrived at the Sargent home in about fifteen minutes.

I now pass to the version given by Mrs. Sargent and Simmons as to what happened preceding Simmons' hasty exit from the room. She had been out in her automobile with her sister and niece and on the way home had purchased a quantity of groceries and vegetables, which made a number of parcels, arriving home at 8:20. She went to her room, removed her hat and coat and came down to the kitchen where Charlotte was. Simmons made a couple of trips to and from the automobile, bringing in the parcels, which Charlotte asked him to help her unwrap and put away the wrappings. Charlotte told him she had been sick all day and had been sleeping and asked him to sit a while with her, which he consented to do. Charlotte then prepared something for Mrs. Sargent and him to eat, Mrs. Sargent having her meal

in the dining room and Simmons his in the kitchen. Mrs. Sargent was uneasy because Mr. Sargent was to be away all night and she said she felt that someone was in the house and she told Simmons to try all the doors and windows before he left and to get some whiskey to give Charlotte for her illness. He took the car to the garage and was back again about nine o'clock and helped Charlotte with the parcels, spent some time with her in the kitchen, got a bottle of whiskey which he gave to Charlotte and then proceeded to examine all the doors and windows from cellar to attic and when he came down from the attic, Charlotte was standing in Mrs. Sargent's bedroom door and he stopped to report to Mrs. Sargent that everything was all right in the house. Mrs. Sargent was sitting in her room fully dressed, sewing. Charlotte, with a small glass of whiskey in her hand, stepped into Mrs. Sargent's room, placed the glass on a dresser and asked Simmons if he would like to have a drink and upon Simmons replying that he would, she said: "There it is; get it" and upon Simmons stepping in the room, Charlotte stepped out and closed the door. Mrs. Sargent called: "Charlotte, Charlotte, what are you doing?" and Charlotte opened the door and said: "I was only funning." Mrs. Sargent said: "How dare you do such a thing?" and Charlotte pulled the door to again and the lock clicked. There was no lock or bolt of any kind on the inside of the door (no witness except petitioner testified that there was) and neither Mrs. Sargent nor Simmons fastened the door. Then came the sound of running feet to the door and Simmons said the noise sounded to him like horses and he

heard knocking on the door and his name was called; that a thousand thoughts were in his mind and he did not know whether there were robbers in the house or somebody was going to be killed; that he knew he was locked in a room where he had no right to be and he followed his impulse and jumped from the window.

Charlotte was a witness called by petitioner. Although she was friendly to petitioner and an observer of and actor in all events which transpired the night of July 11, before, at and after the raid, she was not asked on her direct-examination to tell of that night and her story was first brought out on cross-examination. She swore that she knew the petitioner was to be away that night and that when the detectives came to the house that morning they told her there would be a raid that night; that Mrs. Sargent and Simmons ate their meal in the kitchen and had wine and whiskey to drink; that Simmons washed the dishes and the three went up to Mrs. Sargent's room, sat there and talked and drank; that Mrs. Sargent said she felt as though someone was in the house and Simmons went out and examined the house; that after Simmons came back he said he was going to have a good time and Charlotte went upstairs where she remained twenty minutes (with the detectives) and Mrs. Sargent called her and she came down and the detectives came, too; that she went to Mrs. Sargent's room where Mrs. Sargent was in her night dress and Simmons was sitting on the foot of the bed; that she left the room and remained in the hall and fifteen minutes afterwards she saw the detectives in the hall at the room door; that the bedroom door was open and

she closed it and after closing it, opened it again half way; that the detectives were then a yard away and one of them closed the door for the second time and locked it; that she closed the door for the first time because she was "funning" with Mrs. Sargent and Simmons.

We have sharply contradictory statements of the events on the night in question and the problem is to find where the truth lies. The story told by Mrs. Sargent and Simmons is probable. The circumstances surrounding the raid may have been exactly as they describe, while discrepancies are apparent between the story told by the detectivs and that told by Charlotte and there are improbabilities in the stories told by the detectives and Charlotte. The striking difference between the detectives and Charlotte is that the detectives say the bedroom door was closed and fastened when they came downstairs, while Charlotte says it was half way open and that the detectives stood by it several minutes and one of them closed and locked it on the outside. If the door was open, as Mrs. Sargent, Simmons and Charlotte say it was and it was true that Mrs. Sargent and Simmons had been in the room from 9:15 to 10:40 and Charlotte had seen Mrs. Sargent in the room undressed, why did the detectives not walk in through the open door? The only answer seems to be that the detectives' statement was not true; that their hope of obtaining real evidence that night had not been realized and they proceeded to manufacture it by locking the door. If Charlotte went upstairs after leaving Mrs. Sargent and Simmons in the room, she must have seen the detectives and must have told them

that their evidence was at hand, but they did not come down. Twenty minutes later, Charlotte says, Mrs. Sargent called her and she went down. If Charlotte heard the call, so did the detectives and they could have come down with Charlotte. Charlotte says they actually come down with her. The bedroom door was then open and Charlotte walked in. Mrs. Sargent was in bed and Simmons was sitting on it. Charlotte walked out, leaving the door open and the detectives were in the hall.

Why did she not tell them to walk in? Their evidence was at hand. Again, they saw Mrs. Sargent pass the foot of the attic stairs in her nightdress and knew from what she said that Simmons was in the hall with her; they saw her go to the bathroom where she remained five minutes. Their evidence was again at hand and they could have caught her undressed and Simmons probably in similar attire. If their story is true, it is incomprehensible why they waited from 9:15 to 10:40 to come downstairs and when they finally did come, why they locked the evidence in the room where they could not see it, instead of breaking down the door. Detectives are usually not so delicate that they hesitate at using force and Tienken held a letter dated June 19, 1919, signed by petitioner, covering just such an emergency, for by it petitioner notified "all whom it might concern" that Tienken and Mr. Huck, or either of them, were authorized to act for petitioner in and about his residence as though he were personally present. It may be argued that they thought they had the evidence secure in the room and that they wanted Mr. Huck to see it. They must have known that in the time which would elapse before

Mr. Huck could arrive, the man and the woman could clothe themselves, arrange the bed and dispose of all outward appearance of guilt and also concoct some explanation of their presence together. But the detectives knew immediately that part of their evidence had gone out of the window (and it should be noted that Simmons went at once and must have been fully clad, for it does not appear that any of his clothing remained in the room) and both detectives saw Mrs. Sargent at her window undressed. What could have been the reason for keeping her in her room alone and why not then break down the door, catch her in disarray, with whatever evidence of guilt there might be in the room and confront her with a charge of adultery before she had time to collect her senses? There were three witnesses then present and her state of dress, if what they say is true, could not be explained away. My conclusion is that these men, with Viola and Charlotte, had been seeking evidence for seven weeks and had not found it; that their employer had become impatient and had absented himself from home on this night for the express purpose of avoiding the opportunity for an act of adultery and Mr. Huck, according to his testimony, expected to be called this night; that Charlotte, who seems to have supplanted Viola as a detective and whose talk of acts of impropriety by Mrs. Sargent had resulted in the employment of the detectives and the detectives had to "make good" and that when they found that Mrs. Sargent and Simmons were not misconducting themselves, they adopted the expedient of locking them in a room, using the key which Tienken had been carrying for weeks for

that very purpose. I am not willing to accept the doubtful story of paid spies, with its discrepancies and improbabilities, as evidence of adultery between this white woman and this negro.

What happened when Mr. Huck came? Tienken unlocked the door and Huck, Tienken and Wilsdon entered the room. Mrs. Sargent was fully dressed, except that Mr. Huck says her shoes were unlaced or unbuttoned, which she denies and I do not consider it important whether they were or not. She had been alone in the room fifteen minutes or more and she must have known that she was under suspicion or having committed a crime with a negro and whether she was innocent or guilty, she must have been disturbed and excited when she faced Mr. Huck. I can believe that Mr. Huck himself was not calm and collected when under these trying conditions he confronted this woman whom he had known socially. He said she was not in her usual calm frame but that she was neither hysterical nor agitated. She said she was like a crazy girl and Tienken testified she carried on awfully. She said that she immediately said to Mr. Huck: "You of all men, how could you do such a thing? Where will I go? What shall I do? I have done no wrong. Why have you done his thing?" And Tienken said to her: "It's a fine thing to have a nigger in your room" and she said: "I want that man (Tienken) put out of my house" and told Mr. Huck she wanted to talk with him alone. Petitioner's counsel argued that the conversation which followed indicates her guilt because she did not specifically assert her innocence. Mr. Huck and Mrs. Sargent have not the same recollection of that conversation, but

I think it sufficient to say that Mr. Huck did not charge her with adultery, nor ask her to explain Simmons' presence in her room and that there is nothing in what he testified she said, which can be construed as an admission of guilt. Tienken testified that prior to her private conversation with Mr. Huck she was protesting her innocence and saying she had done no wrong. She seems to me to have been an overwrought woman, not knowing what she was saying and mainly concerned with what was to be done with her.

Petitioner's counsel argued that Mrs. Sargent's subsequent conduct, taken in connection with all the evidence against her, indicates guilt. He referred to the fact that about a month after the raid she employed Simmons' wife as a domestic in her household. This suit had then been commenced. She was unstrung and ill and was about to undergo an operation and was without domestic help and she may have turned to Mrs. Simmons at a time when, as everyone knows, servants were difficult to secure; or it may have been that her experience with servant spies had been such that she did not know whom to trust and she felt she would be safer with the co-respondent's wife than with anyone else. But whatever her reason may have been, it cannot be construed as any evidence of guilt with Mrs. Simmon's husband.

Counsel also referred to the fact that in the latter part of the month of August, 1919, Mrs. Sargent and her sister took an automobile trip to Vermont to see her adopted child and that Simmons drove the car. Mrs. Sargent explains this occasion by saying that her brother-in-law arranged the trip for her, sent her in his car and that he en-

gaged Simmons for the trip because Simmons had been to the Vermont town before and knew the road; that before allowing Simmons to drive the car she asked her counsel if it would be proper for her to go with him and received his opinion that it would and that she scarcely spoke to Simmons on the trip. It may not have been good judgment or good taste to permit Simmons to go with Mrs. Sargent and Mrs. Kuchman, but if Mrs. Sargent was innocent of the charges against her, the fact that she did not consent to make the trip with him as chauffeur, cannot militate against her and I am unwilling to convict her of the crime charged against her because of this incident. Counsel referred to three interviews had between Mrs. Sargent and petitioner's solicitors at the latter's office, at her request, in September and October, 1919, at which Mrs. Sargent asked the solicitors and her husband to drop the suit and he argued that because she did not at these interviews, assert her innocence of the charges made in the petition then on file, such circumstance is an indication of her guilt. As to this, I think it sufficient to say that the first interview was arranged because Mrs. Sargent said she wanted to meet petitioner face to face and talk with him alone, her avowed purpose being to convince her husband that his charges were groundless. At this interview she asked her husband to talk with her alone, but he refused and he never granted her an opportunity to tell him her version of the circumstances surrounding the raid. On this occasion her answer in this suit which contains a complete denial of the charges made against her, was produced and read. Her attempt to make an

explanation to her husband having failed and he and his solicitors having asserted their intention of pressing the suit, the other interviews followed because she said the publicity was killing her and if petitioners insisted on divorcing her, she begged his solicitors to consent to her going somewhere to get the divorce which peitioner so much desired. I do not know Mrs. Sargent at these interviews could further have proclaimed her innocence than she had already done by her answer, except by a reiteration of what her answer contained and if her husband refused to listen to the explanation she desired to give him, of what use it would have been to make it to his solicitors. Counsel also referred to alleged admissions made by Simmons of many acts of adultery with Mrs. Sargent. Such admissions were testified to by two negroes produced as witnesses on behalf of petitioner, one of whom had been employed by petitioner's solicitors for the purpose of obtaining such admissions. They are alleged to have been made after the raid and after the local newspapers had advertised Simmons as a negro Lothario. As I have already said, referring to the alleged admission to Mrs. Lathrop, statements of this nature, if made by Simmons, are not evidence against the defendant and can only be considered as affecting Simmon's credibility as a witness. I can disregard the whole of Simmon's testimony and find myself unconvinced of the charges against Mrs. Sargent. I do not think, however, that his testimony should be deemed entirely worthless, but that what he said in court, under oath, should be entitled to some weight, notwithstanding that on other occasions, when proud of his notoriety, he

New Jersey State Library

may have boasted of his amatory prowess to two supposed friends of his own race, who may have been exciting him to flights of imagination, either through expressions of envy, or by design to induce him to commit himself. Counsel also argued that the explanation of Mrs. Sargent and Simmons as to how they spent the time on the night of the raid from 8:20 to 10:40, failed to account for the whole period. The answer is that both stated what they could recall of their movements and did not attempt to fix the time consumed in the performance of each detail. The evidence on behalf of the petitioner as to what they did, not stand the test of probability. Simmons may very easily have consumed two hours and twenty minutes in the performance of the various things which he and Charlotte say he did and considering the testimony of all the witnesses, I am not convinced that he was in Mrs. Sargent's room any length of time before the door was closed on him.

The trial of this case consumed four and a half days and a mass of testimony was taken. In stating these reasons for my conclusion that the charges against Mrs. Sargent have not been sustained, I have relied for the facts upon such portions of the testimony as were written out during the progress of the trial, upon my trial notes and upon my memory of the testimony. I have not referred to all points made by counsel on both sides, such as the Nevada suit and the photograph incident, because I feel that the evidence to which I have not referred can be of no assistance to me in determining the issue and this review of the case is now overlong.

There is, however, one further question which requires consideration. Section 28 of the Divorce Act provides:

> "If it shall appear to the court that the adultery complained of shall have been occasioned by the collusion of the parties and done with an intention to procure a divorce, or that the complainant was consenting thereto, * * *, then no divorce shall be decreed."

If the first and second acts of adultery alleged have not been proved and the petitioner relies on the third act, did his conduct as to that alleged act, amount to "consenting thereto?" About the first of May preceding the raid, Charlotte had given the petitioner her version of the occurrence on which the second act of adultery is based and had also told him of acts of familiarity between his wife and Simmons. Petitioner therefore had reason to suspect her of an inclination for illicit relations with Simmons and suspecting, he should have taken the step which lay within his power to keep Simmons away from his home, namely, discharge him and warn him never to come to his house again. Instead, he retained Simmons in his employ. Thus he gave Simmons the chance to be with his wife frequently in the automobile and also an excuse for an opportunity to be at his house at all times during the day when petitioner was absent at his business and petitioner purposely, on at least two occasions between May 22 and July 11 absented himself from home for a night or nights and he did all this, if not believing that defendant would commit adultery, at least to fa-

cilitate it. He placed detectives in his home, suborned his servants, received reports from his spies as to the progress of events and on June 19, 1919 gave one of his detectives and Mr. Huck the letter before mentioned, conferring on them full authority to act in and about his residence, which letter the detective exhibited to Mrs. Sargent after the raid. He threw no protection around his wife. He did not even warn her against itimacy with Simmons but he left her in danger and did nothing whatever to withdraw her from Simmons evil influence. For two months after he was in possession of Charlotte's information, he maintained friendly intercourse with her as though nothing had occurred to shake his faith in her, treating her as though conditions were not unusual, even taking a two-day automobile trip with her a week before the raid. Would an outraged husband who had learned that a negro was his wife's lover, want to be in the presence of a wife who had so dishonored him, without an ulterior motive on his part? He went to Vermont July 11, leaving his wife alone in the house with the two detectives and Charlotte, who had supplanted Viola as a detective and who was his spy. Charlotte and the detectives knew there was to be a raid that night and Mr. Huck expected it. It is difficult to believe that petitioner did not know it too. It is also difficult to resist the conclusion that he wanted her to commit adultery. Certainly his conduct does not indicate that he did not want her to. It can be said that he was not anxious she should not and it therefore follows that he was willing she should.

Our courts have said that it is undoubtedly true

that a man may watch his wife without warning her of his intention to do so, but it is equally true that he may not actually participate in a course of action leading to her downfall. He may not, with his eyes open, do that which may in some degree conduce to it. If he sees what a reasonable man could not permit and makes no effort to avert the danger, he must be supposed to see and mean the result. (*Hedden v. Hedden,* 21 N. J., Eq. 61; *Cane v. Cane,* 39 N. J., Eq. 148; *Warn v. Warn,* 59 N. J., Eq. 642; *Brown v. Brown,* 62 N J., Eq. 29-65, reversed 63 N, J., Eq. 348-367; *Delaney v. Delaney,* 71 N. J., Eq. 246; *White v. White,* 95 Atl. Rep. 197.) If defendant committed adultery on the night of July 11, the closing paragraph of Vice Chancellor Stevens' opinion, affirmed by the Court of Appeals, in *White v. White, supra,* with but slight change in the paragraph, represents my view concerning the petitioner, *viz.,* if consent or willingness that the wife should commit adultery is a mental state and is to be inferred from conduct, it seems impossible to resist the conclusion that petitioner did desire his wife to commit the offence and that helping as he did, to afford the opportunity which brought about the desired result, he was consenting thereto.

Notice of Appeal

(*Filed Dec. 30, 1920*)

IN CHANCERY OF NEW JERSEY

Between DONALD J. SARGENT, Petitioner, and FRANCES L. SARGENT, Defendant.	On Petition &c

The petitioner hereby appeals from the whole and every part of the final decree made in the above stated cause which denies the relief prayed for by the petitioner and dismisses the petition and grants costs and counsel fee to the defendant, to the Court of Errors and Appeals in the last resort in all causes.

WILLIAM HUCK,
Solicitor of petitioner.
MERRITT LANE,
Of counsel petitioner.

I conceive there is good cause for appeal in the above stated cause.

Dated, December 30th, 1920.

MERRITT LANE,
Of counsel with petitioner.

Petition of Appeal

(Filed, December 31, 1920)

NEW JERSEY COURT OF ERRORS AND APPEALS

Between
DONALD J. SARGENT,
Petitioner-Appellant,
and
FRANCES L. SARGENT,
Defendant-Appellee.

To the Honorable, The Court of Errors and Appeals in the last resort of all causes:

The humble petition of Donald J. Sargent, the appellant in the above stated cause, respectfully shows that your petitioner finds himself aggrieved by a final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of New Jersey, bearing date the 28th day of December, 1920, in a certain cause wherein the said Donald J. Sargent was petitioner and the said Frances L. Sargent was defendant, in this respect, to wit—

That the said decree adjudges that your petitioner did not sustain the allegations of his said petition, and that he did not prove that the defendant, Frances L. Sargent, was guilty of adultery, and that he, the said petitioner, was not entitled to a divorce from the said Frances L. Sargent, defendant, upon the ground of adultery, and in this respect to wit, that the said decree dismisses the petition of your petitioner, and grants

costs and counsel fees to the defendant. And your petitioner humbly appeals from said decree of the Chancellor which decree as aforesaid, upon the ground that the same is erroneous, for that, the said court should have found that the said defendant, Frances L. Sargent, was guilty of adultery, and that your petitioner had proven the said Frances L. Sargent to be so guilty, and should have further found that there was no conduct upon the part of the said petitioner which deprived petitioner of his right to a decree of divorce from the said Frances L. Sargent upon the ground of adultery, and for that the said court should have awarded a divorce from the bonds of matrimony to your petitioner from the said Frances L. Sargent upon the ground of adultery.

Your petitioner therefore prays that the said decree of the said Chancellor may be, in the particulars aforesaid, reversed, set aside, and for nothing holden, and that the Court of Chancery should be directed to enter a decree divorcing your petitioner from the said defendant, upon the ground of adultery committed by the said defendant, and that your petitioner may have such relief in the premises as to this Honorable Court shall seem meet.

WILLIAM HUCK,
Solicitor of Appellant.
MERRITT LANE,
Of counsel with Appellant.

Answer to Petition of Appeal

(Filed, January 8, 1921)

NEW JERSEY COURT OF ERRORS AND APPEALS

10

Between
DONALD J. SARGENT,
Petitioner-Appellant,
and
FRANCES L. SARGENT,
Defendant-Respondent.

On Appeal from Chancery

The answer of the above named respondent to the petition of appeal of the above named appellant: 20

The respondent admits it to be true that a certain final decree was made and entered in the Court of Chancery, bearing date the 28th day of December, 1920, in a certain cause wherein Donald J. Sargent was petitioner and Frances L. Sargent was defendant, as in said petition of appeal is stated; which decree adjudges that the said petitioner did not sustain the allegations of his said petition and that he did not prove that the 30 defendant, Frances L. Sargent was guilty of adultery and that he was not entitled to a divorce from said Frances L. Sargent, defendant, upon the ground of adultery.

And this respondent is advised and believes that the said final decree is agreeable to law and equity, and she prays that the same may be affirmed with costs to be adjudged to this respondent. 40

ALEX. SIMPSON,
Solicitor and of Counsel
with Defendant-Respondent.

Testimony

IN CHANCERY OF NEW JERSEY

Between DONALD J. SARGENT, Petitioner, and FRANCES L. SARGENT, Defendant.	On Petition for Divorce.

Transcript of shorthand notes of testimony taken on the trial of the above stated cause before his Honor, James F. Fielder, Advisory Master, at Chancery Chambers, Newark, N. J., November 9, 1920.

Appearances:

Merritt Lane, Esq., Henry W. Runyon, Esq., and William Huck, Jr., Esq., for Petitioner.

Hon. Alexander Simpson, Judge Richard C. Stoddard (of the Nevada Bar) and Geo. A. Hopkins, Esq., (of the New York Bar) for Defendant.

PETITIONER'S CASE

MERRITT W. SARGENT, called as a witness on the part of the petitioner, testifies as follows:

Direct-examination by Mr. Runyon:

Q. You are a brother of Donald J. Sargent, the petitioner in this cause? A. I am.

Q. You were present at the marriage of your brother? A. I was.

Q. Where did that marriage take place and by whom was it performed and when? A. I cannot give just the address where it took place. It took place in New York City, on September 22, 1909, to the best of my recollection.

Q. To whom was Mr. Sargent married at that time? A. Frances Lowe.

Q. The defendant in this cause? A. The defendant in this cause; yes, sir.

Q. The minister who officiated was who? A. Dr. Addison Moore, I believe.

Q. From that time until about just prior to the occasion complained of in this complaint, Mr. Sargent and his wife lived together, as far as you know? A. Yes; as far as I know.

No cross-examination.

WILLIAM P. GNELL, sworn as a witness on the part of the petitioner, testifies as follows:

Direct-examination by Mr. Runyon:

Q. You reside in Jeffersonville, New York, Sullivan County? A. Yes.

Q. Jeffersonville is how far from Liberty, New York? A. Twelve miles.

Q. You are the proprietor of the Mansion House at Jeffersonville, New York? A. I am.

Q. I show you what purports to be the register of the Mansion House and call your attention to the entries under the heading "October 14, 1919, Monday," and ask you if you have seen those en-

tries before and if you were present at the time they were made? A. I was.

Q. I call your attention to the entry on the top right-hand sheet, reading as follows: "Time—SLB. Room 9. Name—Mrs. D. J. Sargent. Residence—Jersey City, N. J. Time SLB—Room 9. Name—Mrs. C. L. Kuchmann. Residence—Staten Island, N. Y. Time—SLB. Room 8. Name—Chauffeur. Residence—Jersey City, N. J.," and I ask you if you were present at the time those entries were made? A. Yes.

Q. Who made those entries? A. I think they were made by the first party, Mrs. Sargent.

Q. Would you recognize her if you saw her again? A. No, sir.

Q. Explain the entries under the heading: "Time—SLB"?

Mr. Simpson: I object to any explanation.

Q. Who made those entries "SLB" under the heading of "Time"? A. I did, myself.

Q. What do they purport to mean?

Mr. Simpson: I object to that upon the ground that whatever they purport to mean is not binding on the defendant.

The Court: That is a memorandum that he made that means something with reference to the date, the time the parties registered. He may explain what it means. Objection overruled.

A. "Supper, Lodging and Breakfast."

Q. Under the heading "Room" the entry "9" alongside the name of Mrs. Sargent and Mrs. Kuchman and "8" alongside the name of "chauffeur," what do those entries mean?

Mr. Simpson: I also make the same objection.

The Court: Objection overruled.

A. Room 9 and room 8.

Q. Do you recall when this party was assigned to these respective rooms and went to these respective rooms? A. I showed them to these rooms, assigned them to these rooms, the two ladies in room 9 and the chauffeur in room 8.

Q. What color or race was the chauffeur? A. He was a colored man.

Q. What time did they come there and when did they leave? A. They left after breakfast. They got there some time before supper the night before. Now, what time of day I could not tell you. They were in time for supper.

Q. That is your official register? A. For that year; yes, sir.

Mr. Runyon: I offer in evidence the entries under October 14, 1918, in this book.

Mr. Simpson: I object until I have had a chance to cross-examine.

The Court: You may cross-examine.

CROSS-EXAMINATION by Mr. Simpson:

Q. You do not know who made the entries, do you? As a matter of fact, you don't know? A. Not positive; no, sir.

Q. They may have been made by the second lady, as far as you know? A. Yes.

Q. Your mind is not clear at all as to what these people looked like, except that the man was a colored man, you say? A. No; I do not.

Q. Do you remember that one of these ladies was seriously ill during the stay there and had a

physician come to the hotel and attend her? A. I don't remember that.

Q. You do not know whether it is a fact or not? A. No; I do not.

Q. You do not remember it? A. No; I do not.

Q. Where are the entries that you pointed out? A. (Indicating) here.

Q. The two ladies had one room and the chauffeur had another room? A. Yes, sir.

Mr. Runyon: I renew my offer.

Mr. Simpson: Objected to.

The Court: It may be offered in evidence.

Marked Exhibit P-1.

Mr. Runyon: Do you want to admit that these entries are in Mrs. Sargent's handwriting?

Mr. Simpson: I don't know. I do not make any point about it.

Mr. Runyon: Is Mrs. Kuchman in Court?

Voice in audience: Yes, sir.

Mr. Simpson: Let me see it and I will tell you. Yes; these are in Mrs. Sargent's handwriting.

Mr. Runyon: Does counsel admit it is in Mrs. Sargent's handwriting?

Mr. Simpson: Mrs. Sargent says it is.

RE-DIRECT-EXAMINATION by Mr. Runyon:

Q. Where are the rooms 8 and 9 in your hotel? A. They are on the second floor, about opposite one another.

Q. How are these respective rooms furnished?

Mr. Simpson: I will admit they are bedrooms.

Q. With respect to the type of bed in each room? A. Double beds in each room.

By Mr. Simpson: Q. These rooms are on opposite sides of the hall? A. Yes.

Q. Is it not a fact that one is diagonally down the hall from the other? A. Yes, sir.

Q. One is diagonally down and they are on opposite sides of the hall? A. Yes, sir.

By Mr. Runyon: Q. Explain to us precisely where rooms 8 and 9 are. Give us as precise a description as you can. A. Well, room 9 is on the front side and room 8 is almost opposite; it is a little diagonal.

Q. How far from opposite are the doors which enter from the hall into each of these rooms? A. I should judge about six feet.

By Mr. Simpson: Q. It is a public hall, is it not? A. Yes, sir.

Q. How many rooms are there on the hall? A. Oh, that I judge about six or eight.

Q. Were they all occupied at the time this register was made? A. I could not tell.

Q. You don't know? A. I don't know.

Q. As far as you know they were? A. Yes.

Q. What day of the week was it? A. It was on Monday.

Q. Was that a busy day? A. Generally.

Q. Generally a busy day? A. Yes, sir.

Q. Generally all the rooms would be occupied? A. Yes, sir.

Q. There is a Dr. Gaines in your town, is there not? A. Yes, sir.

Q. Near your hotel? A. Yes.

Q. What is his full name? A. Dr. J. Campbell Gaines.

Q. Would he be the physician you would send for naturally if anyone was ill in your hotel? A. He is our family physician.

Q. Was there anybody else employed by you on the day of the entries, as clerk? A. I have a nephew.

Q. Was he clerking on the night the entries were made? A. I don't think so. I think he was clerking the day after or the day following.

Q. Was there anybody there besides you the day the entries were made? A. I could not tell.

Mr. Lane: May the witness take his book back to Jeffersonville?

Mr. Simpson: I have no objection.

The Court: All right.

IDA B. LEWIS, sworn as a witness on the part of the petitioner, testifies as follows:

Direct-examination by Mr. Runyon:

Q. You are acquainted with Mr. and Mrs. Sargent, the parties to this suit, and have been for how long? A. For about eight or nine years.

Q. And you reside where? A. I reside at 93-A Kearney Avenue, Jersey City.

Q. Will you give us the history of your first connection with Mr. and Mrs. Sargent? A. When I first met Mr. and Mrs. Sargent they were living in Union Street and I was employed by Mrs. Sargent as, well, as a maid of all work, to do most anything; for she had no help.

Q. About when was that? A. That was about the year, well, I cannot tell you distinctly the

year, but I can tell you it is between six or seven years ago, or seven or eight years ago; it is between seven or eight years ago; and I was employed by Mrs. Sargent, as I say, to do most anything that she might require me to do.

Q. How long did you remain with Mrs. Sargent in that capacity? A. Well, I worked there off and on then for about a year and a half until she got a girl steadily; she did not have a girl regularly, and I used to go in and help her out, because she had no girl, and I worked that way for about a year, and then she got a girl steadily.

Q. Who was the girl? A. Oh, I cannot think of the girl's name; I don't remember her name.

Q. Then what happened? A. Then, after she got the girl, why, I did her washing for her, and the girl did the general work, the general housework.

Q. For how long a period did you continue to do the washing? A. Oh, about two years; I used to take it home; I didn't do it at her house; I took it home and did it.

Q. How frequently during that period of two years would you be at the home of Mrs. Sargent? A. Probably once a week or probably twice a week, according as she needed me.

Q. After your doing the washing for approximately two years, what next did you do with reference to Mrs. Sargent's work? A. Well, Mrs. Sargent's girl left her and I went back and did the work regularly each day.

Q. You do not recall who the girl was that left? A. I cannot recall her name; I could not because I do not remember her name.

Q. You did all of the work there? A. Yes.

Q. For how long a period? A. Oh, probably about three or four months until she got another girl.

Q. Who was the next girl she got? A. I cannot recall her name. I know she got another girl. I could not tell you her name because I don't remember her name.

Q. When did you last work for Mrs. Sargent? A. Well, I worked for her until she moved to her Kensington Avenue home.

Q. Twenty-four Kensington Avenue? A. Yes; 24 Kensington Avenue.

Q. When did Mrs. Sargent move to Kensington Avenue? A. She moved there about four years ago, three or four years ago, in the month of June; I could not just tell you the exact date.

Q. You went with her to Kensington Avenue? A. I went there to do the work.

Q. How long did you continue to work for Mrs. Sargent at Kensington Avenue? A. I worked for her there steadily for about two years.

Q. Until about when? A. Well, I had a disagreement, she and I had a few words, and I left and I had been working then about two years for her and I left her.

Q. About when was it, Ida, that you left? A. I think I left Mrs. Sargent in the fall of that year, of the second year she was in her Kensington Avenue home.

Q. What was the occasion of leaving her? A. Well, as I recall the facts now we had an argument, Mrs. Sargent and I had an argument about me not coming to her, which I promised her I would come and I went somewheres else that day.

Q. After that period did you work for Mrs.

Sargent any further? A. Yes; I left her and then I went back to her again.

Q. How long did you stay away? A. Well, I stayed away about a year and then I went back.

Q. You worked for her then about how long? A. Well, I worked for her from that time on up until now.

Q. Until when? A. Until now, or until Mrs. Sargent left last summer.

Q. You are still working at the house? A. Yes; I am still working.

Q. In the capacity of laundress? A. Yes; as laundress.

By the Court: Q. Are you still working for her? A. Yes; I still work at Sargent's as laundress.

Q. For Mrs. Sargent? A. No, sir; not for Mrs. Sargent; for Mr. Sargent.

By Mr. Runyon: Q. When did you first see Charles Simmons, the chauffeur? A. The first I saw Charles Simmons was when I went back to her, after having a break with her and leaving her, when I went back she had a chauffeur; she didn't have a chauffeur the first time I was there.

Q. When you went back to which house? A. 24 Kensington Avenue.

Q. What other servants were there there? A. Charlotte Lumford as cook and Lillian Simmons and Charles Simmons.

Q. Lillian Simmons was the wife of Charles Simmons? A. Yes.

Q. Now tell us what you have observed with reference to conduct between Charles Simmons and Mrs. Sargent?

Mr. Simpson: I object unless the time is fixed.

Mr. Runyon: From the period of her return to the Kensington Avenue house until the present.

By the Court: Q. First, can you give us any better idea of the date when you returned, the year, for instance? A. Well, your Honor, I cannot remember the year really; I cannot tell you the year because I do not remember.

Q. How long ago? A. About three years it is now.

Q. That would be in 1918; this is the end of 1920? A. Yes, sir; about 1918.

By Mr. Runyon: Q. Now, Ida, tell us anything you observed with regard to the conduct of Charles Simmons and Mrs. Sargent? A. Well, first of all, Mrs. Sargent and I had a conversation about Charles in which Mrs. Sargent—

Q. About when was this? A. This was about in the fall of 1918, right after I went back to her, and I had never seen him before; I went there and she asked me one day, she said to me: "Ida, what do you think of our chauffeur?" I said, "Why, he is all right, I guess, but I don't like him." She said to me: "Don't you think he is handsome?" I said, "No; I don't think he is handsome; I don't see anything handsome about him; if you consider a gawky Indian handsome, why he is handsome." Well, Mrs. Sargent didn't say anything more; she didn't seem to like it very much, but she said no more about it, and then probably a month or so after Charles Simmons was taken quite sick. It probably might have been in the fall, the late fall, very near winter time, and he was taken sick—he stayed at her home and was treated there—and after getting better, while he

was convalescing, getting better, I was at the house doing some work for Mrs. Sargent and she asked his wife to do something, I don't know what it was, because I was not—

Q. (Interrupting) She asked whose wife? A. Charles Simmons' wife, who was acting as maid, to do something—I don't know what—she didn't do it, and Mrs. Sargent and the maid had some words, and then Charles deliberately called Mrs. Sargent all kinds of names, and she and him got into an argument.

Q. What did he call her? A. Well, I told you I could not remember the words he said because they were words I do not use; he cursed and swore and said everything he could call her, all kinds of names.

Q. Who was present at that time? A. No one present but him and his wife and the little girl and I, and after all that, why Mrs. Sargent told him to get out and he said he would not get out.

Q. About when was this episode?

The Court: She has already said it was about two months after she came back in 1918.

Q. Now, then, on the occasion of this episode there, what led up to the episode, if anything, if you know? A. Well, I don't really know what led up to it, I could not say.

Q. Do you know anything about a picture episode?

Mr. Simpson: I object to that, unless it is connected up afterwards.

The Court: She says she does not know what the dispute was about.

Q. Tell us whether you observed or overheard any conversations between Simmons and Mrs. Sargent. If so, detail them?

Mr. Simpson: I object unless the time is fixed.

Q. From the time of your return to the Kensington Avenue house until the fall of 1918? A. Well, Mrs. Sargent—at least Charles, as I say, used some very bad language and really cursed Mrs. Sargent and after that I spoke to Mrs. Sargent and asked her why she did not tell Mr. Sargent. She said, well, she was afraid to tell him, and she was really afraid, and after that, why, probably two or three days later Mrs. Sargent went out in the morning and Charles went up stairs somewhere and took a picture from her drawer.

Mr. Simpson: I object. She does not know what occurred in her absence.

The Court: Strike out that part of it.

Q. Now, did you have any conversation with Mrs. Sargent, or did you overhear any conversation in Mrs. Sargent's presence, with reference to the picture? A. Yes; I had a conversation with Mrs. Sargent concerning the picture. Mrs. Sargent asked me to see if I could get the picture. I told her I would not have anything to do with it. Charles had the picture and she asked me would I get it; I told her no; I wouldn't have anything to do with it.

Q. What was the picture; did you ever see the picture? A. No; I did not see the picture.

Q. Would you know the picture if you saw it? A. No; I would not know it.

Q. Whom did Mrs. Sargent say the picture

represented? A. Why, Mrs. Sargent said it was a picture of her lover, one of her lovers.

Q. Give us Mrs. Sargent's words on that occasion, so nearly as you can relate them? A. Mrs. Sargent said to me: "Ida, see if you can get the picture from Charles." I said I wouldn't have anything to do with it, and she says to me, "Well, Ida, that is my lover" or "sweetheart." I will say she said "sweetheart" and "will you please get it for me?" I said: "No; I won't;" I told her "no," but after I told her that I turned on the back of my foot and asked Charles for it unbeknownst to Mrs. Sargent, and he refused to let me have it.

Mr. Simpson: I object to any conversation in the absence of Mrs. Sargent.

The Court: Yes; that may be stricken out.

Q. Did Mrs. Sargent make any explanation to you as to Charles' reason for taking the picture out of the drawer?

Mr. Simpson: I object because the question is leading. This witness should not be led.

The Court: The objection to the question as leading is well taken.

Q. Was there any explanation made to you by Mrs. Sargent of the picture episode further than that to which you have testified? A. No.

Q. Did Mrs. Sargent state to you her reason for trying to obtain the picture? A. No.

Mr. Simpson: I object to that. Counsel is trying to put words into the witness's mouth.

A. Yes; Mrs. Sargent did.

Q. What did Mrs. Sargent say with reference to the picture, if anything? A. Mrs. Sargent said that Charles told her that he was going to give the picture to Mr. Sargent and she did not want him to get it.

Q. What did you say to her? A. I said to her, I says: "Well, Mrs. Sargent, why don't you do this; why don't you go to Mr. Sargent and tell him everything?" I said, "because you are his wife and he will listen to you and do not let Charles tell him anything." She said to me: "No; I am afraid to do that, because Mr. Sargent might kill me."

Q. What did you say? A. I said: "No, he will not kill you, because he really loves you, and I know he does," I says "you go and tell him and it will be all right."

Q. What did she say? A. She said: "No, Ida, I cannot." That is all.

Q. Have you ever heard any conversation from Mrs. Sargent or in Mr. Sargent's presence, with respect to her feeling against Mr. Sargent? A. No.

Q. Has Mrs. Sargent ever expressed to you her feelings towards Mr. Sargent? A. Only once, in a conversation, a private conversation.

Q. Yes; and what did she say? A. Why, she said this, that she really did not love Mr. Sargent. She said that.

Q. What further did she say, if anything? A. And I said to her: "Well, it seems to me, Mrs. Sargent, you might love him for what he has done for you."

Q. (Question repeated by stenographer) What further did she say, if anything? A. She said nothing further.

Q. And what did you say? A. I simply said to her—

The Court: Is it material what this witness said to this defendant?

Mr. Runyon: I think so. It gives the whole conversation.

Q. Give us the whole conversation between yourself and Mrs. Sargent.

Mr. Simpson: I object.

The Court: I overrule the objection.

Mr. Simpson: The question is too broad.

The Court: With respect to Mrs. Sargent's statement that she did not love her husband. That is what you mean, Mr. Runyon?

Mr. Runyon: Yes.

A. I said to Mrs. Sargent: "Well, Mrs. Sargent, you might love Mr. Sargent for what he has done for you," and that was all of that conversation.

Q. Was anything said on that occasion with respect to Charles, the chauffeur?

Mr. Simpson: I object upon the ground that she has given the whole conversation and now they are attempting to lead her into another aspect of the conversation.

The Court: Objection sustained.

Q. On that occasion of your conversation with Mrs. Sargent with respect to her feelings towards Mr. Sargent, was there anything said with respect to Charles?

Mr. Simpson: Same objection.

The Court: Same ruling.

Q. What other conversation did you have with Mrs. Sargent with respect to Charles? A. I can-

not say that I had any more conversation with her concerning Charles.

Q. Tell us on what occasions, if any, you ever saw Mrs. Sargent and Charles together upstairs? A. I cannot tell you the date, because I do not remember it, but I saw—Mrs. Sargent at the time was in bed and her sheet hanging out of the bed, and I went upstairs to ask her something, and Charles was in the room, but as soon as he heard me coming he ran out; her feet were hanging out of the bed.

Q. How was she dressed? A. Of course, in her night clothes, because she was in bed. She was not uncovered, simply her feet uncovered, they were dangling on the outside of the bed.

Q. What was on her feet, if anything? A. Nothing.

Q. Where was Mrs. Sargent's room on that occasion? A. Well, it was just at the head of the stairway coming upstairs from the front stairway.

Q. On which side of the house? A. On the right side coming up.

Q. And where was the bed with reference to the door? A. Well, the door was like that end there (indicating) and the bed was here.

Q. Well, how far was the bed from the door? A. Oh, about six feet.

Q. Did you overhear any conversation on that occasion between Charles and Mrs. Sargent? A. No.

Q. Have you ever observed them in conversation together? A. Yes; I have.

Q. What have you observed with reference to such conversations? A. Well, I always thought

that Mrs. Sargent and Charles talked a great deal together. Of course, I could not hear what they were saying, always, but they talked a great deal together.

Q. Where did you observe them talking together? A. Sometimes upstairs in her room, sometimes downstairs, and sometimes down in the dining room.

Q. Well, on how many occasions have you observed them conversing upstairs and where upstairs? A. Why, twice upstairs I can say, once as I just told you about, and another time, in one of the rooms on the left-hand side of the hall, he was conversing with Mrs. Sargent when I came up, and he ran out as soon as I came to the door. Of course, I did not know he was there.

Q. On how many occasions have you seen Charles in Mrs. Sargent's bedroom?

Mr. Simpson: Objected to.

The Court: Objection overruled.

A. Twice; only twice.

Q. Tell us about the second occasion? A. The second occasion Mrs. Sargent was combing her hair.

Q. Who was there and how was she dressed? A. Why, she had on her stockings and shoes, underwear and corsets, and she was combing her hair, and Charles was in the room, and when I came in he ran out. I came in this door like here (illustrating) and he ran out.

Q. Did Mrs. Sargent say anything to you on that occasion? A. No.

Q. What was Mrs. Sargent's practice as to going out in the morning; what time did she arise, if you know? A. Oh, at different times; she usu-

ally got up, sometimes she got up early and sometimes later, and sometimes it would be 8 o'clock.

Q. Most times what time would she come down dressed? A. Oh, about 9 o'clock, half-past nine or ten somewheres along there.

Q. Was it her practice to eat her breakfast with her husband? A. No; not usually.

Q. Did you ever observe her eating her breakfast with her husband? A. Yes; I have seen her eat with him once or twice, but not often. She did not eat with him often.

Q. During the period that Charles Simmons worked for Mrs. Sargent, did you ever hear either Mr. or Mrs. Sargent—did you ever hear from Mr. Sargent what Charles' duties were around the house, or anything with respect to Charles' duties around the house? A. Will you please ask me that again.

Q. (Question repeated). A. No.

Q. During that period was Charles accustomed to have his meals in the house? A. Yes.

Q. Do you know whether or not Mr. Sargent knew that he was having his meals in the house?

Mr. Simpson: I object. How can she possibly know whether Mr. Sargent knew.

The Court: How would he know, Mr. Runyon except Mr. Sargent or Mr. Simmons had told him that, and that would be hearsay, unless Mrs. Sargent was present.

Mr. Runyon: Why, I have asked him whether he knows. He can answer that by yes or no.

The Court: Yes; he can say yes or no to that.

A. No; I don't know.

Q. Did you ever have any conversation with Mrs. Sargent with respect to Charles having his meals in the house? A. No.

Q. Did you ever observe any other intimacy between Mrs. Sargent and Charles Simmons?

Mr. Simpson: I object. That calls for a conclusion. It is for the Court to say what the conduct was.

The Court: Objection sustained.

Q. Did you ever have any conversation with Mrs. Sargent with respect to her views as to the intermingling of the white and colored people? A. Yes.

Q. What was that conversation and when, about when was that conversation, and what was that conversation? A. Well, that conversation took place long before 1918, in her home; I cannot tell you the exact time—

Mr. Simpson: I object unless the time is fixed. If it was in 1916, manifestly it cannot have any bearing on what happened in 1918.

Mr. Runyon: It may show views of the defendant with respect to the association of white and black people, which might show inclination.

The Court: I want you to fix the time.

Q. About when was this? A. This conversation between Mrs. Sargent and I took place while she was living in Union Street, before she moved to Kensington Avenue.

Q. What was the conversation? A. We were talking about the intermingling of races, and Mrs. Sargent said to me that she thought it was perfectly proper if a colored man loved a white

woman, to marry, and if a white man loved a colored woman, to marry her. I said: "No, I don't agree with you there, because the intermingling of races causes a weak generation," and I says: "They are defective in both mind and body," and the conversation then was dropped.

Q. Were these remarks directed to any particular colored person or were they general remarks? A. They were general remarks.

Q. Do you recall any occasion when Simmons had his meal in the house over which there was any disturbance or trouble? A. I recall his being in the kitchen getting his luncheon and he said to me: "Is Mr. Sargent—"

Mr. Simpson: Objected to.

By the Court: Q. Never mind what he said. You are going to tell us if you can or if you know, about an occasion when there was a disturbance, what the disturbance was, if any? A. Charles was eating his luncheon in the kitchen and Mrs. Sargent came out and said to him: "Charles, eat your lunch, or swallow your lunch and eat it after because Mr. Sargent is coming," or "is here, and you know it is against his rules for you to eat here."

By Mr. Runyon: Q. About when was that, Ida? A. Well, that was about the last of May, 1919.

Q. Do you know whether or not, from your own knowledge, whether Mrs. Sargent ever made any request of Mr. Sargent with reference to Charles eating in the house? A. Yes; Mrs. Sargent asked Mr. Sargent one day, she said to him one day: "Mr. Sargent, cannot Charles eat here today because I am in a hurry and I have got to go out?" and his reply was: "No."

Q. About when was that? A. That happened in about May of 1919.

Q. Now, when Charles first came to live with Mr. Sargent, where did he sleep? A. He slept up on the third floor.

Q. And where did Mrs. Simmons sleep? A. Of course I never saw them together, but I think they slept together in one room on that floor.

Q. How long did they continue to sleep in the Sargent house? A. Well, I cannot remember positive, but I think it was something like a year or a year and a half.

Q. And then what did they do with reference to their sleeping quarters? A. Why, Mr. Simmons and his wife slept out. They left the house and moved away and slept outside.

Q. How long did Mrs. Simmons continue to work for Mrs. Sargent? A. She continued to work for Mrs. Sargent until I guess it was something like May or June—May, I think or April or May, 1918—I could not just tell you when, because I don't remember.

Q. Then what did she do? A. She left the house, left Mrs. Sargent.

Q. Did she ever return? A. I don't think she did, no.

CROSS-EXAMINATION by Mr. Simpson:

Q. You are still employed by Mr. Sargent, are you not? A. Yes.

Q. How large a house is it that you are employed in? A. I could not tell you; it is a very large house.

Q. He lives there all alone, does he not? A. He does.

Q. What wages do you get? A. The average wage.

Q. What do you get? A. Three dollars.

Q. Three dollars a day? A. Yes.

Q. You live in the house? A. No, sir.

Q. What did you get at the time that Mrs. Sargent left the house? A. Why, I guess I got $2.75.

Q. And what work do you do there now? A. Laundry work.

Q. Laundry work? A. Yes.

Q. Now, you say that you had some disagreement with Mrs. Sargent when you first left her employ. Do you remember what that disagreement was about? A. Yes.

Q. About bed linen? A. No; it was not about—

Q. She accused you of stealing linen? A. Yes; she accused me of stealing linen.

Q. She accused you of stealing linen? A. Yes.

Q. And discharged you? A. No; she did not.

Q. You left? A. I left.

Q. You left her after she accused you of stealing linen? A. No; I didn't leave her after she accused me of stealing the linen. She accused me of stealing the linen and I still worked for her, to let her see I was not a thief.

Q. How long did you continue to work for her after she accused you? A. I worked for her almost a year after.

Q. After she accused you of stealing the linen? A. After she accused me of stealing the linen.

Q. She let you stay a year? A. Yes.

Q. And then you left voluntarily? A. Then I left because I had a job to go to another person—

Q. (Interrupting) You worked for Mrs. Sargent for a year after she accused you of stealing linen and then you left voluntarily? A. Yes; I did.

Q. How much did she say you stole? A. A couple of trunks full.

Q. Did you ever bring any of it back? A. No.

Q. Do you remember when it was she accused you of being a thief? A. Do I remember when she accused me of being a thief? Right after when we—

Q. (Interrupting) When was it? Try and fix the time. How long ago is it now? Is it five years ago? A. It might be three or four years ago.

Q. It might be three or four years ago? A. Yes.

Q. Then you worked for a year after. That would bring it two years ago, and then you were away how long? A. I was away where?

Q. From her employ when you left. A. I was away I guess probably nine months or over.

Q. Nine months? A. Yes.

Q. You testified you went back about two years ago. So, if you had this dispute three years ago and you were away nine months and then back two years and worked a year after, didn't you, are you pretty sure about the time?

Mr. Runyon: Objected to.

A. I told you I was not sure about dates; I cannot remember dates; I am not sure about it.

Q. You say that as you came in one day you saw Charles go out of her room by another door; is that right? A. I said as I came in, Charles went out.

Q. You said that as you came in one door he went out another door? A. That was a different occasion.

Q. Is it a fact that at one time as you came in one door he went out another door of her bedroom? A. Yes.

Q. Is it not a fact that there is no bedroom that has two doors? A. Yes; there is.

Q. What room? A. Her bedroom, it has two doors.

Q. Where is that bedroom? A. The bedroom is on the second floor of the house just as you come up the stairway.

Q. You refer to that as Mrs. Sargent's bedroom? A. That is the one she used to use.

Q. Is that the one she occupied with her husbond; is that the room she occupied with her husband? A. I don't know.

Q. You don't know what room she and her husband slept in, and you worked there for three years, is that right? A. Yes, because sometimes they slept in that room and then again they did not.

Q. Did they have any room that they usually occupied, which was their room, in that house? A. I don't know.

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

Q. And you worked there in that house how long? A. I worked there ever since they have been there.

Q. When did they go there—what month? A. June.

Q. June, 1918? A. No; before that.

Q. June, 1917? A. About 1917.

Q. You worked there from June, 1916, practi-

cally until the time she left, and you don't know what room was the master's bedroom in that house, do you? A. You did not ask me the master's bedroom?

Q. Where Mr. Sargent and his wife slept, that is the master's bedroom, is it not? Do you know where he and his wife slept during the time you worked there? A. Yes; I do.

Q. What room was that? A. That room was toward the end of the hall in the back. This room I am speaking of—

Q. I am not asking you that. I am asking you where is that room that Sargent and his wife occupied? A. On the back, second floor.

Q. On the back, second floor? A. Yes.

Q. And the time you say she was in bed with her feet hanging out of the bed, can you fix that time? A. No; I cannot fix the time.

Q. Was it after May, 1919? A. Yes; it was after May, 1919.

Q. When after May, 1919, was it? A. I could not tell you.

Q. How long? A. I could not tell you.

Q. How long before she left the house? A. I could not tell you that either, because I do not know.

Q. It made some impression on your mind, didn't it, to see her lying in bed with her feet out and this man in the room? A. Why, certainly.

Q. And you know it was after May, 1919, don't you? A. Yes.

Q. And you know she left in July; is that right? A. No; I do not, because I do not know when she left.

Q. You don't know when she left? A. No.

Q. Were you working there when she left? A. I was not.

Q. You were back in the house after she left? A. I was not back after she left; I was not there when she left.

Q. Were you there the next day after she left? A. No.

Q. The next day? A. No.

Q. When was the last time you saw her in the house? A. The last time I saw her in the house was in June; I cannot tell the date because I do not know.

Q. In June? A. Yes.

Q. 1919? A. 1919.

Q. How long before that was it that you saw her lying in bed with her feet hanging out? A. Probably a month.

Q. You say that you saw her for the last time in June, and you say it was after May that this happened; how could it be a month before she left, if she left in June? A. I didn't say she left in June, because I don't know when she left.

Q. The last time you saw her was a month— A. It might have been four weeks, it might have been six weeks, I cannot tell you.

Q. It was after May, you are sure of that? A. I am not sure.

Q. What time of the day was it? A. In the morning about nine o'clock.

Q. Who else was in the house besides you? A. The cook was downstairs.

Q. You were in the house? A. Yes.

Q. And Simmons was in the house? A. Yes.

Q. How did you come to go into this room? A. I had to come upstairs on business, something about the wash. That is why I came up.

Q. What room was that that you say you went into? A. It was the room known as the pink room.

Q. Known as what? A. The room known as the pink room.

Q. The room known as the pink room? A. Yes, sir.

Q. Which floor? A. The second floor.

Q. The same floor as the room known as the master's room? A. Yes.

Q. How close to it? A. Quite a distance from it.

Q. Down the hall? A. Down the hall.

Q. Towards the front of the house? A. Towards the front of the house.

Q. Was that the first time you had been upstairs that morning? A. Yes.

Q. How did you know that she would be in that room if that was not her room? A. How did I know?

Q. If you had to go up upstairs that morning and wanted to see her, how did you know she was in the pink room instead of her own room? A. I came up the back stairway and came along that door; the back bedroom was open, the guest chamber door was open. Of course, I knew if I did not see her in any of these rooms she would be in—

Q. (Interrupting) What do you mean by the back bedroom? A. The one you say was the master's bedroom.

Q. You don't know whether it was or not although you worked there three years. Now, when you came into this room, was the bed in the pink room near the door or was it away from the door? A. The bed in the pink room was almost horizontal

from the door, when you stepped in the door the first thing you put your eyes on is the bed.

Q. Did you see her before you stepped in the doorway? A. No; I did not see her before.

Q. You didn't see her until you got in the doorway? A. I got in the doorway; I was not inside; I was in the doorway when I saw her feet hanging out of the bed.

Q. You did not see her— A. I saw her feet first.

Q. When you stood in the doorway that is the time you saw her feet? A. That is the time I saw her feet first.

Q. And you looked to see the rest of her body; is that right? A. Well, I knew the rest of her body was there. I don't know as I looked.

Q. Without looking for it, you knew it was there? A. Yes.

Q. What did you do after you came up and saw her feet; what was the first thing you did? A. I walked away.

Q. You did not speak to her? A. No; I did not speak to her.

Q. Although you came up to see her you stood in that doorway, you did not say anything? A. No.

Q. She did not say anything to you? A. No; she did not.

Q. When you got to the doorway where was the man, you say? A. He was standing right beside the bed; the man stood at the foot of the bed looking at both bare feet.

Q. Was he facing the feet? A. Yes; facing the feet.

Q. Looking at the feet? A. Yes, sir.

Q. When you stopped in the doorway he turned and went out the other door? A. He went out that other door.

Q. Do you say that there was another door to that room? A. That door he went into was a closet.

Q. He did not go out of the door? A. Yes; he went out of the door; he went in and shut the door.

Q. You stood there and saw that? A. I did not have to stand there and see it.

Q. You saw it? A. Yes; I saw it.

Q. The woman was lying in full view of you in the bed? A. Yes.

Q. And you saw the man shut himself in the closet? A. Yes.

Q. You turned around and went out of that room without saying a word to the woman? A. Yes; I did.

Q. Never mentioned it from that day to this; to her? A. No; I did not.

Q. Did you mention it to her husband? A. No; I did not.

Q. You had been telling her what a good man her husband was and how he loved her and that sort of thing, and you still work for him and have never told him anything about it? A. Yes; still work for him.

Q. When was the other time you saw this man in this room? A. The other time was when she was getting dressed.

Q. When was that; fix the time? A. Probably it might have been shortly after that.

Q. Shortly after? A. It might have been before that; I cannot tell you.

Q. Was it before or after? A. I cannot say, because I do not remember.

Q. How long was it before June, 1919; was it in the winter or summer? A. It all happened in the summer.

Q. It was in the summer? A. Yes.

Q. Do you know what month it was? A. No; I cannot say; it is hard to remember dates.

Q. What room was she in when she stood up with corsets and shoes and stockings on— A. I did not say she was standing up.

Q. Where was she? A. She was sitting on the seat of her dressing—that goes with the table—combing back her hair.

Q. She had her shoes and stockings on? A. She had her shoes and stockings on, her underwear and her corsets.

Q. She had a wrapper on? A. No; she did not.

Q. She had wrappers in the house? A. I think she did.

Q. You don't know whether she did or not, and you were the laundress? A. Yes, I was; yes, I was the laundress.

Q. She set at this dressing table with her back to the door? A. Why, yes.

Q. Was her back to the door? A. Yes.

Q. What room was it? A. In the same room, the same pink room.

Q. The same pink room? A. The same pink room.

Q. Did the man go in the closet this time? A. No.

Q. What did he do? A. Just simply walked away.

Q. He passed you? A. He did not.

Q. You were in the room? A. No; passing at the doorway.

Q. You did not go in the room? A. I did not go in the room.

Q. Did the man come out of the room while you were there? A. Yes.

Q. He came out and did not pass you? A. No; because he went that way. He went this way and I was standing here, and he went down the stairway after.

Q. Didn't he have to come out of the doorway in which you were standing? A. Did he come out through that door? He did.

Q. Were you standing in the doorway when he came out? A. Yes.

Q. Did you speak to him when he came out? A. No; I did not.

Q. Did you speak to Mrs. Sargent? A. No; I did not.

Q. Did you go into the room? A. No; I did not.

Q. You turned and went downstairs? A. Yes; I did.

Q. What had you gone up for? A. I don't remember.

Q. Whatever it was, you did not finish your errand; is that it? A. Yes; that is it.

Q. Did he go downstairs before you did? A. Yes, sir; he did.

Q. The same stairs you went down? A. No, sir.

Q. Did you see him when you got down? A. No, sir; I did not.

Q. Did you see him again that day? A. I don't recall whether I did or not.

Q. You never spoke to Mrs. Sargent about his being in the room? A. No.

Q. Or to Mr. Sargent? A. No.

Q. You cannot fix that time, can you? A. I cannot fix the time.

Q. When did you first tell Mr. Sargent about these two occasions? A. I did not tell Mr. Sargent about any occasion; I have not told Mr. Sargent.

Q. You never told him? A. No; I did not.

Q. Not to this day? A. I have not told him.

Q. You have not told anyone, have you? A. You asked did I tell Mr. Sargent, didn't you?

By the Court: Q. Have you told anybody? A. No; never.

By Mr. Simpson: Q. Nobody; you never told anybody about it until you came here this morning, and you have told it here now for the first time? A. I did not say that I told it here for the first time.

Q. Whom did you tell? A. I told the lawyer.

Q. What lawyer? A. Lawyer Huck.

Q. Met him in his office? A. Yes; I did.

Q. How did you come to meet him in his office; did Mr. Sargent tell you to go to his office? A. No; he did not.

Q. You went voluntarily, did you? A. No.

Q. How did you come to go? A. I was told to go there and I went.

Q. You told you? A. Mr. Huck told me to come to his office.

Q. Before you told it in his office you had never told it to anyone? A. No.

Q. You never told Mr. Sargent, you say? A. No; I did not.

Q. This picture episode, you say that you saw the colored chauffeur take a picture? A. I did

not say I saw him take it; I says he went upstairs and taken the picture.

Q. You never saw him take a picture? A. No; I didn't see him take it.

Q. You say that Mrs. Sargent had some conversation with you about the picture? A. Yes.

Q. About a picture? A. Yes.

Q. When was it that she had this conversation? A. This conversation taken place probably in the month of February, 1919.

Q. February, 1919? A. Yes.

Q. You say that Simmons and his wife lived in the house for a year and a half; is that right? A. I said I think they lived there a year and a half.

Q. As a matter of fact he was only employed about a year altogether, don't you know that? A. No; I do not.

Q. You don't know that? A. No.

Q. He lived in the house, however, and took his meals up until May, didn't he; he lived in the house with his wife and took his meals there up until May, 1919, didn't he? A. I don't think so; I think he left there before May.

Q. Do you know when he left there? A. No; I do not.

Q. Do you know that he ever lived there? A. Oh, yes; I know that he lived there.

Q. You saw him there, didn't you? A. I did.

Q. When was it that Mrs. Sargent said to him: "Hurry up, swallow your lunch; Mr. Sargent is here, and he does not like you to eat your lunch in the house"—when was that? A. Well, that probably was in the last of April or during the month of May.

Q. He lived there until May, didn't he? A. (No answer.)

By the Court: Q. What year—1919? A. Yes; 1919.

By Mr. Simpson: Q. He lived there until the end of May, 1919, didn't he?

Mr. Runyon: She has answered that question several times.

The Court: She is confused whether it is 1918 or 1919.

The Witness: Yes; I am.

By the Court: Q. Think it over; this November, 1920; was it May of last year or May of the year before that, that he lived there? A. It was up until May of last year.

The Court: That is May, 1910.

By Mr. Simpson: Q. You think it was in May, 1919, that Mrs. Sargent said to Mr. Simmons: "Swallow your lunch in a hurry because Mr. Sargent doesn't like you to eat in the house;" is that right? A. Yes; that is right.

Q. He was eating in the kitchen, was he not? A. He was.

Q. When was this conversation you had about this mixture of the races? A. Oh, that was when she lived in Union street.

Q. When? A. When she was living in Union street.

Q. Do you remember how long ago it was? A. I cannot remember; probably five or six years; maybe longer than that.

Q. Do you remember what season it was in? A. No.

Q. Do you remember whether it was day or night? A. I could not tell you; I don't remember.

Q. Do you remember who began the conversation? A. I could not say that either. It was a general conversation talk.

Q. She was urging the mixing of the races; she was arguing for it, and you were arguing against it? A. Yes.

Q. You were arguing against it, were you? A. I was.

Q. You cannot tell us what season of the year it was, or whether it was day or night, or anything about it? A. No.

Q. That was the only conversation you had on the subject, was it? A. I think so.

Q. The only one? A. Yes, sir.

Q. You say that you did not steal from Mrs. Sargent. Were you not discharged from other places for stealing? A. Not to my knowledge I have not.

Q. Mrs. McWilliams, didn't she accuse you and discharge you? A. Not if I know it; she never told me so.

Q. You would not know it if it happened? A. Oh, yes; I think I would.

Q. Will you describe this house; can you describe this house on Kensington Avenue?

Mr. Runyon: We have plans here, if you would like us to put them in evidence?

Mr. Simpson: Yes; you can put them in evidence.

By Mr. Runyon: Q. Have you any particular recollection as to any particular dates in this matter; have you been positive in your testimony as to dates? A. I have not been positive as to dates, because, as I said, I cannot remember the dates.

Q. How many days a week did you work there? A. Where—to Mrs. Sargent's?

Q. At Mrs. Sargent's house during the period you were employed? A. Two days sometimes more or less; some times two days and sometimes three days and sometimes one day.

Q. Do you know in which room the baby slept? A. I do.

Q. What was Mr. and Mrs. Sargent's custom as to who would sleep in the room with baby? A. Why usually—

Q. You don ot know? A. Well, I really don't know positively.

Q. What room did the baby sleep in? A. The baby slept in the back bedroom.

Q. Do you know whether or not Mr. or Mrs. Sargent, or either of them, slept in that room? A. Sometimes they did.

Q. How many doors did that room have? A. That room, I think had two doors.

Q. One entrance— A. (Interrupting) Into the hall.

Q. And the other entrance where? A. Into the guest room.

Q. How many doors has the guest room? A. It has two doors.

Q. Do you know whether or not it was ever customary for Mr. or Mrs. Sargent to let the baby sleep in the guest room alone? A. No.

By Mr. Simpson: Q. From October, 1918 up until the last time you saw Mrs. Sargent, she was ill all the time was she not, in the house? A. Mrs. Sargent was ill?

Q. Yes; was she not ill, and having the doctor there all the time? A. Well, not to my knowledge; no.

Q. Didn't you help her out of the automobile because she was ill? A. Who?

Q. You did not help Mrs. Sargent out of the automobile because she was ill? A. No; I never helped Mrs. Sargent out of the automobile.

Mr. Simpson: There are a lot of servants and private detectives in the room. It seems to me that they ought to be excluded from the room while they are testifying. We don't ask to have our witnesses of the same character in the room and it seems to me that servants and private detectives ought to be excluded.

The Court: What do you say, Mr. Runyon? It is suggested that servants and private detectives be excluded from the room while witnesses of that class are testifying?

Mr. Runyon: It does not seem to me that there has been any occasion shown for such a course.

The Court: I know, but here is the time now. Do you object to it?

Mr. Runyon: No; we don't object to it.

The Court: Witnesses who were servants in the Sargent house and all who are to testify as private detectives, all witnesses of that kind, will please step out into the hall and remain there until called. You are not to leave the hall but remain ; stay out there until called.

CHARLOTTE LUNFORD, sworn as a witness on the part of the petitioner, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. I live in Jersey City.

Q. Where? A. Twenty-four Kensington Avenue.

Q. You are employed by Mr. Sargent now? A. Yes.

Q. How long have you worked for him? A. I guess going on five years.

Q. Where were they living when you first went to work for them? A. Union street.

Q. What was your work? A. General housework.

Q. Did you continue to work all of the time at general housework until this time? A. Until they came to 24 Kensington Avenue; then I done general housework; she had a woman come in and do days work twice a week, and I done that until she got Lillian Simmons.

Q. And then you stayed on as what? A. I stayed on as a cook then.

Q. Do you remember when Simmons and his wife came to the house? A. Well, I don't know exactly when they came to the house; I don't know that. Mr. Sargent hired him as chauffeur and Lillian came about a week after that to the house.

Q. How long ago was that? A. I guess that is about over two or three years now.

Q. When Simmons first came there he brought his wife with him? A. No; he was there a week before he brought his wife.

Q. Then they lived in the house together? A. Yes.

Order Excluding Witnesses

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Q. Up until what time; when did Lillian leave? A. I don't know exactly when Lillian left, I could not say, because I had left there before she left there.

Q. When did you leave? A. I don't know exactly the date when I left because Mrs. Sargent drove me out and then I stayed there awhile and then I left.

Q. Let us get this straight: What was it; about how long ago was it that you first left the Sargents? A. Well, I said I didn't know exactly when I left; I could not tell you the date because I—

Q. About how long ago was it; was it after Simmons came there? A. Yes—no—it was not so long after Simmons came I left there.

Q. How long did you stay away? A. I guess about two or three months; I guess about three months.

Q. Then did you come back again? A. Yes; I went back again.

Q. How long was it that Simmons and his wife stayed in the house together? A. Well, I guess it would have been a little—I guess it was a year and a half, I guess about that, as much as I can average, about that time.

Q. Then Lillian left, did she? A. Yes.

Q. What did Simmons do after that? A. Well, Simmons, he was supposed to be out, but when I went back—

Mr. Simpson: I object to what he was supposed to be.

Q. Simmons was still working there? A. Yes.

Q. As chauffeur? A. Yes.

Q. What did you observe after Simmons came

there with respect to the conduct of Mrs. Sargent and Simmons? A. Well, I don't think he done right.

Q. What did you see? A. Well, he used to go upstairs every morning when Mr. Sargent went out, and he used to ask me was Mr. Sargent gone. Sometimes I would say: "Yes, Charles, he has gone"—

By the Court: Q. Won't you please tell us what you saw and what you know and not what Simmons told you? A. Nobody told me what I am saying.

Q. You cannot tell what Simmons said? A. He went upstairs anyway.

By Mr. Lane: Q. How often would he go upstairs? A. He went up there every morning and sometimes during the day, twice during the day, sometimes three times during the day.

Q. What time in the day would he go up? A. In the morning at eight o'clock; sometimes he would go up lunch times; sometimes he would go up four o'clock; sometimes he would go up seven o'clock. and eight o'clock and sometimes nine o'clock.

Q. When did he start to go up there, at what hours of the day? A. I could not tell you exactly the time.

Q. About how long after Simmons came there to live did that start? A. Well, I guess about a month afterwards.

Q. He started right in? A. Yes.

Q. Was Mr. Sargent home when Simmons would go upstairs that way? A. No; Mr. Sargent was not home.

Q. Did Mrs. Sargent ever say anything to you about Simmons? A. Yes; she said he was nice and handsome.

Q. When did she first tell you he was nice and handsome? A. I don't know exactly, but she often told me that.

Q. Give us a little more of the details of that conversation, how did it happen, what did she say to you, and what did you say to her? A. Well, I said, I didn't see where there was anything handsome about him, which I didn't think so.

Q. What did she say? A. She said I was jealous of Charles, because I wanted Charles for myself. I wasn't jealous of Charles. I didn't see nothing about Charles to be jealous of.

Q. When did she first tell you that you were jealous of Charles? A. She told me that, for she was jealous of Charles.

Q. Why did she say that? A. I suppose she wanted Charles.

Q. What did she say? A. Well, I just told you that. I told you that she said he was nice and handsome.

Q. And what else? A. And good looking.

Q. And what else? A. That is all I think I can remember.

Q. What did she say about jealousy? A. Well, I don't know what she said about jealously; I couldn't say that.

Q. Didn't you ever see Simmons upstairs in Mrs. Sargent's room? A. Yes, sir; I have seen him up there lot of times in her room.

Q. What did you see; what were they doing when you saw them up there? A. They would be talking, standing up there talking; I don't know what they were doing—up there talking sometimes.

Q. What else did you see them doing except talking, if anything? A. Drinking wine.

Q. Did you ever see then in the room together when Mrs. Sargent was in bed? A. Yes; I have seen him in the room there when she was in bed.

Q. When did you first see Simmons in the room when Mrs. Sargent was in bed? A. Several times; I couldn't tell you the date; I know it was several times.

Q. How long was the first time after Simmons first came there? A. Well, I guess about two months.

Q. How was Mrs. Sargent dressed? A. She didn't have anything on her but her nightdress, nightgown and robe over it, and bedroom slippers on, with no stockings on.

Q. What time of the day? A. Any time of the day she used to be that way.

Q. What time was it? A. Any time, eleven o'clock, sometimes twelve o'clock, before she could get ready to go out.

Q. How did you happen to see them up in the room together? A. Because I used to go upstairs then.

Q. Why did you go upstairs then? A. I used to do the chamber work sometimes when she didn't have the girl.

Q. How long would they be in the room together? A. Sometimes they would be in the room half an hour.

Q. Did Mr. Sargeant ever say what they were doing there? A. No; she never said what she was doing there.

Q. You said something about drinking. When did you first see then drinking together? A. Why, I saw them drinking together several times. I seen them drinking together that time in the bedroom.

Q. Where? A. Up in the bedroom.

Q. In the bedroom? A. Yes.

Q. What did you see them drinking up there? A. They had this Berkle, Sparkle.

Q. Sparkling Burgundy, do you mean?

Mr. Simpson: Objected to.

Q. What was it? Say it again? A. I ain't going to say it any more because I repeated it once. I won't repeat it again.

Q. When was it? How many times did you see them up there in the room when they had some kind of liquor? A. I have seen them up there several times; they used to have a bottle sitting up there several times.

Q. Did Mrs. Sargent ever send you down for glasses or for anything to eat? A. She sent me down for glasses and something to eat, too, and she sent me for cracked ice. That is the time they had the wine and spilled it all over the wall.

Q. That is the pink room? A. That is the pink room.

Q. When did this pink room incident occur; when was that? A. I don't know exactly the date when that commenced, but Mr. Sargent was away, and that happened on a Saturday night.

Q. Just tell us all about that? A. So they got this wine—

Q. Wait a minute. What time of the day was it? A. She was out and she came in.

Q. What time of the day? A. I don't know exactly what time it was when she came in.

Q. Well, about what time? A. About, then I guess along about nine o'clock, as near as I can guess at it.

Q. Tell us what happened? A. Then she sent

him downstairs to get the wine; he got a bottle of wine and a bottle of whiskey and then took it upstairs, and she said to make some sandwiches. I said, "Charles, if you want sandwiches, you make them yourself." He said: "Oh, no, you go down and make them."

Q. Who said: "You go down and make the sandwiches?" A. Charles.

Q. Was Mrs. Sargent there? A. She was.

Q. All three together? A. All three in the room together.

Q. In the pink room? A. Yes.

Q. Then what happened? A. So I went down and made the sandwiches. Charles came down and I says to him—

Q. Never mind what you said to Charles. What happened when you went back upstairs? A. Charles didn't say nothing. I said: "Charles—"

Q. Never mind what you said to Charles unless Mrs. Sargent was there? A. So then he went back upstairs.

Q. Did Charles go back upstairs before you did? A. Yes; he went up ahead of me, but I left him up there when I came down for awhile and then he came down.

Q. Then he went went back? A. Yes.

Q. Then you went back? A. Yes.

Q. Then what happened when you went back? A. There was nothing happened when I went back.

Q. What were they doing? A. Then they opened the wine and they ate sandwiches. I sat down and ate one with them and drank some. Then they spilled it all over the clothes, all over her clothes what she had on that day out, and the bed, and

all over the furniture and the floor and everything, and all down his coat. Then she says: "Charles, you take this coat over to New York and have it cleaned." So then Charles, he took the coat over, and he wanted to wash this wine up the best he could, and I did help to clean it up, off the furniture, and then he took off the tops of his shoes what you have with the automobile, he took them off and he laid down on te floor alongside of her just like a dog laying down on the floor; she didn't have on anything but the gown and robe, no stockings on with slippers and one was kicked off and Charles went to put it on and she said "You let it alone."

Q. Then what happened? A. Then they got to talking. I don't know as there is nothing else to that.

Q. How was Mrs. Sargent dressed then? A. Then I said to Charles was he going to sleep down here. I said: "Ain't you going upstairs to sleep?" He said: "No; I am going to sleep down here in the pink room." Then Mrs. Sargent, she went back in the room with the baby, and I left Charles in the pink room and I went upstairs.

Q. When you said to Charles: "Are you not going upstairs," what did you mean? A. That is up on the top floor.

Q. Where the servants quarters were? A. Yes.

Q. And the pink room, whose room was that? A. That was Mrs. Sargent's room.

Q. How was Mrs. Sargent dressed when you last saw her that night? A. She just had on her gown and the robe on it.

Q. What gown do you mean? A. Her night-dress.

Q. What kind of a nightdress? A. It was one of those real thin nightdresses.

Q. What kind of a robe was it she had over her nightdress? A. It was one of those knitted robes.

Q. What were you talking about that night? A. I don't know exactly what we were talking about; I couldn't tell you what we were talking about; we were talking about different things; I could not imagine what it was now, because it has been so long.

Q. How did the wine happen to get spilled over the room? A. He opened it, and of course it was warm and he put his hand on it and it went all over the place.

Q. All over the wall? A. All over the wall and all over the floor and all over the bed and everything.

Q. When you went to bed up on the third floor where was Simmons? A. In the pink room.

Q. And where was Mrs. Sargent? A. In the back room.

Q. Are they connecting rooms? A. No.

Q. How far apart are they? A. I guess quite a little distance, a couple of yards down the hall

Q. Do they open into the same hall? A. Yes; they open into the same hall.

Q. They do not connect together? A. They do not connect together.

Q. What time in the morning did you come down? A. I think it was along about six o'clock.

Q. Where was Charles then? A. He was in the pink room.

Q. How do you know he was in the pink room? A. Well, didn't I see him in the pink room lying on the bed? I saw him lying down on his stomach.

Q. How do you know where Mrs. Sargent was? A. I opened the door where Mrs. Sargent was. She was not sleeping. I went back upstairs and I went to sleep.

Q. You opened the door of the room in which you left Mrs. Sargent? A. Yes, sir.

Q. Where was she? A. She was in the back bedroom.

Q. Was she in bed? A. She was in bed.

Q. You say she was not sleeping. How do you know? A. I know she was not sleeping.

Q. How do you know? A. Because I went and looked; I seen her move and she was not asleep. I went back upstairs after I looked to see where the people was, and I went to sleep and I overslept myself and she called me; I don't know what they done after that; I cannot tell you because I don't know.

Q. What time was it when she called you? A. It was near eight o'clock.

Q. Do you know where Simmons was when you came down at eight o'clock? A. Yes; Simmons came up in the bathroom on the top floor and washed himself and went downstairs and she told him to go and get the car. Then she gave Charles a clean collar and he put it on because he had wine spilled on—

Q. How do you know that? A. Because I seen her when she gave it to him.

Q. What bathroom was it that he went to? A. The servants bathroom on the top floor.

Q. Did he shave that morning? A. No; he did not shave; he just went up and washed his face and hands and came on down because he didn't have time. She told me to go in and get the other coat—I don't know what he says—

Q. (Interrupting) Where was Mr. Sargent? A. Mr. Sargent did go away; I don't know where.

Q. He was away that night? A. Yes.

Q. Did you ever hear any conversation between Mr. Sargent and Mrs. Sargent about Simmons staying in the house? A. Yes; Mr. Sargent told Simmons he did not want him to come to the house.

Q. Was Mrs. Sargent there when he said that? A. Yes, he was there, I believe, one night, he came in, Mr. Sargent came in with Mrs. Sargent and he says: "I don't want you to have Charles come in the house." I was sitting with the baby, then Mr. Sargent told her one morning at the breakfast table he didn't want him in the house.

Q. When was this, when was the first time that you heard Mr. Sargent and Mrs. Sargent talk about having Simmons in the house? A. I could not tell you the date.

Q. How long was one before the other? A. I guess about a couple of months or not quite a month.

Q. Did Mrs. Sargeant say anything to you about Simmons being in the house; did you talk about that? A. Yes; she said that Mr. Sargent did not want him in the house, and she used to give him meals. When I went back she said: "Charlotte I don't want you to give Charles nothing to eat unless I said so."

Q. Unless— A. Unless she said so. He was eating there all the time.

Q. Did she know he was eating there all the time? A. Sure; she told me to give him his lunch whenever he came in, to give it to him.

Q. Did she tell you why it was? A. No; she never told me why it was.

Q. Did she tell you why it was? A. She said Lillian would not give him something, that is his wife, she wouldn't give him nothing to eat; that is why she told me to give him his meals.

Q. Did she ever talk to you about how she felt towards her husband? A. She said she didn't care for him.

Q. When did she say that for the first time? A. I don't know exactly. She said that quite often to me. She said she didn't care for him.

Q. Please try to recall what she said about that? A. That is all I know. She said she didn't care for him. I don't know why she told me she didn't care for him. I couldn't tell you that because I don't know.

Q. Did she say what she thought of Simmons? A. Well, she said Simmons was handsome.

Q. Anything else? A. Mrs. Sargent said Simmons was handsome; that is all I know, that Simmons was handsome and fine looking.

Q. Well, what else? We have handsome and fine looking; did she say anything else with respect to Simmons? A. No.

Q. What did Mrs. Sargent say, if anything? Did Mrs. Sargent say anything with respect to cleaning up this muss in the pink room? A. Oh, she said, she told me, she said she was sorry it happened because Mr. Sargent would kill her if he knew it, and then she went up to see if she could get the paperhangers to fix the room up before he came back. They were smoking up there and she told me to throw the cigarettes out of the anteroom before I left, and that was in the afternoon when I went out, so I done what she told me to do, but she did not get the paperhangers to fix the room.

Q. Did you tell Mr. Sargent about this pink room? A. Yes; I told him later about the pink room, but not right off.

Q. Can you tell me about when it was that you told him? A. About a couple of weeks.

Q. How did you come to tell him? A. Well, he said we must have had a good time when he was away. Then I didn't say any more, but then later on I told him because I thought it was right to tell him what was going on in his house when he was away, and that is how it came I told him.

Q. Did he say anything to you which indicated he thought you had done that? A. No.

Q. Did you ever see anything else, anything more than what you have told us, with respect to the relations between Simmons and Mrs. Sergent? A. No. One time she called him up and told him: "Sweetheart, come on and get your lunch, your dinner. You know you have to have your dinner." She called him "dearie" through the 'phone and lots of towels I have seen—

Q. When did she call him sweetheart and when did she— A. (Interrupting) She called him through the telephone, but I could not tell the time—it has been sometime—

Q. How did she come to call him that? A. He called her, but I went to the telephone because she had company, and it was him, and he said: he wanted to speak to Mrs. Sargent. In the meantime, Mrs. Sargent she came to answer the 'phone, so then I came on away, and then Mrs. Sergeant called him dearie.

Q. What did she say? A. She said, "Dearie, come on and get your dinner. It will only take a

half hour to come up.'' He was down in Bayonne that time.

Q. Where was Mr. Sargent then? A. He had gone out. I suppose he had gone to his lodge meeting, because I seen him go—

Mr. Simpson: Objected to.

Q. Was there any other time when you heard Mrs. Sargent use endearing terms towards Simmons? A. What do you mean?

Q. Dearie or sweetheart? A. No, I didn't hear any more than that. Then one day Charles came in and went upstairs and put his arms around her and hugged her in the hall.

Q. When was that? A. Well, I don't know the day that was.

Q. About what time of the day? A. I don't know what time it was; about noontime—not noontime, about eleven o'clock.

Q. How long before Mrs. Sargent left was it? A. What do you mean, left?

Q. Left the house? A. I don't know; I know she didn't go out then until the afternoon or after lunch.

By the Court: Q. He wants to know how long this was before Mr. and Mrs. Sargent separated and she left Kensington Avenue? A. I don't know how long that has been.

By Mr. Lane: Q. Was it a long time or a short time before the separation? You know the night of the raid. A. I guess it was—he left the house on Friday; I left the house and she was still in the house.

Q. What happened or what did you see?

The Court: What are you asking about now.

Q. What occurred this time you saw him up-

stairs with his arms around her? A. Well, they go up and go in the Willow room, and they had a talk, and I went upstairs and then I says: "Charles, somebody wants to see you." So he came down, and I says: "April Fool," and so he went back. Then it was lunch time, and I called the little girl—he came down and had this talk and later—

Q. (Interrupting) What I want to know is just what happened when you saw Simmons with his arm around Mrs. Sargent? A. There was nothing happened when he had his arm around her; I don't know if he kissed her what, because I could not say.

Q. Where was that? A. In the hall; in the hall.

By the Court: Q. What were you doing up there? A. I was not up there; I was in the dining-room looking up.

By Mr Lane: Q. Can you see the upstairs hall from the dining-room? A. Yes, sir.

Q. What part of the hall were they in? A. Front part of the hall, right where the desk was, on this side.

Q. Was she sitting down? A. Well, yes; she was sitting down.

Q. What was she sitting on? A. On a chair.

Q. What was he doing? A. Why, he leaned close and hugged her.

Q. Had you ever seen him do that or anything like that before? A. No.

Q. You said something about some towels; what did you have reference to? A. Well, I said—I won't tell you nothing about the towels any more—

Mr. Simpson: Objected to. How can that be evidential unless it is connected with the defendant in some way?

The Court: Objection overruled. You may move to strike it out as immaterial and irrelevant, if it does not appear so.

A. The way they use towels, I guess you all know without explaining it to you, without explaining that matter.

Q. When was it; when did you see the towels? A. Well, I saw the towels, I used to gather the clothes up, and so I gathered up the towels.

Q. Where did you see them? A. I seen them in the hamper and sometimes in the closet and it ain't only sometimes towels, sometimes it is dressing sack.

Q. Whose dressing sack? A. Well, it must be the lady's dressing sack, it was not mine.

Q. Was it Mrs. Sargent's dressing sack? A. Yes, I know it was.

Q. Where else did you find the towels? A. In her closet.

Q. Which closet? A. In her room.

By the Court: Q. What is this about a dressing sack? A. I said not only towels, but the dressing sack.

Q. What about the dressing sack? What did you say about that? A. Well, it has been hard, that is all I can say. You all can judge; you are all men; I suppose some of you are married; I won't say any more.

By Mr. Lane: Q. Where else did you find the towels other than in the closet? A. I found them in the bathroom, some towels, too.

Q. Where else? A. That is all.

Q. When did you find these towels—during what period of time? A. Well, I don't know what time I found them.

Q. Did you find them in 1919? A. Well, I guess in 1919—1917—I don't know.

By the Court: Q. Do you know anything about the time you found these towels? A. No; I do not.

Q. Can you fix any date? A. No; I cannot fix any date.

Q. Was it on Kensington Avenue or Union Street? A. It was on Kensington Avenue; it was not Union Street.

Q. Up until what time; was it up until the time that Mrs. Sargent left, or how long before she left? A. Before she left. I was not there when she left there. I don't know when she left.

Q. Up to what time—in the spring of 1919? A. I guess it was in the spring—

Q. Last year? A. (No answer).

By the Court: Q. If you don't know, say so? A. I said I don't know; I said: "No," and I mean "No."

CROSS-EXAMINATION by Mr. Simpson:

Q. You were in the house when Mrs. Sargent left, were you not, on the 11th of July? A. No; I was not there.

Q. What? A. No; I was not there the night she left.

Q. You were there with the detectives on the 11th of July ? A. When she left?

Q. Yes. A. That night?

Q. Yes. A. I thought it was when she left for good.

Q. You were there and took part in the raid. You let the detectives in the house, didn't you? A. No; I did not.

Q. You knew they were there; you showed them up to the rooms; you were with them? A. Who was with them?

Q. You were with them? A. The detectives were there before I showed them up to the rooms. They were in the house I guess about a month.

Q. And you knew they were there all the time? A. Sure I did.

Q. You took part in helping them for a month, didn't you? A. No; not for a month.

Q. For how long? A. I guess about a week; I guess—

Q. Who told you to let them in the house? A. I didn't let them in the house.

Q. Who told you it was all right for them to be in this house, that these strangers were in the house, who told you that? A. I guess the boss told me.

Q. You guess he told you? A. Yes.

Q. How long before the night of the so-called raid did he tell you? A. Tell me what?

Q. Tell you that it was all right to have these strange men hiding in the house; how long before the night of the raid did the boss tell you it was all right? A. Didn't I tell you it wasn't in there a month?

Q. Was it a month before he told you. You did say a month and then you said two weeks? I want to find out what you mean? A. I said a month; I didn't say nothing about two weeks.

Q. We won't argue about that. You say now it was a month. During that month Mrs. Sargent was coming in and going out of the house? A. Yes, sir.

Q. You knew these strange men were in the house hiding? A. Yes, sir.

Q. What did the boss tell you about their being there? A. What he told me what?

Q. What did he tell you? A. He told me they were detectives.

Q. He told you they were detectives? A. Yes.

Q. Watching Mrs. Sargent? A. He did not tell me watching or what; he didn't tell me who he had put them in there to watch.

Q. It was all right to have them in there. Let me go back to the time when you went to work for Mr. Sargent. How long ago was it that you first went to work for Mr. and Mrs. Sargent? A. I guess it has been going on five years—four or five years, along about there

Q. How long did you work before, as you say, Mrs. Sargent drove you out? A. After she drove me out?

Q. No; no; until the time she drove you out, as you say—how long had you worked there? A. I worked there until after Christmas, I think.

By the Court: Q. Had you been working for four or five years when she drove you out? A. Yes; I have worked for her.

Q. How long? A. I said five years, going on five years.

By Mr. Simpson: Q. How long before she drove you out had you been working—five years? A. No; not five years.

Q. How long? A. I guess it was four years.

Q. Four years? A. Yes.

Q. How long were you away before Mr. Sergent got you to come back? A. I guess about three months.

Q. About three months you were away? A. Yes.

Q. How long was it up to this night; how long

was it from the time you came back until the night of the raid? A. I guess about four or six months, along about there.

Q. About six months you were back there up until the night of the raid; is that right? A. Yes.

Q. When they had this trouble in the pink room, was that before she drove you away or after she drove you away? A. After she drove me away.

Q. That was the time you say you saw the Sparkling Berkle; is that right? A. Yes.

Q. How long was that before the night of the so-called raid that this occurred in the pink room? A. I guess about three or four weeks, as near as I can come to it.

Q. The detectives were in the house; you say they were there for a month; so then they were there in the house at the time of the occurrence in the pink room party? A. No; they were not there—

Q. You say—A. I know; I made a mistake.

Q. What is the mistake you made? A. They were not in there then.

Q. Why did you insist that they were there for a month and correct me when I said that you said they were there two weeks? A. I know. I made a mistake.

Q. You insisted twice? A. The wine was spilled after I went back.

By the Court: Q. How long was that occurrence in the pink room before the night of the raid? A. I think it was about four or five weeks as near as I can go.

By Mr. Simpson: Q. Why did you pick out three week and say it was three weeks before the

night of the raid? A. I told you I was not sure. I guessed so, I told you.

Q. How long after the occurrence in the pink room did you tell Mr. Sargent what happened in the pink room? A. I didn't tell him for a week afterwards.

Q. How long before the night of the raid did you tell Mr. Sargent what happened in the pink room? A. I told him about a couple of weeks.

Q. So that at the time you told him about that, the detectives were already in the house? A. No; they had not come in; for he got them in after I told him.

Q. They were not yet there for a month after that? A. I guess they were not there for quite a month.

Q. Do you know how long they were there? A. I guess they were there three weeks on an average from what I can get at.

Q. So, you think it was how long before the night of the raid you told Mr. Sargent? A. That is two weeks.

Q. What did you tell him; did you tell him everything you have told here? A. I have told him everything I have told today.

Q. You told him about Mrs. Sargent having been dressed only with a nightgown on; is that right? A. Yes.

Q. And slippers? A. Yes.

Q. No stockings on? A. Yes.

Q. You told him that? A. Yes.

Q. And you told him about drinking wine? A. Yes.

Q. And eating sandwiches? A. Yes.

Q. Is that right? A. Yes.

Q. You told him about the chauffeur lying down alongside of her? A. Yes.

Q. You told him all that? A. Yes; I told him all that.

Q. You told him about the chauffeur sleeping on the floor? A. Yes.

Q. How long did you say you waited after this happened before you told him? A. I think two weeks.

Q. Why didn't you tell him right away if you were so interested in his welfare; why didn't you tell him right away? A. I could have told him before what had happened if I wanted to, but I thought it wasn't any of my business, that is why I didn't say anything.

Q. What was it that changed your mind and made you tell about the whiskey and sandwiches in the pink room? A. Because she drove me out, that is why—when he was sick in the hospital—I told the chambermaid, she got mad and she never liked me since.

Q. Who didn't like you? A. Mrs. Sargent.

Q. Is that the reason you told about her? A. No, that is not the reason; because she didn't treat me just right exactly, after all the work I have done for her. That is the reason I spoke as I did. I thought Mr. Sargent ought to know it.

Q. I asked you why it was that you waited so long to speak to Mr. Sargent and you told me because she drove you out. What did you mean by that? A. She told me she drove me out because I told about some things she had said. She didn't like it and she told Lillian—

Q. Is that the time she drove you out? A. She didn't drive me out then; she got mad at me that time.

Q. What then did you mean by your answer to me when I said: "Why did you wait before you told Mr. Sargent?" and you answered: "Because she throwed me out." What did you mean by that? A. I said the reason I waited was because it was not my business to tell Mr. Sargent.

Q. Until she drove you out? A. No I wouldn't tell Mr. Sargent, but he asked me a few questions.

By the Court: Q. You did not tell Mr. Sargent, as I understand, until after Mrs. Sargent had driven you out? A. No, I didn't say nothing to Mr. Sargent.

By Mr. Simpson: Q. You said she never liked you. For how long had that existed? A. When Charles and Lillian came she fell in love with them two.

Q. Up to the time Charles and Lillian came there, you and she were all right? A. Yes.

Q. No trouble at all? A. No trouble at all.

Q. You liked her and she liked you? A. Yes..

Q. Then they came and spoiled that? A. Yes; they came along. When I was in the kitchen they came in the kitchen and I was a servant for the guests and a servant for them, that is what I was; so I left; she drove me out.

Q. You wouldn't stand it? A. I would not stand it; I ain't been used to treatment that way.

Q. You did not stand it? A. No; I didn't stand it either; I got out.

Q. When was it that you first went down to Mr. Huck's office? A. I never went to Mr. Huck's office until yesterday.

Q. Did you tell anybody besides Mr. Sargent about these things? A. No; I never told anybody only my sister; I would have told Mr. Sar-

gent long before I did, only my sister said: "Let him find out himself."

Q. I want to ask you about the hugging you say you saw done from the dining-room, and the hugging was upstairs? A. This is the dining-room, and he came up and walked right past, and she was there (illustrating); he put his arms around her and I don't know if he kissed her.

Q. Where were you standing? A. I was standing in the front and the door going into the dining-room.

Q. First you were standing in the dining room and now you say you were standing in the front? A. Standing in the dining room door.

Q. Not in the dining-room? A. Standing at the door of the dining-room, you can look right up.

Q. How far is that from the foot of the stairs? A. I guess about a couple of yards.

Q. From the foot of the stairs? A. Yes.

Q. Is it behind or in back or in front of the foot of the stairs? A. It was in front.

Q. You stood looking up the stairs? A. I didn't look up the stairs at all. It was open like this (illustrating) like it is in a store; it was not closed in.

Q. (Illustrating) It goes in that way? A. Yes, sir.

Q. Here are the stairs? A. Yes.

Q. Could you look up? A. You could look right straight up; it is open.

Q. She was sitting on a chair you say and he was hugging her? A. Yes.

Q. Chairs in the hall? A. Certainly, chairs in the hall. You have to have a chair to sit at the desk.

Q. How many chairs? A. Two.

Q. What kind? A. One was a round chair.

Q. Which one was she on? A. The round chair.

Q. How near the top of the stairs was she sitting? A. Against the banister.

Q. Right against the banister? A. Not quite up against the banister; it was open enough for him to stand and hug her.

Q. Did you say anything about that to her? A. No I did not.

Q. How long was that before the night of the raid? A. I guess about a couple of weeks; three or four weeks I guess.

Q. All of these things you have testified about here about Charles, you saw within a month or two of the raid, didn't you—everything that you have testified to here? A. I have seen things since that—before the raid.

Q. All of these things that you have told us about, did any of them happen as long ago as two months before the night of the raid, or were not all within a month of the raid? A. No; they were not within a month of the raid.

Q. What? A. I guess two weeks, and some three and some four.

Q. None longer than a month before the night of the raid? A. No.

Q. How long had he been employed there? A. That is what I average as about a year and a half.

Q. You say that he would go upstairs at nine o'clock, at eight o'clock, at ten o'clock; is that right? A. Yes.

Q. At seven o'clock, Mr. Sargent was still

there? A. Sometimes Mr. Sargent would come in and he would come downstairs. If Mr. Sargent was in the house he would go downstairs; then sometimes he would go upstairs and Mr. Sargent would be coming in the front door, and he would turn around and go—

Q. (Interrupting) Are you telling us things that you saw? A. Yes.

Q. You didn't spend any time in the kitchen? A. Yes; I done my work in the kitchen.

Q. You were not doing any work; you were out looking after these things? A. Yes; that is right, looking, rubber-necking.

Q. The night of the raid you closed the door on Mrs. Sargent and locked it, didn't you? A. No; I did not lock it.

Q. It was locked on the outside, was it not? A. Yes.

Q. You shut the door? A. I pulled it to once and I opened the door—

Q. It was locked on the outside? A. It was locked on the outside, but I did not lock it.

Q. You shut the door? A. I shut the door first and opened it.

Q. After you shut it you opened it? A. Yes.

Q. You were at the head of the raiding party? A. I was not.

Q. Were you not the first one at the door? A. No; I was not the first one at the door.

Q You were the first one that shut the door? A. I said that I shut the door and I opened the door.

Q. You were the first one that shut the door? A. I shut the door the first time and opened it.

Q. Don't talk about opening it. Talk about

shutting it. I am only talking about your shutting the door. Your shutting of the door, which you say you did the first time. Now, then, when you shut the door the first time, where were these detectives? A. In the house.

Q. What part of the house? A. In the bathroom.

Q. How far was that from where you stood? A. I don't know; about a yard, I guess.

Q. How many of them were there? A. Two.

Q. Mr Huck was there too, was he not, with them? A. Mr. Huck came in after.

Q. Where was Mr. Huck at the time you shut the door and had Mrs. Sargent and the chauffeur in the room; where was Mr. Huck then? A. Mr. Huck was not there then.

Q. He had not got in the house yet? A. No.

Q. You are sure about that? A. Certainly, I am sure of that.

Q. You are sure Mr. Huck was not in at the time you shut the door? A. No; he was not there, and I did not shut the door.

By the Court: Q. You said you shut the door? A. I said I shut the door the first time.

Q. Mr. Simpson is talking to you about the time you closed the door and not about the time you opened it. He is asking you questions about the time you closed it and not anything else. Just keep your mind on that? A. Yes, sir.

Q. He asks you at the time you closed the door whether Mr. Huck was in the house with the detectives? A. No; he was not.

By Mr. Simpson: Q. Mr. Huck was in the house, was he not? A. No; he was not in the house.

Q. How long after did you first see Mr. Huck after you had shut the door, how long after did you see Mr. Huck? A. Well, I did not see Mr. Huck for fifteen or twenty minutes after.

Q. Where were the detectives when he came in the house? A. In the hall by the door.

Q. The same position—A. At the door.

Q. Were they in the same position as when you shut the door when Mr. Huck came in? A. No.

Q. Where were the detectives when Mr. Huck came in? A. They were in the hall.

Q. Where in the hall? A. At the door.

Q. At the door that you had shut? A. At the door I had pushed to and opened.

Q. I did not ask you about opening it. Were they at the door that you had shut? A. Yes; they were at the door.

Q. At the door that you shut? A. Yes; they were at the door I shut.

By the Court: Q. Did they stay in the hall for fifteen minutes after you closed the door? A. Yes.

Q. And until Mr. Huck came? A. Yes; they stayed there.

Q. And did you stay there? A. No; I did not stay there.

Q. Where did you go after you shut the door? A. Where did I go? I went down to the bathroom. That is where I went, and I shut the door.

Q. You shut the bathroom door? A. Yes, sir; the bathroom door.

Q. Who was in the bathroom? A. Nobody but me.

Q. You went down and shut yourself in the

bathroom? A No; I didn't shut myself in the bathroom at all. I just stepped in the bathroom.

Q. You said you shut the door? A. I didn't shut the door. You said I shut the door. You said I shut the door; I went in the bathroom and the detectives were standing at the door.

Q. Which door? A. At the bedroom, the pink room door.

Q. Where is the bathroom? A. Down the hall.

Q. Which hall? A. How many halls is there? There is one hall upstairs.

By the Court: Q. You answer Mr. Simpson's questions. Don't argue with him. A. I ain't arguing any.

By Mr. Simpson: Q. Which hall? A. (No answer).

By the Court: Q. The same hall in which the detectives were? A. Yes; the same hall.

Q. That is the second floor hall? A. The second floor hall.

Q. How many doors open on that floor hall? A. Well, I didn't never count them. There is eight.

Q. Eight doors? A. Yes, sir.

Q Where is the bathroom—at the back of the hall? A. Yes; back of the hall.

Q. How far from the door that you shut in the bathroom? A. I guess about five or six yards?

Q. Five or six yards from the bathroom? A. Yes, or three or four.

Q. Does the bathroom open on the same side of the hall as the bedroom? A. No.

Q. It does not? A. No.

Q. On the opposite side? A. Yes.

Q. Did you shut the bathroom door? A. No.

Q. Did you go into the bathroom to watch and

see what happened? A. No; I didn't go into the bathroom to watch and see what happened. I just stood in the door. I wasn't paying any attention to what happened.

Q. You just went and stood in the door for amusement? A. Yes.

Q. You had no reason in doing that? A. No.

Q. So, you stood in the door from the time you shut the door, you stood in the bathroom door until the time Mr. Huck came in the house; is that right? A. Yes, sir.

Q. That was fifteen minutes? A. Yes.

Q. Didn't you leave it at all? A. Never.

Q. What were the two detectives doing? A. Nothing.

Q. Nothing? A. No.

Q. You say that door was locked but you didn't lock it? A. Yes.

Q. If you were at the bathroom door how did you know that the bedroom door was locked? A. I did not; only what I heard. I don't know.

Q. You did not lock it? A. No; I did not.

Q. You are sure you did not lock it? A. No; I did not lock it.

Q. When you shut the door you said that you opened it again? A. Yes.

Q. Did you open it completely wide or open it only a little way? A. I did not open it so wide.

Q. Did you open it half way? A. Yes, it was opened it half way.

Q. Was it after you had shut it and opened it half way that these two detectives walked up these five yards to the bedroom door? A. Yes.

Q. So that when they walked up to it you had

already closed it and, as you say, opened it half way; is that right? A. Already closed it?

Q. And opened it half way. A. And then closed it again, you say? A. I did close it once.

Q. You closed it once and opened it half way? A. Yes.

Q. Then they came out after you had done that and they stood at the door, and you had opened that door half way? A. Yes.

Q. Did they stay then for fifteen minutes? A. Yes.

Q. With the door half way open? A. Yes.

Q. When was the door closed the second time, or did you see it closed? A. No; I did not see when it was closed.

Q. You didn't see it closed at all the second time, did you? A. No.

Q. You saw the two detectives standing there? After you closed it you saw them standing there fifteen minutes with the door halfway open? A. Yes; they were standing at the door.

Q. Now after you had stayed there fifteen minutes and Mr. Huck came in, then what was the next thing? Did you see him come upstairs? A. See who come upstairs?

Q. Mr. Huck? A. No, sir; I didn't see him come up.

Q. What did you do after standing there fifteen minutes? A. What do you mean, who standing there fifteen minutes?

Q. You stood in the bathroom doorway fifteen minutes. What did you do next? A. I didn't do nothing next.

Q. You stood there, did you? A. Yes.

Q. How long did you stay there? A. I stayed

there until Mr. Huck came in. I didn't let him in. Then he went in the bedroom, then Mr. Huck went in and Mr. Sargent and the detectives went in, then they came out in the hall and stayed there by the door that goes into the little bedroom, and I came up there and I went to say something to Mrs. Sargent and she said: "Charlotte, you ain't got nothing to say," and I walked down.

Q. Didn't she say: "Why did you shut that door with that man in the bedroom"? A. No; she didn't say that.

Q. Didn't she say: "Why did you shut and lock the door after you shut it?" A. No.

Q. Didn't say a word about that? A. No.

By the Court: Q. Did you see Mr. Huck go in the bedroom after he came up in the hall? A. Yes.

Q. You saw the detectives go in? A. Yes.

Q. They opened the door to go in? A. Yes, sir.

Q. You were standing in the hall there for fifteen minutes before Mr Huck came. Don't you know who closed that door? A. No, sir; I don't know who closed it. Both were there, but I don't know who closed it.

Q. Did you see somebody close it? A. Somebody closed it; I don't know who closed it.

Q. Did you see somebody close it? A. No; I did not see anybody close it; I did not close it.

Q. You were standing in the bathroom door all the time and you had left the door open? A. Yes.

Q. Didn't you see anyone close it? A. I seen them up there, but I don't know who closed it; I cannot say who closed it.

Q. Was the door closed before Mr. Huck came? A. Yes; the door was closed before Mr. Huck came. Mr. Pinchen let Mr. Huck in.

By Mr. Simpson: Q. Let us get that clear. You stood there in the bathroom until Mr. Huck came and went in the bedroom. You didn't let him in? A. No; I didn't let him in.

Q. They had to break the door down, didn't they; it was locked on the outside, or was it unlocked? A. It was open. I don't know how they opened it.

Q. There was no breaking of it in? A. No; there was no breaking of it in.

Q. So, if it was locked on the outside, they opened it to get in? A. Yes.

Q. When you say you don't know who shut the door the second time and locked it, you mean you don't know which one of these two men did it? A. Yes.

Q. But one of them did it and you don't know which one? A. Yes.

Q. When you had this talk with Mrs. Sargent, you said she said: "Charlotte, you have nothing to say"? A. When Mr. Huck had got done talking to her and she called me in the room, she put her arms around me and said: "Mr. Sargant wants to get a divorce." I says: "Oh, no, I guess not," and she commenced to cry.

Q. You knew detectives had been in the house, say, to watch Mrs. Sargent? A. Yes.

Q. Yet, when she said: "Mr. Sargent wants to get a divorce," you said "Oh, no"? A. Well, I had nothing to do with her.

Q. When you had these men in the house for those two weeks or a month, how did you hide

them from Mrs. Sargent; how did you keep them from seeing her when they were in the house? A. Well, they were in there; I didn't keep them in. They went in there and they went out.

Q. Where did you put them to hide? A. In the girls' room.

Q. How many servants were there in the house while these men were hiding in the house? A. There was two there, me and the other girl.

Q. Lillian? A. No; not Lillian,—Viola Jones.

Q. Lillian was not there. Viola was the detective. She was there with the men to watch Mrs. Sargent; is that the idea? A. Yes.

Q. You never knew Viola before? A. No.

Q. You didn't know the detective agency; you didn't know Tienken, did you? A. No.

Q. You are still working for Mr. Sargent, are you not? A. Yes.

Q. And have ben ever since Mrs. Sargent left the house? A. Yes.

Q. How long were you away after the raid; how long were you away from the house? A. I guess I was away a year.

Q. After the night of the raid you were away a year? A. I didn't go back there for a year after.

Q. The night of the raid, you remember that, that was July 11, 1919. In October you went back to Mr. Sargent after he opened the house, didn't you? A. Yes.

Q. You like it better, it is better since Simmons and his wife are away, it is more pleasant there? A. Sure it is better because there was no standing it when they were there.

Q. You have things your own way now? A. Never.

Q. You don't have to wait on colored people? A. No; I don't have to wait on them.

Q. You are better now, you like it better now? A. I am not supposed to wait on servants. They are the same as myself so why should I have to wait on them?

Q. Everything is fine now; you are satisfied now? A. It was fine when Mr. and Mrs. Sargent were living there, but I was not going to wait on servants.

Q. That is the idea, and now that Simmons and his wife are away, it is all right, and you are satisfied? A. Sure it is all right.

Q. Just like it was before Simmons and his wife came there, is it not? A. Yes.

Q. Simmons was a house man, was he not? A. No, sir; he was not. He was supposed to drive the car. If I asked him to do anything, no, he was a chauffeur. He came to do the work around the house or was supposed to do, to sweep off the porch, no, he didn't have time, because he had to stay upstairs, and he didn't have time to do that. He said why didn't I sweep the porch; why didn't I sweep the porch. I said, I was only hired to clean inside, and I didn't sweep it off, neither.

Q. You didn't sweep it off? A. No.

Q. He had to sweep it off? A No.

Q. Who did—Mrs. Sargent? A. No; it stayed there. Sometimes he got Jeter to sweep it off.

Q. Simmons lived there with his wife up to how long before the raid? A. I don't know. Mrs. Simmons had left there before I went back.

Q. Simmons was there at the time you went back? A. Yes, but I don't know—didn't pay any attention how long she left there then.

Q. You don't remember that? A. No.

Q. Now, this telephone conversation, when was that; how long before the night of the raid was the telephone conversation? A. I guess about a month, I guess.

Q. About a month? A. Yes.

Q. He called up and then she came and said: "Dearie, you better come in from Bayonne and get your dinner"? A. Yes.

Q. "You can do that in half an hour"? A. Yes. Then he didn't bring the car up; he left the car down on Bergen Avenue and he came to the kitchen and I gave him his dinner.

Q. What time was that? A. I guess about eight o'clock at night.

Q. So, he came in for his dinner at eight o'clock at night? A. Yes, sir.

Q. What time did Mr. Sargent have dinner? A. They had company that night—

Q. (Interrupting) The night that Mrs. Sargent went to the telephone and called the colored chauffeur: "Dearie, come and get your dinner"—that night they had company? A. Yes.

Q. Who was the company they had that night? A. I don't know. She had three ladies. I know one was Mrs. McWilliams. I could not remember the others.

Q. How much money did you get? A. I only got $25 a month.

Q. Did you get any money from this Tienken Detective Agency? A. No, sir.

Q. They didn't give you any money? A. No.

Q. How old are you? A. I don't know how old I am.

Q. You don't know how old you are? A. No.

Q. Have you ever worked for any other people besides the Sargents? A. Sure, I have.

Q. Where was the last place you worked? A. Dr. Cropper.

Q. How long had you worked for Dr. Cropper? A. I worked there eight years.

Q. Did you leave him? A. Sure, I left him, because I could not work at Sargents if I didn't leave him.

Q. Why did you leave Dr. Cropper? A. Because the place was too hard, and that is why I left.

Q. You answered the telephone that night, didn't you, when Simmons called? A. Yes, I answered the telephone and—

Q. Was there more than one conversation, or was that the only one they had, to "Come up and get your dinner, and that was about eight o'clock, and Mrs. McWilliams was there; who else was there? A. I don't remember.

Q. Had Mr. Sargent gone out and left the ladies there? A. Yes, sir.

Q. Where was the telephone? A. In the Bergen room downstairs.

Q. Near the diningroom? A. Yes.

Q. Where were the ladies—in the dining-room? A. No; they were on the porch.

Q. Was it summer's night? A. Yes.

Q. Windows open? A. Yes.

Q. Telephone near the front window? A. No; the telephone was not near the windows.

Q. It was not near the front windows? A. No.

Q. You notified Mrs. Sargent that the chauffeur wanted to speak to her? A. No; in the meantime I answered the telephone, she must have heard and she came and answered it.

Q. She outside heard it, and she came in, and left the women on the porch, she answered the telephone call; she came in and said: "Dearie, come here and have dinner," although her husband had already had his dinner and gone out, did she? A. Yes.

RE-DIRECT-EXAMNATION by Mr. Lane:

Q. You get $25 how often? A. How often?

Q. Yes. A. I get that a month.

Q. Twenty-five dollars a month? A. I don't get more than $25 a month.

Q. Just describe what time of the day was it that this raid took place? A. Well, I could not tell you, because I do not just know the time.

Q. About what time of the night? A. Well, around 10 or 11 o'clock.

Q. When did you first know about it? A. What did I know about it?

Q. I mean when did you first know there was going to be a raid? A. Because Charles said Sargents is—

By the Court: Q. The question is: When did you first know there was going to be a raid? A. As soon as they came in Friday after Mr. Sargeant went. He told me Thursday, but I didn't know exactly—

Q. When did you first know there was going to be a raid? A. I did not know exactly.

By Mr. Lane: Q. What I want to know is who told you what to do that night from the beginning until the end?

Mr. Simpson: I object to that question.

Mr. Lane: Question withdrawn.

Mr. Simpson: I object to it.

The Court: The question may be withdrawn.

Q. Tell us what happened that night? A. They were out. When they came in they had supper downstairs, they ate in the kitchen and they had wine to drink and whiskey to drink. They were all sitting down in the kitchen together. I didn't eat nothing, only a sandwich. She said if Mr. Sargent came in he would kill her, so when they got done eating Charles got up. I said: "You told me you were not going to be home for dinner and Charles could wash the dishes," and Charles did wash the dishes.

Q. Then what happened? A. Then when they washed the dishes they went upstairs and sat down up there and was talking, and Mrs. Sargent didn't feel as though Mr. Sargent had gone away; she just felt as if there was someone in the house.

Q. Tell us what you heard, not something that has been told you. Didn't you hear Mrs. Sargent saying that? A. I heard her say that.

By the Court: Q. Where were you? A. I was upstairs.

Q. You were upstairs with them? A. I went up after them.

By Mr. Lane: Q. Go ahead; tell us what happened? A. Then they drank up there, and then she said to Charles: "Take these glasses and things downstairs," because she is afraid somebody might come in. I said: "We will put these glasses on the chiffonier in the back hall until morning." I had some ice water and she had had that bottle of whiskey. I said: "You promised me a bottle of whiskey," and Charles take a bottle of whiskey and he set it down at our door, and he

went on around the house to see if there was anybody in it.

Q. Go on. What next happened? A. Then he said he was going to sleep—no, that didn't come in then—

Q. Go ahead. Q. Then he said he was going to have a good time. I don't know. I went to bed upstairs, and he went all around looking, and when it was—

Q. Where did you go to bed? A. I went upstairs.

Q. Where were they when you went upstairs? A. They were downstairs.

Q. In what room? A. In the pink room.

Q. How long did you stay upstairs? A. I didn't stay—until about twenty minutes; then the detectives came down and I came down.

Q. You didn't come down until when? A. I didn't come down; I didn't come down right away. When she called me I went downstairs.

Q. Where was she at that time? A. She was in the bedroom; she had on a clean nightdress, and Charles he was sitting on the foot of the bed.

Q. Then what happened? A. Then I left the room; I don't know what happened then.

Q. You left the room; and when did you next know anything about it; when did you first see the detectives? A. I seen the detectives after that.

Q. How long after? A. About fifteen minutes after, I guess.

Q. Did you go upstairs after you went out of the room? A. No; I didn't go out of the room.

Q. No? A. I went down the hall.

Q. You went down the hall? A. I went down the hall, yes.

Q. What did the detectives do when you first saw them? A. They didn't do anything; I didn't see them do anything; they were at the room door; I don't know.

By the Court: Q: Mr. Lane asked you when you first saw them after you left Mrs. Sargent's room? A. I seen them after I left her room.

Q. Where were they? A. In the hall, in the back hall.

By Mr. Lane: Q. In the back hall? A. Yes.

Q. Was that the time that you shut the door? A. Yes.

Q. And then what did the detectives do? A. They didn't do nothing; they just stood at the door.

By the Court: Q. How did they get in the back hall; where did they come? A. They came downstairs.

Q. Who told them to go downstairs? A. I don't know who told them to go downstairs; I didn't tell them go downstairs.

Q. What did you go downstairs for? A. I went down to get some hot water to drink.

Q. To get some hot water to drink? Did you know the detectives were downstairs when you went down? A. No, sir; I didn't know they were down.

Q. Did you know they were in the house? A. I knew they were in the house.

By Mr. Lane: Q. Now, when you first saw the detectives they were in the hall; is that right? A. Yes.

Q. And where were you? A. I was downstairs; they were in the hall when I came upstairs; they were in the hall; I don't know when they had come downstairs.

Q. Now, after the detectives went to the door, was it then you went to the bathroom?

Mr. Simpson: Objected to.

A. When they came downstairs after I touched that button.

By the Court: Q. What button? A. The bell.

Q. There was a bell from the hall upstairs? A. Yes, sir.

Q. Why did you do that? Had that been arranged beforehand that you would do that? A. What do you mean, arranged?

Q. Had anybody told you to press the button? A. No; nobody had told me.

Q. Why did you press it; what made you do that? A. Well, I see things are not going on right. That is why I pressed it.

Q. Was that intended to be a signal for the detectives to come upstairs? A. Yes.

By Mr. Lane: Well, you pressed the button. Then you saw the detectives. Now, after you saw the detectives, was it then that you went to the bathroom? A. Yes.

Q. When you went to this bathroom, where did you stand? A. I was standing right by the door of the bathroom.

Q. Did Mr. Huck come in? A. No; I did not see Mr. Huck—

Q. Who let Mr. Huck in, do you know? A. Mr. Tienken let him in. I guess Mr. Tienken let him in—I couldn't say. One of the detectives let him in; I wouldn't say which one.

Q. How could Mr. Tienken or the other man let him in if they were standing outside of the door? A. I said one let him in; I did not say which one.

Q. You told Mr. Simpson that all the time that

you were standing in this bathroom door until Mr. Huck came, the detectives stood in front of this bedroom door? A. I did say he was in front of the door. Wait a minute. Maybe the detectives left the door open, because I did not go downstairs.

Q. You did not go downstairs? A. I did not let him in—

Q. Mr. Huck got in? A. Yes, and they might have left the door open.

Q. Are you sure that you had your eyes on the detectives during the entire fifteen minutes? A. No; I won't say that, because I don't—I won't say for certain, because I don't know.

Q. During the time that you lived with Mr. and Mrs. Sargent did you only act as cook, or was there a time when you also acted as chambermaid? A. Well, I done general housework when I went to live there.

Q. General housework? A. Yes.

Q. Were you doing general housework at the time of the raid? A. Yes, all except the washing and ironing; I did not do that.

Q. Now when was it that you first began to see what you have told us about the relations between Mrs. Sargent and Simmons, with respect to his going to her room? A. Well, I guess about a year—I could not tell you.

By the Court: Q. A year what—before the raid? A. Yes.

By Mr. Lane: Q. How long after Simmons' coming there to the house was it, do you know, about? A. What do you mean?

Q. How long after he commenced work there? A. I said I guess about a couple of months.

Q. Now, did Mrs. Sargent ever have any conversation with you with respect to colored people generally? A. No, sir; never.

Q. She never did? A. No.

Q. (Showing witness) I show you a paper and ask you whether you recognize that. Have you ever seen that before, wrapped as it is wrapped? A. Yes; I have seen that before.

Q. Where did you see this before? A. That was handed me at the door for Mrs. Sargent.

Q. When? A. I could not tell you that.

Q. By whom? A. Some young gentleman told me to hand that—

Mr. Simpson: Objected to.

Q. Did you ever give this to Mrs. Sargent? A. I gave that to Mrs. Sargent. She opened it and she kissed it and she said: "Charlotte, don't you ever tell Mr. Sargent, or he will kill me." So then she generally tried to go away in the summer, so she said: "Charlotte, don't let anybody go in my drawer," and that drawer, which nobody didn't go in the drawer.

Q. Can you tell me about when that was? A. I could not tell about when that was. It was when Mr. Sargent was in the hospital. I could not tell you the date.

Q. I show you the inside of this and ask you whether that is the picture which you gave to Mrs. Sargeant at that time? A. Yes; that is the one.

Mr. Lane: I offer this in evidence.

Mr. Simpson: I object. We are only charged with certain acts of adultery with a man named Simmons. This is not a picture of Simmons or connected with him in any way.

The Court: The defendant is also charged with other acts of adultery.

Mr. Simpson: Not with any named person. I still object.

The Court: It may be offered in evidence.

Picture of man is admitted in evidence and marked P-1.

Q. Do you know the man whose representation this is?

The Court: Are you going to endeavor to prove an act of adultery?

Mr. Lane: I don't know. I withdraw the question.

Q. At the time that this picture was delivered at the house was it wrapped as I had it wrapped before I opened it? A. Wrapped up in brown paper.

Q. Wrapped up in brown paper? A. Yes.

Q. When was it that you last saw this photograph A. I think it was last summer.

Q. Where was it? A. Long Island.

Q. How long a time did you see it in Mrs. Sargent's bureau? A. I sen it ever since the man gave it to me; I don't know.

By the Court: Q. When did he give it to you? A. I don't know when he gave it to me; it was one day in the summer.

Q. Summer last year? A. No; it is about two years ago or a little over.

Q. This is 1920? A. Yes, sir.

Q. Was it in the summer of 1919? A. It was in the summer when he gave it to me.

Q. We are trying to get some idea of the date when you got it; was it two years ago or three years ago or five years ago? A. Well, I don't know

when. Mr. Sargent was in the hospital sick. I could not tell you how long that was.

Q. Have you no recollection at all when it was given to you? A. It was about three years ago.

By Mr. Simpson: Q. When Mr. Lane held this up it was wrapped in newspaper, and you say when it was handed to you it was done in brown paper. How could you tell what was inside of the newspaper? A. I could tell by the photograph.

Q. Wrapped up in newspaper. You saw something wrapped up in newspaper; you say it was handed to you wrapped up in brown paper. Before Mr. Lane took the newspaper off you identified the picture? A. Oh, yes.

Q. How? A. I could identify that without having any paper because I have seen it.

Q. Anything wrapped in newspaper you can identify? A. I could identify.

Q. When you and the chauffeur and Mrs. Sargent went down the night of the raid and ate in the kitchen, did not Mrs. Sargent say to the chauffeur: "I feel strange; I think there are some people in this house. Go and see if there is anybody in the house." Did she not say that to the chauffeur? A. She said she feels strange; she says she feels as if there was someone in the house, she says.

Q. And go through and look and see if there was anybody in the house? A. She told Charles that she felt there was somebody in the house.

Q. Then he went and looked? A. He looked downstairs and when he went downstairs she told me she felt as if there was somebody in the house and he went upstairs.

Q. He did not find the detectives because you had

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them locked up in the girls' room? A. I didn't lock them at all.

Q. That is where they were hiding? A. I didn't lock them up there.

Q. You put them up there in the girls' room? A. They put themselves in there, but I didn't lock them in.

Q. When she told you that she felt strange, as if there were somebody in the house, you didn't say that there were these men hidden upstairs? A. No; I didn't have anything to do with that.

Q. One other thing I omitted. You say that she told you: "Wasn't Charles handsome; you said no; you didn't think so." Did she say anything further about him, that he had pearly teeth and blue eyes and anything else of that kind; anything else besides saying he was handsome? A. He had lovely hair.

Q. Anything else? A. He was stylish, and that is all.

Q. He had lovely hair and was stylish? A. Yes.

Q. And what else? A. Nothing else.

Q. He had kinky hair, has he not? A. No; he ain't got any kinky hair.

Q. You say she kissed the picture. What time of the day did she get that picture? A. In the morning.

Q. In the morning? A. Yes, sir.

Q. Where was she living then, in what house, the Kensington Avenue house? A. Yes.

Q. You say you think it was about three years ago, before the raid? A. Yes.

Q. You say that was three years before the raid? A. Yes.

Q. On this night of the raid you went downstairs, you say to make hot water? A. Yes.

Q. For a hot drink? A. Yes.

Q. Eleventh of July? A. Yes.

Q. What kind of a hot drink was it—hot rum or hot whiskey? A. It was whiskey. I didn't make it for her. I made it for myself.

Q. You were making hot whiskey on the 11th of July? A. Yes, sir.

Q. Were you cold? A. Yes; I was cold; I was not feeling well.

Q. One other thing. You told Mr. Lane about giving the detectives a signal by pressing a button? A. Yes.

Q. That was after you shut or locked the door? A. No; it was not.

Q. Was it after having locked the door? A. I didn't lock the door, I shut the door.

Q. Was it after you shut the door you gave the signal? A. No; I opened the door.

Q. You opened the door before you gave the signal? A. Yes.

Q. You did not lock it? A. No.

Q. Who had told you about signalling; how did you know about giving the signal? A. Who told me?

Q. No angel came and whispered into your ear and told you to press the button. Who made arrangements for you at a certain time to press the button? A. Nobody.

Q. Who told you? A. I told myself.

By the Court: Q. Didn't you tell the detectives that you would give them a signal by pressing the button? A. No, I did not. Excuse me, I did tell them.

By Mr. Simpson: Q. Then, you told the detectives that you would press the button, did you? A. Yes.

Q. Now, did you tell them what to do when you pressed the button? A. No; I didn't tell them nothing.

Q. You didn't tell them that you would press the button? A. Yes.

Q. You didn't tell them to come down when you pressed the button? A. No.

Q. They came downstairs when you pressed the button? A. Yes.

Q. And they went to the door and they stayed by the door until Mr. Huck came, whether the door was opened as he came in or whether somebody let him in, you don't know? A. No; I don't know.

By the Court: Q. How long was it after you opened the door that you closed it? A. I just pulled it to and then opened it again.

Q. Why did you pull it to? A. I was just funning; I just pulled it to and opened it.

Q. Whom were you funning with? A. I was just funning with Mrs. Sargent and Charles. That is all.

Q. Were you intoxicated that night? A. That night I was not; I have got common sense, I have.

Q. Why did you open the door after you closed it? A. I didn't meant to bring it close; I was fooling.

Q. You opened it at least half way, I think you said? A. Yes; I did, half way, and I left it that way.

Q. Then you went out and rang the bell for the detectives; is that right? A. No; I didn't go out and ring the bell for any detective.

Q. How long was it before you pressed this button? A. I guess about two minutes.

Q. Where did you go after you left the door open? A. I just went down and I went in the baby's room after I left the door open.

Q. You did not go off the second floor at all? A. No; I didn't go off that floor.

Q. Didn't you know that the detectives came up with the door halfway open, Mrs. Sargent and Charles would hear them coming? A. Sure they could hear them coming; anybody could hear them coming.

Q. And the detectives came downstairs while you were in the hall and while the door was open; is that right? A. Yes.

Q. Did you hear them coming? A. I heard them coming, yes.

Q. What stairway did they come? A. No; they didn't come up the stairway; they came down the stairway.

Q. They came down the stairs? A. And when they came downstairs, Charles jumped before one of them got to the door, Charles jumped out of the window.

Q. How do you know the door was closed? A. I don't know it was closed or not. I said that.

Q. You said the door was closed before the detectives went in? A. I did not. I said I pushed the door open.

Q. You said something about the detectives closing it? A. I said some of the detectives locked the door, because I don't know which one locked it, but I was not there to see them, so I don't know.

Q. And were they there by the door? A. And so Charles got out. I didn't see him get out. I heard

him jump out. I heard him jump down on the ground. I heard him.

Q. The detectives came downstairs after you had pressed the button? A. Yes.

Q. Was the bell ringing downstairs? A. No; it did not. It rang upstairs.

Q. Then they came downstairs and you heard them coming? A. Yes.

Q. Then the detectives were out in the hall for fifteen minutes, until Mr. Huck came? A. Yes.

Q. And in the meantime one of them had closed the door? A. Yes, but I do not know which one closed. I did not close it, and I did not let Mr. Huck in.

By Mr. Simpson: Q. When you said "funning," shutting the door for fun, what did you think was funny about locking a colored chauffeur in a room with Mrs. Sargent? A. I didn't lock it.

Q. Whatever you did—what was there funny about shutting the door on a colored man and a white woman in a room, with two detectives in the house? A. I was not shutting the door on—

Q. (Interrupting) You didn't shut the door? You have not sworn that you shut the door? A. Yes; I have sworn.

Q. You swore that you were funning when you shut it? A. Yes.

Q. Was that your idea of fun— to shut a white woman and black man with detectives in the house? What was funny about that? A. There was plenty doors shut on black men and white women, as you call it; plenty of them.

By the Court: Q. What was there funny about it? A. I just pushed it. Sometimes people play funny and they don't mean anything by it.

At this point a recess was taken until a quarter past two o'clock in the afternoon.

Argument

Mr. Runyon: I would like to state on the record that notice of the taking of the testimony of Mrs. Elizabeth Lathrop was returnable yesterday afternoon before Mr. Edward Maxson, a Master in Chancery of New Jersey—

Mr. Simpson: I object to any statement upon the record with reference to that matter.

The Court: I am going to hear what Mr. Runyon has to say.

Mr. Runyon: Purusant to that notice, petitioner took the testimony of Mrs. Lathrop yesterday and Mr. Simpson did not attend but had his representative there, a lawyer from his office, who purported to appear specially and took memoranda. At the end of the hearing we failed in an endeavor to have Mrs. Lathrop appear here today. On the record she said she would not attend, and the hearing was adjourned until 5:30 this afternoon to give Senator Simpson an opportunity to cross-examine. This morning we have made various efforts to produce Mrs. Lathrop in Court here today. We had hoped we might prevail upon her and produce her, and we have just had a report that our efforts have been unsuccessful.

The Court: Will she attend at 5:30 this afternoon in New York?

Mr. Runyon: We understand she will be there at 5:30 this afternoon.

The Court: I will adjourn here early enough to permit counsel to attend the hearing in New York.

Mr. Simpson: I will try to get Mr. Hopkins to go.

Mr. Runyon: The appointment for 5:30 was made with the approval of your representative.

The Court: You have associate counsel in New York?

Mr. Simpson: Yes, sir.

The Court: Why cannot he attend?

MACK C. JETER, sworn as a witness on the part of the petitioner, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. Jersey City.

Q. Where? A. Sixty-two Harrison Avenue.

Q. Do you know Mr. and Mrs. Sargent? A. Yes.

Q. Did you ever work for them? A. Yes, sir.

Q. And when did you work for them? A. I worked for them, I think it was in 1918, from 1918, I think, well, that year.

Q. Speak out so that we can hear you? A. I say I worked for them, I mean, 1918, I think it is.

Q. What was your work? A. Well, I came to clean up and put out the garbage and cut the grass around the house.

Q. Did you have anything to do with getting Charles Simmons with Mr. Sargent? A. Yes.

Q. What did you have to do with that? A. Well, I employed him.

Q. Were you working there in the spring of 1919? A. Was I working there in the spring of 1919?

Q. Yes. A. Yes, sir.

Q. Did you see anything at that time with respect to Mrs. Sargent and Simmons? A. Yes, sir.

Q. You did? A. Yes, sir.

Q. What was it? Tell us all about it? A. Well, I was washing windows in the house for Mrs. Sargent at the time and I was upstairs one morning I think between 9 and 10 o'clock, and I heard Mrs. Sargent call Simmons, at least Simmons came up from the back way, up from the hallway. I was in the front. As I came by the front of the steps--he didn't know I was up there—I was up there washing the windows—

By the Court: Q. Please tell us what you know, what you saw? A. What I know, I say she called him up there; he came in the room and when he got to the door, he walked toward the door and pushed it open. He said: "What did you call me for?" She said: "I called you. Why didn't you come up before now? You know I want you." He said: "Oh, no; you don't want me." She says: "Yes; I do." About that time this boy pushes the door back just a little bit and I could see she was lying on the bed there and she had her arm out that way (illustrating) towards him. He walked up to her and she told him why she wanted him, I guess; I didn't hear that.

Q. What did you see? A. I saw enough to know it was not proper.

Q. What did you see? A. I saw she caught hold of his hand and I heard them, and I knew it was something wrong, and I told him—I didn't tell him then—

By Mr. Lane: Q. Wait a minute. What did you

do when you saw them? A. I just looked. That is all. I walked closer to the door.

Q. What? A. I walked closer to the door; I was around the—you know the hall, how it is situated —I walked over so I could see in.

Q. What did you see? A. I saw things—

By the Court: Q. Won't you tell us what you saw? A. I saw her get hold of his hand and pull him towards her, and that is all I wanted to see about it, and I just went on downstairs.

By Mr. Lane: Q. Did you see him when he came downstairs? A. I did not see him when he came down, but I saw him in the auto during that morning, about an hour after that.

Q. Do you know how long he stayed upstairs in that room? A. I didn't see him in an hour after that.

Q. Where were you? A. I was in the house.

Q. Did you ever see anything else between Mrs. Sargent and this chauffeur? A. Well, I just saw they were very friendly, in the way of talking around the house like, but that is the morning that drew my attention to what he was doing that I disliked so that I told him about it.

Q. When was this? A. This was about the latter part of October or first of November.

Q. What year? A. 1918, I think; that was the first year he came there, the same fall.

Q. 1918? A. Yes; I think it was that fall.

CROSS-EXAMINATION by Mr. Simpson:

Q. You did the chores around the house; is that what you did? A. What?

Q. Did you do the work around the house, taking care of the fire and— A. (Interrupting) No, Mr.

Sargent took care of his own fires, I just took out the ashes, something like that, put out the garbage.

Q. How long have you lived in Jersey City? A. I have been there thirty-eight years.

Q. Have you ever been arrested? A. Not to my knowledge I never was.

Q. What has been your business all the time? A. Well, when I first came to Jersey, I was a Pullman man, run on the road as a Pullman porter for twenty years.

Q. You know Simmons, do you, very well? A. I don't know him so well, at that. I know his record a little while. He had been a chauffeur.

Q. I ask if you knew him? A. I just knew him that way.

Q. How long had he been employed before you say you heard Mrs. Sargent call him up to the room? A. Oh, he had been there about five or six months.

Q. Where were you when you heard the call? A. Right upstairs.

Q. Where? A. Well, if you know—

Q. Where were you? A. I could not tell you just where I was standing unless you know something about the house. I was in the hall.

Q. Which hall? A. I was in the hall in the front.

Q. Second floor or first floor? A. Second floor.

Q. And how did you get up there, going by the stairs? A. I go by the front stairway.

Q. How long had you been up there when you heard her call? A. I was up there ten or fifteen minutes.

Q. What were you doing up there? A. Washing windows.

Q. In the hallway? A. Yes.

Q. What windows? A. Windows that sets on a porch. There is a little bit of a porch upstairs there, with a shed over like, and I was in that vestibule; there is three windows off that vestibule; and I was washing the one nearer to the stairway.

Q. Did you have a full view down the hall? A. I had a full view down the hall.

Q. Had you a full view where the back stairs entered this hall? A. No; I did not.

Q. Where were you when you first saw him? A. He was going in the door.

Q. He did not knock on the door at all? A. The door was cracked; he just pushed it in.

Q. He opened the door without knocking, did he? A. Yes.

Q. Went right in? A. Yes.

Q. And where were you standing then? A. I was standing in back, enough to see.

Q. Where? A. Well, in the hallway.

Q. How far away from the door? A. Well, that hallway is no distance; that hallway is not as far as this window.

By the Court: Q. Fifteen or twenty feet? A. About ten feet.

By Mr. Simpson: Q. Where were you when you saw him enter the door—ten feet from the door? A. I was about ten feet.

Q. On what side? A. The same side as the door.

Q. You were on the same side as the door? A. Yes; the same side.

Q. Was the knob or hinge of that door nearer you? A. The knob or the hinges, the front side?

By the Court: Q. When Simmons came up to the door was the door open or closed? A. The door

was merely cracked, I presume, because he did not turn anything.

Q. Don't presume anything? A. Well, he just pushed the door open; I don't know how he turned it.

Q. Listen to the question. I want to know whether that door was open or closed when Simmons came to the door? A. When I saw Simmons—

Q. You can say "open" or "closed"? A. I could not just tell you how it was. I know he went in.

Q. You don't know whether the door was open or closed? A. I don't know whether the door was open or closed.

Q. Didn't you say that the door was almost closed, just upon the crack? A. Yes.

Q. Is that true? A. That is true.

Q. Had Mrs. Sargent closed it to the crack before Simmons came? A. I could not say that.

Q. Was the door in the same position when you first came up in the hall? A. When I came up—

Q. (Interrupting) Was the door in that same position when you first came up into the hall? A. I could not say that.

Q. You don't know? A. I could not say that.

Q. When you came up in the hall, if the door had been open, you could have seen right into Mrs. Sargent's bedroom? A. Yes; I could.

Q. Did you see into Mrs. Sargent's bedroom when you came up in the hall before Simmons came up? A. No, sir; I did not see.

Q. Could you see whether the door was open? A. No, sir; I did not see.

Q. Was the door open before Simmons came and

when you came up the hall? A. I did not come up the hallway or door until I came up the steps—

Q. I don't want anything else except an answer to my question: When you first got into that hall was that door the same as it was when Simmons came up to it and before he entered? A. No; it was not open.

Q. Was it the same as it was? A. It seemed to be cracked.

Q. Just on a crack? A. Just on a crack.

Q. You say you heard Mrs. Sargent call Simmons? A. Yes.

Q. How did she call him? A. She called him Simmons.

Q. He was downstairs and she was in the bedroom with the door almost closed. How did she call him? A. I heard her call "Simmons," and I don't know whether Simmons was downstairs or on the same floor.

Q. You said he was downstairs? A. I said he came up the hallway.

Q. You said he came up the back stairs? A. He came up that way. He didn't see me and I saw him. He didn't see me; I saw him.

By Mr. Simpson: Q. Did you tell Mr. Sargent about this? A. No, sir.

Q. Who was the first person, other than you told Simmons—whom did you tell about this, whom of Mr. Sargent's agents or detectives or lawyers—who was the first one you told about this? A. I never held a conversation with anybody about it.

Q. You never told anybody about it until you were dropped down in that chair on the stand? A. No, sir; never.

Q. Nobody knew that you knew this, as far as you know, except yourself? A. Myself; I kept it—

Q. (Interrupting) You never told anybody? A. No, sir; I kept it to myself.

Q. Were you subpoenaed to come here today? A. I was.

Q. Whom were you subpoenaed by? A. I don't know the man's name, even as much.

Q. You did not know why you were subpoenaed? A. No, sir; I didn't know what he wanted me for.

Q. You did not know that anybody knew this? A. But Simmons.

Q. You did not know that anybody but Mr. Sargent knew about it? A. No; I did not know Mr. Sargent knew anything about it.

Q. Did you get any money for coming here? A. No, sir; I did not; nobody mentioned money to me; no.

Q. You don't expect to get any? A. Don't want any.

Q. Do you know this detective? A. Never seen him even in my life until today.

Q. Where have you been? A. Right here; I don't know he is a detective.

Q. You identified him as a detective? A. This detective, I say I never saw him before.

Q. How did you know he was a detective? A. I didn't know even that much.

Q. You hear he is a detective? A. You called him a detective.

Q. I want to know the physical situation there. Was the knob or the hinge of the door that Simmons entered near you? A. The knob where the door opened was near me.

Q. Near to you? A. Yes.

Q. So that when you walked up there you had to look through the knob part? A. I didn't look in the door.

Q. You did not look in at all? A. If you will let me tell you—

Q. When you looked in the door, was it past the knob part that you looked; was it open there when you looked in? A. When I saw this man going in?

Q. Was it open? A. I don't know anything about that; I didn't see that; I saw the door was cracked when I came up.

Q. When you did see this thing that you have told us about, about the woman catching the man's hand, where did you see that? Did you see it by the knob or through where the hinges are? A. I was right where the door opened.

Q. That is where the knob was? A. That is the door.

By the Court: Q. Can you say whether it was the knob part of the door? A. I told him it was near the knob.

By Mr. Simpson: Q. How much was that door open when you saw this? A. (Indicating) Just about so much.

The Court: Three or four inches.

Q. Where was the bed that you say you saw here in; where was that situated? A. The bed is headed towards south and north.

Q. Was the head of the bed towards the door? A. The head of the bed to the wall, against the door.

Q. The head of the bed was up towards the wall, the same side the door is on; is that it? A. Yes.

Q. Was it close up against the wall, the head of this bed? A. Well, yes sir; it was.

Q. When you walked down to make the observation, you had to pass that doorsill, didn't you? A. No; I did not pass the doorsill.

Q. How did you go? A. It was not closed that far.

Q. You were walking towards the knob of the door? A. I didn't have to come forward. I didn't have to come forward two feet, the way I was.

Q. You were ten feet away from the door? A. I wasn't any ten feet away.

Q. That is what you said. You said when you first saw this man you were ten feet from the door. Now you say you only walked two feet, so you were eight feet from the door when you made the observation; is that right? A. The hall itself isn't more than ten feet.

Q. If you only walked two feet, were you eight feet from the door or not? A. Well, come to the plan and I will show you.

By the Court: Q. How close to the door were you when you looked in? A. Five or six feet when I looked in.

By Mr. Simpson: Q. The knob was towards you and the door about six inches open? A. Yes.

Q. And the bed was right by the door, as you went in, was it not? A. Yes.

By Mr. Lane: Q. Is the hinged part of the door or the knob part of the door toward the front of the house? A. The knob was towards the front.

Q. Towards where you were—was the hinged part of the door or the knob part of the door towards where you were? A. The hinge hung next towards the bed, and the knob on—

By the Court: Q. Towards you? A. Towards me.

By Mr. Lane: Q. Have you your subpoena here? A. Yes, sir.

Q. Where is it? A. I have got it.

Q. Let us see it. A. It may be in my overcoat pocket.

Q. Do you remember what day you were served? A. With the subpoena?

Q. Yes. A. It was last week one day, I think.

Q. Who subpoenaed? A. The gentleman that is sitting there.

Q. Mr. Huck? A. Yes.

Q. Where did he subpoena you? A. He subpoened me in Jersey City.

Q. Did you tell him at that time what you knew? A. No, sir; I did not tell him what I knew.

Q. What did you tell him? A. I just told him if he wanted me. He says; "I want to meet you in Newark at some Chancery Court, testimony." I told him; "I know nothing about it." So he handed me this and I read it and I saw what it called for, and I knew the date it says here, and I knew where the court was, and I came.

Q. Was Mr. Sargent there at the time? A. Where?

Q. With Mr. Huck? A. Where do you mean, in Jersey City?

By the Court: Q. When Mr. Huck handed you the subpoena? A. Yes; sure.

Q. Did you tell Mr. Sargent what you knew? A. No, Sir; I did not tell Mr. Sargent. I never did tell him, and I never wanted to go to tell him anything about it.

By the Court: Q. So, before you came here on the witness stand you had not told this story to any person in the world? A. No one at all, outside of the man that I saw, and I came to tell him—

WALTER SCOTT TIENKEN, sworn as witness on the part of the petitioner, testifies as follows:

Direct-examination by Mr. Lane.

Q. Where do you live? A. Glen Cove, Long Island.

Q. What is your business? A. Private detective.

Q. When were you employed in this Sargent case? A. About the middle of May.

Q. By whom? A. Mr. Huck.

Q. What did you do? A. I had a conversation with Mr. Huck.

Q. After you had the conversation what did you do? A. At what time?

Q. Just tell us what you did with reference to the case after you were employed? A. I went to Mr. Huck's office and saw Mr. Sargent and they told me—

Q. Never mind what they told you. Tell us what you did? A. I went over to 24 Kensington Avenue and looked over the house, to see if there was any—

Q. (Interrupting) Won't you tell me what you did? A. Well,—

By the Court: Q. You were hired as a private detective? A. Yes.

Q. You did some work as a private detective? A. Yes.

Q. Tell us what you did. A. Yes.

By Mr. Lane: Q. Go ahead and tell us what you did. A. I went over and saw the house and put a colored maid in there as an operative. Her name is Viola Jones. I followed the automobile

of Mr. Sargent and covered it on various trips. I also covered the house and worked in and about the house at 24 Kensington Avenue. I had a room in the attic, and during the month of June and July spent many nights and days doing trailing work and offering suggestions to find if there was anything wrong going on in the house.

Q. When did you get this room in the attic; when did you first get the room in the attic? A. It was about the middle of June I spent my first night in the attic. I slept there all night and was served meals. The meals were sent up at opportune times.

By the Court: Q. How long did you stay there —from the middle of June until when? A. On and off until July 11th.

By Mr. Lane: Q. Now, during the time that you were in that house, up to the 11th day or July, did you yourself observe the conduct of Mrs. Sargent and this chauffeur? A. I observed and heard from the attic room conversations of this colored man and Mrs. Sargent.

Q. Could you tell how often that you heard these mumblings? A. Generally in the morning when I was there in the house after Mr. Sargent had left for New York and gone to business.

Q. Where did it come from? A. It came from Mrs. Sargent's room, and I also heard--

Q. (Interrupting) Wait a minute. Could you distinguish; did you know who was there? A. A man, a colored man's voice; I have not seen; I could not see through the floor that any particular colored person or white person was there, but a man was talking and Mrs. Sargent, in her room, whose voice I could recognize.

Q. About how often was it that you heard that? A. That happened fully six times, five or six times.

Q. How long would it continue? A. Until he was disturbed.

By the Court: Q. Does that mean two minutes or two hours? A. Well, sometimes it would go for a period of twenty-five minutes and sometimes it might go forty minutes.

By Mr. Lane: Q. What else did you observe? A. I received all messages coming into the house and going out of the house over the telephone, over my extension upon the attic, and it was the first week in June, it was either Monday or Tuesday morning—it was the second week in June—some man called up and wanted to speak to Mrs. Sargent and Mrs. Sargent was in bed and Viola answered the wire—

Mr. Simpson: I object to any conversation of this kind.

Q. Did Mrs. Sargent answer the wire? A. She answered the wire.

Mr. Simpson: I object unless he shows that he is familiar with her voice over the wire. He has not shown any familiarity.

Q. Have you heard Mrs. Sargent talk? A. I have.

Q. Have you heard her talk more than once? A. More than once.

Q. For how long a period of time have you heard her? A. From the first time I went to the house, there was a little girl in that house, Ann, and I heard her talk to her from my window in the attic, on and about the lawn, and I also heard Mr. Simmons.

Q. Would you recognize her voice over the telephone? A. Yes, sir.

Q. Did she answer the telephone? A. She answered after a few minutes.

Q. What conversation took place over the telephone that you could hear? A. The man speaking said. "Hello, where is the boss?" "I don't know. Have you called up the garage, dearie? If not, do so, and if he is not there, I want to see you. Come up." That was all the conversation at that time.

Q. Did anything follow that conversation on the telephone? A. He came up.

Q. How do you know that? A. Because I heard him in Mrs. Sargent's room.

Q. How long after the conversation over the telephone? A. Oh, about twenty-five minutes.

Q. Where did he go? A. He was in the house on the second floor. He might have been on the threshold—

Q. Is that one of the times that you heard him? A. That is one of the times that I heard him talk to Mrs. Sargent.

Q. Is there anything else that you heard during the time that you were up in the room, over the telephone? A. Several other times I heard conversations, him calling up, and several times he was told to get ice cream at the ice cream parlor and told to "hurry up, dearie," and he says, "All right."

Q. Was that the extent of telephone conversations that you heard? A. That is all, I think.

Q. Now, what else did you observe during the time that you were there? A. I observed that the car went out a great deal, and of course, I trailed them and had another man trailing them.

Q. Never mind what the other man did. I want to know what you did yourself? A. Well, it gets down to the night of July 11th. It went on this way on and off all the time.

Q. What about the trailing. Did you do the trailing of the automobile; did anything occur with respect to the automobile that you trailed? A. One night Mr. Sargent went to lodge and this fellow came in, and I heard the same man who I had heard talking, the same voice.

Q. What time was that? A. That was about 9:30; the car left the house, I could see that from the attic—I used a room in the open attic—

By the Court: Q. Tell us what you saw and what you did that has bearing on this case and we will get along much quicker. A. We got down to the night of July 11th or the day of July 11th.

Q. You were talking about an occasion, something about 9:30 o'clock? A. This fellow came back and he talked a while and he left at ten o'clock.

By Mr. Lane: Q. Where was he? A. He was up on the second floor.

Q. And up there for how long a period of time? A. He was only up there about twenty-five minutes that night.

Q. You heard the mumbling there? A. Yes; they used to talk and chatter and laugh.

Q. Could you distinguish what was being said? A. No, sir.

Q. Do you know anything about any drinking? A. No, except what I saw on the wall once. I was told about that. I don't know anything about that personally.

Q. Did you see the wall in the pink room? A.

When I came to the house there I did see that wall; yes, sir.

Q. Was it there at the time that you first came there? A. Yes.

Q. What did you see that indicated anything? A. Spots of water over the wall on this side of the bed.

Q. Let us get down to the night of July 11th. What happened? A. Well, things went on like that up to July 11th. On July 11th, at 9 a. m., I again entered the house and also had operative Wilsdon with me. We went upstairs to the attic, secreted ourselves, and about eleven o'clock the car returned and Mrs. Sargent entered the house. At 1:15, or about 1:30 in the afternoon, Carlotte came up to our room and told us—

Q. (Interrupting) Never mind what Charlotte told you. A. Well, we heard the car leave, and shortly we came out of our roomand everything was all right and so we came downstairs.

By the Court: Q. This is an interesting account of something that has no bearing on this case at all. Get down to testimony that is relevant to the case. A. I trailed the car—I went downstairs, left the house and entered the house again at 5 p. m. with operative Wilsdon. May I say what Charlotte told me?

By Mr. Lane: No. A. I took and watched with operative Wilsdon over the willow room which faces the front of the house. About 8 o'clock I saw the limousine of Mr. Sargent return and Mrs. Sargent alighted and entered the house and went upstairs. About 8 o'clock, 8:30, I heard Mrs. Sargent's voice, a man's voice I recognized on previous occasions and Charlotte's voice, talking

on the second floor. At 9:15 or 9:10 someone came upstairs whistling and trying the door of the attic where we were.

Q. Was it a man or a woman whistling? A. We saw the form of a man against our glass—there was a light—we saw a form, he walked up, tried our door and kind of put his face against the glass, and we saw the form of a man with a whitish shirt and you could see his form right up against the glass, without collar or necktie on, against the window; it was a thin smoked glass. After trying the door he went into the open attic and went downstairs whistling. This time was about 9:20. I heard nothing more. Everything was very quiet except I could hear mumbling going on in Mrs. Sargent's room, which was directly below the room I was in, only on the opposite side of the hall.

Q. Go ahead. A. We waited—at least I waited with operative Wilsdon in the room, locked in. It must have been about ten minutes of ten. I didn't hear anything. I came out of the room and crouched myself on the top of the attic balcony. There was a balcony there. I looked over that I saw Mrs. Sargent enter the bathroom attired in a nightgown with a pinkish robe over her and I saw Charles directly behind her. Mrs. Sargent said; "Stop, Charles," and I saw the arm of a man kind of poking at Mrs. Sargent. Mrs. Sargent entered the bathroom and the door was closed and I had to retreat back to my room for fear of being detected.

Q. Go on. A. About 10:40—well, before 10:40, it was about ten after ten, I heard voices again in the room and recognized them to be that of Mrs.

Sargent and of a man talking in the room. About 10:40 I tried to detect also if another voice was there—

By the Court: Q. Did you hear another voice? A. I did not hear any other voice, no. About 10:40, a quarter to eleven, it was about 10:40, I was again crouching at the head of the attic, and I received a signal from Charlotte. We had a light system and a buzz system in that house. She had not had time, I don't believe, wherein to signal. I was out crouching in the balcony of the attic and I heard someone holloa; "Charlotte/ Charlotte/" and with that I dashed downstairs with operative Wilsdon right behind me and ran down to find the room of Mrs. Sargent's bedroom closed.

Q. The door you mean? A. The door closed to Mrs. Sargent's bedroom, and I ran up to the door, grabbed the knob; I could not open the door; I then locked the door. I had—the key was there and I locked the door. Operative Wilsdon ran straight ahead of me to the front window and we heard the chauffeur, someone said "Quick! someone open the window." I could hear that. I immediately thought—

Q. Never mind what you thought. A. I went downstairs. We ran downstairs to cover the front of the house to keep anybody that would be in there,—and I could not open the front door because the chains were up and fixed so that you had to first shut the door again and try to pull it open. I did that and I ran out on the lawn. On the porch steps I saw the form, or some form, darting over the boundary line of two houses past the house where Mr. Sargent lived. I was then joined by Albert—

Q. Who is Albert? A. Albert Wilsdon, the other operative. I was down at that time on the lawn. I looked up at Mrs. Sargent's window, her room, the light was up there, the shade was up and suddenly the shade came down. We then went back—

Q. (Interrupting) Did you see Mrs Sargent's form? A. I saw Mrs. Sargent's form trying to adjust the shade.

Q. How was she at the window? A. She had on the same thing—it was pink; it was pink silk—negligee.

Q. Was there a light in the room? A. Yes; there was a light in the room.

Q. You saw her form? A. And she pulled it down and locked the window.

Q. What did you do next? A. 'Phoned to Mr. Huck, the attorney of Mr. Sargent.

Q. Where did you call from? A. From the house.

Q. You went back into her house? A. And telephoned to Mr. Huck.

Q. Then where did you go? A. Went back in the house and then after telephoning we went outside again to see if this fellow would come back.

Q. You went downstairs? A. We were prepared for him.

Q. How long did you stay outside? A. Probably four or five minutes or three minutes.

Q. Then where did you go? A. Entered the house again to where Mrs. Sargent was in her room yet, where I had locked the door, and she said; "Open the door," and I said; "I will open it as soon as Mr. Huck arrives, the attorney."

Q. Where was Charlotte? A. Charlotte disappeared. I don't know where she went.

Q. So far as you know where did she go; what did you see? A. I did not see Charlotte any more after we came down from the attic.

Q. She disappeared? A. She came again when Mr. Huck arrived. She was on the scene then. I don't know where Charlotte went.

Q. Did you see her when you came downstairs? A. No, sir, I did not. I went out to the front.

Q. Did you see her when you came down from the first floor to the second floor? A. Absolutely.

Q. What was she doing? A. Trying to give the signal, but I had the light instead of the buzzer, so that would not detect anybody.

Q. You did see her when you came from the third floor to the second floor? A. Yes, sir; I did.

Q. Then she disappeared? A. She disappeared.

Q. The next time you saw her, when was it? A. When I came up with Mr. Huck. I let Mr. Huck in that time and Charlotte was in back by the toilet.

Q. When you came up with Mr. Huck, where was Albert, the second detective? A. Albert was up by the telephone. There is a little place for the telephone right outside the door.

Q. When you first tried that door was it locked or not? A. Which door?

Q. The door to Mrs. Sargent's room, the door to the room in which Mrs. Sargent was? A. It must have been locked; I could not open it.

Q. Could you open it? I could not open it.

Q. Did you turn the knob? A. I tried to turn the knob.

Q. Did it open? A. It did not.

Q. Was it locked on the outside, that door? A. No.

Q. How do you know? A. Because I had not locked it. I had the key in the door and I turned the key to stop anybody coming out.

Q. Then, when you found that the door would not open, you turned the lock on the outside; is that right? A. I did, and I took the key and put it in my trousers, and I opened it again when Mr. Huck came.

Q. When you and Mr. Huck opened the door what happened? A. Well, we saw Mrs. Sargent there with her hand to her head like as--

Q. (Interrupting) Where did you see her? A. On the other side of the bed.

Q. How was she dressed? A. She had a tannish waist on, unbuttoned.

Q. Was she fully clothed then? A. All clothed. Her hair was rumpled, dishevelled.

Q. Had the bed been slept in, could you tell? A. The bed had been pulled up, pilliows were on the bed and just the cover, no counterpane--just the blanket.

Q. When you went into the room what happened? A. I said to Mrs. Sargent—

Q. Huck was with you? A. Mr. Huck was along, and I went in, and Mr. Huck the lawyer, and I cannot recall if Charlotte entered the room. I said; "Well, it is a fine thing to have a nigger in your room when you are undressed and in bed." She said, "I order you to leave this room. Put him out," to Mr. Huck, and I recall that Mr. Huck motioned to me to go away, and I went.

Q. Did you see Mrs. Sargent again that night? A. I did; yes.

Q. When? A. There was a lot of telephone calls made and finally I hired an automobile and took

her and Mr. Huck and Albert—we took Charlotte and let Charlotte off at her residence—and I locked the house and we went over, I think, to Richmond Hill, or Brooklyn.

Q. And you took Mrs. Sargent that night over to Richmond Hill; is that it? A. I hired a limousine—

Q. In that party were yourself and Albert—did he go? A. The operative and Mr. Huck.

Q. And Mrs. Sargent? A. Yes.

Q. Where is this place at Richmond Hill that you took her to? A. I don't know the address.

Q. Was it her sister's or some relative of hers? A. I presume it was a relative of hers. Mr. Huck knows. I did not go inside there. I just went in the automobile. It was a sister, because Mr. Huck had tried to get her and Mrs. Sargent tried, several of us tried to get different sisters that night.

Q. Did Charlotte that evening appear composed or was she excited? A. Charlotte lost her head.

Q. Do you identify these plans.

Mr. Simpson: I will admit them if you say they are the plans.

Mr. Lane: I understand them to be, but I want him to identify the particular room he refers to as the pink room.

Q. I show you these plans which are said to be the plans of the house. This is the plan of the second floor. Can you point out on that plan the bedroom that you have called the pink room? A. That is the room that we went into that night. There is the window.

By the Court: Q. The room marked No 2 on the second-floor plan is the room which Mrs. Sargent occupied that night, is it? A. Yes, sir.

By Mr. Lane: Q. Is that the room, do you know whether that is the room referred to as the pink room. A. That is the pink room; that (Indicating) is the willow room.

Q. The willow room is the room that is marked upon the plans as "sitting-room;" is that right? A. Yes, sir.

Q. Did you observe whether the door to this pink room opened with its hinges toward the front of the house or toward the rear of the house? A. That door goes in. It does not open out. The hinges were toward the front of the house.

Q. How was the bed located with respect to the door? A. Can I draw it on here?

Q. Yes. A. The bed was, the head was here (indicating).

Q. Then, the bed had its head in the corner of the room? A. Yes.

Q. Extending cat-a-corner out of the room? A. Yes; the foot faced the window.

By Mr. Simpson. Q. That is, on the night of the 11th? A. I am testifying to the night of the 11th; yes.

By Mr. Lane: Q. The head was not flat back against the wall? A. No, sir.

Q. It was standing cat-a-corner? A. Cat-a corner.

Q. Cat-a-corner in front of the door? A. Yes, I can explain why I remember that.

Q. I don't care. Do you know who occupied this bedroom which is marked on the plan No. 3, or what room that was called? A. I don't know about these rooms, but I know the baby slept in one.

Q. The baby slept in the room which is marked

on the plans No. 1? A. No. 1, and this had two beds, if I am not mistaken. I never had nothing to do with this room (indicating).

Q. Did you see whether there was in the room marked No. 2, the pink room, a closet? A. Yes.

Q. Where was the closet? A. There was a closet with a wash basin in where you could wash.

Q. There was a closet in the left hand corner of her room? A. Yes.

Q. Is that right? A. Yes.

Q. Where the wash basin is? A. Yes.

Q. Can you tell me what stairs you came down? A. From the attic?

Q. From the attic. A. There is only one stairs down here, this one, right at the top. There is a wall here, and we came right around here.

CROSS-EXAMINATION by Mr. Simpson:

Q. Did you arrange with Charlotte about the signals? A. Charlotte was told about what the signal was, and there was—

Q. (Interrupting) I didn't ask you anything else. Who told her. I asked who arranged with Charlotte about the signals? A. I arranged with both of the young ladies, yes, yes.

Q. And you were in conversation with Charlotte all that night, were you not? You saw her off and on from the time you entered the house until the time you locked the door and saw Charlotte, didn't you? A. Yes, sir.

Q. And you then had an understanding? A. Just a minute. May I correct my answer? I saw her until the Missis—

Q. (Interrupting) Off and on you saw her until you locked the door, did you? A. Yes, sir.

Q. Then you had instructed her to give you a signal under certain circumstances, had you not? A. Yes.

Q. You were waiting for that signal? A. Yes.

Q. How many days had you been in the house before the 11th of July? A. You mean all night there?

Q. I mean covering the period of time, a month or six weeks? A. I worked on the case from the 22nd of May to July 11th.

Q. Every day? A. No, sir.

Q. How many days would you say? A. I would say eight full or ten full days.

Q. That meant part of a day? A. Part of a day. Nights we would take the car out—

Q. How many occasions did you enter the Sargent home between the dates you have testified to—how many different occasions? A. I would say eight or ten different days.

Q. You only entered the Sargent house, between the dates you specified, eight or ten times? A. Yes, sir.

Q. But you were working on the case all the time? A. Yes.

Q. You were only in the house eight or ten times? A. Eight or ten times.

Q. What room did you occupy in the attic when you were listening and heard mumbling?

The Court: Let the witness take the plans.

A. This is the room I occupied (indicating on plan) No. 3.

Q. What room is directly under that room? A. The guest room, as far as I know.

Q. The room that you heard the mumblings from is on the other side of the hall, is it not? A. Yes, sir.

Q. Did you hear all of this mumbling with your door closed or with your door open? A. I worked with that door open.

Q. Always? Every time you heard the mumbling did you have the door open? A. Practically all of the time when we heard mumbling.

Q. You had the door open? A. Yes.

Q. What time did you enter the house on the 11th of July? A. Nine a. m. in the morning.

Q. You were there all day, were you, until you locked the door at night? A. There until 11—no, until one o'clock.

Q. Did Mr. Sargent instruct you that he was going out of town and going to be away and you were to have a free path there? A. Three times he told me—three different times.

Q. He told you that he was going away for the purpose of allowing you a free hand? A. Mr. Huck told me that he would be out of town.

Q. You got your instructions from Mr. Huck? A. Yes.

Q. On these dates when you were instructed he was going to be out of town where were you when you got the word? A. They left word in my office.

Q. Whenever he was away you thought that was a good time to be there and watch? A. I was there when he was in the house.

By the Court: Q. Were you there the days he was away? Mr. Simpson is asking you. A. Two nights, yes.

By Mr. Simpson: Q. You knew he had gone away purposely to allow you to be in the house and find his wife alone with that man? A. No, sir; I didn't know anything about that.

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

Q. Mr. Huck had not so instructed you? A. No, sir.

Q. On this night of July 11th you came downstairs before you got the signal in question; you came downstairs before you got the signal? A. To see Charlotte trying to push—

Q. Did you come down before you got the signal? A. No.

Q. You waited until you got some prearranged signal. When you got the signal what did you do? A. Rushed down the stairs when I saw Charlotte at the bottom.

Q. What did you do when you got the signal? A. Came down the stairs.

Q. Did you rush down? A. Yes.

Q. Both you and the other man? A. Right behind me.

Q. You made considerable noise? A. Very much noise.

Q. As soon as you got down the stairs what did you and the other man do? A. Went up to the door of the bedroom. Saw the door closed—

Q. (Interrupting) Did you speak to Charlotte? A. Charlotte mumbled something.

Q. Did you speak to her? A. I had no time.

Q. You got no information from her before you got to the door? A. No, sir. She did say, if I recall, "They are in there," or something to that effect.

Q. When she said: "They are in there," you then went over and you say the door was closed and was not open at all? A. Positively.

Q. Had you given instructions to Charlotte to shut that door before she did it? A. Never.

Q. Did you know she had shut the door? A. No, sir.

Q. Had you instructed her to shut it? A. Positively no.

Q. You did not tell her anything about it? A. No, sir.

Q. What did you tell her? A. I told Charlotte —we could not say what was going on—

By the Court: Q. Won't you tell us what you told Charlotte? A. I told the servants—

Q. What you told Charlotte. A. I did not pick Charlotte out particularly.

Q. Then you did not tell Charlotte anything? A. I told them—

Q. Did you tell Charlotte anything? A. For three weeks before, when this electric system was in the house, I said: "If this man comes in the house—if anyone is in the room, I want to be notified." I was to be notified by a button. We had a buzzer and a light system in the attic.

By Mr. Simpson: Q. Did you tell Charlotte if they were in the room, to close the door and give you the signal? A. Did I tell—

By the Court: Q. Did you tell that to Charlotte? A. I don't remember that I told Charlotte that.

By Mr. Simpson: Q. But you do know that you had given instructions to give the signal if these people were in the room with the door shut? A. Yes.

Q. That is what you were waiting for? A. Yes.

Q. You waited up there from the 22d of May until the 11th of July and did not get it until the 11th of July, did you? A. No, we did not.

Q. On the 11th of July you came downstairs and tried to open this door, didn't you? A. Yes.

Q. How did you try to open it? A. With my hand up against the knob.

Q. Your hand against the knob? A. Yes.

Q. Did you knock at the door to have it opened for you before you turned the key? A. No, sir.

Q. When you turned the knob and could not turn it, you turned the key on the outside, didn't you? A. I locked the door on the outside.

Q. You did it, didn't you? A. Yes, sir.

Q. How long were you at the door before you turned the key in the door? A. Me?

Q. Yes. A. A second.

Q. Was it dark? A. No, sir.

Q. Was it fully lighted? A. Not fully lighted. There was a light at one end of the hall.

Q. How did you know, if there was only a light in one end of the hall, that the key was in the door on the outside? A. I felt it. I knew the key was there from other times.

Q. You knew the key was on the outside of the door from other times? A. Yes, as much as I knew.

Q. As soon as you got there you felt for the key which you knew to be on the outside? A. Yes.

Q. You felt and found it was there? A. Yes.

Q. And you locked the door without knocking to see if they would open it from the inside? A. I did not knock.

Q. You were there to discover these two people in a compromising position? A. Yes, sir.

Q. Instead of knocking at the door and opening it you turned the key and kept the door locked, didn't you? A. I tried the door. It would not open and I locked the door.

Q. (Question repeated by stenographer)? A. Yes, sir.

Q. Although your purpose in the house was to

get ocular evidence of these two people in a compromising position—that is why you were there? A. Yes, sir.

Q. You locked yourself from the evidence, didn't you? A. First I tried the door—

Q. You locked the door? A. Yes.

Q. Did you take the key out and put it in your pocket? A. Yes.

Q. Then this woman began to beat on the door and say "Let me out"? A. No, sir.

Q. Didn't she say or endeavor to say: "Let me out"? A. Later.

Q. How long after? A. Fully seven or eight minutes. She did not beat on the door.

Q. How did she announce that she wanted to get out? A. I came up again, after I had left, after we telephoned to Mr. Huck and Mr. Huck told me—

Q. (Question repeated.) A. During the time waiting for Mr. Huck to come to the house.

Q. What did she say? A. I knocked on the door—

Q. (Interrupting) She didn't do anything until you knocked on the door? A. No, sir.

Q. You knocked on the door and you had the key in your pocket? A. Yes, sir.

Q. After you knocked at the door, with the key in your pocket, what did she say? A. She mumbled something and carried on awhile. I told her I could not open the door until Mr. Huck came.

By the Court: Q. Why did you knock on the door? A. For no reason except to let her know we were in the house again. I did not know what she might do.

By Mr. Simpson: Q. You were giving her a

friendly warning to let her know that you were still there, after having locked her in the room with a colored chauffeur, you decided to protect her by knocking on the door? A. No; no; not to protect her.

Q. Why did you knock on the door? A. Because we were up there then, and she spoke, and I went to the door to tell her—she was carrying on —"Nobody was there"—"Everybody was there" —I didn't get all she said. I didn't listen to her.

Q. You knocked on the door? A. I went up to the door—

Q. Didn't you knock on the door? A. I don't recall whether I did.

Q. You just swore that you did. A. All right, I did knock on the door, yes.

Q. Why did you knock on the door? A. I had no particular reason, I don't suppose.

Q. You make a specialty of these frameup cases? A. No, sir; I have not.

Q. Have you not in your employ a man named Weber and another man named Weidman, whom you send out especially for the purpose of getting women into compromising positions? A. No, sir.

Q. Have you not? A. Positively, no.

Q. Do you know a man named Leonard Weber? A. No, sir, I do not.

Q. Never worked for you? A. No, sir; never did.

Q. Never did any work for you as private detective? A. Never.

Q. Do you know a woman named Alice Digger? A. No, sir; never heard of the woman until you mentioned her.

Q. Have you ever had any white women operatives? A. I have had women operatives.

Q. How long have you been in business? A. A year.

Q. Have you not been fifteen years in business? A. No, sir; not for myself.

Q. You have been in this business before? A. Yes, sir; with Captain McFall.

Q. Fifteen years longer than this? A. Yes.

Q. You have had some experience with the Court of Chancery? A. Never; first case.

Q. You didn't have any experience with Vice Chancellor Pitney? A. I think you have me wrong; my name is Tinken, not Pinkerton.

Q. When you finally opened this door, this lady was found with her hair down— A. No; not down.

Q. How? A. Dishevelled, you know, pushed up quick.

Q. Her hand up to her head? A. When we entered, yes, as if she had a headache.

Q. Her hair dishevelled? A. Yes.

Q. Otherwise fully dressed? A. Her waist was unbuttoned.

Q. How many buttons? A. It was loose; I don't know how many buttons; I didn't count them.

Q. Was there more than one button loose, as if she had taken her collar off? A. It was down; it was not all the way down.

Q. When you got into the room you took her by the shoulders and you said: "Shut up or I will call the police and take you and your damned nigger in the patrol wagon." A. I did not.

Q. Did not Mr. Huck say: "No violence is need-

ed," and you took your hand off her? A. No. I did not lay my hands on her. I walked to the window.

Q. When you locked this door you say you heard someone say: "Somebody open the window"? That is what you say you heard? A. I did not say anybody said that. I said I heard somebody at the window.

Q. I understood you to say that you heard somebody say: "Somebody open the window?" A. Someone said: "Quick," and there was a shuffle and I had to act quick; I cannot tell you—I acted quick.

Q. I want to find out whether you say now that you heard someone in the room say: "Quick, somebody open the window," or you simply heard someone say: "Quick"? A. "Quick"; and we heard a noise at the window.

Q. Did you say "Let us in, you black son-of-a-bitch, before I break the door in?" A. No, sir.

Q. Did you say that before you turned the key? A. No, sir.

Q. Did you hammer on the door and say: "We have got the goods on you, you better come out. It is all up with you"? A. No, sir.

Q. Did you, at any time, say that thing "Now, we have got the goods on you"? A. When we entered the room I said to Mrs. Sargent—Mr. Huck was behind me and Albert—I don't know where Charlotte was—I said: "Well, it is a fine thing, Mrs. Sargent to have a nigger in your room when you are in bed and undressed," and she—I don't know whether she called me a dirty—or what she said.

Q. Did you use that expression: "We have got

the goods on you," or "We have got you with the goods?" A. No, sir.

Q. Or any phrase like that? A. No, sir.

Q. "We have got the goods on you"? A. No, sir.

Q. Did you say "We have got the goods on you, you better own up and tell everything?" A. No, sir; nothing whatsoever. I left her in charge of Mr. Huck.

Q. You had seen Mr. Huck? A. I did not see him in days previous.

Q. How did you know you could reach him on the telephone; where did you reach him on the telephone. A. At his home.

Q. Jersey City? A. Jersey City.

Q. What did you tell him? A. I told him to come over—I didn't tell him—Mr. Wilsdon telephoned.

Q. You had no conversation with him? A. No.

Q. You let him in? A. Yes.

Q. What did you tell him when you let him in? A. "The jig is up," I think I told him.

Q. You told him "the jig is up?" A. Yes.

Q. You told him you had the room locked and had them in it? A. Had who?

Q. These two people? A. No; I knew the colored man got away.

Q. How did you know he got away? A. I saw him running.

Q. How close were you? A. He was down the street.

Q. How close to you? A. Five hundred feet.

Q. Did you go after him? A. No, sir.

Q. You did not run out after him? A. No, sir; I could not have kept up with him.

Q. Did you have a pistol? A. Yes, sir.

Q. Did you fire a shot? A. No, sir.

Q. Did you go to his wife's house afterwards and tell her that she could get a divorce from him; that you had seen him jump out of a window and had fired a shot at him? A. No, sir.

Q. You did not go to his wife and tell her that? A. Never.

Q. Nothing like that? A. No, sir; the only colored house I went to, I took Charlotte in the car to see that she got home safe that night. That was our orders from the attorney.

Q. Were you to be paid a fee, and a larger fee in case of success? A. No, sir; my price was made with Mr. Huck.

Q. Everything to Mr. Huck's generosity? A. Yes.

Q. How much were you paid altogether for this work? A. The bill was $575 and then there was expenses.

Q. Any expenses out of the $575? A. No, sir.

Q. It was for eight days' work, was it? A. Eight days' work.

Q. Have you been promised anything if there is a successful termination of this case for the petitioner? A. No, sir.

Q. Anything in addition? A. They have a receipted bill in full. I claim no more money.

Q. Have you, in your fifteen years' experience, testified frequently in divorce cases? A. We had in fifteen years, thirty cases. This is the thirtieth case.

Q. Have you ever testified? A. Yes.

Q. How many times have you testified since you started business? A. Divorce cases?

Q. Yes. A. We refuse them. We do not care for divorce work.

Q. You do not? A. I took it because I get other work from Mr. Huck's office.

Q. Then you took it under protest? A. No; not under protest.

Q. You don't like them? A. No. I make no specialty of them. My records will show.

Q. You say you have testified in thirty cases? A. In fifteen years.

Q. You say you have testified in thirty cases— A. In fifteen years.

Q. Have you ever had a case where the doors were locked by servants under your instructions? A. Certainly not.

Q. Have you ever had any other case resembling this case? A. There were no doors locked.

Q. Assuming this door was shut by the servant Charlotte— A. We had another case in 1910 where we had to use a woman operative in the house, and there we had to—

Q. Did you ever operate this way: By having the door shut on people, or was the door shut when you got there? A. Yes; I found the door shut.

Q. When you got there? A. Yes.

Q. You did not have to shut the door? A. No, sir.

Q. In the other case? A. In what other case?

By the Court: Q. He is talking about another case. A. What other case?

Q. I don't know—some other case. A. We shut no doors.

Q. He is not asking you that; he is asking you whether you ever had a case similar to this one before? A. We never had a case similar to this one before.

By Mr. Simpson: Q. You said you had one in which you had a woman operative. A. We had to employ a woman.

Q. And the door was shut when you got there? A. We never got the evidence in that case.

Q. You could not get the evidence? A. No.

Q. The servants did not shut the door? A. They went outside—

Q. After you saw this man running away did you go to his house? A. I didn't know where he lived.

Q. You didn't know where he lived? A. I didn't know Simmon's address.

Q. Mr. Huck didn't tell you where he lived? A. No, sir.

Q. Mrs. Sargent never told you? A. No.

Q. You went to work on this case without knowing where he lived? A. I never went to Mr. Simmons' place.

Q. But you did know where he lived? A. I did not.

Q. You never heard where he lived? A. Fifth Avenue, someone told me, in a garage.

Q. Have you brought here any memorandum of the dates that you were at the house; can you tell me the eight days that you were there? A. Just--

By the Court: Q. Have you got any memorandum here? A. No, sir; I kept no memorandum, because I gave verbal reports to Mr. Huck.

By Mr. Simpson: Q. You are a private detective? A. Yes.

Q. Fifteen years' experience? A. Yes, sir.

Q. You know the importance of showing times? A. If they request them, we give reports.

Q. Do you know the importance, when you come

into Court to testify in a case like this, of being able to say that this happened on the 11th of July? You know the importance of that, don't you? A. Yes, sir.

Q. Did you, during this whole period, keep a memorandum so that you can tell me that it was on the 8th of June at 11 o'clock in the morning I heard this mumbling in the room underneath? A. That is on the wall of the house down there, I think, with the dates.

Q. Have you got it down anywhere? A. I made no copy of it.

Q. Can you tell me whether you were in the house on the 8th of June and you heard these two people mumbling at 8 o'clock in the morning? A. Yes; I was in that house.

By the Court: Q. On the 8th of June? A. I cannot swear it was on the 8th or 9th.

By Mr. Simpson: Q. Were you there on the 15th of June at 2 o'clock in the afternoon? A. All through the month of June I was there on and off.

Q. Were you there on the 15th of June in the afternoon? A. I don't recall.

Q. In other words, you can't tell us what different days you were in the house, except this one date; you cannot give us any other date? A. Let me see. I can perhaps give you—this is how it was—may I explain to you?

By the Court: Q. You have testified in thirty cases in Court? A. Yes.

Q. It does not seem to have given you any knowledge at all of the advisability of answering a question that is asked you, directly. A. I have no record now except my marks on the panels and in the wall.

By Mr. Simpson: Q. Let us get it perfectly straight. You cannot tell me definitely any date or time except the 11th of July, can you? A. Except reports that would have been—

Q. Now? A. I have no record, no. Reports were

By the Court: Q. Did you send a report in writing? A. Typewritten report.

Q. Would you say that was in writing? A. Typewriting.

Q. Would you say typewriting was in writing? A. No.

By Mr. Simpson: Q. Now, then, go back to the 11th of July. You say you watched the car go out, the limousine go out, from your attic room? A. Yes, sir.

Q. What time did it go out? A. I heard it go. We did not see it go. We entered the house at nine o'clock.

Q. You heard the car leave the house what time? A. It left a little after one. We heard it come back. I was in the house with operative Wilsdon.

Q. What time did you hear it come back? A. It came back about 11 o'clock.

Q. At night? A. a. m. It left again a little after dinner.

Q. Did you hear it go out again? A. Yes.

Q. Coming back what time? A. Coming back at 8 p. m.

Q. Did it go out again? A. It left the house.

Q. Did it come back again? A. No.

Q. Then, what you are testifying to, as I understand it, is that you heard Mrs. Sargent in the house from 8 o'clock until the time you turned the key in the door? A. Around 8 o'clock.

Q. You heard her around the house, from 8 o'clock? A. Yes.

Q. What time did you hear them come upstairs? A. About 8:30 or 9 o'clock they were talking in that room.

Q. How long was the woman in that room and the man in the room with her; how long did you hear them talking? A. Well, I believe from about a quarter after nine to ten o'clock. Everything was quiet, still as a mouse in that house, and I could hear this mumbling. I could not hear anything that was said.

Q. Were there three voices? A. Only two voices I heard.

Q. When you came downstairs it was what time? A. It was about twenty minutes to eleven.

Q. At that time you found Charlotte in that hall, didn't you? A. She was trying to give me the signal then.

Q. You found her in the hall? A. At the foot of the attic stairs.

Q. You found her in that hall there? A. Yes.

Q. What time was it that you heard these voices in the room? A. About a quarter to nine.

Q. A quarter to nine? A. Yes.

Q. Then you didn't hear anything until when? A. It was about five minutes to ten I left my room in the attic, trying to hear more, and I went out, got fresh and went out to the balcony.

Q. When you got fresh you did see something and hear something, so that you did not see or hear anything until you got fresh? A. I saw something and heard something.

Q. How long were you making that observation? A. I retreated—

Q. (Question repeated by stenographer.) A. A few minutes. Five minutes I will say.

Q. Then you went right back in the room, didn't you? A. After that I did, yes.

Q. Did you shut the door then? A. No, sir; the door was not open after the man had been up.

Q. Was the door open before you retreated, before you made the five minutes' observation? A. Yes, sir; my door; I had to go out.

Q. In that door was ground glass? A. Very thin ground, grayish glass. Smoked glass I call it.

Q. Not a transparent glass that you could read through? A. No.

Q. Through this smoked or ground glass you could tell that this man did not have a collar or necktie? A. Positively.

Q. Then your door was open all the time with one exception; how long was it closed; how long di you keep it closed? A. You could tell when people were coming; you could hear them.

Q. How long did you keep it closed? A. Until he went downstairs, until about ten minutes to ten.

Q. How long was that in time? A. I should say forty minutes.

Q. During that time you heard something in your room? A. He was whistling and then he stopped.

Q. Whistling for forty minutes? A. Whistling and then he stopped.

Q. Did you hear anything except whistling? A. Yes; talking.

Q. Could you distinguish voices? A. The voices I heard before.

Q. Charlotte's voice? A. I did not hear Charlotte's voice.

Q. Then you came downstairs at what time? A. I came downstairs about twenty minutes of eleven.

Q. From ten minutes to ten to twenty minutes to eleven what were you doing? A. What was I doing? Listening.

Q. With your door closed? A. No, sir. I had no fear. The house was searched. I left the door open.

Q. Was the door open or closed? A. It was open.

Q. Through the open door you heard nothing from ten minutes to ten until twenty minutes to eleven? A. I heard Mrs. Sargent leave the bathroom and go into her room.

Q. You heard her come out of the bathroom? A. Yes.

Q. What time did you hear her come out of the bathroom about? A. About five minutes—she was in there about five after ten, ten after ten; I don't know.

Q. I asked you from ten minutes of ten until twenty minutes of eleven whether you heard or saw anything, and you said: "Yes; I heard Mrs. Sargent come out of the bathroom." When did she enter the bathroom? A. She entered the bathroom a few minutes of ten.

Q. That is when you saw her? A. Yes.

Q. Then you went and closed your door and had it closed and stayed there until— A. Never closed the attic door.

Q. Never had it closed? A. Not after that; we had it open.

Q. After what? A. After I saw Mrs. Sargent in the bathroom.

Q. You never closed it? A. No; I wanted to listen, to get my bearings.

Q. Never mind that. What time did you hear Mrs. Sargent in the bathroom? A. A few minutes after ten; I should say five minutes.

Q. Didn't you testify a little while ago it was ten minutes after ten that you went back in your room and stayed there until twenty minutes of eleven? A. I testified, I think, she went into the bathroom a few minutes before ten and that she said "Stop Charles," and came out of the bathroom a few minutes after ten.

Q. Did you see her come out of the bathroom? A. No, sir; I was in my room with the door open and Albert was behind me.

Q. Your operative was behind you? A. I call him Albert.

Q. You stayed in your room until twenty minutes of eleven? A. I stayed in my room until half-past ten.

Q. What time did you turn the key in the door? A. It must have been twenty minutes of eleven, between twenty and a quarter of.

Q. What were you doing in the ten minutes? A. Everything was quiet downstairs. We could hear a few sounds. When I got at the top of the balcony of the attic as I call it, where you can see right down, see down on to the second floor, I heard someone call; "Charlotte, or Charlotte," and Charlotte was there trying to get to the buzzer. We had a buzzer in the house.

Q. How near was the buzzer to the door? A. The buzzer was on the second step up from the—

Q. Where was the buzzer with reference to the door? A. The buzzer was under the step of the second step.

Q. How far from the door, one foot, two feet or three feet; how far from the door of this room in which these people were? A. It was at the end of the hall, on to the stairs going to the attic.

Q. How far is that from the door; how far had Charlotte to walk to the buzzer after she shut the door? A. I don't know how far she walked.

Q. Don't you know where the door is? A. I am talking of the door to the attic.

Q. I am talking of the door to the attic.

Q. I am talking about the door that you locked, that you turned the key in? A. That is about twelve or fourteen feet I should say.

Q. From the buzzer? A. From the buzzer at the foot of the attic stairs.

Q. Which side of the step is it on, the same side as the room in which you say Mrs. Sargent was, or the other side? A. (Illustrating) Here is the step going up to the attic. The buzzer is right here (indicating).

Q. On the same side? A. On the side toward the bathroom, the bathroom side.

Q. The bathroom side? A. The door is here---

Q. You know the door you turned the key in? A. Yes.

Q. You say that is twelve or fourteen feet from the step on which the buzzer was? A. The buzzer was on the attic stairs.

Q. On the attic stairs, another flight up. Were these stairs coming up from the floor on which you turned the key, or was there another flight? A. It was from that flight.

Q. The step that the buzzer was on, was it near the door that you turned the key in or was it on the other side of the stairs? A. It was there as you

go up to the attic, you pass the buzzer on the second step; it is on the left-hand side going up.

Q. Was the door on the left-hand side? A. The door was there; yes, sir.

Q. All she had to do was to walk right over from that door and press that buzzer. Where were you when you saw her press the buzzer? A. I was in the balcony at the top of the attic stairs.

Q. You had not come downstairs yet? A. No.

Q. How soon after you heard or saw Charlotte at the buzzer did you come downstairs? A. Immediately.

Q. You came downstairs and went to the door and tried it and locked it? A. Rushed downstairs, tried it and then it was locked, and then I locked it on the outside.

Q. Did you hear Mrs. Sargent say: "Charlotte, Charlotte, Charlotte what are you doing?" A. No, sir.

Q. Did you hear what she said after she called Charlotte? A. Just "Charlotte, Charlotte;" that is what I heard.

Q. Didn't you hear her say: "What are you doing? What have you done?" A. I heard nothing, nothing except shuffling in the room and someone said, "Quick."

Q. You heard the shuffling? A. Yes.

Q. This "Charlotte, Charlotte," was it quite loud? You heard it quite plain? A. You could hear them—

Q. Could you hear her call "Charlotte, Charlotte," when you were at the top of the attic stairs? A. Yes.

Q. Is that what made you come out of your room? A. No, sir.

Q. Were you out of your room when you heard it? A. I was.

Q. Had you come out— A. (Interrupting) I was at the balcony.

Q. You heard it quite plain did you? A. Yes.

Q. At that time could you see whether the door was shut or open? A. I could not see nothing; I came downstairs.

Q. You could not see the door when you heard her cry: "Charlotte, Charlotte?" A. I could not see it.

Q. You could not see whether that door was open when you heard her cry "Charlotte, Charlotte"? A. No.

By the Court: Q. Did that cry apparently come through the open door of Mrs. Sargent's room? A. I don't know.

Q. From the sound of it? A. It could have come right up to the attic stairs that faced her room.

Q. Was it a louder sound than the mumbling that you heard? A. It was a call to Charlotte calling her—

Q. Was it a louder sound? A. No.

Q. Was the door apparently open? A. It was not a screech.

Q. She called, "Charlotte, Charlotte." Would you say the door was closed, from the volume of sound? A. It must have been closed. I should say it was closed.

By Mr. Simpson: Q. It was a sharp preemptory cry that you heard; it was a sharp preemptory cry, given in command? A. No, sir. You could hear "Charlotte, Charlotte." It was half-past ten or eleven o'clock and there was no noise out.

Q. It was a sweet, caressing cry to Charlotte? A. No; it was a command.

Q. It was a command? A. Yes.

Q. Will you give me again the date that you say you went to the house first? A. May 22d, I think I went over and looked over the premises with one of the men.

Q. When did you first operate there; what date did you first go there to operate? A. I started to operate from May 22d.

Q. You were in the house on May 22d? A. Yes.

Q. During all that period of time from May 22d to July 11th, you were in constant communication with Charlotte, were you not, talking with her every time that you were in the house, in conversation with her, giving instructions and orders, were you not? A. Correct.

Q. She was acting under your instruction, was she? A. Viola was. I spoke to both of them.

Q. You regarded Charlotte as trustworthy, didn't you? A. No more than the one I put in there.

Q. They were both trustworthy? A. Yes.

Q. You found Charlotte willing to give you information and you told her what to do and you gave her directions? A. Yes; I would say so.

Q. You found her pretty faithful, didn't you? A. Pretty much so.

Q. Who took your meals up to you? A. Sometimes Viola. Sometimes they would bring me up a sandwich and a cup of coffee, and sometimes Charlotte would come up.

Q. You had ample opportunity, if you desired to, to arrange for Charlotte to shut this door on these two people when they were in the room? A. No, sir.

Q. You had no opportunity, although you were in conversation with her all the time you were there, and she was doing whatever you told her, and you were giving directions and orders and regarded her as trustworthy, and you say you had no opportunity to arrange with her to shut the door, do you? A. I cannot answer that question.

The Court: Is not that a matter of argument. It is quite evident that he did have an oportunity.

Q. These telephone conversations, can you give me the date of the one when she said: "Dearie, telephone the garage and if he is not there come up"—can you give us the date of that conversation? A. No; I have not the date of it. It is on the panel of the wall. I cannot say that.

The Court: Please do not constantly repeat that it is on the panel of the wall, when Mr. Simpson asks you to state the date now at the present time.

Q. Can you give me the date when that conversation happened? A. No.

Q. Can you tell me whether it was in the day time or night time or afternoon or when it was? A. It was generally mornings.

By the Court: Q. He is asking you about this particular conversation when she said: "Telephone the garage?" A. That was in the morning.

By Mr. Simpson: Q. You don't remember what day of the week it was, do you? A. I think it was Monday.

Q. On Monday? A. On Monday.

Q. Had you been working there all night when you heard that? A. I was there over night. I stayed all night that night.

Q. Was it long after the 22d of May when you

heard this conversation? A. That was the middle of June.

Q. Was that the first conversation you had heard? A. One of the first I think it is.

Q. How long had you had the extension telephone—from the time you went there? A. It was about the 1st of June when I wanted to get a line on different conversations.

Q. You listened on other conversations, didn't you? A. Mostly all, yes.

Q. And the first that you heard was about the middle of June, that is, as you describe. When was the next one that you heard? A. With Charles or with anyone else?

Q. Charles. A. One time that he took Mr. Sargent—he went away with the car to the lodge, I think it was. He telephoned from the garage when he brought the car back.

Q. Was that the ice-cream conversation? A. Yes.

Q. What time of the night was that? A. About 9:30.

Q. Now, was there any more; can you tell me how many conversations you heard altogether? That is two that you have given us? A. No; I cannot recall how many I had.

Q. In your fifteen years' experience in these cases, did it ever occur to you to make a memorandum of a conversation? A. I made a memorandum.

Q. Have you it with you? A. No, sir.

Q. You haven't got it? A. No, sir.

Q. Have you it dated; did you date it? A. Yes; they are all dated.

Q. And can you tell me how many days in suc-

cession you were in the house prior to the 11th of July; were you there every day or every other day or for how long? A. I remember three days one time in the middle of June I was there and could not get an opportunity to get out.

Q. Three days? A. Three days in succession when they served my meals to me.

Q. Did you receive any further instructions from Mr. Sargent about the 11th of July? A. None whatever.

Q. Nothing that he was going to be away? A. Yes; this was the third time that they had given me instructions that he was going to Vermont, I believe, with somebody.

Q. And to do what? A. To take extra precaution that nothing went wrong.

Q. Extra precaution? A. Yes.

Q. Had you been told by Mr. Sargent that there was something wrong there? A. That is how I happened to get the case.

Q. Did he tell you that he heard the chauffeur was in love with his wife, and that he put you in there to give you an opportunity to watch them? A. The first time I knew was May 15th.

Q. Who told you that? A. Mr. Huck called our office up and I was sent over to meet Mr. Sargent. We went over a few things. He said from the talk of the servants and from other things, that he believed that something was being done that was wrong. He said, "I hope it is not true." But they made arrangements to hire our office to find out if these things were true.

Q. He told you he believed it was true? A. He hired me to find out if it was.

Q. Did he tell you he believed or did not believe

it? A. He did not say whether he believed it, sir.

Q. But he had reason to put you in there, he told you? A. Yes.

Q. And he was going away to give you every opportunity to find out what was going on, did he tell you that? A. No.

Q. Were you told that by Mr. Huck? A. No; he went away three times. I was in that house two nights on other occasions when he went out.

Q. Today, in the hall, you have been instructing your operatives how to testify? A. Not one.

Q. Didn't you tell them what to say about their salary, what they are to say when they go on the stand? A. No. I spoke to Viola, and I said, "They may ask you who paid your salary." I said, "You were hired for $18 a week." Mrs. Sargent paid her $50 a month. I said, "Viola, our office will let you take that $50 and pay you the difference."

Q. That is what you instructed her about today? A. I did not instruct her. I said, "If they ask you your salary, you received $18 a week."

Q. Do you ever give other people instructions how to testify? A. Only Viola. She cannot calculate. That is what I wanted her to do.

Q. You were interested enough to prepare her for the witness stand? A. I did not prepare her. That was just a question that might come up.

Q. You say that Mrs. Sargent went out with you voluntarily. Didn't she tell you that she would not leave the house? Didn't Mr. Huck have a letter already prepared from Mr. Sargent which he showed her, in which he says: "It is my

order that you have to get out of this house''? A. No, sir.

Q. Nothing like that? A. I have the letter here, if you would like to see it. I was to take charge or Mr. Huck was to take charge. If I could not get Mr. Huck on the 'phone I was to take charge of the house. I ordered nobody out.

Q. This letter was already prepared and in your possession? A. I think I got it the second week or third week.

Q. June 19th it is dated. This is what you showed Mrs. Sargent on the night of the raid? A. That is the letter.

Q. That is, that you should take charge of the house, is it not? A. Either Mr. Huck or I.

Q. And she was to get out? A. I found the man there, that was enough. I left it entirely to Mr. Huck, what he wanted to do.

Mr. Simpson: I ask to have this letter marked for identification.

Letter is marked D-1 for identification.

Q. Mrs. Sargent protested about going out, didn't she? Didn't she say it was her home? A. She carried on awful.

Q. Didn' she protest about going out? A. She wanted to know what she could do. It was her home.

Q. You told her to get out? A. No, sir.

Q. Who did? A. I was sent out of the room.

Q. She got out, didn't she? A. She got dressed and I saw them telephoning—telephoning to Staten Island or Richmond Hill.

Q. Did you go out with her? A. We went out and I locked the door.

Q. Didn't she say to Mr. Huck, ''Oh, Mr. Huck,

you of all men, who have dined at my table, to put up a game like this''? A. I did not hear that conversation.

Q. Do you remember hearing her say, ''You of all men, in a case of this kind, putting up a job like this''? A. ''You of all men to be here at this time,'' she said.

Q. What did Mr. Huck say? A. He was very quiet and very nervous over the affair also. We all did not like the position we were in.

Q. You hated to get that $575? A. It was not mine. I would have liked it if it was mine.

Q. You were very nervous. You had slept in this house for eight nights; you had taken your meals up in the attic and it made you nervous. Did you tremble? A. It ain't a nice position to be put in.

Q. Didn't you personally tell Mrs. Sargent it was Mr. Sargent's orders for her to get out of the house? A. I don't think I said that at all.

Q. Is your memory clear about what happened? Will you say you did not say it? A. My memory is clear that Mr. Huck would take charge.

By the Court: Q. What you said to Mrs. Sargent is what Mr. Simpson wants to know? A. We said many things. She claimed innocence.

Q. Did you say you did or did not say to Mrs. Sargent that it was Mr. Sargent's instructions for you to take charge of the house? A. I might have said that. I don't recall it.

By Mr. Simpson: Q. This letter was shown to her? A. This letter was there, yes, sir.

Q. That was shown to her? A. Yes.

Q. You say she was protesting her innocence. How was she protesting her innocence? A. She

says, "I was doing nothing wrong. My home will be broken up. What will I do? Where will I go? What will I do?" Mr. Huck tried to condole her.

Q. How did he try to condole her—by putting her out? A. He said: "This is no place for you to be. Let us call up some of your friends." She didn't want anyone to know anything about it. Finally they got some sister—I don't know who it was—on the telephone. I tried to go out and tried to hunt up a car to make it convenient for her, and we went to Richmond Hill.

Q. Your desire was to make it as convenient as possible for her by putting her out? A. No; she asked suggestions what she should do. It was nothing to me.

Q. When she said, "I have done nothing wrong. What will happen to me? What will I do? Where will I go? I have done nothing wrong," what did you say? A. I don't know that I answered. Mr. Huck talked.

Q. She was protesting, "I have done nothing wrong. You have broken up my home." Didn't you say to her, "Of course you have done wrong"? A. I did not, no, sir; I walked away; I was disgusted with the whole affair.

Q. Didn't you bar the house after she got out? A. No bars. We only had a key.

Q. Your agency locked up that house that night; you had the keys? A. We locked the front door. Charlotte locked the back and I was the last one out.

Q. You had the key to the house after she went out, didn't you? A. Yes, sir, and I sent them down—

Q. (Interrupting) When Mrs. Sargent was finally permitted to return they had to telephone to your agency to get you to open the house? A. Mr. Huck telephoned and I had a man down there at 9 o'clock to let her in.

Q. When was that? A. The next morning.

Q. The next morning at 9 o'clock? A. Mr. Huck made a promise to Mrs. Sargent, after he employed for her that night to go over to somebody, that he would see she got in the house in the morning.

Q. You got her over to Richmond Hill at 3 o'clock in the morning and she got back at 9? A. Nine or half-past nine.

Q. The next morning? A. The next morning.

Q. What was your idea of putting her out of the house at 3 o'clock in the morning? A. We left there at 12:15. I did not know where the sister lived. I had to ask the policemen in Richmond Hill where certain streets were.

Q. Didn't you also tell Mrs. Sargent that she better get out of the house, the courts would order her out? A. Never.

Q. Never told her that? A. Never.

RE-DIRECT-EXAMINATION by Mr. Lane:

Q. As a matter of fact, how much did you pay Viola? A. Eighteen dollars a week.

Q. How much did Viola get from Mrs. Sargent? A. Fifty dollars or forty dollars—I don't know. Whatever it was was deducted from the $18 a week.

Q. The whole amount that she got was $18 a week? A. Yes.

By Mr. Simpson: Q. Was that the ordinary

pay of an operative? Do you want us to understand she was getting less than $3 a day? Does not an ordinary operative for a detective agency get $10 a day? A. They do on certain cases.

Q. What do you charge for your operatives? A. I will furnish you one for $6 or $8 a day, according to the kind of case.

Q. Eight dollars a day? A. Six dollars a day.

Q. Viola got $3 a day? A. It was an easy job. All she had to do was to take care of the kid.

Q. How long had she been in your employ? A. The first time I ever used her.

Q. Have you used her since? A. No, sir. She had a permanent position there. She is minding the baby. It was such a nice little baby she got attached to it.

At this point adjournment is taken to Wednesday, November 10, 1920, at 10 o'clock in the forenoon.

Court met pursuant to adjournment, this 10th day of November, 1920, at ten o'clock in the forenoon.

Appearances as heretofore.

ALBERT W. WILSDON, sworn as a witness on the part of the petitioners, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. Two-fifteen North Sixth Street, Newark.

Q. Do you know Mr. Tienken? A. I do.

Q. Were you associated with Mr. Tienken in this Sargent matter? A. I was.

Q. When did you first go on the case? A. May 26th, 1919.

Q. Now, commencing from May 26, 1919, down to the night of the so-called raid, will you tell us what you did and what you saw? A. Well, on several occasions prior to July 11, 1919—

Q. What did you do first? A. On the 26th of May I called at Mr. Sargent's house No. 27 Kensington Avenue, and went over the promises for the purpose of determining the best way of locating our wires, as I decided that was the best way—

Q. What did you do? A. We looked over the house and after the 26th of May we installed a servies of wiring for the purpose of signals.

Q. Yes. A. I also covered the outside on several occasions and trailed the machine in which Mr. Simmons and Mrs. Sargent had sometimes both ridden, and sometimes only one, being the chauffeur.

Q. Now, when did you go in the house, to stay in the house? A. Well, I had been in the house on several occasions prior to July 11th.

By the Court: Q. He is asking what you did from May 26th on down to July 11th. Where did you go and where did you stay in the house the first time you stayed there? A. The first time I stayed there was about two weeks prior to July 11th.

By Mr. Lane: Q. Where did you stay? A. Up in the room known as Viola's room. She was one of the servants.

Q. What floor is that room on? A. It is in the attic.

Q. How is it located with respect to the pink room? A. Across the way from the pink room is the guest room and it is directly above the guest room.

Q. The attic room is directly over the guest room? A. The guest room.

Q. How many times prior to July 11th were you up there in that room? A. Three or four times.

Q. How long a period of time did you stay there? A. Sometimes we stayed all night and other times a few hours.

Q. Were you there any time when Tienken was not with you? A. No, sir.

Q. Prior to July 11th did you hear anything from that room? A. I heard noises.

Q. What? A. Mumbling conversation.

Q. Where? A. Through different parts of the house, mostly on the second floor.

Q. Could you distinguish who was talking? A. No.

Q. Could you describe whether it was a man or woman? A. It was a woman.

Q. Could you hear any mumbling in which there were both men and women talking? A. On two occasions we heard men and women talking—that is, a man and woman, at least.

Q. When were those two occasions? A. One was the second day I was in the house and the other on the third.

Q. What time of day was it on the first occasion? A. It was about half-past eight in the morning.

Q. Where did the conversation come from or

the noise come from? A. It apparently came from the pink room.

Q. How long did it continue? A. Possibly fifteen or twenty minutes.

Q. What was the nature of the noise? A. That I don't know.

Q. Well, what did you hear? A. I only heard mumbling as if a conversation was taking place.

Q. Now, what was the talk you heard the second time? When was that—on the second occasion or the third occasion? A. The third occasion.

Q. What time of day was that? A. That was about half-past eight in the evening.

Q. How long did it continue? A. About twenty-five or thirty minutes.

Q. What was it and what did you hear? A. Just mumbling.

Q. Could you distinguish what was said? A. No, sir.

Q. Could you tell where it came from? A. From the location of the pink room.

Q. Did you see Mr. Simmons and Mrs. Sargent at any time prior to July 11th in the house together? A. I did not see them in the house. I saw them enter.

Q. Did you see them in any of the rooms of the house is what I ask? A. No, sir.

Q. You did not see them together in the house? A. No, sir.

Q. When did you see them enter? A. On numerous occasions Mrs. Sargent alighted from the machine, and on one occasion Mr. Simmons went to the back with a package and entered the rear.

Q. Was there any occasion that Mrs. Sargent

and Simmons went in the front door together? A. Yes, sir.

Q. How many occasions was that? A. Three or four.

Q. What time of the day? A. Sometimes in the early part of the afternoon; again about 7 or 8 o'clock.

Q. In the morning or at night? A. At night.

Q. Now, getting down to the night of the raid where were you? A. I was in Viola's room.

Q. With Tienken? A. Yes, sir.

Q. Tell us what happened? A. We went in there after 5 o'clock and went upstairs. About 8 o'clock Mrs. Sargent returned. The chauffeur went to the garage with the machine and he returned shortly. About a quarter after nine he was in the house. It was probably about half-past nine or a quarter of ten when he started upstairs to try the doors and to search the attic.

Q. Who was "he"? A. Charles Simmons.

Q. How do you know he searched the attic? A. Well, we could see from our room. It is a ground glass window there and we could see his form on the outside.

Q. Did you hear him try the doors? A. Yes.

Q. Did he try the door of the room you were in? A. He did.

Q. Go on. A. He went downstairs whistling. About 10 o'clock we opened the door and Mr. Tienken went to the head of the stairs leading down to the second floor.

Q. How do you know? A. I went with him.

Q. All right. A. Mr. Tienken was looking over the side of the bannister and I told him to be careful that he might make a squeak and they are liable to hear us—

Q Go on and tell us what happened? A. Mr. Tienken was looking over the bannister—

By the Court: Q. Tell us what you did. Not what Tienken did. A. Well, I stayed there.

By Mr. Lane: Q. Go on. What happened? A. I heard a woman say, "Stop, Charles." We went back to our room at about 10:35 to a quarter of eleven; we came out different times and came back again. About a quarter to eleven Mr. Tienken was looking over the bannister when he saw Charlotte—

By the Court: Q. Tell us what you did and not what Tienken saw or did? A. Well, about a quarter of eleven I went downstairs.

By Mr. Lane: Q. With whom? A. Mr. Tienken.

Q. Go ahead. A. I heard somebody shout, "Charlotte, Charlotte," as I was coming down the stairs. I immediately rushed to the front window which is at an angle across the house; it is not exactly on the front but on the side; it goes across the corner of the house. I saw Charles Simmons come out of the window and jump off of the roof and continue down toward Bergen Street.

Q. Yes. A. When I saw that he was getting away—

Q. Never mind that. What did you do? A. I went downstairs to see if he would come back and also to be with Mr. Tienken. I looked up at the window and I saw Mrs. Sargent with a pink kimono on pulling down the shade.

Q. Were you on the inside of the house or outside of the house when you saw that? A. On the outside of the house.

Q. Go on. A. I returned to the house, went upstairs and telephoned for Mr. Huck.

Q. What next? A. Then Mr. Huck came—

Q. After you telephoned to Huck, and before Huck came, where did you go? A. I was in the house all the time.

Q. Well, did you go upstairs or stay downstairs? A. I stayed on the second floor.

Q. That is the floor that the pink room is on? A. Yes.

Q. What part of that floor did you stay on? A. I was in the front near the telephone.

By the Court: Q. Where was the telephone? A. It was right at the front of the hall.

Q. Second floor or first floor? A. Second floor.

By Mr. Lane: Q. Where did Tienken stay? A. After Mr. Huck came—

Q. Before Mr. Huck came? A. Mr. Tienken was looking around for Charlotte.

Q. How many minutes elapsed between the time you telephoned to Huck and Huck's arrival? A. Fifteen or twenty minutes.

Q. Won't you please tell me what you were doing during that fifteen or twenty minutes? A. I went downstairs on the porch to see if Charles would come back.

Q. Did you stay there? A. No; I came up again. I was in different parts of the house during that time, between Mr. Huck's call and Mr. Huck's arrival.

Q. Didn't you stand in front of the door of the pink room all the time? A. Not all the time.

Q. Did you stand in front of the door of the pink room part of the time? A. Possibly three or four minutes at a time.

Q. During that time what was Tienken doing? A. He was in different parts of the house mostly looking for Charlotte.

Q. After Mr. Huck came what happened? A. When Mr. Huck came, Mr. Tienken opened the door and went inside and said to Mrs. Sargent—

Q. Did you go with him inside? A. Yes.

Q. Did Huck go with him, too? A. Yes, sir.

Q. When you got in where was Mrs. Sargent standing? A. By the bed.

Q. How was she dressed then? A. She had on a black skirt with a tannish waist.

Q. What was she doing? A. She was standing there.

Q. Tell us what happened? A. Mr. Tienken said to Mrs. Sargent, "It is a fine thing to have a colored person in the house, in your room, while you are undressed." Mr. Huck said he would take charge of the matter. Mrs. Sargent replied to Mr. Huck, words to the effect, "You, of all persons, Mr. Huck, to be in my house at such a time as this."

Q. Go on. A. Mr. Huck took entire charge. We went outside and left Mr. Huck in there with Mrs. Sargent.

Q. What did you do? A. I waited around the house for the machine to arrive.

Q. Then what did you do after the machine arrived? A. Mrs. Sargent, Mr. Huck, Mr. Tienken and myself got into the machine and went to Mrs. Sargent's sister's house in Richmond Hill.

Q. Where is the bathroom door with respect to the back stairs? A. It is cat-a-corner. As you come downstairs you turn about two steps to the left and you face the bathroom door.

Q. I show you three photographs and ask you whether you can identify the man in the photographs? A. Yes, sir.

Q. Who is he? A. Charles Simmons.

Mr. Lane: I ask that these be marked.

Marked Exhibit P-3, Exhibit P-4 and Exhibit P-5.

CROSS-EXAMINATION by Mr. Simpson:

Q. Where did you say you lived? A. Two fifteen North Sixth Street, Newark.

Q. How long have you lived in Newark? A. Two years.

Q. Where did you live before you lived in Newark? A. Charles Street, New York.

Q. How long did you live in Charles Street, New York? A. About two years.

Q. Where did you live before you lived in Charles Street, New York? A. East Orange.

Q. Where in East Orange? A. North Eighteenth Street.

Q. What number North Eighteenth Street? A. I think it was 342.

Q. Near what cross street was it? A. I don't just exactly know the cross street, because they end on North Eighteenth Street.

Q. What is the nearest intersection street to the street you lived on? A. Springfield Avenue.

Q. How long did you live in East Orange? A. Two and a half years.

Q. Where did you live before you lived there? A. One Hundred and Eighty-fourth Street, New York.

Q. What number? A. Six hundred three.

Q. How long did you live there? A. I had been there probably three or four years.

Q. How old are you? A. Twenty-four.

Q. How long have you been in the detective business? A. About eight years.

Q. You went into it when you were sixteen, did you? A. Yes.

Q. What did you do at sixteen years of age in the detective business? A. Well, I just watched parties.

Q. Were you in business before you were in the detective business? A. No, sir.

Q. Whom did you begin to work for at sixteen—what agency? A. Mr. Charles McDonald.

Q. How long did you work for him? A. I worked for him up to two years ago at various times.

Q. Frequently testify in divorce cases? A. Not very frequently.

Q. How many times have you been in divorce cases? A. Five or six.

Q. That is all—the limit of divorce cases that you have worked in during a period of eight years is five or six? A. Not that I worked in—that I have testified in.

Q. How many did you work in in about eight years? A. Ten.

Q. Your operation in this case began on the 26th of May, as I understand? A. Yes.

Q. And continued until the 11th of July? A. Yes, sir.

Q. And on the 26th of May, who was it arranged for the placing of the wires in that house? A. You mean the actual placing?

Q. Did you do the placing or did you have an electrician come in and do it? A. I helped with the placing.

Q. Who did it besides you? A. A regular electrician.

Q. Where were the wires put? A. They were

put from the attic down to Viola's room and from Viola's room they were put in the parlor—I don't know whether you call it the parlor on the second floor.

Q. The pink room? A. No, sir.

Q. The front room? A. Yes.

Q. How many signals were installed in the house on the 26th of May? A. There were two.

Q. Where were they located? A. There were two on one button.

Q. Where was the button located? A. Second step of the stairs leading to the attic.

Q. Was the pink room the nearest room to the button? A. Outside the bathroom and the child's room.

Q. The signal was on the step nearest the door of the pink room; it was not on the other side of the step; it was on what side of the step? A. It was on the left side.

Q. That was nearer the door than the other side of the step? A. I don't quite understand.

Q. The left side of the hall was the side on which the door of the pink room was? A. It depends on which way you are looking.

Q. Well, looking upstairs? A. It would be on the right-hand side.

Q. Looking down it would be on your left-hand side? A. Left-hand side.

Q. Walking from the door of the pink room, would a man have to cross the stair to get to the button, or would he get to the buttom first? A. He would not have to cross the stairs. You go up the stairs.

Q. He would go right to the button without going in front of the stairs? A. No; he would have to go in front of the stairs.

Q. Across the stairs? A. No, sir; the button is on the second step going up.

Q. Underneath the step? A. Yes.

Q. Is it underneath the step or underneath the front of the step as you go up? A. I don't understand.

Q. (Illustrating) Here is a step here? A. Yes.

Q. Was this under the step or on the side of the step? A. Under the step.

Q. Under the step? A. Yes.

Q. You say there were two signals connected with that button? A. Yes.

Q. Where were they? A. They were in the closet in Viola's room.

Q. What were they? A. Buzzer and flashlight.

Q. What was the purpose of the signals; what were you to be signalled for? A. In case any man was in Mrs. Sargent's room.

By the Court: Q. Where was Viola's room on the attic floor? A. On the attic floor just above the guest room.

By Mr. Simpson: Q. You occupied that room, you say a number of nights all night? A. Yes, sir.

Q. Was Viola in the room when you occupied it? A. No.

Q. Where did she sleep when you were there? A. I don't know where Viola was.

Q. She was not there? A. No, sir. We just stayed in that room.

Q. Who told you it was Viola's room? A. Mr. Tienken.

Q. Who was instructed to flash this signal when there was a man in Mrs. Sargent's room? Who got that instruction? A. I don't know.

Q. You knew it was to flash? A. Yes.

Q. You did not know who was to flash it? A. No, sir.

Q. You were talking frequently to Charlotte while you were in the house? A. Yes, sir.

Q. You frequently spoke to Charlotte? A. Yes, sir.

Q. You frequently spoke to Viola? A. No, sir.

Q. You knew Viola was there? A. Yes, sir.

Q. You knew she was an operative? A. Yes, sir.

Q. You do not know to this day who was supposed to flash the signals, do you? A. No, sir.

Q. Nobody ever told you? A. No, sir.

Q. You simply stayed there watching for that signal, without ever knowing who was to give it? A. Yes, sir.

Q. You were there from the 26th of May to the 11th of July? A. No, sir.

Q. How often were you there? A. I was there on different nights.

Q. From the 26th of May to the 11th of July, during that period of time you covered in the house, not every day, but you were there during that period of time? A. I was inside and outside.

Q. You were inside? A. Yes, sir, I was.

Q. How many days did you spend in that house, days and nights? A. Well, I didn't spend all of the time in there. We had to watch our opportunity to get in and get out without being detected.

Q. Can you tell me how many days you were in that house from the 26th of May to the 11th of July? A. I was in there probably four times.

Q. Only four times—only four times that you slept all night? A. No, sir.

Q. You said that you spent three nights. A. I spent three nights; I mean that I was in the house on those occasions.

Q. Now, you do not want to swear that you slept there three nights? A. I did not swear that I slept there three nights.

Q. Then you did not sleep there three nights? A. No, sir.

Q. You did not remain in the room all night three nights? A. No, sir.

Q. Can you tell me how many times you were there from the 26th of May to the 11th of July—how many times you were in that house? A. Five times.

Q. Mr. Tienken has testified that three days you had to stay in the house for three consecutive days because you could not get out. Is that true? A. That I had to stay there?

Q. Yes; that you and he had to stay there three days because you could not get out. Is that true?

Mr. Lane: I object to that. That is not the testimony.

Mr. Simpson: Yes; he swore to that.

Q. Isn't it true that you stayed there three days because you could not get out of the house? A. I was not there three days.

By the Court: Q. Is it true that you stayed in the house three nights and days because you could not get out? A. No, sir.

By Mr. Simpson: Q. At any time were you there all night? A. Yes, sir.

Q. How many times were you there all night? A. Two occasions.

Q. What were the dates that you were there all night? A. I don't remember the dates.

Q. Were they when you began or when you finished? A. They were about the middle.

Q. About the middle? A. Yes, sir.

Q. What did you do in the beginning of the operation? A. I trailed the machine on several occasions.

Q. What did you do with reference to the house? A. Covered the house.

Q. How did you cover the house—inside or outside? A. Outside.

Q. You were never in the house in the beginning of the operation? A. Except when I went to install the instrument.

Q. After you installed the instrument did you ever take any part, in the first week of the operation, inside the house—did you do anything in there? A. No, sir.

Q. When did you begin to operate inside the house with Tienken? A. About two or three weeks before the night of July 11th.

Q. That would bring you about—would you say it was two weeks or three weeks? A. Between two and three weeks.

Q. Can you tell us when you began to operate on this job? A. Why, I cannot tell you exactly the dates I was in the house.

Q. You have testified, you say, in court? A. Yes, sir.

Q. From the 26th of May, on which you first made reports to your superior, what were you doing? A. Most of my reports are verbal.

Q. You never made a written report? A. Sometimes. Very seldom.

Q. You make reports in writing? A. Very seldom.

Q. You did not see any memorandum or any reports of the different dates you were in the house? A. No.

Q. You don't know the dates you were in the house? A. No, sir.

Q. You say that two or three weeks before the night of July 11th you began to work in the house; is that right? A. Yes.

Q. In that two weeks how many days were you in the house? A. It extended during the period of two weeks prior up to the night of July 11th.

Q. How many days were you in the house during those two weeks before July 11th? A. Days?

Q. Or nights? A. I was in the house about four times, parts of the day and parts of the night and sometimes all night.

Q. Then July 11th was the fifth time in the house, was it? A. Yes.

Q. During all of this time the signal had never flashed for you, had it? A. No, sir.

Q. Can you give me the date, when you say, at half-past eight in the morning, you heard mumbling as if there was a conversation going on, coming from what you say was the direction of the pink room. What date was that? A. I cannot say.

Q. You don't remember whether it was the first day you were in the house, the second or third or fourth time? A. I think it was the second.

Q. You think it was the second day you were in the house? A. Yes.

Q. Eight or half-past eight in the morning? A. Yes.

Q. Where were you when you heard that mumbling? A. Up in Viola's room.

Q. Who was with you? A. Mr. Tienken.

Q. Did you have your door open or closed? A. Most of the time we were up there we had it open.

Q. This time that you heard the conversation, do you know whether the door was open or closed? A. I think it was open.

Q. You think it was open? A. Yes.

Q. You are not sure about it, are you? A. Not positive.

Q. With that door which you cannot say whether it was open or closed, the conversation coming to you, you are able to say it came from a certain room on the second floor? A. I don't say a certain room; I said the vicinity of a certain room.

Q. The vicinity of a certain room? A. Yes.

Q. You don't say it came from the pink room? A. No, sir.

Q. You say it came from the vicinity of that room? A. Yes.

Q. That room opens on the hall? A. Yes.

Q. You heard that conversation last about fifteen minutes? A. About that.

Q. Did you time it; did you have a watch? A. I just estimated the time.

Q. You just merely now say, as a matter of opinion, what the time was? A. Yes.

Q. You won't positively swear it was fifteen minutes because you took a watch out and timed it? A. No, sir.

Q. Was it indistinct mumbling or was it loud mumbling? A. It was ordinary conversation.

Q. Was the mumbling that you heard loud mumbling or low mumbling or what kind of mumbling? A. Ordinary mumbling.

Q. Was the mumbling female or masculine? A. Both.

Q. It was equally balanced? A. Yes.

Q. The female was as much as the masculine? A. Yes.

Q. Would the mumbling go on and stop for a period and go on again, or was it continuous? A. It would stop and start.

Q. How long would it stop? A. Long enough to give somebody a chance to think of something.

Q. When was the second conversation with reference to the time you were in the house, which occurred at half-past eight; how many days had you been in the house when you heard the next conversation? A. I think that was about four or five days after the first conversation I heard.

Q. It must have been very close to July 11th? A. No.

Q. How long before July 11th? A. About ten days.

Q. Ten days before July 11th, although you were in this house only two weeks, and it was the fifth day you heard the first conversation. What was your position when you heard this conversation; were you still up in Viola's room or were you out of Viola's room? A. In Viola's room.

Q. Do you remember where you were when you heard it; were you sitting down or standing up, or where were you? A. I don't remember that.

Q. Do you remember whether Tienken was nearer the door or whether you were nearer the door? A. We were both near the door.

Q. Do you remember whether the door was opened or closed? A. I don't say positively the door was open or closed, but it is my own impression it was open.

Q. You heard mumbling again? A. Yes, sir.

Q. Did it appear to be the same mumbling that you heard before; could you identify the mumbling voices? A. I could identify it the same as before; it was mumbling voices.

Q. That you think lasted about twenty-five minutes? A. About that.

Q. You did not time that either? A. No, sir.

Q. Do you remember what day of the week it was? A. No, sir.

Q. At that time where did it seem to come from —the same vicinity as the other? A. Yes.

Q. The vicinity of that room? A. Yes.

Q. But you won't say it was from that room? A. No, sir.

Q. Let us get down to the night of July 11th. All this time you had been working in the house without results, except the mumbling going on? A. Yes, sir.

Q. You knew you were to be signalled when the two people were together in the room, and you were a little perturbed? A. Not very.

Q. Was not Tienken getting impatient that he had been working on the case from the 22nd of May without getting results? A. No; we worked on longer cases than that.

Q. He didn't tell you he was getting impatient? A. No, sir.

Q. On the night of the 11th of July what time did you come to the house? A. The first time?

Q. The 11th of July, what time did you reach the house? A. The first time. I was there on two occasions on July 11th.

Q. On the night of July 11th? A. Not the night.

Q. I am talking about the night. I said twice

the night of July 11th what time did you get to the house? A. A little after five.

Q. Did you come with Tienken or was he there when you got there? A. Both came together.

Q. Who let you in? A. Charlotte.

Q. Did you know that Mrs. Sargent was out? A. Yes, sir.

Q. How did you know that? A. Charlotte told us. We telephoned first.

Q. Who telephoned? A. Mr. Tienken.

Q. Did he say anything to Charlotte over the telephone except to ask whether Mrs. Sargent was out? A. I don't know; I didn't hear the conversation.

Q. You went to the house and Charlotte let you in? A. Yes, sir.

Q. Did you both go up to Viola's room directly? A. No, sir.

Q. What did you do? A. Had a conversation with Charlotte.

Q. Did you have the conversation or did he have it or did both have it? A. In my presence he had it.

Q. What instruction was given Charlotte in your presence that night of July 11th? A. Simply told her we were going up in that room that night, the same as he had the previous Sunday.

Q. Did he tell her anything about the signals? A. No, sir.

Q. You did not hear anything about the signal? A. Not a thing.

Q. Every time before that you had gone up in Viola's room, had you not? A. Yes, sir.

Q. On this night, you say you picked out this night to tell her that you were going up in that

same room? A. We always told her we were going there.

Q. She could see you? A. Maybe.

Q. Why should you tell her you were going up there? A. I don't know.

Q. She knew Tienken? A. I don't know anything about Tienken.

Q. You don't know whether Charlotte knew that you were staying there all night? A. No, sir.

Q. At any rate you told her that you were going up and you went up and went in Viola's room at what time? A. We went up there about half-past five or so.

Q. You stayed there until you came downstairs at eleven o'clock, didn't you? A. Yes, sir.

Q. Can you pick out any other night that you got there as early as five o'clock and stayed as late as that? A. Yes.

Q. Tell us what other night? A. I don't know exactly the night. On several occasions we went in and came out—went in at half-past three and came out at half-past five.

Q. I am trying to get you to pick out for me one day in your whole trip there, in that whole operation, that you went there as early as that occasion and stayed there continuously and came out as late as that? A. I cannot say that. I was in there on several occasions before.

Q. You were never there in this operation as long as that, were you? A. Yes.

Q. When were you there as long as that? A. On the second—

Q. Second of July? A. No, the second time I was in there.

Q. What date was that? A. I don't remember the date.

Q. What time did you get there the second time you were there? A. I got in about seven o'clock the evening before.

Q. And stayed how long? A. Until about ten o'clock in the morning.

Q. You stayed all night? A. Yes.

Q. Were you waiting for the signal that night? A. Yes.

Q. You did not get in? A. No, sir.

Q. Were you out of the room at all? A. Yes, sir.

Q. Were you observing, watching? A. Yes.

Q. You saw nothing, did you? A. Nothing.

Q. That night you were there all night? A. Yes.

Q. Sargent was away that night, was he not, and you knew he was away? A. We did not know whether he was in or out.

Q. Were you not instructed he would be away? A. No, sir.

Q. You were never instructed that? A. No, sir.

Q. You never knew he was going to be away all night? A. No, sir.

Q. Never in this whole operation? A. No, sir.

Q. You always thought he might be in the house? A. Might come in any time.

Q. At five o'clock you went up in Viola's room; and what did you do; what was the first thing physically, you did? A. Night of July 11th.

Q. Yes. A. We stayed up there and had something to eat later.

Q. As I understand you, you kept in that room,

except for a period around ten o'clock, when Tienken came out and you came out behind him? A. Yes, sir.

Q. Then you went back in the room, didn't you? A. Yes, sir.

Q. You saw a man's figure against the ground glass of the door? A. That was before.

Q. Before? A. Yes, sir.

Q. When you saw the figure, how tall was the figure you saw? A. About five feet eight.

Q. How much did he weigh? A. I could not distinguish how much he weighed.

Q. You could not identify that it was the chauffeur through the ground glass? A. I would not say that it was the chauffeur positively.

Q. You would not say? A. No, sir; it was a man.

By the Court: Q. It might have been Mr. Sargent, for all you knew? A. No, it would not be Mr. Sargent.

Q. Why not? A. Because you could distinguish his curly hair. I did not know whether it was Charles Simmons at that time or—

Q. Could you tell through the ground glass whether the man had curly hair or not? A. By the outline of the shadow.

Q. Did you ever see any curly hair through ground glass before? A. I did not say I saw the hair. I saw the shadow on the glass.

Q. How did you know it was not Mr. Sargent, is what I want to get at? A. I did not think it was Mr. Sargent. I would not say.

Q. You would not say it was not Mr. Sargent? A. No, sir.

By Mr. Simpson: Q. You say, because you

could see Mr. Sargent's curly hair—A. I did not say Mr. Sargent's curly hair.

Q. Did you ever have any experience with curly hair through ground glass? A. No, sir.

Q. Let us get down to the time you say this man came out. What made Mr. Tienken, so far as you know, come out the last time? A. It had been very quiet for a while, and we were getting kind of worried what was going on down there.

Q. You had never got worried before that, had you? A. On several occasions, yes.

Q. You came out on another worrying occasion without any signal, didn't you; there wasn't any signal flashed? A. Oh, no.

Q. You came out without the signal, upon your own initiative because you were worrying. What time of night was it that you began to worry? A. Well, that was about a quarter after ten, half-past ten.

Q. That is when you came downstairs and when you rushed to the front? A. Yes, sir.

Q. That is what I am asking about. What made you come out of Viola's room and proceed the time you rushed downstairs; what caused you to come down then? A. We were on the stairs that time.

Q. How long had you been on the stairs? A. possibly fifteen or twenty minutes.

Q. What were you doing on the stairs fifteen or twenty minutes? A. That is the time we did not hear any conversation or mumbling.

Q. Did you see Charlotte downstairs trying to push the signal before you rushed down? A. I did not.

Q. Didn't you see her at all? A. Not me.

Q. You don't know whether she was there pressing the signal or not? A. No, sir.

Q. You saw Tienken plainly rush downstairs, did you? A. Yes, sir.

Q. You went after him? A. Yes, sir.

Q. When you got to the bottom of the stairs where was the first place Tienken went? A. He rushed to the front, to the door.

Q. To what door? A. To the pink room.

Q. He went directly to the door of the pink room, did he? A. Yes, sir.

Q. Did you see him lock it? A. He was fumbling with the knob.

Q. Did you see him lock the door? A No, sir.

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

Q. Did you see him with his hand on the knob? A. Yes, sir.

Q. When he had his hand on the knob did you watch to see what he did with the door? A. No, sir.

Q. You were there to see whether Mrs. Sargent was misconducting herself with this chauffeur, were you not? A. Yes, sir.

Q. You saw him with his hand on the knob of the door of the room in which they were, as you thought, didn't you? A. Yes, sir.

Q. Yet, instead of watching him go in that room you rushed downstairs? A. Yes, sir.

Q. Where did you go? A. I went to the front window.

Q. You immediately went to the window? A. Not immediately. I was behind Mr. Tienken. I saw him grab hold of the knob of the door and push it and it would not give, and I ran to the front window.

Q. Did you see him turn the key? A. No, sir.

Q. Did you see him knock on the door when he pushed it? A. No, sir.

Q. Did you try to help him when he pushed the door? A. No, sir.

Q. How long had it taken you to go from the top of the stairs to the front window you were looking out? A. About two or three minutes.

Q. It was not a few seconds it took you? A. Oh, no, sir.

Q. What did you do during the two or three minutes from the time you left the top of the stairs until you went to the front window? A. I was behind Mr. Tienken; he tried the door; I could see the door was not going to open—

Q. I did not ask you that. I asked you what you did in that two or three minutes from the time you left the top of the stairs until you went to the front window? A. I was watching Mr. Tienken.

Q. All that you saw him do then was turning the knob; is that it? A. Yes, sir.

Q. To try to open the door? A. Yes, sir.

Q. You did not see him turn the key and put it in his pocket? A. No, sir.

Q. You at no time knew he had the key in his pocket? A. Yes.

Q. When did you know that? A. He always had the key in his pocket.

Q. He always had the key of that door in his pocket? A. Yes, sir.

Q. From the time you began to operate in the house? A. Yes.

Q. So you knew he always had it? A. Yes, sir.

Q. Is that about as true as everything you said today? A. Yes, sir.

Q. You trailed this automobile, didn't you, on several occasions? A Yes, sir.

Q. Where did you trail it and what days did you do that? A. Different occasions.

Q. How many, what days and where? A. Well, I cannot remember just offhand what days.

Q. How did you trail it; did you run after it? A. Bicycle.

Q. Motorcycle or regular bicycle? A. Bicycle and sometimes motorcycle.

Q. When you were on the bicycle do you remember the days you trailed the automobile on the bicycle? A. I don't remember all of them.

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

Q. And did you spend more time outside than you did inside of the house? A. Yes, sir.

Q. You were familiar with the house, were you not, with the lay of the house? You went over it thoroughly? A. Yes.

Q. What day did you go over it thoroughly? A. Twenty-sixth of May.

Q. Now, then, after you saw this man jump out of the window, you say, and run up the street, you went downstairs waiting for him to return, is that it? A. Well, not that time. I went downstairs twice.

Q. Well, the first time you went down what did you do? A. I thought probably Mr. Tienken was going to go after—

Q. I don't care for your ratiocinations. I want to know what you did? A. I went downstairs.

Q. Where did you go when you went downstairs? A. On the lawn.

Q. How long did you stay on the lawn? A. Possibly five minutes.

Q. Did you see Mrs. Sargent, at the window, as you say, just as soon as you got on the lawn? A. No, sir.

Q. How long after you got on the lawn? A. about two or three minutes.

Q. And she was in the act of pulling down the shade when your attention was first attracted? A. Yes.

Q. How far down had she got the shade when your attention was first attracted to that window? A. She had not pulled it down at all, I think.

Q. You said she was in the act of pulling it down? A. Yes, sir.

Q. In what way was she pulling it down—pulling it down from the top? A. Yes.

Q. The window was on the street, was it? A. Yes.

Q. And the house was fully lighted? A. Yes.

Q. And all shades up or only this one? A. I don't know about the other shades.

Q. How many shades were there in there? A. Three shades.

Q. When you got out on the lawn all these shades were up, were they? A. I don't remember about the other shades.

Q. Was this shade up? A. Yes.

Q. You stood still on the lawn with that shade up, three or four minutes, before you saw her start to pull it down, did you? A. Yes.

Q. That window opened on the street; there was a full view from the street? A. Full view from the street.

Q. You spoke of a pink kimono. You had been in and out of the house many times and you knew that she had a pink kimono. You had seen the pink kimono before this night? A. No.

Q. Never had seen the pink kimono before this night? A. No, sir.

Q. Your room of observation was right toward the bathroom? A. No, sir.

Q. This attic room? A. No, sir.

Q. You could not see the bathroom from the top of the stairs, could you? When you came out of the room and looked from the top of the stairs could you see the bathroom? A. When I looked from the stairs leading down from the second floor.

Q. You had made observations from that point many times, had you not? A. Not from that particular point.

Q. Well, you had looked from those stairs, had you not, down into the hall? A. Yes.

Q. When she was in the house? A. Yes, sir.

Q. And had never seen her go to the bathroom, had you? A. No, sir.

Q. You never saw her in a pink kimono? A. No, sir.

Q. Did you make a very thorough inspection of the house while you were there? I mean were you diligent and faithful in your watch? Did you do as much watching as you could? A. Yes.

Q. You used all of your ability to watch this house during the time that you were there, and could go in any part of the house, as far as you knew, during the times you were in the house for the purpose of making observations; you had the run of the house? A. Yes, sir.

Q. After you went downstairs the first time, you came upstairs again, didn't you? A. Yes, sir.

Q. How long did you stay upstairs? Do you

understand what I mean? You went down and saw her pulling down the shades? A. Yes, sir.

Q. You came up? A. Yes.

Q. How long did you stay up that time when you came back? A. About fifteen minutes.

Q. What was the first thing you saw when you re-entered the house? A. I didn't see anything.

Q. Didn't you see Tienken? A. No, sir.

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

Q. You did not see Mrs. Sargent? A. No, sir.

Q. Where did you go? A. By the telephone.

Q. On the second floor? A. Yes.

Q. There was nobody there at all? A. No, sir.

Q. You heard nobody open the door of the pink room? A. No.

Q. You heard nobody ask to be let out? A. No.

Q. You did not hear Mr. Tienken say: "Wait a minute. I cannot let you out until Mr. Huck comes?" A. No, sir.

Q. What did you do? A. I called up Mr. Huck.

Q. Did you call or did Tienken call? A. I called.

Q. Did you get any instructions from Tienken? A. Yes.

Q. Where did Tienken give you these instructions? A. On the lawn.

Q. He was out with you on the lawn? A. Yes, sir.

Q. Did you leave him on the lawn? A. Yes, sir.

Q. When did he come in? A. Shortly after I did.

Q. What was the first thing he did? A. He went downstairs looking for Charlotte.

Q. You did not see Charlotte at any time, did

you? A. Except when we passed her in the hall; I did not see her after that.

Q. When was it that you passed her in the hall? A. When she was going to push the button and we came down.

Q. You told me you had not seen that, that it was Tienken. Did you see her when she was trying to push the button? A. No, sir.

Q. What do you mean by your last answer? A. What I mean is that Charlotte was at the stairs and as we came down I saw Charlotte there.

Q. Where at the stairs; where the button was? A. By the button.

Q. By the button? A. Yes.

Q. By the button as you came downstairs? A. Yes.

Q. You are sure that you did see her? A. Yes; she was there by the button.

Q. She was there? A. Yes, sir.

Q. What happened after that? Did she go away or did she stay with you? A. I don't know where she went.

Q. You did not see her again; the last you saw her she was near the button? A. Yes.

Q. You passed her? A. Yes.

Q. You never saw her again until when? A. Until after Mr. Huck got there.

Q. Where was she when you saw her then? A. In the child's room.

Q. Had you heard Mrs. Sargent telephoning before? A. No, sir.

Q. You had never heard her telephoning? A. No, sir.

Q. The little baby was there throughout the time you were in the house? A. Sometimes.

Q. Was it there more often than not while you were in the house? A. No.

Q. How many times do you think you saw the baby? A. About four times.

Q. Now, then, when Mr. Huck got there, then you saw Charlote again, did you? A. Yes.

Q. Where was Charlotte when you saw her? A. She was standing at the door of the child's room

Q. On the second floor? A. Yes.

Q. As if she had come out of it? A. I don't know.

Q. She was in that door? A. The bathroom door and that door are practically together.

Q. Are they adjoining rooms? A. Possibly two feet between.

Q. Which door was she in, in the bathroom door or the child's room door? A. Right at the child's door.

Q. Was the child's door open? A. Yes.

Q. She was standing there? A. Yes.

Q. Up to the time Mr. Huck came, had you heard any demand from Mrs. Sargent to be released from that room? A. I did not.

Q. Did you hear any cries from the room when you came down from the room? A. Yes.

Q. What did you hear? A. "Charlotte, Charlotte."

Q. I mean when you got down after that. That was as you were coming down? A. Yes.

Q. When you got down to the door did you hear any cries, as "Quick, get the police?" A. I heard "Quick."

Q. You did not hear "Get the police?" A. No.

Q. Did you hear anybody try to get out? Did

you hear the door-knob turn? A. Not that door.

Q. Did you hear anyone try to get out? A. Through the window.

Q. Did you hear anybody take the knob and shake the door from the inside? A. No, sir.

Q. You did not hear any beating on the door from the inside? A. No, sir.

Q. You did not hear any demand to be let out? A. No, sir.

Q. You heard nothing said by Mr. Tienken that they would have to wait until Mr. Huck came? A. No, sir.

Q. What happened when Huck came? A. Mr. Tienken opened the door and told Mrs. Sargent Mr. Huck was here.

Q. Did you all go in the room? A. Yes.

Q. What happened when you all got in the room? Did Mr. Tienken put his hand on Mrs. Sargent's shoulder and say: "If you do not stop your noise, I will have you and all the blacks put in a patrol wagon?" A. No, sir.

Q. Did you see him take hold of her? A. No, sir.

Q. Never touched her? A. Never touched her.

Q. Did you hear her say: "I have done nothing. You have broken up my home. What shall I do?" A. No, sir.

Q. Nothing of that character? A. Nothing of the kind.

Q. She didn't say anything like that? A. No, sir.

Q. She didn't say to Mr. Huck in the presence of Mr. Tienken: "Mr. Huck, you of all men to do such a thing. I have done nothing wrong. You have broken up my home. Where shall I go?

What shall I do?'' A. Something like that, ''You of all men to be in the house at a time like this,'' or words to that effect.

Q. That is all she said? A. Yes.

Q. She did not say: ''I have done no wrong. Where shall I go. You have broken up my home?'' A. Not in my presence.

Q. You were there all the time? A. No, sir.

Q. You say you entered the room with them? A. Yes, sir.

Q. You stayed in the room? A. Very few minutes.

Q. Where did you go? A. Just about that time Mrs. Sargent wanted to speak to Mr. Huck alone.

Q. Then you and Tienken both went out? A. Yes.

Q. And left Mrs. Sargent and Huck alone? A. Yes.

Q. You were there all the time Tienken was in that room? A. Yes.

Q. Whatever was said at that time, you could have heard, could you not? A. Yes, sir.

Q. Then what happened. Did they say she would have to get out? A. No, sir.

Q. Did they show her this letter marked D-1 for identification which I show you? Did you see that produced and exhibited to Mrs. Sargent as a reason why she was to get out of the house? A. No, sir.

Q. You did not see it used at all? A. No, sir.

Q. You did not see Mr. Huck produce it or Mr. Tienken produce it while you were in the room? A. No, sir.

Q. What was the next thing you know about it? Did you stay in the house or did you go away? A. I stayed there.

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Q. About how long? A. About half an hour or three-quarters of an hour.

Q. Were you there when they left? A. Yes, sir.

Q. You stayed there after they left? A. No, sir.

Q. Did you go away with them? A. Yes, sir.

Q. Did you assist in boarding up or locking the house? A. Shut the doors; that is all.

Q. Your purpose in that house was to find this colored chauffeur and this woman in a room alone together, was it not? A. No, sir.

Q. Wasn't that what you were there to find out? A. No, sir.

Q. Were you not suspicious that this woman and this colored chauffeur were concerned in immoral relations? A. Yes; there was a suspicion that—

Q. (Interrupting) And you started to watch them to see if those suspicions were confirmed? A. Yes.

Q. You did that? A. Yes.

Q. You had signals put there to be operated when they were together? A. Yes.

Q. Yet you say you were not watching to get them together; you were not watching to get them in a room together, this colored man and this white woman? A. If they happened to be in a room together, we would get them.

Q. That is what you were watching for? A. Yes.

Q. Were you there every time Tienken instructed Charlotte what she was to do? A. No, sir.

Q. You don't know what his instructions were? A. No, sir.

Q. Who was the intermediary between you; did

Tienken tell you what they were to do, or did you give instructions? A. I never gave instructions. He had full charge.

Q. You were under him, were you not? A. Yes, sir.

Q. Now, Mrs. Sargent you say was dressed in a waist and black skirt? A. Yes.

Q. What kind of a waist? A. It may have been calico.

Q. It may have been calico. You think she wore calico? A. I don't know.

Q. Was it a tailor-made suit? A. It was not a suit.

Q. Do you know whether it was a tailor-made dress? A. No, sir.

Q. The upper part was brown and the lower part you say was black? A. Yes, sir.

Q. You are sure of that? A. It might have been blue. In the light it looked black to me.

Q. Did she have a necktie on? A. No, sir.

Q. A scarf? A. No, sir.

Q. Did you see what kind of shoes she had on? A. I did not pay any particular attention to her shoes.

Q. Did you see what kind of cuffs she had on? A. Only what was on the waist, same as the waist.

Q. Did she have linen cuffs on? A. No, sir; the cuffs were unbuttoned.

Q. The cuffs were unbuttoned? A. Yes, sir.

Q. What do you mean—that they would take a cuff button or were they little pearl buttons? A. Little pearl buttons.

Q. How many buttons to the cuff? A. I did not count them.

Q. You know they were unbuttoned? A. Yes.

Q. Did she have a hat on? A. No, sir.

Q. Or coat? A. No, sir.

Q. Do you know whether she had any jewelry? A. I did not pay any particular attention.

Q. Did she have a pin on? A. I don't know.

Q. Did she have a little breast watch hanging from her neck? A. I didn't pay any attention to it.

Q. Did she seem nervous and hysterical and crying? A. Well, she appeared nervous.

Q. Was she crying? A. She looked as if she had been.

Q. Did she seem hysterical to you? A. Not hysterical.

Q. She was not carrying on at all; she was not making any fuss? A. Not making any fuss, no.

Q. What window did you look out of in the front of the house that gave you a view of the man going out of the pink room window? A. The window that is on the corner of the house.

Q. Don't you know that the pink room—the window that is on the corner of the house? A. Yes.

Q. Don't you know that the pink room is so built on an extension that it is absolutely impossible to see from that window any part of the pink room? A. It is.

Q. You mean you can see it? A. No, sir.

Q. Then how could you see the man go out of the window. A. He ran across the roof and he jumped.

Q. You say you saw him going out of the window? A. No, sir. I didn't see him go out of the window. I saw him when he was coming over the porch and jumped.

Q. You saw him on the porch? A. Yes.

Q. You didn't see him come out of the pink room window at all? A. No, sir; he came from that direction.

Q. You went downstairs to the lawn and came back again, did you? A. Yes.

Q. How long did you stay down there? A. I waited a while. I thought he might come back.

Q. You waited for him to come back after you saw him run over the roof and jump from the roof—you went downstairs and you waited for him? A. Yes.

Q. Where did you stay? A. Sometimes on the porch; sometimes—

Q. You waited for him? A. Yes.

Q. He never came back? A. No, sir.

Q. What time did you leave the house? A. Around twelve o'clock.

Q. Have you ever been convicted of crime? A. No, sir.

By Mr. Lane: Q. Have you measured from the porch to the ground the distance it is? A. Yes.

Q. How many feet is it? A. Eighteen feet.

Q. When you say the roof, what roof do you mean? A. The roof of the porch.

VIOLA G. JONES, sworn as a witness on the part of the petitioner, testifies as follows.

Direct-examination by Mr. Runyan:

Q. You are acquainted with Mr. and Mrs. Sargent? A. Yes.

Q. State how you came to enter the Sargent

house and when? A. I came to Mrs. Sargent the first Monday in June.

Q. In what capacity did you enter the house? A. To take care of Ann and help with the laundry work.

Q. Who employed you to go to the Sargent house? A. I was employed by Mr. Tienken.

Q. How long did you remain there? A. I remained there until the 11th of July.

Q. You are still working for Mr. Sargent? A. Yes, sir.

Q. In what capacity? A. Taking care of Ann, the same as I was doing, and helping with the laundry work and doing the upstairs work.

Q. Ann is the baby? A. Yes, sir.

Q. What if anything did you observe during your stay there with respect to Charles Simmons and Mrs. Sargent? A. Why, what I observe was, there was once to my surprise that Mrs. Sargent told me to tell Charles to come upstairs, she wanted to see him, because she was going out, and she was not dressed when Charles went upstairs.

Q. Did you see Mrs. Sargent; how did you know she was not dressed? A. Because I saw Mrs. Sargent; I had always taken her breakfast upstairs to her.

Q. Was it her custom to take her breakfast in her room? A. All the time I was there I have taken her breakfast upstairs, but once when they were to go on a trip she got up and came downstairs to her breakfast.

Q. How long did Charles stay in the room that time? A. Charles stayed in the room about five minutes. I did not time him.

Q. Did you ever see him in the room again? A. I saw him up there once, just once.

Q. What was said on this occasion? A. I could not stay in the room listening because I was sent downstairs.

Q. Did you ever observe any drinking in Mrs. Sargent's room? A. Mrs. Sargent always kept wine and whiskey in her little closet in her room.

Q. Were there any occasions when Charles drank anything in her room? A. Only once.

By the Court: Q. What was that? A. One day Charles went to her closet and got the whiskey out.

Q. Was she there? A. Mrs. Sargent was there.

Q. How do you know? A. I saw it.

Q. Tell us about it. A. I was upstairs. I was making the beds like I usually do, and Charles came upstairs and went in her room and got a glass and got the whiskey out and drank it, and he said to Mrs. Sargent; "Don't you want some?" She said; "I will take a little wine." She didn't take any whiskey, in my presence.

By Mr. Runyon: Q. What, if anything, did you observe between Charles and and Mrs. Sargent, with respect to their conduct towards one another? A. Well, Mrs. Sargent said one day that she loved Charles. One day she said that to me, that she loved Charles, and didn't I think Charles was handsome. I told her no I didn't think he was handsome.

Q. What, if anything, did you see with respect to their conduct towards one another? A. Well once Mrs. Sargent put her arms on the back of Charles and pulled his collar down, after he had a bath in the house.

Q. Where did he have the bath? A. Upstairs in our bathroom.

Q. What, if anything else, did you observe with respect to that bath? A. Well, he put on some of Mr. Sargent's underwear because he did not have any clean in the house of his own.

Q. Anything else? A. Yes; he put on a shirt and Mr. Sargent's B. V. D's—

Q. What was he doing in the bathroom? A. Getting a bath to be cleaned up to go on a trip.

Q. How did you happen to see him? A. I went down to my room to get some powder—

Q. What for? A. I wanted to get him some powder.

Q. What was the powder for? A. To put on him.

Q. Whose powder was it? A. It was my powder.

Q. Was he shaving? A. Yes.

Q. Whose razor did he use? A. He had Mr. Sargent's safety razor, because I changed the blades after he got through shaving and put the razor back in the linen closet.

Q. Did you ever hear any conversation between Mr. Sargent and Mrs. Sargent with respect to Charles being in the house? A. Yes, sir; once; they were going away and Mrs. Sargent asked Mr. Sargent could he have a cup of coffee. Mr. Sargent said no; Charles could not come in the house. She said; "Charles has not had time to get his breakfast."

Q. Who was present on that occasion? A. There was no one there but I and Mr. and Mrs. Sargent and I was helping to bring a box downstairs.

Q. Did you ever hear anything else with respect to Charles being in the house? A. There was once. one Friday when a gentleman was there talking

about the car—about getting another car—and Charles came in the kitchen and ate his lunch while Mr. Sargent and this gentleman was in the room which is known as the Bergen room and Mrs. Sargent told me to stand in the dining-room to keep Mr. Sargent from going to the kitchen while Charles ate his lunch, and Charles ate his lunch in a hurry and got out.

Q. On that occasion do you know whether Charles knew that Mr. Sargent was in the house? A. Yes, I think he did, because he could hear him—he can hear in that Bergen room.

Q. Did you ever hear a telephone conversation? A. Yes.

Q. What? A. Once when she called Charles up at the garage and told Charles to come around to the house and get something to eat.

Q. Did you hear any further conversation? A. There was quite a few conversations between them on the telephone.

Q. What were they? A. Another time she told Charles not to come to the house. She told him that she cannot talk to him any more because we were downstairs, Charlotte and I were downstairs, and I was in the Bergen room.

Q. What further telephone conversations, if any, did you hear? A. Then once again there was some dispute between them; I cannot say what the dispute really was, because I was not out in the car with them, but then that day Charles was mad, and Mrs. Sargent ordered Charles to give her the key of the wine closet.

Q. Where were you when you heard these telephone communications? A. I was downstairs in the room.

Q. On other occasions where were you? A. At night I was upstairs in my own room.

Q. Over what means did you hear telephone communications? A. On the extension downstairs; upstairs on the dictaphone.

Q. Any further telephone conversations? A. Yes; quite a few.

Q. What were they? A. Once again Charles was kind of cross because he had to go out. I don't know where they went. Charles was kind of cross because he had to go out.

By the Court: Q. Tell us what you heard? A. It was Charles Simmons talking on the 'phone.

Q. What did you hear? A. Mrs. Sargent asked Charles to come around to the house right away. Charles wanted to know was Mr. Sargent there. She said no, and then he got the car from the garage and came around to the house.

By Mr. Runyon: Q. Any further conversation? A. No further conversation.

CROSS-EXAMINATION by Mr. Simpson:

Q. You spoke about a dictaphone. What do you mean by a dictaphone. You say you heard something on the dictaphone. What do you mean by the dictaphone?

A. Well, what would you call that? Would you call it a dictaphone that we put in upstairs?

Q. You used the word "dictaphone." What did you mean by that? A. I mean a telephone that was put upstairs in the closet, a receiver—

Q. (Interrupting) There was some kind of an instrument put up in your room by which you could hear what went on all over the house, could you. Is that what you mean? A. Yes.

Q. That is, that instrument up in your room would give you everything that occurred in the house? A. They could hear everything.

Q. It was put in there by the detectives, was it not? A. I suppose it was.

Q. Don't you know whether it was put there by the detectives or not? A. Yes, but I was not there when they were put in.

Q. Sargent paid your bills, your dressmaking bills? A. No; he didn't pay any dressmaking bills of mine.

Q. Sargent has not paid anything for you? A. A dressmaking bill?

Q. Yes. Didn't you write him a letter thanking him for bills that he paid for you? A. No.

Q. What bills did he pay for you that you wrote and thanked him for? A. I didn't write and thank him for paying any bills.

Q. Who did you write and thank—Tienken? A. No; I did not write Mr. Tienken and thank him. Mr. Sargent didn't pay any bills of mine.

Q. Who paid bills for you? A. To my recollection, Mr. Sargent did not pay any bills. I have a bill to pay against me for $75, and I paid $10 on that myself—

Q. You say Sargent paid nothing for you? A. No; Mr. Sargent didn't pay any bills for me.

Q. Did he pay any money for you at all? A. No.

Q. You were put in that house as a detective? A. Yes.

Q. You knew that you were a detective; you knew that you were hired as a detective? A. Yes; I knew that I was a detective.

Q. You knew that, when you applied to this

woman as a maid. You made her believe that you were a maid? A. I didn't make her believe anything.

Q. Didn't you tell her that you were a maid? A. Yes; I told her I was a maid.

Q. You acted as a maid? A. Yes; I acted as a maid.

Q. What is there funny about this. What are you laughing at; do you think this is a joke? A. No; I do not.

Q. You went into the house as a maid; you acted as a maid; you watched Mrs. Sargent and you never let her believe that you were anything else but a maid, did you? A. No.

Q. You knew you were lying all the time, didn't you?

Mr. Runyon: Objected to.

The Court: I do not think it is necessary.

Q. How long did you work there? A. I worked over a month.

Q. You were given instructions by Mr. Tienken out in the hall what you were to swear to? A. I was not.

Q. He didn't say a word? A. Mr. Tienken didn't say a word to me out in the hall because he didn't have to.

Q. He didn't tell you a word about your salary; he didn't tell you a word about anything out in the hall, did he? A. No; he did not.

Q. Not a single thing? A. No; he did not.

Q. How long have you been in the detective business? A. I have only been on a couple of cases.

Q. Where were you before you were a detective? A. Where was I before I was a detective?

Q. Yes. A. I was in my mother's house, where all daughters belong.

Q. How old are you? A. How old am I?

Q. Yes. A. 29 years old.

Q. How long did you say you have been out of your mother's house? A. My mother is dead now.

Q. How long have you been out of your mother's house where all daughters belong? A. I have been out nearly about four years; I have a home in Brooklyn.

Q. During these four years have you been a detective? A. Not all the time.

Q. How much of the time? A. Well, about a year I started to take it up.

Q. Did you spy in houses in divorce cases, in other cases than this? A. Yes.

Q. How many cases have you been put in houses to spy on women—in how many cases besides this one? A. Two besides this. This is the third case.

Q. You say that Charles was in getting his dinner and that Mrs. Sargent put you in the dining-room to keep Sargent from going in where Charles was, and that you think that Charles knew that Sargent was in the dining-room. You swore to that. Is that a fact? A. Yes.

Q. How were you going to do that, when the master of this house, as you say, knew the chauffeur was in the kitchen,—how were you in the dining-room going to keep him out? A. How was I going to keep him out?

Q. Yes. A. Because Mrs. Sargent told me to get in conversation with him if he started to walk in the kitchen.

Q. So he started to walk in the kitchen— A. He did not start to walk in the kitchen.

Q. If he did, you were to stand there and engage him in a fascinating conversation, so that while he was there the man could get out of the kitchen? A. Not a fascinating conversation.

Q. When was that? Give me the date? A. I could not give you the date. I haven't it with me.

Q. How long was that after you got in the house? A. Well, it was three weeks after.

Q. Three weeks after? A. Yes.

Q. Do you remember what day of the week it was? A. Yes; it was Friday.

Q. What time of the day? A. It was lunch time.

Q. Mr. Sargent was not busy in New York? A Not that day. Mr. Sargent was not at business in New York.

Q. Was he not, as a matter of fact, in business in New York? A. Yes, but he was not that day.

Q. This Friday he was home all day? A. Not all day. He came home with this gentleman talking to him.

Q. What time did he come in? A. A quarter of two, because Mrs.—

Q. (Interrupting) Who was the man that came with him? A. Mr. Jones.

Q. You have described to us about seeing the chauffeur put on Mr. Sargent's B V D's? A. Yes.

Q. You must have seen him when he was undressed? A. I went upstairs, and if anybody is standing in front of the mirror it is impossible for you to look in and see him, because I have looked.

Q. You say it is impossible? A. It was possible; I could see him.

Q. You looked at this naked colored man put-

ting on Mr. Sargent's B V Ds and undershirt, did you? A. Yes.

Q. You let him put them on? You watched him put Mr. Sargent's undershirt on? A. He put on the B V Ds; it is a combination.

Q. Did you wait and see him completely dressed? A. Yes; saw him completely dressed.

Q. Did you hand him the powder after he was dressed or before he put on the underwear? A. After. Just after he put on the underwear.

Q. Did you go in the room and hand him the powder? A. No; I didn't go in the room. He came to the door.

Q. Did he pull you in the door and shut it? A. No; he did not pull me in the room. I didn't go in the room. There is a little—

Q. Did you step in? A. He reached to the door and I handed in the powder.

Q. You were too modest to look; I suppose you turned your head and looked the other way? A. No; I am like the rest of women, I guess, I would not turn my head, and I handed in the powder.

Q. It was your powder? A. Yes; it was my powder.

Q. Where did you get it? A. Bought it at the drug store; paid twenty-five cents for it.

Q. What kind of powder was it? A. I don't know exactly the name; I know it was body talcum powder.

Q. Where did you get it on this day? Did you go to your room and get it? A. Yes, upstairs in my room. He asked me would I get some powder, and I said yes.

Q. You didn't go and get him any of Mrs. Sargent's powder? A. No.

Q. You gave him your own powder? A. Yes.

Q. On this occasion when you saw him take whiskey and drink it, in front of Mrs. Sargent, what day of the week was that? A. I could not say what day of the week it was; I did not make a date.

Q. Was it in the middle of the week or earlier? A. It is usually early in the week when she goes to the doctor—

Q. Was it early in the week? A. Yes; early in the week.

Q. Was it in the morning or the afternoon? A. In the morning.

Q. Were you in her room? A. I was upstairs.

Q. Were you there first? A. I was.

Q. He came in. Did he go directly to the closet? A. No; he talked first.

Q. What did he say? A. I didn't listen to the conversation.

Q. You were in the room? A. I was not in the room.

Q. How did you see him take the whiskey, if you were not in the room? A. I was coming from the front room which is known as—

Q. You had gone out of the room? A. I had given Mrs. Sargent her breakfast.

Q. You had given her her breakfast and gone up to the front and after you came back you saw him come out of the closet, did you? A. Yes.

Q. And take the whiskey bottle out? A. Yes.

Q. And pour out a drink for himself and drink it? A. Yes.

Q. And asked her whether she would have any? A. Yes; and she said: "No."

Q. You saw all that, did you? A. Yes; I saw it.

Q. After you had gone out of the room? A. After I came out of the room and I came back to the door.

Q. After you had gone out of the room you saw all of these things, didn't you? A. I could not—

By the Court: Q. Yes or no? A. Yes; I told you I saw it.

By Mr. Simpson: Q. Where were you standing when you saw him go to the closet and take the whiskey bottle and pour out a drink and drink it; where were you standing when you saw all that? A. Right at the corner of the door.

Q. The door open? A. Yes; the door was open.

Q. You were in full view? A. Yes; I was in full view.

Q. Did you go into the room or did you go downstairs then? A. Mrs. Sargent told me she was through and to bring her some more hot coffee.

Q. Did you go into the room then? A. I went into the room.

Q. You didn't say anything to anybody? A. There was nothing to say.

Q. She did not ask you why you were watching? A. No; she did not.

Q. You say he asked Mrs. Sargent to have some whiskey and she said no? A. Yes; she said no.

Q. She preferred wine? A. Yes.

Q. Did she have wine? A. She had the wine.

Q. She opened a bottle of wine? A. The bottle was already open.

Q. She was drinking wine with her breakfast of hot coffee; she sent down to get hot coffee; he opened the bottle of wine on the breakfast table— A. (Interrupting) The wine was not on the breakfast table.

Q. Where was it? A. The wine was in the room. Charles said—

Q. (Interrupting) You said it was open? A. Yes.

Q. You went down to get hot coffee? A. Yes.

Q. She was drinking wine and you were getting the hot coffee; did you see it poured out? A. No; I didn't see it poured out.

Q. What kind of a bottle was it? A. It was a wine bottle.

Q. What kind? A. It was a dark wine bottle.

Q. Was it like a whiskey bottle? A. Yes; it was like a whiskey bottle.

By the Court: Q. Champagne, do you mean? A. No; it was not champagne; but the whiskey is Gold Cross whiskey.

By Mr. Simpson: Q. Had you been at it? A. No, sir; I don't drink whiskey. I don't drink any intoxicating drink, never have.

Q. These different telephone conversations that you say you heard, were heard by you up in your room? A. Not all.

Q. Well, you heard some when you were downstairs? A. Yes.

Q. Any of these conversations that Mrs. Sargent had, you only heard one part of the conversation? A. No; you can hear both parts.

Q. How could you hear both parts unless you were on an extension; how could you hear both people talking unless you were on an extension? A. Well, if you have a receiver put up to your ear you can hear both sides.

Q. Did you go up to her telephone and take the receiver? A. Not to the one she was talking at.

Q. Where did you go? A. Downstairs to the Bergen room.

Q. Were you instructed to go to the extension telephone and listen every time the telephone bell rang? A. I was not listening every time.

Q. Were you instructed to listen every time the telephone bell rang? A. Yes.

Q. But you did not? A. I did not have the time.

Q. How long were you in the house; when did you start? A. The first Monday in June.

Q. You listened to every conversation you could? A. Every one I possibly could.

Q. You have told us all you listened to; have you told us all you listened to? A. Yes.

Q. You also were about there and watching Mrs. Sargent to see if she ever went in the room with the colored man and to shut the door? A. I was never supposed to shut the door.

Q. You were not; the other one was supposed to shut the door, but you were supposed to watch and see at any time if you could get Mrs. Sargent and the colored man in the room together? A. No; my instruction was not to see if I could get them in together.

Q. Not you, somebody else was to do that; but your instructions were to watch what they did; that is what you were to do; you were a detective; you were a detective, were you not? A. Yes, sir.

Q. You were put in the house to watch? A. Yes.

Q. You were in this woman's house to watch if you could catch her in this bedroom with this colored man, were you not? A. I suppose so, if you say it.

Q. You were in the house from the first of June to the night of the raid? A. I was not in the house the night of the raid.

Q. You were not there on the 11th? A. No, sir; I was not.

Q. You knew the raid was going to be pulled off that night? A. No; I did not.

Q. How was it you were not there? A. I went to Vermont with Ann and Mr. Sargent. I went to Denville, Vermont.

Q. What time did you leave? A. We left the house about half-past seven.

Q. You knew this thing was going to be pulled off this night? A. I did not know whether it was going to be pulled off that night or what night.

Q. When did you come back to the house? A. The first part of last November.

Q. Where were you from July 11th until last November? A. I was in different seashores.

Q. Working as a detective? A. I was with Ann; I was with Ann; I was with the little girl.

Q. That is the adopted daughter? A. Yes; I had her.

Q. Then you have been working for Sargent continuously? A. I was taking care of her for Miss Coleman.

Q. You have been working and getting paid by Sargent ever since you went into the house? A. I have not been paid by Mr. Sargent, Mr. Sargent was not paying me.

Q. The detective agency was paying you and he gave them the money? A. I could not say.

Q. What was your wage in Sargent's? A. $25.

Q. You got $50? A. Mrs. Sargent was supposed to pay $25.

Q. You got $50, didn't you? A. I don't figure it that way. I figure I got $25 a month from Mrs. Sargent.

Q. What do you figure that you got out of this job, how much a month? A. Well, I got $3 a day out of the job.

Q. And $25? A. Yes, and that money was deducted.

Q. What was deducted, the $25? A. Yes.

Q. Not the $50—it was not $50? A. No; I did not get $50 a month from Mrs. Sargent.

Q. When did you begin to be paid by Mr. Sargent? A. Last November was the first pay Mr. Sargent paid me.

Q. Who paid you before that time? A. Well, my money I left lay.

Q. Where is your money? A. I don't know, but I will get it, I suppose.

Q. You don't know where your money is? A. It is coming. I suppose it is coming.

Q. You don't know where it is. Who is going to give it to you? A. Mr. Tienken will have to pay it.

Q. Although you are now working for Sargent, your money is coming from Tienken? A. He will have to pay me; he hired me.

Q. You have a lot of faith in Tienken; have you waited very long? A. Yes; I have.

Q. You know he will pay you what is right. Does any part of your pay depend upon the success of this case? If Mr. Sargent wins this case, do you think he will pay you more? A. No; I don't want any more.

Q. Not what you want, but do you think he will pay you more? A. No; he won't. I want my salary and nothing else.

Q. From the time you went to that house, every time the detectives were there you saw them, didn't you? A. Not every time.

Q. Well, almost every time? A. Because I was away one time when they were there.

Q. When you were not away, when these detectives were there, you would talk to them? A. I very seldom had a chance to talk to them.

Q. You never talked to them? A. I had to take care of the child.

Q. You did not know what they were doing? A. I could not talk—

Q. (Interrupting) You did not know what they were doing; did not know what their plans were? A. I knew what their plans were, but I could not talk to them.

Q. How did you learn about their plans? A. Well, for one, Mr. Simmons.

Q. You say you knew about the plans? A. The plans of the house.

Q. No, why the detectives were there; what the scheme was? A. They didn't tell me nothing about a scheme.

Q. Of course not. Who told you why they were here? You knew they were not invited guests? A. Why, I think I know.

Q. Who told you what the purpose was? A. What the purpose was?

Q. Yes. A. Mr. Tienken.

Q. He told you what to do? A. Yes.

Q. When did he tell you? A. In between times, when I could talk to him, but I never talked to him there at the house.

Q. Where did you talk to him if you did not talk to him at the house? A. He told me what he wanted to do before I went there.

Q. Where did you talk to him? You say you could not talk to him in the house, that you talked

with him between times. Where did you talk with him between times? A. Once I went out in the street. I had to go to the doctor for something.

Q. You met by accident, did you? A. Yes.

Q. Where did you meet by accident? A. I went to the doctor's.

Q. What doctor did you go to? A. I was going to Dr. Weil for my eyes.

Q. Did you go to see the doctor? A. Yes: I went and I got glasses.

Q. Where did you meet Mr. Tienken? A. Where did I meet Mr. Tienken?

Q. Yes. A. Almost by the station there.

Q. What is there where you met him? A. There is an apartment house.

Q. Where were you going? A. I was going to get glasses on Summit Avenue.

Q. Was he there when you got there? A. No; he was not there when I got there.

Q. How long did you wait for Tienken? A. I didn't wait for Tienken at all; I was waiting for my glasses.

Q. That is what you mean? A. Yes.

Q. That is the only time you met him? A. Outside of meeting him when I took in his breakfast.

Q. Outside of taking his breakfast up and once outside, you never talked to him when he was there? A. No, sir.

Q. You didn't know what he was doing? A. I didn't talk to him.

Q. If you never talked to him and did not know what he was doing, how did you know enough to listen in on the dictagraph? A. Because as I told you before, before that he told me what he wanted me to do before I went there.

Q. What were you to do if you ever found Mrs. Sargent and that chauffeur in that bedroom together—lock the door— A. (Interrupting) I was not to lock any doors or anything.

Q. No; no; I am not accusing you of that. I don't think you were to lock any doors. I say: if you found that they were in this room—you were a clever detective—the whole house was at your service—everybody thought you were a maid, but you fooled them—if you saw this colored man and this white woman go in the bedroom and lock the door, what were you instructed to do? A. There was nothing instructed if they locked—

Q. You were not to tell Tienken? A. No; I was not.

Q. You were not to tell Sargent? A. I never knew the—

Q. (Interrupting) You were simply to let them come in and go out, but you were not to lock any doors? A. I was not to lock any doors.

Q. Nobody— A. (Interrupting) Nobody ever told me to lock any doors.

Q. Do you know who was told to lock the doors? A. No, I do not.

Q. When you were there did you see Charlotte talk to Tienken? A. No.

Q. He was never alone with Charlotte? A. No; I never seen him alone with Charlotte.

Q. You were there when Tienken was in the house? A. Yes.

Q. He never came downstairs when Mrs. Sargent was there? A. I never seen him downstairs.

Q. He would come in and go out the back door? A. Yes.

Q. Did he ever stay there all night? A. Once I remember him staying all night.

Q. Do you remember him ever staying three days because he could not get out at any time? A. Three days because he could not get out?

Q. Because he did not think it was safe to come out; do you remember anything of that kind? A. Yes; I do remember.

Q. Where were those three days when he was locked up in the house and could not get out? A. They were in June, but I could not give you the exact date.

Q. In the early or latter part of June? A. Early part of June.

Q. Was he locked in alone or was the other operative with him? A. Well, I did not let him in, so I could not tell you who was there with him.

Q. Did you let him out? A. No; I did not let him out.

By the Court: Q. You took up meals to him? A. Once or twice.

Q. Did you see two men? A. One.

Q. How much breakfast had you? A. Only for one. They gave me breakfast for one man, breakfast, coffee.

By Mr. Simpson: Q. You don't know when you took up breakfast for two? A. I never seen but Mr. Tienken up there.

Q. You don't know whether there were two men in the room or not? A. No, because I didn't go in the bedroom.

Q. How many times did you take up meals? A. I took breakfast three times.

By the Court: Q. You also took luncheon and dinner? A. Yes, sir; and luncheon.

Q. And meals at night? A. Charlotte would do that. It was not all the time that I could take meals up to them.

Q. When you took up luncheon and other meals did you take meals for two or only one? A. Always took meals enough for one; I could not take that tray up for two.

By Mr. Simpson: Q. Whenever you took it up it was only for one? A. Only for one.

Q. No matter how many were there, you took only one meal? A. Only one meal.

Q. How many times did you take up meals from the 26th of May to the 11th of July? A. I did not count the meals.

Q. Could you say there was forty meals? A. No; I could not say there was forty.

Q. You were not there, as I understand it, on the night of the raid? A. No; I was not.

Q. This room that was used by the detectives was called Viola's room; was that your room? A. Yes.

Q. Where did you sleep when the men were there? A. Slept in Charlotte's room, on the floor the best part of the time.

Q. In Charlotte's room? A. Yes.

Q. Is that on the same floor? A. Yes; the same floor.

Q. You slept in Charlotte's room? A. I slept there.

Q. With the two detectives on the same floor, you did not know what was going on? A. I did not know anything.

Q. Charlotte never told you anything about it? A. I never asked her anything about it.

Q. Charlotte never told you she was going to lock these two people in the room? A. No; I didn't know anything about it.

Q. She didn't tell you what she was going to do? A. No.

Q. You did not know what arrangement she had with Tienken, did you? A. No; I did not know anything about it.

By the Court: Q. Didn't you have a quarrel with Charlotte while you were there? A. We had a little quarrel between the two of us.

Q. You had a quarrel with Charlotte because you were annoyed with her, didn't you? A. Yes.

Q. You were annoyed with her, were you not, because Charlotte was taking your job away from you? A. No; no because she was taking my job away from me.

Q. The detectives were nice to her and you were mad about that? A. No; I was not.

Q. What did you quarrel about? A. Some question we had. It was not about that.

Q. What was it about? A. Something about dishes.

Q. You quarrelled about Charles, too, didn't you? A. No. We had no business quarreling about Charles.

Q. What was the quarrel about the dishes? A. I didn't wash the dishes that came downstairs from Mrs. Sargent's room twice. That was what the quarrel was about. I set the tray down on the sink and went downstairs in the laundry.

By Mr. Simpson: Q. You knew that Charlotte knew that you were a detective, didn't you? A. I could not say she did; I don't know.

Q. You saw Charlotte talking to these two men, the detectives and you talked with Charlotte and you slept with Charlotte and you said Charlotte didn't know whether these men were detectives? A. I did not say that. I said she did not know whether she knew I was a detective.

Q. These men brought you into that house when Charlotte was there? A. No.

Q. Tienken brought you in there? A. No; Tienken didn't bring me in there.

Q. Who brought you there? A. I came in with no one.

Q. Tienken was there? A. Tienken was not there.

Q. Who was the first person you saw in the house? A. I saw Charlotte.

Q. What did you tell Charlotte? A. I told Charlotte I wanted to see Mrs. Sargent.

Q. Then what did you do? A. I left my hat downstairs and went and spoke to Mrs. Sargent.

Q. What did you tell Mrs. Sargent? A. I told Mrs. Sargent I heard she wanted someone.

Q. What did she say and what did you say? A. She said yes.

Q. Then what did you say? A. She asked what I wanted a month and I told her, and she said she could not afford to pay me that.

Q. Did Charlotte ever ask you what you were doing in the upstairs part of the house when you were watching around? A. Once in awhile. Charlotte didn't ask many questions.

Q. You never told her you were a detective? A. No; I did not.

Q. Did not Ida Lewis bring you to Mrs. Sargent and introduce you and recommend you? A. Yes.

Q. That is the way you got in? A. Yes.

Q. Why didn't you tell us that; why did you say a minute ago that you went there alone to see Mrs. Sargent? A. I didn't say I went alone; you said Mr. Tienken took me there and I said he didn't.

Q. I asked you who brought you there and you said no one. A. You said Mr. Tienken.

Q. I asked you who brought you there and you said nobody. Now you state this woman took you there. Is that right? A. Ida Lewis took me there because I didn't know where the house was.

Q. You did not know the address? A. I did not know where the house was.

Q. How did you come to hear of Ida Lewis; when did you first hear of Ida Lewis? A. In Church.

Q. What church? A. In Salem Baptist Church.

Q. Where? A. In Union Street.

Q. Jersey City? A. Jersey City.

Q. Did you live in Jersey when you got this job? A. Not all the time.

Q. Where did you live? A. I lived in New York with my sister, 135th Street.

Q. Did you live in 135th Street, new York, when you met Ida Lewis in the Salem Baptist Church? A. Yes, because I had occasion to come to the church.

Q. When did you meet Ida Lewis in the Salem Baptist Church? A. I could not give you any date.

Q. Try and give me the date? A. It was one big meeting they had there; I could not give you any date.

Q. How long before you went to work for Mrs. Sargent? A. It was about a week before I went to work for Mrs. Sargent.

Q. Who introduced you to Ida Lewis? A. A friend of mine.

Q. What is his name? A. A minister; he is dead now.

Q. What was his name? A. Hirsh.

Q. What was his name? A. William Walter.

Q. Had you know him before this time? A. Yes; I knew him before this time.

Q. He was the minister of the Salem Baptist Church on Union Street in 1918, was he not? A. He was not a minister there.

Q. Where was he the minister? A. He was in Bethel Church. He was over in New York and he came over to preach a sermon and he asked the congregation to come with him.

Q. And you met Ida Lewis? A. I came over with him.

Q. The first time you were in that church? A. Yes. Ida Lewis's husband is superintendent of the sunday school.

Q. Did you ever see her after that until the day she brought you to Mrs. Sargent? A. Once since.

Q. Where did you see her? A. I saw her over in New York.

Q. When? A. I could not give you the date.

Q. How long before you took her to Mrs. Sargent's house did you see her? A. I met her in New York six months after I met her in Jersey City.

Q. That is six months before she took you to Mrs. Sargent? A. Yes; about six or seven months.

Q. The day she took you to Mrs. Sargent where did you go? A. I walked up to the house.

Q. You walked up to the house of Ida Lewis, already in the employ of the Tienken Detective Agency, that was going to put you in this house, looking for a job? A. Yes.

Q. And Ida Lewis happened to be acquainted in the house that you wanted to work in as detec-

tive, and she went right to that house, didn't she? A. Yes.

By Mr. Runyon: Q. How old was Ann? A. Three years old.

Q. Where did the father of Ann live? A. In Danver, Vermont.

Q. How many times did you listen at the 'phone in the attic?

Mr. Simpson: Objected to. It has all been gone over on direct-examination.

The Court: Objection sustained. On her direct-examination she said that she had mentioned all the time that she listened on the 'phone and she specified various conversations on various dates and said that that was all.

Mr. Runyon: If the court will examine the record you will find that my examination was particularly directed to conversations on the telephone between certain parties. My question was limited to that. I am asking how many times altogether she listened on the telephone.

The Court: On my recollection of the evidence, I shall sustain, the objection.

By Mr. Simpson: Q. Did you take breakfast up to Mrs. Sargent every morning that you worked there? A. Every morning.

Mr. Lane: That is the petitioner's case, with the exception of the testimony which was taken in New York, in which the cross examination was concluded last night and arrangement was being made to get the testimony over here today as soon as it is physically possible to transcribe it and get it over here.

The Court: I will take that testimony later on.

DEFENDANT'S CASE.

DONALD J. SARGENT, the petitioner, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson: Q. You are the husband of the defendant? A. Yes, sir.

Q. During the first part of October, 1918, you were suffering from gonorrhea, were you not? A. Yes, I believe that was about the date.

Q. You were then under treatment by Dr. S. R. Woodruff? A. I could not give the dates.

Q. Subsequent to that time you found your wife infected by you with gonorrhea and took her to Dr. Woodruff on the 9th of October? A. I did not.

Q. Didn't you take her to him on the 9th? A. I do not recall the date. She went there after my first visit.

Q. Didn't you take her to Dr. Woodruff personally, on the 9th of October, and tell the doctor that she was suffering from gonorrhea contracted from you, and to put her under treatment? A. Absolutely no.

Q. You afterward had Dr. Spence, didn't you, treat her for the same disease? A. Mrs. Sargent?

Q. Yes. A. Dr. Spence was treating her; yes.

Q. She was under treatment at the very time you hired detectives and put them in the house, suffering from this disease, was she not? A. I could not say what she was under treatment for; I don't know.

Q. You knew the doctor was calling, didn't you? A. Yes, but not what for.

Q. You knew at the time you hired these detectives and wrote this letter marked D-1 for identification, dated June 19, 1919, which is as follows: "Sargent Transportation Line, 1 Broadway, New York, June 19, 1919.—To whom it may concern. This it to certify that Mr. William Huck—"

The Court: Show him the letter.

A. I know what it is.

Q. You knew when you wrote that letter and put these detectives in the house that Mrs. Sargent was under treatment by Dr. Spence? A. I knew she was under treatment; yes, sir.

CROSS-EXAMINATION by Mr. Lane:

Q. When did you first discover that you were suffering from this gonorrhea infection? A. I believe that November was the month, 1918.

Q. When did you first discover that your wife was suffering from the same infection? A. After Mrs. Sargent had gone to Dr. Woodruff.

Q. When you first discovered it what did you do? A. I told Mrs. Sargent that I was suspicious, and I believe it was on a Sunday that I discovered it, and I immediately went to Dr. Woodruff that night.

Q. And before you went to Dr. Woodruff did you tell Mrs. Sargent? A. I did.

Q. After you saw Dr. Woodruff did you see Mrs. Sargent again? A. I came right home that night.

Q. What did you tell her when you came home? A. I told her that the doctor could not at that time give me an answer. He was taking a test.

Q. What did you do; what was the whole conversation with respect to it? A. I do not recall any conversation.

Q. What did she say? A. She said something about she feared then she would have been infected.

Q. Give us the conversation? A. I don't know that I could repeat the conversation.

Q. Give us the substance of it? A. It was to the effect that the doctor suspected that that was my trouble, and when I told him there was no possible way I could have got it, he said, or volunteered the information—when I asked him how it was possible, he volunteerer the information it might be a recurrence—

Mr. Simpson: I object.

The Court: As I understand it, he is now telling in response to Mr. Lane's question, what he said to Mrs. Sargent after he had returned from the doctor.

By the Court: Q. Is that it? You are repeating what you said to Mrs. Sargent? A. As near as I can recall.

By Mr. Lane: Q. Go on. A. It might be a recurrence. It had been known that there had been cases of recurrence of longer years than in my case, which I gave him at, I believed it about, I think it was twelve years.

Q. Who made the suggestion that Mrs. Sargent should be examined? A. I asked the doctor that night if it would not be right that she should come.

Q. Did you tell Mrs. Sargent anything about that? A. I did.

Q. What did you say? A. I told her what my suggestions were and what the doctor said, as near as I can recall.

Q. What did she say to that? A. Well, there didn't either one of us feel very happy over it.

Q. Did she consent to the suggestion? A. Absolutely. We did go, I believe the following day or possibly two days afterwards.

Q. Then you and she finally went down to Dr. Woodruff? A. We did.

Q. Were you present at the time she was examined? A. I was not present, but I was in the office.

Q. After she was examined, did you and Dr. Woodruff and Mrs. Sargent have any conversation with respect to it? A. I do not recall that.

Q. Did Mrs. Sargent and you have any conversation about it after you left Dr. Woodruff's office? A. I presume we did.

Q. Do you recall what it was? A. No; I could not.

Q. Where is Dr. Woodruff? A. He has an office in Bayonne and also one in Jersey City.

Mr. Simpson: I have subpoenaed him. He will be here at two o'clock.

Q. Prior to October 6, 1918, had there been anything which you did, had you had sexual intercourse with anyone other than your wife? A. Absolutely no, no.

Q. Did you, twelve years before that, have a case of gonorrhea? A. I did, about that time.

Q. About twelve years before that? A. Yes, sir.

Q. Was it twelve years before that date or twelve years before your marriage? A. Before that date I believe.

By Mr. Simpson. Q. You say that you do not know any cause for this. Is it not a fact that you sent a manicurist up to Liberty, New York, after you married Mrs. Sargent and maintained her up there? A. No, sir; it is not.

Q. Is it not a fact that the chauffeur took you out riding with a manicurist? A. Absolutely not.

Q. And never took you out riding with any other woman other than your wife? A. Absolutely not.

Q. Prior to your going to Dr. Woodruff on the 6th of October, when did you discover that you were suffering from this infection—how long before you went to the doctor? A. If the date was the 6th, then on Sunday morning I discovered it and I went to a friend of mine by the name of Dr. Wheeler and he made—

Q. How long after you saw Dr. Wheeler did you see Dr. Woodruff? A. That night.

Q. You saw Wheeler in the morning and you went to Dr. Woodruff at night? A. I saw Wheeler during the day; yes, sir.

MINNIE KUCHMAN, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. You are a sister of Mrs. Sargent? A. Yes, sir.

Q. Did you go to the Mansion House, Jeffersonvill, New York, with your sister, on the 11th of October, 1918, the day for which this register has been offered in evidence? A. The 14th, I think it was.

Q. 1918? A. Yes.

Q. What time did you get there? A. Well, I guess it was around supper time, around five o'clock.

Q. Did you stay with her all the time she was at the hotel? A. Yes, sir; I did.

Q. Did you occupy the same room with her? A. Yes, sir; I did.

Q. What room did the chauffeur occupy? A. Well, it was cat-a-corner from our room.

Q. Was Mrs. Sargent ill that night? A. She was ill when she left that morning.

Q. Left where? A. Jersey City.

Q. While you were up there did you have to get a doctor? A. Yes; the next morning.

Q. What doctor did you get? A. Dr. Coleman.

Q. He attended her? A. Yes; he did.

Q. When did she leave the hotel—the next day? A. We left that afternoon after I had phoned Mr. Sargent about it.

Q. You called Mr. Sargent? A. Yes.

Q. What did you tell him over the phone? A. I told him she was very ill and to have the doctor there when we got home.

Q. Was there a doctor there? A. Yes; Dr. Woodruff.

Q. That was October 14th? A. We came home on the 15th.

Q. Doctor Woodruff was there? A. Yes.

Q. How did her illness manifest itself; was there pain? A. Yes; she had severe pains.

Q. And weakness? A. Yes.

Q. Was she delirious at any time? A. Well, not exactly delirious.

Q. What did the doctor have to do for her? A. He examined her and gave her some morphine pills to kill the pain.

Q. At any time, during the time you were there, was she out of your sight? A. Never.

Q. At any time was the chauffeur in the room when he should not have been there? A. No. He brought up some drinks the night before and he went right out.

Q. You were there? A. I certainly was there.

Q. Was there any familiarity between Mrs. Sargent and the chauffeur? A. Never.

CROSS-EXAMINATION by Mr. Lane:

Q. When did he bring the drinks? A. Well, around nine or half past nine I guess it was.

Q. How long had you been up in your room before he brought the drinks up? A. Just a few minutes.

Q. What were the drinks he brought? A. I believe he brought some kimmel for Frances and a highball for me.

Q. Kimel for Mrs. Sargent? A. Yes, because she was not feeling well.

Q. Had the doctor been there at that time? A. No; we did not get the doctor until the next day.

Q. Were those the first drinks you had that day? A. Yes.

Q. What time did you leave Jersey City? A. In the morning about ten, I think it was.

Q. Where did you go? A. To Liberty, to this sanitarium where this girl was, this sick girl we went to visit.

Q. From Liberty where did you go? A. We went to Monksville, to Jeffersonville, I mean, where the Mansion House is.

Q. Why did you go to Jeffersonville? A. Because we could not be accommodated around there in Liberty, so many sick people around, and I knew of these people, and I went there; we had stopped there before, my husband and I.

Q. You knew the proprietor? A. I did not know him, but I had stopped at the hotel.

Q. What time did you get there? A. Between four and five; I guess it was nearer five.

Q. What did you do when you first got there? A. Got washed for supper.

Q. And then you had supper? A. Yes.

Q. In the hotel? A. Yes.

Q. Did you have drinks for supper? A. No, sir.

Q. No intoxicating liquor? A. No, sir.

Q. How long did you stay downstairs after your supper? A. Well, we just had supper and then we went upstairs and got our wraps and went out for a walk.

Q. Did the chauffeur go with you? A. Yes, he did.

Q. What time did you leave for the walk? A. Well, I cannot just say the time. Right after supper I should say; around seven or so.

Q. Where did you go? A. We walked—well, I don't know the Avenue, but we walked right up by the Mansion House to a little store there and Frances sent a night letter to Don.

By Mr. Simpson: Q. Who is Don? A. Mr. Sargent, pardon me.

By Mr. Lane: Q. How long were you on this walk? A. An hour or so, I guess.

Q. With the chauffeur? A. He walked in back of us because we were afraid, it was so dark.

Q. What time did you get home? A. I guess toward nine.

Q. Then you went to bed early? A. I guess about that.

Q. You sent the chauffeur down for drinks? A. We told him to bring them up before he went upstairs.

Q. That was the first intoxicating liquor that you had had that day? A. Yes.

Q. Where do you live? A. Staten Island.

Q. Where? A. In Port Richmond, Staten Island, 198 Park Avenue, Port Richmond, Staten Island.

Q. Have your sister Frances and Charles been down there? A. Yes, sir; different times they have been down with the baby.

Q. Well, have they been down there without the baby? A. At times she would come to see us.

Q. With Charles driving her? A. Why, certainly.

Q. When did she start to come down to your place on Staten Island? A. She always came once a week, sometimes every other week.

Q. Do you keep a road house?

Mr. Simpson: Objected to. How is that proper cross-examination?

The Court: It may be material in connection with this question. I will overrule the objection at present and see what results.

A. Yes; but we do not live there; we live away from there.

Q. But you keep a roadhouse? A. Yes.

Q. How long have you been keeping a road house? A. I don't know; about twelve years; possibly ten years.

Q. Did Mrs. Sargent ever come to your house down there? A. Yes, she has.

Q. During the past three years? A. Yes.

Q. Was Charles there at the same time? A. No; he went home.

Q. Was there any occasion when Charles Simmons stayed there all night? A. Never, never.

ANNETTE RENNER, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. Were you present at a conversation, about the 3d of May, 1919, between Mr. and Mrs. Sargent? A. Yes; I was.

Q. Was that conversation with reference to having Mr. Sargent discharge the chauffeur? A. Yes.

Q. What did you hear Mrs. Sargent say to her husband, about Charles, about discharging him? A. She said that he had been disobedient.

Q. That he had been disobedient? A. Yes, sir.

Q. Did you hear any conversation relating to Charles' conduct in reference to the Mozart Club?

Mr. Lane: Objected to upon the ground that the question is leading.

The Court: Objection overruled.

A. Yes; I did.

Q. What conversation did you hear? A. She told him that he had been late coming back.

Q. Anything else? A. That is all I remember.

Q. Did she make any request of him? A. She thought he ought to be discharged.

Q. What did Mr. Sargent say? A. He said he would see about it—consider the matter the next day.

Q. That is what you heard? A. That is what I heard.

Q. Is that the only conversation in reference to Sargent discharging the chauffeur, about his being impudent? A. That is all that passed between us.

Q. Did you know, before Mrs. Sargent told it

to Mr. Sargent, that she was going to tell him about it? A. No; I did not.

Q. How did it come up; how did she come to tell him while you were there? A. Because she was provoked at the actions of the chauffeur.

Q. How did you know that she was provoked? A. Well, because I could see she was provoked at being delayed taking us home.

Q. When had this trip to the Mozart Club taken place, do you know? A. I think the first Saturday in May; I am not positive.

Q. I mean with reference to the time you heard Mr. Sargent complain about the chauffeur? A. Well, when we returned home was the first I heard of it.

By the Court: Q. How long was the trip to the Mozart Club before the conversation that you heard? A. It was the same evening.

By Mr. Lane: Q. It was on your return? A. Yes.

Q. It was on your return fro mthe Mozart Club that you heard this conversation? A. Yes, sir.

Q. You think it was in May, 1919? A. I think it was.

The Court: 1919.

Q. Was it 1918 or 1919? A. 1919.

Q. Had the chauffeur been late? A. Yes; he was late.

Q. How late? A. Oh, I should say twenty minutes.

Q. What time was it? A. What do you mean? I do not just understand the question.

Q. What time was he supposed to be where he was going and what time did he get there? A. Why, he was supposed to meet us when we came out of the theatre.

By the Court: Q. When was the theatre through? A. Well, I should judge a quarter to eleven or so.

By Mr. Lane: Q. And he got there five minutes after eleven? A. Possibly so.

Q. What did Mrs. Sargent say to him after he got there? A. She asked him what caused the delay. He said he was held up in the traffic.

Q. Anything more? A. That is all I heard.

Q. You heard everything that was said between them about the delay? A. Yes, as far as I can recall. I was a guest. I was not supposed to interfere.

Q. You listened? A. Just what he said.

Q. She asked him why he was late and he said he was held up by the traffic? A. Yes.

Q. Where was the Mozart Club? A. The meeting was held at the Hotel Astor.

Q. Nothing more was said? A. Nothing more was said.

Q. Now, when you got home and saw Mr. Sargent, what did Mrs. Sargent say to him? A. I don't know all that she said.

Q. What did Mrs. Sargent say to Mr. Sargent that you heard? A. That Charles had been disobedient, had been late; she did not like his actions.

Q. Is that all? A. She thought they better get rid of him.

Q. Is that all she said? A. That is all she said.

Q. Did she say what actions she did not like? A. She said he had been late for the theatre.

Q. Is that all she said she didn't like? A. That is all.

Q. That is all? A. That is all that night.

Q. Did she say that he explained that he had been held up by the traffic? A. No.

Q. Was there anything unusual in that?

Mr. Simpson: Objected to.

The Court: Objection sustained.

Q. You said in response to Senator Simpson's question that she said he had been impudent. That is right, is it not? A. No.

Q. You did not use the word "impudent"? A. No; I did not.

The Court: The senator used it.

Q. Then she did not say that Charles had been impudent? A. No.

Q. She did say that she did not like his actions? A. She did say that he had been disobedient.

CHARLES SIMMONS, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. How old are you? A. Thirty years old.

Q. You now reside in Newark? A. Yes, sir.

Q. Were you employed at any time by Mr. Donald Sargent as a chauffeur? A. Yes, sir.

Q. When were you employed by him? A. On July 14, 1918.

Q. What were the terms of your employment? A. Well, he had hired me as chauffeur to drive his car.

Q. How much was he to pay you? A. He was to pay me $21 a week, room and rations.

Q. And your wife was to act as maid? A. As a maid, yes.

Q. You and your wife lived there how long? A. We lived there eight months, and I will say, twenty-three days.

Q. When did your wife and you cease living there? A. On April 5th.

Q. 1919? A. 1919.

Q. Now, after April 5th, 1919, where did you live? A. I lived part of the time at 97 Atlantic Street, Jersey City, and at 13 Warner Avenue, Jersey City, and 212 Sipp Avenue, Jersey City.

Q. Up to the time you and your wife went out of the house you had your meals in the house, did you? A. Yes, sir.

Q. After you and your wife began to live in another room, did you sometimes, in an emergency, have your meals in the house, in the kitchen? A. At Mr. Sargents, do you mean?

Q. Yes. A. I did, sir.

Q. There has been testimony given here that during the time of your employment, at various times, that you telephoned to Mrs. Sargent and that on one occasion she called you "dearie" and told you to call up the garage and see if the boss was there, and if he was not there to come over, and on another occasion she called you up and said to come over and bring ice cream. Was there anything like that, any talk like that, over the telephone, occurred between you and Mrs. Sargent? A. No, sir.

Q. There has been other testimony given by some man—I don't know his name—Jetter, I think—that on one occasion when he was in the hallway he looked down the hall and having heard Mrs. Sargent call you up into her room, he was able to see through a door Mrs. Sargent take you

by the arm and draw you towards her. Now, I want to know did anything like that occur? A. No, sir.

Q. There has been other testimony by Charlotte that you took a bottle of Sparkling Berkle, she called it up in the pink room, and because it was hot, it exploded, the person having charge of it not having regard and care and becoming affection for what was in the bottle, and it went all over the walls, stained the walls, stained the carpet, stained your coat, and that you took off your coat, and that Mrs. Sargent said; "You will have to take your coat to the cleaner," and that Mrs. Sargent had no stockings and shoes on, and that she laid down on the floor and you laid down alongside of her like a dog, and she kicked off her slipper and you tried to put it on, and she said, "Don't put it on," and instead of going to another room, instead of going upstairs to sleep, you stayed there and she went in another room. Did anything like that or any part of that or any item of that occur? A. No, sir.

Q. There is also testimony that on one occasion on Mrs. Sargent was sitting on a chair out in the hallway and that you put your arms around her Mrs. Sargent was sitting on a chair out in the Did anything like that occur? A. No, sir.

Q. Did you at any time ever use any endearing expressions towards Mrs. Sargent, or she to you; did you at any time ever use endearing expressions towards her or manifest affection or familiarity towards her or she to you? A. No, sir.

Q. Now, getting down to the period of May 26th to July 11th, were you employed up to that time, over that period of time, by Sargent? A. Yes.

Q. Up to July 11th? A. Yes, sir.

Q. Do you remember the night of July 11th? A. I do.

Q. Will you tell what occurred from one o'clock in the afternoon July 11th, until you went out of the house that night? A. Well, I will say I left the house of Mrs. Sargent at four o'clock for Bergen Point Ferry, where she was to meet her sister, Mrs. Kuchman, and then she met her at the ferry, she entered the car and went in the car and left there for Ridgewood, New Jersey, her brother's home, and she stayed the evening, afternoon, out there. Then she returned back, on the way to the ferry with her sister, her sister left the car, Mrs. Sargent came back to the grocery store and the vegetable store, where she bought some goods, taking these goods back home, arriving back home, twenty-one minutes past eight o'clock; Mrs. Sargent left the car; I had taken the parcels out and made a couple of trips with them, taking them around the back way. I said; "Well, I will go home." Charlotte said; "No, don't go. I want to take this stuff out and you will have to put it in the waste basket in the cellar so it can be taken out." I said; "All right. I want you to make a hurry, because I want to go home, you know I have not had anything to eat." She said; "You can have something to eat with me. I have been sick all day, Charles," and she said; "I would like you to stay and sit with me for awhile anyway, because I have been lying down all day, and I have been practically sleeping all day and it will be some time before I will be able to get to sleep tonight, so, therefore, I will consider it a favor if you will stay with me." I

said; "You know I could not do that." I said; "I have got to go home." She said: "I wish you would stay with me for a while." She said; "I will prepare you something to eat." So, she had been very nice to me for the time I had been there in the house—so she prepared something and Mrs. Sargent said; "Charlotte, as long as you have been sick all day, so long as you are going to give Charles something to eat, you can prepare mine on the tray and I will sit in the kitchen with you and eat." Charlotte said; "No, Mrs. Sargent I don't care for anything." Mrs. Sargent said; "Well, if you are not going to eat, you will have to go in the dining-room for me to eat, because I am not goin to stay in this kitchen and eat with Charles." Charlotte said; "All right, Mrs. Sargent, I will, eat." So Charlotte had something. So I and Mrs. Sargent sat around and talked a few minutes and Mrs. Sargent said; "By the way, Charles, before you go, I would like you to go all over the house to see if it is safe, you know Mr. Sargent is out of town and you cannot tell what will happen. We don't know who knows it. Something like there might be some robbers around." I said; "All right." She said; "In the meantime, I will give you the key so you can get some whiskey, that I can give Charlotte a drink, and she may feel better." So she gives me the key and I go down into the cellar and I get a bottle of booze for her and I bring it up and give it to her. Then I said; "I will begin my job." I goes back down to the cellar again; I searched the cellar and I found a couple of windows open in the cellar in the laundry, the screens still in then. I goes on the first floor; I go in every place, closets and all, and

all was safe, except one window in Mr. Sargent's room was unlocked, in his Bergen room downstairs. I goes on the second floor. I goes all through there. Everything was all safe there. I goes up in the attic; I goes up in the attic; I goes all over there, all over except two rooms which were occupied by the maid; they were locked; I came down stairs and went to the room—Charlotte was standing at Mrs. Sargent's door, and she said; "We are here now, Charles; come down here." All right, I went down the hall; Charlotte was standing there with a little small whiskey glass in her hand—it looked like whiskey—I don't know—

Q. (Interrupting) Did you, when you came down make any report about two doors being locked? A. I came down and stuck my head in the door and said; "Mrs. Sargent, everything is all right; I found a couple of windows open, unlocked, and I fastened those." I says; "I went into every room and closet and all over; there is no one around or nothing, except two bedrooms that are occupied by the maids and they are locked, which is natural." She said; "That is all right." Charlotte was standing so (indicating) with a small whiskey glass with something. I could not just say what it was.

Q. Where was that? A. That was at the bedroom; they had entered the bedroom.

Q. When you came down from the inspection you found them in the bedroom? A. When I returned from the attic on my inspection, Charlotte was standing in the door of Mrs. Sargent's bedroom and replied to me that they were there.

By the Court: Q. Who do you mean by

"they"? A. That is what Charlotte said, they were there. I guess she was referring to herself and Mrs. Sargent there was two of them.

By Mr. Simpson: Q. Then what did you do? A. I went on down and stuck my head in the door and said to Mrs. Sargent I had been over every room and all and I found a couple of windows open in the cellar and one in Mr. Sargent's room, and I had went through every closet and everything was safe except the maids rooms and they were locked, and it was a natural thing for them to be locked. She said; "That is all right." In the meantime Charlotte had the glass in her hand, which I say was about half full. Charlotte stepped inside of Mrs. Sargent's bedroom and placed this glass on the dresser and said; "Charles, would you like to have a little drink"? I said;" I don't care." She says; "There it is; get it." I says "No. Pass it here." So she would not. I stepped inside of the room to get it and when I reached over to get the glass off the dresser the door was slammed on me.

Q. Then what happened? A. Mrs. Sargent began to holler and knock on the table. "Charlotte! Charlotte! What are you doing, Charlotte?" And Charlotte ran. I heard her running when she ran down the hall.

Q. Did you hear her say anything about running? A. I never heard her say a word about running.

Q. You heard her running? A. Charlotte ran down the hall.

Q. What did you do? A. Well, I tell you I didn't know what to do. I guess I had a thousand thoughts, but the best one of any came to me was to jump out of the window.

Q. Did you go to the door first? A. No, sir; When Charlotte ran I heard footsteps coming, running down; it sounded to me like horses.

Q. Like horses? A. Yes, sir; so many there were there, awful heavy, and they came and tried the door; they shook the knob and they could not get in, and they knocked on the door; "Charles, Charles, are you there"? I stepped to the window, shoved it up, busted the screen, and went out into the yard.

Q. You were not going to take any chances? A. No, sir.

Q. The next morning did you go to Mr. Sargent's most intimate friend? A. Not the next morning.

Q. What is that? A. I went to Mr. Metz the same night.

Q. Mr. Metz is Mr. Sargent's most intimate friend? A. Well, so far as I know.

Q. As a result of what Metz told you, you did not go back to Sargent's house, did you? A. No, sir.

Q. You sued Sargent for your wages? Yes.

Q. And got a judgment against him? A. Yes.

Q. During the trial Sargent sat alongside of you and was friendly with you, was he not? A. Yes.

Q. When was that? A. The last trial was January 9th.

Q. January 9th, 1920? A. January 9th, 1920.

Q. Mr. Sargent chatted with you very friendly in the courtroom? A. Well, seemed to be very nice.

Q. There has been other testimony by Viola, the detective, that she went into the room, Mrs. Sargent was undressed, she took her breakfast up

to her, took it up to her every morning; on this morning—the girl does not state the date, as I remember—you came in the room and that you went right to the whiskey closet and you took a drink of whiskey, that you asked Mrs. Sargent would she have some; she said, no; she would have wine, and then you got the wine out. Did anything like that ever occur? A. No, sir.

Q. It was, however, necessary for you sometimes to get your orders from Mrs. Sargent, was it not, for the day? A. Well, when I was firs employed I always received orders from Mrs. Sargent, but beginning in the last I received orders from Mr. Sargent.

Q. Not from Mrs. Sargent? A. No, sir.

Q. During all this time they testify here detectives were in the house from the 26th of May to the 11th of July, you were in and out of the house all of the time, were you not? A. Well, I would not say that I was in and out of the house all of the time, but every time that Mrs. Sargent had to go to the grocery store or any place, why, I always had to go to take the parcels around in the kitchen for her.

Q. Take them around to the kitchen for her? A. Yes, sir.

Q. Was it your practice to go up to her room and engage in conversation with her for fifteen to twenty-five minutes? A. Never.

Q. Some of the witnesses say they heard mumbling in the pink room. Did you ever go to that room and have a conversation with her when she was dressed or undressed for fifteen to twenty-five minutes? A. No, sir.

Q. Were your relations always respectful to

her? A. Well, I tried to discharge my duty as chauffeur.

Q. This hotel—you drove them up to this hotel in Jeffersonville, didn't you? A. Yes, sir.

Q. The time they went there? A. Yes, sir.

Q. You had your own room? A. Yes.

Q. Who had the other room? A. Mrs. Sargent and Mrs. Kuchman.

Q. Did you, at Mrs. Kuchman's request, bring up two drinks to their room? A. I was down in the saloon in the hotel and got the drinks and brought them up.

Q. Did you stay after you got the drinks? A. I did not; I went across the hall to my room.

Q. You went to your own room? A. Yes.

Q. Do you know the next day whether you went to get a doctor because of Mrs. Sargent's illness? A. No; I did not.

Q. You don't know who got him? A. Well, the doctor came to the hotel.

Q. Who was out with you that morning of the 11th of July? A. July 11th?

Q. Yes. A. Mrs. Sargent, Mrs. Kuchman and Mrs. Kuchman's niece.

Q. Did you ever while you were employed by Sargent, drive any woman for him other than Mrs. Sargent? A. I did not.

Q. You did not drive any other women? A. No, sir.

Q. Did you drive Mrs. Sargent to Dr. Woodruff? A. Yes.

Q. Did you also take Mr. Sargent to Dr. Woodruff? A. Yes.

Q. Whom did you take first—Mr. Sargent or Mrs. Sargent? A. Mr. Sargent.

Q. Do you remember how long before you took Mrs. Sargent? A. No, I could not say just how long it was, really, it has been so long ago—I did not pay any attention to those things.

Q. During the time, the 26th of May to 11th of July, how was Sargent's treatment of you, was he decent to you? A. Well, up to the 26th of May—

Q. Up to the night of the raid, it has been testified that there were detectives in and about the house from the 26th of May to the 11th of July—what I want to find out is how was Sargent's treatment of you?

Mr. Lane: I object to the question.

The Court: Objection sustained.

Q. Had you received any other money other than your salary from Sargent, for the purpose of spying on his wife? A. Well, yes; I had received money from Mr. Sargent.

Q. How much money did he pay you for spying on his wife? A. Well I received three times from Mr. Sargent.

Q. How much? A. I received three times, $10 each.

Q. What did he ask you to do for him? A. Well, Mr. Sargent told me in the begining that his wife had a bad disease, and he says; "Charles, you know I am a very prominent man in Jersey City," and he says "It seems as if she never will be cured," and he says; "I am very afraid it is going to get out on me, and if it does it is going to ruin me."

Q. What else did he say? A. He says; "If you will help me in this matter I will do anything on earth for you." I says; "Mr. Sargent, what would

you like for me to do?" He says; "I want you to get you a book and copy each day behind her, if she went out in the car, what time she left, where she went, when she arrived, who was with her."

Q. Did you copy after her; did you get a book? A. I got a book and copied after her.

Q. You gave him the information, did you? A. Well, I gave him information twice.

Q. And he gave you how much money? A. Well, I got $30 out of him all together.

Q. As far as you know she did not do anything wrong?

Mr. Lane: I object to that as leading.

The Court: Objection sustained.

CROSS-EXAMINATION by Mr. Lane:

Q. When was it that you had this conversation with Mr. Sargent? A. Well, gentlemen, I could not just tell you when it was.

Q. About when? A. Well, that I could not say; I would not like to say unless I could give a definite answer.

Q. Was it a month before July 11th or was it a year? A. It was over a month and it was not a year; I would say it was around about—we will say, about seven months.

Q. I don't care what we will say; what do you say? A. I will say about seven weeks.

Q. About seven weeks before July 11th? A. Yes, sir.

Q. When Mr. Sargent had this discussion with you with respect to finding out where his wife was going; is that right? A. Yes.

Q. Is that the time he told you his wife had a bad disease? A. Yes, sir.

Q. Then, it must have been in April or May of last year; is that so?

Mr. Simpson: I object, as calling for a conclusion.

The Court: That is easy to get at.

Q. Was it in April or May, 1919? A. Well, if you take seven weeks back from July 11th, that would throw it—

Q. That was the first time that Mr. Sargent spoke to you with respect to keeping tabs on his wife? Is that right? A. That is when Mr. Sargent paid me.

By the Court: Q. Answer the question: Was this the first time he had spoken to you with respect to keeping tabs on his wife? A. That was the first time to give some idea—

Q. Cannot you say: "Yes?" A. Well, yes.

By Mr. Lane: Q. Is that right? A. That is right.

Q. And it was after that that you were paid the $30? A. It was after that, yes, sir.

Q. In three payments? A. Three payments.

Q. Ten dollars each? A. Yes, sir.

Q. How soon was it after you began to keep tabs on Mrs. Sargent was it that he gave you the first payment of $10? A. When Mr. Sargent first broached the conversation he pulled out the bill and gave it to me.

Q. You mean the ten dollars? A. Yes.

Q. How soon after that was it that he gave you the second ten? A. He met me a week after that and he asked me to read my book, and I read it over, and he gave me another ten.

Q. How soon after that was it that he gave you the third ten? A. The following week after I

received the first one he asked me, he met me on another occasion and he said "How are you getting along?" I said "Fine." That was the last money I received from him.

Q. Did he ask you anything about it after that? A. Yes.

Q. What did you tell him? A. After he met me, he says, "Charles, read your diary over to me." I read it. He said "you are a liar."

Q. "You are a liar?" A. Yes, sir.

Q. About how many times after, or about how long was it after the first time that he said that to you? A. That was around about a month.

Q. About a month? A. Yes, sir.

Q. That would make it about two weeks before July 11th? A. About two weeks before the 11th.

Q. Where were you when he gave you that? A. I was standing in front of his yard.

Q. You read over the diary; he asked you to read this book to him; is that right? A. I went to the People's Palace, and on the way to the garage he was talking and he asked me, he said: "Charles, suppose you read your book over." I read it. He said: "you are a liar."

Q. Anything more? A. I said, "Mr. Sargent, as long as you feel that way about it you better take your key and car." He broke out laughing and said, 'Well, well, cannot you take a joke?"

Q. Go ahead? A. I said, "Not a joke like that." He said, "Did Mrs. Sargent tell you what time to return in the morning?" I said, "She did not." He said, "Be at the garage at ten in the morning and I will tell her to call you."

Q. Did that finish the conversation? A. I went and put the car up for the night.

Q. What? A. I was finished, yes, for the day.

Q. You went right on afterwards and did your work; the next day you worked for him, didn't you? A. Sure.

Q. You did not get ten dollars that time? A. No, sir.

Q. What was the next time he asked you to read this book? A. He didn't ask me any more to read the book.

Q. Did you keep it after that? A. No, sir.

Q. Where is the book? A. Within a few days, the following week, I went to the garage and got my car and came down to the house. On my way I found my brakes were not working; I put the car in front of the door and I pulled off my coat and I got under my car to adjust my brakes, and when I finished it I goes into the kitchen to wash my hands, which were very dirty, and when I got in to wash my hands I began to dry them on the towel and Charlotte comes up and says "Don't dry your hands on the towel," she says; when you wash them you always clean them on the towel; you never wash them with soap and water and you always clean them with the towel," and then me tussling with the towel and Charlotte, in the meantime I gets my coat, and I feel in the pocket, and the book had disappeared.

Q. The book went in the tussle? A. I didn't say the book went in the tussle, but the book was gone.

Q. You never got it? A. No, sir.

Q. You don't know where it is? A. No.

Q. Did you say anything about it to Charlotte? A. I went back and asked Charlotte, Viola, also, if they had seen a small book in there with writing in it and they said no, they had not.

Q. What kind of a book was it? A. That was a very small book, very small book to keep things in.

Q. Now, there were three thoughts that you had in your mind—just a minute; let me show you something. Have you ever seen this before? A. Why yes, this was in my room, I think.

Q. In your room in whose house? A. Mr. Sergeant's house.

Q. When did it get in your room? A. That I don't know. My wife fixed that room up during the time when we occupied this room, and there was several pictures of all kinds.

Q. Didn't you tell your wife that Mrs. Sargent had given you that? A. No, sir; I did not.

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

Q. Did Mrs Sergeant give it to you? A No, sir.

Q. At the time of the raid there were three thoughts that came to your mind, were there not? First, you had in mind to open the door and fight your way out, second, to hide under the bed, and the third was to jump out of the window; is that right? A. No; I do not think I had any thought of fighting my way through.

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

Q. Then, you had two thoughts in mind; one to hide under the bed and the other to jump out of the window? A. I don't think I had any thought to hide under the bed.

Q. You said on your direct-examination that you had several things in mind?

Mr. Simpson: Thousands of thoughts.

A. I had thoughts enough to think; I did not know whether there were robbers in the house, or

whether it was somebody to kill someone; I knew I was in the wrong place, being locked in the room. It wasn't quite natural that I could think of anything that could put me in trouble whatsoever.

Q. You thought it was wrong to be in that room? A. I knew I was in the wrong place being locked in there.

Q. You knew it was not your place to be in the room of the lady of the house when she was undressed at any time.

Mr. Simpson: Objected to.

Q. Well, she was not undressed.

The Court: Let the answer stand.

Q. Give me another one of your thoughts instead of jumping out of the window, what did you think of doing? A. (No answer.)

Q. Do you know this man here who sits back of me? A. Yes, sir; I have been knowing him for quite some time.

Q. You have been talking to him about these things, have you not? A. I have not.

Q. Where did you first see him? A. Well, I could not say when I first met him, but it is since the case has taken place.

Q. How did you come to meet him? A. He came up to my garage where I was working on Lembeck Avenue.

Q. When did he come to your garage? A. I cannot just say.

Q. About what time? A. That I cannot say. One Saturday afternoon I was working on the car. He drove up and had his motorcycle stop all at once, and he came over, and I said, "What is the matter? Are you having trouble?". He said, "No, I

was driving by and I happened to see the motorcycle, and I am a member of the Motorcycle Club of America, and we round up all the fellows, all the owners of motorcycles, and I would like to know if you—

Q. (Interrupting) Did you get pretty well acquainted with him? A. I didn't have an awful lot to say or do with that fellow.

Q. Did you get pretty well acquainted with that fellow? A. No, sir.

Q. Did you see him a number of times after that? A. I seen him a number of times.

Q. You have talked with him quite often? A. I never exchanged but a very few words with him.

Q. Did you have Christmas dinner at this friend's house? A. Yes, sir; I had Christmas dinner there.

Q. You talked with him a little when you were having that Christmas dinner? A. Sure we talked.

Q. You became pretty friendly with him? A. I was traced to a certain extent; I knew how to act with that fellow.

Q. You spoke of seeing a detective? A. I have been traced by so many I didn't—

Q. You had been traced? A. Yes, sir.

Q. You thought he was a detective? A. Well, I had been traced by so many until I didn't know who was a detective.

Q. When were you traced the first time to your knowledge? A. The first time on July 11th.

Q. The first time on July 11th? A. Yes, sir.

Q. You knew you were being traced by so many? A. Well, so many had come up to me and I went and gave lawyer Simpson the people who was doing it.

Q. Did you tell lawyer Simpson about Mr. Walters? A. I won't say positive that I did tell him.

Q. You are not so certain? A. No I told him about so many.

Q. You did tell Mr. Simpson about the others? A. Yes, I told him about several others, and I won't say positive that I didn't tell him about him.

Q. Then, you won't say you did? A. I won't say.

Q. Is it a fact that you did not tell him because you never suspected Walters? A. Well, I have suspected him all right.

Q. You had stayed several nights in Pete's house, had you not? A. No, sir.

Q. Not once? A. No, sir.

Q. Never? A. No, sir.

Q. Now, do you remember a conversation you had with Pete, who is Mr. Walters, in which he said—I cannot give you the exact time—some time after July and— well, in the latter part of September—

The Court: Are you fixing the date as the latter part of September?

Mr Lane: The latter part of September, 1919.

Q. (Continuing) In which you told him that on the night of the raid, in the pink room or the bedroom, that your first mind was to open the door and fight your way out; that your second was to hide under the bed; and the third was to jump out of the window; did you tell him that? A. I did not; no, sir.

Q. Did you tell him in that same conversation

that the last thought was the best and so you jumped, or words to that effect? A. I don't remember telling him anything concerning that.

Q. I am asking you whether you said that or words to that effect? A. I did not, sir.

Q. Do you remember telling him at the same time that you had taken several twists of the chain that had fastened the door, shortening it, which required considerable time before it could be unlocked, unhooked? A. No, I did not.

Q. Did you tell him anything with respect to that? A. No, sir, I did not.

Q. Where did you go after you jumped out of the window the night of the raid? A. I was down to see one of Mr. Sargent's friends.

Q. After you went to see one of Mr. Sergeant's friends where did you go? A. I went to the City Carpet Cleaning Company.

Q. Where did you go after that? A. I spent the night there.

Q. Now, did wou go to Mrs. Sargent's sister's? A. I did, sir.

Q. What? A. I did.

Q. Where does Mrs. Sargent's sister live? A. One is living in Staten Island and one lives in Richmond Hill, Long Island.

Q. Which one did you go to? A. I went to Mrs. Linser.

Q. Where is that? A. That is in Richmond Hill.

The Court: Is this the night of the raid?

Mr. Lane: The night of the raid.

The Court: I don't understand it that way.

Mr. Simpson: He did not say that.

Q. What did you say a few minutes ago, that you went to Mrs. Sargent's sister's house that night? A. You asked me after I left Mrs. Sargent's house where did I go. I told you I spent the night at the City Carpet Cleaning Company. Then you wanted to know if I went to any of Mrs. Sargent's sisters and I says I did; I went to Mrs. Linser's house in Richmond Hill, Long Island.

Q. What did you do that for? A. Well, I had called up concerning the matter; I called Mrs. Kuchman, I couldn't get any information from the home or anything; so I called up Mrs. Kuchman to explain it to her, to speak to her, to see if she knew what had happened. She asked me, "Don't you know something about it?" I says, "No, I don't know, the only thing I know there was a crowd of people in the house and they had me locked in and I jumped out." She said, "Well, my sister is over at her sister's house in Richmond Hill," she said, "I could not tell you anything about it." She says, "You will have to see her or call her up or something to find out what you must do." I said, "I have an appointment with Mrs. Sargent to take her to the doctor's at 10:30 this morning and I don't know what to do." She says, "You can go over to the house. You can do what you please." I didn't know what to do—

Q. Where did you go? A. I went to Mrs. Sargent's first.

Q. Then you went to the house of Mrs. Sargent, where she was? A. I went to the house of Mrs. Sargent's sister and Mrs. Sargent wasn't there; she had left.

Q. You expected her to be there, did you not?

Mr. Simpson: Objected to.

The Court: Objection overruled.

A. Why, I was expecting her to be there. That is why I went there.

Q. How long did you stay there? A. I stayed there, I could not say just how long; Mrs. Sargent had gone to the doctor's herself, as her sister was not able to tell me anything about it.

By the Court: Q. Did you stay there ten minutes or an hour? A. I stayed there about thirty minutes.

By Mr. Lane: Q. Then where did you go? A. I was over to Forest Hills, to see some friends of mine.

Q. Forest Hills where? A. Long Island.

Q. How long did you stay at Forest Hills, Long Island? A. I spent the night there, a couple of them.

Q. A couple of nights? A. Three nights, I think.

Q. How near is Forest Hills to Richmond Hill? A. They are adjoining; you can say they are adjoining, they are.

Q. Who were the friends you stayed with in Forest Hills? A. I was over to Forest Hills Inn with the head waiter there; he was a personal friend of mine.

Q. What is his name—the head waiter?

Mr. Simpson: I object to this as not proper cross-examination. I haven't asked him anything about this. It does not affect his credibility. Throws no light on his direct testimony.

The Court: Objection overruled.

Q. What is the name of the head waiter? A. The head waiter was Robert Eaton.

Q. What is the name of the hotel? A. Forest Hills Inn.

Q. Is Mr. Eaton still there? A. No; he is not.

Q. Where is he? A. Well, I could not just say where he is.

Q. How long has it been since he has been at Forest Hills? A. That I don't know.

Q. You spent three days there? A. I spent three nights there; yes, sir.

Q. Did you stay there all the time, day and night? A. Well, I was all around; in the gardens during the day and at night I was in the room.

Q. You did not leave the vicinity of the hotel during those three days? A. I did not leave Forest Hills property during the three days.

Q. The property of the Inn? A. That is right.

Q. Did you know what was happening to this case during the three days? A. Did I know what was happening to it?

Mr Simpson: Objected to.

The Court: Change the word "case" to "matter."

Q. Did you know what was happening to this matter during the three days? A. Why, I was over to see Mrs. Sargent's sister, and her sister was not able to tell me anything about it during the time when I was there. Mrs. Sargent's sister told me that Mrs. Sargent would be back to her sister, she was sure later, after she came from the doctor, and so she says the best thing for you to do is to call up. I says, "All right." And during the time I was in the Forest Hills hotel that

evening I called up and I had a talk with Mrs. Sargent, so I knew something was coming off.

Q. And what did Mrs. Sargent tell you with reference to this matter? A. Mrs. Sargent told me, she says, "I have nothing to say to you, only there has been some dirty work did, and I have nothing to do with the car or anything, and you can consider yourself, your job, discontinued, until you see Mr. Sargent, and make further arrangements with him, I have nothing to do with it."

Q. That was the next night, is that right? A. My conversation with Mrs. Sargent the first time after I went out of the window.

Q. That was the night of July 12th? A. That was July 12th, yes.

Q. Now, did you have a conversation with Mrs. Sargent on July 13th? A. Well, I don't know; I don't think I did; I am sure I did not.

Q. Did you on July 14th? A. No; I did not.

Q. And then for two days, between the night of July 12th, and the morning of July 13th you stayed in the Forest Hills hotel and you did not know what had happened to the matter, did you? A. I was not trying to find out; no, sir.

Q. You did not, as a matter of fact, did you? A. No.

Q. You did not try to find out? A No; I did not.

Q. You did not communicate with Mr. Sargent during those two days? A. I did not.

Q. You did not try to communicate with Mr. Sargent? A. No; I did not.

Q. Although Mrs. Sargent said you were through, as far as she was concerned? A As far

as she knew my job was through until I saw Mr. Sargent and made further arrangements, that she had nothing to do with it.

Q. Why did you stay in Forest Hills? A. I thought I was in a good place down there; I was among a lot of friends of mine.

Q. Do you remember at this conversation that you had with Mr. Walters that you had told him that you had stayed with Mrs. Sargent and had been with her for the three nights succeeding the raid, in Staten Island? A. No, sir.

Q. You never said anything that sounded like that to him? A. No, sir, not one word.

Q. Did you have any conversation with him with respect to what you had done the night before? A. No, sir.

Q. Or the night preceding? A. No, sir, I did not.

Q. Did you tell him that you had been to Forest Hills? A. I did not, sir.

Q. Did you tell him that you had gone down to Mrs. Sargent's sister's house on Staten Island, on the night of July 12th? A. I did not.

Q. July 11th? A. No, sir.

By the Court: Q. Is Richmond Hill in Staten Island or Long Island? A. Richmond Hill is in Long Island.

Q. Where is Forest Hills? A. In Long Island.

Q. Both these places, Richmond Hill and Forest Hills are in Long Island? A Yes.

Q. Not on Staten Island? A. That is right.

By Mr. Lane: Q. Now, you remember, you know the first conversation, do you remember the first conversation that you had with Mrs. Walters, don't you? A. Yes; I remember the first conversation I had with Mr. Walters.

Q. He helped you remove the springs from your truck, didn't he? A. He did not.

Q. You were removing the springs from your truck? A. I was working on my truck, yes.

Q. And he came up and started to talk? A. He came up I says "What is the matter? Are you having trouble with your machine?" And he says, "I got stuck. I happened to see your machine standing here. I ride a motorcycle and I am a member of the Motorcycle club, and I am trying to round up all the members I can."

Q. In response to his introduction you introduced yourself, didn't you? A. I did not.

Q. You did not say who you were? A. I was not particular about introducing myself to anyone.

Q. Did you introduce yourself to him? A. No, sir.

Q. Tell him who you were? A. No, sir.

Q. You did not tell him during that conversation who you were? A. No, sir.

Q. You did not tell him what your name was? A. No, sir.

Q. As far as you know he didn't know anything about you when he left, is that right? A. He stood there arguing about the motorcycle club and I continued my job.

Q. You did not tell what your name was? A. That I could not say.

Q. Did you tell him, although he introduced himself—A. I did not.

Q. Didn't you tell him that your name was Simmons? A. I did not.

Q. Didn't you tell him that your name was Simmons and that you had been named as cores-

pondent in the Sargent case, and didn't you refer to Mrs. Sargent as that rich woman in Kensington Avenue? A. I did not.

Q. You did not say anything that sounded like that? A. No, sir.

Q. There was no talk about the Sargent case? A. None at all; not at all, when we met.

Q. Not at all? A. No, sir.

Q. Don't you remember saying to him and don't you remember his asking you: "Are you the fellow?" and don't you remember replying, "Yes, and they sent one of the most prominent niggers in this town to pump me"? A. I did not.

Q. Isn't it a fact that you thought that they had sent some man to pump you; that is true, is it not? A. Well, I could think anything I wished to.

Q. Did you think so? A. I would not say at the present that I thought he was, but I knew there was so many until I wouldn't take a chance with anyone.

Q. But you never told him anything about that? A. No, sir.

Q. Did you tell him that you had been pinched for speeding? A. Not that day I did not have anything to say to him concerning speeding, because I was very busy working to complete my job on this car.

Q. At a subsequent conversation did you tell him that you had been pinched for speeding? A. I don't know if I ever spoke to him concerning speeding.

Q. Well, do you remember telling him that you had been pinched for speeding and fined fifteen dollars and that you took a one-hundred dollar bill and said, "Change this." A. I did not.

Q. You did not tell him anything like that? A. No, sir.

Q. Do you remember a conversation with Mr. Walters a short time before, a few days before, before November 27th, 1919, in which there was a discussion or in which you talked about the suit which you had brought against Mr. Sargent? A. I don't remember speaking to Walters concerning the suit I brought against Mr. Sargent.

Q. You had a suit at that time against Mr. Sargent, didn't you? A. Well, I had a suit with Mr. Sargent, the latter part of the year; I could not just recall; I had been off and on for three months before I could get him.

Q. Do you remember your talking to Mr. Walters about that suit? A. Well, no; I don't remember talking to Mr. Walters about that suit.

Q. Do you remember your telling him that Mr. Sargent had not appeared in the suit and judgment was given against him? A. I did not, sir.

Q. Do you remember him then saying to you, "Perhaps Sargent thought that Mrs. Sargent was giving you enough?" A. I did not.

Q. Or words to that effect, that is to say, that he said to you, "Perhaps Sargent thought that Mrs. Sargent was giving you enough." Do you remember his saying that? A. I do not.

Q. He did not say anything like that? A. No.

Q. Do you remember your replying, "What I got from her was for personal service." A. I did not.

Q. Did you say anything that sounded like that? A. I did not.

Q. Did you talk to him about the money that

you had gotten from Mrs. Sargent? A. No, sir; I did not. I never received any from Mrs. Sargent.

Q. You never had received any money from Mrs. Sargent? A. No; I did not; I did not.

Q. Do you remember in this same conversation telling him that Mrs. Sargent was a perfect fool over you? A. I did not.

Q. Did you tell him anything that sounded like that? A. I did not.

Q. Do you remember his telling you or suggesting to you why you did not keep the thing quiet and continue the good thing for a little while?

Mr. Simpson: I object to that. We have nothing to do with this man's suggestions. We are entitled to the precise language.

The Court: Objection sustained.

Q. Do you remember this conversation, Mr. Walters saying to you: "Perhaps Sargent thought that Mrs. Sargent was giving you enough," and your saying to him, "What I got from her was for personal service?" A. I did not.

Q. And then his saying, "Were you serving much? Getting much," and your answering, "Serving every opportunity and getting everything I asked for"? A. I did not.

Q. Do you remember anything like that? A. I did not.

Q. Then do you remember his saying to you, "Why did you not keep quiet and work the good thing along," and do you remember replying, "I could not; she was a perfect fool over me"? Do you remember any such conversation as that? A. I have never had a conversation with this man concerning Mrs. Sargent.

At this point recess is taken until two o'clock in the afternoon. After recess the witness resumes the stand. Deposition of Elizabeth L. Lathrop is handed to Court by Master.

Mr. Simpson: There is another question that I neglected to ask Mr. Simmons on direct-examination, and with the Court's permission I would like to ask it now.

By Mr. Simpson: Q. I neglected to ask you on direct-examination. During the period covered from October, say from the 1st of October, 1918, to the night of this raid, were you suffering from gonorrhea or any venereal disease? A. I was not.

Q. Did you ever in your life have gonorrhea or any venereal disease? A. No, sir.

Q. In your life time? A. No, sir.

By Mr. Lane: Q. Now, do you remember in this same conversation telling Mr. Walters that there were several occasions when you were having sexual intercourse with Mrs. Sargent in the house when you thought you heard someone coming and you tried to get away from her? A. I did not.

Q. And that she would not let you get away from her? A. I did not.

Q. Or words to that effect? A. I did not.

Q. Do you remember in this same conversation telling him that you were with Mrs.—

Mr. Simpson: I want to ask that this man who is going to be used as a witness to contradict the witness on the stand be excluded from the room. I do not think it is fair that he should sit here and hear this examination.

The Court: I will direct Mr. Walters to retire.

Q. Do you remember, as a part of that same conversation, saying to Mr. Walters that she said to you she would not stop even if she saw Sargent coming? A. I did not, sir.

Q. Nothing that sounded like that? A. No, sir.

Q. Do you remember saying to him that you were with her the night following the night the detectives made the raid on the house? A. I did not, sir.

Q. Do you remember saying at that time you had a piece? A. Do I remember what?

Q. Do you remember at that time saying you had a piece? A. I do not.

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

Q. You did not say anything of that kind to him? A. I did not.

Q. That you also had it the night before she went away? A. No, sir.

Q. You did not say anything like that? A. No, sir.

Q. Do you remember his saying to you, "Where is she now?" Do you remember replying, "Out west, Reno, Nevada?" A. I did not, sir.

Q. Was there any discussion between you and Walters as to where Mrs. Sargent was? A. There was not, sir.

Q. Nothing at all with respect to that? A. No, sir.

Q. Do you remember his saying to you, "Do you ever hear from her or communicate with her?" and your answer, "Only once I heard from her indirectly?" A. I did not, sir.

Q. Do you remember saying to him, or words to that effect, "Don't you think that Sargent is a big fool to make such a scandal by having detectives in the house and a raid and getting evidence against Mrs. Sargent and then suing for divorce?" A. I did not, sir.

Q. Or words to that effect? A. No, sir.

Q. Did you discuss that subject matter at all? A. I have not talked with Walters concerning this matter.

Q. Do you remember his replying to you, "No. After he learned that she was crooked he could not stand for it and he wanted to get her right; he could not grin and bear it and he could not stop it," or words to that effect? A. I did not, sir.

Q. Nothing like that? A. No, sir.

Q. Do you remember in reply to that, telling Walters that Mrs. Sargent had an ungovernable passion for sexual intercourse? A. I did not.

Q. Nothing of that kind? A. No, sir.

At this point the witness is temporarily withdrawn to permit the swearing of another witness, after which witness returns to the stand.

Q. Do you know Mr. Jeter? A. Who?

Q. Jeter? A. Jeter I guess you are speaking of. Yes; I know him.

Q. Do you know him? A. Sure I know him.

Q. How long have you known him? A. Why, I could not just say how long I have known him.

Q. About how long—before you went to Sargent's place? A. I knew him quite some time before I ever worked at Sargent's place.

Q. He took you to the Sargent place? A. Yes; he took me there.

Q. Do you remember Jeter telling you that he had seen you with Mrs. Sargent in a position you ought not to be? A. He did not.

Q. He never said anything like that to you at any time? A. At no time at all.

Q. He never spoke to you about that? A. No, sir.

Q. He never said you ought not to do that thing? A. No, sir.

Q. And that he was ashamed because he had gotten you into the house? A. No, sir.

Q. Or words to that effect? A. He did not.

Q. He never said anything like that? A. He did not.

Q. Do you remember about December 19th, before Christmas, at Christmas time, telling Mr. Walters that Mr. Jeter had told you, had heard you and Mrs. Sargent talking? A. I did not.

Q. Nothing like that? A. I did not, sir.

Q. Do you remember then telling Mr. Walters that Jeter had then made improper advances to Mrs Sergeant and had been fired? A. I did not.

Q. Or words to that effect? A. I did not.

Q. Do you remember a conversation with Mr. Walters in which he asked you, "Did you get much money from her?" and in which you said "She never had much money and I got five dollars and ten dollars, not over that, and occasionally larger sums?" A. I did not.

Q. Do you remember, as part of the same conversation, showing to Mr. Walters a small diamond ring and saying, "She gave me this diamond ring and also gave me a sweater," or words to that effect? A. I did not.

Q. Have you got a small diamond ring? A. I have a diamond ring, yes.

Q. Where is it? A (Showing) There it is.

Q. You have been wearing that how long? A. Ever since the day I placed it on there.

Q. When was that? A. Around Christmas, 1918.

Q. Were you working for the Sargents at that time? A. I was employed by Sargent.

Q. What time of the year? A. I bought that ring about Christmas, 1918.

Q. You have been wearing it ever since? A. I have, sir.

Q. Who gave you the money to buy that ring? A. My labor got that money.

Q. Mrs. Sargent didn't give it to you? A. No, she did not.

Q. Do you remember showing Mr. Walters that ring? A. No, sir.

Q. You have always had it on your finger? A. I have always worn it since the day I placed it on my hand.

Q. Do you remember telling Mr. Walters that you had got Mrs. Sargent to give your wife a sixty-five dollar evening gown? A. I did not.

Q. Did Mrs. Sargent, to your knowledge, ever give your wife an evening gown? A. Not to my knowledge.

Q. Do you remember telling Mr. Walters that you went to Mrs. Sargent and told her you wanted her to do you a favor, and told her what you wanted, that is, that you wanted your wife to get an evening gown because she was going to a ball and had no dress, and that she then said, "Yes," and called up Oppenheim & Collins of Newark, and they had sent two gowns, one for sixty-five dollars and the other for ninety-five dollars—do you remember that? A. I did not, sir.

Q. That you liked the sixty-five dollar gown and Mrs. Sargent gave it to Lillian and it was charged to her account. Do you remember telling Mr. Walter that? A. No; I did not.

Q. Or anything like it? A. I did not.

Q. Do you remember also telling Walters at that time that you hoped that Mrs. Sargent would win in this suit because if she should win you could then sue Sargent for damages? A. I did not.

Q. Nothing of that kind was ever said? A. I did not.

Q. Nothing that sounded like that? A. I never had any conversation with Walters concerning this case.

Q. Do you remember, as late as August of this year, having a conversation with Walters? A. I did not have a conversation with him.

Q. You were talking with him up to August of this year?

Q. You would not say just when the conversation you had with Walters; if it was in August, maybe I did or maybe I did not.

Q. It was during this year? A. I have talked.

Q. You have talked with him during this year, and now do you remember as late as July or August of this year meeting Walters and telling him that you had a swell new girl? A. No, I did not.

Q. You did not tell him that? A. No, sir.

Q. And telling him also that you were going to marry this swell new girl? A. I did not.

Q. You did not talk about that? A. I could not; I am married already.

Q. You did not, at any rate? A. No, sir.

Q. Do you remember his saying to you then:

"What about Miss Ann? I thought you might go back to her after everything was over," or words to that effect? A. Who is Miss Ann?

Q. Referring to Mrs. Sargent? A. No.

Q. No such words? A. No such words.

Q. Do you remember his saying to you: "I didn't think you would ever take up with a Dinah again? A. No such thing.

Q. Or words to that effect? A. No, sir.

Q. And do you remember saying to him: "Who do you mean? A. Mrs. Sargent?" A No, sir.

Q. Nothing like that? A. No, sir.

Q. Do you remember saying: "Well, she is a thing of the past with me?" A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Don't you remember telling Walters about this new girl of yours? A. No, sir.

Q. Do you know the girl in the rear seat there, on the right hand, in the middle aisle? A. Won't you have her stand up please?

(Girl in the audience arises.)

Q. Do you know her? A. Sure.

Q. She came her with you, didn't she? A. I would not say she came with me.

Q. Is she not the girl you referred to when you said to Mr. Walters that you had a swell new girl? A. No, sir.

Q. What is the name of that girl? A. Her name is Ethel Wilson.

Q. Where does she live?

Mr. Simpson: Objected to. This is not cross examination.

The Court: Objection overruled.

A. She lives at 78 Barclay street, Newark.

Q. How long have you known her? A. I have known her for quite some time.

Q. How long? A. Practically ever since I was old enough to know anyone.

Q. She is not a witness in this case so far as you know? A. Not that I know of.

Q. Do you know whether she was here yesterday? A. Why, I am sure she was.

Q. Do you remember, at this conversation in August of this year, Mr. Walters trying to find out from you where Mrs. Sargent was?

Mr. Simpson: Objected to on the ground that it calls for a conclusion.

A. No, sir.

The Court: Objection sustained.

Q. Do you remember Mr. Walters saying to you: "Where is Mrs. Sargent?" A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Do you remember saying to him: "I have not heard from her in a hell of a while." A. No, sir.

Q. Do you remember his saying to you: "Who do you receive communications through?" A. No, sir.

Q. And your saying to him: "You are asking too dammed much now." A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Do you remember continuing to say: "The people who receive my mail can't tell and they would get in trouble and I would not tell." A. No, sir; no, sir.

Q. Nothing to that effect? A. No, sir.

Q. Nothing like that ever took place? A. No, sir.

Q. Do you remember at that some conversation saying to Walters that Mrs. Sargent and her sister wanted to get away from Long Island very quickly on one occasion and wanted a driver equal

to the occasion and that you went very fast and disobeyed all police instructions; do you remember talking about that incident? A. No, sir; I don't know anything about.

Q. Nothing of that kind, or a trip from Vermont—you remember that? A. Sure.

Q. Do you remember telling him about a trip to Vermont that you had? A. No, sir.

Q. There was a time when you went on a trip to Vermont when you had to get away from Vermont very quickly? A. Never.

Q. There was nothing of that kind took place? A. No, sir.

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

Q. Solomon Hughes worked in the City Carpet Company? A. Yes.

Q. At the same time you worked there? A. Yes.

Q. At what time? A. I would not just say at what time he went and when he left, but I picked him up off the street and hired him as a chauffeur myself to work for the same concern.

Q. Do you remember when that was, about? A. Well, I could not say just what time that was. It was in the spring of the year, just what month or date I could not say, but I know it was the spring; business was beginning to pick up and I went out and picked him up as chauffeur around in Jersey City.

Q. When you picked him up and he first became chauffeur you did not have very much to state to him first off, did you? A. Well, he and I has been friends for quite some time, ever since I have been in Jersey City. I met him when I first came there in 1916.

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Q. You have known him for quite some time? A. I have known him for some time.

Q. Since 1911? A. Of course I never corresponded much with him. He was on a railroad job and his job kept him away pretty much all the time. Of course I didn't never see him much.

Q. How did you come to see him? A. Because he got out of this position with the railroad company and he was going around and didn't have any job and I hired him.

Q. How long was he there in the same job? A. That I could not say.

Q. Can you tell me about how long? A. No, I cannot.

Q. A month or two months? A. Just how long that man was there I don't know.

Q. Before he left you got quite confidential with him, didn't you? A. I did not.

Q. About this case? A. I did not.

Q. You never talked with him about this case at all? A. No, sir.

Q. You did not think he was one of the detectives that was sent to pump you, did you? A. Well, I told you I did not trust anyone on this case.

Q. Did you think that he was one of the detectives sent to pump you? A. I was not thinking about anyone specially. I would check him as quick as anybody if he wanted to have a conversation.

Q. There wasn't anything to indicate that he was sent to pump you? A. Well, no.

Q. You got him there yourself, didn't you? A. I picked him up on the street myself.

Q. Don't you remember telling him that Mrs. Sargent was in love with you? A. I did not.

Q. Or words to that effect? A. I did not.

Q. Do you remember telling him before the raid, so-called, in July, 1919, Mrs. Sargent had given you a diamond ring? A. I did not.

Q. Do you remember telling him that she had given you a leather suit? A. I did not.

Q. And some stockings? A. I did not.

Q. Neckwear? A. I did not.

Q. That she had also paid for the motorcycle which you used? A. I did not.

Q. Do you use a motorcycle? A. I own a motorcycle.

Q. Do you use a motorcycle? A. I am riding one today.

Q. Where did you get the one you were riding in July, 1919? A. I bought it.

Q. When? A. I bought that motorcycle, to the best of my recollection, it was March 11th.

Q. What year? A. March 11, 1919.

Q. 1919? A. 1919; March 11th, 1919.

Q. Where did you get the money to buy it? A. I worked for it.

Q. How much did it cost you? A. It cost me, I think it was $428.75.

Q. Where did you buy it? A. I bought it over here in William street, Newark, from Mr. Clueshek.

Q. Did you pay for it in cash? A. I paid cash.

Q. Where did you get the money to pay for it? A. Well, I have been saving to buy a motorcycle for the last four years.

Q. Where did you keep the money that you saved? A. I kept it in my pocket.

Q. The money that you saved— A. (Interrupting) Every nickel I have I always carry it with me all the time.

Q. For the past four years you have been saving money to buy this motorcycle?

Mr. Simpson: I object to that. That is not what he said; he did not say for the past four years he had been saving for this motorcycle.

Q. Four years previous to buying it? A. I would save every nickel—

Q. For four years preceding March, 1919, you had been saving? A. I had been saving every nickel I could to buy that motorcycle.

Q. Four years previous to March, 1919, you had been saving money for the purpose of buying a motorcycle and you carried the money you saved all of that time; is that right? A. I carried every nickle I saved.

Q. You did not put it anywheres? A. In my pocket.

Q. You did not have it in the bank? A. No, sir.

Q. You never had any bank account? A. No, sir.

Q. You got this four hundred and fifty some odd dollars and cents and you went down and bought the machine? A. When I got enough money to purchase it I bought this motorcycle.

Q. Did you get a leather suit at the same time? A. No, sir.

Q. Have you a leather suit? A. Well, it is a leatherette suit that I bought some time afterwards.

Q. How soon afterwards? A. Well, it was quite some time after.

Q. Well, March, 1919? A. That was around the fall of the year when I bought this suit.

Q. October 1919? A. I don't know if it was October. It was the Fall of the year.

Q. Was it after the raid or before the raid? A. That was before; I bought this before the raid.

Q. Then it could not have been in October, 1919? A. Well, I bought this motorcycle—I bought this coat in the fall of the year, that is when I bought this coat.

By the Court: Q. After the raid? A. I am sure it was after the raid.

By Mr. Lane: Q. Why did you say a few moments ago that it was before the raid? A. In the fall of the year. I was not thinking nothing at all about the raid when it came off. I know I bought this coat in the fall of the year to wear with my motorcycle as it was getting cold weather.

Q. Did you have the leather suit when you left Mr. Sargent's house? A. I bought that suit afterwards.

Q. How much did you pay for it? A. I paid $50 for it.

Q. Do you remember telling Mr. Hughes that it was Mrs. Sargent's custom to order special delicacies for you to eat, which she knew you liked? A. No, sir.

Q. Nothing about that said at all? A. No, sir.

Q. Do you remember telling Hughes that in order to do this and not arouse curiosity on the part of the servants sometimes she would have to order them and say she did not like them and then suggest they be given to you? A. I did not.

Q. Or something that sounded like that? A. No, sir.

Q. That subject was not discussed? A. No, sir.

(At that point the witness is temporarily withdrawn to permit the calling of Dr.

Henry Spence. After the examination of Dr. Spence, the witness resumes the stand.)

Q. Do you remember telling Mr. Hughes that before the raid you were accustomed to having sexual intercourse with Mrs. Sargent right along whenever you could make the occasion for it? A. I did not.

Q. Do you remember telling him that you had slept with her several entire nights? A. I did not.

Q. Do you remember telling him that you had slept with her for three successive nights when Mr. Sargent was away? A. I did not.

Q. Or words to that effect? A. I did not.

Q. Did you tell him that on the occaasion of the raid by Mr. Sargent's detectives you were in Mrs. Sargent's bedroom partly undressed? A. I did not.

Q. And did you continue and tell him that you had just started to get into bed with Mrs. Sargent when you heard someone coming downstairs and coming to the door? A. I did not.

Q. Or words to that effect? A. No, sir.

Q. Or anything like that? A. I did not.

Q. Do you remember telling him that you put on your clothes and jumped out of the window and beat it? A. I did not.

Q. Did you ever tell him that you jumped out of the window and beat it? A. I did not, sir.

Q. Did you ever tell him anything about it? A. I have never had any words with this man, Mr. Hughes, concerning this case.

Q. Do you remember telling him that you hung around Jersey City that night and the next morning you went over and got your motorcycle from the Archibald garage? A. I did not.

Q. Is it not a fact that you did get your motorcycle from the Archibald garage? A. No, sir.

Q. Is it not a fact that you did get your motorcycle? A. I received my motorcycle.

Q. Where did you get it from? A. I received my motorcycle from the garage on Atlantic street occupied by Turner.

Q. Is it Archibald or Turner—is it the Archibald garage or Turner garage? A. There is an Archibald dentist that lives in that house. Turner has the garage.

Q. Is it the same house that Archibald is in? A. That garage—I didn't say anything about the garage.

Q. Did you call it Turner's garage or Archibald's garage? A. I never had any conversation with him concerning the garage.

Q. That is the place you got your motorcycle from the next morning? A. That is the place I received it, yes, sir.

Q. Did you tell him that you beat it right away to Brooklyn? A. I did not.

Q. Did you tell him that on frequent occasions afterwards, that is, after the raid, on frequent occasions, you met Mrs. Sargent on Staten Island? A. I did not.

Q. And did you tell him that you had sexual intercourse with Mrs. Sargent at Mrs. Sargent's sister's house on Staten Island? A. I did not.

Q. And did you tell him that her sister was on to the game and that while you were in the bedroom and sleeping with Mrs. Sargent, the sister would watch outside and see that nobody came? A. I did not.

Q. Or anything that sounded like that? A. No, sir.

Q. Did you go down to Asbury Park about right after the raid, some time during July or August? A. I think I spent the last week in August down in Asbury.

Q. You did? A. My wife and I.

Q. Did you tell Mr. Hughes that you had gone down to Asbury? A. I did not.

Q. You never told him that? A. No, sir.

Q. He was working with you there during August, was he not? A. No, sir.

Q. When did he leave? A. That I don't know.

Q. Were you working during that time? A. I was not.

Q. You were not working? A. No, sir.

Q. When you were in Asbury Park that time did you come to the city on your motorcycle on occasions? A. I did not.

Q. You did not bring your motorcycle to the city? A. When I left on my week-end I came to Jersey City on my motorcycle.

Q. When you left on your week-ends—how many weeks were you there? A. I spent a week there, the end of my week, the last day, I came to Jersey City on my motorcycle; it was Sunday.

Q. Did you tell Mr. Hughes while you were in Asbury Park you had come on your motorcycle to see Mrs. Sargent? A. I did not, sir.

Q. Do you remember where Mrs. Sargent was during the last week in August? A. Do I know where she was?

Q. Yes. A. I could not say where she was all the time, no.

Q. Do you know where she was part of the time? A. I do not. I know where she was one day.

Q. Where was she one day? A. I saw her standing on the boardwalk talking with my wife.

Q. In Asbury Park? A. In Asbury Park.

Q. That was during the week that you were there? A. That was during the week that I was there.

Q. Did you see her there; did you talk to her, did you speak to her? A. I did not.

Q. How near were you to her? A. I was down on the sand, on the beach, any my wife was up on the walk, she went up on the boardwalk where Mr. Sargent was and she hollered: "Charles," and I threw up my hand, and I looked over and there stood Mrs. Sargent and Lillian, talking and I stood with my back to them and looked at the water.

Q. What time of the day was it? A. That I don't know.

Q. Did you speak to your wife about meeting Mrs. Sargent afterwards? A. My wife said: Mrs. Sargent want me to go back to work. What can I do?" I said: "Well, you can stay away. You know Sargent ran you away from there once. Why don't you stay away?"

Q. You did not know where Mrs. Sargent was staying? A. I did not.

Q. You did not see her again during the week you spent there? A. I did not see her any more.

Q. Did you tell Mr. Hughes that Mrs. Sargent told you that she did not care for her husband any more after having you? A. I did not, sir.

Q. Or words to that effect? A. I did not.

Mr. Simpson: Is Hughes in the room? If so, I ask that he be excluded.

(Mr. Hughes is asked to leave the room.)

Q. Did you tell Hughes that on various occasions after the raid you went over to some place in New York with Mrs. Sargent there and got liquor? A. I did not.

Q. And that you drank with Mrs. Sargent in the house? A. I did not.

Q. Or words to that effect? A. I did not, sir.

Q. Did you tell Hughes that before the raid, on different occasions you would go out with Mrs. Sargent in the automobile and drive to the various parks and go into the inside of the tonneau of the car and have intercourse with her there? A. I did not, sir.

Q. Or words to that effect? A. I did not.

Q. Did you tell Hughes that Mrs. Sargent told you that if she lost the case you were to be given money by her and by her brother so that you could skip the country? A. No, sir.

Q. Something like it? A. No, sir.

Q. Did you tell Hughes that you expected Mrs. Sargent back from the west about the 1st of June? A. I did not.

Q. Didn't you expect Mrs. Sargent by the 1st of June? A. No; I did not.

Q. When did you leave the City Carpet Cleaning Company? A. Why, I left the City Carpet Clean Company in September, I think it was; I am sure it was September.

Q. What date, as near as you can give it? A. That I do not know.

Q. About what date in September? A. Well, I would not give any date on that.

Q. Where did you go? A. I went from Jersey City.

Q. Where did you go from Jersey City? A. To Newark.

Q. Where were you living when you last worked for the City Carpet Cleaning Company? A. When I last worked for the City Carpet Cleaning Company?

Q. Yes. A. 579 Jackson Avenue.

Q. When you left the City Carpet Cleaning Company did you continue to live at that place in Jersey City? A. For awhile I did.

Q. For how long? A. That I could not say.

Q. A week or two weeks? A. I would not say it was a week; I would not say it was two weeks; it was a short time; just how long I cannot say.

Q. A short time? A. Yes; a very short time.

Q. Where did you go to over in Newark, what part of Newark? A. Where I am residing now, 78 Barclay Street.

Q. Did you go right from— A. From Jersey City to Newark.

Q. Why did you move? A. I moved because I wanted to get out of Jersey City.

Q. Why did you want to get out of Jersey City? A. Why, I had been waiting to get out for some time, but I could never find a chance to get away; I had been trailed by so many that I was sick and disgusted and I wanted to get out somewhere for recreation, to get another job and be entirely out of it.

Q. You stayed in Jersey City from July, 1919, the night of the raid, up until September, the middle of September, 1920? A. I would not say I stayed there all the time, because in the fore part of the time after the raid, why I got out then for some time, out of Jersey City.

Q. Then you went back? A. Then I went back; yes.

Q. You stayed there until the middle of September, 1920? A. I stayed there until the middle of September of this year.

Q. What is the thing you say happened that you wanted to come to Newark? A. Well, it had happened already. I was run down. I felt if I didn't get away I would go under pretty soon.

Q. What employment did you take after you left the City Carpet Cleaning Company? A. Well, I have not had a special job—doing a little washing of cars and messing around like that.

Q. Since the middle of September you have not had a special job; is that right? A. No, sir.

Q. You have been doing washing off and on? A. Yes.

Q. Just as you could pick up jobs? A. Well, if a job came into the garage I would help to do it.

Q. Have you tried to get any work since the middle of September? A. Well, I have tried to get a truck job.

Q. You could not get any work from the middle of September until this time? A. I have not got the place what I want.

Q. How old are you? A. I was thirty years in August past.

Q. You are living with your wife? A. No, sir.

Q. How long did you work for the City Carpet Cleaning Company? A. How long did I work for the City Carpet Cleaning Company?

Q. Yes. A. I began there around the 1st of September last year and finished up this year in September.

Q. Between the 11th of July and the 1st of September last year, 1919, did you work anywhere? A. No; I did not.

Q. You did not do any work at all; what was your salary at the City Carpet Cleaning Company? A. My salary began at $25, then raised to $28, from $28 to $32, and from $32 to $35.

Q. Pretty good wages? A. Oh, yes.

Q. You voluntarily left the City Carpet Cleaning Company? A. When was that?

Q. When you left in September, 1920, you voluntarily left? A. Yes.

Q. You were not discharged? A. Oh, no.

Q. You gave up this $35 a week job? A. Yes, sir.

Q. Do you know when Mrs. Sargent came on from the west? A. I do not.

Q. When did you see her? A. This morning.

Q. The first time you have seen her? A. Yes.

Q. Since when? A. It is the first time I have seen Mrs. Sargent, I would not say positive, but to my knowledge sure it is the first time I have seen her since Mrs. Sargent made the trip to Vermont.

Q. When was that? A. That was last year.

Q. When last year? A. Well, that I could not say; after that raid; it was shortly after the raid.

Q. Was it August, September or October? A. I think it was around the latter part of August, during the 1st of August, I could not say positive.

By the Court: Q. You saw her down at Asbury Park. Was that before or after she went to Vermont? A. That was before she went to Vermont, to the best of my recollection.

By Mr. Lane: Q. Did you go to Vermont with her? A. I drove Mrs. Kuchman's car up to Vermont.

Q. Who was in the party? A. Mrs. Sargeant and Mrs. Kuchman.

Q From whence did you start? A. We started one morning.

Q. I suppose so, but from where? A. From Staten Island.

Q. Where did you drive to in Vermont? A. Drove up to Rutland, Vermont.

Q. Who did you see when you got to Rutland, Vermont? A. Who I saw? I don't know who I saw. I saw a lot of people, no one that I know.

Q. Where did you go to in Rutland, Vermont? A. Why, only stopped in the hotel.

Q. What hotel in Rutland? A. That I don't know.

Q. Do you remember the name of the hotel you stayed at? A. I do not.

Q. What time did you get there? A. I think I think we arrived there around about, I am sure the sun had not gone down, it was not dark when we got there, but just what time the sun was setting that time I don't know.

Q. How long did you stay there? A. One day.

Q. One day or just that night? A. She spent the night but came back the next day.

Q. Where did you sleep? A. In the hotel.

Q. In the same hotel that they slept in? A. Sure.

Q. Did you take any drinks up to the room that night? A. No, sir, I did not.

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

Q. What time did you leave the hotel and drive them down? A. The next day?

Q. Yes. A. Right after breakfast.

Q. Where did you drive to? A. I drove back to Denby, Vermont.

Q. Denby, Vermont? A. Yes, sir.

Q. Then what did you do when you got to Denby Vermont? A. I stopped the car and Mrs. Sargent and Mrs. Kuchman got out.

Q. Where did they go? A. They went down the street some place. Where they went I don't know. They went towards Mr. Sargent's folks home.

Q. How long did they stay there? A. They were there for a short time.

Q. What did you do? A. They came back to the car, and I drove them back to Staten Island.

Q. Then what did you do? A. I put the car away.

Q. Then what did you do? A. I went on.

Q. Where did you go? A. I went down to Mrs. Kuchman's husband's place.

Q. Where was that? A. That is in Staten Island.

Q. How long did you stay? A. I was there during that day.

Q. Then where did you go? A. Or that night, around some part of the evening, just what time it was—pretty late—he stays open until twelve o'clock— stayed around there for quite some time and then I went over to New York.

Q. How did you come to drive them up there that time? A. Why, I was employed to drive the car.

Q. After the raid? A. Sure.

Q. Whom were you employed by? A. Mr. Kuchman.

Q. How long had you been employed by Mrs. Kuchman to drive her car? A. Mr. Kuchman employed me to drive that car; I had made the trip up before and knew the road and he asked me if I would drive the car.

Q. You were not employed as a regular chauffeur for the Kuchman car? A. No, sir.

Q. You were employed for this particular trip? A. Well, I have drove for Mr. Kuchman on several other occasions.

Q. Before that? A. Well, I don't say that I have drove—I don't know whether I had drove or had not drove before then or not. I know he has been out several times in the car with Mr. Sargeant which I had drove and he told me if I ever got without any job, always to come to him, he would be only too glad to help me.

Q. Did you, in pursuance of that invitation, after you lost your position with Mr. Sargent, go to Mr. Kuchman and become employed by him? A. I was not employed by Mr. Kuchman fully; I was employed by Mr. Kuchman several times to drive him in his car.

Q. When was the first time after the raid that you were employed by Mr. Kuchman to drive his car? A. That I could not say.

Q. How soon after? A. Why, that I could not say.

Q. Was it a week or two weeks or a month? A. This question I cannot answer for you.

Q. Was it a little while; how many times between the night of the raid and the day you drove this car to Vermont, did you drive the Kuchman car? A. I could not tell you the date; I could not tell you just when I made the trip to Vermont, to save my memory, but having so much of that stuff pressed on me, it throws everything from me—

By the Court: Q. If you don't know, say so? A. I cannot say.

By Mr. Lane: Q. Did you drive it at all? A. That I cannot say.

Q. Did you drive it afterwards? A. Yes.

Q. How many times afterwards did you drive it? A. I have drove Mr. Kuchman several times afterward.

Q. Did you drive Mrs. Sargent at any other time than this time you took her to Vermont? A. No, sir.

Q. How long before you took her to Vermont was it that you knew that you were going to drive her to Vermont? A. I was notified the day before.

Q. How were you notified? A. I kept in touch with Mr. Kuchman as he was interceding for a position for me. He told me he would always look out for me and try to place me; I could always come over and look after his car, keep it clean, repaired and greased up, and in the meantime he would be looking out for me.

Q. How were you keeping in touch with him—by 'phone? A. By telephone.

Q. Every day? A. Well, I would not say every day.

Q. Almost every day? A. Well, I tried to make it as a rule to keep in touch with him at least every day.

Q. From what point were you telephoning to him? A. Sometimes I was in Jersey City; sometimes I was in New York; sometimes I was in Forest Hills, one time.

Q. And you were notified the day before you telephoned him that you were to drive this car to Vermont; is that right? A. He asked me if I would drive the car up to Vermont. I says: "I will, sir."

Q. Did you know Mrs. Sargent was going on the trip? A. I did not.

Q. You did not? A. Not until I went over to Staten Island.

Q. Then, when he telephoned you that day— A. (Interrupting) I telephoned him.

Q. When you talked to him on the telephone that day he did not tell you who was going on the trip to Vermont? A. He did not. He said: "I want you to take a trip to Vermont with my car. Will you do it?" I said: "All right." He said "Come over and see me."

Q. So far as you knew when you went over to Staten Island that morning to get the car, Mr. Kuchman was going on the trip? A. No, sir, I did not; I did not know who was going on the trip.

Q. Who did you think was going or did you have any thought? A. I didn't have any thought about it. He said he wanted me to drive the car and I went over to drive it for him.

Q. You had no thought or understanding—you hadn't any idea that Mrs. Sargent was going. A. No, sir; I did not give it any thought who was going.

Q. When you got to Kuchman's house, however, over in Staten Island, you found out that Mrs. Sargent was going? A. I did, and Mrs. Kuchman herself—

Q. You found that Mrs. Sargent was going on that trip, didn't you? A. And Mrs. Kuchman.

Q. You did not protest against going? A. Certainly not.

Q. This raid didn't make much of an impression on your mind, did it? A. Well, it did to a certain extent in Jersey City.

Q. How great an extent? A. A certain extent.

By the Court: Q. How much impression did it make on your mind? A. Well, quite a bit.

By Mr. Lane: Q. You had been charged, and you knew it, with adultery with Mrs. Sargent, had you not?

Mr. Simpson: Objected to.

Q. You thought that you had been charged with adultery with Mrs. Sargent, didn't you? A. Well, I could not say that.

Q. What did you think all this was about? A. Why, that I didn't know, what it was about.

Q. You didn't know what it was about? A. No, sir.

Q. What impression did this raid make on you? A. This raid made me feel pretty bad.

Q. And you have already testified that you were put in a position where it looked bad, haven't you? A. Sir?

The Court: It looked bad enough to jump out of the window.

Q. That is so, is it not? A. Sure.

Q. Did you have any thoughts at all with respect to driving this woman to Vermont within a month and a half after this raid? A. I did not.

Q. You did not think that there was anything out of the way in that at all, did you? A. Certainly not.

Q. Nothing was said to you by Mr. Kuchman with respect to that? A. With respect—

Q. Was anything said between you and Mrs. Sargent on that trip up to Vermont? A. Mrs. Sargent had no conversation with me whatsoever concerning that.

Q. Absolutely nothing said between you and

Mrs. Sargent from the time you left the Kuchman house on Staten Island until the time you got back? A. I did not say that Mrs. Sargent did not speak to me at all.

Q. Did she? A. She never discussed this matter with me.

Q. Did she discuss any matter with you? A. No, sir.

Q. Did she say anything to you on the way up to Vermont? A. Speaking of that, why I would not say that Mrs. Sargent did not speak to me during the time, but whatever she said to me I don't know, but to say she did not speak to me, I would not say so.

Q. Was that the first time that you had seen Mrs. Sargent between the night of the raid and after the raid? A. That was the first time after the night of the raid?

Q. Yes, that you had seen her. A. I saw Mrs. Sargent at Asbury Park.

Q. Was it the first time you saw her, to be so close to her that you could and did talk to her— A. Well, I am trying to think now if I saw her at Asbury Park before the time I took her, or was it afterwards, and that I cannot place. As to seeing Mrs. Sargent and having a conversation with her regarding this matter, before or after, that I cannot.

Q. Was that the first time you saw Mrs. Sargent in such a way as that you could have had a conversation with her about this thing, if you wanted to? A. If I had taken Mrs. Sargent to Vermont before I saw her at Asbury Park, that was the first time, but by seeing her at Asbury Park and taking her to Vermont, I do not know which one happened first.

Q. Outside of the incident that you have related with respect to Asbury Park, that is the first time, is it not? A. One of them is the first time.

Q. Yet you went all the way to Vermont and all the way back again—that is, about how many miles? A. Well, that is about 250 miles from Columbus Circle, New York.

Q. And you never said a word with respect to this matter? A. No; her conversation all the time, from what I could hear from them, was concerning the child.

Q. You never said a word with respect to this matter? A. Mrs. Sargent never talked to me concerning the matter at all.

Q. You were told to drive, do I understand, to Mr. Sargent's father's house? A. No, sir.

Q. Or to the girl's house? A. No, sir.

Q. What was the place you were going to and who lived there? A. They asked me to take them to Vermont, and I drove them.

Q. When you left Staten Island somebody told you where you were going? A. Mr. Kuchman had directed me to drive his wife, Mrs. Kuchman, to Rutland, Vermont, and afterwards—

Q. You made that trip in one day? A. Yes, sir.

By Mr. Lane: Q. Now, what was the object in going to Vermont, do you know?

Mr. Simpson: Objected to.

The Court: If he knows.

A. What was Mrs. Sargent's object?

Q. Yes. A. Well, from the conversation that I heard between them, it was concerning a child.

Q. What about it? A. That she was very much in love with the child, and she was crazy about it, and it seemed as if it broke her heart

that the child was away from her, and she wanted to get it.

Q. It was at the child's father's house—where was it? A. In Denby, Vermont.

Q. It was to the child's father's house that you were going; isn't that true? A. I don't know that.

Q. But that is where you finally landed up there, is it not? A. I did not go there.

Q. How near the father's house did you go? A. I stayed at the village.

Q. How far from the village is the father's house? A. Well, I could not say just the distance. I was there one time. I could not recall just how far it was.

Q. Is it a mile or less than a mile or more than a mile? A. Well, I would say—I am not positive—I would not say just how far.

Q. It is a good half mile, is it not? A. Well, probably it is.

Q. And you stayed in the village? A. Yes.

Q. And the ladies got out of the car and walked into the house; is that right? A. Yes.

Q. Was anything said; who instructed you to stop at the village? A. I suggested that matter myself as I had had an awful lot of trouble with that car and I wanted to stop it there, in order that if probably I needed any help in regard to getting it in shape so as to make the trip back, I could call on someone around there to help me with the car.

Q. When did you make that suggestion? A. Well, I spoke to Mrs. Sargent and Mrs. Kuchman concerning that the day when they came back from Rutland, Vermont, that I had better see

about the car; they better leave me up there so that I could get someone there if I needed any help to get it into shape as the distributors were giving me a lot of trouble and I didn't have any file to clean the points off.

Q. How many miles from Rutland, Vermont, to Denby? A. I think it is around about eighteen miles from Denby.

Q. When did you begin to notice the trouble with the distributor? A. Well, we had considerable trouble with it going up, trying to make the trip early, and I forced the car on.

Q. You forced the car on with a distributor out of commission and giving trouble? A. It was missing once in awhile and giving me considerable trouble, and I just forced it along just the same.

Q. What kind of a car was it? A. That was a Cadillac Eight.

Q. When did you first notice trouble with the distributor? A. I noticed trouble with the distributor on that car after it drove, say one hundred miles; it then began to give the trouble.

Q. About one hundred miles—after you had been travelling about one hundred miles from New York the distributor began to give you trouble, and the indication of that trouble is the missing of the spark? A. That is right.

Q. The missing of the cylinders? A. Yes.

Q. One of the things which may cause it is carbon in the distributor—what is it you call that thing—in the points between the two arms? A. I would not say carbon in the distributor.

Q. Something in there, and you need a file to file the points? A. The points get a little dirty and you have to file them.

Q. You take an ordinary file and you file this thing and it is all right? A. If that is the trouble, sometimes it is.

Q. You started to notice that trouble when you were about 100 miles from New York on your way up; is that right? A. That is the idea.

Q. You recognized what the trouble was? A. Well, I could not say that I recognized what the trouble was, but I located the trouble afterwards.

Q. You realize that when your car is missing that way it is liable to stop suddenly, don't you?

Mr. Simpson: I object to that as not proper cross-examination, going outside of the direct.

The Court: He is testing the witness's credibility. Objection overruled.

A. Well, the car is likely to stop even if it is not missing.

Q. Well, you can buy these files in any drug store, can't you? A. Well, you can buy a nail file in a drug store, but a proper file for a distributor you cannot.

Q. A nail file is all you need? A. I have never used a nail file.

Q. You can't use one? A. No, sir.

Q. Why didn't you take care of the distributor in Rutland, Vermont, when you stopped all night? A. Because it was dark when I got there—it was getting dark when I got to the hotel, and I did not want anyone to touch that car, knowing that I was capable of handling it myself.

By the Court: Q. Where did you stop for lunch? A. Stopped for lunch—I think it was—I could not say where it was that we stopped for lunch.

By Mr. Lane: Q. Which side of the river did you go up? A. We went up on the New York side.

Q. You preferred, rather than to look at that distributor and trying to fix it in Rutland, to start out the next morning in the chance that you might get to a little country village without the car breaking down? A. There wasn't a chance for it to break down.

Q. Well, stopping. A. It might have stopped.

Q. You know, don't you?

Mr. Simpson: Objected to.

Q. Don't you know, as a matter of fact, that when this condition arises that you have referred to as being the matter with your car, and the car stops, you cannot start that car again, under any circumstances, unless you take the carbon out with a file? A. You can.

Q. How? A. It is going to start up on the same cylinders and the same spark which it was running on before it stopped. If you stop it, if it is hitting on four cylinders, take an eight-cylinder automobile, if it is hitting on four cylinders, leaving the balance out, you can stop that car and you can start it on the same four cylinders that it was running on before you stopped it.

Q. Was there a garage in this country village? A. Why, I don't know whether there was a garage there or not; I could not say.

Q. How long did you wait in this village for the ladies? A. Well, that I could not say.

Q. Well, about how long? A. Well, that I could not say, because—

By the Court: Q. You can tell us whether it was ten minutes or two hours. A. I am sure it

was over ten minutes and I am quite sure it was not two hours.

Q. Give us the approximate time? A. Well, if necessary I will say we were there for probably an hour.

By Mr. Lane: Q. Now, when the ladies came back did they say anything; did they talk to you at all? A. Well, Mrs. Sargent was very hurt and Mrs. Kuchman was very worried that she could not get to the child, she seemed to be very much worried. I took the car and started. They both seemed to be very hurt and sad, and I didn't have anything to say to them.

Q. Did you drive Mrs. Sargent out in that car again? A. No.

Q. Or in any other car? A. No, sir.

Q. Did you take Mr. Kuchman out? A. I have taken Mr. Kuchman out in his car several times.

Q. How long after that did you continue to work off and on for Mr. Kuchman? A. Well, I worked off and on for Mr. Kuchman until I went back to my old job in September, around the 1st of September, last year.

Q. What did you do for Mr. Kuchman during that time? A. Oh, I would take him out, to parties, picnics, roasts, such as that, ran him down through the village.

Q. Was Mrs. Sargent in any of these parties? A. No, sir.

Q. Was Mrs. Sargent during any of that time staying in Staten Island? A. Well, I don't know if Mrs. Sargent—

Q. (Interrupting) Did you see her there? A. I don't know if I saw Mrs. Sargent there or not. I think I saw Mrs. Sargent there once or

twice when I went for the automobile, but whether I did or not, I don't know.

By the Court: Q. Did you see her on any of these occasions to speak to her? A. No, sir; I never had any talk with her.

By Mr. Lane: Q. You have not talked with Mrs. Sargent about this case at all? A. Never had conversation with Mrs. Sargent concerning this case.

Q. You had no talk with Mrs. Sargent about the matter, about what had occurred there in that house on July 11th, that night; you didn't have any talk with her about that at all? A. Mrs. Sargent never had any talk—I have never had any talk with Mrs. Sargent concerning this case.

Q. Now, I show you a photograph which has been marked P-1, and ask you whether you saw this photograph before? A. I don't know if I have seen this; I have seen one like this; probably it was this.

Q. Where did you see it? A. My wife has had this photograph.

Q. Did you have trouble with Mrs. Sargent about this photograph? A. I did not, sir.

Q. You never had any trouble with her about this photograph or one like that? A. No, sir.

Q. Did you give this photograph to Mr. Sargent? A. I did not.

Q. You did not give it to Mr. Sargent? A. No, sir.

Q. Do you know Mrs. Elizabeth Lathrop? A. Yes, sir.

Q. She is not a colored woman, is she? A. I do not think so; she don't look it.

Q. How old a woman is she, do you know? A. That I could not say.

Q. Do you remember having a conversation with her shortly after the time you went to Jeffersonville? A. No, sir.

Q. Did you have any conversation with her? A. Why, yes; I have had conversation with her.

Q. About this photograph? A. No, sir.

Q. Did you shortly after you went to Jeffersonville tell Mrs. Lathrop that you were leaving Mrs. Sargent? A. I did not.

Mr. Simpson: I object upon the ground that it does not contradict anything that he said upon direct-examination.

Mr. Lane: I am attempting to prove statements made by him to Mrs. Lathrop, which are inconsistent with his story that he had no illicit relations with Mrs. Sargent.

Q. Did Mrs. Lathrop ask you what the trouble was, and did you say to her that you had some trouble because you had taken a photograph?

Mr. Simpson: I object to that. That does not contradict anything on his direct.

The Court: Objection sustained.

Q. Did you tell Mrs. Lathrop that you had stolen the photograph?

Mr. Simpson: Objected to.

The Court: Objection sustained.

Q. Did you, in the course of this conversation, say to Mrs. Lathrop: "You (referring to Mrs. Lathrop) think Mrs. Sargent told the truth when we went to Liberty, but she did not." Did you say that?

Mr. Simpson: Objected to.

The Court: Objection overruled.

A. I did not.

Q. Or anything like it? A. I did not, sir.

Q. Did you say to her that you had stayed with Mrs. Sargent at the hotel that night? A. I did not.

Q. Did you say to her, that is, to Mrs. Lathrop, that Mrs. Sargent had told you what she, Mrs. Sargent had told Mrs. Lathrop as to the Liberty trip, but that it was not true, or words to that effect?

Mr. Simpson: Objected to.

The Court: I do not know whether the witness can understand it or not.

Q. Did you say to Mrs. Lathrop that Mrs. Sargent had told you what Mrs. Sargent had told Mrs. Lathrop, with respect to the trip to Liberty? A. I did not.

Q. And then did you say: "That story is not true," or words to that effect? A. I did not.

Q. Now, did Mrs. Lathrop say to you: "Please let Mrs. Sargent alone," or words to that effect?

Mr. Simpson: Objected to.

The Court: Objection overruled.

A. She did not.

Q. She made no appeal to you like that? A. No, sir.

Q. Or of that character? A. No, sir.

Q. Did you say to her that you would leave, provided Mrs. Lathrop got you a position?

Q. Did you ask Mrs. Lathrop for a position? A. No, sir.

Q. No talk about a position at all? A. She spoke to me in reference to a position.

Q. When was that? A. Well, that was on July—

Mr. Simpson: Objected to.

The Court: It is testing the witness's credibility. Objection overruled.

Q. (Repeated) When was that? A. Well, that was July 4th.

Q. What was the conversation? A. Mrs. Lathrop spoke to me concerning a friend of hers that was in need of a chauffeur and that they had been employing white chauffeurs all the time and they preferred a colored chauffeur and if I knew of any good colored person that I could get for them. I says: "No, not at the present, but I will see what I can do about that. If I can be able to get you one, I will notify you." I says: "What is the position and who are they and where is it located at?" She said: "Mr. Ellis, of New York, and it is a very fine position, and he says: "I tell you, Charles, I would like for you to have it." She said: "They are particular friends of mine and have been for years." I said: "That is very nice of you." At that time Mr. Sargent walked up and she said: "Mr. Sargent, I am speaking to Charles concerning a friend of mine, Mr. Ellis, owner of the Utica Mills, which wants a good colored chauffeur and I was just speaking to him to see if he would be able to place one."

Q. Have you tried to get that position? A. No; I have not tried at all.

Q. Now, did you tell her that you had rooms in this hotel at Liberty opposite each other, and that she was in your room, that is, Mrs. Sargent was in your room? A. No, sir.

Q. Did she say to you: "Charles, don't tell me such a thing," or words to that effect? A. No, sir.

Q. Did you then say: "I swear to you before God I am telling the truth"? A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Nothing like that ever occurred? A. No, sir.

Q. Do you remember in that conversation saying to Mrs. Lathrop: "You know, Mrs. Lathrop, I never made any advances to Mrs. Sargent in my life. She did it all," or words to that effect? A. No, sir.

Q. Nothing like that? A. No, sir.

Q. Do you remember continuing and saying: "It might not be right for me to say, but I never did any unmanly thing in my life"? A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Continuing: "I never approached her." A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Nothing of that kind ever took place? A. No, sir.

Q. Now, did you say in this same conversation that Mrs. Kuchman knew all about it, that she knew all about your relations with Mrs. Sargent, or words to that effect? A. No, sir.

Q. And that she did not object to it, that it did not make any difference to her. Nothing of that kind was said? A. No, sir.

Q. Did you, after the raid, call Mrs. Lathrop up on the telephone? A. No, sir.

Q. You never did? A. No, sir.

Q. You never had any conversation with her? A. I have not, sir.

Q. Over the telephone? A. No, sir.

Q. After the raid? A. No, sir.

Q. Did you have any conversation with her over the telephone before the raid? A. No, sir.

Q. Did you tell her that you understood that

she, Mrs. Lathrop, was trying to injure you? A. No, sir.

Q. And did you tell her that Mrs. Sargent was making derogatory remarks about her, Mrs. Lathrop? A. No, sir.

Q. Nothing of that kind ever took place? A. No, sir.

Q. Now, did you tell her with respect to this trip to Jeffersonville, that you originally tried to get connecting rooms, but that you could not and had to take rooms opposite? A. No, sir.

Q. Or anything like that? A. No, sir.

Q. Did you tell her, Mrs. Lathrop, that Mrs. Sargent stayed in your room all that night? A. No, sir.

Q. When was it, Mr. Simmons, that Sargent told you you must not get your meals in the house? A. Mr. Sargent never told me I must not get my meals there.

Q. Never? A. No, sir.

Q. Did he ever tell you that you should remain away from the house? A. No, sir.

Q. You were supposed, do I understand, to get your meals in the house up until the night of the raid in July? A. No, sir.

Q. What was the arrangement with respect to your meals? A. Mr. Sargent hired me for a chauffeur and my wife left there April 5th, I think it was, and Mr. Sargent said: "Well, so long as she is away, you better go out, you and her, and take a room together, still I want you to continue with me." He did not say I am to eat any more or not to eat any more. He said: "Just go out and take a room."

Q. That was in April? A. Yes, sir.

Q. Was that the only conversation you had with Mr. Sargent with respect to taking meals in the house after that? A. In regard to changing positions, yes.

Q. Before April you were taking your meals in the house, were you not? A. Well, when I was there, yes.

Q. Your wife was living there then? A. Yes, sir.

Q. After April how many meals did you take in the house? A. That I could not say.

Q. Did you have them regularly there, or did you just take them irregularly? A. Well, times I would drive up and Mrs. Sargent would be in the car or Mr. Sargent would be, and if I was going to my home to get a meal, he would ask me to go in for a mouthful and be back in the car—"I have to leave in a few minutes."

Q. You were not supposed to have your meals in the house? A. I was not supposed to take them; I was not told not to take them.

Q. Was you having your meals there at the house part of your wage; was that part of your arrangement after April? A. He never said nothing special about meals; he just said go out and take a room.

Q. So far as you knew, you might have your meals there just the same as before April? A. Well, he always made me welcome.

Q. Do I understand there was no occasion on which you and Mrs. Sargent and Charlotte, or one of the other maids, had meals together, or something to eat together? A. Do I understand we had meals together?

Q. Did you never have? A. No, sir.

Q. There never was such an occasion? A. On July 11th, that was the first and the last.

Q. That was the first and only time? A. Yes, sir.

Q. Do you know anything about this wine being spilled around, being spilled up against the walls of the pink room? A. I know no more than what I was told.

Q. You were not there and you don't know anything about it? A. No, sir; I don't know anything about that.

Q. How soon after it occurred were you told about it? A. I was told the next day.

Q. By whom? A. By Charlotte.

Q. Did you go up and look at the pink room? A. Well, I saw that pink room one day, yes, later, a couple of days later, and it was Charlotte showed it to me and told me she had an accident.

Q. Did you see the result of the accident or whatever it was? A. I saw the room; yes.

Q. What was it? A. It looked to be spotted.

Q. Did you ever say anything to Mr. Sargent about that? A. I did not.

Q. Did Mr. Sargent ever say anything to you about that? A. No, sir.

Q. You were not there in that party?

Mr. Simpson: Objected to. There is no evidence that there was any party.

Mr. Lane: I will withdraw the question.

Q. You were not there at the time when it happened? A. No, sir.

Q. All you know about it is what somebody told you? A. Charlotte told me.

Q. Were you ever in Mrs. Sargent's room up-

stairs when Mrs. Sargent was not fully clothed? A. Why, yes.

Q. When did you first go up there at that time? A. Mrs. Sargent was very ill.

Q. Mrs. Sargent was very ill when? A. That was before Christmas.

Q. Before Christmas, 1918? A. That is right.

Q. Had you ever been up there before? A. Not until after she had taken down ill.

Q. Did you continue to go up there after she got around again? A. Why, no, I did not make it a practice, no.

Q. What? A. No, sir.

Q. What do you mean, you did not make it a practice? A. Why, when Mrs. Sargent was very ill, by request, I had to go to her room and take her from her bed, as the nurse was not able to handle her; I was there, living there, whenever Mrs. Sargent was to be taken from her bed, I would take her up from the bed and put her in the chair, and take her out of the chair and put her into the bed, take her out of the chair and put her back to bed again.

Q. How long did that continue? A. During the time that she was unable to handle herself.

Q. How long a time? A. That I could not say.

Q. Was it before Christmas? A. She began to get up and creep around the house just before Christmas.

Q. She was going around the house again in February? A. Why, she did not take down any more for the time being so that she was not able to handle herself.

Q. Wasn't she all right in February, the second month of the year? A. Why, I don't know. She didn't seem to ever be right any more.

Q. Was it so she did not have to have your assistance in taking her up? A. No, sir.

Q. She did not? A. No, sir.

Q. After that, after that—February, March, April, May and June—do I understand you to say that you never were up in her room? A. You do not understand me to say that I was never up in her room, ever.

Q. All right. What time of the morning, how often during that time? A. Well, I didn't go up in the room any more.

Q. You were not in the room any more after that? A. No; I was not in the room after the time I lifted her, after the time I was living there; I wasn't in that room any more until the night of July 11th.

Q. Why did you say a few minutes ago when I asked you the question: Do you say that you were never up in that room in February, March, April, May or June and you said you would not say? A. I said I was only there when this raid came off, July 11th.

Q. Then, you were never in her room at any time before the night of the raid after the time you stopped taking her from the bed because she was ill? A. That is right.

Q. That is right? A. Yes.

Q. At no time? A. No, sir.

Q. And you never had any drink of intoxicating liquor at any time when she was there drinking, too? A. No, sir.

Q. Is that right? A. That is right.

Q. Neither upstairs on the second floor nor downstairs? A. No, sir.

Q. Did you know that there was a bottle of

whiskey in the closet of the pink room? A. I did not.

Q. You never had heard of that at that time? A. Not in the pink room; no, sir.

Q. In any room? A. In the kitchen there was a bottle of booze.

Q. In any other place, in any one of the bedrooms? A. No, not at Mrs. Sargent's.

Q. Did you know where the closet was in the pink room? A. I don't know anything about it.

Q. Did you ever see that closet? A. Well, I would not say; no, sir; don't say I never saw a closet; there was a closet there; being up in the room I saw the closet.

Q. Were you ever in that closet? A. No, sir.

Q. Have you any knowledge what was in that closet? A. Certainly I have not.

Q. You never knew there was any liquor there? A. No, sir.

Q. What time of day was it on July 11th that you came into the house? A. I entered the house about twenty-one minutes after eight o'clock.

Q. What did you do after you came in the house? A. I came in the house, put the parcels in that Mrs. Sargent had received from the grocery store and the vegetable store and the maid asked me—

Q. By the maid you refer to Charlotte? A. Charlotte.

Q. What did Charlotte say? A. Charlotte asked me not to go, that she wanted to open the parcels and wanted me to take the paper and stuff downstairs, that it might be taken out.

Q. Where was Mrs. Sargent when Charlotte said that? A. Mrs. Sargent left the kitchen.

She came in and in the meantime Charlotte spoke these words to me; Mrs. Sargent had left and gone in some other part of the house.

Q. What parcels were they? A. Groceries and vegetables from the grocery store and vegetable store.

Q. About how many parcels were there? A. She had quite a number; she had one large basket there full of all kinds of green stuff that she had, and then she had several parcels from the grocery store.

Q. What was it—for the week-end supplies of the house? A. She most generally, when she bought, she bought an awful big supply that lasted her about around a week.

Q. Charlotte said to you not to go because she wanted to open the parcels and wanted to do what? A. Wanted me to take the paper and stuff downstairs and put it in the wastebasket.

Q. What did you do? A. I did it. I says: "Charlotte, I must go home." I said: "You know I have not had anything to eat." She says: "That is all right. I want to get you to stay here and sit with me awhile because I have been sick all day and I have been practically lying down and I have been sleeping," and she says: "I am sure it will be late when I lay down when I go to sleep. Therefore, I would like to have you sit with me for awhile."

Q. Who said that? A. That is what Charlotte said.

Q. She wanted you to sit with her? A. Yes; she had been complaining about being sick; she had been complaining that she was very sick and she was not able to do anything. So, she had been very nice to me, and I said—

Q. (Interrupting) You thought that you would sit with her? A. Yes, sir.

Q. Where were you going to sit? A. In the kitchen.

Q. After this invitation to sit with her, what did you do in fact? A. Why, I said: "Charlotte, I will have to run the car around in the garage. I will come around and I will stay with you a little while," but I says: "I cannot stay"; and Mrs. Sargent says: "By the way, Charles, before you go, I want to get you to go all over the house and see that it is safe."

Q. You were talking to Charlotte, and Mrs. Sargent was out of the room. When did Mrs. Sargent come back? A. Mrs. Sargent had come back during the conversation between Charlotte and I.

Q. Then, before you left to take your car back to the garage and while Charlotte was inviting you to stay with her, Mrs. Sargent came back to the kitchen; is that right? A. That is wrong.

Q. She heard, I suppose, what Charlotte had said to you; she could hear it, could she not?

Mr. Simpson: I object.

Q. Was she in the kitchen? A. She was not.

By the Court: Q. Where was she? A. She came in from some part of the house during the time of the conversation.

Q. She was in and out, or did she come into the kitchen and was she in the kitchen when you had this conversation? A. Absolutely not. She just came up as Charlotte and I was finishing the conversation. Then she spoke to me.

By Mr. Lane: Q. She started to say, when she started her conversation, she said: "Well, by the

way,'' was that the way she started her conversation? A. She said: ''By the way, Charles, before you go I would like to get you to go all over the house and see if it is safe, as you know Mr. Sargent is away and I do not know who else knows he is out of town.'' I says: ''Yes, ma'am,'' and she says also: ''I want you to get a bottle of booze for me, then I will give Charlotte a drink. She has been complaining all day. Very likely it will help her to feel better.''

Q. Did she say that she wanted you to get her a bottle of booze; is that the expression she used? A. She said: ''I want you to go downstairs and get me a bottle—'' I don't know whether she said ''booze'' or ''whiskey.'' I call it booze.

Q. I am trying to get as near as you can remember the expression that she used? A. Probably she said booze or whiskey. I don't know which she said. I know what Charlotte generally drank.

Q. Had she ever asked you to get a bottle of booze for her before? A. No, sir; she had never asked me.

Q. That was the first time, since you had been there, that she asked you to get a bottle of booze? A. Yes.

Q. It was also the first time she asked you to go up around the house and see if anybody was there? A. Yes; that is the first time she ever asked me.

Q. Mr. Sargent had been away before? A. Why, I knew Mr. Sargent to be away—

Q. (Interrupting) He had been away before, had he not? A. Yes, sir.

Q. What did you do after she said that you should go down and get a bottle of whiskey or

booze, or whatever she said? A. I goes and puts the car away and comes back and I get the key.

Q. What time was that when you had put the car away? A. I know I had entered the house at twenty-one minutes past eight and I put the groceries in the house, and Charlotte and I had the talk together, and I went and put the car away.

Q. Had Charlotte opened the packages yet when you left with the car? A. She was opening them then.

Q. When you left with the car she was opening the packages? A. Yes, sir.

Q. Can you tell us whether it was half an hour or twenty minutes or fifteen minutes that you had left there to make arrangements to stay there for a little while? A. I will say it took us twenty minuates, probably fifteen or twenty minutes.

Q. That will make it about 9 o'clock when you left to put the car away? A. Why, it was a quarter of nine or ten minutes of nine, something like that, or it might have been nine o'clock.

Q. Then you left to put the car away? A. Yes.

Q. Where did you go? A. Just around the corner in the garage.

Q. Then you came back right away? A. Yes.

Q. It took you about ten minutes, I suppose, to put the car back? A. About ten minutes.

Q. And that would make it around nine or nine-fifteen that you got back to the house? A. About nine o'clock.

Q. When you came back to the house who let you in? A. Charlotte.

Q. Was Mrs. Sargent there? A. She was not in the kitchen.

Q. She was still in the kitchen? A. She was not in the kitchen.

Q. You saw Charlotte? A. I did.

Q. You did not see Mrs. Sargent? A. That is right.

Q. What did you do? A. I went in and she had all of the paper and stuff in the kitchen and I began to gather it up, and I began to take it downstairs, put it in the garbage pail.

Q. She was there unwrapping these numerous packages, parcels, when you got there? A. Well, she was through and had them put away, practically put away.

Q. Then you gathered together this paper; is that right? A. That is right.

Q. Then what did you do? A. Taken it downstairs in the cellar.

Q. Then what did you do? A. I put it in the garbage pail.

Q. Then what did you do? A. In the meantime I brought up a bottle of whiskey.

Q. In the meantime you brought up a bottle of whiskey? Do you mean that you brought up the bottle of whiskey before you put the paper in the garbage pail? A. I put the paper in the garbage pail and goes around to the place to get the booze.

Q. That is in the cellar, is it? A. Yes; that is in the cellar.

Q. You got the whiskey? A. Yes.

Q. Then what did you do? A. I brought it upstairs.

Q. Then what did you do? A. When I came upstairs I said: "Where is Mrs. Sargent?" Charlotte said: "She is in there; I will get her." She

goes in, but she says: "For God's sake don't touch it until she comes out."

Q. Go on? A. She says: "Don't touch it until she comes out." I said: "All right, here it is, Charlotte." So Charlotte called Mrs. Sargent.

Q. Where was Mrs. Sargent, do you know? A. I don't know where she was, but she called her—

Q. Did Charlotte go out of the kitchen to call Mrs. Sargent? A. She stayed in the kitchen and called Mrs. Sargent.

Q. Go on? A. And Mrs. Sargent came, and then I went to search the house all over for her, as she had asked me to do.

Q. Wait a minute. Mrs. Sargent then came into the kitchen? A. Into the kitchen with Charlotte.

Q. What did you hear or see? A. I didn't hear Mrs. Sargent say anything to Charlotte. When she came in I went out.

Q. As Mrs. Sargent walked in the kitchen you walked out? A. I walked out.

Q. Then what did you do? A. Down to the cellar.

Q. Yes; then what? A. I searched the cellar and came back and searched the bottom floor.

Q. Yes? A. Then went to the second floor, searched that; then I went to the attic and I searched that. On my way down from the attic Charlotte was standing in the door of Mrs. Sargent's bedroom.

Q. The pink room? A. The pink room.

Q. Yes. A. Charlotte called me and said: "Come. We are down here, Charles." I goes down and sticks my head in the door and says: "Mrs. Sargent, everything is all right. I have

been in every room and every closet in the house excepting two, that is the maids rooms, and they were locked, and as a rule they stayed locked." Mrs. Sargent said: "Well, that is all right, Charles." So, Charlotte, had in the meantime had a glass in her hand, a whiskey glass, showing about half full. She reaches over and sets it on the dresser.

Q. Wait a minute. When you came down and stuck your head in the pink room, where was Mrs. Sargent? A. Mrs. Sargent was sitting over in the farthest side of the bedroom.

Q. Towards the window? A. Well, I would not say that—towards the middle; I would say about the middle way of that room on the opposite side, sitting in a chair.

Q. Where was Charlotte? A. Charlotte was standing in the door still.

Q. Standing in the door? A. Yes, sir.

Q. Into the pink room? A. Into the pink room.

Q. Then, she was right up against you? A. She was not against me. She was—

Q. (Interrupting) I mean right by you? A. Well, yes.

Q. You were sticking your head in and she was standing at the door? A. That is the idea.

Q. Close together? A. Well, pretty close.

Q. Go on? A. Charlotte set the glass on the dresser. She walked in and set the glass on the dresser—

Q. Where was the dresser located with respect to the door? A. Well, the dresser was on this side. Here was the door.

Q. How many feet from the door to the dresser? A. I could not say just how many feet; possibly

four or six feet; about six feet I would say from the door.

Q. The door opened towards the dresser? A. It opened towards the dresser, yes.

Q. It opens towards the dresser? A. This door opens towards the dresser.

Q. She walked in and she put the whiskey on the dresser? A. She put the glass on the dresser. "Charles, wouldn't you like to have a little drink?"

Q. Who said that? A. Charlotte. I says: "I wouldn't mind it. Pass it here." She said: "No. There it is. Get it." I walked in to get it. When I walked in to get it she slammed the door.

Q. She slammed the door? A. And Mrs. Sargent began to—

Q. (Interrupting) When Charlotte said: "Don't you want a drink?" what did Mrs. Sargent say, if anything? A. Mrs. Sargent never said a word to her. If she did I didn't hear her.

Q. Mrs. Sargent was sitting there? A. Mrs. Sargent was sitting there.

Q. Listening to this offer, or rather, she could have heard it? A. She could have heard it, yes, sir.

Q. She didn't say anything? A. If she did I didn't hear it.

Q. Do you think you would have heard it if she had said anything?

Mr. Simpson: Objected to.

Mr. Lane: Question withdrawn.

Q. You did not hear her say anything? A. I did not.

Q. You said: "I think I will"? A. I said: "I don't mind."

Q. "I don't mind," and then you just walked in to get it? A. I stepped over to get it.

Q. In the meantime where was Charlotte? A. Charlotte had then come back to this door.

Q. When Charlotte put the whiskey on the bureau she returned to the door before she asked you to have a drink, or where was she when she asked you to have a drink? A. She set this on the dresser, came back to the door and said: "Charles, would you like to have a drink?"

Q. She walked over from the door to this bureau, put the whiskey glass on the bureau without saying anything, and then walked back to the door where you were; when she got back to the door she said: "Charles, would you like to have a drink?" Is that right? Is that the way it was done? A. Yes, sir.

Q. Then you walked into the room to the bureau to get the drink?

Mr. Simpson: Objected to.

Q. Well, did you? A. I walked over to get it; yes, sir.

Q. To the bureau? A. Yes, sir.

Q. To get the drink? A. Yes, sir.

The Court: Of course I know, Mr. Lane, you would not want to mislead the witness. He has already testified on direct-examination and on your cross-examination that before he walked over to get it he said to her: "Hand it here," and she said: "Go get it."

Mr. Lane: I do not mean to mislead him.

Mr. Simpson: That is what I was objecting to.

Mr. Lane: I did not intend to mislead the witness.

Q. She was at the door when she asked you whether you wanted this drink. Then what did you say to her? A. When she asked me to have the drink?

Q. Yes. You said: "Hand it over"? A. I said: "Pass it over." She said: "No, there it is.

Q. Where was she when you said: "Pass it here"? A. She had then got back to this door.

Q. She was at the door? A. Yes, sir.

Q. To hand it to you, she would have had to go back and get it again, would she not? A. Sure she would not.

Q. Then she said: "If you want it, go get it"? A. She said: "No. If you want it there it is. Get it."

Q. The drink was already poured? A. Yes; sure.

Q. Then you went to the bureau for the purpose of getting this drink which was already poured? A. I went over to get it; yes.

Q. In the meantime, so far as you knew, she did not do anything? A. If she did. I don't know anything about it.

Q. Did you see Charlotte shut the door? A. I did not.

Q. What brought to your attention the fact that the door was being shut? A. By being slammed.

Q. Slammed? A. Yes.

Q. It was done with a slam? A. Yes.

Q. Is that right? A. Yes.

Q. When you heard this door slam, what did you do? A. I jumped over to the door. Mrs. Sargent began to holler and knock on the table: "Char-

lotte! Charlotte! What are you doing, Charlotte? What is the matter?" By that time Charlotte ran and then there was the footsteps coming back.

Q. What did you do? Did you do anything? What did you do? A. Why, I could stand there and think what to do, and the thought came to me to jump out of the window.

By the Court: Q. Did you know whether there was any lock or any bolt on the inside of that room door? A. There is no bolt on the inside, as far as I know.

Q. The only way it could be locked from the inside, so far as you know, was with a key? A. That is the idea.

Q. Was there any chain bolt on that door? A. I have never seen one.

By Mr. Lane: Q. Don't you know, as a matter of fact, that there is one of those little blind bolts on the inside of the door? A. I don't know that.

Q. You never saw that? A. I never noticed that.

Q. There is a chain to the front door, is there not?

Mr. Simpson: I object. We are not talking about the front door.

Q. There is a chain to the front door of the house, is there not? A. Yes.

Q. How did you come to open the window? A. The window I jumped out of?

Q. Yes. A. I opened it.

Q. Did you have any trouble opening it? A. No, sir; none at all.

Q. Just came open easy? A. I just drew the latch and threw it up quick and broke the screen.

Q. Broke the screen? A. Yes.

Q. Then jumped on the porch? A. Jumped out on the lawn; jumped right out the window on the lawn.

Q. Well, when you heard this noise what did you think? A. Well, it is hard for me to say what I did not think.

Q. Well, were you not afraid? A. Sure I was afraid.

Q. What were you afraid of? A. Why, afraid, I knew I was in the wrong place, being locked in as I was.

Q. You did not know there were any detectives in the house? A. I did not know there was anyone in the house except Mrs. Sargent and the maid and—

Q. (Interrupting) You knew you were perfectly innocent of any wrongdoing? A. Sure I did.

Q. So far as you knew, Mr. Sargent was not at all suspicious of you, was he? A. Well, no.

Q. As far as you know? A. As far as I know.

Q. You had no idea you were being watched? A. Certainly not.

Q. You did not know what the noise, was, then? A. I could not imagine.

Q. You could not imagine what it was? A. No, sir.

Q. But you thought you had better get out of the window? A. I thought I better jump.

Q. You were fully dressed, were you? A. Why, sure.

Q. And your coat on? A. Yes, sir.

Q. Mrs. Sargent was fully dressed? A. Yes, sir.

Q. The bed had not been slept in? A. It had not been touched for the day, all made up.

Q. Nothing in that room indicating anything wrong, was there? A. Not that I could see.

Q. You did not go to the door and try it, did you? A. Which door was that?

Q. Which door do you think I mean? A. The pink room door—they were there before you could get to it trying to get the door open and began to knock and call.

Q. They were there trying to get the door open and could not and began to knock and call? A. Began to knock and call: "Charles, are you there, Charles?"

Q. Who called: "Charles, are you there?" A That I don't know.

Q. Was it a man's voice? A. Why, it was a man's voice.

Q. Calling: "Charles, Charles"? A. Yes.

Q. "Are you there?" A. Yes.

Q. Did you answer? A. I did not.

Q. You did not? A. No.

Q. How often did they call "Charles, Charles"? A. Just said: "Charles, Charles, are you there?"

Q. At the same time you heard them at the door? A. They had tried the door before that and they could not get it open and then began to knock and call.

Q. Did Mrs. Sargent make any answer to the call of "Charles, Charles, are you there?" A. Mrs. Sargent had been knocking and rapping and calling for Charlotte.

Q. What was she knocking and rapping on? A. On the table.

Q. Did she get up? A. That I don't know.

Q. You do not know whether she got up or whether she did not; at any rate she did not go to

the door, did she? A. That I don't know if she went; I did not see her.

Q. You were only interested in where you were going? A. I was only taking care of myself then.

Q. Mrs. Sargent did not say anything to you when you were going out of the window or when you were putting up the window? A. If she did I don't know anything about it.

Q. Isn't it a fact, Mr. Simmons, that the first communication you had with Mrs. Sargent after this night was when you telephoned to her at Staten Island? A. I didn't have any communication with her at Staten Island.

Q. When did you first have any communication with her after the night of the raid? A. It was the next day.

Q. Where? A. In Richmond Hill.

Q. In Richmond Hill? A. Yes, sir.

Q. She was in Richmond Hill and you were in Jersey City? A. Yes, sir.

Q. That was by telephone? A. That was by telephone.

Q. That was the first communication you had with her? A. Yes, sir.

Q. Is that right? A. That is correct.

Q. Now, did Mrs. Sargent in that conversation tell you that Mr. Huck had put a card on the car forbidding her to move it? A. Not to my recollection.

Q. Did she tell you that she supposed your services were discontinued? A. She told me: "Charles, as far as I know your services are discontinued until further orders from Mr. Sargent.

Q. That was at Richmond Hill. She did not say

that Mr. Huck put a tag on the car? A. She did not.

Q. Do you remember testifying in the Municipal Court of the City of New York in the suit of Charles Simmons against Donald Sergeant? A. Sure.

Q. Did you on that occasion, in response to a question by the Court, say: "I was around to Mrs. Sargent's and there was no one home; I called up and Mrs. Sargent told me that Mr. Huck had put a tag on the car forbidding me to move it, and therefore she supposed my services were discontinued until I saw Mr. Sargent"? A. Did I say that?

Q. Yes. A. That I don't know. I don't remember saying that Mr. Huck put a tag on the car.

Q. Is that a fact; did she tell you that? A. I do not remember Mrs. Sargent telling me that.

Q. Had you been over to Mrs. Sargent's and found that no one was home? A. I had.

By the Court: Q. That was the next morning? A. Yes, sir.

By Mr. Lane: Q. What time was it when you jumped out of the window? A. Well, that I could not say.

Q. Well, about? A. Well, I would say it would be about 10:30 or 11 o'clock.

Q. Now, as I understand your testimony, you got into the house after you put the car up about a quarter past nine; you found Charlotte had unwrapped the packages? A. Yes.

Q. And you took the paper and you went downstairs and put that in the receptacle for it? A. Yes, sir.

Q. And you got the bottle of booze? A. Yes .sir.

Q. Or whiskey? A. Yes.

Q. You went upstairs? A. Yes.

Q. And then Charlotte called: "Mrs. Sargent, Mrs. Sargent," and she came in and then the moment that she came in, you went through the house for the purpose of ascertaining whether there was anybody there; you went through the second floor; you went through the attic floor where the two bedrooms were locked; then on the way down you walked down to the pink room and you saw Charlotte standing in the door, and you stuck your head in and told Mrs. Sargent that everything as all right, and then Charlotte then stood or had this glass of whiskey—she took the glass of whiskey and put it on the bureau, walked back to the door, then said: "Won't you have a drink?" And you said: "Pass it here." She said: "No, if you want it go and get it"; you then went to the bureau to get it, and as you walked over there she slammed the door and you heard the noise coming downstairs, and you then jumped out of the window. That is what you did?

Mr. Simpson: I object to that as a misquotation of the testimony, and there is an omission of what this man testified to. He said they had something to eat.

The Court: I understand your objection. I overrule the objection.

By the Court: Q. Is that a right statement of what happened? A. That is right.

Q. From the time you came back from the car? A. That is right.

By Mr. Lane: Q. I do not want to mislead you. What is it that Senator Simpson referred to when

he said something about a meal? A. Well, we had a meal, a few mouthfuls to eat, yes.

Q. When did that occur in this time; you have not told me about that? A. Well, I think that happened, I could not say whether it happened just before I went to the garage or after I returned, but I think we had this meal before I put the car away.

By the Court: Q. You have already fixed the time when you went to the garage, or the time when you came back; you said that you came back from the garage about 9 o'clock or a few minutes after nine, that you reached the house with the car before going to the garage at 8:21. Was it between 8:21 and 9 o'clock or 9:10 or 9:15 that you had this meal, or was it after? A. I am positive it was before I went out and put this car away.

Q. So all of this incident that Mr. Lane has recited in his question occurred between 9:15, we will say and half past ten or eleven o'clock? A. Yes.

Q. And that is all that occurred; is that right? A. That is all that occurred in the house?

Q. Yes. A. Yes, sir; so far as I know.

By Mr. Lane: Q. That is all that occurred that night, so far as you know? A. As far as I know.

Q. Whatever time this meal took place, whenever it was, it was a very hasty bit on your part? A. Yes, sir, on my part; I only had a mouthful.

Q. So, that it did not take more than at the outside, for you to eat it, five minutes; is that right? A. Well, very likely it was not that, not five minutes, because I eat very quick.

Q. Giving you much leeway when I say five minutes; is that right? A. Yes.

Q. How do you fix the time that you came home as precisely 8:21? A. By being watchful from the first day, it always showed me to watch these things; I always made it a practice of watching these things, so it seemed a very hard thing for me to get off my mind.

Q. Did you look at your watch as you walked in the house? A. No; I did not.

Q. You know that it was 8:21? A. I do.

Q. Where did you get the time from? A. Off the clock in the car.

Q. Then, you looked at the clock in the car? A. That is right.

Q. Did you look at the clock in the car when you took your car back in the garage? A. I did not.

Q. You did not look at the clock in the car when you brought it back? A. I did not.

Q. You did not look at any watch after you jumped out of the window? A. I did not.

Q. Why was it so important to get the time that you entered the house and not important to get the time that you took the car to the garage? A. Because I had Mrs. Sargent out during the day, riding with her; therefore I had taken the time. As she was in my charge no more, therefore I had no right to look after her, for keeping the time.

Q. Well, Mr. Simmons, what did you intend to do after you had taken this drink? A. After I had taken it?

Q. After you had taken the drink which Charlotte offered you? A. I guess I would have taken it and passed on out.

Q. Out of the house? A. Yes, sir.

Q. That was the last thing you were going to do there that night? A. Well, as far as I know.

Q. How about poor Charlotte, whom you were going to sit up with? A. I was going to leave then.

Q. You didn't sit up with her? A. It seems she had gone with Mrs. Sargent and therefore I didn't think it was necessary to remain any longer.

Q. You did not sit up with Charlotte that night? A. I was with Charlotte for the time being around the kitchen.

Q. You didn't sit up with her? A. No, sir.

Q. That was the reason why you went back? A. That was my reason for going back.

Q. But you did not carry out your object for going back? A. My object, was not carried out, no

Q. I show you these photographs which have been marked P-3, P-4 and P-5; they are representations of you, are they not? A. That is right.

Q. Do you know who took them? A. I do.

Q. Who? A. These photographs—they were snapped—I would not say whether they were snapped by my wife or by Mrs. Sargent. As my wife and baby, my wife and Mrs. Sargent and the baby, were out on the front lawn, and I was out there with the car, and they were making pictures of my wife and the baby and possibly snapped one of me. I asked them if they would snap one of me in the car and it was snapped, but whether it was snapped by Mrs. Sargent or my wife, I don't know.

Q. Have you ever seen any of the results of those which were snapped of your wife and child? A. I have not.

Q. Do you know where any of them are? A. No, I do not.

Q. You haven't any of them? A. No, sir.

Q. Do you know when any of these were taken? A. I do not.

Q. Where was your wife this last July 11th? A. That is hard for me to tell.

Q. Was she home? A. That I could not say.

Q. Were you living with her? A. Yes; we were living together.

Q. Were you living together? A. Yes.

Q. You do not have the least idea where she was? A. No, sir.

Q. Would she naturally be home?

Mr. Simpson: Objected to. How can he testify to that?

The Court: Overruled.

Q. Did you expect she was home at that time? A. Well, not as a general rule.

Q. Why did you agree to sit up with Charlotte without letting your wife know where you were? A. Charlotte had shown more decent treatment towards me than my wife has ever shown.

Q. Was the reason why you did not notify your wife, or feel any obligation towards your wife, because there was trouble between you and your wife? A. Between me and my wife?

Q. Yes. A. My wife never acted towards me, but Charlotte has always been nice to me; so therefore I felt, if necessary, I should stay with her.

Q. Did you feel it necessary to stay with her? A. Yes, if she wanted me.

Q. Between the 5th of April, 1919 and the 11th of July, 1919, will you tell me how many meals

you had in Sargent's house? A. That I could not say how many meals I had.

Q. Would you say one a day? A. One a day?

Q. Yes. A. Well, no; I would not say that I had one a day.

Q. How did you come to have meals there when you did have them? A. Well, several times I have driven up to the house with Mr. Sargent and Mr. Sargent asked if he had to go out right away, and he asked me to go around to the kitchen, "Charles and have your lunch, I want to leave right away," and I wouldn't have time to go home, and it has been said on occasions by Mrs. Sargent.

Q. By Mrs. Sargent? A. Yes, and the maid has also asked me.

Q. There were several occasions that Mrs. Sargent has asked you? A. Mrs. Sargent has driven up the same way and been in a hurry.

Q. Mr. Sargent has never asked you? A. Mr. Sargent has asked me.

Q. Between the 5th of April and the 11th of July; is that right? A. Yes.

Q. Do you remember testifying in the same Municipal Court of New York in the case I have referred to as follows: "Would you say how many meals did you have there from the 5th of April until the 11th of July? A. That is impossible. Q. Would you say one a day? A. No. Q. Would you say one in two days? A. I would not say; sometimes I would have a meal, probably twice a week; I don't know. Q. Who invited you? A. By the maid. Q. Mrs. Sargent? A. No; Charlotte Lumford, the maid." Did you testify to that? A. I did not.

Q. You did not testify to that? A. No, sir.

Q. That testimony you never gave in that Court proceeding? A. I gave the testimony that Mr. Sargent had invited me himself on several occasions, I meant late, to have my meals and enter the car and take him right out.

Q. Did you testify there that Mrs. Sargent never invited you? A. I did not.

Q. Do you remember that you had a conversation with Mr. Jeter. Do you remember an occasion two days before Christmas, 1918, when you saw Mr. Jeter and showed him this diamond ring that you have on now? A. I did not, sir.

Q. You never showed him that? A. No, sir.

Q. Did you tell him at that time, two days before Christmas, that Mrs. Sargent had given you that ring? A. I did not, sir.

Q. Did you further tell him that she had also given you $15 in cash? A. I did not, sir.

Q. In this suit pending in the Municipal Court of New York, which was tried in the Municipal Court of the City of New York, which was brought by you against Mr. Sargent, who was your attorney? A. Mr. George A. Hopkins.

Q. He is now in the courtroom? A. That is the idea.

Q. And Mr. Huck represented Mr. Sargent? A. Yes, sir.

Q. The case was tried, was it not, on the 9th of January, 1920? A. That is right.

Q. Has Mr. Hopkins always been your attorney from that time? A. From that time on I have been in communication with Mr. Hopkins.

Q. You have been in touch with Mr. Hopkins right along? A. Yes, sir.

By Mr. Simpson: Q. One question. I want to ask you as to these meals that so much talk has been made about, that you had no right to take. Did not Mr. Sargent go on the stand as a witness in the Municipal Court of New York and attempt to collect thirty cents apiece for those meals? A. He attempted to make a collection of around $200 for the sum of meals I had, for the price he had placed on me for those meals.

Q. And in that action you recovered judgment, didn't you? A. I did, sir.

Q. And he did not get any judgment against you? A. He did not.

Q. And that judgment has been paid with the assistance of the Chief Peace Officer of the County of New York? A. That is the idea.

DR. STANLEY J. WOODRUFF, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. You are a practicing physician in Jersey City? A. Yes; I am.

Q. How long have you been practicing? A. About twenty-three years.

Q. October 1st, 1918, did you have an office at No. 120 Sipp Avenue, Jersey City? A. I did.

Q. Did you on that day see Mr. Donald Sergeant? A. Not at Sipp Avenue; no.

Q. Where did you see him? A. In Bayonne, my home.

Q. What time of the day did you see him? A. I think it was the evening.

Q. Was there anyone with him; did he come with another physician or did he come alone? A. He came alone I think.

Q. Did you examine him? A. I did.

Q. Did you start to treat him? A. I did.

Q. What was he suffering with when you examined him? A. Gonorrhea.

Q. How long a period of time was he under your treatment? A. Well, he was about six or eight months.

Q. Can you tell me the date; have you any record to show the date? A. I have my office record.

Q. Show me the respective dates by your record. You saw him on October 1st? A. October 1st Mr. Sargent called and October 9th, Mrs. Sargent.

Q. What was Mrs. Sergeant's condition? A. Mrs. Sargent's condition was also gonorrhea.

Q. And she was only under your treatment a short time, was she not? A. Yes.

Q. How long? A. Why, I only treated her two or three times.

Q. Then she went to another physician? A. A. Yes, sir.

CROSS-EXAMINATION by Mr. Lane:

Q. Did you examine Mrs. Sargent? A. I did.

Q. What was the condition in which you found her? A. Well, I found her suffering from a discharge which I examined later and found to be gonorrhoeal in origin.

Q. Did you examine her physicially to determine what the condition of the parts were? A. Why, yes. Oh, yes.

Q. What condition did you find, if any, unusual at the neck of the womb? A. I found she had a good deal of discharge and a sort of a soft polypoid growth there.

Q. What did that soft growth indicate to you? A. Well, it would indicate to me that the condition probably existed for some time.

By the Court: Q. What condition—the gonorrheal condition? A. Yes, sir.

By Mr. Lane: Q. How long would you say? You say "some time." What do you mean by that expression "some time"? A. Well, generally in a case where a discharge in a woman has existed for a time there are a sort of bulbous growths or conditions like that that come out. Just exactly the length of time I could not say, but they do not come out in the acute conditions.

Q. Do you mean ten days or twenty-four days? A. Oh, now; it would be probably—it would be at least four or six weeks before these would make this appearance.

Q. What is the length of time for the setting in of infection in an attack of gonorrhea? A. From forty-eight hours to ten days.

RE-DIRECT-EXAMINATION by Mr. Simpson:

Q. You could not tell by examining them which was the older case of gonorrhea, could you; you could not tell by examining either one of them, could you? A. No; I would not want to say.

Q. Which was the older or who had it first, you could not tell that? A. No.

Q. That is what you told me a minute ago when I asked you. This thing on the neck of the womb,

what did you call that? A. A sort of a polypoid growth.

Q. What kind of a growth is that? A. Soft, like proud flesh.

Q. What would cause that? A. Chronic irritation.

Q. Chronic irritation? A. Yes.

Q. What else besides that? A. Well, nothing.

Q. So that the only apt cause for that is chronic irritation? A. Yes.

Q. What kind of chronic irritation would produce it? A. Why, chronic inflammation, conditions of the uterus, ovaries or tubes, something like that.

Q. So that it is not inevitably produced by gonorrohea? A. No; it is not.

By Mr. Lane: Q. Gonorrhea does produce irritation, does it not, in that part? A. Yes.

Q. And that would cause it, would it not? A. Yes; it would.

DR. HENRY SPENCE, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. You are a practicing physician in Jersey City? A. I am.

Q. Was Mrs. Sargent, the defendant here, under your professional care at any time? A. Yes, sir.

Q. From what time to what time? A. I think from October, 1918, about the middle of October, until the end of July, 1919.

Q. End of July, 1919? A. Yes.

Q. And were you treating her for a discharge from the womb? A. Yes.

Q. Was her condition such that if any man had sexual intercourse with her during the period that you were treating her, that is, to the end of July, that he would become infected, in your opinion? A. He might be.

Q. Would it be likely in your opinion? A. It would be possible.

CROSS-EXAMINATION by Mr. Runyon:

Q. Doctor, did you make any examination of the discharge that came from Mrs. Sargent? A. I did not.

Q. Without making such an examination, would it be possible for you to positively know whether infection might be so incurred? A. Why, I know that there was an infection of some type there, that is, so far as I determined the infection.

Q. Is it not possible for a woman to have gonorrhea and to have intercourse with a man and yet not transfer that infection? A. Yes, sir; that is possible.

MINNIE KUCHMANN, a witness heretofore sworn on the part of the petitioner, called as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. You are the lady referred to by Mr. Simmons, who was on this trip to Vermont, when he drove

the car, after the raid of July 11th, are you not? A. Yes, sir.

Q. Did you and Mrs. Sargent take that trip on the advice of Mr. Hopkins, her New York attorney?

Mr. Lane: Objected to as leading.

The Court: Objection sustained.

Q. Will you tell us under what circumstances you and Mrs. Sargent took that trip? A. She was worried about the baby and she wanted to see the father, the baby's father, and asked me to go up with her.

Q. Do you know anything about her being advised that she could take it? A. No.

Q. You went up with her? A. Yes.

Q. Were you with her all the time from the time you started until you came back? A. Never left her.

Q. Did you sleep with her? A. I certainly did.

Q. Where did you go? A. We stayed at the Berwick Hotel, Rutland, Vermont.

Q. One night? A. Yes, sir.

Q. It was your husband who was referred to as the man who hired Simmons to drive the car? A. Yes.

Q. When you came back did the car stop in some village while you went down to the house of the father? A. Yes.

Q. Now, from the time you left your house until the time you came back there, was Mrs. Sargent always with you? A. She never left me.

Q. Was there any misconduct between her and Simmons at any time from the time you left your house until the time you returned? A. Not at all; no, sir.

Q. You occupied the same room with her in Vermont? A. Yes, sir.

Q. And you were in the car with her all the time? A. Yes, sir.

Q. The purpose of the trip was to get the baby back? A. Yes; to talk it over with the father.

CROSS-EXAMINATION by Mr. Lane:

Q. When was the trip arranged? A. I don't know just the date. In August sometime, I guess it was.

Q. You don't know the date? A. No.

Q. You know the occasion of its being taken. How long before you went to Vermont did you know you were going to go? A. Oh, just a day or so we arranged it.

Q. How many days? A. A day.

Q. Who arranged that Simmons should take you on the trip, do you know? A. My husband, Mr. Kuchman.

Q. He did? A. Yes, sir.

Q. Had Simmons taken you on any other trips than this one, before? A. No, sir.

Q. So, it was the first trip that Simmons took you in the car? A. Yes.

Q. Had Simmons been working for your husband prior to that time? A. No.

Q. So far as you know, that was the only employment by your husband of Simmons; is that right?

Mr. Simpson: I object to that as not proper cross-examination. I put this lady on the stand simply to show that on that day they went to Vermont and came back. This is not proper cross-examination.

The Court: Objection sustained.

Q. What time did you leave? A. Well, in the morning about 8 o'clock I should say.

Q. When did you get to Vermont, to Rutland? A. I should think it was around four.

Q. Where did you have lunch? A. At the Chester Inn.

Q. Where? A. I don't know where that is. I have forgotten.

Q. Is it in Great Barrington? A. No; it was not Great Barrington; no.

Q. Is it on the road to Goshen, on the New Jersey side of the river, about fifteen miles back of the river, in an opposite direction from Great Barrington, Vermont? A. Well, it is not as far as Great Barrington.

Q. Do you know what time of the day it was that you had your lunch? A. Around lunch time; between twelve and one I should say.

Q. Was there any trouble with the car? A. Yes; there was some trouble.

Q. When did the trouble with the car start? A. Well, we had gone quite a little distance when Charles said there was something wrong with the car, but he didn't say what.

Q. Did the trouble continue? A. He said there was trouble. I didn't notice it. I didn't understand enough about it.

Q. Was it before lunch or after? A. I think it was after lunch; I am not sure about it.

Q. Was there any trouble when you got to Rutland? A. We had it fixed up by that time.

Q. You had it fixed? A. Yes.

Q. Where did you fix it? A. I don't know. A little way from Danby, I think it was. I don't just know.

Q. Did you go from Danby to Rutland? A. We stopped at Danby.

Q. Before you got to Rutland? A. Yes.

Q. You went to Danby before you went to Rutland? A. Yes, sir.

Q. On the way up? A. Yes.

Q. When you got to Danby where did you stop? A. We went to the father's house.

Q. Where did the car stop? A. At Danby right near the station; I think it was the station.

Q. In the village? A. Yes.

Q. You and Mrs. Sargent went to the house? A. To Mr. Sargent's home.

Q. Then you came back? A. Yes.

Q. And then went to Rutland? A. Yes.

Q. Then you stayed all night in Rutland? A. Yes.

Q. Then what did you do? A. We stayed all night and started for Danby the next morning and was there for lunch.

Q. What time of the day was it that you started from Rutland the next morning? A. Well, I think it was around 9 o'clock.

Q. What time did you get in Danby? A. Around lunch time, 12 o'clock, around that time.

Q. Where did the car stop then? A. Well, not far from Mr. Sargent's home, and we walked there.

Q. Then you walked up? A. Yes.

Q. Did you stop in the village that time? A. No.

Q. The car did not stop? A. The car stopped in the village.

Q. That is what I mean, in the village some place? A. Yes.

Q. You and Mrs. Sargent went up to the place where you were to go? A. Yes.

Q. And then came back to the car again? A. Yes.

Q. Was there anything the matter with the car that morning? A. No; Charles had fixed it.

Q. He had fixed it the first time he went to Rutland? A. Yes; when we stopped there the day before.

Q. On the way up? A. Yes.

Q. There is no doubt about that in your mind, is there? A. Well, it seemed all right; it seemed to run all right.

Q. There was nothing said the second day with reference to the car? A. I didn't ask anything about it; no.

Q. When you got back from the house and got in the car to come back to Staten Island, was there any trouble on the way back? A. No, sir.

Q. Why was it you left the car at the village the second time, do you know, instead of going up to the place in the car? A. There wasn't any reason for it. We thought we would walk to the house. That was all.

Q. Do you know the reason why you left the car in the village the first time? A. Yes; certainly.

Q. Why did you leave it? A. To be fixed. It didn't run right.

Q. That was the reason the second time? A. No.

Q. The second time you left the car in the village, there was no other reason than that you concluded you would like the walk that morning? A. That was all.

Q. What time did you get home that night? A. We did not get home until about, I guess it was about three and four the next morning. I did not want to stay out another night.

Q. You got home to your place in Staten Island? A. Yes.

Q. Three or four o'clock the next morning? A. Yes; between that time I guess it was.

Q. What house did you stop at in Rutland? A. The Berwick.

Q. What rooms did you have? A. Why, I don't just remember what rooms we had.

Q. What floor of the hotel were you on? A. Well, I don't just remember that, no. We took the elevator and went up; I don't remember the floor.

Q. Do you know what room the chauffeur had? A. No, sir; I do not. I don't know if he stayed there.

Q. You don't know if he stayed at that hotel or not? A. No; I did not ask him.

Q. Do you know where he went after he got home at 3 or 4 o'clock the next morning at Staten Island? A. No.

Q. When you left the car and you got out of the car, you had no idea where the chauffeur was going? A. No; I did not ask him where he was going.

Q. On the trip up to Rutland and on the trip back you didn't have any conversation with the chauffeur? A. No; I spoke to my sister.

Q. You had no conversation with the chauffeur? A. Not to amount to anything.

Q. Nothing about this matter? A. No, sir.

Q. Nothing about the raid of July 11th? A. No, sir.

Q. That was not mentioned? A. No, sir.

Q. Was this the only trip you took to Vermont after July 11th, with the chauffeur? A. Yes; this was the only trip.

Q. Was this the only long trip you took anywhere with the chauffeur? A. Yes; to Long Beach; that is not very far.

IN CHANCERY OF NEW JERSEY

Between DONALD J. SARGENT, Petitioner, and FRANCES L. SARGENT, Defendant.	On Petition for Divorce

Stenographer's transcript of testimony taken on the hearing of the above stated cause, on the 19th day of November, 1920, at ten o'clock in the forenoon, before his Honor, James F. Fielder, Advisory Master.

Appearances as heretofore.

Mr. Simpson.—If your Honor please, I would like to call a witness or two a little bit out of order. I want to put Mrs. Sargent on last.

MARGARETTA SULLIVAN, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. Where do you live? A. Corona, Long Island.

Q. Do you know Mr. Donald J. Sargent? A. Yes.

Q. You also know his wife, Mrs. Sargent? A. Yes.

Q. Were you in her house in October 19, 1919 in Jersey city? A. Yes.

Q. Were you familiar with Mr. Sargent's voice over the telephone? A. Yes.

Q. Did you hear a conversation between Mr. Sargent and Mrs. Sargent on the telephone, on that day? A. Yes.

Q. Will you give us that conversation? A. Mr. Sargent called up and said: "Hello Frank, this is Don." He said: "I have called up to say good-bye," he said: "Get out there as quickly as possible, and I am quite sure you will find these men gentlemen." Mrs. Sargent said she didn't have the proper clothing, warm enough clothing to go out there, and of course financially she was very much embarrassed. He said there was a limit even to his resources, but that he would see her through, and that the main point was to get out there as quickly as possible; he said he would see her through and that she was to take excellent care of herself and get better, and Mrs. Sargent asked him if he was going to live in the house, and he said he didn't see how he could. She also spoke of some plumbing that should be attended to and suggested his having the plumber come in to attend to some water heater that was leaking, and Mr. Sargent spoke about going away to see the baby. She also asked him—he said his life was ruined, and Mrs. Sargent said: "Well you have the baby." She spoke of writing and he said: "You address the letters to the garage."

Q. The garage? A. Yes. She also spoke about the trunks. It wasn't possible for her to get the trunks over to the station on account of the ex-

pressman's strike at that time. He said he would send around from the garage to have the trunks taken to the station.

Q. Did he say anything else; did he say anything about figures? A. Yes; he said he would see her through and it would be in six figures.

Q. He said he would see her through and it would be in six figures? A. Yes.

Q. Did he say at that time: "My life is ruined." Did he say: "My life has been ruined by private detectives and lawyers." Did he say that?

Mr. Lane: Objected to.

The Court: Objection sustained.

Q. Do you remember any other part of the conversation, his giving a reason for his life being ruined? A. No. He said his life had been ruined.

CROSS-EXAMINATION by Mr. Lane:

Q. Where were you; where did you hear this? A. Where was I when this conversation took place?

Q. Yes. A. At the telephone in the Bergen room.

Q. And where was Mrs. Sargent? A. At the telephone upstairs.

Q. And just before the telephone bell rang where had you been? A. Right downstairs in the kitchen.

Q. Where had Mrs. Sargent been? A. Upstairs.

Q. What time of day was it? A. Well, I should judge it was around between, anywhere between half-past eight and half-past nine.

Q. At night? A. In the morning.

Q. What had you been doing just prior to the telephone conversation? A. Getting breakfast.

Q. You were getting it? A. Yes.

Q. Had Mrs. Sargent come down-stairs yet? A. A. No.

Q. You were downstairs alone; anyone else on that floor? A. Nobody at that time. We were the only two in the house.

Q. How long had you been staying there? A. I had been there off and on for some little time.

Q. How long had you been staying there at this particular time? A. Well, I should judge three or four days.

Q. You answered the 'phone? A. We both answered the 'phone.

Q. You both answered the 'phone? A. Yes.

Q. Did you say hello? A. No.

Q. When you got to the 'phone someone else was on it? A. Yes.

Q. Mrs. Sargent— A. (Interrupting) She had just taken the receiver.

Q. What was the first that you heard over the telephone? A. "Hello."

Q. In whose voice? A. Mrs. Sargent's.

Q. What was the next thing you heard? A. I heard Mr. Sargent say: "Hello, is that you Frank? This is Don."

Q. Then you continued on the telephone with the receiver at your ear? A. Yes, sir.

Q. All during this conversation? A. All during this conversation.

Q. Why? A. Because Mrs. Sargent had requested that I should listen to it.

Q. Then you knew this conversation was going to take place then? A. No; not that particular conversation. Any conversations that happened to take place on the 'phone at that time I was to listen to.

Q. You were to listen to any conversation which Mrs. Sargent had with anybody? A. Yes.

Q. When did you get this instruction? A. I had this for some little time.

Q. When did you get this instruction? A. Well, when I had first gone over there.

Q. Well, did she tell you why she wanted you to listen to conversations over the telephone? A. She said she had been framed up before and she thought she would like to have somebody act as witness.

Q. Did she say she expected any telephone conversation which indicated a frameup? A. She did not say she expected any telephone conversation.

Q. You had listened to conversations before? A. Yes.

Q. With whom? A. Her brother, her sisters; several people that had called up to inquire about her health.

Q. Each time the telephone bell rang you listened? A. Every time I was there.

Q. Have you ever heard any other conversation between Mr. Sargent and Mrs. Sargent? A. No.

Q. That was the first time you had heard them talk over the telephone? A. Yes.

Q. Do you know whether, as a matter of fact, they did talk over the telephone before? A. Well, I do not quite understand that question.

Q. Did Mrs. Sargent say or indicate that, prior to this conversation, that they had been talking over the telephone? A. Not to me; no.

Q. She talked over this case with you, didn't she? A. Well, not fully; no.

Q. You did not talk over it at all? A. Oh certainly; we had some conversation about it.

Q. Did she say anything to you which indicated that before this particular conversation she had had another conversation with Don?

Mr. Simpson: Objected to as calling for a conclusion as to the interference to be drawn from the conversation. It is not proper cross-examination.

The Court: Objection overruled.

A. No.

Q. Have you told us everything you recall that was said in that conversation? A. Well, she asked Mr. Sargent if he was going to live in the house and he said he didn't see how he possibly could. She said to please, as a special favor to her, not to have Charlotte come in the house.

Q. Anything else? A. I think that was all.

Q. That was all? A. I think that was about it.

Q. A friendly conversation? A. Yes.

Mr. Simpson: I object to the characterization of the conversation. That is for the Court to say whether it was a friendly conversation.

The Court: Objection overruled.

Q. Was there anything in that conversation which indicated to your listening ear that there was any bitterness between the parties? A. Well, it appeared to me that Mr. Sargent was overjoyed.

Q. Was there anything that indicated any bitterness? A. Nothing that I can mention.

Q. What did Mrs. Sargent say when Mr. Sargent said: "My life is ruined"? A. She said: "You have the baby."

Q. Anything else? A. Nothing.

Q. She didn't say her life had been ruined? A. She said he had the baby. That was all.

Q. That was the only reply she made to him? A. Well, she was crying so at the time it was almost impossible for her to say anything.

Q. Why didn't you say that before? A. You just asked it now.

Q. I didn't ask it. When did Mrs. Sargent start to cry during the course of this conversation? A. Well, she had been almost from the time he said: "This is Don." She was, I should say, mildly crying.

Q. Will you define what you mean by "mildly crying"? What do you mean by mildly crying? A. I could tell by her voice, that there were tears in her voice.

Q. You did not see her crying? A. Not then. I did when I came upstairs.

Q. When you went upstairs you found her crying? A. Yes; she was stil crying.

Q. What was the last thing Mrs. Sargent said? A. She simply said: "Good-bye"; that was the last thing.

Q. Well, what was the last thing before she said "Good-bye"? A. Why, she spoke of the house, his coming to the house, and not having Charlotte come there.

Q. She spoke of clothes, didn't she? A. She spoke of that in the beginning.

Q. Was she crying when she spoke of clothes? A. Her voice was still shaking.

Q. What did she say about the clothes? A. She said she did not have proper clothing to go out there; she didn't have warm enough clothing.

Q. What reply was made to that? A. Mr. Sargent said he would see her through, but there was a limit even to his resources.

Q. What did he say? A. He said he would see her through, but there was a limit even to his resources.

Q. Did she say there was a limit to his resources or did Mr. Sargent say there was a limit to his resources? A. Mr. Sargent said it.

Q. How did he come to say there was a limit to his resources? A. When she talked of clothes. She said she didn't have money or warm enough clothing. He said: "Well, you know there is a limit even to my resources."

By the Court: Q. When she said she didn't have proper clothing to go out there, did she say out where? A. No, she didn't say.

Q. Did he mention the place? A. No; the place was not mentioned.

Mr. Lane: Q. When you listened to these conversations that you said Mrs. Sargent had with her brother and sister, did you listen to the entire conversation each time? A. Yes.

Q. Right through from beginning to end? A. Yes.

Q. Did she indicate to you at all that she expected that 'phone call? A. Not in any way; no.

Q. Did you ever talk with Mr. Sargent over the telephone before? A. Yes.

Q. When? A. On several different occasions.

Q. From where? A. From his own home and from my office to his office.

Q. How long had you known Mr. Sargent? A. Shortly after he married Mrs. Sargent.

Q. Did you know Mrs. Sargent first? A. Yes, sir.

Q. How long had you known Mrs. Sargent? A. Since we were school girls together.

Mr. Simpson: Perhaps counsel will tell me, and I won't have to call Tienken—Viola said something about a dictagraph or dictaphone—perhaps you will tell me what the dictaphone or dictagraph was that she listened in. Perhaps you will tell me that and I won't have to call Tienken.

Mr. Lane: I am frank to say I don't know.

Mr. Simpson: Do you know what it was, Mr. Huck,—what that dictagraph was?

Mr. Huck: No.

Mr. Simpson: I would like to recall Viola Jones and ask her a question on cross examination.

VIOLA JONES, a witness heretofore sworn on the part of the petitioner, recalled.

Further Cross-examination by Mr. Simpson:

Q. Viola, you said, as I understood you, that you did not get any money from Mr. Tienken? A. Yes; I did.

Q. When you were in this house in July, did he give you any money to go away over the holidays? A. No: he did not give me any money.

Q. He didn't send you any money in a letter and tell you to have a good time over the holidays? A. No; I never got any good time.

Q. Look at this letter and see if you do not say this letter was from Tienken, enclosing $15 on July 3, 1919, telling you to go away and have a good time over the Fourth of July. Isn't this

envelope which you received this in, delivered it to you personally? A. That money did not come from Mr. Tienken. It came from the man I am engaged to be married to at Glen Cove, Long Island.

Q. Did he send Mr. Tienken money for you? A. No; it is from Senator McLauchlin. He sent it to Mr. Tienken's office because I did not give him my address.

Q. It says: "Dear Viola:- Enclosed find $15 cash. Have a good time over the holidays and get in touch with me Monday morning. When everything is O. K. I will have your account made up and pay you money." You say that was written for your sweetheart by Mr. Tienken? A. Yes, sir; it was.

Mr. Simpson: I ask to have this marked for identification.

Marked D-3 for identification.

By Mr. Lane: Q. Can you read, Viola? A. Yes, sir.

By Mr. Simpson: Q This was also enclosed in a letter, was it not, this card—this was also enclosed in that letter? A. No; that card was not enclosed in that letter. They found that in the closet.

Mr. Simpson: I wish to offer the letter and card in evidence.

Letter received in evidence and marked Exhibit D-3. Card received in evidence and marked Exhibit D-4.

JOSEPHINE McWILLIAMS, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. You live in Jersey City? A. Yes.

Q. Were you at the Sargent house at dinner in the early part of June, 1919? A. Yes.

Q. Do you remember afterwards sitting out on the porch you and Miss Sullivan and Miss Hughes and Mrs. Sargent? A. I do.

Q. Can you tell about how long you sat together, you four ladies, before you went home? A. Well, I should judge about an hour or an hour and a half.

Q. During any of that time did Mrs. Sargent leave you to answer a telephone call? A. No; not at all.

No cross-examination.

ELLA SULLIVAN, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. Were you at dinner at Mrs. Sargent's house on an afternoon in the early part of June, 1919? A. Yes, sir.

Q. Was there present also Mrs. McWilliams, Miss Hughes and Mrs. Sargent? A. Yes.

Q. Was that the only time you four ladies were ever together there, at dinner together there; was that the only occasion? A. The only time.

Q. Now. then, after dinner did you sit out on the front porch, you ladies? A. Yes.

Q. Now, then, at any time while you were there and up to the time you left and went home, did Mrs. Sargent leave you to answer the telephone? A. I don't remember that she did.

CROSS-EXAMINATION by Mr. Lane:

Q. Have you thought of this occasion from the time that it happened to the present time? A. Yes; I do not remember Mrs. Sargent getting up and leaving.

Q. Has this particular occasion been in your mind for the past several months? A. No; I have not thought much about it because I did not know I was in it.

Q. It was just an incident in your life, was it? A. That is all.

By Mr. Simpson: Q. It was the only time when you were at dinner in this company at Mr. Sargent's house? A. The only time.

MARY HUGHES, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. In the early part of June, 1919, were you at dinner with Miss Sullivan, Mrs. McWilliams and Mrs. Sargent at Mrs. Sargent's house? A. I was.

Q. Was that the only time you four ladies were together at dinner at that house at one time? A. Yes.

Q. After dinner did you four ladies go out on the porch? A. We did.

Q. Now, at any time from the time you first

went to the porch until the time you went home and left the house, did Mrs. Sargent leave you to answer the telephone? A. Not to my knowledge.

CROSS-EXAMINATION by Mr. Lane:

Q. What time did you go out on the porch, do you recollect? A. We got our dinner and after that we sat there quite a little while, possibly an hour.

Q. Do you recall what time you went home? A. No; it was late.

Q. You have not thought of this occasion for the last several months, have you? A. No; it did not bother me.

By the Court: Q. When you left the house did Mrs. McWilliams and Miss Sullivan go with you? A. Yes; we all left together.

FRANCES L. SARGENT, the defendant, sworn as a witness in her own behalf, testifies as follows:

Direct-examination by Mr. Simpson:

Q. Where do you live? A. Reno, Nevada.

Q. That is your legal residence? A. Yes.

Q. You were married to the petitioner, Donald J. Sargent, when? A. September 22d, 1909.

Q. Where did you go to live him? A. New York City.

Q. You lived with him until the eleventh day of July 1919, didn't you? A. Yes, sir.

Q. Now, this first witness that was sworn—I think her name was Ida—she was employed by you, and for how long? A. Why when I first

went to Jersey City she came to do laundry work and then to do days work, and in fact she was with me up to the time she had taken some linen when I told her I would not keep her in my employ any longer, and she left me, and I simply had to get someone to come in and help, and Ida offered to come back, and I took her back.

Q. You discharged her first for stealing linen? A. Yes.

Q. She says you had a conversation with her—she does not give the date as I remember it,—some years ago, in which you said you thought it was alright for whites and blacks to mix; if a black man liked a white woman or a white woman liked a black man, it was all right; that there wasn't anything immoral about it. Did you ever have any such conversation with her? A. I never had a conversation of that sort with her.

Q. She said that she replied to you that for physiological reasons it was quite wrong, because it would interfere with the strength of progeny, and that you waived that aside and said: "No" that was all right. Did any such conversation as that occur? A. I never had a conversation of that sort or anything of the kind.

Q. She says she had a conversation with you in which you referred to this Charles Simmons as being handsome and that he was good-looking, and things of that sort. Did you ever have any such conversation with her? A. I never told her anything like that.

Q. It is, however, a fact, that both you and Mr. Sargent on occasions have referred to the equipage, that is, the chauffeur and the car and all of that, as being a good-looking turn-out? A. We certainly did.

Q. Both you and Mr. Sargent? A. Both Mr. Sargent and I.

Q. You never had such a conversation with this first witness that was sworn, this Ida? A. No; I did not.

Q. Now getting to Charlotte—Charlotte says that you had told her that Simmons was handsome, and that you had some conversation in which you said that she was jealous of you or jealous of the chauffeur, or something of that kind. Was there any such conversation as that between you and Charlotte? A. Why, No.

Q. She says that she at one time saw the chauffeur up in the hall—she was standing in the dining room—with his arms around you. Is that true? A. It certainly is not.

Q. She says that upon one occasion she brought up a bottle of "Sparkling Berkle" she calls it, referring, I suppose to Sparkling Burgundy, and that Charles brought it up and in your presence Charles opened it and because of some condition it went all over the wall. Did any such incident as that take place in your house in Charles' presence? A. Yes.

Q. When he was present? A. Yes.

Q. Will you describe that for us? A. Why, the first Saturday in May of 1919, there had been a Mozart breakfast, and I expected to bring a friend of mine home to remain all night with me and when I left the house I told Charlotte to put some wine on the ice, that we would have it when we came home. We had breakfast and attended theatre and Mrs. Wrigley decided to go home at the last minute. So I came home without her and came up to my room—

Q. What time was it? A. It was after theater. I think it was out around eleven o'clock.

Q. Did you see Charlotte when you got home? A. Charlotte was up in my room. She always stayed on that floor because baby was there.

Q. What occurred? A. I said: "Charlotte, I will open the wine anyway." She said: "Mrs. Sargent. I did not put it on the ice." I said: "That will be all right." She stooped down and took the bottle and opened it and it went all over the walls. Of course I was terribly annoyed about it. I was afraid to tell Mr. Sargent. The next day we went to the country, down to New Brunswick I believe it was, and finally I told him on our way home.

Q. What was there about it that made you afraid? Had it ruined the room? A. Oh, yes; it was all over the wall.

Q. Did you explain to Mr. Sargent what had happened and how it happened? A. I did.

Q. What did he say about it? A. Well, he said "That is all right, kiddo. Don't mind. I am sorry it is the new room, but never mind. We will have it cleaned."

Q. Charlotte says that you sent her down for sandwiches on that occasion and that you and this colored chauffeur were in this room, and that the wine went all over Charles' coat and you told him to take the coat and have it cleaned, that it was all right. Did anything of that kind occur? A. No.

Q. She says that you got down on the carpet and that you had nothing on but your night-dress, and that he lay along side of you like a dog on the floor? Did anything like that kind occur? A. No.

Q. She says that you kicked your slipper off

and that he tried to put it on and that you said: "Don't touch it," or "Don't put it on." Did anything like that ever happen? A. No.

Q. She says that he got up and went in some room and laid on the bed and stayed in that room, or lay on the bed in some other room. Did anything like that happen? A. No.

Q. She says that you went in another room or stayed in that room and went to sleep, and that you and he stayed there all night in different rooms. Did anything of that kind occur? A. No.

By the Court: Q. Where was Simmons that night after he came home and Charlotte opened the wine? A. He left me at the door.

Q. Was he in the house? A. No.

By Mr. Simpson: Q. He had gone home or to the garage? A. He left me at the door.

Q. The date of that you give me as the first Saturday in May. A. The first Saturday in May.

Q. You first had been to a Mozart Breakfast? A. Yes.

By the Court: Q. What year? A. 1919.

By Mr. Simpson: Q. That is to say it was on the first Saturday of May preceding the night the detectives were in the house? A. Yes.

Q. That is the night of July 11th? A. Yes.

Q. At any time during that spilling of the wine was Charles in the room? A. No.

Q. Then this witness—I think it is Charlotte—I don't know which one it is—says that on one occasion she came in your room, the door was open, and she says she saw Charles go into the closet and shut the door. Did Charles ever go into a closet in your room and shut the door? A. No.

Q. While you were in the room? A. No.

Q. What was the physical condition of that closet? A. It was a closet; there was a little wash basin in it to wash in. You could just stand in front of the basin.

Q. Could you shut yourself in this closet? A. You could be hardly able to squeeze the door shut in there.

Q. Was there ever any time when you have had this chauffeur in your room, when you were undressed or partly undressed? A. He was in and out of the room at the time I was sick; I was in bed from the twelfth of October to January.

Q. 1918? A. 1919.

Q. July 11th—A. Previous to that.

Q. October, 1918? A. Yes.

Q. From October, 1918, until when were you sick? A. Well, I got up shortly after the holidays, about the eighth or ninth of January.

Q. Were you confined to your bed practically all that time? A. Yes.

Q. Did you have a nurse in attendance? A. Yes.

Q. Whatever was done by Charles, was it done at the request of the nurse?

Mr. Lane: I object to this as leading.

A. Certainly.

The Court: The question is leading.

Q. Will you tell me what occurred. Describe about Charles being in the room. Who was there besides yourself? A. I had a nurse at the time. They had to change the bed and I had to be moved. It was impossible for her to move me. I was just as stiff as a board, and she called to have someone help her, and Charles came up to help her lift me out of bed until she turned the bed.

Q. Was he ever in the room alone when he was doing that? A. No.

Q. What was the name of the nurse? A. Miss Barrow. She is married now. I don't know her name.

Q. I didn't ask you whether she was married. I asked you her name. A. Barrow.

Q. Who got her for you? A. Dr. Woodruff.

Q. She was one of his nurses? A. I believe so.

Q. I want to ask you this before I forget it: This man Jeter says that he was in the house cleaning a window glass and he looked along the hall and he heard you call the chauffeur Simmons, and he saw him come upstairs and enter your room, and he saw you reach your hand and take him and pull him over and say to him: "You know I want you." Did anything like that occur? A. No.

Q. Was Jeter discharged out of your house? A. Yes; he was.

Q. Give us the circumstances under which you told him to get out of the house? A. Well, he had attempted undue familiarity with one of the maids and she told me and I told him never to dare put a foot on the ground again, and I told Mr. Sargent about it.

Q. You told Mr. Sargent? A. Yes; I did.

Q. When was that? A. I believe that was shortly after New Years.

Q. 1919. A. 1919.

Q. Coming to your first visit to Dr. Woodruff, that ocurred what date? A. I believe it was October 9th.

Q. October 9th what year? A. 1918.

Q. Now, then, will you tell how you came to get Dr. Woodruff? A. Why, Mr. Sargent insisted that I go there.

Q. Did you go solely as a result of your con-

versation with Sargent or did you go as a result of any physical discomfort of your own? A. Why, Mr. Sargent wanted me to go. He insisted that I go.

Q. Did you go solely as a result of Mr. Sargent's insisting, or did you go because of any physical discomfort of your own? A. Yes; I had to go because of physical discomfort.

Q. Why did you have to go? A. Because of my physical condition.

Q. What? A. Because of my physical condition.

Q. Had he told you about it? A. No; he didn't tell me what it was.

Q. Did you know that there was something wrong? A. Certainly.

Q. He had this conversation with you? A. Yes.

Q. I am not talking about Dr. Woodruff. I am talking about Sargent. A. About Mr. Sargent.

Q. What was the conversation Sargent had with you on the ninth of October? A. Well, I knew he had been there. I asked him why he didn't go to Dr. Spence and he said that he had talked with his friend Dr. Wheeler and he preferred going to Dr. Woodruff; but I didn't want to go; he insisted that I should go.

Q. Where did you want to go? A. I wanted to go to Dr. Spence.

Q. When you went to Dr. Woodruff were you examined by Dr. Woodruff? A. Yes.

Q. Were you informed at that time by the Doctor that you were suffering from a venereal disorder? A. No.

Q. When did you first learn what was the nature of your malady? A. Why, I asked Dr. Spence after he attended me.

Q. When? A. I did not know what I had until January.

Q. When did you ask Dr. Spence? A. Well, about ten days after the first visit, when I could ask a question, and I asked him what the trouble was, and he told me I had septic pelvic poisoning, which to me was Greek. I didn't know what it was, and I didn't know really what I had until January when I finally asked Mr. Sargent and he admitted what it was.

Q. What did Mr. Sargent tell you when he admitted what it was? A. He just said: "I know it is that awful disease." I had it before we were married and I told you about it."

Q. Did he tell you about it? A. No; he did not.

Q. That is, he says he told you before you were married. A. No; he did not tell me until after we were to Dr. Woodruff.

Q. When was the date of this conversation when he finally admitted that he had a venereal disorder and that he had it before you were married? Why, that occurred after I had gotten up out of bed around the holidays, around the fifteenth of January I should judge.

Q. What was the condition of your health from the time you went to bed in October until January? A. It was impossible for me to move without assistance. I was practically stiff from the heart down to my knees. Then after I got up in January I had inflammatory rheumatism caused by this disease. I was up and down continually, well, up to July, when I had been preparing for an operation.

Q. In July you were preparing for an operation? A. Yes, sir.

Q. By whom? A. Dr. Spence.

Q. An operation to cure this condition which Dr. Woodruff had discovered? A. Yes.

Q. How long were you under Dr. Woodruff's treatment? A. Why, I saw him once when I came—no, twice, and it was during the epidemic of the flu, and he had turned me over to another physican, and that was how I came to get Dr. Spence.

Q. Then, did Dr. Spence take you up? A. Yes.

Q. He treated you until when? A. Up until I left for the West.

Q. Up until the time you left for the West you were still under the treatment, suffering from the same trouble? A. Yes.

Q. Were you operated on before July 11th or after? A. I was operated on the third of September, 1919, by Dr. Spence.

Q. During the period of May, June and July, 1919, will you tell me whether or not you informed your huband of your physical condition or whether your condition was such that he would take notice of it. A. He knew I was suffering; I was going to the doctor all the time.

Q. He knew that, did he? A. He certainly did.

Q. On May 26th, when these detectives were brought into the house, he knew that you were suffering with a disease which he says he told you he had before marriage? A. He says he told me, yes.

Q. I didn't ask you that. I asked you whether on May 26th, 1919, he knew that you were sick? Didn't he? A. Yes.

Q. And previous to that he had told you what your malady was? A. Yes.

Q: And previous to that he had told you how you had contracted it, had he not? A. Yes.

Q. Now, coming down to this telephone conversation, there was a telephone conversation, Charlotte says that Mrs. McWilliams, Mrs. Sullivan and Miss Hughes were at your house at dinner, and she cannot give the date, but she says the chauffeur called up, and that you overheard her talking or she called you, and you came out to the telephone and called him "Dearie," and I think, told him to come up from Bayonne and get his supper. Did any such conversation as that occur? A. No.

Q. You were with these ladies all the time until they left, were you not? A. Yes.

Q. While they were there there was no such telephone conversation? A. Oh, no.

Q. You had a little baby in the house, didn't you,—a little adopted child? A. Yes.

Q. Was it with you a great deal? A. Yes; constantly.

Q. Would it ever be with you when you were talking over the telephone? A. Yes.

Q. Would you ever address it when it was troublesome? A. Certainly I did.

Q. What would you say to it when it was crying or troublesome? A. Why, I would generally say: "Dearie" or "Baby" or "Sweetheart." I never called her by name.

Q. It has been testified here that once you called up, that the chauffeur called you up, and that you were particular of getting a certain kind of ice-cream and addressed him as "Sweetheart" and told him not to forget the ice cream. Did anything of that kind occur? A. No; I never eat ice cream.

Q. Now getting down to the twenty-sixth of May, did you on the twenty-sixth of May, know that your house had been wired with telephone extensions, with signals, buttons and bussers, dictaphones and dictagraphs? A. Certainly not.

Q. And did Mr. Sargent inform you that there were strange people in the house? A. No, sir; he did not.

Q. How many times did he absent himself from the house between May 26th and July 11th and stay overnight? A. When he went to New Brunswick, I believe it was to lodge meeting, and then when he went with the baby to Vermont.

Q. Twice he was away all night between May 26th and July 11th? A. Yes.

Q. What was his custom about leaving the house in the morning; would he leave at eight or seven o'clock or what was his custom? A. No; he left whenever he felt like it. He would come in my room and talk to me for a little while. He always came in my room to see me before he went to his at night.

Q. And would his leave-taking sometimes be later than others? A. Yes.

Q. There has been some testimony on the other side that they heard mumbling in a room that was either your room or the room next to it. Would your husband frequently talk to you before he left? A. He did when he came up.

Q. What time would he leave in the morning? A. He has gone away as late as ten o'clock when he went to the garage, but when he went to New York he went a little bit earlier.

Q. Was it ever his custom to leave before eight o'clock or anything like that? A. Oh, no.

Q. This Viola, how did you come to employ her? A. Ida Lewis brought her to me and said she knew her very well and recommended her highly and I had to have someone to take care of baby and I engaged her as a nurse for baby.

Q. When was that? A. I believe it was the first Monday in June?

Q. 1919? A. 1919.

Q. Now, from that day until the night of the raid did she have the full run of your house with the baby? A. She did.

Q. She could go anywhere at any time? A. Yes.

Q. She could go into your room at any time? A. Yes, sir.

Q. Go into your bedroom? A. Yes.

Q. During all the time? A. Yes.

Q. July 11th, will you tell us what time you came home? A. I had taken my sister and niece down to the ferry, and I stopped to do some shopping—I don't know just what it was. After I got to the house I went upstairs and took off my hat and coat. I came down to Charlotte, and she had been ill all day. I said: "Charlotte, you can fix a little bite for me on a tray."

Q. I asked you about the time? You have not told me about the time. A. No; I don't know what time it was.

Q. It was after you came home? A. Yes.

Q. Go on? A. She fixed something for me to eat. When I finished I took the tray out and I went down to the kitchen. I said: "Charlotte, I feel very uneasy and nervous. I feel as though there was someone in this house. When Charles comes back I want him to go through the house." She said: "Mrs. Sargent, you are all upset because

the baby is gone. You are nervous. There isn't anybody here."

Q. July 11th did you have any conversation with your husband about your husband going away on the night of July 11th? A. Before he started for Vermont I wanted to know if he would allow me to go on a trip, to take a motor trip to Southampton. He said: "No. I want you to stay in the house. You know baby's father might insist that she stay there, and if he does, I will 'phone you so you can leave in case I 'phone to come up. I want you to stay home.

Q. The night of July 11th, you wanted to go out? A. Yes, and then when he asked me for baby's sake, I stayed.

Q. What time did he leave? A. He left early in the morning.

Q. Telling you he would not be home until when? A. Monday or Tuesday he would be back.

Q. How many days would that be after he left? A. Four days.

Q. Four days he was to be gone? A. Yes.

Q. You have already told about telling Charlotte that you were uneasy and that you felt that there were strange people around and Charlotte said: "No; no; you are nervous because the baby is gone." What was the next thing that happened? A. I told her when Charles came in to let me know because I wanted him to go through the house.

Q. Did you eat your dinner on the tray in the kitchen? A. No; I did not. I ate my dinner on the tray in the dining room. I took it out of the kitchen myself because Charlotte had complained about being ill and when Charles came back I

gave him the key to the wine cellar and told him to go down and get a bottle of whiskey, I wanted to give Charlotte a drink, and he went down and got it and came up and opened it and Charlotte took it up to my room.

Q. You were going to give Charlotte a drink out of it? A. Yes.

Q. What happened downstairs? You got a tray and you took it into the dining room and you had your dinner? A. Yes.

Q. After your dinner what did you do? A. I went back to the dining room and took the Jersey Journal and I spread it out on the dining room table and I leaned over the table and I read this paper.

Q. You were standing up, leaning over the table? A. Yes.

Q. Was it while you were leaning over the table that you spoke about searching the house? A. I went back to the kitchen door and I said: "Charles, before you go, I want you to go through the house because I am very uneasy." Then I went upstairs to my room.

Q. Have you any idea what time it was when you went upstairs to your room? A. No; I have not.

Q. Can you estimate what time elapsed from the time you came in, ate your dinner, read the paper and had this conversation, until you finally went upstairs? A. No; I have not the least idea what time it was.

Q. Do you know what Charles then did? A. He went downstairs and I went upstairs and I sat in my room and I was mending or darning over in the corner of the room, and I had been up there a

little while when Charlotte came in; it was my custom to ask her to come in and sit down with me when I was alone, and I did, and she was sitting there, and we were talking about the baby and what we were going to do. I sat in the corner there. Presently I heard footsteps and Charlotte got up and she walked over to the door and stood with her hands in back of her and Charles came to the door and he looked in. He said: "Mrs. Sargent, I have been all through the house and I find everything all right but the two rooms on the top floor, Viola's room and Charlotte's room, and they are both locked." I said that it was all right. I was paying no attention to Charlotte or Charles, but I heard her say: "If you want that drink, go and get it," and as he leaned over to get the drink stepped in the door, Charlotte pushed the door to. I rapped on the dressing table. I said: "Charlotte! Charlotte!" She opened the door; she looked in; she said: "I was only funning, Mrs. Sargent. You are nervous. You are all upset." I said: "Don't you dare do such a thing." With that she pulled the door shut; she clicked the lock, and I heard her. I jumped up. I hammered at the door. I pulled it. I heard a voice say: "That will do Charlotte." which I now recognize as Tienken's voice.

Q. "That will do Charlotte"? A. "That will do, Charlotte." I hammered on the door and I pulled it. I said: "Please let me out. Please let me out." Mr. Tienken said: "Madam, the house is surrounded by detectives; there are detectives in the house; I will let you out when I get ready."

Q. At that time, up to that time, when you got

up to that point, had you become aware at all of what Simmons was doing? When you were pounding on the door and saying "let me out"? A. I don't know what he did.

Q. When you turned he was gone, was he? A. Yes.

Q. How long did they keep you in the room? When Simmons came into your room did he have his hat on? A. His cap.

Q. He had on his cap—his chauffeur's cap? A. No; his own cap.

Q. His chauffeur's cap he usually left in the car. He had his own cap in his hand? A. Yes.

Q. How long were you in the room have you any idea, before they finally left you out? A. No; I don't know how long they kept me in there.

Q. You were dressed? A. Why, I had just taken off my hat and my coat.

Q. They had some talk before they opened the door. One of them said that you went to the window in this fully lighted room which opened on the street, and that you pulled the shade down and that you were dressed in a pink kimono. Did anything of that kind occur? A. No.

By the Court: Q. Was there a bolt, lock or key of any kind on the inside of the door? A. No.

By Mr. Simpson: Q. There was a device, a catch device, that was not working was there not? A. No; that door had never been locked before.

Q. There was nothing on the inside that you know whereby it could be locked? A. No.

Q. You finally got out. They let you out. During all of this time that you were in that room what were you doing? A. I don't know what I was doing. I don't know just what I was doing.

I walked back and forth in that room. I was like a crazy girl.

Q. Finally they let you out. What happened when you got out? What was the first thing you saw; what was the first manly presence you saw when you got out? A. I didn't see any manly presence.

Q. What did you see? A. I saw this man Huck.

Q. What did you say to Mr. Huck? A. I said: "You, Mr. Huck of all, how could you do such a thing, you whom I have wined and dined in my home? Where will I go? What will I do."

Q. Did you say anything about whether you had done wrong? A. Yes; I did.

Q. What did you say? A. "I have done no wrong Mr. Huck. Why have you done this thing"? A. He started to walk in my room and said: "I am just as sorry to be here as you are to see me." Of course I was crying, and Mr. Tienken walked in and grabbed hold of me—

Q. What did Mr. Huck say to you when you said: "I have done no wrong. You have broken up my home. What shall I do. Where shall I go?" What did if he say anything, and what happened after that? A. He said: "You have done enough tonight to hang you."

Q. After that they walked into your bedroom, these two men, the lawyer and the detective? A. And this other man.

Q. The other detective? A. Yes.

Q. What happened when you were crying; what did Mr. Tienken grabbed hold of my shoulder. He said: "Here you, if you do not stop that, I will take you and your whole pack of damned niggers, put them in the patrol wagon and take them to the police station.

Q. And Mr. Huck said— A. Mr. Huck said: "You don't need to use violence with Mrs. Sargent.

Q. He said that to Mr. Tienken? A. Yes.

Q. Did Tienken stop then? A. Yes.

Q. Was there anything said about getting out of the house? A. Mr. Tienken turned to the door and said: "You will have to get out of here." He said, "Mr. Sargent's orders are that the house be closed."

Q. Did he show any letter? A. Yes, he pulled a letter out of his pocket.

Q. They showed you a letter and told you that you would have to get out of the house. Did you tell them that you would not go; that it was your house? A. I certainly did.

Q. What did you say? A. "I won't get out of the house. You cannot put me out." Mr. Huck then said: "It is Mr. Sargent's orders that you get out of here."

Q. (Showing witness) This is the communication that they showed you? A. Yes.

Q. You didn't read it, did you? A. No.

Q. You simply saw it was a blue paper? A. I saw it was a blue paper.

Mr. Simpson: Referring to D-1.

Q. When you said you would not get out and Mr. Huck told you it was your husband's orders for you to get out what did you say? A. Why, I said, "Mr. Huck, I would get out of this house; this is my home. I don't know where to go. I don't know what to do. I have not done any wrong. What will I do. Where will I go." I walked out in the hall and then Mr. Tienken and Mr. Huck walked after me. They said: "You

will have to get out of this house." Mr. Tienken said,"I will go down and put a stop order on the car so that she cannot use the car." Mr. Tienken left and Mr. Huck stayed there and I went to the telephone and I tried to get one sister and I tried to get the other, and I got the other sister, and she said to me: "Come right over." Mr. Tienken went out and hired one of those jitneys that they have on Bergen Avenue, a great big long Ford, and he took Charlotte and the other detective and Mr. Huck and I and they drove me out to my sister's.

Q. Before they did that did they give you any assurance that you would get into the house again? A. Mr. Huck said on his honor that I would get into the house the next day.

Q. If you would leave that night? A. If I would leave.

Q. The next day you came back to the house? A. The next day I came back to the house. I had to go to the doctor's. When I tried the doors I found them locked. I went to Dr. Spence and called up Mr. Huck's office and Mr. Huck said he would have the detective there in half an hour with the key. I waited in Dr. Spence's office half an hour and I walked around to the house and this young detective let me in the kitchen way, and when he let me in he said: "I will wait here to get the key from you." I said; "Now that I am here I will stay here." and I closed the door.

Q. How long did you stay there? A. I stayed there on and off until the twenty-first of October.

Q. Now, any time up to the time you had to consult lawyers, did your husband come and ask for any explanation or ask if this thing was true,

or whether you had done this thing? Did he ever come near you? A. No.

Q. You tried to get in touch with him? A. Yes, I did.

Q. He refused to see you?

Mr. Lane: Objected to.

The Court: Objection sustained.

Q. Give the history of what happened between you and Mr. Sargent after the night of Mr. Huck's social entry into your house at midnight with detectives. From that time until a petition was served on you, what happened between you and Sargent? A. Until the petition was served?

Q. Yes, If nothing happened, say so. Did you see him or didn't you? A. No; I did not see him.

Q. State whether or not you made any efforts to see him and try to ascertain what this all meant? A. Why, after I was operated on—at least the time I was to be operated on, I thought Mr. Sargent would come—

Q. You expected Mr. Sargent to come to the operation? A. Yes.

Q. By reason of something Dr. Spence had said? A. Yes.

Q. He did not come? A. No.

Q. You were served with the petition, were you not? A. Yes. When I received that paper I could not believe that the man that I had given so many years of my life to, could do that horrible thing.

Q. You got that petition and then you consulted counsel and in some way I became your solicitor of record? A. Yes.

Q. And we filed an answer? A. Yes.

Q. Was there or was there not any notoriety in

the papers, linking your name up with a colored chauffeur? A. I had every bid of notoriety that any human being could have.

Q. Were you or not in good physical health? A. I was not.

Q. Did it have any effect on your health? It made some effect on you socially? A. It certainly did.

Q. Did it cause you any mental concern or grief? A. Yes.

Q. As a result of that, did you or not endeavor to see Mr. Sargent? A. I did. I could not understand it. I sat down and I wrote to him, "You have told me two wrongs will not make a right. I want to see you and talk it over."

Q. As a result of that letter did you meet him in his lawyer's office? A. Yes.

Q. As a result of that interview was there any arrangement made between your husband and Mr. Runyan or Mr. Huck that you should go to any place other than New York? A. They told me to come and see them again and they thought I better take a trip.

Q. You came again and a trip was outlined to you? A. They asked me where I had decided to go. I said that I had decided to go to San Francisco but I didn't have any money. Mr. Runyon said to me, "If you are going to trust your husband to San Francisco, why don't you trust him thirty miles further." I looked at him. I said, "I don't understand you." He took a letterhead and handed it to me. He said, "Well, well, don't you understand that?" I said, "What do you mean? Do you mean to go to Reno?" He said, "Yes." He said, "We have a client out

there now." I said, "Well, how am I to know—how do I know what these men will do? I don't know if they are gentlemen. I have had so much notoriety here I don't want any more." He said, "I believe you can trust your husband that far." I said, "Are you sure he will do the right thing after I get out to Reno? Will he do whatever is necessary?" He said: "Yes, Mrs. Sargent, he will."

Q. At that time you were only receiving $225 a month under the order of this Court? A. Yes.

Q. Did they raise that to $300? A. Why, Mr. Runyan said, out of of the goodness of his heart he would give me $75.

Q. Was it Mr. Runyon's heart or Mr. Sargent's heart? A. Mr. Sargent has no heart.

Q. It was Mr. Runyon's heart that increased it by $75. Did Mr. Runyon give you the names of any solicitors in Reno, Nevada? A. Yes; he did.

Q. What was the name? A. Stoddard and Saulsbury.

Q. Did you go there? A. I did.

Q. After I was taken off the record, was there another firm substituted; did you have anything to do with engaging that other firm that was substituted as your solicitors in this cause of action? A. I knew nothing about it. Of course I knew—

Q. You know that they were substituted as your solicitors in this action? A. Yes.

Q. Did you have anything to do with putting them on the record as your solicitors? A. No.

Q. Who attended to that little detail—Mr. Runyon, your husband's attorney? A. Yes.

Q. Did you pay that firm any money for representing you? A. I had no money.

By the Court: Q. The question is did you pay any money? A. No; I did not.

By Mr. Simpson: Q. Who paid your solicitors in Reno? A. Mr. Sargeant or his solicitor.

Mr. Simpson: Have you that check, Mr. Huck, that you sent?

(Check is produced.)

Q. Who were your solicitors in Reno? A. Stoddard and Salsbury.

Q. Whose names you had received from Mr. Runyon? A. Yes.

Q. You went to consult them? A. Yes.

Q. This check, have you ever seen that check before? A. Yes; I saw the check.

Q. You know Mr. Huck's signature? A. I do.

Q. Is that his signature on the check? A. Yes.

Mr. Simpson: I offer in evidence check dated January 7, 1920, drawn on the American Exchange National Bank, to the order of Stoddard and Salsbury, five hundred dollars, signed by Mr. Huck.

Received in evidence and marked Exhibit D-5.

Q. When did you go out to Reno? A. The fourth day of November.

Q. You received the money regularly from your husband? A. Why, I received the money regularly up to the time I filed a suit there, when he held the money up.

Q. If, as you testified, you went out to begin this suit, and began it, then do you know there was a notice given in this case to stay your suit in Nevada? Do you know what happened in this case? A. No, I don't.

Q. When did you come back? A. The 28th of September.

Q. Then this case was finally set down and came on for trial? A. Yes.

Q. Now, have you ever at any time allowed any familiarity on the part of this man Simmons, either in word or action? A. No; never.

Q. Did you ever ask your husband to discharge him before the day of the raid? A. I certainly did.

Q. How many times? A. Many times.

Q. What did your husband say? A. He told me he was a good mechanic and could take care of the car; he was a good driver; it was hard to get a good driver and he was honest and trustworthy.

Q. Do you remember any conversation, after you came home one night, when Simmons had been late, and you wanted your husband to discharge him? A. Well, we got home; it was about half-past twelve or one o'clock and we stayed in my room until three or half-past three, and we talked, and I wanted Mr. Sargent to discharge him. He said, "I will speak to him in the morning." He promised to give him two weeks' notice. What he did I don't know.

Q. When was that? A. That was about the middle of April, I believe.

Q. That was before the Mozart Breakfast? A. Before the Mozart Breakfast.

Q. That was before the bottle of wine incident? A. Yes.

Q. It is charged in the petition that you committed adultery with Charles Simmons and with divers other persons by name unknown in an automobile and also at the house. Did you ever commit adultery at any place or time with any person? A. Absolutely no.

Q. Since your marriage you have always been chaste and faithful to your husband? A. I have.

Q. About this Jeffersonville trip. Do you remember going to Jeffersonville with the chauffeur and your sister? A. Yes.

Q. When was that? A. I think it was the 14th of October, 1918. There was a girl up there in whom Mr. Sargent and I were deeply interested. and she was dying. We received word from the sanitorium she could not live for a week or two weeks and he wanted her mind to be at rest, and I took this trip up to give her some things and see what could be done.

Q. He knew you were going up? A. He planned the trip for me.

Q. You went with your sister? A. Yes.

Q. What hotel did you stop at? A. Mansion House.

Q. What room did you occupy; did you occupy a room with your sister? A. My sister and I.

Q. Did the chauffeur occupy some other room as far as you know? A. Yes.

Q. You registered, didn't you? A. Yes.

Q. In the customary way, "Mrs. Sargent and companion and chauffeur"? A. Yes.

Q. During all of that time was your sister with you? A. Well, I was very ill and she was with me constantly.

Q. When did you become ill? A. Well, I had been under treatment previous to that with Dr. Woodfruff. I told him I was going. He warned me not to go, but I knew this girl's need was so great and Mr. Sargent wanted me to go, so I went.

Q. Were you taken ill at the hotel? A. Yes; and we sent for the doctor there.

Q. When did you send for the doctor, that night or the next morning? A. The next morning.

Q. Who was the doctor? A. Dr. Coleman.

Q. You tried to get Dr. Coleman to come here? A. Yes; I did.

Q. The next day what time did you leave there? A. I really don't know what time it was.

Q. You went out for a short walk with your sister, didn't you? A. The night before I did.

Q. Did the chauffeur walk with you? A. Oh, no; he walked in back of us. It was so dark we were afraid.

Q. Did you on that trip commit adultery with the chauffeur? A. I did not.

Q. Was he ever in the room with you alone? A. No; never.

Q. It has been testified that he brought up some Kuemmel for you? A. Yes.

Q. Also this trip to Vermont after this raid, you went up to Vermont, didn't you, in the car? A. Yes.

Q. For what purpose did you go? A. I went up to see the baby's father. The baby had been given to me, and I wanted the father to know I didn't have her, and I talked it over with Mr. Hopkins, and he advised me to go up and see the father of the child, which I did.

Q. This chauffeur drove you, Simmons? A. Yes.

Q. You had an attorney in New York, Mr. Hopkins? A. Yes.

Q. Did you consult him about the propriety of the chauffeur driving you to Vermont? A. I did.

Q. Did he advise you that there was nothing improper in it? A. He certainly did.

Q. The chauffeur was not hired by you? A. No.

Q. There has been some criticism by Mr. Lane as to the propriety of cleaning the teeth of the distributor with a nail file or tooth brush. You don't know what happened in that respect? A. No; I don't.

Q. You do know it stopped in some village, don't you? A. Yes.

Q. It stopped twice? A. Yes.

Q. It stopped going up and coming back? A. Yes.

Q. Did you go to the house on both occasions or only one occasion, where the child was? A. Both occasions.

Q. To try to get the child back? A. He didn't have the child. Mr. Sargent had the child.

Q. Who was the man in Vermont; what relation was he to the child? A. The father.

Q. The father of the child? A. Yes.

Q. This child had been in your home and you had become attached to it, had you not? A. Yes.

Q. What was your purpose in going to see the man in Vermont, what did you expect to accomplish by that trip? A. Well, I knew he had given the child to me, and I knew Mr. Sargent had not done the right thing, and I wanted him to know I didn't have the baby.

Q. At the time you got up there, did he know anything about the accusation that Mr. Sargent was making against you? A. No; he didn't know, but Mr. Sargent's father, who lives with his son-in-law, he knew it.

Q. He knew about this charge? A. He knew about the charge.

Q. Was that the reason you went to see the father of the child? A. No. In fact he told me I could have the child.

Q. You could have the baby? A. Yes.

Q. Simmons said something about being unable to get the baby and being upset and sad? A. Why, Mr. Simpson, I was almost frantic.

Q. You say the man said you could have the baby? A. Yes.

Q. As I remember Simmons' testimony, he said you could not get the baby and you were down-hearted. A. Of course I was down-hearted.

Q. Why were you down-hearted? A. Not having the baby, not being told I could have her. He told me I could have her and I thought the baby was there; when I went there I thought I would have her to bring back with me.

Q. The baby was not there? A. Oh, no.

Q. Now, can you estimate the time that elapsed from the time they locked the door on you until you were allowed to come out of the room? A. No; I don't know.

Q. Did you hear anything of foot-steps after the door was clicked? A. Why, yes; I heard foot-steps coming down the back stairway.

Q. Mr. Tienken says the door was locked from the inside and he took it and shook it violently and tried to open it. Is that true? A. No; that is not true.

Q. You were trying to open the door? A. I was trying to open the door.

Q. Are you clear about the expression that you say this colored woman made use of? On the stand she said she was only "funning." Are you sure that she said to you that word "funning"? A. Yes.

Q. That is what she said when she opened the door before she shut it the second time? A. Yes.

Q. How loud did you shout, "Charlotte"? A. I was sitting at the other end of the room. It is quite a large room. I hammered on the dressing-table. I said, "Charlotte, Charlotte." It was easy to hear me outside.

Q. Simmons testified that he saw you at Asbury Park; he didn't speak to you, but his wife went up and talked to you; do you remember about that? A. Well, Lillian was in my employ at that time, and she had a week's vacation, and my sister came over and I happened to be walking on the board-walk. I saw her and Lililan came to speak to me.

Q. Was there anything occurred then between you and Lillian? A. We just talked, and she was telling me she was having a good time. I said, "Lillian, be sure and be back on Monday"—or whatever day she was to come back. She said yes.

Q. Did you ever give Simmons money to buy a diamond ring? A. No; I did not.

Q. Did you ever give him a motorcycle or the money to buy a motorcycle? A. No.

Q. Did you ever give him a leather suit or the money to buy a leather suit? A. No.

Q. Did you ever give him any money? A. Only at Christmas, money that Mr. Sargent gave me to give him.

Q. How much would he give you to give him? A. I really don't know. He gave me money to give to all the help.

Q. In this interview in Mr. Runyon's office in which the details were fixed for the trip to Neva-

da, was anything said about having your then counsel, Alexander Simpson, present at the interview; had Runyon told you anything about Simpson or that interview? A. He told me all the notoriety I had was due to Mr. Simpson; that he had blazed me upon the front sheet of the Jersey Journal.

Q. And for that reason you should not have anything to do with Simpson. Didn't he tell you that?

Mr. Lane: Objected to.

The Court: Objection sustained.

Q. Did you or did you not say to him that your husband having his lawyers there, you should have your lawyers also; did you say anything about that? A. No; he didn't say anything about my lawyer being there.

Q. I didn't ask you that. Did you say anything about his being surrounded by lawyers and whether it would be proper or not to have your then solicitor of record there? A. No.

Q. Nothing was said about being responsible for the notoriety, you better not have me—anything of that kind? A. Oh, yes; Mr. Runyon told me that it was due to you I had so much notoriety and you had blazed me on the front sheet of the Jersey Journal, and I asked him if the men at Reno would do the same thing, and he said, "No; these men are gentlemen, and I am sure they will treat you as such."

Q. Did he give you any reason why; was that the reason why he said you didn't want me there? A. Yes.

Q. Cannot you say so? A. I didn't quite understand the question.

Q. After this interview with Mr. Runyon you made preparations to go west, didn't you? A. Yes.

Q. Did you have a conversation about October 17th with Mr. Sargent over the telephone when you were in your home? A. Yes.

Q. Will you tell us what that conversation was? A. Why, he called me up in the morning and he said, "Hello, Frank; this is Don. I have called you up to tell you good-bye. I hope you get out there just as quickly as you can and you do whatever they tell you to do, and I am sure you will find both these men gentlemen," and he said, "Get well, no matter what you do, get well." I said, "Why, Don, I have not proper clothing to go out there. I don't know what to do. I haven't any money. I don't know how you can send me there." He said, "Well, Frank, there is a limit even to my resources." I said, "Well, Don, what are you going to do about the house? Are you going to live here in the house?" He said, "No; I don't see how I can." I said, I want you to promise me you won't let Charlotte in this house again. Whatever I do with these things here I will let you know, and I will let Mr. Runyon know so you will know just what I have done." He said, "Well, you get out there just as quickly as you can." He told me what he was going to do for the baby, and he said, "My life is ruined." I said, "Well, my life is ruined too, but you have the baby."

Q. What? A. I said, "My life is ruined, too, but you have the baby." He said, "Well, you get there just as quickly as you can and stand on your two feet and follow the advice of the attor-

neys out in Reno." He told me, "Good-bye," and that was the last I heard from him.

Q. Didn't he say anything about figures at all? A. Yes; he did.

Q. What did he say about figures? A. I told him I had not any money and he told me he would do whatever was necessary, that he would see me through and settle with me in six figures.

Q. Did he tell you that he wanted the divorce, that he wanted to marry again or anything of that kind? A. No; he did not.

Q. He didn't give you any reason for wanting the divorce? A. No.

Q. There have been some pictures offered here, some pictures of Simmons by a car. Do you remember who took these pictures? A. I don't know who took the pictures. I know his wife and baby were there.

Q. You have a picture taken at the same time, have you? A. Yes.

Q. Was the picture of Simmons' wife and baby taken at the same time these were taken? A. Yes; they were.

Mr. Simpson: I offer this in evidence.

Received in evidence and marked Exhibit D-6.

Q. Do you know how Mr. Sargent got these pictures? A. I believe there were six films and I gave the films to Mr. Sargent when they were developed.

Q. Did he object to having the pictures of the chauffeur taken? A. No; he didn't say anything.

Q. There has been a picture of a nude woman offered here, which they say was taken from Simmons' room? Did Mr. Sargent have any nudes

about the house? A. Yes; he did. He was very fond of nude pictures.

Q. Do you know anything about these rooms, these servant's rooms, who furnished them? A. Well, we had the rooms furnished; we had a lot of discarded pictures in the attic and I told the girls they could go there themselves and take any pictures they wanted to hang up in their rooms.

Q. There has been some talk about some photograph that was given to you and that you kissed. Did you ever kiss any photograph that was given to you? A. No; I did not.

Q. How much money was advanced to you to go to Reno? A. Twelve hundred dollars.

Q. Who gave you that money? A. Mr. Huck, his check.

Q. Mr. Huck's check? A. Yes.

Q. Another question I want to make clear: At any time after your husband's friends and detectives raided your home on the night of July 11th, did you ever have the opportunity of seeing your husband alone and talking over with him what had happened; did you ever have that opportunity? A. No.

Q. Did you seek that opportunity; did you try to have a talk with him? A. Yes; I did.

Q. Many times? A. Well, I tried to talk to him a number of times.

Q. Would he ever talk to you except in the presence of his lawyers? A. Why, no; I only saw him that one time.

Q. Did he ever ask you to explain this raid and tell your side of what happened? A. Why, no; they said I had no side.

Q. Did he, did your husband, ever say to you,

"I would like to hear your side of this thing"? A. No.

Q. He never asked you? A. No.

Q. He has stayed with his lawyers and private detectives ever since the night of the raid? A. Yes.

Q. Was there any question or arrangement about increasing this money that you were to have, whether you were to get out of the house or have that increase? A. Why, no; he told me he was not going in the house. He told me he was going to put a care-taker in the house. That is why I gave him the set of keys and I had a set of keys.

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Vol. II

Frances L. Sargent—Cross

CROSS-EXAMINATION by Mr. Lane:

Q. Who is Mrs. Safarick? A. She is one of my girlhood friends; I went to school with her.

Q. Who is Mrs. Linser? A. My sister.

Q. Before you had any communication with Mr. Runyan or with Mr. Huck with respect to going to Reno, Mrs. Safarick and Mrs. Linser had seen Mr. Ruyon in your behalf, had they not?

Mr. Simpson: I object to that as calling for a conclusion.

The Court: If she sent them there she can answer that.

Objection overruled.

A. I didn't send my sister or Mrs. Safarick to Mr. Runyon or Mr. Huck.

Q. You knew that they were going; did you not? A. No; I didn't now they were going.

Q. You knew after they had returned, that they had been, didn't you? A. No; I did not.

Q. You didn't? A. Not the first time; no. They were to see Mr. Runyon and Mr. Huck several times.

Q. Well, had you seen Mr. Huck or Mr. Runyon before Mrs. Savarick and Mrs. Linser saw Mr. Huck? A. No.

Q. It was as a result of something which was told you by Mrs. Savarick and Mrs. Linser that you went to see Mr. Huck, was it not? A. No.

Q. It was not? A. No.

Q. I show you a letter and ask you whether it is in your handwriting? A. Yes. May I explain my answer?

Mr. Lane: I ask to have the letter marked for identification.

Letter is marked P-11 for identification.

Q. Simultaneous with the writing of that letter you wrote this one, did you not? A. Yes.

Mr. Lane: I ask to have it marked for identification.

Letter is marked P-12 for identification.

Q. Now, in the first letter that you wrote, P-11 for identification, you say, "Carrie and Ann have told me of their talk with Mr. Huck yesterday."

Mr. Simpson: I object to that question unless I am allowed to see this letter. I object to his using this letter unless he lets me look at it.

The Court: Objection sustained.

(Question repeated by stenographer.)

Q. That is true, is it not? A. Oh, I cannot answer that question, Mr. Lane, because I do not know just what conversation it refers to when I say "yesterday."

Q. I show you your letter and ask you what conversation you do refer to by these words? A. May I look at it?

Q. Certainly. Read the whole letter. A. I explained this letter in my—

Q. Explain it now? A. Mr. Sargent had always told me that two wrongs never made a right and regardless of what the other fellow did, you were only to do the right thing, which I tried to do.

Q. That is not what I asked you. I asked you what you refer to when you use that language that Ann and Carrie had told you of their conversation with Mr. Huck the day before. A. I told

you, Mr. Lane, that I did know that my sister and Mrs. Safarick went, but not the first time.

Q. You mean that you didn't know the first time that they went. Is that what you referred to? A. Yes.

Q. But you did write this letter and attempt to arrange this conversation as a result of something that Ann and Carrie had told you, didn't you? A. I did not.

Q. Why did you make this the main, prominent thing, in your letter—

Mr. Simpson: Objected to.

The Court: Objection sustained.

Q. Then, you didn't write this letter? A. I did write the letter.

Q. Then you didn't, do I understand it that you didn't write this letter as the result of something that Carrie and Ann told you? A. I did not.

Q. Then did what Carrie and Ann told you have anything to do with writing this letter? A. It did not.

Q. You would have written it whether they had told you anything or not? A. I certainly would.

Q. Did you receive a reply from Mr. Sargent to this letter, P-11 for identification? A. I received one letter from Mr. Sargent, which I have.

Q. Will you produce it? A. I believe Judge Stoddard has it.

Mr. Simpson: I haven't got it. Here is a copy of it. It is in the moving papers in this case. The original is in Nevada with the Reno papers.

Mr. Lane: I ask that this copy be marked for identifiation.

Marked P-13 for identification.

Q. You read that letter when you received, it did you not? A. I certainly did.

Q. Did you read the portion of the letter which reads: "While I don't know what good can come from such an interview, yet to give you, as you say, an opportunity to right any wrong, I will be at the office of my attorneys, Runyon and Autenrieth, 15 Exchange Place, Jersey City, at Tuesday, 1:30 p. m., where I can see you and you may be likewise protected by bringing your attorneys." A. I read the letter.

Q. Then, it was suggested that you should bring your attorneys or you might bring your attorneys, was it not?

Mr. Simpson: I object. The letter speaks for itself.

Q. Did it make any impression on your mind, that statement? A. I don't quite understand that. I don't know just what you want me to answer to.

Q. I want to know whether the invitation to bring your attorneys made any impression on your mind? A. I wanted to see my husband and I didn't care who was there.

Q. Then, you didn't want to bring your attorneys; is that right? A. I don't know. I don't know just what you want me to say. I wrote to him and said I wanted to see him and I didn't want his attorneys there. I wanted to see Don Sargeant alone.

Q. He told you, his attorneys told you from the beginning, that he would not see you alone, did he not? A. I beg your pardon there. I had never seen Don Sargeant's attorneys until that day, so they didn't tell me that.

Q. Did not Carrie or Ann tell you that Mr. Huck had declined, in Mr. Sargeant's behalf, for Mr. Sargeant to see you without his attorneys? A. No; they did not. They had not discussed that part of it at all.

Q. What did they tell you before you wrote this letter; what did they tell you with respect to their talk with Mr. Huck the day before you wrote this letter? A. I don't remember.

Q. Well, haven't you any recollection now as to what these two ladies told you? A. No; I haven't. At this time I cannot tell you just what they told me at that time.

Q. Have you any recollection? Is your mind a perfect blank on it? Cannot you tell us what the subject matter of the conversation at least was? A. I told them that I was going to see my husband.

Q. Can you tell us anything with respect to what Ann and Carrie told you the day before you wrote the letter, Exhibit P-11? A. No; I cannot.

Q. Your mind, then, with respect to what was said upon that occasion is a perfect blank; is that right? A. I don't recall anything that was said.

Q. You don't recall any part of the conversation? A. No; I don't.

Q. What is your view, Mrs. Sargent, with respect to the intermingling of the races? A. I have an absolute horror of it.

Q. I suppose you always had that horror? A. I have always had it; yes.

Q. So that you have it still? A. I have it still; yes.

Q. You have had it to the extent after July 11th as before? A. I have never changed my mind on the subject.

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Q. So that the charge made against you of criminal intimacy with a colored man shocked you as nothing else could shock you; is that right? A. It certainly is.

Q. A shock from which you have not yet recovered from? A. No; I have not.

Q. You realized, of course, on the 11th day of July that that was the charge against you, did you not? A. Why, Mr. Huck said he didn't know whether it was a divorce or not, and I don't know what I thought on the 11th of July after that thing happened.

Q. You realized on the 11th of July or shortly after, that you had been charged with criminal intimacy with this man Simmons, did you not? A. After I had been served with papers I knew what the charge was.

By the Court: Q. You realized on the 11th of July, because you said to Mr. Huck when you came out of the room, "I am innocent." A. I said, "I have done nothing wrong."

Q. Then you realized that there was a charge against you? A. I realized they were trying to do something; yes.

By Mr. Lane: Q. And that something which they tried to do involved Simmons; didn't you realize that? A. Yes.

Q. When was it that you first had any trouble with Simmons before the 11th of July which lead you to ask for his discharge? A. I didn't like his being impudent to me and I didn't like the idea of his not being on time on numerous occasions, but I was in bed so much of the time that I really—

Q. When was the first time? A. I cannot tell you the first time.

Q. Was it shortly after his employment or more nearly toward July? A. I was in bed from October to January, and he was employed in July, and then I was up and down, well, mostly all the time; I really could not tell you.

Q. At any event, there were several occasions when the conduct of Simmons was displeasing to you? A. Yes.

Q. So displeasing to you that you told your husband to discharge him? A. I did.

Q. And your husband would not discharge him? A. No.

Q. A conversation with respect to discharging him took place as close to the 11th of July of six weeks; is that right? A. Well, I asked him to discharge him a number of times.

Q. In May you asked him to discharge him; is that right? A. Yes; in May.

Q. I think you sat up until 3 o'clock in the morning? A. Yes.

Q. With your husband? A. Yes.

Q. And the topic of that conversation was the discharge of Simmons? A. Part of it.

Q. And that time you were using all the influence you had with your husband to get the discharge of this man Simmons, is that right? A. I wanted him discharged.

Q. Your husband then said that he would not discharge him because he was a pretty good chauffeur? A. No; he didn't say that. He said he was a good mechanic and they were hard to get.

Q. You spoke to him about—A. His impudence and his manner, and I imagined from what he said that he was going to discharge him. In fact he said he had given him two weeks' notice.

Q. But he didn't leave. When he didn't leave, after the expiration of two weeks, did you say anything further to your husband about discharging this man? A. I don't remember.

Q. He had been impudent to you. How had he manifested his impudence? A. Well, he would answer me back. If I asked him to do anything he would be late; I didn't like his manner generally.

Q. You didn't like his manner generally from the beginning? A. I didn't hire him. I didn't have anything to do with what he was able to do or what his manner toward me should be.

Q. You didn't like him from the beginning? A. No; I didn't like him from the beginning.

Q. Will you tell me what it was that within a few weeks after the 11th of July you permitted this chauffeur to drive you to Vermont? A. I did so on the advice of counsel.

Q. Will you tell me why it was that you thought it necessary to ask the advice of counsel as to whether the chauffeur should drive you? A. He was the only one we could get at the time. In fact, he had been working for my brother-in-law from time to time. I had to go up in his car. There was no special reason for having him.

Q. Did you tell your brother-in-law that this man had been impudent to you to such an extent that you asked your husband to discharge him on several occasions? A. They all knew that I didn't like him.

By the Court: Q. Did you tell your brother-in-law that? A. No; I cannot say that I did.

By Mr. Lane: Q. You started to say that he knew—did your brother-in-law know it?

Mr. Simpson: I object to that. How can she know what he brother-in-law knew?

The Court: She may know from some statement that was made. If she doesn't know she can say so.

A. No; I don't know.

Q. You don't know whether your brother-in-law knew? A. No.

Q. You knew your brother-in-law had employed this man as a chauffeur? A. Occasionally; yes.

Q. He had driven you before when in your brother-in-law's employ? A. Before?

Q. Before this trip to Vermont? A. He had driven me for my brother-in-law, do you mean?

Q. Yes. A. No; I don't believe he did.

Q. Was the first time he had driven you in the car after the 11th of July the time you went to Vermont? A. Yes, it was.

Q. You knew, however, that he was driving your brother-in-law's car? A. Certainly I knew he was driving my brother-in-law's car.

Q. Why didn't you tell your brother-in-law; you were going to your brother-in-law's house quite often then, were you not? A. That is where my mother lived.

Q. Why didn't you tell your brother-in-law that this man, while in your employ had been so impudent to you that you could not stand him around the house and wanted him discharged?

Mr. Simpson: I object to that on the ground that it calls for a conclusion.

Mr. Lane: I will amend the question.

Q. Why didn't you tell your brother-in-law that this man, while in your employ had been so

impudent to you that you wanted your husband to discharge him? A. I didn't discuss my family affairs or trouble with my servants, with my brother-in-law.

Q. And this man had been charged, or you had been charged with criminal intimacy with this chauffeur, and you had a horror of the intermingling of the races and this man had treated you with such impudence that you wanted your husband to discharge him; that is a fact, is it not.? A. My brother-in-law knew just as well as I knew, that it was not true.

Q. Why was it that you thought it necessary to ask Mr. Hopkins whether it was proper for this chauffeur to drive you to Vermont? A. Because I didn't do anything, Mr. Lane, without the advice of counsel.

Q. Well, why did you particularly want this man to drive you to Vermont?

Mr. Simpson: I object—he asks her why did she particularly want this man to drive her to Vermont. I object to that.

Q. Why did you permit this man to drive you to Vermont? A. I don't know how to answer that question.

Q. There were other chauffeurs, were there not? A. It was not my car; I cannot answer that.

Q. Is that the reason? A. I cannot answer the question.

Q. Then you cannot tell me why it was that you permitted—in your own mind why it was that you permitted this man to drive you to Vermont on that occasion? A. I don't know what you are trying to get me to answer. I don't understand.

Mr. Simpson: I object. Three times already she has said it was because her brother-in-law hired the chauffeur that knew the car and knew the road. That has been answered before.

The Court: Objection overruled.

Q. (Repeated by stenographer.) A. Personally I hadn't any reason for it one way or the other. He knew the road and the car was not mine.

Q. That is the only answer you have? A. Certainly.

Q. When you met Lillian in August at Asbury Park, I think it was, did you see Simmons? A. He was there; yes.

Q. Did you have any talk with him? A. I did not.

Q. Was Lillian at that time working for you? A. She was.

Q. Where? A. At 24 Kensington Avenue.

Q. When did she return to work for you after the 11th of July? A. I cannot give you the date, but I think it was about a week or ten days after that she came to me.

Q. How long had it been before the 11th of July that she had worked for you at all? A. How long before? I believe she left sometime in April.

Q. And then you re-engaged her in July, two or three weeks after the raid; is that right? A. A short time after the raid she came to me; yes.

Q. Did you seek her out or did she seek you out? A. She came to me.

Q. And you employed her? A. I did.

Q. And continued her in your employ until

about when? A. Why, she stayed with me until the operation, I believe; a week or ten days.

Q. That was in October? A. In September.

Q. Nineteen-nineteen? A. Yes.

Q. Did she live with Simmons during that time? A. I don't know.

Q. You saw them together at Asbury Park at least? A. I didn't see them together. I saw him down in the sand. I don't know whether he was with her or anything about it.

Q. Did she work daily for you or come in on occasions? A. No; she stayed there at the house.

Q. How long had she been away when she went down to Asbury Park? A. How long had she been away?

Q. Was she on a vacation or what? How was it she was away from the house that length of time? A. Well, she asked for a vacation.

Q. For how long a period? A. I don't remember.

Q. How long was she actually away; do you remember that? A. No.

Q. How long were you at Asbury Park? A. A week or ten days, something like that.

Q. Did she go down the same time you did? A. No. She didn't go with me, if that is what you mean.

Q. Did she go the same time? A. No; she did not.

Q. Was she there all the time you were there? A. I don't know; I only saw her that day.

Q. Did you know, before you went down there, that she was going? A. I don't know whether she told me or not.

Q. You have no recollection of that? A. No; I don't know whether she told me.

Q. When you came home did she come home, too? A. Yes; she came home.

Q. So that when you left she left, and when you came home she came home? A. I don't know when she came home, but she came to my house the following Monday morning.

Q. How long had you been home before that? A. Came home the same day she came to the house—the same day.

Q. The same day that you got back from Asbury Park? A. Yes.

Q. Going back to the night of the raid were you fully dressed during all of the time? A. I was.

Q. You had your hat off? A. I had on a suit when I was out, and I had taken off my hat and coat.

Q. You had your hat and coat off; otherwise you were dressed precisely the same as you came from the street; is that right? A. Yes.

Q. You had not done anything with respect to your clothing as to loosening it? A. No.

Q. Or any part of it? A. No.

Q. You had merely taken off your hat and coat? A. Yes.

Q. And that was the condition in which you were at the time the excitement began and also at the time Mr. Huck came in; is that right? A. Yes.

Q. After Mr. Huck came in and you had this talk that you have related with him and with the other detectives, did you see Charlotte? A. Yes.

Q. Where? A. She walked down the hall and she came to my room.

Q. She went in your room, didn't she? A. She came in the room.

Q. And then what took place? A. What took place?

Q. Yes. Charlotte walked into your room.

The Court: Between the witness and Charlotte?

Mr. Lane: Yes.

A. Why, she asked me who the men were. I said: "I don't know. Charlotte, how could you lock that door?"

Q. What else? A. That is all.

Q. Then Charlotte turned around on her heel and walked out? A. I really don't remember that, Mr. Lane.

Q. Well, was not Charlotte— A. Why, the doors were open, and Mr. Huck and the detectives and everybody was around; I don't know what each person did.

Q. Didn't Charlotte stay in that room with you for some considerable space of time? A. Not that I remember; no.

Q. At the time after Mr. Huck and the detectives had gone were not you and Charlotte alone in that room for some time? A. They didn't go out at all. Mr. Huck never left from the time he got there. As far as I know he was there all the time.

Q. That is, he was never out of your sight at all? A. I cannot say that.

Q. Charlotte went down to her sister's house with you, did she not? A. No.

Q. I mean she left the house with you in the car, didn't she? A. Yes.

Q. And went as far as Mr. Huck's house. A. No. We took her home to her sister's house.

Q. And you stopped before you got to Char-

lotte's house? You stopped at Mr. Huck's house, didn't you? A. Yes; I believe Mr. Huck went for an overcoat.

Q. And Mr. Huck and the detectives got out of the car? A. I don't remember.

Q. And you then took Charlotte around to her house, her sister's house? A. Yes.

Q. Do you remember what you said to Charlotte while the car was in front of Mr. Huck's house; do you remember having a conversation with her there? A. No; I don't.

Q. Do you remember what you said to Charlotte at the time she left the car and went to her sister's house? A. I remember hearing Mr. Tienken say: "Here, Charlotte, I will see you in the morning," and handing her something; I don't know what it was.

Q. The question is what you said? A. No, I did not.

Q. Didn't you say: "Good night, Charlotte, remember me to Alice"? A. No, I did not.

Q. You might have said that?

Mr. Simpson: I object to that.

The Court: Objection sustained.

Q. Do you deny that you said that? A. Do I deny what?

By the Court: Q. Do you deny that you said to Charlotte the words that Mr. Lane asked in the former question? A. I don't know whether I said it or not.

By Mr. Lane: Q. You won't deny that you said it? A. I will neither deny it nor affirm it.

Q. Do you remember saying to Charlotte in the car over in front of Mr. Huck's house: "Keep quiet Charlotte. Don't say anything," or words to that effect? A. I did not say that to her.

Q. You thought, from Charlotte's actions that night, that Charlotte had put up a job on you, didn't you—framed you up?

Mr. Simpson: I object, unless he refers to the time when she was locked in the room.

By the Court: Q. That is what you thought when you were in the room, before Mr. Huck opened the door? A. I could not tell you what I thought; I don't know what I thought.

By Mr. Lane: Q. What did you say? You testified to what you said to Charlotte. What did you say?

Mr. Simpson: I object. He does not fix the time. He is evidently referring to when she called out, "Charlotte, Charlotte." He doesn't fix the time. Here are a series of events. I submit that it is within the control of the Court and the question should be made definite.

The Court: I fix the time for the witness as the time when she was locked in the room before Mr. Huck opened the door, and I assume Mr. Lane is referring to what she said after the door was locked and before she was let out.

By the Court: Q. What you said between the time the door was closed and the time Mr. Huck or somebody else opened it? A. Why, there wasn't anybody there. Charlotte was not in the room.

By Mr. Lane: Q. Didn't you say something to Charlotte; didn't you use some expresison with respect to Charlotte? A. I hammered on my dressing table and called "Charlotte, Charlotte."

By the Court: Q. Why did you do that? A. Why, when I saw her pull the door, I couldn't understand; I didn't know what she meant. I said: "Here, Charlotte, Charlotte." I was amazed when I saw her pull that door to.

Q. You knew she had closed it? A. She had closed it.

Q. She was the one? A. Yes; she closed it and opened it.

Q. Opened it and closed it? A. Opened it and closed it again.

By Mr. Lane: Q. Tell us everything you said to Charlotte at that time? A. I said: "Charlotte Charlotte."

Q. Yes. What else? A. That is all I said.

Q. That is all you said? A. All that I recall, yes.

Q. You said more than that on direct-examination, didn't you? Didn't you say more than that on direct-examination? A. At that time?

Q. Yes. Didn't you say: "What do you mean by this?" A. When she opened the door the second time, I certainly did, yes.

Q. When she closed the door you merely said: "Charlotte, Charlotte" and when she opened the door you said: "What do you mean by this?" A. Yes.

Q. Then what did Charlotte say? A. Then Charlotte said: "I was only funning, Mrs. Sargent. You are all excited." I said: "Don't you do such a thing; how dare you do such a thing."

Q. You were excited? A. I was very much excited.

Q. I want your words. You said: "How dare you do that?" A. "How dare you do such a thing? How dare you close the door?"

Q. What did you refer to? A. Closing the door.

Q. What was closing the door in your mind at that time? A. The most horrible thing that anyone could do.

Q. You were fully dressed, were you not? A. Certainly I was fully dressed.

Q. And the chauffeur was fully dressed? A. Certainly he was fully dressed.

Q. And this colored girl had walked out of the door, and as she went out of the door she closed the door behind her, what was there horrible about that?

Mr. Simpson: I object. Mr. Lane has said something that is not in the evidence.

The Court: The witness says she was paying no attention to what happened until she heard Charlotte say: "Why don't you come and get it?" or something to that effect.

Mr. Lane: I will re-frame the question.

Q. Then, as I understand it, is this what happened; you were sitting paying no attention to what was going on; is that right? A. Yes.

Q. Before the door was closed? A. Well, I had been talking to Charlotte.

Q. But at the very moment you were sitting and paying no attention to what was going on? A. Charles came up and delivered his message, and I was busy.

Q. What were you busy at? A. I was mending or darning.

Q. Standing there? A. No; I was sitting there.

Q. Then you heard Charlotte invite Simmons to have a drink; is that right? A. When Charlotte heard footsteps she got up and walked to the door.

Q. The door was closed? A. Open. Do you want me to tell you the rest?

Q. Yes. A. Why, then I was darning and not paying any attention to the conversation between Charlotte and Charles; Charlotte was standing at the door and I heard her say: "Well, get it," and with that he stepped across the sill into the room and Charlotte pulled the door to, and as Charlotte pulled the door to, I hammered on the dressing table. I said: "Charlotte, Charlotte." She opened the door again and put her face in and stood at the doorway with her hand on the side and she said: "Mrs. Sargent, you are all excited. I was only funning." I said: "Don't you dare. If Mr. Sargent saw you do that he would have you arrested. How dare you do such a thing?" With that she pulled the door to the second time and clicked the lock.

Q. Let me get that straight. You were sitting there paying attention to nothing that was going on, and this colored chauffeur who had been employed by you for over a year was in the act, to your knowledge of getting a drink? A. He just stepped in the room.

Q. For the purpose of getting a drink? A. I don't know what he was going to get.

Q. Was it unusual for him to come in that way? A. It certainly was.

Q. Why didn't you object to it? A. It happened so quickly that I could not object. No one could object more strenously that I did, she opened and shut the door so quickly.

Q. I am talking about the colored man. Did you hear Charlotte invite the colored man to have a drink? A. I hear her say something about getting it yourself.

Q. Did you hear anything said about a drink? A. No, I did not.

Q. Where was the drink standing? A. On the dresser.

Q. What was it—a bottle of whiskey? A. I believe it was.

Q. Was it poured out or in the— A. I don't know.

Q. And this colored girl—did you see Simmons come in and start to get the drink? A. I was sitting there mending; I don't remember whether I raised my eyes or not.

Q. Then, if that is all you heard, how did you know that Charlotte had shut the door? A. Why, I heard the door.

Q. You heard the door shut, and as soon as you heard the door shut, you shouted: "Charlotte, Charlotte." Is that right? A. Certainly.

Q. Will you tell me what there was, assuming that that colored man was fully clothed and you were fully clothed, what there was in the mere closing of that door which caused you to take the position which you did? A. Because I would not have the door closed when I was in a room with any man.

Q. Then, it was your general thought that you ought not to have the door closed there with any man; is that right? A. Certainly.

Q. That caused you to use the language you did to Charlotte is that right? A. I was horrified at what she did.

Q. You had no suspicion that your husband suspected you of intimacy with this colored man? A. He had no reason to.

Q. Did you have any suspicion? A. Certainly not.

Q. You had no suspicion that there were detectives in the house, had you? A. No; I had not.

Q. So far as you knew on that night, the relation between your husband and yourself were the same as ever? A. Well, in fact, just a little better than they had been.

Q. So, you were on more friendly terms than you had been for some time; is that right? A. We certainly were.

Q. What kind of shoes were you wearing that night; do you recollect? A. No; I do not.

Q. Were they pumps or high shoes or low shoes? A. I don't remember.

Q. Are you accustomed to wearing high shoes? A. As a rule, I do; yes.

Q. In July? A. Well, I rarely wear pumps or slippers unless I have spats on.

Q. It would be nothing unusual for you to wear a pair of high shoes in the month of July, would it? A. No.

Q. Did you wear laced shoes or buttoned shoes?

Mr. Simpson: I object to that as immaterial.

By the Court: Q. Directing your attention to that day, can you tell whether you had laced shoes or buttoned shoes? A. No; I cannot.

By Mr. Lane: Q. Did you wear them interchangeably? A. Yes, I did.

Q. Do you recall when Mr. Huck entered the room whether your shoes were buttoned or unbuttoned? A. Yes; I recollect, whether I had shoes on, laced or buttoned, they were on my feet ready to go out because I had come in and just taken off my hat and coat.

Q. They were buttoned or laced, as the case might be? A. Yes.

Q. They were not unlaced or unbuttoned? A. No.

Q. And after Mr. Huck got there and before you all went out, Charlotte did not button or lace, as the case might be, your shoes for you? A. No; she did not.

Q. While Mr. Huck was there—That is right, is it? A. I don't understand that.

By the Court: Q. The question is whether, while Mr. Huck was there, Charlotte laced or buttoned your shoes? A. No, she did not.

By Mr. Lane: Q. You had not taken your hair down that night, had you? A. No; I had not.

Q. And Charlotte did not help you, at the time when Mr. Huck was there, did she—that is not true? A. Charlotte never helped me with my hair other than to brush it.

Q. That night I am referring to. A. No.

Q. Nothing like that ever took place? A. No.

Q. Charlotte did not help you dress, in any other way, at a time when Mr. Huck was there, but outside the room?

Mr. Simpson: I object to that question.

The Court: You mean that night?

Mr. Lane: We are talking of the night of the raid and the time when Mr. Huck was there.

By the Court: Q. Did Charlotte help you to dress before or after the raid? A. No.

Q. Neither before or after the raid did she help you dress—I mean immediately before the raid? A. Oh, no.

Q. Or immediately afterwards? A. No.

By Mr. Lane: Q. You did not ask Mr. Huck to wait a few minutes and then take Charlotte in the

room with you to help you get dressed—I do not mean to help you get dressed—I mean to help you finish dressing? A. No.

Q. Nothing like that? A. No; I was fully dressed.

Q. Nothing like that took place? A. No.

Q. Were you wearing at the time you went away in the automobile the same clothes you had on all that evening? A. I had on a suit, and I believe I put on a big coat; really don't remember what I put on over that; I had on a skirt and waist; I don't remember what I wore over that.

Q. But so far as your underclothing, and with the exception of a wrap of some kind, it was the same as you had on all evening; is that right? A. I told you that I had not taken off my clothes from the time I came in; that I was fully dressed.

Q. Until the time you got to your sister's? A. Until I went to bed in my sister's house.

Q. Do you know Mrs. Lathrop? A. I do.

Mr. Simpson: I want to object to any use of this testimony. It has not been offered yet.

The Court: Suppose Mrs. Lathrop had not been examined at all, would it not be proper to ask this witness whether she had made certain statements to her?

Mr. Simpson: Yes; that would be admissible.

Q. Do you know Mrs. Lathrop? A. I do .

Q. How long have you known her? A. Three or four years.

Q. How friendly have you been with her? A. I have never been intimate with her.

Q. What has your acquaintanceship with her

been? A. Well, Mrs. Lathrop is a woman who did work for me. She is a woman who makes favors and paints china and says she does interior decorating, and she is a woman who knows a great deal about music, and in that way we had quite an interest in common.

Q. How long have you had that interest in common? A. Well, I have known her three or four years.

Q. You have talked with her? A. But I had not been very friendly with her. In fact, she did not do any work for me only about a year.

Q. You have gone to the opera with her on occasions? A. Yes.

Q. You have been at her house? A. Yes; I have been at her house. I did not go to the opera with her. I sat in the same box with her.

Q. She has been in your house? A. Yes.

Q. Do you remember inviting Mrs. Lathrop to take a trip to Liberty with you?

Mr. Simpson: I object to that.

The Court: Objection overruled.

A. I did invite her.

Q. Is that the trip that has been referred to when you went to Jeffersonville? A. Yes.

Q. How long before you took the trip was it that you invited Mrs. Lathrop to go? A. I could not tell you how long before.

Q. Did you ask her to go on this trip in order to chaperon you?

Mr. Simpson: I object to that. I think we ought to have the conversation.

The Court: Objection sustained.

Q. Did you say to her words to this effect: "I want you to go on this trip with me in order to chaperon me."? A. No; I don't believe I did.

Q. If you did not, what did you say to her? A. This young lady that was ill in Liberty, Mrs. Lathrop knew her, and I asked her if she would like to go with me on the trip.

By the Court: Q. At the time you asked her, had you planned to take your sister along with you? A. No; I had not. May I explain why I took my sister with me?

By Mr. Lane: Q. Did you or not, in talking to her, use the word "chaperon" or any word equivelent to that? A. I don't remember.

Q. Was there anything which would lead you to use that word? A. No; I don't know why I should say that.

Q. What did Mrs. Lathrop say to you? Did she say that she would go? A. Why, yes; she said she would be glad to go.

Q. Why didn't she go? A. Because I told her I did not want her.

Q. When did you tell her you did not want her? A. I had been to the doctor's and the doctor had—well, you heard the doctor testify about the small growth that I had—he had removed that growth without an anesthetic of any sort on Saturday night, and I was hysterical, and I wanted someone that belonged to me on that trip, after a thing of that sort. I told Mrs. Lathrop frankly what the reason was, why I didn't want her to accompany me.

Q. Over the telephone you told her that? A. I telephoned her and told her I wanted my sister to go.

Q. The day before you went? A. I don't remember that.

Q. Shortly before you went? A. Yes.

Q. Now, did you tell her, Mrs. Lathrop, in the course of this conversation at which you asked her to go on this trip, that Simmons had a great physical attraction for you, or words to that effect? A. I did not.

Q. And did you tell her that you intended to go to Liberty and to take Simmons with you and that you wanted her to chaperon you, or words to that effect? A. I don't understand that question.

Q. (Question repeated.) A. I never mentioned Simmons' name.

Q. Well, did you mention—did you use the language—yes or no. Did you use the language I have just asked you? A. I did not.

Q. And did you tell her then that you "intended to have" Simmons on this trip stay with you? A. I did not.

Q. And did she, in reply thereto, say that you would not do that if she went with you, or words to that effect? A. I don't remember ever having a conversation of that sort.

By the Court: Q. You know whether you did or not; if you say you don't remember ever having any conversation with Mrs. Lathrop, you can say "no" in response to Mr. Lane's question? A. No.

By Mr. Lane: Q. And did she also say to you, as a part of the same conversation, that you were crazy, or words to that effect? A. No.

Q. Did she, during the course of this conversation, say that you were crazy? A. No.

Q. Did she say that you were a fool? A. No.

Q. Was there any conversation in which the word "crazy" or the word "fool" was used? A. No.

Q. Did she also say to you that she could not believe—

Mr. Lane: I suppose the witness does not get the collocation?

The Court: Mrs. Sargent knows whether Mrs. Lathrop said to her in that conversation that she did not believe her. Don't you, Mrs. Sargent?

The Witness: I never had any conversation of that sort with her.

Q. Did she say to you that you had a loving husband who thought the world of you, and a beautiful child, and that it was crazy for a woman in your position to talk that way? A. She did not.

Q. Referring to the way you talked about Simmons? A. I never talked about Simmons.

Q. She did not say that to you? A. She did not.

Q. And did you say to her that you realized it, but that you could not help it, that you felt that way towards him? A. I did not.

Q. And did she then tell you that she could not consent to go under those conditions at all? A. She did not.

Q. Or words to that effect? A. She did not.

Q. Did you receive a letter from her about this time—about the time of the invitation for the trip to Liberty? A. I did not. I have received many letters, but not referring to that trip.

Q. Did you receive a letter from her about the time of this trip? A. I did not.

The Court: How would it be material if she received half a dozen letters from her about that time. If you mean a letter referring to the Liberty trip, I think you ought to specify it in your question.

Mr. Lane: I have reference to a particular letter.

The Court: Direct her attention to the particular letter.

Q. With reference to this particular conversation? A. I did not receive a letter.

Q. Have you any letters that you have received from her? A. Have I any now?

Q. Yes? A. No.

Q. Now? A. No.

Q. None of them? A. No.

Q. Do you remember receiving a letter—

Mr. Simpson: I object to it. It seems to me that under the authority of State vs. McFarland and under that other case in 32 Vroom, any letter that she received is not binding.

The Court: I do not know for what purpose counsel is asking these questions. I do not think it is necessary for me to rule upon the admissibility of a letter of that kind in evidence, or the contents of the letter, if there has not been anything asked the witness about the contents of such a letter. The question is whether she received a letter. I will allow the question.

Q. Do you remember telephoning her about this time and talking to her over the 'phone about a letter which you had received from her in which this interview was referred to? A. No; I do not.

Q. You did not have such a telephone conversation? A. No.

Q. Did you, in that telephone conversation, thank her for the letter which she had sent you?

Mr. Simpson: I object upon the ground that she said she did not have any conversation.

The Court: The objection to the question in its present form is sustained.

Mr. Lane: I submit, if your Honor please, I have been advised I must put the precise question to the witness.

Q. Did you, at any time, say to Mrs. Lathrop that you were grateful to her or thankful to her for sending you this letter? A. I did not.

Q. And did you say to her: "It is one of the most beautiful letters I ever received"? A. I did not.

Q. And did you say to her that you would follow her advice? A. I did not.

Q. Or words to that effect? A. I did not.

Q. And did you say to her that your husband wanted you to take the trip, just as you had planned? A. What trip?

Q. This trip to Liberty. A. Why, the only conversation I had with Mrs. Lathrop about the trip was when I invited her and called her up and told her I didn't want her to go and my husband wanted me to take the trip.

By the Court: Q. You did have a conversation over the telephone in which you did tell her that your husband wanted you to take the trip? A. When he refers to that conversation, I really don't understand what he means.

Q. Over the telephone?

Mr. Simpson: The one you have described; not the one he is imagining, but the one you have described.

A. Yes; I did.

By Mr. Lane: Q. Did you say to her that you were very much indebted to her for writing you the letter? A. I did not.

Q. And did you say to her that you would always keep the letter? A. I did not.

Q. Now, did you have a conversation with Mrs. Lathrop at which there was discussed the getting a position for Charles somewhere other than at your place?

Mr. Simpson: I object to that unless the time is fixed which will enable the witness to identify the conversation, and also the time is sufficiently within the allegations of the petition to make it relevant.

The Court: I think he should fix the time.

Mr. Lane: Well, the time is about the spring of 1919.

A. Spring of 1919?

The Court: The stenographer will repeat the question as amended.

Q. (Question as amended read by stenographer) Now, did you, about the spring of 1919, have a conversation with Mrs. Lathrop at which there was discussed the getting of a position for Charles somewheres other than at your place? A. No; I did not.

Q. Did you have any conversation with her at which that was discussed? A. I did not.

Q. That you can now recall? A. No.

Q. Did you, at a conversation which you had with her in the spring of 1919 or late fall of 1918, say that you wanted to get rid of Charles, that you wanted to get him a place? A. No; I did not.

Q. And did she say to you: "Why, don't you get him out of your life?" A. No.

Q. Or words to that effect? A. No; she did not.

Q. Did you then say that you wished she could get him the place? A. I did not.

Q. Or words to that effect? A. No.

Q. Did she say: "I have a friend who is going

to Wisconsin, and I may get him a position there," or words to that effect? A. No.

Q. And did you say that you wished she would? A. I did not.

Q. Or words to that effect? A. No.

Q. Did you have any talk with Mrs. Lathrop in which the matter of getting Charles another position was discussed, during that period? A. No; I did not.

Q. Do you know whether, in effect, Mrs. Lathrop suggested that Charles get a position in Wisconsin with a friend she was going to Wisconsin? A. No, I do not.

Q. I show you a photograph which has been marked Exhibit P-2, and ask you whether at any time you had that photograph? A. Yes; I did.

Q. When and where? A. When and where? Why, I had it in my home, 24 Kensington Avenue.

By the Court: Q. When did you get it? A. Oh, I guess about three years ago—four years ago.

By Mr. Lane: Q. And where did you keep it in your room? A. In my dresser drawer.

Q. Do you know how it got out of your dresser drawer? A. No; I do not.

Q. When did you first notice that it was gone from your dresser drawer?

Mr. Simpson: I object. What difference does it make?

The Court: It has to do with some incident that one of the witnesses testified to. Objection overruled.

A. I could not specify a date.

Q. Well, you knew it was gone the day of the raid, didn't you? A. Yes.

Q. You had some discussion about it with Mr.

Huck on the night of the raid? A. Some discussion with Mr. Huck?

Q. Yes. A. Mr. Huck volunteered the information.

By the Court: Q. What did he say? A. Mr. Huck told my sister that Mr. Sargeant had great pity for me until he found that photograph, and then he simply didn't care.

Q. When did Mr. Huck tell you this? A. He told that to my sister and I the night of the raid.

Q. That is, after you reached your sister's home? A. In Richmond Hill, yes.

By Mr. Lane: Q. Was that the first you knew it was missing? A. The first I knew it was missing, no.

Q. When was the first time that you now can recall that you knew it was missing? A. I don't remember.

Q. Well, after you missed it, did you try to find it? A. I did not.

Q. And you have no recollection whatever? A. No.

Q. As to when it was that you first noticed that it was out of the place where it usually was? A. No.

Q. You have no recollection of that time? A. No.

Q. Was there not some talk about this photograph before you left this Kensington Avenue place on the night of the raid? A. Not that I recall.

Q. Will you deny that you had a conversation with Mr. Huck before you left the house on the night of the raid at which this photograph was discussed?

Mr. Simpson: I object to the form of the question. I want to know on the record whether a witness will deny anything is evidentiary of anything. A witness may admit something did or did not take place. To ask a witness under oath: "Are you prepared to deny" has not any probative value at all.

The Court: It may affect the weight of the evidence.

A. I don't remember.

Q. Now, did you have a conversation with Mrs. Lathrop some time in the month of May of 1919, at which you told Mrs. Lathrop that Simmons had stolen this photograph? A. I did not.

Q. Did you ever charge Simmons with having stolen the photograph? A. No; I did not.

Q. To your knowledge, had Mrs. Lathrop ever seen this photograph? A. Not that I know of.

Q. You never had shown it to her? A. No; I had not.

Q. Did you say to Mrs. Lathrop at a talk in April or May, 1919, that you hoped that Simmons would go; that you could not go and tell Mr. Sargent about the photograph? A. I did not.

Q. Or words to that effect? A. No.

Q. Did you say to her that you could not go and tell Mr. Sargent about the photograph? A. I did not.

Q. Did you, after the raid, have any conversation with Mrs. Lathrop? A. Mrs. Lathrop came over to see me.

Q. You did have a conversation with Mrs. Lathrop after the raid, then? A. Why, yes.

Q. Did you have one or more? A. No.

Q. How many? A. She came to see me when my mother was there.

Q. Did you have more than one conversation with her? A. No.

Q. Was there one conversation that you had with her after the night of the raid? A. I don't remember.

Q. Can you remember when you last saw her? A. No; I could not tell you that.

Q. Did you see her as late as September or October, 1919? A. I don't know.

Q. Did you, a short time after the raid, have a conversation with Mrs. Lathrop in which you asked Mrs. Lathrop what she meant by trying to get Charles to go away? A. No; I did not.

Q. And did she reply to you: "Why, Frank, you wanted me?" A. No.

Q. Or words to that effect? A. No.

Q. Did she call you "Frank"? A. Occasionally.

Q. And did you say: "That was some time ago" or words to that effect? A. No.

Q. Did you send for her, or did she come without being notified—did she come over to your house after the raid? A. Did I send for her?

By the Court: Q. Did she come, in fact? A. Yes; she did.

Q. Did you request her to come? A. No; I did not.

By Mr. Lane: Q. Did you know she was coming? A. I don't remember.

Q. It was a few days after the raid, was it not? A. I don't remember when she came.

Q. Did you, on this occasion that she came, say to her that you were innocent of any wrong-do-

ing with Simmons? A. Why, certainly I told her I was innocent.

Q. You did say that; and did you say to her that you had followed her advice? A. No; I did not.

Q. Or anything to that effect, or that sounded like that? A. No; I did not.

Q. Did you, during the course of the conversation which you had with Mrs. Lathrop in the late autumn of 1918 or early spring of 1919, say to her that you were miserable about your husband? A. No; I did not.

Q. Did you say to her that you had never loved him and that he knew it? A. Certainly not.

Q. Did you say to her that you could not hope to be happy? A. I did not.

Q. And did you say to her that you could not spend all your life with Mr. Sargent? A. No.

Q. And did you say to her that you realized that you were in the prime of life and that you were not going to waste it? A. No; I did not.

Q. And did you say that Sargent was a good man and gave you every thing you wanted? A. No; I did not.

Q. And did you follow that up by saying that you did not love him and could not help it, or words to that effect? A. No; I did not.

Q. And did you say to her that you thought that Mr. Sargent ought to have one who would appreciate him, that he was really a good man, and that you and he were not suited, or words to that effect? A. No.

Q. Did you have such a conversation as I have just related in which you used the language I have just used, during July, 1919, on a trip which

you took with Mr. Sargent and the baby and Mrs. Lathrop, your destination being Templeton, Massachusetts? A. No; I did not.

Q. Did you take a trip? A. Yes.

Q. With the baby, Mr. Sargent and Mrs. Lathrop? A. Yes.

Q. The destination being Templeton, Massachusetts? A. Yes.

Q. When was that trip taken? A. Over the Fourth.

Q. Of what year? A. 1919.

Q. That is the month of the raid? A. Yes.

Q. And the language which I have just used was not used between yourself and Mrs. Lathrop on that trip? A. No.

Q. Or anything to that effect? A. No.

Q. Was there, during that trip, any discussion or talk between Mrs. Lathrop and yourself with respect to your husband? A. No.

Q. Has there ever been any discussion or talk between you and Mrs. Lathrop with respect to your husband? A. No.

Q. Or with respect to this photograph? A. No.

Q. Never? A. No.

Q. Or with respect to the original of the photograph?

Mr. Simpson: I object—"the original photograph?

The Court: —"The original of the photograph,"—the person whom the photograph represents. I will allow the question.

A. No.

Q. Was Charles supposed to have his meals in the house? A. The arrangements for Charles were made with Mr. Sargent; I don't know anything about them.

By the Court: Q. What did Mr. Sargent tell you on that subject? A. He never discussed it with me.

By Mr. Lane: Q. So far as you understood, was he supposed to have his meals in the house or not? A. Why, he lived at the house with his wife.

Q. After his wife left the house? A. I don't know anything about the arrangement, what it was.

Q. You did not know or have any idea at the time whether after Lilllian left Charles was supposed to have his meals in the house or out of the house? A. I knew nothing about it.

Q. Did you ever inquire whether Charles was having his meals at the house or not? A. No; I did not.

Q. You don't know, as a matter of fact, whether he did have his meals at the house after Lillian left? A. No; he did not regularly.

Q. Did he irregularly? A. Well, he did if Mr. Sargent needed him in a hurry and told him to stay, or if I told him to stay if I needed him in a hurry.

Q. On this same trip, the trip to Templeton, Massachusetts, over the Fourth of July, 1919, did you say to Mrs. Lathrop that Charles was not to enter the house under any circumstances? A. I did not.

Q. Did you tell her that Charles' wife had been dismissed, discharged? A. I did not.

Q. Did you tell her that there was friction among the servants, the cook, the nurse, and Charles? A. No; I did not.

Q. Did you have any talk with her in which the

relations between the various servants in the house were discussed or talked about? A. I don't remember having one.

Q. Did you talk—did you say anything to her—with respect to a quarrel between the cook and Charles? A. I did not.

Q. And did you have a conversation with her after the trip to Templeton, Massachusetts, in which you told her that Charles' duty was entirely to take care of the car, serve you and take your orders, but never to enter the house? A. I did not.

Q. And did she ask you, upon that trip to come and stay with her while Mr. Sargent was away on his trip to Vermont? A. She did.

Q. She did? A. Yes.

Q. On this trip; that statement or that request was made on the trip to Templeton, was it not? A. Yes.

Q. And did you say that you could not, that you had an engagement with your sister, and that you thought that someone should be home to look after the house, or words to that effect? A. No; I did not.

Q. What did you tell her when she asked you to stay with her? A. Mr. Sargent spoke up and said he wanted me to stay in the house so I would be there to get a telephone from Vermont.

Q. Mr. Sargent said that. What did she say? A. She wanted me to come over and stay with her. He said: "Mrs. Lathrop, I want Mrs. Sargent to stay at home, so she will be there to get this telephone, if it is necessary for me to 'phone her.

Q. What did you say? A. I didn't say anything at all.

Q. Is that the only reason Mr. Sargent advanced for having you stay home? A. Well, he really did not think I was well enough to be away from home.

Q. I am asking you what happened at that particular conversation, on this trip. Was that the only reason he advanced for having you stay home? A. That was all.

Q. He said, as I understand it, that he wanted you home so that he could telephone, if he desired to telephone from Vermont? A. Yes.

Q. Is that right? A. Yes.

Q. Has Mrs. Lathrop a telephone? A. Yes.

Q. Did anyone on that trip suggest that if you were in Mrs. Lathrop's house, you could be reached by telephone at her house? A. I don't remember that.

Q. That was not suggested as an alternative to Mr. Sargent's suggestion that you should remain home in order that you might be reached by telephone? A. I don't remember that.

Q. Did you say to her, in response to her invitation, that you had an engagement on Staten Island with your sister, and that you had other plans, and that you did not want to leave the house alone, or words to that effect? A. I did not.

Q. Did you, in a conversation that you had with Mrs. Lathrop, say to her that you never thought of Charles being black, that you never gave it a thought that he was black, or words to that effect? A. No.

Q. And did Mrs. Lathrop then say to you that he might be driving an ash cart, and that his association were different from you and yours, and that you would be rejected by the colored people

and persecuted by them, or words to that effect? A. No.

Q. And did you say to her that you did not care, that you felt that way and you could not help it, or words to that effect? A. No.

Q. And no conversation of that kind, or with respect to blacks and whites in that connection, ever took place? A. No.

Q. Between you and Mrs. Lathrop? A. No.

(At this point recess is taken until two o'clock in the afternoon. After recess witness is withdrawn and Josephine McWilliams, Ella Sullivan and Mary Hughes are sworn. Witness then resumes.)

Q. How was it you came to write the letter P-12 for identification to Mr. Huck; how did you come to address it to Mr. Huck?

Mr. Simpson: I ask that the witness be shown the letter. P-12 does not mean anything to her.

(Letter shown to witness.)

A. Why, I knew Mr. Sargent never made a move without Mr. Huck's advice or some other counsel, and I wanted Mr. Huck to know that I was not doing anything underhand.

Q. So that your purpose in writing Mr. Huck was to indicate you were not trying to communicate with Mr. Huck's client behind his back? A. Exactly.

Q. And that was your only purpose in writing him at that time? A. Exactly

Q. And it was not because of anything that had been said to you by Carrie and Ann referred to in the letter P-11 which you wrote to your husband? A. Certainly not.

Q. Was the writing of these letters the first attempt that you had made to communicate with your husband after the 11th day of July, after the night of the raid? A. No; it was not.

Q. What other attempt had you made? A. I tried to see him through Dr. Spence, as I told you before.

Q. Well, any other attempt? A. Not that I remember.

Q. This was the first attempt that you made, other than what you might have said to Dr. Spence? A. Yes; as I remember it.

Q. You never attempted to communcate direct with him before or with his lawyers before? A. No; I did not.

Q. Was the only communication which you received from your husband the letter which was shown you this morning written by him to you? A. You mean written communication?

Q. Yes. A. Why, he sent me a box of candy with a note in it at Christmas time, that was all.

Q. Was that the only communication with respect to getting together? A. His first conversation.

Q. I mean following this letter, what was the next thing in the order of events after you wrote these letters P-13 and P-12? A. Receipt of his letter.

Q. And that was the only communication before you went over and saw him at his attorney's office; is that true? A. Yes; as well as I can remember.

Q. You met Mr. Sargent at Mr. Runyon's office, did you not? A. I did.

Q. Do you remember what day it was? A. I do not.

Q. Was it at the time stated in the letter arranging for the conference or was that time changed? A. Well, as I can remember it, it was at that time.

The Court: Why not state the date, and ask the witness if that is the date?

Q. Tuesday, September 30th, is the date in the letter? A. I don't remember the date.

Q. Who was there; whom did you go there with? A. My sister and my friend.

By the Court: Q. Give us the names? A. Mrs. Linser and Mrs. Safarick.

By Mr. Lane: Q. Whom did you meet when you got there? A. Mr. Runyon.

Q. Who else? A. Why, he talked to us for a time and then this Huck man came in, and then they finally came with Mr. Sargent.

Q. When you first talked to Mr. Runyon, did you discuss this case at all? A. I don't remember just what I said other than; "Where is Mr. Sargent?"

Q. There was no general discussion of the case until Mr. Huck arrived, was there? A. Not that I remember.

Q. Now, when Mr. Huck arrived, you asked Mr. Runyon and Mr. Huck to see Mr. Sargent alone, did you not? A. I did.

Q. And Mr. Huck or Mr. Runyon, or one of them, or either of them told you that they would not permit it, did they not? A. No; Mr. Runyon asked me if I would promise him that I would not mar Mr. Sargent with button hook, nail file or letter opener, when he came in the room, and I told him I would not.

Q. Did that precede their statement to you that you could not see Mr. Sargent alone? A. That was the first thing Mr. Runyon said to me.

Q. What was the second thing he said? A. I don't remember what he said to me after that.

Q. What was said to you with respect to whether you could or could not see Mr. Sargent alone? A. I don't remember what they said about that.

Q. Now, was anything said about that? A. Not that I remember.

Q. Did Mr. Huck or Mr. Runyon say that they would not permit Mr. Sargent or you to see Mr. Sargent alone, or words to that effect? A. Not at that time; no.

Q. At any time in fact before you saw Mr. Sargent? A. They did not.

Q. Did you, before you saw Mr. Sargent, discuss the case throughly with Mr. Huck and Mr. Runyon? A. Why, this Huck person told me that he would not go into the merits of the case; he would not go into the merits of the case he would not allow me to.

Q. I am not asking about the merits of the case; I am talking about the case, the pending case, the case as a case, not whether it was well-founded or ill-founded? A. That was the discussion.

Q. What? A. Exactly what I said.

Q. That he would not discuss it at all? A. "We will not go into the merits of the case, Mrs. Sargent."

Q. What did you discuss before Mr. Sargent came in or before you saw Mr. Sargent? A. Talking about my seeing him only.

Q. What? A. Just about my seeing him; I wanted to see him alone.

Q. That was all he said about your seeing him? A. To the best of my memory it is.

Q. Was the situation discussed with respect to

the publicity that there had been? A. Not in the beginning; no.

Q. Well, at any time before Mr. Sargent came in. I am trying to get all of the conversation that took place between you and Mrs. Safarick and Mrs. Linser, I believe it was, and Mr. Runyon and Mr. Huck before Mr. Sargent came in? A. I have told you pratically all of it that I remember.

Q. How long did it take? A. I don't remember.

Q. Several minutes, didn't it? A. I could not tell you how long.

Q. Was there anything said with respect to the publicity at that time? A. I don't remember at that particular time.

Q. Did you say that the publicity that had occurred was not deliberate but was the result of a misunderstanding? A. I did not.

Q. Were words to that effect said by you or your sister in your presence or by Miss Safarick in your presence? A. Not that I remember.

Q. Was that said after Mr. Sargent came in; was the publicity discussed after Mr. Sargent came in? A. I believe it was.

Q. Was the expression used—did you say, or did one of the other ladies say in your presence, that the publicity that had occurred was not deliberate but was the result of a misunderstanding? A. No.

Q. That was never said? A. No.

Q. Did you state that you had expressly told your attorneys that there must be no publicity? A. I did not.

Q. Or words to that effect? A. I did not.

Q. Nothing was said at any time at this conversation to that effect? A. I did not say any-

thing about my telling my attorneys about publicity.

Q. Did Mr. Sargent say this, that he was sorry the publicity had taken place, and that it was not deliberate, and that he had expressly told his attorneys not to make it public? A. Why, he did make it public.

Q Did he say anything like that? A. He did not.

Q. Did Mr. Runyon or Mr. Huck, in your presence, or either of them, or Mr. Sargent after he came in, say that the publicity had not been created by them but by your attorney? A. Not at that particular time; no.

Q. At any time on this Tuesday, September 30th? A. I cannot tell you just when they did say that.

Q. That remark was made, then, at one of the conferences? A. By Mr Runyon, yes.

Q. Do you remember that there was discussed there the answer which had been filed by you? A. I do not quite understand that.

Q. (Question repeated by stenographer). A. No, I do not.

By the Court: Q. He means the answer that was filed in this suit setting up your defense? A. No; I don't remember that being discussed at that time.

By Mr. Lane: Q. Well, was the answer which you had filed discussed the second time you saw Mr. Sargent or the second time you were in Mr. Runyon's office? A. To the best of my memory, I believe Mr. Runyon or this other man asked me if I had filed a truthful answer, or who had told me how to frame my answer. I told them I had told the absolute truth.

Q. Now, there was a time, then, when this answer that you had filed was discussed, was there? A. That was all.

Q. Now, was the answer which you had actually filed, or rather a copy of what they said was the answer you had filed, shown you at that time? A. I don't remember that.

Q. Did you state at that time that you did not know what was in your answer before you had had it read to you that day? A. I did not.

Q. Did you tell them that you knew, after hearing the answer, that a great many of the statements contained in it were false? A. I never told them that.

Q. Did you say at that time, at any one of these conferences—the second conference was about a week afterwards, was it not? A. I don't remember how long after the second conference was.

Q. It was a short time after? A. I could not tell you. Yes; it was a short time.

Q. Do you remember at either one of these conferences, stating that you had nothing whatever to do with the filing of this answer; that you had left the entire matter to your brother, and that he was responsible to Mr. Simpson and that you were not? A. No; I did not say that.

Q. Or words to that effect.

Mr. Simpson: How is this material? The question is whether the defense set up by the answer or the defense set up in court, is true or not. Whether she said it was true or not has nothing to do with it.

Mr. Lane: The purpose of the cross-examination is to show—we have got to go into the Reno business; they have infected

that into the case, and we have got to go into it.

The Court: Yes; objection overuled.

A. May I explain that?

Q. Yes; I am asking you to explain it. A. These two men, Huck and Runyon, they tried to make me say something about my brother, and I told them that this was my case, not my brother's; my brother had absolutely nothing to do with the filing of my answer; I told my story to my counsel and it was filed according to his opinion as to what was legal; my knowledge of the law—I did not know what it should have been, but as it was filed it was the absolute truth.

Q. Did you believe at that time that your husband had solicited Charles Simmons to commit acts of impropriety with you and that to afford him, Charles Simmons, an opportunity to do so, your husband absented himself from the house? A. He is capable of anything.

Q. My question is, did you believe that at that time? A. Just what time do you mean?

By the Court: Q. The time you filed the answer. A. I certainly did.

By the Court: Q. And did you hold that belief at the time you had that conversation with Mr. Runyon? A. I certainly did.

Q. And did you believe at the time you filed the answer that your husband had offered to Charles Simmons a large sum of money if he could, as your answer described it, frame the defendant up; did you believe that at the time you filed the answer? A. I believed anything of him.

Q. Did you believe that? A. I did.

Q. Did you believe that at the time you had your conference with Mr. Runyon? A. I did.

Q. And what basis did you have to base the statement contained in this answer that your husband had conspired with Simmons to frame you up? A. I do not quite understand it.

Mr. Simpson: I object to that. The answer is prepared by the solicitor. The defendant signed it. The solicitor prepared it not only on what the defendant had told told him but on other information that he may have.

The Court: This examination has something to do with the charge that she was sent to Reno, and in that aspect I am going to admit the question.

A. Why, to the best of my knowledge, I believe I saw an affidavit to that effect.

Q. Made by whom? A. Simmons.

Q. By Simmons? A. Yes.

Q. Did you say to Mr. Runyon or to Mr. Huck on this occasion that your purpose in coming was to see if the suit could not be stopped? A. I told them I wanted to see Don Sargent.

Q. Did you say to Mr. Runyon or to Mr. Huck, upon either one of the occasions that you saw them, that your purpose in coming to see if the suit could not be stopped? A. I did not.

Q. Did they tell you, one or either of them, that Mr. Sargent and themselves were acting in good faith and believed the things charged in the petition and they could not and would not advise him to drop the suit? A. No; they did not.

Q. Or anything to that effect? A. No; they did not.

Q. Did you then say to them that you were disgusted with your lawyers, that they had not

acted for your best interests and you would dismiss them or have nothing else to do with them, or words to that effect? A. No; they told me that.

Q. Did you say it? A. No, I did not.

Q. Did they tell you then that they could not advise you as to what course to pursue? A. They did not.

Q. Did they say to you, or one of them, that you should select some person in whom you had confidence and discuss the entire situation with such person and do whatever you thought best? A. They did not.

Q. And did they tell you not to rely upon them in any way? A. They did not.

Q. Because they could not and would not assume any responsibility whatever as to your course? A. They did not.

Q. Did they say anything that sounded like that? A. No.

Q. Did they say to you then that while they would not permit you to see Mr. Sargent alone, they would permit you to see him in their presence, and so Mr. Sargent was then brought in? A. Yes; they brought him in then.

Q. He was brought in? A. Yes.

Q. Now, after Mr. Sargent was brought in what took place? A. Why, he said, "Hello, Frank," just as though he had left me the day before. I said to him, "Don, how could you do this thing?" Mr. Lane, I could not tell you the rest of the conversation. I don't remember it.

Q. Do you remember any part of it? A. I remember that when I went away he said, he told me "good-bye," to do whatever I saw fit.

Q. "To do whatever you saw fit?" A. Yes.

Q. Well, do you remember any part of the conversation that took place after Mr. Sargent came in; what was the discussion about? A. I don't remember it, Mr. Lane.

Q. There were present then Mr. Sargent, your sister, Mrs. Safarick, Mr. Lane and Mr. Huck, were there not? A. Yes.

Q. You all were there? A. Yes.

Q. So that it could not have been very confidential? A. I asked to have my sister and friend present.

Q. You asked to have your sister there? A. Why, certainly I did.

Q. Now, cannot you remember after Mr. Sargent came in what the discussion was? A. So; I cannot.

Q. Was it not about the same as it had been before? A. The same as it had been before?

Q. Yes. A. I had not had one before.

Q. Cannot you remember anything that did actually take place at this conference? A. No; I cannot.

Q. Now, when you left that conference had any arrangement been made for further conference? A. Yes.

Q. And was there any time fixed at that time? A. I don't remember that there was a time fixed.

Q. Didn't you subsequently fix the time by telephoning to Mr. Runyon's office? A. I don't remember how the time was fixed.

Q. Now when you left—trying to refresh your recollection with respect to one other matter—do you recall when you left that you said you would think the matter over and you would con-

sult probably with Dr. Spence? A. I don't remember that, Mr. Lane. I had just gotten out of a sick bed; I was hardly able to walk when I went down to see Mr. Sargent. I tell you frankly that I do not remember any more than I have told you of the conversation.

Q. Now, have you any recollection with respect to calling Mr. Runyon up and making an appointment for the second conference? A. I don't remember how the arrangement was made.

Q. At any rate you went to his office on October 6th. You probably do not recall that date, but it was about a week after the first conference, was it not? A. I don't remember how long after, but I went again twice after the one when my sister and my friend was present.

Q. The second time you went you had with you Mrs. Linser, did you not? A. I did not.

Q. Well, did you have her with you on the third time? A No. I believe I saw Mr. Runyon and—I think I saw them alone.

By the Court: Q. Saw whom? A. Mr. Runyon and this Huck man alone.

By Mr. Lane: Q. The third time was the next day after the second time, was it not? A. I don't remember when the third time was.

Q. The second time you did not see Mr. Huck at all, did you? A. I saw Mr. Huck every time I was there.

Q. Can you recall whether the second time Mrs. Linser was there or not? A. No; I do not remember.

Q. You said you were there alone? A. Yes; I did see them alone.

Q. Do you recall the third time Mrs. Linser was there? A. She was not.

Q. Who was with you then? A. I was alone.

Q. Did you see them alone on two occasions? A. I think I did; I am not positive.

Q. Then, on either the second or third occasion, Mrs. Linser may have been there? A. No; she was not there.

Q. Who else could have been there; you said you were not certain as to whether you were alone. If you were not alone who would have been with you on any occasion? A. My sister on any occasion.

Q. Mrs. Linser? A. Yes.

Q. Did you, when you got over to Mr. Runyon's office and saw Mr. Huck and Mr. Runyon state that you were through with the case and if Mr. Sargent did not withdraw it you did not propose to defend it, or words to that effect? A. I never said that.

Q. And did you say you had written to your attorney September 30th, the same day that you had had the conference with Mr. Runyon, that you had seen Mr. Runyon and Mr. Huck, instructing your attorney to take no further steps in your behalf? A. I don't remember that.

Q. You do not recall whether you told them that or not? A. I don't remember that.

Q. Did you write such a letter to them on or about September 30th? A. I don't remember that.

The Court: Write such letter to whom?

Q. To your attorney. A. No; I do not remember.

By the Court: Q. Did you write that at any time? A Yes, sir; after Mr. Runyon told me to.

Mr. Lane: I call for the production of the letter.

Mr. Simpson: You have not given me notice. We haven't the letter. Had I such a letter and had you given me notice, I would have cheerfully produced it.

By Mr. Lane: Q. Did you say further to them at that time that you could not stand any more publicity? A. I certainly did.

Q. You did? A. I don't know as it was that particular time, but I know I did make that statement.

Q. That you were going away and so far as you were concerned, the case could go by default, or words to that effect? A. I never said that. May I explain something about that?

Q. What did you say? A. They asked me what I was going to do. Mr. Huck said to me, "Mrs. Sargent, do you intend to abandon this case?" I said, "Mr. Huck, that is the chance you will take."

Q. In what connection was that said? A. About abandoning this case.

Q. What preceded that. That did not come out of a clear sky. What was the whole of that? A. They told me that due to my illness and having been locked up in the house all summer, I really needed a trip. When I told them yes, I decided to go, Mr. Huck said, "Do you intend to abandon the case?" I said to Mr. Huck, "That is the chance that you will take."

Q. What did he say in response to that? A. He did not answer me.

Q. When was it that you first told them that you had made up your mind to go to San Francisco? A. Why, after they suggested the trip, they told me to go to Florida, or Cuba or out

West, and I told them I wanted to go, I had some friends out in San Francisco, and I thought I would like to go to San Francisco.

Q. Up until San Francisco was mentioned, as I understood your direct testimony, nothing was said with respect to Reno; is that right? A. Not that I remember.

Q. Nothing was said with respect to a western divorce at that time? A. Not that I remember.

Q. Did you get to talking with Mr. Huck or Mr. Runyon, on one of these occasions, with respect to certain things that you claimed were in the house belonging to you? A. I did.

Q. There was a discussion with respect to that? A. Yes.

Q. Now, you claimed also, that Mr. Sargent—or stated rather, which was a fact, that Mr. Sargent then owed the balance of $250 due on the July allowance? A. He still owes it to me.

Q. You stated it at that time? A. I did.

Q. Did you then state there was due you also the sum of $1200 which you had used out of your own funds for purchases for the baby between January and July, 1919? A. I don't remember that, because I haven't any money of my own.

Q. Perhaps not in that form, but was the sum of $1200 discussed? A. I don't remember.

Q. Was the fact that you had purchased certain things for the baby out of your household allowance while there, discussed at that time? A. I don't remember.

Q. Did you not discuss the fact that you had spent a certain sum—whatever it may be—out of your allowance, that you were not obliged to spend, for the baby, between the dates that I have mentioned? A. I don't remember that.

By the Court: Q. Was it a fact that you had expended any sum of money out of your allowance at that time? A. I really don't remember, because I bought baby clothes, the bills were sent and Mr. Sargent paid them. Mr. Sargent only made a household allowance.

Q. Was it a fact that Mr. Sargent owed you $1200 or any other sum of money at that time? A. Not that I remember.

Q. If he had, you would have remembered it? A. I surely would.

Q. Do you recall at that time whether or not your lawyer had written a letter to Mr. Sargent or Mr. Huck, demanding the sum of $1200?

Mr. Simpson: I will object to that unless the lawyer is mentioned.

Mr. Lane: Mr. Hopkins.

A. I said I don't remember it.

Q. Did you ever know that Mr. Hopkins had written either to Mr. Sargent or to Mr. Huck demanding the payment of $1200 or any other sum to you because of money which you had spent out of your allowance for the baby? A. I cannot state definitely, but I believe there was a letter about the money he owed me when he left me. He left me with one hundred and twenty-five dollars, out of which I spent over one hundred dollars, and I believe he asked the balance of that month's allowance. That is the best I remember.

Q. I am not talking about the balance of any allowance; I am talking about a sum which you approximated as $1200? A. I don't remember any sum of that sort.

Q. Now, did you, on this occasion, say that the reason why you happened to have that much

money and was able to use it for the baby's needs was that you had been ill during the previous fall and winter and had not been able to spend any money for clothes for yourself, and that you had it in the bank, as a result of that? A. No; I don't remember saying that.

Q. Did you, as a matter of fact, have a bank account? A. A small one, yes.

Q. At that time? A. At any time.

Q. During the summer and winter of 1919? A. At any time.

Q. Did Mr. Runyon or Mr. Huck then say to you that they knew nothing about the claim of $1200? A. I don't remember that.

Q. Did they then ask you or your sister to write them making a claim for it? A. I don't remember anything about that.

Q. And take it up with Mr. Sargent? A. No; I don't remember that.

Q. Did they then tell you, or did they tell you at any time during this conference, that you had no right to rely on them in any way? A. I don't remember their saying that.

Q. Didn't they say to you that they did not want you to feel that your decision to abandon the case and go away had been arrived at upon any hope that you had derived from their conversation as to what might be done for you hereafter by Mr. Sargent? A. No; they did not.

Q. Or words to that effect? A. No

Q. Did you say to them that you had absolutely made up your mind not to have anything more to do with the matter and to go away? A. I did not.

Q. And did you also say that you hoped that

Mr. Sargent would always remember that you had been his wife and would not see you want, or words to that effect? A. No; I never said that.

Q. It is a fact, is it not, that Mr. Sergeant, at the first conference had said that you had been his wife and that he would never see you want? A. Not that I remember.

Q. You do not remember his ever saying that? A. No.

Q. He never made any promise of that kind? A. Mr. Sargent made one proposition. He said that when this thing was all over, meaning my decree out west, that he would get a good friend of his and I could get a good friend of mine, and then a certain party upon whim we would agree, to talk matters over and arrange it definitely.

Q. And when was that proposition made? A. At one of the conferences.

Q. One of these conferences? A. One of them.

Q. At which there was present Mr. Huck and Mr. Runyon? A. Mr. Huck and Mr. Runyon, but I don't know if there was anybody else.

Q. At least Mr. Huck and Mr. Runyon were there? A. They were always there.

Q. You never saw your husband alone? A. I did not.

By the Court: Q. Did you see Mr. Sargent more than once in Mr. Runyon's office? A. No.

Mr. Lane: The letter that was referred to awhile ago is dated August 29th. The question is properly framed as it was.

The Court: That is the letter written by whom to whom?

Mr. Lane: It is written by Pierce & Hopkins to Runyon and Autenreith, attention of Mr. Runyon.

The Court: Is that the letter you wanted produced?

Mr. Lane: No, it is another one.

Q. I do not suppose, Mrs. Sargent, that you ever saw this letter from Pierce & Hopkins to Mr. Runyon, did you? A. I do not rememeber it.

The Court: You might show it to her and see what she says.

Q. I show you the original letter, marked P-15. A. I don't remember it.

Q. Did you ever take up with Mr. Hopkins and discuss with him the subject of this $1200?

Mr. Simpson: I object to that as irrelevant. I have not opened up any discussion with Mr. Hopkins. This is not proper cross-examination.

The Court: It may be that they will attempt to show that whatever money was paid to Mrs. Sargent or her attorney was to reimburse her for the $1200 that she claimed was due her from Mr. Sargent.

Objection overruled.

A. I don't remember it.

Q. Now, did Mr. Huck or Mr. Runyon at this second conference say to you that whatever Mr. Sargent did was entirely up to him? A. I do not remember their saying that; I really don't know what you mean.

Q. As to what he would do in the future as to taking care of you, and so forth, that it was entirely up to him? A. I don't remember.

Q. Did you then state that you felt that you knew him sufficiently well to know that he would do something for you, but that in any event you were not going to fight the case or stay around the town? A. I never said that.

Q. Or words to that effect? A. I did not.

Q. Now, the third conference so-called, do you recall, was the day after the second conference? A. I don't remember just when the second or third was.

Q. Do you know how the third conference came to be called? A. No; I do not.

Q. You have no recollection at all how you came to be there the third time? A. No; I do not really know whether it was the first or what it was.

Q. You were not sent for? A. I don't even remember that.

Q. You don't even remember whether they made an appointment or you made it? A. I do not.

Q. Do you remember that Mrs. Linser telephoned Mr. Huck and made an appointment? A. I do not.

Q. Do you remember an occasion on which Mrs. Linser telephoned and made an appointment? A. My sister did not, so far as I know.

Q. So far as you know? A. Exactly.

Q. No matter what way it occurred, it did not occur that way? A. It did not.

Q. Do you recall the third conference that you came there with Mrs. Linser to Mr. Runyon's office, in the afternoon, and then waited there some time without seeing either Mr. Runyon or Mr. Huck until Mr. Huck came in, and then the three of you, Mrs. Linser and yourself and Mr. Huck talked together in the outer office waiting for Mr. Runyon for some time? A. Mr. Lane, I only saw Mr. Huck and Mr. Runyon three times.

By the Court: Q. The third time is the time

we are talking about. A. And my sister was not with me the last time I saw them.

By Mr. Lane: Q. Did Mrs. Linser, upon this third occasion, say to Mr. Runyon and Mr. Huck, in your presence—

The Court: She says that Mrs. Linser was not there on the third occasion.

Mr. Lane: I know that, but I do not want to have it said that I have not laid the foundation for contradiction.

The Court: She has already said that Mrs. Linser was not there. So, Mrs. Linser could not have said anything in her presence on that occasion.

Mr. Lane: Very well, if that is the view your Honor takes of it. The only object is laying a foundation for contradiction. That is all.

Q. Did you say this: That you had consulted since the day before a lawyer friend and he suggested that your name might be saved if they would keep on postponing the case and give you an opportunity to go to Reno and bring a suit for divorce against Mr. Sargent on the ground of desertion? A. No; I did not, because Mr. Runyon sent me there.

Q. Was there anything said to you that sounded like that? A. Nothing of that sort.

Q. And did you then say, did you then ask whether they would agree to postpone the case to give you an oportunity to do that thing? A. I did not. What they did here I don't know.

Q. Did Mr. Runyon then state to you that no such agreement could be made? A. As a matter of fact, I don't know just how you found out

what he did here. I don't know what Mr. Runyon did here.

Q. I am talking about what he said to you at this third conference? A. He did not.

Q. He did not—A. (Interrupting) The sole topic of our conversation at the third conference was what belonged to me in the house and my going away and going quietly.

Q. And did he say to you that the question of your going to Reno was a matter which was entirely within your own control? A. He did not.

Q. And did you not then ask them if they would not see Mr. Sargent and see whether or not he would agree to postpone the trial of the case? A. I did not.

Q. And did they then tell you that they would not make any agreement whatever? A. They did not.

Q. When did you start west? A. On the 21st day of October, 1919.

Q. Between the last occasion that you have testified to as having seen Runyon and Huck and the time you started west, did you see either Runyon, Huck or Sargent or anyone on their side of the case? A. I did.

Q. Who? A. A friend of Mr. Sargent. who took me to the train.

Q. Who? A. Mr. Metz.

Q. When did you see him? A. The morning that I went away.

Q. He came and took you to the train? A. He came with the car from Mr. Sargent's garage. A truck, I believe, or something of that sort took my trunk over to the car. He took my ticket, he took the ticket over to check my trunk. Then he

took the ticket down to Mr. Sargent so that Mr. Sargent could see it. Then he came back and Mr. Sargent sent a touring car over and sent me over to the Grand Central station. Mr. Metz took my bags into the berth and checked them.

Q. Aside from that, did you, on these two occasions, see anyone, either Runyon or Huck or Sergeant or anyone in his behalf? A. I did not see them, no.

Q. Did you have any telephone? A. I did.

Q. Did you have any telephone communication with anyone other than the one you have already testified to? A. I did.

Q. With whom? A. I believe I talked with Mr. Runyon and Mr. Huck both, with reference to the house and the things in it.

Q. When did you talk with Mr. Runyon and Mr. Huck with respect to the house and the things in it? A. The night before I left.

Q. The night before you left? A. Yes.

Q. With that exception, did you have any communication between your husband and his representatives, other than you have testified to? A. Not that I remember.

Q. When was it that your allowance was increased from $225 to $300? A. After I reached Reno.

Q. You vacated the house when you left here, did you not? A. For Mr. Sargent to put a caretaker in it.

Q. You gave it up? A. No; I did not.

Q. You did not? A. I did not. I gave up because Mr. Sargent told me he would put a caretaker in it and when I asked him if he would keep his word, he said his word of honor; I gave him

a set of keys but I did not vacate the house voluntarily.

Q. Then, do I understand that you expected, when you went to Reno, that that house should be kept open for you when you returned?

Mr. Simpson: I object to that upon the ground that her expectation is no evidence.

The Court: Objection sustained.

Q. When you went to Reno, did you think that your husband had agreed to keep his house open for you so that you might return to it when you got back from Reno? A. I certainly did.

Q. Did you go directly to Reno? A. I did not.

Q. Where did you go? A. I took a Cook's tour and I believe the itinerary is here in evidence. Mr. Sargent had my ticket. He also had postals from me, which he requested me to send him, the different places I stopped.

Q. Where did you go before you went to Reno? A. Why, I went to Santa Barbara, I went to Chicago, Los Angeles, San Francisco; I could not tell you the other places.

Q. How many days did this trip take? A. I reached Reno the 4th day of November.

Q. How long did you stay in Reno? A. Up to the 23d of September, this year, when I left.

Q. To whom did you go when you went to Reno, as lawyers? A. To the firm that Mr. Runyon sent me to.

Q. Who were they? A. Stoddart & Saulsbury.

Q. When did you first know that Mr. Sargent was not going to consent to your obtaining a decree for divorce in Reno? A. My suit was filed out there, I believe, the 2d day of June of this

year, and it is customary as far as I know, to have it returned within ten days, or if you don't have it returned within ten days, to take a decree by default. Mr. Sargent knew just as well as any other human being, that I would not accept a decree by default, and if he did not put in an appearance I knew that my decree would not be lawful in all cases, and I wanted to be free from him all over the world.

Q. My question is: When you knew that Mr. Sargent was not going to consent to your getting a decree in Reno? A. I could not tell you the date; I don't know.

Q. Were you advised that your lawyers were in correspondence with Mr. Sargent's lawyers? A. Of course they were in correspondence with them.

Q. Did you know— A. I only knew they had corresponded with them right along.

Q. And were you shown the letters which passed between your lawyers and Mr. Sargent's lawyers? A. I don't remember that I was shown all letters.

By the Court: Q. Did you see some of them? A. Yes; I saw some of the letters.

By Mr. Lane: Now, can you tell me when it was that your lawyers in Reno told you that Sargent would not consent to the proceedings going on in Reno? A. No; I cannot.

Q. They did tell you that at one time, didn't they? A. No; I don't remember that.

Q. Well, you knew, did you not, that a proceeding had been brought in this Court, in this case, to enjoin you from proceeding in Reno? A. Well, I knew that Mr. Sargent had made a

motion for some sort of proceeding to have my testimony suppressed. I knew that, and that he wanted to get a decree by default, while he didn't want me to put in any appearance. Of course I might not have the legal part of it just right, but I knew that that was what he was attempting, to advance the date of trial before I could get here and put in an appearance. I knew he wanted to do that.

Q. Well, did you know that he had filed a petition in this Court, in this case, to stop you from getting your decree in Reno?

Mr. Simpson: I object unless he fixes the time when she had knowledge.

The Court: Objection overruled.

A. I cannot specify a date.

Q. You did know it at one time? A. I did not know just when it was.

Q. How long did you know that before you came east? A. I cannot tell you that.

Q. Your representative, the person with whom you communicated in the firm of Pierce & Hopkins, was Mr. Hopkins, was it not? A. Yes.

Q. Did you, before the 29th of August, 1919, tell Mr. Hopkins that for months prior to July 1, 1919, upon Mr. Sargent's promise to reimburse you, you loaned Mr. Sargent approximately $1250 by way of paying accounts for the baby and the household which were to have been paid by Mr. Sargent and not your allowance, which you paid for moneys paid out of your allowance and upon his promise to reimburse you? A. I don't remember that.

Q. Will you say that you did not tell him that? A. I said I don't remember it.

Q. Is there any basis for that statement? A. I don't remember anything about that.

Q. Well, if you had told him that, is that a true statement of what actually occurred? A. I said I don't remember it; I don't remember anything about it.

Q. Cannot you recall now, as a matter of fact, you did use any sum of money upon Mr. Sargent's promise to reimburse you? A. I don't remember anything about a sum of money.

Q. Did you, about the 14th of October, 1919, about a week after the conference, the last conference that you had at Mr. Runyon's office, receive a letter from Mr. Runyon? A. I don't remember any letters or a letter.

Q. What? A. I don't remember any letters or a letter.

Q. Do you remember receiving any letter from Mr. Runyon about that time? A. No; I don't remember receiving any letter.

Mr. Lane: Mr. Simpson, have you any such letters from Runyon & Autenreith?

Mr. Simpson: I may have them at the office.

The Court: Produce them at the next hearing.

Q. If you have any letters, where are they; are they with your attorneys? A. I haven't any letters.

By the Court: Q. Did you turn over any letter that you received to Mr. Simpson or to anybody else? A. Why, I believe any letters I have had have been turned over to Mr. Stoddart or to Mr. Anderson of Fisk & Fisk. I don't know. I don't believe I ever turned any over to Mr. Simpson.

Exhibit P-28

By Mr. Lane: Q. Do you remember turning any letters over to Mr. Anderson of Fisk & Fisk? A. I never saw Mr. Anderson.

Q. Do you remember turning over any letters to Fisk & Fisk? A. I don't remember. There was a deed or something or a couple of deeds.

Q. Letters. A. I am telling you what I remember.

Q. Have you a recollection of receiving a letter from Mr. Runyon about October 14, 1919, reading as this paper which I show you, Exhibit 6 attached to these affidavits, or substantially to that effect?

Exhibit P-28

October 14th, 1919.

Mrs. Frances L. Sargent,
24 Kensington Avenue,
City.

Dear Madam:

Upon the writer's return to the office after an absence of a few days he finds a letter from Mr. George A. Hopkins, of which the enclosed is a copy, and that a substantially similar letter has been received by Mr. Huck, and enclosed is a copy of our reply.

As you know, Mr. Sargent and his attorneys have not made any propositions whatever in the above matter other than that he must proceed with his case, and none of the suggestions made by or for you have been accepted. You advised us that you had discharged your attorneys and proposed to withdraw your charges and take no further action in the case other than to leave your answer stand

as a denial. Now, along come these letters which leave us in doubt as to whether you are or are not represented by counsel. If you are, you should not attempt to see us without them.

Yours very truly,

(Sgd) RUNYON & AUTENRIETH.

HWR/K

A. I don't remember receiving it. You see I was not always at the house at that time. I was there a day or two. Then I would go to my mother's or to one of my sisters. I do not know what happened to some of the mail.

Q. Do you remember receiving a letter from Runyon & Autenreith in which they stated that "If as a matter of fact you were still represented by counsel, you ought not to communicate with them but communicate through your counsel," or words to that effect? A. I do not.

Q. (Showing witness) I show you a letter dated October 6th, and ask you whether you recognize the handwriting? A. I do.

Q. Whose handwriting is it? A. My sister's.

Q. Will you read it to yourself and refresh your recollection? A. Yes (reads it).

Q. Now, does the reading of that letter refresh your recollection?

Mr. Simpson: I object to that. How can a letter written by someone else bind her?

The Court: She is not bound by anything said in the letter. The only question is whether reading that letter refreshes her recollection.

Q. Does the reading of the contents of this letter refresh your recollection as to whether or not Mrs. Linser was present at the talk which you had with Mr. Runyon in October, the day before? A. No; it does not.

Q. Does it refresh your recollection as to whether there was any discussion at any one of these talks as to $1200? A. No.

Q. Did you see this letter at the time it was written? A. I did not.

Q. Did you know as a matter of fact, up to now, that it had been written? A. I don't know anything about it.

Q. You had no talk with your sister with respect to it that you now recall? A. Not that I remember.

Q. Did Mrs. Linser show you a letter written by Runyon & Autenreith to her under date of October 21, 1919? A. October 21st? I left for the west October 21st. No, she didn't show me any letter.

Q. Did she show it to you or did she send it to you? A. No.

Q. Didn't she write you about it? A. Not that I remember.

Q. Do you recall instructing Mr. Runyon to forward your alimony check to Mrs. Safarick's residence; do you recall that? A. No, sir; I do not.

Q. I show you a letter or note and ask you whether that is in your handwriting? A. No; it is not.

Q. Do you know in whose handwriting it is? A. I do.

Q. Whose? A. Mrs. Safarick's.

Q. Did you know that that note had been written? A. I did not.

Q. You did not know it? A. No; I did not.

Mr. Lane: I ask you to have it marked for identification.

Marked P-14 for identification.

Q. Did you instruct Mrs. Safarick to inform Runyon & Autenreith to send your checks to her house? A. Did I instruct her?

Q. Yes. A. No, I did not.

Q. Did you know she was going to do it? A. No, I did not.

Q. As a matter of fact, is there any explanation as to how that note or letter came to be written? A. I gave the keys of my house to Mrs. Safarick, as Mr. Runyon instructed, so she could deliver them to his office, and then I had the checks forwarded to her until after I got to Reno because I had very little money and I had to be sure that I would get money and I knew that Mrs. Safarick would see that I got the money if it was paid to her.

Q. Your alimony checks, as a matter of fact, were sent to her house, were they not?

Mr. Simpson: Objected to.

The Court: Objection sustained.

Q. How did you get your alimony checks? A. After I reached Reno, through the law firm that represented me.

By the Court: Q. You mean Stoddart & Saulsbury? A. Yes.

Q. Did you get any through Mrs. Safarick? A. I don't remember getting any through her.

Q. I show you what purports to be a letter addressed to you—copy of a letter addressed to you

which is marked 10, and ask you to read that copy and then tell me whether you recall receiving a letter of that kind from Runyon & Autenrieth? A. Yes; I believe I received that letter.

Mr. Lane: I ask that this letter be marked for identification. It is a letter from Runyon & Autenreith addressed to Mrs. Sargent, dated October 23, 1919.

Marked P-28 for identification.

Q. Now, did you answer that letter? A. I don't remember that.

Q. In the letter that you said you received from Runyon & Autenreith it states that: "So there may be no misunderstanding either as to or with either counsel or principal, we are sending herewith copy of letter today sent to Mr. Simpson." Was there enclosed in that letter P-25 for identification copy of a letter to Mr. Simpson signed by Runyon & Autenreith, and which appears as Exhibit 11? A. I am not sure about this letter.

Mr. Simpson: If you are merely trying to make routine proof I will admit that she did get a letter with a copy of a letter in it. We will say that that is a fact that she did get a letter to that effect. That is dated October 23d?

Mr. Lane: That is October 23d. Both letters are dated October 23d. Will you make the same admission that the letters which appear annexed to the affidavits passed between the respective parties named in the letter?

Mr. Simpson: If it is a mere matter of office routine, I will say that.

The Court: I think you better call attention to each particular letter as you come to it.

Mr. Lane: We intend to offer them all.

Mr. Simpson: I will admit the letter of October 27th (Exhibit P-17).

Now, the next one is Exhibit 14. I will admit that (Exhibit P-18).

Exhibit 16 and Exhibit 17, I will admit them; Exhibits 18 and 19, I will admit them too; Exhibit 20, the telegram, I will admit that too; also Exhibit 21 from Runyon & Autenreith to Mrs. Sargent; Exhibit 22, I will admit that.

Letter from Stoddart & Saulsbury, I object to that one as not at all relevant to this issue. Here is a letter from attorneys in Nevada to Runyon & Autenreith. I am not trying to bind them by what she did, but my argument is that they, knowing this thing, sent her to Nevada, and paid her a large sum of money. What happened after she got there cannot be binding.

The Court: If Stoddart & Saulsbury were her attorneys in Nevada and as such attorneys wrote a letter to Mr. Runyon or Mr. Sargent on the subject matter which is in dispute in this case, it may be relevant.

Mr. Simpson: I will admit that, then. I don't think it hurts us at all. Then, Exhibit 24, the telegram; Exhibit 25—I will admit them. Exhibit 26, I will admit that; also 26-a, if you think that is relevant, I will admit it. Exhibit 27 I admit that.

Exhibits offered in evidence

Mr. Lane: Will you admit Exhibit 2, dated September 27th, from Donald A. Sargent. We have a copy.

Mr. Simpson: I think so.

Mr. Lane: She says she does not know where it is.

Mr. Simpson: I will admit that.

Mr. Lane: Will you admit Exhibit 3-a letter Runyon & Autenreith to Pearce & Hopkins?

Mr. Simpson: Subject to its competency, I admit its proof; yes, I admit that.

Mr. Lane: 3-b, from Pearce & Hopkins?

Mr. Simpson: Yes.

Mr. Lane: Exhibit 3-a, Runyon & Autenreith to Pearce & Hopkins?

Mr. Simpson: Yes.

Mr. Lane: Exhibit 3-d, from Pearce & Hopkins to Runyon & Autenreith, August 29th?

Mr. Simpson: Yes; that letter was written by Mr. Hopkins.

Mr. Lane: Exhibit 3-e, Runyon & Autenreith to Hopkins?

Mr. Simpson: Yes; that is admitted.

Mr. Lane: Exhibit D-4 from Mrs. Linser?

Mr. Simpson: I won't admit that one.

Mr. Lane: Exhibit 5, I suppose the same thing applies?

Mr. Simpson: I won't admit that as competent or relevant.

Mr. Lane: Exhibit 6, Runyon & Autenreith, to Mrs. Sargent?

Mr. Simpson: I admit that letter was

written, but I object to the competency of the same. I don't take back anything I said; the letter was written, such letter was received. I don't take that back. I won't put you to technical proof. Such letter was written and such letter received.

Mr. Lane: I suppose Exhibit 7 to Mrs. Linser, the same thing will apply?

Mr. Simpson: I won't admit that.

Mr. Lane: And that applies to Exhibit 9 from Mrs. Linser to Runyon & Autenreith?

Mr. Simpson: Yes.

Mr. Lane: Exhibit 10 you did admit?

Mr. Simpson: Yes.

(The above exhibits are here marked Exhibits P-19 to 49, inclusive, after being put in order.)

Q. Now, Mrs. Sargent, in the letter of October 14, 1919, written by Runyon & Autenreith to you, which it has been admitted you received, it is stated: "As you know, Mr. Sargent and his attorneys have not made any proposition whatever in the above matter other than he must proceed with his case, and none of the suggestions made to him for you have been accepted." Did you read that letter when you received it? A. Well, I don't remember receiving it.

Mr. Simpson: I will make objection to this letter as not competent. You cannot bind a mind by writing a letter to him.

The Court: I suppose what Mr. Lane is endeavoring to show is that after receiving this letter Mr. Sargent did not deny any of the statements made in it.

Mr. Lane: It is not the receipt of the

letter itself; it is the conduct after the receipt of the letter; that may have some bearing.

The Court: It may be I agree with Senator Simpson's proposition of law that a letter written by Mr. Sargent's lawyers to Mrs. Sargent cannot have much binding effect on her.

Mr. Lane: I do not contend it does. If it is one of a series of letters, that is a different situation.

The Court: I am going to admit it for whatever weight it has.

Q. You never replied to that letter, did you? A. I never remember replying.

Q. Well, did you ever write any letter yourself to Runyon & Autenreith or to Mr. Hopkins except these which have already been referred to? A. Do you mean the letters I wrote from San Francisco?

Q. Did you write any letters to Runyon & Autenreith from San Francisco? A. I did.

Q. In the letter which was written to you on October 23, 1919, when you received it, did you read this portion of it? A. Well, I was on my way west October 23, 1919. I don't remember that letter.

Q. This letter you testified to on your direct, after reading it, that you do remember receiving it?

The Court: Show it to her.

A. Yes; I remember that letter.

Q. Did you read that portion of it that states: "You have persistently advised us that both Mr. Simpson and Mr. Hopkins were no longer your

counsel. In view of this telephone communication, we are at a loss to understand with whom we are to deal''? A. What is the date of that letter?

Q. October 23d. A. That was sent to me after I had left for the west, and, of course, they knew that I had left for the west. I had written to both Mr. Hopkins and Mr. Simpson.

Q. Why did you write to both Mr. Hopkins and Mr. Simpson? A. Mr. Runyon told me to do it.

Q. What did he tell you and when with respect to writing to Mr. Hopkins and Mr. Simpson? A. I don't know if it was the first, second or third time when I was in his office, I said to him: ''What will I do? I don't know what to do with these two men.'' He assured me I had gotten all this notoriety through Mr. Simpson. He said: ''Well, I cannot advise you and advise your husband.'' I said: ''Mr. Huck, what will I do?'' He said: ''I would write them both and tell them that you have decided on a different line of action''; and then Mr. Huck outlined the letter. He said: ''Simply say, inasmuch as you have decided on a different line of action, you would no longer require their services,'' and I wrote a letter like that to Mr. Hopkins and Mr. Simpson.

Q. You had decided on a different line of action, had you not? A. I had decided?

Q. Yes. A. After they told me to go west, of course.

Q. You had decided on a different line of action, had you not? A. Not until they told me to go west.

By the Court: Q. You had decided to go west and follow what they told you? A. I had; yes.

By Mr. Lane: Q. What was the line of action that you had decided to take? A. To go west and get a decree. Mr. Sargent was to drop the suit here or do whatever was necessary.

Q. In the letter which was written by you on November 1st to Senator Runyon, you say: "My word to you is quite sufficient, and I will not alter my line of action." What did you refer to? A. Mr. Runyon wanted to know what assurance he had from me that after I started west I really would go there and stand by and get the decree there, and I said to him: "Well, Mr. Runyon, I have never gone back on my word yet, and you may rely on me and my action right through" and my report was proof that I kept my word.

Q. Now, you got to Reno November 4th? A. Yes.

Q. Nineteen and— A. 1919.

Q. 1919? A. Yes.

Q. Do you recall your lawyers, Stoddart & Saulsbury, in the latter part of November, drawing your attention to a letter or communication which they had received from Mr. Runyon, in which Mr. Runyon stated that as he understood the situation, under no promises, understandings or representations whatever, you had not only elected but insisted upon permanently leaving your own residence and to make no further defense here, except to leave your answer stand as a denial. Do you remember Mr. Stoddart drawing your attention to such a letter which he had received from Mr. Runyon? A. Well, they called my attention to a number of letters and I was quite ill when I finally reached Reno. I don't remember that one in particular.

Q. Did they also call your attention to the fact that in that letter Mr. Runyon had stated that you had, with a great many other of your friends, hoped that your husband would relent in the then pending proceedings against you in the Court of Chancery. Do you remember his drawing your attention to that? A. No; I don't see how Mr. Runyon could have said that.

Q. Well, did your lawyers draw your attention to such a letter which he had written to them? A. I don't remember it.

Mr. Simpson: I object to that as not cross-examination. How does it bind her in any way?

The Court: It may have very little effect on the case. I am taking it for what it is worth. It has a bearing on these Reno proceedings.

Q. Do you recall that about the same time they drew your attention to a statement made by Mr. Runyon in his letter to them in which he said that Mr. Sargent had steadfastly refused to accede to the latter proposition or to make any agreement or have any understanding whatever and was particularly insistent that you should have the best independent advice, or words to that effect? A. No; I don't remember anything of that sort.

Q. Did they draw your attention to the fact that you had been informed before you left by them that if you left you did it at your own risk and that your husband would proceed with the case in your absence? A. When?

Q. Within a month after you left? A. I don't remember their telling me that.

Q. Well, your lawyers in Nevada did draw your

attention to various letters which had been exchanged between themselves and Mr. Runyon, did they not?

The Court: She has already said some letters, she cannot say how many, were shown to her.

Q. More than one? A. I said "some" letters.

Q. Did your lawyers tell you, in November or within a month after you got there, that Mr. Runyon had in writing stated that he had made no promise or agreement of any kind whatever? A. I don't remember it.

Q. Was there any discussion with your Nevada lawyers with respect to whether or not Mr. Runyon had in fact made a promise or agreement or understanding, as to whether he had gone back on it? A. I don't remember a discussion of that sort.

Q. Then, so far as you knew, up until June of 1920, at least, you were out there in Reno trying to get a divorce, still in pursuance of an agreement made between yourself and Mr. Huck and Mr. Runyon, on behalf of your husband; is that right? A. Yes.

Q. And that agreement had never, to your knowledge, been questioned or denied by Mr. Huck or by Mr. Runyon or by anyone on behalf of your husband? A. I don't remember it having been denied.

Q. If it had been questioned, if they had stated that they had made no such agreement, would you not have remembered it?

Mr. Simpson: I object upon the ground that it calls for a conclusion.

The Court: Objection sustained.

Q. Prior to June, 1920, was there anything said to you by your lawyers in Reno, or by anyone else, which indicated to your mind at the time that your husband and his lawyers, or his lawyers, were denying that they had ever made such an agreement? A. I don't remember anything of that sort.

Q. That is the best answer you can make—that you don't remember? A. That is the truth.

Q. On the night of July 11th, have you any recollection whatever as to the time you got home? A. No, I have not. I told you before I had not the slightest idea what time it was.

Q. Then, so far as you were concerned, it might have been eight or nine or ten o'clock? A. I have not the slightest idea what time it was.

By the Court: Q. Could you say how long you had been in the house before the door was locked in your room, by Charlotte, as you say? A. Yes; I think I had been there quite some time, about an hour and a half; maybe longer than that.

By Mr. Lane: Q. Now, have you any recollection as to what time it was that the raid took place? A. No; I have not.

Q. Did you have a number of packages that you had bought before you got home that night? A. I did.

Q. What kind of packages were they? A. Groceries and vegetables.

Q. And what happened when you first came in the house? Just tell us what you did. A. Why, I came in and went into the house and I went upstairs and I took off my coat and my hat—

Q. Now, did the chauffeur come into the house with you the first time?

Mr. Simpson: I object. I don't think he has a right to cut off an answer.

The Court: You asked what she did, and she was proceeding to tell. I don't want to go over the whole story again.

Mr. Lane: That is what I thought. The question was too broad, in the first instance. I did not want to go over the whole story again.

A. With me?

Q. Yes; did he come into the house the same time or about the same time you did? A. I did not see him go into the house.

By the Court: Q. Did you carry the packages into the house? A. No; I did not.

Q. Who did? Do you know? A. Well, he did as usual.

By Mr. Lane: Q. Well, what was said after you first went into the house? Was there any conversation between yourself and the chauffeur or Charlotte? A. Why, no, I had not any conversation.

By the Court: Q. Did you enter the front door? A. Yes.

Q. How did you get in the front door—by key or by ringing the bell? A. No; I don't remember whether I rang the bell or opened it with the key; I don't remember that.

By Mr. Lane: Q. Now, what was the conversation that took place between you and Charlotte and the chauffeur, or any of them there, what was said? A. Why, I went upstairs and came down and told him to search the house—

By the Court: Q. That was not the first thing you said, because you had something to eat, didn't you? A. Yes.

Q. You said something about having something to eat, didn't you? A. Yes.

Q. What was the first thing you said after you got in the house to Charlotte or to Simmons. Search your memory and see if you can tell? A. Why, I told her I felt very uneasy; I felt as though there was someone in the house, and I told her that when Charles came back I wanted to speak to him, I wanted to tell him to go through the house before he went home.

Q. When he came back from where? A. From the garage.

By Mr. Lane: Q. That was after Charles had left that you had that talk with Charlotte, was it not? A. I believe he had left; he was not there.

Q. What was said, if anything—what was done, if anything—between the time you and Charles came in the house and the time Charles left to go back to the garage? A. What I did?

Q. Yes; what you did, what Charles did and what Charlotte did, so far as you know? A. Well, she prepared my dinner and I went up-stairs and took off my things.

Q. Did Charles have anything to eat there? A. I don't remember that.

Q. You don't know whether he did or did not? A. I don't remember that.

By the Court: Q. It has been testified that you sat in the kitchen with Charles and that you and Charles both ate something at the same time. Is that so? A. No; that is not true.

By Mr. Lane: Q. No conversation of that kind took place? A. Only what I told you that I remember.

Q. How long was Charles gone after he came

back after he put the car away; do you remember that? A. I do not.

Q. Where were you when Charles came back? A. I don't know when he came back.

Q. Where were you when you first knew that Charles was back? A. I was leaning over the dining-room table.

Q. The dining-room is on what side of the house? A. The side nearest Bergen Avenue.

Q. The side nearest Bergen Avenue, one room removed from the street? A. The hall is in front of the dining room; the hall from the front door leading to the dining room.

Q. Right next to the hall? A. Yes.

Q. By the way, while we are at it, that house has a peculiar construction in the front, has it not, it as a balcony effect that goes right across the hall, the second story, has it not? A. There is an open space there, you can see in the plans.

Q. The second floor is cut away so as to be open up to the second floor, with a balcony in front of the house?

The Court: Do you mean the inside?

Mr. Lane: The inside.

A. I would not call it a balcony. It is somewhat open, but you have got to step out in the hall really to see.

The Court: There is a stair well.

Mr. Lane: That is what I should have said.

Q. And the second floor has an enclosed room on the front where there is a little desk, a space about ten by fifteen? A. There is not a room, but there is quite a space there.

Q. There is a desk and chairs there? A. Yes.

Q. Standing in the lower hall and at the dinng room you can look and see any person on that balcony? A. No; you cannot.

Q. As far as you know, you mean? A. As far as I know; you see I never spied on anybody.

Mr. Simpson: This is not cross-examination.

The Court: There was testimony from one of the witnesses that she looked from the dining room up through the open stairway and saw Simmons embrace Mrs. Sergent upstairs, and she has denied that.

Mr. Simpson: She said; "I did not do it." She has not said nobody can see up there. He has no right to cross-examine her as to that.

Q. Cannot you stand at the dining-room door and look through that open stair well and see any person that is on that balcony? A. I don't know. I never tried it.

Q. The rails of that balcony, the railing, there is a railing across the balcony? A. There is a railing there.

Q. That is an open railing, is it not, that you can see through? A. I suppose so.

Q. While we are on that physical situation for a moment, did you say, Mrs. Sargent, that there was at this time on the inside of the door of the pink room a bolt? A. I did not say that.

Q. Was there on the inside of the pink room door at this time a bolt? A. I don't know. Really I had never used one. That room had never been locked to my knowledge, until the night Charlotte locked it.

Q. You do not recall ever seeing a round bolt

on it? A. I never used it; I really don't remember.

By the Court: Q. You can say whether there was one on there or not? A. I really don't remember.

Q. How long had you lived there before July 11, 1919? A. I believe we bought that house in June, 1916, but you see that was not a room I occupied all the time.

By Mr. Lane: Q. Were there not bolts of that kind on every one of the bedroom doors? A. No; because we had the house all changed. That was the only old door, as well as I remember it, in the house.

Q. When Charles came in, you were in the dining room looking over the paper at the time he came in? A. I don't remember where I was when Charles came in because I do not know when he came in.

Q. When you first knew that Charles was in? A. I was leaning over the dining-room table.

Q. How did you know he was there? A. I heard the back door close.

Q. That first drew your attention to the fact that he was in the house? A. Yes.

Q. Can you tell me about how long that was after you had entered the house? A. No; I don't know.

Q. It was a sufficient length of time for you to do what; what had you done in the meantime?

The Court: Must we go over that again? She had taken off her hat and coat and had something to eat. Mr. Lane, I do not think I will permit that question. It is a repetition.

Q. Well, what happened after you realized the fact that Mr. Simmons was in the house; what did you do then? A. I told you, Mr. Lane, that I asked him—

Q. You told Senator Simpson but not me. A. I believe I told you, too. However, I told him I wanted him to go through the house before he went home.

Q. You had already told that to Charlotte, had you not? A. I don't know whether I told it to Charlotte before I told it to him or not.

Q. You cannot recollect? A. No; I don't remember.

Q. You knew that he was coming back? A. I knew that he was coming back?

Q. Yes. A. Yes; I knew he was coming back.

Q. Why? A. Because I had gone in the kitchen and I wanted to know if the parcels were in, Charlotte asked me if she could ask Charles to have a bite to eat with her.

Q. You have not told anybody that—

Mr. Simpson: Yes; she has.

Q. Tell us about that. A. I have told you all there was to it.

Q. What did you say to Charlotte, or Charlotte say to you, with respect to his coming back? A. Charlotte said; "Mrs. Sargent, when Charles comes back from the garage, may I ask him to have a bite to eat?" I said; "Yes, Charlotte, you may, and I want him to go through the house."

Q. Was it your expectation that Charles would come back that night? A. No; it was not.

Q. Was it Charles's duty, under ordinary circumstances, to come back that night after putting the car up? A. Not that night or any other night.

Q. I mean any other night. What was it that made you know that Charles was in fact coming back? A. Why, he used to come back for his orders, if he hadn't them before he went away.

Q. Then, it was the usual thing for him to come back? A. Not if he had his orders before.

Q. Did he have his orders before, or didn't he? A. No.

Q. From whom was he going to get his orders when he came back? A. Why, I was going to give him his orders.

Q. Before he came back you expected him to come back, because he was to get his orders from you; is that right? A. Yes.

Q. That is the reason why you expected him to come back; is that right? A. Yes.

Q. It was not because Charlotte told you that she had asked him to do something, and that he was coming back for that reason, that was not the reason you thought he was coming back? A. No.

Q. And the first thing that Charlotte said was that when he came back, then she wanted him to have a bite to eat with her? Is that the expression? A. Yes.

Q. What did you say to that? A. I said yes, he might.

Q. After he came back, did you see that he got his bite to eat? A. No; I did not see that he got his bite to eat.

Q. I withdraw that. Did you see that he got it? I don't mean did you personally attend to it—A. I don't know whether he had anything to eat or not.

Q. You didn't know at that time whether he

had anything to eat or not. You did not know at that time whether he had anything to eat or whether he did not—that is right? A. I know he was in the kitchen.

Q. Now, where were you when you asked him to look around the house? A. I testified before that I stepped to the kitchen door and said; "Charles, I want you to go through the house."

Q. Then, where did you go? A. Upstairs.

Q. Did you tell him why you wanted him to look through the house? A. I don't remember whether I told it to him or Charlotte.

Q. Had you ever asked him to look through the house before? A. I don't remember.

Q. Then you went upstairs to your room? A. I did.

Q. Then what next happened? A. I have already told you—

Mr. Simpson: He went all through that. He asked her all about the details of the raid, whether she had high shoes and what happened and whether she had a conversation with Huck.

The Court: My memory may be faulty. I do not remember that he examined her on the detals of what happened before the raid.

Mr. Lane: I did not. I took her from the time of the raid.

The Court: I am in doubt, and I am going to permit the question.

Q. What next happened? A. I went upstairs to my room, I sat down in there and I was darning or mending—I don't remember which—and Charlotte came in and I asked her to sit down, which

was my custom, and when Charles came up she got up and walked to the door.

Q. Well, now, when Charles came up what did Charles say; did he say anything? A. Yes.

Q. What? A. "I have been all through the house, Mrs. Sargent and it is all right but the two rooms on the top floor are locked." I said; "Very well," and I continued with my work, and he had Charlotte had a few words. The next thing I remember I heard Charlotte say; "Well, go get it."

Q. Did you say to him then or at any other time during the evening that you had a feeling that there was somone in the house? A. I don't remember who I said it to.

Q. Did you make that remark to anybody, that you had a feeling that someone was in the house? A. I don't remember.

Q. You don't remember whether you said it to anybody or not? A. I don't remember.

By the Court: Q. Did you have a feeling that there was somebody in the house? A. Yes; I certainly did.

By Mr. Lane: Q. When did you have that feeling first? A. When I came in the house.

Q. When you came in the house? A. Yes.

Q. What was it; what was it based on? A. Just a woman's intuition.

Q. A. woman's intuition that there was someone in that house? A. That there was something wrong.

Q. You cannot now even, looking back after the event, you cannot now say what it was that caused you to have that feeling that there was something wrong?

Mr. Simpson: I object to this excursion into the realm of psychology.

The Court: Objection overruled.

A. I told you, Mr. Lane, just a woman's intuition.

Q. After Mr. Huck came in did you say to Mr. Huck; "I would rather have had to face any man than you; yes I would even rather face Don," or words to that effect? A. I don't remember that. I testified to everything that I remember that I said to Mr. Huck.

Mr. Lane: Is that sufficient for me to contradict, or shall I go on?

The Court: I think you ought to refresh her memory on any of these things that she may have overlooked.

Q. Did you say to him; "Does this mean that he will sue me for a divorce?" Or words to that effect? A. I don't remember that.

By the Court: Q. You know whether you said that or not, don't you? A. I really do not. I do not remember saying it. Why, I was so disturbed and upset that night I don't remember everything what was said.

By Mr. Lane: Q. And did you say to him thus; "Why did you take his case?" A. I don't remember that, Mr. Lane, but Mr. Huck was always, even amongst my friends and myself too, known as my attorney.

Q. Did he then say to you? "I cannot tell you about what his plans are"? A. I don't remember that.

Q. Did he also state to you that he had been his attorney for a long time and could not see why you thought he should not act for him, or words

to that effect? A. No; Mr. Huck did not say that, as I remember it.

Q. Did you then say to him; "Well, please keep it quiet, don't start up publicity"? A. I don't remember that.

Q. Did you then ask him whether Charles had given Mr. Sargent a picture? A. I don't remember that.

Q. And did he state to you, in reply thereto, that he preferred not to discuss the matter any further? A. No; I don't remember that.

Q. And did you then say to him; "You won't tell me, but I know Don has that picture, and that is what has caused all this trouble," or words to that effect? A. No; I did not; the first I knew of the picture was when Mr. Huck mentioned it in my sister's home, as I have testified before.

Q. Did you then say to him; "Don was always very jealous of that man, and I knew if he found out I had that picture," or words to that effect— A. No; I did not say that, but I did tell him that Don had always been very jealous of any and everything.

Q. Did you also say with respect to this man; "Now, he is innocent, and I would not harm a hair of his head," or words to that effect? A. I don't know who you mean.

By the Court: Q. The man whose photograph has been spoken of in this case? A. Well, I do not know that any reference has been made to him.

Q. Mr. Lane is examining about that picture, whether you said that with respect to that man, to Mr. Huck or not? A. No, sir; I don't remember anything of that sort between Mr. Huck and I.

By Mr. Lane: Q. And did you also say to him; "You know I do not love Don," or words to that effect? A. No; I did not.

Q. Did you say; "If he wanted a divorce, why didn't he say so and I would gladly let him have it? He did not have to do this," or words to that effect? A. I don't remember saying that to Mr. Huck.

Q. Did you say it to anybody that night? A. I do not know whether I did or not I might have said it to my sister after Mr. Huck left.

Q. That is, you might have said it to your sister that night? A. Yes.

Q. That if he wanted a divorce you would have gladly given it to him; he need not have done this, or words to that effect? A. I do not remember, but I might have.

Q. You might have said that to your sister? A. I might have.

By Mr. Simpson: Q. Did you say it or don't you remember it? A. I don't remember it.

By Mr. Lane: Q. Well, what is it that makes you think you might have said it?

Mr. Simpson: I object as not proper cross-examination.

The Court: The Witness stated that she might have said this, in answer to a question Mr. Lane asked her. Now he is asking her why she thinks she might have said it, referring to the night of July 11th. I permit the question.

A. I cannot tell you now.

Q. That is, if he wanted a divorce you would gladly give it to him? A. You mean now or then?

Q. I mean now what makes you think what

might have made you make that remark? A. I don't remember.

Q. Did you say to Mr. Huck: "What shall I do now? I have not a dollar to my name. Won't you tell me what I can do?" or words to that effect? A. Well, when he opened the door I said: "You, Mr. Huck! Where will I go? What will I do? I have done no wrong. I haven't anything. What shall I do?" as I have told you before.

Q. Did he say to you: "Mrs. Sargeant, I am hardly the person to advise you what to do," or words to that effect? A. Not that I remember.

Q. Did you say to him: "I know you well enough to believe you are not the one that tricked me"? A. I could not have said that.

Q. You thought at that time that he had tricked you? A. I knew he had.

Q. You never changed your mind as to that, did you? A. No.

Q. So that when you saw Mr. Huck there, you thought Mr. Huck was a part of this scheme and was a party to the trick; is that right? A. I did not know what to think. He was there.

Q. Did you, in your own mind, make up your mind at that time, that he was a party to this trick that had been played upon you? A. Yes.

Q. And did you say to him: "I must talk to someone, I must get advice," or words to that effect? A. No.

Q. And did he say to you: "The only advice I can give you is to get in touch with your people right away and do what they tell you, and if you get a lawyer, get the most reputable you can find and follow his advice" or words to that effect? A. No.

Q. Did he advise you to get a lawyer? A. No.

Q. Did you then say? A. "I have not any money and I cannot go to my people," or words to that effect? A. No.

Q. Did he then say to you: "I will give you any money you may need to go wherever you want to? In fact, if you wish, I will get the car and take you where you want to go," or words to that effect? A. I don't remember.

Q. And did you then say: "I do not want to go out of this house, it is my home and I know that possession is nine points of the law, and if I go out I lose my right," or words to that effect? A. I told him that that was my home. That is all I remember of that part.

Q. You do not recall that you said possession was nine points of the law? A. Not at that time.

Q. At any other time did you tell him that? A. Yes.

Q. When? A. In Mr. Runyon's office.

Q. After one of the conversations in Mr. Runyon's office? A. Yes.

Q. And did he then say to you: "Please do not misunderstand me. I do not intend to urge you to go out of the house"? A. I do not remember that.

Q. And did he continue and say: "You said that you wanted to talk to someone. I merely suggested going to one of your sisters," or words to that effect? A. I don't remember that.

Q. Did he continue to say to you: "You can do as you like about that"? A. No.

Q. Or words to that effect? A. No.

Q. And did you then say: "Will you give me your word, Mr. Huck, that if I leave this house

tonight I can come in again to-morrow"? A. No; not then.

Q. Well, did you before you left that night? A. Mr. Huck told me that I had to get out of the house—"Mr. Sargent's orders"—and he would give me his word of honor that I could return the following day, which I testified to before.

Q. During the time that you were in the car going down to your sister's house did you say to Mr. Huck: "Don never told you the whole story, or you would not have had anything to do with it," or words to that effect? A. I don't remember that.

Q. Do you recall any conversation with respect to the raid in which you tried to convince Mr. Huck that he ought not to have been a party to it? A. No; I did not try to convince Mr. Huck.

Q. Did you say to him there: "If Dr. Spence will testify for me, I will say what is what"? A. I never said that.

Q. Dr. Spence's name was not mentioned on this trip to your sister's house? A. It was mentioned, because I had an appointment with him the following morning—in that connection.

Q. Did you say: "Money can do an awful lot; this is the second time he has had detectives on me"? A. I don't remember.

Q. You had been separated from your husband before? A. I left him.

Mr. Simpson: Objected to. They were living together at this time.

The Court: Objection sustained.

Q. How many counsel have you had in this case?

Mr. Simpson: I object. That does not help us.

The Court: How is it material?

Mr. Lane: In view of the charge made that we sent this woman to Reno.

The Court: I will permit the question.

A. I saw Judge Carey once.

Q. Robert Carey? A. I believe that is his name.

Q. Did he represent you? A. I talked with him just once.

Q. Did you retain him or tell him to represent you? A. No.

Q. Who was the next one you talked to? A. Why, I talked to Mr. Hopkins.

Q. Mr. Hopkins of New York? A. Yes.

Q. Who was the next one? A. Mr. Simpson.

Q. Who was the next one? A. That is all.

Q. Then Fisk & Fisk, if they appeared for you, appeared by authority of someone other than yourself? A. They appeared after I had been sent to Reno.

Q. You never gave them any authority to appear for you? A. No.

Q. But you knew that they were appearing for you; is that right? A. I thought they were.

Q. And then after that you had Mr. Simpson again? A. Yes.

Q. Mrs. Sargent, what was the first time that you either saw or had any communication with Simmons after the night of the raid? A. That I saw or had any communication with him?

By the Court: Q. After July 11th. A. I believe he 'phoned to my sister's house—

Q. This is you? A. "I was at my sister's house that night. The night of the 11th they took me over there to Richmond Hill, and he 'phoned the

next morning, and I told him he would have to go to Mr. Sargent for further orders." That was all.

By Mr. Lane: Q. You talked to him on the telephone? A. Yes.

Q. From your sister's house? A. Yes.

Q. What was the conversation? A. I have just told you.

Q. Give both sides of it. A. Why, he called up and I said, "Charles, you will have to go to Mr. Sargent for any future orders."

Q. What was the next time that you had any communication? A. I did not have any communication with him after that.

Q. This call was the last communication. What was the next time you saw him? A. The trip to Vermont.

Q. Except for the time that you had this telephone communication with him the day after the raid and the glance that you had of him when he was at Asbury Park, you neither saw nor had any communication with him until the time you went to Vermont; is that right? A. I believe that was the only time.

RE-DIRECT-EXAMINATION by Mr. Simpson:

Q. At the time Mr. Runyon gave you the name of the solicitors in Reno, did you have a conversation with him as to the causes of divorce, as to what you should sue for? A. Yes.

Q. What did he tell you? A. He told me to go out there and sue on the ground of desertion.

Q. Did he say anything about the flexibility of the Reno laws, that you could get a divorce for

winking an eye or something of that kind? A. Yes.

Q. What did he say about that? A. I told him I did not know how to go out there and tell these gentlemen this horrible story. He said: "Mrs. Sargent, go out there and by the flicking of an eyelash you can get a divorce." He said: "Sue on the ground of desertion."

Q. Your petition when it was filed in Reno, charged him with making false accusations against you in this case, didn't it? A. Yes.

Q. Now, you said to Mr. Lane when the automobile stopped you saw Tienken and Charlotte something. What was that, do you know? A. I don't know what it was.

Q. You heard him say something? A. Yes.

Q. What did he say? A. "See you in the morning."

Q. Now, when you lived with your husband did you belong to any social organizations up there on the Heights? Did you belong to any organizations? A. Yes.

Q. What organizations did you belong to? A. Why, I belonged to the Jersey City Women's Club and to the different guilds of the different churches.

Q. What church were you a member of? A. St. John's Protestant Episcopal Church.

Q. What is that section where you lived; is that a fashionable section where people of refinement and wealth live, up there on the Heights? A. I believe it is considered to be.

Q. Were you received in the best homes up there? A. I think so.

Q. Did you entertain people who were promi-

nent in social, religious and financial life at your home? A. Yes.

Q. Did your husband belong to a number of clubs? A. Yes.

Q. He was Master of the swellest Masonic Lodge, Bergen Lodge, in Hudson County—

Mr. Lane: Objected to.

Q. I mean a lodge that is considered to contain in its inside those who are the highest class of people in Hudson County—he was Master of Bergen Lodge, was he not? A. Yes.

Q. How long had you lived with him up there on the hill? A. Six years.

Q. Had he taken you out to social functions there? A. Occasionally.

Q. Had you met, had you gone to the different social gatherings and entertainments that were given in Jersey City? A. Yes.

Q. You were educated in New York, were you not? A. Yes.

Q. And you have, during your married life, always associated with such ladies as have testified for you today? A. I have.

Q. And other ladies in Jersey City who moved in the highest social circles? A. Yes.

Q. You spoke about the Mozart Society; what is that? A. It is a musical society.

Q. Where? A. In New York.

Q. Does it stand high in musical circles? A. Yes, sir.

Q. What kind of people belong to it? A. Very nice people interested in music.

Q. Did you belong to any other societies? A. Yes; I belonged to the Browning Society and the Opera Club.

Q. Which Opera Club? A. The New York Club.

Q. What is that club? A. Why, they have the different artists from the Metropolitan Opera, and they give lectures and things of that sort.

Q. And the men that you met in your social intercourse were always gentlemen? A. Always.

Q. Men like Mr. Huck, people of that kind? A. Always gentlemen.

Q. Did you frequently give dinner parties at your house? A. Yes.

Q. How long were you married to Mr. Sergeant? A. Eleven years last September.

Q. One thing I want to ask you about and that is all—about that picture; that simply disappeared from your room, didn't it? A. Yes.

Q. From an unlocked drawer? A. Yes.

Q. And you never knew where it went to until it turned up in Court? A. No; I did not.

Q. There is one thing I think in which you made an error. I think you made an unintentional error in one thing. You said you had nothing to do with Fisk & Fisk. Is it not a fact that Runyon forwarded to your attorneys to sign a substitution of Fisk & Fisk for myself, and your Nevada attorneys got me to sign that substitution, and it was forwarded to Runyon & Autenrieth? A. Yes; I believe there was a substitution.

Q. But as far as you know, you were never in Fisk & Fisk's office and never consulted with them? A. No.

Q. That was all done by Mr. Runyon? A. Yes.

By Mr. Lane: Q. At the time your petition was filed in Nevada did you know what it contained? A. I did.

Q. You read it? A. I did.?

Q. When you went to Nevada, did you tell your lawyers in Nevada, Stoddart & Saulsbury, that you were there for the purpose of obtaining a decree of divorce in pursuance of an agreement made between yourself and Mr. Runyon and Mr. Huck? A. I told them that Mr. Runyon had sent me to them.

Q. Did you tell them anything about the understanding that you had with Mr. Runyon and Mr. Huck? A. Why, I told him that he had sent me. That is all I remember about that.

Q. Did you tell any of the details? A. Yes; I told them what grounds they had told me to sue on, and then I told them the real story.

Q. Then you told them that you had been sent out there by Mr. Runyon at the instance of your husband, for the purpose of getting a decree of divorce in Nevada? A. Yes.

Q. Practically that is what you told them—is that right? A. Yes; that Mr. Runyon had sent me.

Q. Can you tell me, Mrs. Sargent, why it was that there was included in the petition filed in Nevada anything more than a charge of desertion?

Mr. Simpson: I object. That is for the lawyers.

The Court: She may have given them instructions.

A. No; I don't know.

Q. You have not any idea why it was that the charge was based on this frame-up that your husband had perpetrated in New Jersey? A. No; I don't remember that.

Q. It was, to your knowledge, based on this frame-up here, was it not?

Mr. Simpson: I object. The petition which contains the charge is the best evidence.

The Court: What is the use of wasting time?

By Mr. Simpson: Q. One question I forgot to ask you: How much money did you have when you went to Nevada? A. Why, they sent $1200 to me.

Q. How much did you take with you? A. Five hundred dollars.

Q. You got that from whom? A. I borrowed that.

Q. Then you got some money from them, didn't you? A. Yes.

Q. How much? A. Twelve hundred dollars.

Q. Who got it? A. They sent it to me there.

Q. You received $1200 from whom? A. Sent by Mr. Huck.

Q. Then, after that, you received $300 a month for the ten months that you were there? A. Yes.

Q. In addition to that your counsel fee of $500? A. Yes.

Q. By Huck's check? A. Yes

Q. All that money came through Mr. Huck? A. Yes.

Q. Was there any reason why you borrowed the $500; was that in pursuance of any arrangement between you and Runyon & Huck to cover it up, to cover up going to Nevada, that you should not take money from them; what was the reason you borrowed the $500; was there any arrangement about that? A. No.

Q. You got the $500 from whom? A. Mrs. Safarick.

Q. It came to you from her? A. Yes.

NICHOLAS F. FEURY, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. You are a practicing physician in the City of Jersey City? A. I am.

Q. You saw considerable war service in the army? A. Yes.

Q. How long were you in the army? A. Two years.

Q. Decorated with the Croix de Guerre, were you? Doctor, have you had any experience in the treatment of gonorrhea and the investigation of its causes and conditions? A. I have.

Q. What experience did you have? A. I had considerable experience in the army. I was Camp Surgeon at Camp Greene. I was Regimental Surgeon, 47th United States Infantry.

Q. How many cases do you suppose passed under your observation? A. That would be hard to say, off-hand. Up in the hundreds somewhere.

Q. Did you, at my request, examine Charles Simmons who was brought to your office? A. I did.

Q. When did you make that examination? A. I made that examination on the seventeenth of this month.

Q. What did you examine him with a view to ascertaining? A. As to whether he had gonorrhea or not.

Q. What kind of an examination did you give him—a thorough examination? A. As thorough as I could.

Q. Microscopic? A. I made a slide from the meatus of his penis and afterwards stained and examined it microscopically.

Q. What did you find—that he had or had not gonorrhea? A. That he had not gonorrhea.

Q. Assuming a case where a woman is stricken with gonorrhea and shows symptoms of it on the 9th of October; that she becomes ill, so ill that she is under treatment for this disorder until the end of July, 1919; suppose that a man who had not the disease of gonorrhea had sexual intercourse with her covering that period of time, on more than one occasion, what would you say the possibility as to his contracting that disease—that he would or would not? A. The chances would be in favor of contracting it.

Q. What would you say the percentage would be in favor of contracting it? A. Continual intercourse, do you mean?

Q. Yes; continual? A. I would say a percentage of ninety-nine per cent.

Q. That is, for contracting the disease? A. Yes.

Q. It does occur that sometimes that there can be one act of intercourse with a woman who is affected with the disease and the man escape the contagion upon one occasion; that might be possible? A. It is possible to have connection with her while she is infected and the man not take it.

Q. Your judgment is, doctor, that if he should have intercourse with her for several months, the chances are ninety-nine per cent he would contract it? A. Very much in favor of it.

Q. You read the testimony of Dr. Woodruff in this case? A. I did.

Q. In which he mentioned this polypoid formation at the mouth of some organ? A. Yes?

Q. Is there only one cause for that condition?

A. There are many causes for that. It may be due to a swelling in the fold of the vagina, posterior to the cervix. That may be caused by any irritation. It is caused by leucorrhea. I suppose that nine-tenths of women have leucorrhea. It may be caused by inflammation of of the covering of the uterus. Any inflammatory condition may cause that swelling.

Q. So that gonorrhea is not the sole cause of it, or most general cause, or most common cause, is it? A. No; not as much as leucorrhea.

CROSS-EXAMINATION by Mr. Lane:

Q. Can you say from your examination of this man Simmons on the 17th day of this month, that he never had gonorrhea? A. I could not testify to that.

Q. What test did you make? A. I milked his penis for a period of about two or three minutes so as to get some discharge down from the urethra. I opened the meatus of the penis and I took a slide and rubbed that on the slide. I afterwards took that slide and stained it with litholine blue and put that under the microscope to see if I could discover any gonococci. The gonococcus is the germ that causes gonorrhea. I found none present under the field of the microscope.

Q. Is that all you did? A. That is all I did.

Q. That is all you did as far as that is concerned. Did you press the prostate? A. No; I did not.

Q. Very often it is a fact, is it not, that where you cannot find the gonococcus germ in the discharge from the urethra, you can get it from the prostate? A. I believe that if there is gonococci

in the tract at all anywhere from the bladder down, if the gonococci is present along any portion of that tract, you will get a discharge and that discharge will contain gonococci.

Q. Don't you know that a man may have a condition of chronic posterior inflammation and not have a discharge at the meatus? A. Not have a discharge?

Q. Yes. A. No; I do not, and anyone that makes that statement is not telling the truth.

Q. Cannot there be a chronic inflammation— A. Yes.

Q. Of the prostate gland? A. Yes.

Q. That is caused by gonorrhea? A. Yes.

Q. Without having a discharge? A. No, sir.

Q. There must be, in your opinion. Then, why is it that you cannot tell definitely whether this man did or did not have it sometime? A. Well, he might have had gonorrhea and been cured.

Q. Then, it is your opinion that a case of gonorrhea, to be cured to the extent that gonococci will not show in a discharge from the urethra, must be cured to such an extent as it will not show in the prostate, either? A. If gonococci cease to be present, it ceases to be gonorrhea.

Q. I mean this: If gonorrhea is so cured as that you cannot get gonococci or evidence of gonococci ever having been in the urethra, must there necessarily be no tract of it in the prostate gland or in the secretions of the prostate gland? A. You may have an enlarged prostate gland as a result of the irritation. In fact, it usually follows the irritation, that you will see an enlargement of the prostate gland. That is fibrous tissue in that gland caused by germ action.

Q. Did you examine for that? A. No, I did not.

Q. Did you examine to ascertain whether or not there was gonorrhea of the epididymis? A. He didn't have any evidence of gonorrhea at all that I could find under the microscopic examination which I followed.

Q. Do you know, as a matter of fact, that he did not have gonorrhea of the epididymis? A. I should say that he did not.

Q. Did you examine for that particularly? A. That particularly? No; I did not.

Q. You can examine for that particularly, can you not? A. I can?

Q. Anybody can. That can be done? A. Yes; it can be done.

Q. He might have that, might he not, and it would be an indication of gonorrhea at one time and not show in any secretion at the meatus? A. That would not show that he had gonorrhea. That might come from any other cause. It might come from simple urethritis, as they oftentimes do—not necessarily gonorrhea.

By Mr. Simpson: Q. Is there any way known to medical science whereby you can determine, if a man has been cured, that he at one time had the disease? A. You can guess; you cannot swear to it. It might have come from any one of several causes. It might have come from an enlarged gland; it might come from simple inflammation of the bladder of innocent origin.

Q. In your opinion, is there any other thorough examination that you can give—if it was present when you examined Simmons, is there any other test that would show whether it was

present or not—gonorrhea? A. Show whether there was gonorrhea?

Q. Yes. A. No.

Q. This strange disease that Mr. Lane spoke about, what was that? A. Epididymitis.

Q. What is that? A. It is an inflammatory condition.

By Mr. Lane: Q. Did you examine for gonorrheal threads as distinguished from gonnococci? A. Yes; there were no threads present on the slide.

Mr. Lane: Is Simmons in court? I want to know whether he will submit to examination by Dr. Rector?

Mr. Simpson: If you want him, you can subpoena him. He is not here today.

CHARLES F. KUCHMANN, sworn as a witness on the part of the defendant, testifies as follows:

Direct-examination by Mr. Simpson:

Q. Did you hire Simmons to take this car up to Vermont in July or August? A. I did.

Q. Did Mrs. Sargent go on the trip? A. Mrs. Kuchmann and Mrs. Sargent were on the trip.

Q. Your wife went with Mrs. Sargent? A. She did.

Q. You hired the chauffeur; it was your car? A. Yes.

Q. Did you have any particular reason for hiring Simmons to run the car? A. No reason, other than he knew the road; he has been there before.

CROSS-EXAMINATION by Mr. Lane:

Q. Had you hired Simmons before for the same purpose? A. I believe I did.

Q. Do you know? A. I believe we went to Bear Mountain one day; we had him previous to the trip—

Q. Who was on the trip to Bear Mountain? A. Some friends of mine.

Q. Who else? A. Mrs. Sargent was not there.

Q. Mrs. Sargent was not there? A. No.

Q. Did you have him on any previous trips on which Mrs. Sargent went, before this trip to Vermont? A. No, sir.

Q. Did you have him in your employ generally? A. I did, off and on.

Q. What was he doing for you during that time? A. Just driving the car.

Q. Just what did he do driving the car? What did he drive the car for? Was it on trips for business or what? A. Just trips; pleasure trips.

Q. How many trips did you have? A. I could not say.

By the Court: Q. Please answer as near as you can. Was it one, two or twenty-five? A. I would say it was a dozen or fifteen trips I had.

Q. Between what dates? A. Why, I really could not off-hand say. I suppose for those months, summer months.

Q. What months? A. August and September.

By Mr. Lane: Q. Before the trip to Vermont? A. No, no; this was after the trip to Vermont.

Q. How many trips did you have with this colored man between the night of the raid and the trip that was taken to Vermont? A. I believe the one.

Q. That was the Bear Mountain trip you have already talked about? A. Yes.

Q. The other trips you have referred to—ten or twenty—A. (Interrupting) A dozen.

Q. A dozen. Was Mrs. Sargent on any one of those trips? A. I don't believe so.

Q. So that, as far as your recollection now goes, the only trip Mrs Sargent was on, was that trip to Vermont? A. That trip to Vermont with Mrs. Kuchmann, yes.

Q. How did you come to employ Simmons? A. Why, he called me up. I knew the man. He called me up occasionally whenever I would need a man.

Q. How did you first come to employ him? A. Why, there was no particular reason. I knew the man from coming over there.

Q. Did Mrs. Sargent ever object to your employing him?

Mr. Simpson: I object to that. That calls for a conclusion.

The Court: Objection sustained.

Q. Did she ever say anything to you with respect to your employing him? A. No, sir.

Q. You, of course, knew, the first time you employed him, that Mrs. Sargent had been charged with intimacy with him?

Mr. Simpson: I object on the ground that his knowledge does not bind the defendant.

By Mr. Simpson: Q. Do you know what "intimacy" means? A. Why, I believed there was some trouble over there, but I did not know what the trouble was.

By Mr. Lane: Q. You did not know what the trouble was? A. No, sir.

Q. When did you first find out what the trouble was?

Mr. Simpson: I object to that as not proper cross-examination, when he first became aware of the trouble.

The Court: Objection overruled.

A. I really could not say.

Q. Before the trip to Vermont or after the trip to Vermont? A. I really could not say.

Q. Then, you do not know; you cannot tell us today—A. (Interrupting) No, sir.

Q. (Continuing) Whether, when the trip was taken to Vermont, you knew that Mrs. Sargent, who is your sister-in-law, is she not? A. Yes.

Q. (Continuing) Had been charged with intimacy with this colored man? A. Why, I don't know what the trouble was, and I didn't know it at the time.

Q. What is your business? A. Hotel business.

Q. Where? A. Port Richmond, Staten Island.

Q. Did you engage Simmons to go on this trip to Vermont? A. I did.

Q. When? A. I believe the day previous before they left.

Q. How? A. The man called me up and wanted to know if I wanted a chauffeur; he was out of work.

Q. Who called you up? A. Mr. Simmons.

Mr. Simpson: I object to any conversation between this man and Simmons in the absence of the defendant.

Q. It was a result of the conversation of Simmons calling you up, that you employed him to drive the ladies to Vermont; is that right? A. Right.

At this point adjournment is taken to November 27th, 1920, at 10 o'clock in the forenoon.

Transcript of Proceedings of Nov. 27, 1920

IN CHANCERY OF NEW JERSEY

Between DONALD J. SARGENT, Petitioner, and FRANCES L. SARGENT, Defendant.	On Petition for Divorce

Transcript of shorthand notes of testimony taken on the adjourned hearing in the above stated cause, at the Chancery Chambers in Newark, November 27, 1920, at 10 o'clock in the forenoon, before his Honor, James F. Fielder, Vice-Chancellor.

Appearances as before.

Mr. Simpson: With the exception of calling Mr. Metz, whom I have tried to subpoena, I rest. I want to make formal offer of all my exhibits that have been offered for identification. I would like the privilege of calling Mr. Metz before the case was closed.

The Court: I will give you that opportunity.

Rebuttal

SOLOMAN HUGHES, sworn as a witness on the part of the petitioner, in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. I live in Cleveland, Ohio, at present.

Q. Do you know Charles Simmons? A. Yes, sir.

Q. Did you ever work with him at the City Carpet Cleaning Company's place in Jerssey City? A. Yes, sir.

Q. How well acquainted with him were you? A. Well, I was working with him every day. We would go out together on the truck of the City Carpet Cleaning Company.

Q. For how long a space of time? A. Well, from April 4 to May 14, 1920.

By the Court: Q. This year? A. Yes, sir.

Q. During the time that you worked with Mr. Simmons did Mr. Simmons ever say to you that Mrs. Sargent was in love with him?

Mr. Simpson: I object, first, on the ground that it is not relevant or material, except it be for the purpose of impeaching the credibility of the witness Simmons and I object, first, if it is offered generally, unless it is limited to that fact. If it is offered for that purpose, then I object on the ground that the question was not asked Simmons in that form.

Mr. Lane: It was limited to that purpose, and the question was asked in that form.

The Court: I cannot be sure, without referring back to the record. My recollection is that it was. I think the testimony is admissible as affecting the credibility of Simmons or impeaching him. Of course, it is not admissible as proving any act of adultery, and my recollection is that that question was asked. I overrule the objection.

A. He did.

Q. Did he, during that time, ever say to you that Mrs. Sargent had given him a diamond ring and a leather suit? A. Yes, sir; he did.

The Court: You want your objection, Senator, entered to the whole line of examination?

Mr. Simpson: Yes.

The Court: Same ruling.

Q. Did he ever say to you that she had given him and paid for a motorcycle? A. He did.

Q. Did he ever say to you that it was her custom to order special delicacies for him to eat, which she knew he liked? A. Yes, sir; she did.

Q. Did he ever say to you that in order to do this and not arouse curiosity on the part of the servants sometimes she would have to order them and say she did not like them and suggest that they be given to the chauffeur? A. Yes, sir; he did.

Q. Did he ever say to you that he had been accustomed to have sexual intercourse with Mrs. Sargent right along whenever they could make occasion for the same? A. Yes, sir; he did.

Q. Did he ever tell you that he had several entire nights slept with her? A. He did.

Q. Did he ever say to you that on one occasion he had slept with her on three successive nights when Mr. Sargent was away? A. Yes, sir; he did.

Q. Did he ever say to you that on the occasion of the raid by Mr. Sargent's detectives he was in Mrs. Sargent's room partly undressed and just about to get into bed with Mrs. Sargent when the detectives came to the door? A. Yes, he did.

Q. That he then put on his clothes and jumped out of the window and beat it? A. Yes, sir; he did.

Q. Did he ever say to you that the next morning he went over to get his motorcycle from the Archibald garage? A. He did.

Q. Did Simmons say that afterwards, on frequent occasions he met Mrs. Sargent on Staten Island? A. He did.

Q. Where he had intercourse with her at Mrs. Sargent's sister's home, who lived on Staten Island? A. Yes, sir; he did.

Q. Did he say to you that he went to Asbury Park during the summer of 1919, and that he then would come from Asbury Park to Jersey City on his motorcycle and met Mrs. Sargent at the sister's house and that he would have intercourse with her? A. He did.

Q. Did he tell you that Mrs. Sargent had often told him that she did not care for her husband after having him? A. He did.

Q. Did he say to you that before the raid he would frequently go out with Mrs. Sargent in the auotmobile and drive to the various parks and go inside in the tonneau of the car and have intercourse with her there? A. He did.

Q. Did he tell you that if Mrs. Sargent lost the case he was to be given money by Mrs. Sargent and her brother so that he could skip the country? A. He did.

CROSS-EXAMINATION by Mr. Simpson:

Q. Is Cleveland your home? A. It is at the present.

Q. When did you first go to Cleveland? A. Why, I went to Cleveland on June 12, 1920.

Q. Did you leave your address with anybody for this case? A. Why, I did.

Q. With whom? A. Mr. Runyon.

Q. How long have you been waiting for this case to come on; how long have you been away from Cleveland? A. Why, I think it is sixteen days now.

Q. Who has been paying your expenses? A. Why, Mr. Runyan is paying my expenses.

Q. Where have you been living? A. Jersey City.

Q. Where in Jersey City? A. Ninety-nine Atlantic Street.

Q. With whom? A. Mr. Turner.

Q. Mr. Turner? A. Yes, sir.

Q. Who paid your expenses from Cleveland here? A. Why, Mr. Runyon.

Q. Have you any promise that your expenses will be paid back again? A. Why, they told me that they would pay my expenses during the time I was here.

Q. And pay your way back, didn't they? A. Yes, sir.

Q. And pay your wages while you are here? A. Which wages?

Q. I mean the money you would otherwise earn while you are here? A. They were to bear my expenses; that was the understanding.

Q. That is in your expense account? A. They gave me $35 to come from Cleveland here.

Q. Was there any lump sum agreed on? A. No, sir.

Q. Have you not told them what your wages were to be? A. Not as yet, I haven't.

Q. You are going to tell them afterwards? A. Well, I expect to tell them.

Q. You expect to get the money? A. I expect to get paid for my time I lost away from work.

Q. How many days did you work with Simmons altogether? A. I worked from April 4 to May 14.

Q. And you had never seen him or known him before April 4th? A. Sure.

Q. You had known him before? A. Yes, sir.

Q. Where had you know him? A. Jersey City.

Q. How long before April 4, had you known him? A. Since 1915.

Q. Did you have the position with the Jersey City Carpet Cleaning Company or did he get it for you? A. He got me the position.

Q. He got you the position there? A. Yes.

Q. When was it that he first told you any of these things? A. Why, on the second day, if my recollection is right, after I went to work for the City Carpet Cleaning Company.

Q. Did you ask him questions or did he volunteer it? A. He just volunteered and told me, the same as conversation.

Q. Without asking him a question? A. Without asking him a question.

Q. He volunteered and told you on the second day; was all of this told on the second day? A. I would not be positive it was all told on the second day. It seemed to be his daily talk.

Q. Was it told on more than one occasion? A. Yes; he was always talking.

Q. How many different days was this told you? A. I could not say.

Q. You say that you worked from April 4 to May 14? A. Yes.

Q. That would be about forty days exclusive of Sundays that you worked there; thirty-five days you worked there? A. I could not say; I thought it was around five weeks, something like that.

Q. On how many different occasions did he state these things to you that you have stated here? A. I could not positively say because—

Q. You say it was more than one day? A. Yes.

By the Court: Q. Did he talk to you about it every day? A. Yes, sir.

By Mr. Simpson: Q. Did he repeat the same thing every day? A. He would be telling me something of it every day.

Q. That is, what you have told here, would he repeat that to you every day? A. I would not say that he would mention everything of it over every day, but he did now and then.

Q. Would he mention half one day and half the next, over and over again every day? A. Well, he could have mentioned it all to me in one day; I cannot say whether he did or not.

Q. Are you sure that he mentioned it every day that you worked with him? A. Yes.

Q. He said something of which you have told us every day that you worked there; is that right?

Q. Now, did you leave there before he did, or did he leave before you left there? A. He was working there when I left.

Q. He and you had some trouble there about something and they held back a week's pay? A. I did have some trouble.

Q. And you had some feeling against him because you thought he was responsible for your losing a week's pay, didn't you? A. No, sir; positively not.

Q. You had no feeling at all? A. No, sir; because Mr. Simmons did not hire me.

Q. He was your chauffeur or boss? A. No; he was not.

Q. He was not your boss? A. No, sir.

Q. What was his position? A. Chauffeur.

Q. What were you? A. Chauffeur.

Q. You were one different wagons? A. Occasionally.

Q. Occasionally you were on different wagons; when you worked on the same wagon what was your position? A. When I worked on the same wagon?

Q. When you worked on the wagon with him what was your position? A. Why, driving and helping handle rugs, either one.

Q. You never got this week's pay, did you? A. I did not.

Q. How much did it amount to? A. Why, $25.

Q. These conversations that you have given us were in the identical language that he used, were they not? A. Yes, sir.

Q. His exact words? A. That is what they were.

Q. He used the words "sexual intercourse,"

did he, in talking with you? A. Well, he called it—

Q. Did he or did not? A. He called it a different name.

By the Court: Q. Say yes or no. A. No.

By Mr. Simpson: Q. When you swore that those were his exact words, that was not correct, was it, if he did not use the words, "sexual intercourse"? A. Not "sexual intercourse"; he didn't say that; he said something else worser.

Q. Then this language that you testified was the same, was not the same he used, for instance, the words, "sexual intercourse" were not his language? A. He didn't use it in that form.

Q. Where did you get that form; who gave it to you? A. Why, I know that.

Q. Who first used that in connection with this case; who first used to you the words "sexual intercourse"? A. I used that myself.

Q. You used it? A. I did.

Q. Whom did you first tell about these conversations? A. I told Mr. Runyon.

Q. How did you come to tell Mr. Runyon? A. Why, Mr. Runyon sent to my house and asked me whether I worked for the City Carpet Cleaning Company. I told him I did. He asked me how did I know this Simmons.

Q. Who asked you did you know this man Simmons? A. Mr. Runyon.

Q. He came himself to your house? A. No; he sent a man.

Q. What was said by the man, if anything? A. He told me that Mr. Runyon wanted to see me in his office on some business.

Q. Did he tell you what? A. No; he did not.

Q. You went down to Mr. Runyon's office? A. Yes; I did.

Q. What day did you go down to Mr. Runyon's office? A. I cannot say just now. I don't know the day it was.

By the Court: Q. You can give it as near as you can remember. A. I think it was around the first of June, if I ain't mistaken.

By Mr. Simpson: Q. When did you go to Cleveland? A. June 12th.

Q. How long had you been out of the City Carpet Cleaning Company's at the time you went to Mr. Runyon's office? A. Why, it must have been around a week or a couple of weeks.

Q. Was there anybody present besides you and Mr. Runyon at this interview? A. In his office?

Q. Yes? A. No, sir.

Q. Did he request you to try and get in communication with Simmons and to get Simmons to come to his office? A. He did not.

Q. Did he ask you where Simmons was? A. He did not.

Q. Did he offer you any money if you could get Simmons to come to his office and make a statement against Mrs. Sargent? A. Positively no.

Q. Did he have any conversation about Simmons at all? A. Yes; he asked me did I know Simmons. I told him yes. He asked me how long had I known him. I told him. He asked me did I work with him. I told him yes. He asked me did Simmons ever talk to me about the Sargent case, and I told him I didn't care to have anything to do with it, but I finally came out and told him.

By the Court: Q. That same day? A. Yes; the day I went to Mr. Runyon's office.

By Mr. Simpson: Q. Before you finally came out and told him, when you were reluctant about talking, was there any talk about money between you and Mr. Runyon before you came out and told him? A. No, sir; positively.

Q. How long before you finally told him? A. I could not positively say; it might have been fifteen or twenty-five minutes, maybe.

Q. How did he overcome your reluctance finally; how did he get you to talk, how did he open your month, if you did not want to be mixed up in it? A. Why, he just came and said, "We might not want to use you on the stand. I just want to know if you know anything about it."

Q. Is that all he said? A. That is all he said.

Q. No talk about money? A. No, sir.

Q. At no time? A. No, sir.

Q. You did not get any money either? A. Not a cent.

Q. Did you not get $35 to come from Cleveland? A. Only the money they sent to Cleveland to come here.

Q. That is the only money you have got? A. Yes.

Q. Was your statement taken down in writing? A. It was.

Q. Were you in Mr. Runyon's office on more than one occasion—on other occasions? A. Not about that.

Q. Were you at his office on more than that one occasion? A. Why, yes.

Q. How many times were you there? A. I think I was there when I came from Cleveland; I think I went to his office.

Q. Before you went to Cleveland did you go to his office after you had this interview with him? A. No, sir.

Q. How did he get your address in Cleveland? A. I gave it to him.

Q. How? A. I gave it when I told him the statement.

Q. You were then going to Cleveland? A. I was engaged to work there and I knew I was going there.

Q. You gave your address then? A. Yes.

By the Court: Q. When you made this statement to Mr. Runyon you say it was taken down in writing. Was it taken down by him or by a stenographer? A. Why, I believe he had a stenographer to take it down that way.

By Mr. Simpson: Q. Did you wait until it was typewritten? A. I don't remember whether I did or not.

Q. You don't remember whether after you had given this statement it had been taken down by a shorthand writer, whether you waited? A. Yes; I remember now.

Q. You remember now. How long did you wait until it was typewritten? A. Why, I could not say.

Q. Did you read it? A. Why, no, I did not.

Q. Did you sign it? A. I did.

Q. You signed it without reading it, did you? A. I did not read it; no.

Q. Are you in the habit of signing papers you do not read; are you willing to sign anything? A. No, I am not willing to sign anything, but I signed that.

Q. You signed it without reading it, didn't you? A. I did.

Q. Did you get any money when you left? A. Not a cent.

Q. Now, you say the term "sexual intercourse" was not Simmons' but was yours. Can you point out, without reference to this paper, any other terms that you used as coming from Simmons which was not his language? A. No; I cannot.

Q. Everything else but his language? A. Everything else but his language, as far as I can recollect.

Q. Did he tell you when the three nights were that he spent in the house in succession when Mr. Sargent was away for three nights running? A. He did not.

Q. But you are positive he told you he was there for three nights in succession. Is that the language he used? A. He said the same way—"three successive nights."

Q. He used the word "successive"? A. Yes.

Q. You did not use that language; he used it? A. No; he used it.

Q. That was Simmons' language—"three successive nights"? A. That is what he said.

Q. This paper that you signed, was it written in your language; was it written in the third person, was it written just as if you said it or if it was said by any other person, when you signed it? A. I don't understand you.

Q. Did the paper say, "I talked to Simmons and Simmons said to me," or did it say that Simmons talked to you and said so and so. In other words what was the language; was it just as you had given it or was it as if somebody else had given it? A. The language was just as Simmons gave it.

Q. In the paper was the language as you had given it: "Simmons told me he had slept three successive nights with Mrs. Sargent"—was that the language? A. Yes.

Q. How do you know, if you did not read it? A. I read it since.

Q. When did you read it? A. I asked Mr. Runyon for a copy after I came back.

Q. When did you read it? A. I could not say.

Q. When did you get the copy of it? A. As soon as I came back from Cleveland.

Q. Since you came back? A. I don't know what you mean.

Q. You came here the first day this case was on? A. Yes.

Q. You were in the court room and have been in the court room every day the case was on? A. Oh, sure.

Q. You got a copy the first day the case was on? A. I saw a copy.

Q. Did you get it the first day? A. Yes; it was the first day.

Q. What did you do with it when you got it the first day? A. He let me read it and he took it back.

Q. He took it away? A. Yes.

Q. Did you talk it over? A. Yes.

Q. Did you get it again and read it? A. That is the only time.

Q. If you are so sure of what Simmons said to you, what was the necessity of reading this paper to refresh your recollection? A. I could not say.

Q. You don't know why you read it? A. No, sir.

Q. Just curiosity on your part? A. I just asked to let me see it.

Q. You wanted to see what you had said? A. I did see it.

Q. You wanted to see and you did see what you had said? A. Yes, sir.

Q. You remembered it without reading the paper, didn't you? A. I remembered what he said.

Q. You remembered what you have testified to today without reading that paper? A. Yes, sir, I do.

Q. Why did you have to read the paper before you took the oath? A. I could not say; I don't know.

Q. You don't know why you read it? A. No.

Q. How long have you been here from Cleveland, from what day? A. Oh, I have been here; I left Cleveland on the 8th of last month.

By the Court: Q. 8th of last month? A. 8th of this month.

By Mr. Simpson: Q. How were you paid, by check or cash? A. Paid by check.

Q. And the $35 is the only money you have received? A. Yes.

Q. You have not been paid expenses, and you have been here ever since the 8th of November? A. I said his agreement was that he was to pay my expenses.

Q. Have they been paid or have they not been paid? A. He gave me $35—

Q. Have you been paid your expenses? A. Yes; I have been paid.

Q. Out of the $35? A. No; not out of the $35, but I have been keeping—

Q. You paid your fare out of the $35; how much was the fare? A. $28.24.

Q. Did you get your meals on the trip? A. Yes.

Q. How much were they? A. I think I had one meal on the train. It cost me $1.55.

Q. So that you spent all but $5 of Mr. Runyon's money, did you? A. Yes.

Q. On that $5 you have been living ever since the 8th of November, have you? A. Yes.

By Mr. Lane: Q. Was this statement taken in your presence? A. Yes, sir; I think it was; yes it was.

J. FISHER ANDERSON, sworn as a witness on the part of the petitioner, in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. Are you an attorney and counsellor at law of this state? A. I am.

Q. You are a member of the firm of Fisk & Fisk? A. I am.

Q. Do you know the case of Sargent v. Sargent in your office? A. I do.

Q. Will you tell us how you came to be retained in that case? A. Why, in the month of January, I think, in the month of January, Mr. Salisbury, of the firm of Stoddart & Saulsbury, of Reno, Nevada, came into my office to see me. I had never met the gentleman. He told me he had been having—

Mr. Simpson: I object to conversations between Saulsbury and this witness. I do not object to how he was retained, but I do object to any conversation between

Saulsbury and this witness in the absence of the defendant.

The Court: Objection is sustained.

Q. Go on without that. A. Mr. Saulsbury retained us to represent Mrs. Sargent and asked us to have the necessary proceedings taken to become the solicitors of record.

Q. Did you take those proceedings? A. I did.

Q. Which were in the nature of what? A. First I wrote to Mr. Simpson and asked him if he would consent to our substitution, and my recollection is that he replied that he would, upon receiving a written communication from Mrs. Sargent herself requesting him to step out of the case. Such a communication, signed by Mrs. Sargent was sent to me by either Mr. Saulsbury or Stoddart & Saulsbury, but bearing Mrs. Sargent's signature or what I took to be her signature—I never saw her signature before—and I sent them to Mr. Simpson, and upon that I received from him a consent to substitution.

Q. Were you retained by Mr. Runyon, or did Mr. Runyon have anything to do to your knowledge, with the retaining your firm for Mrs. Sargent? A. He did not.

Q. Did Mr. Runyon have anything to do with procuring the substitution of attorneys, to your knowledge? A. He did not.

Q. After you were retained did you have communications with Stoddart & Saulsbury with reference to this case? A. I have had correspondence with them extending from February, 1920, to September or October, 1920.

Q. Is that correspondence now in court or ready to be produced, if necessary? A. I have my car-

bon copies of the letters sent to them and their original letters.

CROSS-EXAMINATION by Mr. Simpson:

Q. You don't know whether Saulsbury & Stoddart were in Reno, Nevada, the corespondents of Runyon & Autenreith, or not? A. I have no knowledge on that point.

Q. Did Saulsbury introduce himself as having come from any firm of lawyers? A. I started to say that before and I was prevented from doing it. Saulsbury stated to me that he had been in the east for several days on another matter and had been having talks with Mr. Runyon about possible settlement of the Sargent case.

By Mr. Lane: Q. Now, give us the entire conversation? A. But that up to the present nothing had developed; that he could see no prospect or any amicable settlement, but that he thought it was necessary for Mrs. Sargent to be represented by other solicitors.

Q. Did you know Mrs. Sargent before this time? A. Yes; I knew Mrs. Sargent.

Q. You knew Mr. Sargent before this time? A. I have known Mr. Sargent for several years.

By Mr. Simpson: Q. You did not know Mr. Salisbury before this day he stepped into your office? A. I never knew him and never saw him before that day.

PETER J. WALTERS, sworn as a witness on the part of the petitioner in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. 163 York Street, Jersey City.

Q. Where do you work? A. I now work in the Commercial Trust Company.

Q. Do you know Mr. Charles Simmons? A. I do.

Q. When did you first become acquainted with him? A. I first met Charles on the 27th of September, 1919.

Q. Where? A. At the Jersey City Carpet Cleaning Company, in the garage.

Q. And what was he doing at the time you met him? A. He was working on the springs of his truck.

Q. Did you talk to him then? A. Yes, sir; I talked to Charles at that time.

Q. Now, did he say to you, during the course of that conversation, that he had been named as co-respondent in the Sargent case, that rich white woman on Kensington Avenue.

Mr. Simpson: I want to offer an objection to all of this on the same ground as I made with respect to the other witness.

The Court: Same ruling.

Mr. Simpson: May I have an objection to all this testimony, to save interrupting?

The Court: You may.

A. He did.

Q. Did you say to him that you had heard some talk of it and asked him: "Are you the fellow"? A. I did.

Q. And did he say to you: "Yes, and they sent one of the most prominent niggers in this town to pump me"? A. He did.

Q. Did he further say: "They said I jumped out of the second story window."? A. He did.

Q. Did you say to him: "A good jump is better,—" and did he finish it: "than a bad stand"? A. Yes, sir.

Q. Did you see him later than that? A. Yes, sir; I seen him on many occasions.

Q. Do you remember seeing him on the 12th of November? A. Yes; the 12th of November.

Q. About that time? A. Yes.

Q. Did he say to you that Mrs. Sargent had been a fool over him and that he tried to pursuade her not to make it so apparent that she was in love with him? A. He did.

Q. Did he say to you that she, that is, Mrs. Sargent, would give him anything he asked or do anything he said, except restrain herself from showing her fondness for him? A. He did.

Q. Did you see him on the 27th of November? A. I did.

Q. And was there at that time a talk with respect to a suit which he had brought in New York, or with respect, rather, to the money that Sargent owed him? A. There was.

Q. And did you say to him: "Perhaps Sargent thought that he and Mrs. Sargent were giving you (that is, Simmons) enough," and that he had refused to pay the last month? A. I did.

Q. Did he say: "What I got from her was for personal service"? A. That is what he said.

Q. And did you then say to him: "Were you serving much and getting much?" and did he

answer: "Serving every opportunity and getting everything I asked for"? A. That is the reply he made to my question.

Q. And did you say to him? "Why did you not keep quiet and work the good thing along"? And did he say: "I could not; she was a perfect fool over me"? A. He did.

Q. Did he then say that some times in the house, when they were there together, they would hear someone coming and that he would want to stop but that she would not let him? A. He did.

Q. Did he further say that she stated to him that she would not stop even if she saw Sargent coming? A. That is the remark he made to me.

Q. Did he say that he was with her the night following the night the detectives made the raid on the house? A. He did.

Q. Did he further say that he was with her the night he went away? A. He did.

Q. Did he further ask you if you did not think Sargent was a big fool making such a scandal by having detectives in the house to raid it and get eivdence against his wife? A. That is a question he asked me.

Q. And did you reply to him: "No. After he learned that she was crooked he could not stand for it and he wanted to get her right"? A. He did.

Q. "That he could not grin and bear it and he could not stop it"? A. That is what I said to him. I said that Mr. Sargent could not grin and bear it.

Mr. Simpson: I object to that. I understand the purpose of this is to show that somebody else had said something.

The Court: If you will object to what he said to Simmons, I will sustain the objection.

Mr. Simpson: I want to object to it and have it stricken out.

The Court: I cannot strike it out.

Mr. Lane: There has been nothing except part of a conversation.

The Court: I will not allow this witness to testify to what he said to Simmons.

Q Did he say to you that she had an ungovernable passion for sexual intercourse and would demand it of him at times when there were even chance of being caught in the act? A. He did.

Q. Did you see him on the 7th of February of this year? A. 7th of February 1920?

Q. Yes. A. 7th of February—let me get that right now—

Q. Did you have a conversation with him on or about that time? A. Well, yes; there was.

Q. Did he say to you that the night of the raid, when they banged on the door, that his first mind was to open the door and fight his way out, the second was to hide under the bed and the third was to jump out of the window? A. Yes, sir.

Q. Did he say the last thought was the best and so he jumped? A. Yes, sir.

Q. Did he say that the only way they could go after him was to go out the front door and that enabled him to make good his retreat? A. Yes, sir.

Q. Did he say that he had taken several twists in the chain that had fastened the door, shortening it, so that something was necessary to stretch it, which required more than ordinary strength before it could be unlocked? A. Yes, sir.

Q. Did he say that he was with her three nights after the raid? A. He did.

Q. Did he say that he was with her many times after that on Staten Island? A. He did.

Q. Did he say that he got her to give Lillian, his wife, a $65 evening gown? A. He did.

Q. Did he say that Lillian wanted to go to a ball and had no dress to put on, so he went to Mrs. Sargent and told her that he wanted her to do him a favor, and he told her what he wanted her to do, and she said: "Sure; and immediately called up, Oppenheim & Collins of Newark, and had them send two gowns, one for $65 and the other for $95? A. He did.

Q. And did he say that she liked the $65 gown and she, Mrs. Sargent gave it to Lillian and it was charged to the Sargent account? A. He did.

Q. Did you see him in the summer of 1920, that is, this year? A. Yes, sir.

Q. About August? A. In August.

Q. Did you have a conversation with him in which he said that he had a swell new girl?

Mr. Simpson: I object to that. That does not bind us or impeach his credibility.

Mr. Lane: I will withdraw the question.

Q. Did he say to you that Mrs. Sargent was a thing of the past, that he had a new girl? A. He did.

Q. Did he say to you, in response to a question asked by you: "You are asking too darned much now. The people who receive my mail can't tell and they would get in trouble and I won't tell."? A. He did.

Q. Did he say to you that Mrs. Sargent and her sister were endeavoring to get away from Long

Island in a hurry at one time and that he was a driver equal to the occasion? A. He did.

Q. Did he say to you that coming through Long Island he broke all traffic laws? A. He did.

Q. Did he say that they were bound for Vermont? A. He did.

CROSS-EXAMINATION by Mr. Simpson:

Q. You are the bootblack in the Commercial Trust, are you? A. Yes; I am the bootblack.

Q. And are you still the bootblack now, or are you doing detective work? A. Why, I do many things, Senator.

Q You were a bootblack at the time you started talking to Simmons, were you not? A. I was not.

Q. You had been a bootblack before? A. I had.

Q. And did you do other things about the Commercial Trust building, such as cleaning cuspidors and things of that kind? A. Yes.

Q Now, was that the building in which Mr. Runyon's office was? A. That is.

Q. That is the building where his office was when he raised you from the lowly station of cuspidor cleaner and bootblack to be a detective? A. No, sir.

Q. Did Mr. Runyon retain you in this case to make these investigations? A. When I was retained? I don't get the idea of what you mean by when I was "retained"?

Q. I mean: "Did he hire you? A. No; He did not hire me.

Q. Who did hire you? A. Mr. Runyon sent for me. I was—

Q. Who did hire you, or are you doing this as a labor of love? A. He didn't hire me he engaged me.

Q. What is the distinction? A. The distinction, I would say when you hire you agree to work for a stipulated sum. When you are engaged you—

Q. (Interrupting) It depends on the results, do you mean? A. No, no; it does not depend on the results.

Q. The engagement depends on what you are able to pay? A. No; no.

Q. When did you call on Mr. Runyon at his office, leaving your bootblack parlor, to consult with him about this case? A. I did not leave my bootblack parlor.

Q. Where did you leave? A. I was working at the shipyard at that time.

Q. Investigating; doing private detective work? A. No, sir.

Q. What were you doing at the shipyards? A. I was assistant foreman at the machine shop.

Q. You came to Mr. Runyon's office, did you? A. I think I went to Mr. Runyon's office.

Q. What were you instructed by Mr. Runyon that you were to do? A. Do you want me to tell you the complete conversation?

Q. No; no; I want to know when he engaged you to go out on the case, what he told you you were to do? A. He asked me did I know Simmons.

Q. Did you know him? A. I told him no.

By the Court: Q. Did you know him? A. I did not.

By Mr. Simpson: Q. What did Mr. Runyon say he wanted you to do? A. He says: "If you hear of this—"

Q. I do not care what he said. What did Mr. Runyon ask you to do? A. He told me to investigate.

Q. To go and see Simmons? A. Yes.

Q. He told you to get in contact with Simmons? A. Yes.

Q. As a result of that contact, all these conversations, all these statements that you have given, were made by Simmons to you; is that right? As a result of your getting in contact with Simmons, in pursuit of such engagement by Mr. Runyon, all of these statements were given you? A. In the result of my investigation—

Q. You got these statements? A. I got these statements.

Q. Everything you have told us is in Simmons' own language, is it not; the statements that you have given us are in Simmons' own language? A. I could not put the statement in Simmons' own language, because Simmons' language was very vulgar.

Q. They are your conclusions as to what he said? A. They are not conclusions; they are Simmons' statements, modified.

Q. You modified them yourself? A. Modified, yes.

Q. For instance, is this Simmons' language: "Mrs. Sargent had an ungovernable passion for sexual intercourse and would continue even if Mr. Sargent came into the room." Is that Simmons' language or your modification? A. Simmons' language—

Q. (Interrupting) Is that Simmons' language, that she would not stop—

Q. Did he use the words: "ungovernable passion"? A. He did.

Q. And he used the words "sexual intercourse"? A. No; he did not use that.

Q. But you are sure he used the words: "ungovernable passion"? A. I am sure he did.

Q. "That she had an ungovernable passion for sexual intercourse and would not stop even when there was a chance of their being caught in the act." Simmons, as you say used the words: "ungovernable passion for sexual intercourse"? A. He said: "ungovernable passion"; he said for something else.

Q. Did he use the words: "ungovernable passion for sexual intercourse"? A. Do you want to break part of my statement.

By the Court: Q: He is asking you a question: Did Simmons use those words? A. "Ungovernable passion."

Q. "Ungovernable passion"—that is not your modification? A. "Ungovernable passion" is not; no.

By Mr. Simpson: Q. How many of these statements did you modify after they left Simmons' mouth; how many of them did you modify? A. Quite a number.

Q. Did you go up in Mr. Runyon's office and have them taken down in shorthand? A. I did not.

Q. Were they ever taken down in your presence in shorthand? A. Never.

Q. Was there ever any typewritten copies made, or recital made, such as Mr. Lane has read from, of what you said, in your presence? A. Never made in my presence.

By the Court: Q. Did you give a report to Mr. Runyon in writing of these conversations? A. Yes; I sent them by mail.

By Mr. Simpson: Q. You would write them

down. Did you make your modifications in your written report? A. You mean—

Q. When you made these modifications, was it done in your written report? A. Yes.

Q. So that when Simmons would make a statement, you would modify it and then send it in; is that right? A. Yes, sir.

Q. Now, how many written reports did you make to Mr. Runyon? A. Seventeen, I guess.

Q. Extending over what period of time? A. (No answer).

By the Court: Q. From September 27th? A. No; the reports began before that.

By Mr. Simpson: Q. When did they begin? A. These reports began in August, I guess.

Q. 1919, and continued until when? A. August, 1920.

Q. One year, and about how often did you see Simmons in that year? A. well, I cannot say how often I did see him.

Q. Would you say you saw him twenty times in that time? A. Yes; I saw him forty or fifty times.

Q. Fifty times? A. Yes.

Q. So you saw him once a week? A. Sometimes, and sometimes three or four times a week.

Q. Kept in constant touch with him? A. Yes, sir.

Q. Did you endeavor to get him to make a statement on every occasion you saw him? A. No, sir.

Q. How often in those fifty times did you endeavor to get a statement from him about this case? A. I cannot say that I endeavored many times to get a statement from him. They would work around.

Q. You brought the conversation around to it? A. No, sir.

Q. He did it? A. He did it.

Q. You simply acted as a sort of a phonograph; you didn't say anything, and whatever he said you would make a record of, whatever he said; is that right? A. Anything he said relating to the case.

Q. You never tried to get him to talk on the case; you let him volunteer that? A. There has been times when I—

Q. How often do you admit trying to get him to, talk? A. Not more than three times.

Q. Out of fifty? A. It was not necessary.

Q. Although you were engaged by Mr. Runyon to make an investigation and saw this man fifty times, yet there were only three occasions on which you led up the conversation to the subject of the Sargent case; is that a fact? A. That is a fact.

Q. When you first met him, you say you had never known him before, and you saw him fixing a spring he, right out of a clear sky, without your saying anything, volunteered the statement that he was the corespondent in the divorce suit of the rich white woman; is that right? A. He did.

Q. How long had you been talking to him before you gave him that statement? A. I suppose I had been talking to him about ten minutes.

Q. You had never mentioned the Sargent case all that ten minutes? A. No, sir.

Q. He had volunteered that? A. He did.

Q. How long did that conversation last? A. It did not last because I would not dwell on it.

Q. Although you had been engaged by Mr. Run-

yon to investigate, you would not dwell on the subject he introduced? A. No, sir; I purposely switched the subject of the conversation.

Q. Although you had purposely been engaged to investigate? A. I had been engaged to investigate.

Q. Having gotten this statement, you did not dwell on it and went away; is that right? A. No; I did not go away.

Q. How long did you stay there? A. I stayed there about an hour.

Q. Nothing else was said about the Sargent case at that time except what you have put in your report? A. There was not.

Q. What you put in your report. Now, on that occasion, all that he said to you, as I understand from your written report read here, is: "I am the corespondent in the divorce case of that rich white woman on Kensington Avenue." That is all that he said? A. That was all that was said.

Q. At that time you had gone to investigate? A. I had.

Q. You did nothing to lead him on to give you any statement or even say anything to you? A. No, sir.

Q. How much money did you get out of this case? A. Well, I made my reports and I charged for my reports according to the work.

Q. What were they worth? A. For my reports —do I have to answer the question?

By the Court: Q. Answer the question. How much did you get for your reports? A. $7 for the lowest.

By Mr. Simpson: Q. What was the fattest? A. The fattest $10.

Q. Did you get anything besides money for the reports? A. I did .

Q. How much did you get besides the money you got for the reports? A. Expense money.

Q. How much expense money did you get? A. Expense money was small. I didn't put down much for expenses.

Q. What did you total about? A. Expense money for the whole business?

Q. Yes. A. Well, probably about $40 for the whole business.

Q. Have you been completely paid, or is there money coming to you? A. I have been completely paid.

Q. You do not expect any more money? A. No, sir.

Q. When was the last payment to you? A. Oh, shortly after I sent my last report; I don't know just exactly where that was.

Q. About when was that? A. Probably a couple of months ago.

Q. You do not expect any more money out of the case? A. No.

Q. You have been in court every day this case been on? A. I have.

Q. You do not expect a penny. Fresh air and a view of Newark is going to repay you? A. I think it is right to come and swear to the truthfulness of the reports as I made them.

Q. You do not expect to be paid for appearing in court every day the case has been on? A. No; I came to swear to the truthfulness of the reports.

Q. The mental satisfaction of swearing to the truthfulness of the reports is the only payment

you expect. You know you expect to get money out of this? A. No, sir.

Q. Money is a serious thing? A. I know that.

Q. Don't you expect to get money out of this? A. No; I came here to swear to the truthfulness of my reports.

Q. Won't you gasp with disappointment if you don't get some more money from Mr. Runyon? A. No; I would not gasp if I do not get any money out of this case. The law of compensation will pay me, as it always has.

Q. You have been a private detective in other cases besides this one? A. I did a little Secret Service work during the war.

Q. Anything else, any other work besides Secret Service work? A. No.

Q. You never acted as a detective in a divorce case before? A. Never.

Q. What are you doing now; are you a detective now, or are you working in the Commercial Trust again? A. I am working for the Commercial Trust Company.

Q. Simmons, in these conversations, was very voluble, was he not? A. Very voluble.

Q. That is, it did not require much effort on your part to have him ramble on in all kinds of statements, did it? A. No, sir.

Q. As I understand you, on most occasions, all of this stuff came from him without any inciting on your part at all. Did he seem to be proud, boasting about it, or how did he act? A. Well, he did not appear to boast of it, but he would bring it up when he was talking about Mrs. Sargent. He would talk about Mr. Sargent and then he would get on this affair.

Q. About Mr. Sargent? A. About the money, and that he intended to bleed Mr. Sargent, and and that he was going to sue him for damages, for having named him as corespondent. He had a big idea of getting a whole lot of money out of Mr. Sargent.

Q. In one breath he told you it was the truth, an din the next he told you that he was going to sue Mr. Sargent for naming him as corespondent? A. That is what he said—he was going to sue him.

Q. Do you mean to say that after volunteering all this stuff that you have told us here, in the next breath he told you that he was going to sue Sargent? Do you say that? A. I did not say what you said; no.

Q. You know a woman named Mrs. Coleman, don't you? A. I do.

Q. Did you endeavor to have Mrs. Coleman take Simmons into her hosue? A. I did not.

Q. Did you have any dealings with Mrs. Coleman looking to the occupancy of rooms by her and Simmons and yourself, or either one of you? A. I did.

Q. And did you endeavor to get her to agree with you to frame Simmons up and tell her there was money in it? A. I did not.

Q. When she refused to take Simmons in her house, did you tell her: "You are a fool. If you kept your mouth closed, you would be well off for life"? A. I did not.

Q. Did you have any conversation with her with reference to your action against Simmons or with Simmons, or operations of Simmons, in which you said to her: "If you kept your mouth closed, you would be well off for life"? A. None whatever.

Q. Did you ever use the words to her, in reference to Simmons: "You have told Simmons I was a private detective. If you kept your mouth shut you would be well off for life"? A. No; I did not.

Q. Do you know Mrs. Coleman? A. I do.

Q. Do you know her well? A. No; I do not know her well; I know her when I see her. I have been to her house, Senator.

Q. You knew her before you knew Simmons? A. I did.

Q. What arrangement did you have or attempt to have about taking Simmons to her house? A. Not about taking Simmons to her house; about her going into Simmons' house.

Q. What was the arrangement? A. After Lillian had left him Simmons didn't need many rooms. I told her she could get a room there. Simmons wanted me to get him a tenant. I said: "Mrs. Coleman is paying $28 for four rooms"; I told her she could go to Simmons' house.

Q. You told her that Mrs. Simmons had left and she could go there? A. Yes.

Q. At that time you were under engagement to investigate Simmons? A. I was.

Q. What was your purpose in sending Mrs. Coleman to Simmons' house? A. Simply to get better terms, so Simmons would not have his house on his hands.

Q. Did Simmons have his house on his hands? A. Thirty-nine dollars a month.

Q. You were trying to help him? A. Surely.

Q. It was nothing in reference to any statement he was going to make; you did not want an additional witness? A. I didn't take anybody into my confidence.

Q. Your sole object was to get this woman a room and help Simmons get the rooms off his hands? A. Yes; it was.

Q. It did not go through; she refused to go into the rooms where Simmons was? A. There was a mixup.

Q. She did not go you did not carry out the arrangement? A. No; she did not go.

Q. Did you have any conversation with her after you found out she was not going? A. Yes.

Q. Where did you have that conversation? A. At her house.

Q. What did you say to her at that conversation? A. She accused me—I went to her house to find out why she did not go, and she said I was trying to put Simmons on her, and I told her that Simmons said that I was trying to put her on him —so that got the thing crossed—

Q. (Interrupting) Anything else said? A. No; there wasn't anything else said.

Q. Nothing said that she would be well off for life if she kept her mouth shut? A. No.

Q. Did you accuse her of having told Simmons that you were a private detective? A. I did not.

Q. Did you say to her anything about her having said anything to Simmons about your being a private detective or investigator? A. I did not.

Q. When was it that you had the conversation in which Simmons said to you: "You want to know too damned much? A. That was at a time when I asked him—

By the Court: Q. The date. A. I cannot remember the date. My report will show.

By Mr. Simpson: Q. How long before the last report? A. I cannot just remember.

Q. A month before the last report? A. I don't remember.

Q. Was it two months before the last report? A. I don't think it was that long.

Q. After that—after he told you that you wanted to know too damned much—he still kept talking to you, because you made other reports? A. Yes.

Q. Although he said to you: "You want to know too damned much," after that he gave you some other of these statements and you made written reports of them, didn't you? A. They probably might have—

Q. (Interrupting) I am asking you if, after he said to you: "You want to know too damned much," he did not make these statements and keep on making them? A. I don't remember that he said anything about Mr. Sargent after that time.

Q. Well, did he say anything about anything? A. Oh, yes.

Q. Although he told you: "You want to know too damned much," he still kept on giving you some information? A. Yes.

Q. Is that right? A. Yes.

Q. Did you have any interviews with Mr. Runyon at the time you started to investigate this case, as you say? A. One or two.

Q. What was the nature of your investigation to be; what were you told? A. The nature of my investigation to be?

By the Court: Q. Did Mr. Runyon tell you what he wanted you to do? A. I got that in the first place.

Q. From whom? A. Why, from Mr. Runyon.

Q. Then, Mr. Runyon told you what he wanted you to do? A. Yes; he told me what he wanted me to do.

By Mr. Simmons: Q. What did Mr. Runyon tell you when he gave you the first instructions? A. He told me to find out the facts about this matter concerning the Sargeant affair.

Q. Did he tell you how to find out? A. No; he did not. He said: "You go out and get what you can."

Q. About the Sargeant affair? A. Yes.

Q. He did not mention Simmons? A. Sure he mentioned Simmons.

Q. Did he tell you to go and try to detect Mrs. Sargeant—A. No; he told me to get what I could from Simmons.

Q. From Simmons? A. From Simmons.

Q. What he told you to do was go and get what you could from Simmons? A. Yes.

Q. Your employment or success depended on the amount of statements you got from Simmons; is that right? A. No.

Q. What did the success of your employment depend upon? A. The success of employment depended upon—what did the success of my employment depend upon? It depended upon knowledge and facts that I could get.

Q. From Simmons? A. Facts.

Q. Statements made by him? A. Facts.

Q. Statements. Were you trying to get statements from Simmons? A. I was trying to get facts, statements; yes, sir.

Q. After you had sent in your reports, in between, did you communicate with Mr. Runyon over the telephone, and would he direct you as to

your reports, how to make them up or what he wanted changed in them or anything of that kind? A. No, sir.

Q. Nothing of that kind? A. No, sir.

Q. From the time you began to send in reports until the time you finished you only saw Mr. Runyon once? A. Once or twice.

Q. How did you get your money? A. My money was sent to me by checks.

Q. For each report? A. Yes, sir.

Q. Whose checks? A. I don't know. I got the checks and thanked them and to this day I don't know whose checks they were.

Q. You do not know whose checks? A. No; I know it was not Mr. Runyon on it.

Q. His name was not on it? A. No.

Q. You are sure of that? A. I am positive of it.

Q. You don't know whose it was? A. I do not.

Q. How about the amount? A. I knew the amount.

Q. You did not know the name? A. I seen the name, but I don't remember it.

Q. You got quite a number of them. For each report you got one, didn't you? A. No, sir; I did not.

Q. As I understand you your cheapest was $7 and your best was $10? A. Well, as I say, sometimes three or four reports would go in at one time.

Q. And you would get one check? A. One check.

Q. And how many checks do you think you got altogether? A. Oh, I got four or five.

Q. Four or five? A. Oh, yes.

Q. Were they all signed by the same man? A. I really could not tell you.

Q. You don't know that? A. No.

Q. You cannot tell us the name on any one of them, can you? A. No.

Q. What bank were they on? A. I did not even notice that.

Q. What did you do with them? A. Put them in the Commercial Trust Company.

Q. Have you got an account with the Commercial Trust Company? A. I have an account there; yes.

Q. Did you ever drink with Simmons? A. I do not drink.

Q. Did you ever drink with Simmons? A. No; I never drank with Simmons.

Q. Did you ever see him drink in your company? A. Yes; he had a drink.

Q. Did you buy liquor for him? A. Never bought liquor for him.

Q. You saw him drink in your company? A. I seen him drink.

Q. What did you see him drink? A. I was to his house once and he pulled out a bottle and asked me to have a drink.

Q. Whiskey? A. He said it was whiskey.

Q. Was that the only time you saw him drink? A. That was the only time I saw him drink whiskey.

Q. When was the first time that he said that Mrs. Sargent had an ungovernable passion for sexual intercourse and that she would continue it even if her husband came into the room; when was that—when did he tell you that? A. That was sometime in December.

Q. What year? A. 1919.

Q. How long had you known him at that time? A. Oh, I had known him since the 27th of September.

Q. How often had you seen him? A. I had seen him twenty times or more, I guess, before that.

Q. That was the first time he made that statement to you, was it? A. Yes.

Q. How long were you employed in the Commercial Trust Company or were you employed there all the time? A. I have been on the Commercial Trust Company's payroll since 1902.

Q. The only private detective work you have done is this case and some secret service work that you spoke about? A. Yes.

Q. How did you come to take up this particular case of private detective work, if you had never done any of it before? A. Mr. Runyon asked me to see what I could do to get the facts of this case.

Q. Where were you when he asked you that—in your bootblack place or up in his office? A. No; I was not; he wrote me a letter.

Q. To the Commercial Trust Company? A. No, sir.

Q. Ship yard? A. No, sir; he wrote a letter and left it in the barber shop downstairs for me and I got it. It was there a week before I seen. Mr Runyon.

Q. How was Simmons—was he a reckless talker; was he very voluble; would he talk right out about things without your suggesting anything? A. Yes, he was very voluble.

Q. Did you find that his statements contradicted each other; that one day he would tell you one story and another day tell you another? A. No; I cannot say he did.

RE-DIRECT-EXAMINATION by Mr. Lane:

Q. There was one question that I omitted in your direct-examination. Do you remember about December, 1919, Simmons telling you that Jetter told him that he had heard Simmons and Mrs. Sargent talking—

Mr. Simpson: I object.

The Court: That question was put to Simmons.

A. He did.

Q. Did he say that Jetter had then made improper advances to Mrs. Sargent and had been fired? A. He did.

MACK JETTER, a witness heretofore sworn and further examined as follows:

Direct-examination by Mr. Lane:

Q. Did you tell Simmons that you had seen him and Mrs. Sargent in a position that they ought not to be in?

Mr. Simpson: Objected to on the ground that we are not bound by what he told Simmons.

Q. Did you tell him that he ought not to have done that thing? A. Yes.

Q. Did you tell him that you were ashamed because you had gotten him into the house? A. I did.

CROSS-EXAMINATION by Mr. Simpson:

Q. You have been here every day of this trial, have you not? A. Yes.

Q. You have associated with this last man who was on the stand? A. I know this man by the name of—

Q. (Interrupting) Have you talked this over with the last witness? A. No.

Q. You have not said a word about it since you have been in Court? A. Not him.

SAMUEL TARTALSKY, sworn as a witness on the part of the petitioner, re-called in rebuttal on the part of the petitioner in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. One ninety-two Grand Street, Jersey City.

Q. By whom are you employed? A. Runyon and Autenreith.

Q. Are you admitted to the bar? A. I am.

Q. Do you know Charles Simmons? A. I do.

Q. Did you attempt, between the last recess and the present time, to serve a subpoena on Simmons? A. I did.

Q. Where? A. At 78 Barclay Street, Newark.

Q. Did you find Simmons there? A. I did not.

Q. What kind of a place is that? A. It is a beauty shop.

Q. Could you locate Mr. Simmons? A. I could not.

CROSS-EXAMINATION by Mr. Simpson.

Q. You are attorney for his wife in a suit for divorce; you did not expect to locate him, did you? A. I did; I tried to locate him that night.

Q. You, a solicitor for Simmons' wife in a suit for divorce—you didn't expect that you would get him, he knowing that you were the solicitor for his wife, did you? Are you solicitor for his wife? A. I am.

Q. You think that when you went to look for him you could easily find him, he knowing that you were solicitor for his wife? A. I don't know whether he knows I am his wife's solicitor or not.

Q. He filed an answer. You know that? A. Yes.

Q. What makes you say you don't know whether he knows you are solicitor for his wife? A. I don't know whether he knows me by name.

Q. How many times were you at this place? A. I was there once.

Q. What time in the day? A. About 8:30 in the evening, last Wednesday.

Q. That is the attempt you made to serve him with a subpoena? A. That is the attempt I made.

Q. That is the only attempt you made? A. A. That is the only attempt.

Mr. Lane: At the last session, Senator, you stated that you would attempt to produce Simmons here this morning. I would like to know whether Mr. Simmons is in Court.

Mr. Simpson: I don't know anything about it.

Mr. Lane: You stated you would produce him this morning.

Mr. Simpson: I don't think I did. I am not his keeper. What I said, I would produce him if I could.

Mr. Lane: I want it upon the record that

we have asked for the production of Mr. Simmons, who was a witness produced by the defendant in this suit; that we have tried to subpoena him and get him here to find out whether or not he will submit to a physical examination by a doctor other than his own doctor. I want it to appear upon the record.

Mr. Simpson: I object to it. It is no part of the record. In the first place, he has not been examined by his own physician, but by Dr. Furey for the defendant. In the second place, he was here many times and they could have gotten him then. He submitted to an exhaustive cross-examination for four hours in which he never asked such a question, although it was in issue. There has been no attempt to subpoena him until the last moment when they come here with these stories of attempts to subpoena him. Furthermore it cannot bind the defendant. Suppose he went on the stand and said, "I will not submit to another physician." How can that affect this defendant?

DONALD J. SARGENT, Petitioner, heretofore sworn as a witness, called in rebuttal:

Direct-examination by Mr. Lane:

Q. Did you ever have a conversation with Simmons in which you stated to him that Mrs. Sargent had the bad disease? A. No.

Q. Did you ever ask Simmons to get evidence against Mrs. Sargent, your wife, and tell him to get a memorandum book, or words to that effect? A. No, sir.

Q. Did you ever pay him thirty dollars? A. No, sir.

Q. In ten-dollar payments, or otherwise, for information that he had given you? A. No, sir; I did not.

Q. Did you have a telephone conversation with Mrs. Sargent just prior to her going away in which you made some statement with respect to looking out for her, or words to that effect? A. No, sir.

Q. Were you in Court and heard a telephone conversation described by Mrs. Sullivan? A. Yes, sir.

Q. Did than conversation, or any conversation like it, ever take place? A. No, sir.

Q. It has been testified that you indicated great friendliness with Simmons at the New York trial; is that true? A. It is not.

Q. Did you talk to Simmons at all at the time you were in New York at the New York trial? A. I did not.

Q. Did you ever refer to your car and your chauffeur as an "equipage"? A. No, sir; I never recall it.

Q. Or as being handsome? A. No.

Q. Did you ever hear Mrs. Sargent refer to them in the same way or in that way? A. I never recollect.

Q. What time did you usually leave in the morning? A. About 8 o'clock.

Q. How did you indicate that you were going? A. To whom?

Q. To your wife? A. I would very often go to her room or sometimes call up to her.

Q. When she was well did you go to her room? A. When she was in bed, yes.

Q. When she was well you did go to her room? A. In the morning?

Q. Yes; when you went away, did you go to her room, or did you call to her? A. Well, different occasions I would go or call.

Q. After you came to Jersey City did you ever know your wife to do any darning of mending? A. No, sir; I did not know; I could not say that I—

Q. Who did? A. My mother-in-law would come to the house and do it.

Q. Do you know or did you know where the car or machine came from which took Mrs. Sargent to the station at the time she left for Reno? A. I do.

Q. Did you know at the time? A. No; I did not.

Q. Did you make any arrangement for the sending of that car? A. No; I did not.

Q. Did you know that anyone else had made arrangements for the sending of that car? A. Not until several days—

Q. I mean at the time? A. No, sir; I did not.

Q. Did you ask Metz, I think the name is, to make any such arrangement? A. I did not.

Q. Is Mrs. Sargent a friend of Metz as well as you? A. He was a friend of the family's, yes.

Q. Now, Mr. Sargent, did you have a conversation with Mrs. Sargent, with respect to the way in which this wine got on the wall? A. Why, Mrs. Sargent informed me how.

Q. You did have such a conversation? A. Yes.

Q. What did she say? A. She told me that the servant, Charlotte, had opened the wine and that was how it happened.

Q. Where were you at the time of that accident? A. Long Branch.

Q. When did you return? A. Sunday afternoon; on a Sunday after noon.

Q. Do you know the door of this pink room? A. Yes.

Q. Is there a lock on the inside? A. There is a hand bolt.

Q. Was there one there at the time? A. It has been there since we occupied the house.

Q. By "hand bolt" you man one of these blind bolts? A. Just a thumb bolt.

Q. Do you remember the conference that took place at Mr. Runyon's office at which there was present Mr. Runyon, Mr. Huck and Mrs. Sargent, and at which you were present? A. Why, I remember the substance of it; yes.

Q. You were present at this conference? A. Well, there were Mrs. Sargent and Mrs. Safarick and Mrs. Linser and Mr. Huck and Mr. Runyon and myself.

Q. What was said that you remember? A. Well, I recall, when I was first brought in, that Mrs. Sargent, I believe, said that the purpose of her wanting to see me was to see if something could be done to save herself—to save her.

Q. Yes. A. She said that if this went on it would mean a living death for her. I don't know that I can give it to you in sequence, but that was the effect of it. I reminded her that she had wrecked my life also. She said that a man could

stand it; it didn't mean anything to a man, and I also had the child. I asked her how it could be done, and she suggested to pretend reconciliation—we would pretend to live together. I told her that was unthinkable after what had happened and particularly also in view of the charges that had been made in the answer; and then Mrs. Sargent said that she had nothing to do with that answer, that she did not know what was in it, that her brother and her attorneys had made that answer up and had brought it to her to sign. She said further that she had only seen Mr. Simpson on one or two occasions and that she had only seen Mr. Hopkins three or four times and that each time she had seen him he had spoken of it in a joking, light manner and then told her to sit tight and they would get a lot of money out of it. She said she was sick of it all; that she was going away, she did not know where, she did not care, but that she could not and would not face it. There was a great deal more that I do not—that I could not give you. She also spoke of the publicity; said it was killing her and mentioned what she had endured. I know that Mr. Huck and Mr. Runyon then made it plain to her who caused the publicity—

Mr. Simpson: Objected to.

The Court: Strike it out.

Q. Tell us what she said, as you recall it, the substance of what she said. A. Well, she said—

Mr. Simpson: I do not object to what Mr. Runyon said about publicity. I want to know what he said.

Q. Go on. A. She said she could not stand it; that she was through with it; that she was

through with her lawyers, and she was willing then and there to sign a retraction of the charges made in the answer and she did say that she would then and there sign a discharge of her lawyers, but I would not have that, would not permit that; neither would Mr. Huck or Mr. Runyon.

Q. Did you say you would not permit it? A. Yes.

Q. What else was said? A. I also told her she should have been represented, that she should have had an adviser and told her, I know I told her she should get someone she could trust to advise her and to get the very best advice she could, and I think that when Mrs. Sargent left I know I had the impression that she was going to be advised—

Q. Did you have any other talk with her? A. No; never.

Q. Is that the only conversation you had with her after this raid? A. That is.

Q. Either by telephone or face to face? A. It is.

Q. Did you ever agree or authorize anybody to agree for you to send her to Reno for the purpose of obtaining a divorce? A. No, sir; absolutely not.

Q. Do you remember whether there was any effort made during the time this conversation was going on in Runyon's office, to communicate with Senator Simpson? A. Mrs. Sargent was told that she should.

Q. Was any effort in fact made, to your knowledge? A. No; not to my knowledge.

CROSS-EXAMINATION by Mr. Simpson:

Q. From the night of this raid you never asked this woman for her side of this story, did you? A. No, sir.

Q. You never wrote a line to her or telephoned to her to ask her to explain the situation, did you? A. No, sir.

Q. From the time you put the detectives in the house, the twenty-sixth of May, you never told her they were in the house or led her to suspect that they were in the house, did you? A. No, sir.

Q. You had your house wired? A. I had nothing to do with that.

Q. You left that to the detectives? A. I did.

Q. Before the raid was made you had written a letter authorizing them—on the 19th of June—to put your wife out of the house, had you not? A. I had not.

Q. Had you not left a letter saying that their orders were to be taken the same as yours? A. Yes; I had.

Q. At that time you had no definite foundation for these charges against your wife, had you? A. No, sir.

Q. When you wrote that letter? A. No, sir.

Q. The raid occurred on the night of the 11th? When was the first you knew of it? A. The 12th or thirteenth Mr. Huck telephoned.

Q. Did you endeavor to get her side of the story? A. No.

Q. You took what the detectives said? A. I took what the detectives told me.

Q. The detectives told Mr. Huck? A. I am not sure; he might have had others.

Q. You preferred Mr. Huck's statement to any-

thing that you could learn, truthfully or otherwise, from your wife, did you? A. I knew that Mr. Huck would get the truth.

Q. Then you made no effort to have your wife given the opportunity to talk to you alone, did you—to explain this thing to you? A. No; I did not.

Q. You did not go to her and say: "What is this story? Have you done this thing or is it all a mistake?" A. No, sir; I did not.

Q. You simply accepted it? A. Yes.

Q. Whatever Mr. Huck said, you accepted it? A. Yes.

Q. That has been your attitude ever since? A. Yes; I have been in Mr. Huck's hands.

Q. That has been your attitude from the time you put your house in the control of detectives on the twenty-sixth of May? A. Yes; the case has been in Huck's hands.

Q. You mean Mr. Huck run the affair? A. Yes; I do.

Q. Did you say you never made arrangements with Simmons to watch your wife and tell you where she went? A. Never.

Q. And you never paid him ten dollars a week for three weeks? A. Positively.

Q. Never told him he was a liar and when he said "Here is your key," you didn't say; "You cannot take a joke"? A. No, sir; I did not.

Q. Did you call up Mrs. Sargent at her home in Kensington Avenue at any time after the eleventh of July? A. No, sir.

Q. Did you have any conversation over the telephone at the time she and Mrs. Sullivan say you did? A. I never had that talk with her.

Q. Did you say anything at all? A. No; I did not.

Q. She says that she sent postal cards to you because you requested that she should send them you when she was on her trip out West? A. I never received any postal cards.

Q. Is Mr. Metz a friend of yours? A. No; not now.

Q. How long since he has been a friend? A. How long have I known him?

Q. You say he it not now a friend. How long since your friendship has been severed? A. Since we could not get him to appear here.

Q. You tried to get him to testify? A. Mr. Runyon did.

Q. He would not come? A. They say they cannot get him.

Q. He is the man that you sent to the station with Mrs. Sargent to put her on the train? A. No; he is not.

Q. Did you have any conversation with him about putting her on the train? A. No, sir.

Q. Your attitude in Runyon's office was that she ought to be advised by counsel? A. Yes.

Q. That you did not want her to go to Reno and did not connive at it, at all? A. I never mentioned Reno.

Q. At that time you were paying her two hundred and twenty-five dollars a month by court order, were you not? A. Yes; I believe that is the amount.

Q. You jumped it, as soon as she went to Reno, to three hundred dollars a month? A. I did not jump it.

Q. It has been jumped; your money paid it? A. Yes.

Q. Whether you jumped it or not, it has been increased from the time that she went to Reno, from two hundred and twenty-five dollars a month to three hundred dollars a month? A. Yes.

Q. Although your attitude has been strictly a legal one, standing on your rights, and you did not want her to go to Reno? A. It was never mentioned.

Q. As far as you were concerned, you didn't want her to go to Reno; it meant nothing to you? A. No, sir.

Q. How do you explain increasing her alimony from the day she went to Reno? A. Mr. Huck explained it.

Q. On your lawyers' explanation you jumped the alimony? A. With their advice.

Q. With their advice? A. Yes.

Q. Did you ask them why? A. I did.

Q. And on their advice, although her presence in Nevada was absolutely indifferent to you, you increased the alimony to three hundred dollars a month, didn't you? A. Yes.

Q. And y ou paid her twelve hundred dollars in cash, in addition to that, didn't you? A. Yes.

Q. And you paid counsel fees of five hundred dollars in addition to that? A. That I don't recall.

Q. You don't recall that? A. No.

Q. If I were to show you Mr. Huck's check, would you recall it? A. I would know Mr. Huck's check.

Q. He was your attorney and he had carte blanche on your bank account, didn't he? A. Yes.

Q. Is it not a fact that after this suit was started in Reno and after you knew your wife had been

in Reno for some ten months, that a notice was given by your lawyers to stop the suit in Reno and suppress the answer? A. I believe they did tell me that they did—

Q. Was that on your initiative that they did that? A. The attorneys were handling it.

Q. You did not ask them to do it? A. No, sir.

Q. You left that little thing to them? A. I did.

Q. You knew such a thing was done? A. Yes.

Q. After she had been in Reno ten months? A. I don't recall just what time.

Q. You say that she said that this publicity was killing her? A. Yes.

Q. And that she did not want to face the publicity? A. Yes.

Q. It was breaking down her health? A. That was the effect of it; yes, sir.

Q. What did Mr. Huck say—who did he tell her—or Mr. Runyon—was responsible for the publicity? A. Her attorney.

Q. Mr. Simpson? A. I don't know that your name was mentioned.

Q. I was the solicitor. A. Yes—the attorneys.

Q. Did they tell her to call me up before or after they told her I was responsible for the publicity that was killing her? A. I don't recall.

Q. But you are quite sure that having told this woman that her solicitor was responsible for the publicity that she said was killing her, they suggested that she call up that same lawyer? A. Well, they told her to call up her attorneys; yes.

Q. Was her brother called up at that interview? A. I don't know.

Q. Was Mr. Hopkins, her New York lawyer, called up at that interview? A. I don't know.

Q. How long did that interview last? I was in there about fifteen minutes; I should say fifteen or twenty mnutes.

Q. She requested to talk to you alone? A. Yes.

Q. You declined? A. I did, and so did the attorneys.

Q. Did you decline? A. I did; yes.

Q. And you did not ask her then, either alone or in the presence of your attorneys, for her side of the thing? A. No; we did not.

Q. You did not. I am not asking about "We."? A. No; I did not.

Q. Did you tell her that this gonorrhea was an old case that had come back again? A. No; sir; that is what the doctor told me.

Q. What had the doctor told you? A. He told me it could be a recurrence.

Q. Is that the explanation that you gave to her for having—A. Yes; I had no other explanation at the time—

Q. To give her? A. No, sir.

Q. Now, then, at the time you had the detectives put in the house—I don't think I have asked you this before—at the time you had the detectives put in your house and had your house wired, and you surrendered your house to them, Mrs. Sargent was then suffering from this disease and under the doctor's care? A. She was up and about.

Q. She was under Dr. Spence's care? A. I believe the doctor was there—

Q. Did Dr. Spence talk to you after the raid of the eleventh and tell you to come and see her, that she was going to be operated on and the operation was gong to be very serious, and she wanted to see you very much? A. I do not recall that he did but Mrs.—

Q. You refused to go and see her? A. I did.

Q. Although you knew she was going to be operated on? A. I did not know the nature of the operation.

Q. Now, you say you did not tell Simmons she had the bad disease, meaning by that that she was of an adulterous disposition, and you were afraid she would never be cured; you had no such conversation? A. I had no such conversation.

Q. You made no statement to him that would bear that construction? A. No, sir.

Q. Did you get reports from your detectives from the time they went into the house until after the raid of the eleventh of July? A. No, sir.

Q. Where were you on the eleventh of July? A. In Vermont,—Danby, Vermont.

Q. Were you ever out of the house for three successive nights from the time the detectives were put in the house until the night of the raid? A. I could not answer that.

Q. How many times were you away, from the twenty-sixth of May untl the eleventh of July, 1919? A. Oh, several times.

Q. About how many times? A. Well, I could not answer you in numbers.

Q. Did you absent yourself for the purpose of facilitating the work of the detectives A. No, sir; I did not.

Q. Had you ever been away from the house as many times in so short a space of time prior to the twenty-sixth day of May, 1919? A. Yes; I presume I was.

Q. You think you were? A. Oh, yes.

Q. Now, did you know that the raid was to be on the eleventh of July, 1919? A. No sir; I knew nothing about it.

Q. Did you know that Viola was put in there as a detective, to be introduced to your wife by that first colored woman—I think her name is Ida? A. I did not know who she was going to be, but Mr. Huck told me they were going to put a servant in the house.

Q. How long prior to the twenty-sixth of May had you hired Mr. Huck to do this thing? A. Well, that I could not answer definitely. It was after the third of May.

Q. Some time after the third of May? A. Yes, sir.

Q. Did you ever examine these signals in the house? A. No, sir.

Q. As to this bolt that you spoke of, had you ever tried it? A. No, sir; I know it is there on the door.

Q. Whether it is in order or not, you don't know? A. No, sir.

Q. This door it is in is the door of the pink room? A. Yes, sir.

Q. Had you and Mrs. Sargent occupied the same room or adjoining rooms? A. Well, across the hall.

Q. Was that her room? A. Well, there was the pink room; she used this room.

Q. She told you that the bottle of wine had exploded or gushed forth—A. Yes.

Q. When did she tell you that? A. That Sunday evening when I arrived home. She did not want me to scold about it.

Q. Did you say; "All right, kid"? A. I did tell her it was all right. I did scold about having wine in the room with servants.

Q. She says that you said; "That is all right,

kid"? A. I believe I told Mrs. Sargent not to worry about it. I don't remember the exact words.

Q. The time after she went to see Dr. Woodruff she was confined to her bed some months, was she not? A. Yes.

Q. Did she have a nurse there? A. Yes; I think we had a nurse.

Q. Do you know who the nurse was? A. Yes; I believe it was Miss Barrow.

Q. Did you say it was invariably your custom to leave the house at eight o'clock in the morning? A. Around eight; yes.

Q. What time would you arrive at your office? A. Between nine and a quarter past nine.

Q. Do you say you never arrived at your office later than nine or quarter after nine? A. Do you mean New York?

Q. Yes. A. Yes; I have.

Q. Do you mean to say you never left later than eight o'clock from January first to July eleventh? A. It was very close to that hour regularly.

Q. Do you mean to say that there was no occasion on which you would leave later? A. I would not say absolutely, but it was my custom to leave eight o'clock very regularly.

Q. Sometimes you would leave later? A. Not later than a quarter or half past.

Q. That would be the latest you would leave? A. Yes; that would be the latest.

Q. Was there any time when you were not very busy and you would stay home all day? A. Never except Sundays.

Q. Do you remember the occasion when Mrs. McWilliams, Mrs. Sullivan and Miss Hughes were

at your house to dinner at night? A. Well, I don't know that I could place it. Mrs. Sargent had many dinners.

Q. I mean when you were there; do you remember seeing these ladies there and then going out? A. That was testified to?

Q. Yes. A. Yes; I recall that.

Q. Do you remember when that happened? A. I could not give you the dates. I know where I went myself that evening.

Q. When was the first knowledge that you had that Mrs. Sargent had gone to Reno? A. Oh, I could not tell you definitely.

Q. You don't know when you first ascertained that she was there? A. No. I heard that, I believe, through Mr. Runyon and Mr. Huck.

Q. Was Reno mentioned at the interview you had with her? A. No, sir.

Q. So that as far as you knew, when you left the office, this suit was going right ahead? A. Yes.

Q. There was to be no delay and it was going ahead as far as it could? A. Yes.

Q. You wanted it brought to a determination? A. I did.

Q. That interview was about when, do you remember? A. No, sir; I could not place the date of that.

Q. Well, it was in October, 1919, was it not? A. I would say it was in September or October, yes, sir.

Q. Well, what was your reason for not allowing Mrs. Sargent to talk to you alone to see if it was not possible that she was innocent of what was charged as of the night of July 11th, 1919? A. I

don't know that I can follow the question; but I did not see what good could come of it anyway and I was advised by Mr. Huck and Mr. Runyon it should not be.

Q. Irrespective of their advise, didn't you think, —without arguing with you, which may be subject to objection—didn't you think that if she could have convinced you that she was innocent, that good would come out of it? A. I would have to go back over my married life for my reasons for my state of mind—

Q. (Question repeated by stenographer). A. Good would have come out of it if she could have convinced me.

Q. What I want to get clear in my own mind is this; never since you have had this information, have you ever permitted her to be alone with you to tell you her side of this thing, have you? A. No, sir.

By the Court: Q. Why didn't you before you commenced this suit? A. I would have to go back over the story of our married life to tell you that.

By Mr. Simpson: Q. One question I forgot; This picture—did Simmons give you that picture? A. Yes, sir.

Q. Simmons gave you that picture? A. Yes.

Q. Yet you say you never had any conversation with Simmons about spying on your wife? A. Beg pardon?

Q. Yet you say you never had any conversation with Simmons about spying on your wife? A. I understood you to mean that May 3d, the time I was supposed to have paid him money.

Q. You had some sort of relations with Simmons by reason of which he handed you a picture

which was the property of your wife, didn't you? A. Yes.

Q. When was that? A. That was April 4th.

Q. 1919? A. Yes.

Q. Was that by arrangement of yours with Simmons? A. No, sir.

Q. You had not told him to search the bureau and get the picture? A. No, sir; absolutely. That is when I learned he had the picture and he brought it to me the next day.

Q. He gave you the picture? A. Yes.

Q. Did you give him any money for that? A. Absolutely not.

Q. Did you have any transaction with him, other than taking this picture, in reference to spying on your wife? A. No, sir.

Q. Or on your wife's conduct? A. No, sir.

Q. When did you hire Simmons first? A. I think it was July, 1918.

Q. And he sued you—A. That was last year.

Q. For wages? A. Yes, sir.

Q. Is it not a fact that you sat on the bench with him and talked with him in the court room while the case was waiting trial? A. No, sir; positively.

Q. Mr. Hopkins was there? A. He was. I recognize Mr. Hopkins.

Q. He brought the case? A. He did.

Q. You say you did not sit there and talk with Simmons? A. No, sir.

Q. Did you say anything to Simmons? A. Absolutely no.

Q. Exchange any words with him? A. No, sir.

Q. You tried to charge him how much a meal for those meals? A. I don't recall that.

Q. That was a detail you left to Mr. Huck? A. Well, Mr. Huck conferred with me about it, but I have no—

Q. When was this suit tried, do you know? A. I could not give you the date.

Q. You brought this same matter into the chauffeur's suit for the collection of his wages, as a reason why he should not be paid, these certain alleged acts of adultery that he had committed? A. I don't think it was brought in.

Q. I am trying to find out? A. No; I don't believe it was.

Q. When did you go into the Kensington Avenue house? A. 1916.

Q. Do you remember when in 1916? A. I think it was in June or July.

Q. This episode of the Sparkling Burgundy and Charlotte, you cannot fix the time, can you? A. Yes, sir; I think that was May 3d.

Q. May 3d? A. May 3d; I had a fraternal engagement in Long Branch.

Q. Was it in Long Branch that your wife told you about it? A. Yes; Mrs. Sargent came to Long Branch with the car.

Q. Was it then she told you? A. That was mentioned when we were at the Cartaret Club that evening to dinner.

Q. You have never seen Mrs. Sargent when you were up to Vermont until you met her in Mr. Huck's office? A. Mr. Runyon's office.

Q. You have not seen her since then? A. Not until in court.

Q. Did Mr. Metz show you an itinery of her trip that she was to take, with side views of Colorado? A. No, sir.

Q. He did not show you that? A. No, sir; I had no knowledge of that at all.

Q. Mr. Metz, up to the time you say he would not appear in this case,—you and he were friendly, were you not? A. We were.

Q. What is the idea of his not being here? A. He lives in Jersey City does he not? A. I am told by the attorneys they have tried to serve him with a subpoena. Yes, sir.

Q. This firm of Stoddart and Saulsbury, solicitors, you don't know anything about them? A. No, sir; I don't know anything about them.

Q. As I understand you, since the eleventh day of July, you practically left the whole thing in the hands of your attorneys; all you did was simply pay the bills; that is practically all you did? A. Well, we conferred continually as to the advisability of—

Q. Of doing certain things? A. Yes.

Q. I notice you refer to Mr. Huck and Mr. Runyon a great deal. You practically left the thing to them? A. I did.

Q. And you followed their advice? A. Yes; I have every confidence in them.

Q. And left the whole thing to them? A. Yes.

Q. Do you know anything about this five hundred dollars paid to your wife's solocitors in Reno, Nevada, for a divorce suit that you say you knew nothing about, paid by Mr. Huck's check? A. I knew that Mr. Huck had paid attorney's fees. I think the first time I recall they told me it was eight hundred dollars and I think since that there have been two five hundred dollars payments.

Q. If you did not know anything about Reno, if you did not want any suit brought in Reno, how do you explain voluntarily paying a fee to lawyers

out there to bring that suit? A. It was not my understanding that it was to bring a suit. They were Mrs. Sargent's attorneys, and I was led to suppose that I had to pay Mrs. Sargent's attorneys.

Q. Even in a suit you moved to suppress afterwards? A. The move, as I understand, was made after the payment was made.

Q. You were served with the complaint in the case? A. I was.

Q. That complaint charged you with falsely having charged your wife with acts of adultery? A. It did.

Q. Did you ever file any answer in Reno alleging that they were not false charges? A. If there should have been an answer filed, that was the answer.

Q. You do not know that there was any? A. I suppose there was, yes, sir.

Q. These servants, these people who have been witnesses, Ida and Charlotte and Viola, are still in your pay, are they not? A. Yes.

Q. They are all working for you? A. Yes; they are all servants.

Q. At your home in Kensington Avenue? A. Yes.

Q. This Mr. Jeter, is he working there, too? A. No, sir.

Q. Had he worked for you at all since Mrs. Sargent got out of the house? A. No.

Q. You knew Mrs. Sargent went back in the house the next day, didn't you? A. I learned that she did.

Q. Did you ever ask her to withdraw personally yourself after you got back? A. No; I never saw Mrs. Sargent.

RE-DIRECT-EXAMINATION by Mr. Lane:

Q. After Mrs. Sargent told you with respect to the wine episode, did you refer to Charlotte about it; did you speak to Charlotte about it? A. Yes; just a short time after; I would not say what space of time.

Q. Then, when you did talk to Charlotte about it, did Charlotte tell you something? A. She did.

Q. Thereafter, as a result of that, did you put the detectives in the house? A. It was a result of that I went to see Mr. Huck.

Q. Did Mrs. Sargent, at the time you had the conference with her in Runyon's office, state that she was inocent? A. I do not believe Mrs. Sargent ever did say that.

Q. As a result of what you have described as the history of your married life, did you feel that Mrs. Sargent could explain the circumstances? A. No. sir.

Mr. Lane: I ask permission to put a few questions that I omitted on direct.

The Court: All right.

Q. Did Mrs. Sargent ever tell you that Jeter had taken undue familiarities with one of the maids? A. No, sir.

Q. And that she had told him to never dare put a foot inside that house again, or words to that effect? A. No, sir.

Q. At the time you went to Vermont this last time which resulted in the raid, did you tell Mrs. Sargent that you wanted her to stay in the house because the baby's father might insist she should stay there, and if he did, you wanted to 'phone her, so that she could leave in case you 'phoned her to come up; was there anything like that said? A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Did Mrs. Sargent ever complain to you with respect to Simmons? A. No, sir.

Q. And did you tell her that you would not discharge him because he was a good mechanic and could take care of the car, that he was good driver and that it was hard to get a good driver; that he was honest and trustworthy, or words to that effect? A. No, sir.

Q. Did you tell her one evening very late, when she complained, that you would speak to him in the morning and that you would give him two weeks' notice, or words to that effect? A. No, sir.

Q. Did you, upon a trip to Templeton, when it was spoken about Mrs. Sargent going up with you on this trip to Vermont, speak up and say that you wanted her to stay home so that she would be there in case you wanted to send a telephone message to her from Vermont? A. No, sir; I do not recall.

Q. Or words to that effect? A. No, sir.

Q. Did you ever authorize anyone to make this proposition; that when this thing was over, meaning Mrs. Sargent's decree out west, that you would get a good friend of yours, and she would get a good friend of hers, and these two friends would get a third party and they would get together and talk matters over and arrange it definitely, or words to that effect? A. No, sir.

Q. Did you ever ask Mrs. Sargent to send you her itinerary or anything of that kind? A. Of the western trip?

Q. Yes. A. No, sir.

Q. Did you ever send Mrs. Sargent a note or a box of candy on a Christmas? A. What Christmas?

Q. After the raid of July 11, 1919? A. No, sir; I do not recall anything like that.

Q. Was there any communication between you and Mrs. Sargent after the night of the raid, except that which you have testified to? A. Only through Mrs. Sargent, attorney.

By Mr. Simpson: Q. You have been at Mrs. Lathrop's house every week for some time lately, have you not? A. No, sir; I have not.

Q. How often have you visited her since the night of the raid? A. I don't believe more than two occasions.

Q. Altogether? A. Yes, sir.

(At this point adjournment is taken to Friday, December 10, 1920, at ten o'clock in the forenoon.)

Transcript of shorthand notes of testimony taken on further hearing in the above stated cause, at the Chancery Chambers, Newark, December 10, 1920, before his Honor, James F. Fielder, Advisory Master.

Appearances as heretofore.

Mr. Simpson: I would like to call Mr. Sargent for a question or two I omitted.

The Court: All right.

DONALD J. SARGENT, the petitioner, already called as a witness on the part of the defendant, re-called.

Further Direct-examination by Mr. Simpson.

Q. After you placed these detectives in the house on the 26th of May, you lived in the house until the 11th of July, didn't you? A. Yes, sir.

Q. And you continued your relations with your wife to the night before the raid; you were intimate with your wife the night before the raid? A. In what respect?

Q. You know what the word "intimate" means? A. No, sir; absolutely.

Q. When was the last time you had sexual intercourse with your wife after you had put the detectives in the house? A. I never had after that, nor for some period before.

Q. For how long before the 26th of May had you ceased to occupy the same room with your wife? A. Well, when Mrs. Sargent was taken ill, I think about September.

Q. You never occupied the same room with her after that up to the night of the raid? A. No, sir.

Mr. Lane: I call Mr. Simmons. Is he in court?

(No answer.)

ETHEL WILSON, sworn as a witness on the part of the petitioner in rebuttal, testifies as follows:

Direct-examination by Mr. Lane: Q. Where do you live? A. 78 Barclay Street.

Q. What sort of a place is that? A. A beauty parlor.

Q. Were you in court the last time this case was tried? A. No, sir.

Q. Were you here the first time? A. Yes.

Q. And you sat in the rear of the courtroom? A. Yes, sir.

Q. You came with Simmons? A. No, sir.

Q. How did you come to come here?

Mr. Simpson: I object to that as irrelevant and immaterial to this case, what she was doing in court the first day.

The Court: Objection overruled. I suppose it has something to do with Simmons and the failure to subpoena him or something of that kind.

Mr. Lane: Yes; it has.

Mr. Simpson: Even then it is objectionable, and I renew my objection. Their failure to get him has no binding effect upon the defendant.

A. I came because I wanted to hear the trial.

Q. Well, how did you come to know that this case was on at all?

Mr. Simpson: I object. I would like to have my objection to all this line of examination.

The Court: Yes. Same ruling.

By the Court: How did you know that the case was going to be tried that day? A. Why Charles told me before that, that it was going to be tried.

Q. Charles Simmons? A. Yes; Charles Simmons.

By Mr. Lane: Q. Does Charles Simmons live at 78 Barclay Street? A. No, sir.

Q. Did he ever live at 78 Barclay Street? A. Yes.

Q. When? A. Why, he lived there some time in October.

Q. When did he leave? A. Why, he left when the people began to come there to find him about this trial, he left.

Q. When was that? A. Why, it was some time before this case came up.

Q. Before the case was here the first time? A. Along that time.

Q. Did he live there on the day that you first came to court? A. Yes.

Q. Did he live there the day you secondly came to court? A. Yes.

Q. When was it he left? A. Why, he left after the last time I was in court.

Q. He left after he testified here? A. Yes.

Q. He was living there when he testified? A. Yes.

Q. Did he leave after that? A. Yes.

Q. How long after that? A. Why, he left the next day.

Q. Where did he go? A. I don't know.

Q. Have you see him since? A. I think I have seen him once since that.

Q. Where? A. He came to see if there was any mail for him.

Q. When? A. That was the day after he left; the next day he came up to see if there was any mail for him. I told him there was—

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

Q. Nor heard from him? A. No.

Q. You have not heard from him? A. No; I have not heard from him.

Q. What part of the house did he live in there? A. He occupied a room next to the kitchen.

Q. Who lives there besides you? A. A man and wife,—

Q. How long had he been living there? A. Why, he had been there not quite a month.

Q. He came in December? A. I said October; sometime in October.

Q. He came in October? A. Yes.

CROSS-EXAMINATION by Mr. Simpson.

Q. You said something about detectives running there. They were from Mr. Sargent to try and get him—A. I don't know who they came from. There were two or three colored and three or four white people. I told him about them giving me an awful, lot of trouble, and he said he would leave.

Q. That was after he testified? A. Both before and afterwards.

Q. When he gave his address here in court the day that he testified, then these detectives began coming there to look for him? A. Yes.

Q. And he moved? A. He said he would move, yes.

ALBERT H. FREEMAN, sworn as a witness on the part of the petitioner in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. 543 Norwood Street, East Orange.

Q. What is your business? A. Court officer, Essex County.

Q. For what court? A. Judge Osborne's.

Q. That is the Court of Common Pleas? A. The Court of Common Pleas, yes.

Q. Have you been attempting to serve process upon a man named Charles Simmons? A. I made attempt to serve process upon him, yes.

Q. When? A. Last Monday evening.

Q. In this case? A. Yes.

Q. Subpoena to testify? A. Yes.

Q. Where did you go? A. 78 Barclay Street, Newark.

Q. Did you find him there? A. I did not.

Q. Did you find him? A. I could not.

Q. You could not serve process? A. I could not serve process.

CROSS-EXAMINATION by Mr. Simpson.

Q. Did you have any other address except 78 Barclay Street? A. That is the only address I had.

Q. Who sent you to serve him? A. The communication was from Mr. Runyon's office in Jersey City.

Q. How many times did you go there? A. Once.

Q. Whom did you see there? A. Miss Wilson.

Q. What time in the evening did you go there? A. In the evening about 6:30 I think it was.

Q. How long did you stay there? A. Only a few minutes.

Q. Did you not go back again? A. I did not.

Q. You did not go any other day or time? A. I did not.

By Mr. Lane: Q. What did Miss Wilson tell you with reference to his living there?

Mr. Simpson: Objected to.

The Court: Objection sustained.

ALEXANDER SIMPSON, called as a witness on the part of the petitioner in rebuttal, being affirmed, testifies as follows:

Direct-examination by Mr. Lane:

Q. You are solicitor for Mrs. Sargent? A. I am now; yes.

Q. I asked you with reference to the present time? A. I don't always understand what you talk about.

Q. Do you know where Charles Simmons lives? A. I do not; no more than I know where you live.

Q. Have you any information as to where he lives? A. I have none.

Q. Did you serve him with process, or did you cause process to be served upon him to appear as a witness? A. My office did.

Q. Did you obtain his address? A. Why, I obtained his address from himself.

No Cross-examination.

WILLIAM HUCK, Jr., sworn as a witness on the part of the petitioner in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. Where do you live? A. Jersey City.

Q. What is your profession? A. I am an attorney at law.

Q. Do you know Mr. Sargent? A. I do.

Q. How long have you know him? A. About ten years.

Q. Do you know Mrs. Sargent? A. I do.

Q. How long have you known her? A. Four or five years.

Q. Do you remember the night of the so-called raid at the Sargent house? A. I do.

Q. What time did you get to the house? A. About eleven o'clock or shortly thereafter.

Q. Who let you in? A. My recollection is that Mr. Tienken let me in.

Q. Where did you go? A. I went upstairs.

Q. To what room? A. To what has been called the pink room, Mrs. Sargent's room.

Q. How far is the door of that room from the head of the stairs? A. Well, it is just at the head of the stairs, just to the right as you come upstairs to go to the second floor landing, it is right at the right.

Q. Was the door open or closed when you got there? A. Closed.

Q. Who were at the door, if anybody? A. I don't know if there was anybody at the door.

Q. Who were in the house? A. Mr. Tienken's assistant, Wilsdon, and of course Tienken and I came upstairs.

Q. Did you see Charlotte? A. I did not.

Q. What did you do when you got there? A. Well, Tienken let me in and I had some conversation with him—

Q. Wait a minute. Did Tienken open the door and let you in, or had the door been opened before you got there?

The Court: The front door of the house?

Mr Lane: The pink room door.

A. Tienken opened the pink room door.

Q. Who went into the pink room? A. Tienken, his assistant, Wilsdon, and myself.

Q. Did you have any conversation with any person within the room before the door was opened? A. I did not; no.

Q. Did anybody else in your presence? A. Yes.

Q. Who? A. Tienken.

Q. What was the conversation? A. Tienken knocked on the door and said: "Mrs. Sargent, Mr. Huck is here. Would you like to see him?"

She said: "I don't know why I should see Mr. Huck. All right, let him in."

Q. Then the door was opened? A. It was.

Q. Where was Mrs. Sargent when the door apened? A. She was standing at the foot of her bed.

Q. How far would that be from the door? A. Oh, I should judge perhaps four or fiive feet from the doorway.

Q. How was she dressed? A. She had on a tan shirtwaist and a dark shirt and her shoes.

Q. How were her shoes with respect to whether they were buttoned or laced? A. Well the shoes were open. I think they were button shoes and they were open.

Q. How was her shirtwaist with respect to whether it was open or closed? A. I could not say.

Q. What condition was her hair in? A. Well, her hair was somewhat disarranged.

Q. Was Simmons in the room at that time? A. No, sir.

Q. Was there any open window or was there any indication as to how he had left the room apparently? A. The window was open.

Q. Which window. A. I think all three of the windows were open. I think there were three windows in that room and they were all opened, and Tienken walked to the one which faces Bergen Avenue and pulled up the shade and said—

Mr. Simpson: I object unless Mrs. Sargent was there.

Q. Was Mrs. Sargent there? A. Oh, yes.

Q. Was it said loud enough for her to hear it? A. Yes.

Q. Go ahead? A. Tienken said something to

Mrs. Sargent: "It is a fine thing for you to do, have a nigger in your room," and he walked to the window and pulled up the shade and said: "Here is where he got out," and he reached out, and as I recalled it, he pulled back the screen.

Q. Did you have any conversation with Mrs. Sargent in that room at that time? A. I did.

Q. What was said by you and by her? A. Well, when I first came in the room Tienken made that remark concerning her having a nigger in the room, and she said to me; "Who is that man, Mr. Huck?" I said: "He is a detective," and she said: "What is his name" I said "I prefer not to tell you." "Well," she said, "I want him put out of my house, put out of my home. He has got no business here," and Tienken said: "I beg your pardon, madam, but I have a right to be here," and he reached in his pocket and pulled out an envelope, a blue envelope, and held it in his hand, and I then said to Tienken: "Never mind, Tienken, you keep still; I will do all the talking that is necessary." Then Mrs. Sargent said: "Mr. Huck; can't I speak to you alone?" and I said: "Yes." So I told Tienken and Wilsdon to go out of the room, and she asked me to close the door, which I did, and then we continued standing in about the same position at the foot of the bed, and she said to me: "Mr. Huck, I would rather face anybody at this time than you; I would even rather face Don." She said: "What does this mean? Does this mean that Don is going to sue me for a divorce?" I said: "Mrs. Sargent, I cannot discuss that matter with you." Then she said, "Well, you know that I do not love Don." She said: "I never did love him. If Don wanted to get a divorce why

didn't he say so? He did not need to do this." Then she said: "Why did you take Don's case?" She said: "You should not have taken his case." I said; "Mrs. Sargent, you know I have represented Don for four or five years as his attorney, and I cannot see why you feel that way about it." Then she said—I am trying to think of this in sequence as nearly as possible—then she said; "If you knew the whole story, you would not have taken Don's case." She said: "Don't have any publicity." I said: "Mrs Sargent, I cannot control publicity. All I can say; so far as I am concerned, I am not seeking any publicity." Then she said to me: "Tell me what I shall do." She said: "I don't know where to turn; I don't know where to go, and," she said, "I want you to advise me what to do." I said: "Mrs. Sargent, I represent Don and I am hardly the person to advise you what you shall do." So she said: "Well, I know you." She said: "I have always looked upon you as an honest lawyer. I know that you would not trick me. You must tell me what to do. I am all alone. There is nobody I can turn to." I said "Mrs. Sargent, the only thing I can tell you to do is to get in touch with your family and your folks as soon as possible and then let them advise you as to what further steps you are to take." So she said: 'Tell me one thing more: Did Charles give Don a picture?" I said: "I cannot tell you that." She said: "You won't tell me, but I know that he did." She said: "I knew—"

Q. Don't go any further into that. Go ahead. What else was said? A. Well, then she said—kept saying: "What shall I do? I don't know where to go. I have no money with me," and I said:

"Mrs. Sargent, I have told you the thing to do is to get in touch with your people, and if you need any money for any purpose, why I will let you have it. If you want to go to your folks, I will let you have money, or if you want, I will get the car and see that you get there; in fact, if you want, I will go with you myself." So she went out in the hall and telephoned. She first called up her sister on Staten Island, Mrs. Kuchmann, and said: "Minnie, I must see you. I am in trouble; there are detectives in the house, I must see you." Then, finally I heard her say: "Well, all right. Good bye." Then she called up her sister, Mrs. Linser of Long Island and told her substantially the same thing, and finally she said: "All right, I will come down there." Then she told me, after she had hung up the receiver that she could go to her sister on Long Island and wanted to go right away, but she said: "I don't want to give up possession of this house. I know that posession is nine points of the law, and" she said, "I don't want to give up possession. If you will assure me, give me your word, that I can come back here tomorrow or whenever else I want to come back, I will go down to Long Island." I said: "Mrs. Sargent, I have not told you anything about giving up possession of the house. Of course, you are free to come back tomorrow or any other time you please." Then I sent Tienken around for the car. He came back and reported that the door of the car was locked and he could not get in it to drive it, and so I sent him back again and told him to see if he could not hire a car at Muller's garage where the Sargent car was stored, and a driver, and a little later he came back with a car and a

driver. I then said to Mrs. Sargent—well, before that Mrs. Sargent said she would get ready to go, and in the meantime Charlotte had appeared in the hall way and was standing there with the rest of us and Mrs. Sargent said "Charlotte come in and button up my shoes and help me get ready and she and Charlotte went in the room and the door was closed and then Tienken came back with the car and she came out ready and we got into the car—and before that I asked her if she wanted me to go along, and she said, yes she did; she was afraid to go in the car with a strange driver. So Tienken and Wilsdon and Charlotte and myself and the driver went off from the house. We went down to my house on Clinton Avenue and I stopped in there and got a light overcoat, and Tienken and his man came in, too. They had a grip which they left at my house.

Q. Where did Mrs. Sargent stay while you were in the house? A. She was in the car with Charlotte and the driver.

Q. From your house where did you go? A. Well, we went across—we went up the Boulevard across the ferry—

Q. Did you take Charlotte with you? A. We took Charlotte up as far as her house. She lived up on—I don't know—Columbia Avenue or Germaina Avenue, one of those streets west of the Boulevard in Hudson City,—and we left Charlotte there.

Q. What happened when Charlotte left? A. Mrs. Sargent bade her goodnight, and told her to remember her to Alice.

Q. During the time, between the time that you got there at the house and the time that Charlotte

was left at Germania Avenue, did Mrs. Sargent say anything indicating irritation against Carlotte?

Mr. Simpson: Objected to as calling for a conclusion.

Q. Did she criticise Charlotte?

Mr. Simpson: I object to that. I think the witness ought to give the conversation.

The Court: Objection sustained.

Q. Did she say anything more than you have already testified to, referring to Charlotte or anything that Charlotte had done? A. No, sir.

Q. Was there anything more said than you have testified to with respect to whether she was innocent or not?

Mr. Simpson: I object to that also that calls for a conclusion.

The Court: Objection sustained.

Q. Did she say anything else during that time for testing her innocence.

Q. When did you next see Mrs. Sargent after the raid? A. The next time I saw her was on the 30th of September, but I had some conversation in the meantime over the telephone.

Q. She has testified, Mr. Huck, to a conversation which took place between you and Mr. Runyon and herself. How did that conversation come about? A. It was the immediate result of a letter which she had written to me and one she had written to Mr. Sargent and a reply to that letter which I had prepared and Mr. Sargent had signed and sent to her.

Q. (Showing witness.) Are these the two letters to which you refer, which have been marked "Petitioner 11 for identification and Petitioner 12 for identification? A. They are.

Mr. Lane: I offer them in evidence.

Mr. Simpson: I have no objection.

Letters heretofore marked Petitioner 11 for identification and Petitioner 12 for identification, received in evidence and marked Exhibit P 11 and Exhibit P 12.

Mr. Lane: Have you the letter that was written by Mr. Sargent, to Mrs. Sargent, in response to the letter Exhibit P. 11?

Mr. Simpson: I think you have already offered a copy of that letter in evidence, which I admitted to be a copy.

Mr. Lane: If I did, that is all right.

Q. Prior to the receipt of these letters, Exhibit P 11 and Exhibit P 12, had you any conversation with Mrs. Sargent? A. I had three telephone conversations with her on the day after the 11th of July, on July 12th.

Q. What were the telephone conversations? A. She first called me up and told me the chain was on the front door and she had no key to the rear door I explained to her that one of the detectives had locked up the house the night before, and I would get in touch with him and see if he had the key to the rear door, and send him over. I called up Tienken's office and was informed that a young man, his assistant, had already told Tienken that he had locked up the rear door and he had sent him over to open it.

The next conversation was a little bit later, perhaps an hour or two. She called me up again and said she was in the house; that the young man had come and opened the door; that she was there and she wanted me to come over there and give her some advice. I told her that I could not come

there; I did not think it was proper for me to come over there and talk to her, and I again advised her to see her sisters and talk it over with them and follow their advice. She said that she could not do that; that she wanted me to come, and I told her that I could not do it. Later in the day she called up again and said it was unnecessary for me to come, that she had been in touch with counsel and had engaged a lawyer to represent her.

Q. What was the next communication that you had with her? A. The next communication was the receipt of the letter from her.

Q. Prior to the receipt of this letter from her had you had a conversation with her sister? A. I had.

Q. When? A. Oh, a few days; it might have been two or three days.

Q. Was her sister alone or was she with somebody else? A. She was with somebody else.

Q. Who was she? A. A lady by the name of Mrs. Safarick.

Q. Which sister was it? A. Mrs. Linser.

Q. Did you have a conversation with Mrs. Linser with reference to this case at that time?

Mr. Simpson: Objected to.

Mr. Lane: I think it is proper to show the reasons why the petitioner himself acted in a certain way.

The Court: Objection sustained.

Q. As a result of that conversation, did you suggest that if Mrs. Sargent desired any conference with you or with Mr. Sargent, she should write a letter?

Mr. Simpson: Objected to as incompetent.

The Court: Objection sustained.

Q. After the receipt of the letters of September 25th and 26th, Exhibits P11 and 12, and your answer thereto or the answer of Mr. Sargent, was there an occasion at which Mrs. Sargent and you and Mr. Runyon were together? A. There was.

Q. How long after the passing of these letters? A. Oh, within three or four days. It was on September 30, 1919.

Q. Where did that conference take place? A. At Mr. Runyon office, 15 Exchange Place, Jersey City.

Q. Who was there? A. Mrs. Sargent, Mrs. Linser, Mrs. Safarick, Mr. Runyon and myself, and later, Mr. Sargent.

Q. Now, will you tell me the conversation that took place between you prior to Mr. Sargent coming in?

Mr. Sargent: I objection unless it is limited to the time Mrs. Sargent was present.

Mr. Lane: It is limited to that—while Mrs. Sargent was there, but before Mr. Sargent came in.

A. Mrs. Sargent, Mrs. Safarick and Mrs. Linser came into the library of Mr. Runyon's office. Mr. Runyon said to her—first Mrs. Sargent introduced Mrs. Safarick and Mrs. Linser to Mrs. Runyon. Then they were seated and Mr. Runyon said to her: "Is Mr. Simpson or Mr. Hopkins coming?" She said: "No". "Well", he said, "I think it is only proper that since you are represented by these gentlemen, that any conversation you have with us should be in their presence or in the presence of either one of them," and he said: "I will call Senator Simpson up." Mrs. Sargent said:

"No, I don't want you to do that." She said: "I came here to have a talk with Don." She said: "I don't want my lawyers present." She said: "The thing has got to this state, in this shape, and I have decided to take things in my own hands, and I do not want my lawyers present." So then Mr. Runyon said to her: "Well, what is the purpose of the conference that you want to have with your husband?" She said: "I want to talk to him, I know that if I can talk to him the thing will be fixed up and there won't be any misunderstanding and there won't be any more publicity." She said: "The publicity in this case is almost killing me." She said: "You told me, Mr. Huck, that there would be no publicity." I said to her: "Mrs. Sargent, I told you that I could not control publicity." I said: "The publicity that has occurred has not been our fault." She said: "While I was down in Asbury Park during the latter part of August, I saw you driving past in your car, and that very same night I went back to the hotel and I saw a copy of the Jersey Journal, and saw the article about the divorce suit having been filed." I said: "Yes, the petition was filed for three weeks before any of the newspapers published anything about it, and then they simply stated that the suit had been filed again you by Donald J. Sargent for divorce, naming one Simmons as corespondent." Then she said: "You dragged out everything about my brother." She said: "My family has a skeleton in the closet and you need not have dragged that out." I said: "I am not going to argue that with you, Mrs. Sargent." I said: "The most serious publicity that has occurred was the publicity that came when your an-

swer was filed, when Mr. Sargent was charged with being part of a conspiracy and with having framed you up, and the corespondent was referred to as a colored man." I said "we were not responsible for that publicity," and Mr. Runyon said; "No", and he said "as a matter of fact, the reporters came to me and told me that they had been to Mr. Simpson's office and that he had given them a copy of his answer in the case before we even knew that there was an answer filed, and that they had asked him if he had any statement to make, because they did not want to run a story of that kind without giving us an opportunity to tell our side, and Mr. Runyon had declined to make any statement. That was the substances of the conversation."

Mr. Runyon kept asking her what she hoped to accomplish by a conference with Mr. Sargent alone, and she said: "I want to see him alone; if I can talk this over with him alone it will be settled; there won't be any more publicity; he will drop his suit." Mr. Runyon said: "Why, I don't see how that is possible." He said: "I won't permit you to see him alone." She said: "You don't need to be afraid." She said: "I am not going to do him any injury. I haven't any nail files or paper openers with me. You can search me, if you want to, before you let me see Don." Mr. Runyon said: "That is not why I do not think you should see each other alone. However, if you wish, you can see Mr. Sargent in our presence." So, she said: "Well, if you won't let me see him alone, I will see him with you." So Mr. Sargent was brought in and Mr. Runyon repeated to him substantially what had taken place before

and stated that Mrs. Sargent wanted to see him alone, but we would not accede to that request.

Then she said to Mr. Sargent: "Don, I want you to drop this suit. This publicity is killing me." She said: "People even call me up to the telephone and make insulting propositions to me." He said: "I do not see how it is possible for me to drop the suit. What do you propose to do?" She said: "We will pretend to live together again and I could be vindicated in the eyes of the community, and then afterwards we could fix this thing up in some other way."

"Why," he said, "That is unthinkable. How could I live with you? You talk about publicity," he said, "You filed an answer here in which you charged me with conspiracy and having framed you up with a colored man. If now I went back to live with you, why everybody in the community would regard those charges as true and I would be driven out of the place. I might just as well pack up and go some place where I am unknown."

She said: "You are a man, you can stand it, and besides you have got the baby. I am alone. This means everything to a woman," and she said: "I think you ought to do that for that reason if for no other."

He said: "I cannot do it. I believe I was justified in bringing the case and it must be tried. I cannot agree to do what you suggest."

So she said: "Well, I think that you could do it if you wanted to."

The conversation continued along in that strain for quite a long time. Finally she did say: "What are these awful charges that I am supposed to have made in my answer?" She said:

"I never read the answer. I just signed it. It was brought to me and I signed it. I do not know what is in the answer." So Mr. Runyon got up and got a copy of the answer and read it to her, and read the affirmative defenses in the answer to her. She said: "Why, these things I do not believe." She said: "I know Don Sargent would not do a thing of that kind," and she said: "I am willing to sign a paper, saying that these things ars not true, if you will prepare such a paper." She said: "I don't want anything more to do with my lawyers, and if you will write me a letter to send to them, I will dismiss them." Mr. Sargent here interrupted and said: "If my attorneys were inclined to do such a thing I would not permit them to do it." He said: "You go out and get the advice of someone in whom you have implicit confidence and do what they tell you to do, but no such instrument will be written by my lawyers. I won't permit it." So she said finally she was through; she didn't know what to do. She would go out and go home and talk it over and see if there was anybody she could talk it over with and decide what to do. I think that that was substantially all that took place at that first conference.

Q. Did she suggest with whom she might talk? A. I do not recollect that she did.

Q. Was there any arrangement made at that conference for a further conference? A. No, sir.

Q. When was the next conference? A. The next conference was on the 6th of October, about a week later.

Q. How did that come about? A. Well, Mr. Runyon called up—

Q. You don't know how it came about? A. I don't know how it came about; no.

Q. Where was it? A. It was at Mr. Runyon's office on the afternoon of the 6th of October. He had called me and asked me to come over.

Q. Who was there? A. Mrs. Sargent and Mrs. Linser.

Q. And who else? A. Mr. Runyon and myself.

Q. Now tell us what took place at that conference? A. At that conference she said that she was through; that she was going to go away. I said to her: "Mrs. Sargent, have you thought over carefully what you are doing?" She said: "Thought it over? I have not thought of anything else for a week."

I said: "Do you realize, if you go away—do you mean by that that you are going to let this case go by default?" She said: "I do not think that Don Sargent would take advantage of my absence." She said: "I have known him long enough to believe that he would not do such a thing." I said: "But suppose that you are mistaken in that belief?" I said: "You want to understand thoroughly what you are doing. That would mean that the case might go by default." "Well," she said, "If he did that, if he got a judgment by default, all right." She said, "I cannot stand it around here any longer. I am going away from Jersey and I am not coming back." She said—I don't remember whether she said she had bought or was going to buy a Cook's Tour for the south, try a warmer climate for the winter, and she said: "I want some money that Don owes me," she said: "He owes me $250 for my July allowance, and he owes me $1200 that I spent for the baby and for the household." I said: "How did you happen to have that much

money to spend for the baby and the household?" She said that during the previous fall and winter she had been sick and had been unable to buy any clothes and that she had been able to save that much money and spend it in that way, but she had never gotten it back from Mr. Sargent. So she said: "I spoke to Mr. Hopkins about that $250 and that $1200 (or $1250) some time ago and he said he had written to you about it." I said: "Yes; he has written to us about it, but I have never done anything in connection with it." So I told her then to write us a letter making a claim for it, and we would take it up with Mr. Sargent. So she said: "I feel that if you folks wanted to, you could do something for me, in spite of the fact that you say you cannot do anything for me." She said: "I know that all Don would have to do would be to drop the case and it would be all right. He is a man, he can get over it," and she said: "I don't know what else to suggest to do." She said: "I feel if you really wanted to, you could do something for me."

My recollection is that that is substantially all that was said at that time.

Q. At the end of that conference was there any arrangement made for a further conference? A. No, sir.

Q. Was there a further conference? A. Yes.

Q. When? A. The following day.

Q. How did that occur? A. That night Mrs. Lisner called me up at my home. It was quite late at night, I recall, and said—

Mr. Simpson: Objected to.

Q. As a result of that conversation which you had, did the conference the next day take place?

A. No, the conference the next day came after a telephone call to me from Mr. Runyon.

Q. What time was the conference? A. It was quite late that afternoon.

Q. Where was it? A. At Mr. Runyon's office.

Q. Who were there? A. Mrs. Sargent, Mrs. Linser, Mr. Runyon and myself.

Q. What happened? A. I don't remember whether it was Mrs. Sargent or Mrs. Linser stated that after they had left us the day before they had gone down to Mrs. Linser's home and that a lawyer friend of Mrs. Linser had called on her that evening and that the discussion or talk led to the Sargent case; that they had told him of the various talks with us and our statements to them that we could not do anything for her; that he said there was something we could do for her in order to save Mrs. Sargent's name, and that was to let her go to Reno and get a divorce, and in the meantime we did not need to move our case here; we could simply let this case rest or keep on postponing it from time to time so that she could go out to Reno and get a divorce on the ground of desertion.

We told her that we could make no such agreement. That Mr. Sargent insisted that this case must be tried; that where she went or what she did was a matter she would have to do of her own accord; that we could not advise her to do one thing or the other; that if she went there she must thoroughly understand what Mr. Sargent's intentions as to this case were, and that he might and probably would try it when it came on. She said: "Well, I will take a chance on that," she said: "I don't think Don will do it, but if he does, all

right." She said: "I cannot stay here any longer. I have got to go some place where I will make a new home among new people who do not know me."

Q. Did you have any further conversation with her? A. I think about a week later, on the 14th of October, she called again at Mr. Runyon's office and I came over and we had a conversation with her then.

Q. What was that conversation? A. She stated that she was about ready to go away. She wanted to make one more attempt to see if we could not get Don to agree to postpone the case and we told her: "No," that we had talked over with him what she said before and his determination was, as it had already been expressed to her, namely, that he insisted on trying the case, that he would not agree to postpone it to give her an opportunity to go out to Reno to get a divorce. I think she said something at that time about some of the things in the house that she claimed were hers.

Q. Did she say anything further on that occasion with respect to her attorney? A. She said—I don't remember whether it was on that occasion—I think it was on a prior occasion. She said that after she had left us on the 30th of September, she had written to her attorneys dismissing them, and on that occasion she did not speak about her attorneys, but she did say something about lawyers when she got out west. She said she supposed she would have to get some advice from time to time while she was out west, and so she asked Mr. Runyon if he could recommend any attorneys to her in Reno, and he said: "No," he said: "I do not think it would be proper for me

to do such a thing." "Well," she said, "you must know lawyers out there." He said, "I do know lawyers out there, in fact, I have got a letter on my desk from a firm of lawyers now, but I don't think it is proper that I should tell you to go to them or to any particular lawyer. If you want legal advice, there are lots of good lawyers out there, no doubt, and after you have been there a while you can find out from people who they are." So she got up and looked on his desk and saw a letterhead and she said: "Stoddart & Saulsbury," she said: "I can remember that." Then she said: "Are they gentlemen? I don't want anything more to do with lawyers like I have." He said: "I don't know anything about them," he said: "I have simply had transactions with them, as I had with other firms out there. I had never met them. I never knew anything about them." He said: "I don't want you to go to them because you think I know them, or anything of that kind."

Q. Did you have any conversation, before she left for Reno or the west? A. She called me up one night after that—it may have been the same night or a few nights later—and said she would like Mr. Runyon and I to come up to the house and she would tell us what she had done with respect to various things that belonged in the house, and I told her that we would not come up; that I would not come and I was sure Mr. Runyon would not.

Q. Was that the last communication? A. That is the last I saw or heard from her.

Q. Did she, at any time during any of these conversations say: "I am innocent," or words to that effect? A. No, sir.

Q. Did you dictate a letter discharging her attorneys? A. No, sir.

Q. The sum of $1200 was subsequently paid to her, was it not? A. It was.

Q. Can you tell me about when? Have you the check here? A. No; I have not the check here. It was in the latter part of October.

Q. How did it come to be paid? A. Well, as a result of the fact that her attorney had made the claim away back in August, and her request at that time for it. She said that it was due to her. We took it up with Mr. Sargent and he said he didn't know anything about it, but if there was any question as to his failure to meet any obligations that he owed to the baby, why he would not have any question about it, he would pay it. He refused her request for $250. He said he did not owe her that. She called that her July allowance. Then I got a letter signed by Mrs. Linser, after one of these conferences, requesting that money—

Q. (Interrupting) I show you a letter dated October 6th and ask you if that is the letter you received? A. Yes.

Mr. Lane: I offer in evidence letter from Mrs. Linser to Mr. Huck.

Mr. Simpson: Objected to.

Mr. Lane: The testimony is that in a conversation between Mr. Huck and Mrs. Sargent, Mr. Huck suggested that this letter be sent or that a letter of similar purport be sent, and the next day he did receive this letter. I offer it now as having been connected.

The Court: Objection overruled.

Letter is marked Exhibit P-1a, December 10th.

Q. Subsequently there was an increase in her allowance from $225 to $300 a month, was there not? A. Yes, sir.

Q. When was that change made and how did it come about? A. That change was made sometime I think in January 1920. At the time the alimony in this case was fixed at $225 a month Mrs. Sargent was occupying the house. After she went out west, either Mr. Runyon or I—I think probably Mr. Runyon, got a letter from Stoddart & Saulsbury, saying that in view of the fact that she had given up the house and could barely get along on her allowance, he thought that a suitable allowance should be made to her in lieu of the use of the house, and we decided that $75 a month would be proper, and I sent the checks thereafter at the rate of $300 a month and my recollection also is that I sent her one check for $150 for the increase for November and December, so as to date it back to the time she left.

Q. I show you a check dated January 7, 1920, Exhibit D-5, to the order of Stoddart & Saulsbury, $500, and ask you how it was that that amount was paid? A. It was paid because we received a letter from Stoddart & Saulsbury asking for it. Mr. Runyon and I discussed it at the time and we came to the conclusion that she was entitled to be represented by counsel. She had gone out there, practically alone, that there were matters in which she would need legal advice; she had discharged her attorneys here and she was entitled to be advised by counsel, and the mere fact that they were out west and might not have any means of enforcing the demand in this action was no reason why we should not pay it. So we sent

a check for $500 and at the time that check was sent we had had considerable correspondence with them concerning the removal of practically all of the linen and silver from the house. When Mr. Sargent went back there after she left he found that practically all of the linen and silver were gone—

Mr. Simpson: I object to this.

The Court: Strike it out.

Q. Had there been, prior to January 7, 1920, communications between you and Stoddart & Saulsbury with respect to these differences and difficulties? A. Oh, yes. Just a minute. I will withdraw that answer. I do not know that there had been any communication between myself and Stoddart & Saulsbury. It may have been with Mr. Runyon. I think that practically all of the correspondence with them was with him.

Q. Do you know Judge Stoddart? A. I know Judge Stoddart, yes, sir.

Q. Has he been here at the trial of this case continually with Mr. Simpson? A. Yes, sir.

Q. Until today? A. Yes, sir.

Q. On the night of the raid did Mrs. Sargent say to you: "You, Mr. Huck, of all men, how could you do such a thing, you whom I have wined and dined in my home"? A. No, sir.

Q. Do you drink at all?

Mr. Simpson: Objected to.

The Court: Objection overruled.

Q. Do you drink at all? A. Well, I do not any more. At that time I used to take a drink occasionally. I never drank there.

Q. Did she say to you: "I have done no wrong, Mr. Huck. Why have you done this thing?" or words to that effect? A. No, sir.

Q. Did you then say: "I am just as sorry to be here as you are here to see me," or words to that effect? A. I think I did make that statement when she told me that she was sorry she had to face me.

Q. Did you say to her: "You have done enough tonight to hang you," or words to that effect? A. No.

Q. Did you say in her presence to Mr. Tienken: "You don't need to use violence with Mrs. Sargent," or words to that effect? A. No. What I did say to Tienken was: "Keep still. I will do all the talking that is necessary."

Q. Did you say to her, in response to her statement that she would not get out of the house: "It is Mr. Sargent's order that you get out of here"? A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Did you say to her, or ask her, at one of these conferences that you had with her at Runyon's office, if she had filed a truthful answer, and who had told her to frame her answer? Did you ask her that question? A. No.

Q. Did she tell you, at any time during these conferences, that she had told in her answer the absolute truth, or words to that effect? A. No, sir.

Q. Did she say anything with respect to who had framed the answer? A. I don't know that she said anything with respect to who had framed the answer. She did say that the answer had been prepared by her attorneys and submitted to her to be signed.

Q. Did she say anything about her brother in that connection? A. She might have. I do not recall. She mentioned her brother several times, but I do not recall that it was in that connection.

Q. Did you at any time make an agreement with Mrs. Sargent that she should go west and get a divorce?

Mr. Simpson: I object upon the ground that it calls for a conclusion.

The Court: Objection sustained.

CROSS-EXAMINATION by Mr. Simpson:

Q. At this last interview with Mrs. Sargent, Mr. Runyon and yourself, where did Mrs. Sargent sit? A. In Mr. Runyon's room.

Q. Did Mr. Runyon sit at his desk? A. Yes.

Q. It was a flat top desk? A. Yes; flat top desk.

Q. About as large as one of these tables? A. Oh, no; I should not say it was as long as one of these tables—maybe.

Q. Was she on the same side of the table as Mr. Runyon, or on the opposite side? A. She was on the same side, sitting alongside of him.

Q. Were there many papers on the desk? A. There were a few; I don't know how many.

Q. When Mr. Runyon protested that he would not give her the name of a lawyer, but that he had on his table the name of a lawyer in Reno, how long after that was it that she got up and went over to his desk and gleaned the name of this firm? A. She got up immediately. She just arose in her chair and looked over at the desk.

Q. Did she look immediately at the right paper, the one that had the name of this firm on it? A. Well, I don't know what she looked at. I know she got up and looked that way and said: "Stoddart & Saulsbury. I will remember that."

Q. And then what? A. "Stoddart & Saulsbury. I will remember that."

Q. Almost immediately with her leaning over she said that, did she? A. Well, after a very short interval.

Q. She simply had time enough to get up and lean over and she immediately picked out the right paper and said: "Stoddart & Saulsbury; I will remember that"? A. Yes.

Q. Mr. Runyon did not point the letter out, did he? A. My recollection is that when he said: "I have a letter on my desk from a firm out there," he glanced at his desk.

Q. He glanced at his desk? A. Yes, sir.

Q. Can you tell which side of his desk he glanced at? Did he glance at the side on which this letterhead was, or on the other side? A. He glanced right straight ahead of him. He was sitting sideways in his chair and she was sitting on his left.

Q. At no time did he mention the words "Stoddart & Saulsbury"? A. No, sir.

Q. Did he lay a piece of blotting paper over the letterhead when she got up to look at his desk? A. No.

Q. Did he attempt in any way to obstruct her? A. No.

Q. He did not close his desk? A. He could not close it; it was a flat top desk.

Q. He did not cover it with anything? A. No, sir; no.

Q. He did not say: "Mrs. Sargent, you should not do that"? A. No; he did not say that.

Q. Do you remember what was said after she sat down and said: "Stoddart & Saulsbury; I will remember that"? A. She said: "Are they gentlemen?"

Q. Do you remember what Mr. Runyon said after she said "Stoddart & Saulsbury, I will remember that"? A. He said, "You have no right to take that name and rely upon them because you saw that on my desk"—some such words.

Q. You knew that he wrote immediately to Stoddart & Saulsbury and told them that she was going there? A. No, sir; I do not.

Q. Don't you know that he wrote a letter to Stoddart & Saulsbury in which he said: "A new client will be in your office soon from Jersey City"? A. No, sir.

Q. After he protested against her action in getting up and looking at the paper on his desk, did he end this interview? A. No; he did not.

Q. Why didn't he? You say he said "Here, you had no right doing that"? A. He said: "You have no right to take that name and rely upon that because you saw that name on my desk."

Q. And there was no further conversation about that, was there? A. No, sir.

Q. None at all? A. Except, as I have said. She asked if they were gentlemen.

Q. What did he say? A. He said he didn't know anything about them; he had never met them.

Q. Did he say they were correspondents of his in Reno to whom he had sent other cases before? A. No, sir.

Q. You know as a matter of fact he had, don't you? A. No, sir; I do not.

Q. Go back to the night of this raid. How long had you know Mr. and Mrs. Sargent? You have already testified that you knew them for a long time? A. I have known Mr. Sargent about ten

years; I have known Mrs. Sargent about four years.

Q. Previous to the 26th of May, had you dined with your wife at Mrs. Sargent's house? A. I had once when they lived on Union Street.

Q. Had you dined at Kensington Avenue? A. No, sir.

Q. Alone or with your wife? A. No, sir; I have not dined there. One night we met them at a social function at Freeman Lyceum and afterwards they invited us to the house.

Q. Had you visited the Kensington Avenue house with your wife? A. Yes; I think I had.

Q. As a matter of fact, your wife was on terms of social intimacy with Mrs. Sargent, was she not? A. I would not say "social intimacy." She knew her and had called on her.

Q. She had called on her? A. Yes.

Q. Accepted her as a person fit to associate with, didn't she? A. I daresay.

Q. Then on the 26th of May you knew these detectives were put in this house, didn't you? A. Yes.

The Court: It was the 22d.

Witness: I don't remember the exact date.

Q. Whatever the date was, it was in the latter part of May? A. Yes, sir.

Q. Did you know that they were wiring the house and putting wires into different rooms, tapping the telephone, putting signals in the attic, a buzzer down near the door where Mrs. Sargent was? A. I knew it at some time.

Q. Did you know when they did it? A. I don't think I knew it immediately.

Q. You knew it before the night of the raid, didn't you? A. Oh, yes.

Q. And what arrangement did you make about being in communication with these detectives who were in the house for this purpose? A. Well, my arrangement with them was that they were to do whatever they thought was necessary in order to carry out instructions.

Q. Was this letter of the 19th of June written under your direction, giving you and the detectives full power in that house? A. Yes, sir.

Q. Whose possession was that letter put into? A. That particular letter was put in the possession of Mr. Tienken.

Q. Did you know that these detectives were in the house all the nights when Mr. Sargent was absent? A. Yes.

Q. Did you know that the house was full of servants who were in league with the detectives and who were hostile to Mrs. Sargent? A. No.

Q. Did you know that the servants in that house knew that the detectives were there and were keeping that knowledge from Mrs. Sargent? A. Yes.

Q. You knew that? A. Yes.

Q. So the situation was, and you knew it, that this woman was in the house with detectives in the house and the house was wired, her servants were there, knowing that the detectives were there, and that she did not know it, and that the house was wired with signals to apprise the detectives; you knew that, didn't you? A. Yes, sir.

Q. What arrangement did you make to be in personal contact with this situation? A. I didn't make any.

Q. Didn't you give them your telephone num-

ber in Jersey City? A. I think probably I did; yes.

Q. Didn't you tell them to call you up if anything developed? A. No; I did not tell them that.

Q. What did you tell them? A. I told them if anything developed when Mr. Sargent was present or nearby they were to get in touch with him; if not, they were to get in touch with me.

Q. Did you know he was to go out of town the night of July 11th and was to be away all night? A. Yes, sir.

Q. Did you know that his purpose was that these detectives would have a free hand? A. No, sir.

Q. Did you make any arrangements on the night of the 11th of July that you could be summoned when the detectives were in the house and the situation was such as I have described? A. No, sir.

Q. Did you give them your telephone number? A. I had given it to them when they were first engaged.

Q. You expected to be called, didn't you? A. I thought I might be.

Q. When you were called, on the 11th of July, what message did you get? A. "Come right up to Mr. Sargent's house."

Q. Did they tell you the trap was sprung? A. No.

Q. You did not know what had happened until you got up there, did you? A. No, sir.

Q. Who was the first person you saw when the street door was opened? A. Tienken.

Q. And did he close the door before you went upstairs or leave the street door open? A. Why, I presume he closed it; I don't know.

Q. Did you go upstairs first or did he go upstairs first? A. We went up together.

Q. Did he get to the door before you, or did you get to the door of the pink room at the same time he did? A. He got there first.

Q. Did you see the other detective there when you got there? A. I saw him in the hall; I don't remember just where he was at the time.

Q. Did you see him before the door was opened of the room Mrs. Sargent was locked in? A. Yes.

Q. Did you know that she was locked in this room when you got to this room? A. Yes.

Q. Had Tienken told you the door was locked? A. Yes.

Q. Did he produce a key to unlock it? A. My recollection is that he did.

Q. From where did he produce the key to unlock the door? A. If he produced it he produced it out of his pocket, but I am not certain.

Q. You won't say, when you got to the door, whether the key was still in the door, or whether Tienken produced it out of his pocket? A. I don't know.

Q. Who first stepped in the room—you or Tienken? A. Tienken.

Q. You said the windows were open? A. Yes.

Q. How many windows were open? A. Three.

Q. You saw that as soon as you entered the room? A. I don't know that I saw it as soon as I entered the room.

Q. When did you become aware that the windows were open? A. I was in the room for quite awhile when I noticed the windows.

Q. The shades must have been up? A. Half way.

Q. None of the shades that you could see had been pulled all the way down? A. I think the shade facing Bergen Avenue was all the way down.

Q. One of them? A. One of them.

Q. The other two were halfway up? A. Yes, sir.

Q. Where was Mrs. Sargent standing in the room when you entered? A. At the foot of her bed.

Q. You said she was dressed with a waist and skirt. Was it an underskirt? A. It was the usual length.

Q. It was over the tops of her shoes? A. It might have dropped down below or over the tops of her shoes.

Q. You say her shoes were unbuttoned. Did you look at her shoes carefully? A. I did not look at them carefully.

Q. What was there that attracted your attention to the shoes being unbuttoned? A. Well, I was in the room with Mrs. Sargent for some time.

By the Court: Q. For how long? A. I suppose five minutes probably or longer.

By Mr. Simpson: Q. Do you know how many buttons the shoes had? A. No.

Q. Do you know whether they were unbuttoned or not or only some of the buttons unbuttoned? A. I don't know whether they all were unbuttoned or not.

Q. You don't know whether the top buttons were unbuttoned or not? A. I know the top buttons were not buttoned.

Q. You don't know whether the others were unbuttoned or not? A. I don't know.

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Q. Do you know how many of the top buttons were unbuttoned? A. No, sir.

Q. Then you had this conversation that you have described? A. Yes, sir.

Q. She seemed to be agitated and nervous, didn't she, and hysterical, and said: "Who is this man"? A. No, sir; I would not say that she was hysterical or agitated. She might have been nervous, I don't know.

Q. Did she seem to be in her usual calm frame of mind when she said: "Who is this man in my house"? A. No, sir; I would not say that she was in her usual calm frame of mind.

Q. Something abnormal about her mental condition; she was not placid? A. No; I don't think she was.

Q. When she said: "Why is this man in my house?" what did you say? A. I said: "He is a detective."

Q. What did she say? A. She said: "What is his name?"

Q. What did you say? A. I said: "I do not feel at liberty to tell you."

Q. What did she say? A. She said: "I want him to get out of my home. He has got no business here."

Q. When you said that she did not protest her innocence, didn't you understand when she said: "I want this man to get out of my house, he has no business here," didn't you understand that she was protesting to you that she was in the right and this man was in the wrong? A. I do not think I was permitted to answer that question.

Q. Yes. The Vice Chancellor permitted you to answer that question. At any rate she said: "I

want this man put out of my house; he has no right here''? A. Yes.

Q. At that time did you tell her that her house had been wired; that there were signals put in the attic and that her telephone had been tapped and her room connected with the dictagraph? You did not tell her that, did you? A. No, sir. She said something about it.

Q. Did you tell her anything about it? A. I didn't tell her anything about it. I simply answered her questions.

Q. Again, you say her hair was disordered. What do you mean by that? A. Well, it did not have the appearance of having been combed. It was just up on top of her head.

Q. As if she had loosened it for the night? A. Well, not loosened,—well, as if it was put up roughly.

Q. It was ruffled? A. Yes, sir.

Q. You are not familiar, I take it, with the styles of ladies' hair dressing, are you? A. No, sir.

Q. You do not know what style it was in, or whether it was proper or improper, do you? A. No, sir.

Q. You are simply giving a man's view of it, and in your opinion it was disordered? A. Yes.

Q. Because it was roughly put up on her head? A. Yes.

Q. With the exception of that, she seemed to be dressed for the street; she had her waist and skirt and shoes on, and except for her hat she was dressed for the street? A. Excepting that her shoes were open.

Q. And you had no conversation with her about

the presence of this man in the room, the man having shut the door and the detective having locked it, did you? A. No, sir.

Q. You did not ask her for any explanation? A. No, sir.

Q. None at all? A. No, sir.

Q. You did not tell her at that time, that night, that she was charged with having this colored chauffeur in her room for immoral purpose, did you? A. No, sir.

Q. You gave her no opportunity to explain what the whole thing was about, did you, as far as your statements went? A. She had asked me—

Q. (Interrupting) I did not ask you what she said. I asked you what you said to her. Did you say to her what you believed the situation to be? A. No, sir; I did not.

Q. Then, you were in the house how long? A. Well, I suppose the better part of an hour.

Q. During this time she was saying: "Where shall I go? What shall I do?" And you were saying that she better get in touch with her relatives, were you? A. Yes, sir.

Q. At what stage was this letter produced? A. It was produced almost immediately after we entered the room.

Q. For what purpose? A. Mrs. Sargent had made that statement, asking me who was this man; I said he was a detective, and she wanted to know his name, and then she said: "I want him put out of my house," or "out of my room; he has got no business here." Tienken then reached in his pocket and produced the letter and said: "I beg your pardon, madam; I have authority from your husband to be here." I said: "Never mind,

Tienken, I will do whatever talking is necessary. You keep still."

By the Court: Q. Was there a duplicate of that letter in existence? A. My best recollection is that there was.

Q. You had one? A. I had one.

By Mr. Simpson: Q. You did not produce yours? A. No, sir.

Q. Was there any conversation in which you told her that she better get out of the house and she said: "I don't want to get out. Possession is nine points of the law"? A. Well, some of that was said and some of it was not.

Q. Did you or Tienken tell her to get out of the house? A. No, sir.

Q. Why didn't you leave her in the house? A. We did.

Q. You took her away in an automobile? A. Yes.

Q. You say you got in the automobile because she did not want to go with the strange men? A. She said to me: "What shall I do? Who can I go to? I want you to advise me," and I advised her to get in touch with her people, and she went to telephone and tried to call them up and finally she got her sister in Long Island and said she would go down there, and then she said: "I don't want to leave my home unless you promise me -" or "will you promise me if I leave I can come back. I know possession is nine points of the law."

Q. Did you tell her she could stay or not, just as she wanted to? A. I did, certainly.

Q. When did you tell her that? A. I told her that, in response to that question by her; I said: "Mrs. Sargent, I am not advising you to get out

of the house. You are at liberty to stay if you wish. You asked me for advice. The advice I give you is to go over to your sister's right away."

Q. How many nights did you wait for telephone messages from these detectives in this house? A. I don't know that I waited any night.

Q. You waited this night? A. I didn't wait.

Q. You got this message? A. About a quarter of eleven.

Q. Were you dressed when you got it? A. I had my shoes off and coat and vest.

Q. You knew Mr. Sargent was away from the house, didn't you? A. I did.

Q. Did you expect anything to happen on that particular night, the 11th? A. I cannot say that I expected anything to happen.

Q. But you were waiting for it? A. No.

By the Court: Q. You thought something might happen? You said only a few moments ago that you rather expected to get a call that night? A. I don't recollect that.

Q. You said you thought you might be called that night? A. I thought I might be called any night.

By Mr. Simpson: Q. You were not called any other night? A. No, sir.

Q. From the 26th of May until the 11th of July? A. No, sir.

Q. Were you in touch with the detectives, or did you receive reports how they were progressing? A. Tienken used to stop in the office from time to time and tell me.

Q. During the whole period of occupation? A. Yes.

Q. How often would he come and tell you? A. I suppose every couple of days.

Q. Did you know that he was putting Viola in that house under the guise of a maid, but she was a detective? A. He told me he had done so.

Q. How long did he tell you before he did? A. I don't know that he told me before he did, but he told me shortly after he did it.

Q. Did you give him the name and address of the servant Ida Lewis, through whom he got Viola in the house? A. No, sir.

Q. Who did give it to him? A. I don't know.

Q. You don't know? A. I don't know.

Q. What time did you leave the Sargent house that night? A. I assume that—I don't remember exactly the time we left, but it must have been after midnight.

Q. Did you see Charlotte at all that night? A. Yes, sir.

Q. When did you see her? A. My recollection is that I saw Charlotte after I came out of the pink room.

Q. Where was she? A. My recollection is that I saw Charlotte after I came out of the pink room.

Q. Where was she? A. She was in the hall.

Q. Did she go into the pink room? A. Not then.

Q. How soon after? A. After Mrs. Sargent had telephoned.

Q. Where was Charlotte standing in the hall when you saw her? A. About halfway from the door of the pink room and the end of the hall where the bathroom door was.

Q. Did you look that way when you first came to the door so that you could say whether she was in that position before you went in the pink room? A. I cannot remember.

Q. You don't know whether she was there or not? A. I do not.

Q. Did Mrs. Sargent put her arms around Charlotte and say: "Mr. Sargent wants to get a divorce," or anything of that kind? A. I did not see that. When Charlotte was inside with Mrs. Sargent the door was closed.

Q. You don't know— A. I don't know what happened then.

Q. You don't know? A. I don't know.

Q. You know it was important to your case, if you were to manage this case, under the circumstances to get an admission from Mrs. Sargent that this thing was true, didn't you? A. It may have been important, but I didn't think it was proper.

Q. You knew it was important, didn't you? A. I did not think about it at all.

Q. You did not think about it at all? A. No, sir.

Q. You did not say: "This is a horrible thing. How could you do that? How could you become intimate with the colored chauffeur?" A. I had no discussion with Mrs. Sargent about her guilt or innocence.

Q. Do you remember her saying: "I have done no wrong." A. No, sir.

Q. Do you remember her saying: "You have broken up my home; where shall I go"? A. No; I did not hear her make that statement.

Q. You have given us all the conversation that you had that occurred in that house in that one hour that you were in the house, have you? A. All that I can remember of it; yes.

Q. Get down to the date of this interview. At

the time of this interview I was then her solicitor, was I not? A. Yes.

Q. I was her solicitor of record then? A. Yes.

Q. You did not 'phone me before you talked to her ? A. No, sir.

Q. You did not get any other lawyer there to represent her, did you? A. No, sir.

Q. You knew that she was a white woman who had been regarded as respectable, didn't you? A. Yes, sir.

Q. You knew that charges were made against her chastity for certain conduct with a colored man, you knew that? A. Yes, sir.

Q. Yet you talked with her without her being represented by any attorney whatever? A. Yes.

Q. Before you talked with her, either you or Mr. Runyon attempted to destroy her confidence in her then attorney by accusing him of being responsible for all the embarassing publicity connecting her with this colored man? A. No.

Q. You made that statement to her, didn't you? A. No; I did not.

Q. Have you not testified that Mr. Runyon told her that the reporters came to him and told him that Simpson had given out copies of the answer and that Simpson was responsible for the publicity? A. That statement was made long after there was any discussion about her attorneys not being there.

Q. Was it made at the time of the first interview? A. It was made at the time of the first interview.

Q. You thought that that was to get her in a proper frame of mind to get her then solicitor there? A. No, sir.

Q. At any rate, this interview was conducted without any lawyer being there to represent her? A. Yes.

Q. Is that the interview at which Mr. Sargent was present? A. Yes.

Q. At that interview I understand she wanted to talk with him alone? A. Yes.

Q. She said if she could see him alone she could convince him so that he would stop this suit? A. Yes; something to that effect.

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

Q. Neither you nor Mr. Runyon? A. No, sir.

Q. You or Mr. Runyon would not allow her to talk to him? A. No, sir.

Q. You did not care to have her discuss the truth or falsity of these charges alone with Mr. Sargent? A. She did not state she wanted to discuss the truth or falsity of the charges.

Q. She said she wanted to talk to her husband? A. Yes.

Q. Alone? A. Yes.

Q. That would mean she might talk about anything? A. Yes.

Q. What objection did you have to this woman talking to her husband about these charges, whether true or false, or whether there was a mistake? A. She did not say she wanted to talk to him about the charges, she said she wanted to talk to him about the case, and see if there could not be—

By the Court: Q. Just answer the question. Why did you object? A. We objected to it. We discussed it. We discussed it in the first place, with Mr. Runyon and with Mrs. Charles Roe—we

called him in and took up that particular matter and we decided—we didn't know whether she was coming in good faith or what her purpose was in coming; we did not know what construction might be placed upon any conversation that she might have with him afterwards, or what other acts might be charged against him as having taken place during a conversation alone, and the three of us decided that it would be better not to permit her to see him alone.

By Mr. Simpson: Q. You knew that if it was untrue, that if these charges were untrue, that this woman alone with her husband might be able to demonstrate to her husband that they were untrue—if they were untrue—I am not taking your opinion on whether they were untrue or not, but if they were untrue? A. I don't know that she might have been able to demonstrate to him.

Q. Supposing that they were untrue, that these detectives had gone off half cocked, that this thing was all a miserable mistake, don't you think that this woman alone with her husband could have convinced him of that? A. I don't know.

Q. You did not let them talk anyhow? A. No, sir.

Q. Mr. Huck, you do not make a specialty of divorce cases, do you? A. No, sir.

Q. Is this the first divorce case in which you have hired detectives to go into a man's house and corrupt his servants and get possession of the house; is it the first time you have ever done this kind of a thing? A. It is the first time I ever engaged detectives—

Q. For a divorce case or any other criminal case? A. Yes, sir.

Q. About this $1200. You say that was paid as the result of a discussion with Mr. Sargent in which he said, well, if he was obligated for the baby, it would be paid. Is it not a fact that you absolutely refused to pay that $1200 to Mr. Hopkins, her then attorney, and never paid it until she went to Reno? A. I don't know that we absolutely refused to pay it to Mr. Hopkins.

Q. You discussed it with him? A. I don't think we did.

Q. Your correspondence shows that you did. A. We got a letter from him. I don't know that that letter was ever replied to.

Q. You had two interviews with Mr. Hopkins about this and the sole subject was the $1200, didn't you, in your own office? A. Mr. Huck might have spoken to me about the $1200, I think he probably did, that Mrs. Sargent claimed that Mr. Sargent owed her $1200, and also owed her $250 for July, and I think I told him then to write a letter to us making a claim about it.

Q. When was that? A. I assume it was prior to the date of that letter, prior to August 28th.

Q. How long before this woman went to Reno? That is what I am trying to get at? A. Oh, I expect a month and a half.

Q. You didn't pay it during that month and a half? A. No, sir.

Q. How long had she been in Reno before you paid it? A. I don't know that she was in Reno when we paid it.

Q. Well, you sent the check, didn't you, out to Reno? A. No; I think I sent the check to Mrs. Linser.

Q. To Mrs. Linser? A. Yes, sir.

Q. And it was then forwarded? A. I don't know.

Q. You did not send Stoddart & Saulbury's check to Mrs. Linser, did you? A. No; I gave it to Mr. Runyon.

Q. This woman to whom you sent some checks after she went to Reno—Mrs. Safarick— A. I don't know.

Q. You sent $500 to Mrs. Safarick afterwards; didn't you send Mrs. Safarick money for Mrs. Sargent after she left here? A. No.

Q. You didn't send her anything at all? A. No.

Q. Have you had any correspondence with this firm of lawyers of hers, Stoddart & Saulsbury? A. Yes; I have had some.

Q. And you have been advised as to her suit, have you not, after she had arrived there, how things were progressing, when she could bring suit and when suit was brought,—you were advised of all of those things? A. By letters from them?

Q. Yes. A. No. I don't think I was. The only correspondence I had with them was to send them checks and receive acknowledgments.

Q. Did you see the letters they wrote to Runyon & Autenreith? A. Yes, sir.

Q. Don't you think that would advise you? A. Yes.

Q. Now, calling your attention to a letter which I think has been offered in evidence—all of these have been offered—did you see this telegram: "Mr. Simpson or Hopkins no longer connected with case since date I told you of. Will again write them to this effect and send you copy. Can-

not understand their persistence. Will you wire me on receipt of this or have Mrs. Safarick. Have enough without this." Did you see that telegram? A. I don't remember.

Q. You don't know what that means to Mr. Runyon about this case? A. No, sir.

Q. Now, did you see this letter—you said you were not advised—did you see this letter: "November 5, 1919. Messrs. Runyon & Autenreith, 15 Exchange Place, Jersey City, New Jersey. Dear Sirs: We have just been consulted by Mrs. Frances L. Sargent, formerly of Jersey City with respect to a proposed divorce action against her husband, D. J. Sargent, who, as we are informed, resides in Jersey City. Mrs. Sargent informs us that she has given up her domicile in New Jersey and intends to reside in Nevada—

The Court: Has that letter been offered in evidence?

Mr. Lane: Yes.

The Court: Show him the letter and ask him whether he has seen that letter or not.

Q. Have you seen that letter, dated November 5, 1919, to Runyon & Autenreith, signed by Stoddart & Saulsbury? A. Yes; I assume I did.

Q. You still say, do you, that you were not aware of the proceedings there and what steps they were taking in Reno, Nevada? A. Senator, I never said that.

Q. That is what I want to know. A. You asked me if I was personally advised by correspondence from them, and I said that the correspondence was with Runyon & Autenreith.

Q. Did you get the information? A. Yes.

Q. When Mrs. Sargent went away, you told her

that if she went away you could not give her any assurances that in her absence the suit would not be brought to trial? A. Yes.

Q. That you were going to make every effort to bring it to trial? A. Yes.

Q. When did you make your first effort to have it fixed for trial? A. I don't know when the case was fixed for hearing. That was up to Mr. Runyon. I do know that I was told it was answered ready, and we were ready every time it came up.

Q. Is it not a fact that we had to give you notice to fix a day for hearing, and you telegraphed to Mrs. Sargent that I was busy in the case and you could not understand it? A. I don't know that we sent such a telegram.

Q. When Mrs. Sargent held her interview with Mr. Sargent that was the first time she came to your office? A. Yes, sir.

Q. How many calls did she make altogether? A. About four.

Q. About four? A. I think three or four.

Q. You were holding her at arms length, that is, you would not let Mr. Sargent talk to her alone, you believed in the justice of the case, that you should go ahead with the case, didn't you? A. Yes.

Q. Then why did you send $500 to Stoddart & Saulsbury, whose name, according to you, she had stolen from the desk of Mr. Runyon? A. Because, as I have already said, she stated that she had discharged her attorneys here; Stoddart & Saulsbury had been communicating with us in connection with this propery that had been removed; we felt that she was entitled to legal advice, wherever she might be, and the mere fact that they

were out there and probably could not enforce the demand in this state was no reason why the $500 should not be paid.

Q. But you knew she could not get a decree in Nevada, didn't you? A. I don't know anything about Nevada.

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

Q. You knew that you had already paid her $800 for legal services in this case. A. Yes, sir.

Q. You still made a payment of another $500 to the firm in Nevada, of which you say you knew nothing as to the success or failure of the action? A. Yes, sir.

By the Court: Q. Was this payment made after you had been advised, through Mr. Runyon, by Stoddart & Saulsbury, that the suit in Reno was about to be commenced or had been commenced? A. Yes; I do not think the suit had been commenced. This was in January, 1920. There was no suit commenced out there until later, in the spring or summer.

By Mr. Simpson: Q. And you paid them after you received a letter from them that it would be only a retainer; they could not tell you how much their whole bill would be. Didn't they write you such a letter? A. I do not recall, Senator. They may have.

Q. Did you have anything to do with introducing this Ida Lewis to Tienken, the detective? A. No, sir.

Q. Who was the man in charge—Tienken? A. Yes.

Q. Did you introduce Walters, I think his name is—Pete—did you introduce him to Tienken? A. No; I did not introduce him.

Q. Did you personally talk to the servants in the house when the detectives were put in? A. No, sir.

Q. Who put them in—Mr. Sargent or you? A. I hired them and told them what the situation was, and then Tienken told me he would like to see the premises, and I made an arrangement with Mr. Sargent to have them go over there and see the house.

Q. How did you explain to the servants—did you do that or did Mr. Sargent do that? A. I don't know who did that. I didn't do it.

Q. You did not do that personally? A. I did not.

Q. Were you in the premises personally while the detectives were in the occupation of the house? A. Not prior to the night of the raid.

Q. You were not there at night before the 11th of July? A. No, sir.

Q. That is, you didn't have anything to do with the situation, the fixing of it or anything of that kind? A. No, sir.

Q. Did Mr. Sargent on more than one occasion, tell this lady that I was responsible for all of the unpleasant publicity that she could obtain being charged with intimacy with a colored man? A. I do not recall whether the subject of publicity in that connection was discussed at the first interview.

Q. Do you know that neither you nor Mr. Runyon, told me, while I was solicitor of record, that this lady was at your office having this consultation with you? A. No.

Q. You did not tell me that she was going to Nevada? A. No, sir.

Q. Did you have anything to do with her hiring Fisk & Fisk to appear as her solicitors? A. Personally?

Q. Yes,? A. No, sir.

Q. Did you impersonally? A. No, sir.

Q. As far as hiring them is concerned you had no dealings with the firm of Fisk & Fisk? A. None whatever.

Q. As a matter of fact, the case was practically in charge of Mr. Runyon; I mean it was your case but he was looking out for the Jersey end of it, was he not? A. I don't know as I could say that. We were both engaged on it.

Q. Do you remember Mr. Runyon saying, or did he say to her, as this lady has testified, asked her where she was going and she answered that she was going to California, and she said: "Well, cannot you trust your husband and go a little further?" Do you remember that conversation? A. No, sir.

Q. Do you remember her saying: "Where?" And him saying: "Reno, Nevada"? A. No, sir.

Q. Do you remember him saying: "Why, you can get a divorce out there for the flick of an eyelash"? A. No, sir.

Q. Was the flick of an eyelash mentioned by anyone? A. No, sir.

Q. Was a Reno divorce mentioned by anybody? A. Not until the 7th of October, when she came and told us about the conversation with the lawyer friend of her sister.

Q. Did you get Mr. Metz to take her to the train? A. I did not.

Q. You know Mr. Metz? A. I do.

Q. At that time he was an intimate friend of

Mrs. Sargent's? A. I don't know how intimate he was. He was a friend of Mr. Sargent's.

Q. Did you arrange about her transportation? A. No, sir.

Q. Now, this conversation about the answer—who was it that brought this up—about her answer? A. She did.

Q. Before anybody spoke of it she spoke of it? A. She said: "What are these terrible things that I am supposed to have said in the answer?"

Q. And you pointed out to her the charge that he had conspired with Simmons, didn't you? A. I didn't point it out, Mr. Runyon did.

Q. Didn't she tell you that she had seen an affidavit on which that answer was based, that her husband had attempted to get Simmons to swear in this case against her? A. I think she did say something at that time about having seen an affidavit or a statement by somebody else. I don't think she mentioned Simmons.

Q. What effort have you made to get Simmons down to Runyon's office to get him to make an affidavit in this case? A. None whatever.

Q. You have not sent anybody to see him? A. No, sir.

Q. You know that his wife is a client of Runyon & Autenreith, don't you? A. No, she is a client of Mr. Tartalsky.

Q. She is a client in that office? A. Yes.

Q. You say no effort has been made to get Simmons down there, as far as you know? A. None whatever.

By Mr. Lane: Q. Has an effort been made to subpoena Mr. Metz? A. Yes.

Q. Can you locate him? A. No.

Q. How much of an effort has been made? A. Well, I first asked Mr. Metz to come here and he said to me that he did not want to come; that he did not want to get mixed up in this case—

Q. Never mind the whole conversation unless the Senator wants it. Following that, what effort did you make to subpoena him? A. Then I told Mr. Runyon that he better subpoena Metz because I was afraid that Metz was not going to be a willing witness. In fact he had told me that he would not come voluntarily and Mr. Runyon sent a subpoena.

Q. When was it that Mr. Sargent came to you and enlisted your assistance in this case, do you recall? A. It was the early part of May, I think about the 8th.

Q. And it was following a conversation that you had with him at that time that you employed these detectives; is that right? A. Yes, sir.

Q. At the time you had this conversation in the early part of May, did he tell you that Charlotte had told him of what had occurred or what she said had occurred in the pink room at the time the sparkling burgundy shot over the wall?

Mr. Simpson: Objected to.

The Court: Objection sustained.

Mr. Lane: May I state upon what theory I offer this evidence, because I am going to ask a number of other questions along the same line so as to get the matter clearly at issue?

Q. Did he tell you at that time with respect to Charlotte's statement as to other familiarities which she had observed with Mrs. Sargent and Simmons?

Mr. Simpson: Same objection.

Mr. Lane: I am trying to show good faith on the part of the petitioner. The Senator has questioned his good faith. He has practically asked the question how it was, without previous knowledge, that this man hired these detectives to go into that house.

The Court: You are trying to show good faith by something that he said to this witness?

Mr. Lane: Good faith with respect to this petitioner, not with respect to the witness.

The Court: Objection sustained.

Q. What was it that Sargent told you at the time he talked with you, which led you to hire these detectives.

Mr. Simpson: Objected to.

The Court: Objection sustained.

Q. Did Mrs. Sargent say anything to you on the night of the raid which indicated to you that she knew what it was all about?

Mr. Simpson: I object to that as calling for a conclusion.

The Court: Objection sustained.

Q. What did Mrs. Sargent say to you on the night of the raid, when you were there, with respect to what had happened?

Mr. Simpson: I object to that. He has been all over that on his direct and I have cross-examined on it, and it is not redirect.

The Court: Objection sustained.

Q. What was the conversation which you had with Mrs. Linser and Mrs. Safarick, the day be-

fore or a couple of days before the receipt by you of these letters which have been offered in evidence?

Mr. Lane: I am asking it in view of the cross-examination.

The Court: How is it material now?

Mr. Lane: It has been brought out that Mrs. Linser and Mrs. Safarick were parties to the bringing together of Mr. and Mrs. Sargent and these lawyers. Mrs. Linser was there upon each occasion and Mrs. Safarick had some conversation which resulted in their getting together. I think I am entitled to show everything that led Mr. Huck to consent to this interview.

The Court: I do not think it is material. The material part is what happened at the interview. Objection sustained.

Q. Prior to the second interview of October 7th, did you have a conversation with either Mrs. Linser or Mrs. Safarick? A. Do you mean between the two interviews?

Q. Between the two.

Mr. Simpson: Objected to.

The Court: Objection sustained.

Q. Did Mrs. Sargent ever say to you that she wanted to see Mr. Sargent alone in order that she might demonstrate her innocence to him? A. No, sir.

Q. Or words to that effect? A. No, sir.

Q. Did she ever attempt, in any way, to demonstrate her innocence to you?

Mr. Simpson: Objected to.

The Court: Objection sustained.

By Mr. Simpson: Q. You sent this $500 check didn't you, to Reno? A. No, I gave it to Mr. Runyon. I asked him to send it.

Q. Don't you know that you enclosed it in a plain envelope with a little piece of paper and no writing at all? A. I don't know that; no.

HENRY W. RUNYON, sworn as a witness on the part of the petitioner, in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. What is your profession? A. Lawyer.

Q. Are you the counsel for Mr. Sargent in this case? A. I am.

Q. And have been for how long? A. Since its inception; since the filing of the petition.

Q. Did you know Mrs. Sargent prior to the filing of the petition? A. No.

Q. Did you know Mr. Sargent? A. Yes.

Q. Did you have a conversation in your office with Mrs. Sargent in the latter part of September, 1919? A. Yes.

Q. When was it, as near as you can recall? A. I do not recall the date; it was in the fall.

Q. How did that conversation come about? A. By solicitation of Mrs. Sargent's relatives through letters which came to Mr. Huck; I did not get the letters.

Q. Who was present at the first conference? A. Mrs. Sargent, one of her sisters, and some other lady, Mrs. Safarick, I believe her name was.

Q. Who else? A. Mr. Huck and myself and Mr. Sargent later came in.

Q. What was the conversation between you before Mr. Sargent came in? A. Well, I don't recollect the sequence of the conversation. We first requested Mrs. Sargent to state what her purpose in the interview was, what she wanted to accomplish by it. She insisted that she wanted to see Don Sargent alone, she believed that by seeing him alone he would consent to some plan whereby she could be saved, or some words to that effect; I don't recollect it in detail, but she insisted upon seeing Mr. Sargent to right herself, as she had stated before in her letter.

Q. Go on. What did you say? A. We permitted her to see Mr. Sargent. She stated that she did not have—

By the Court: Q. She was in your presence? A. She was in my presence, and in the presence of everyone there.

By Mr. Lane: Q. Go on. A. Mr. Sargent came in and she pleaded with him that he was a man and she a woman, that he could stand this thing. He asked her what it was that she thought he could do, and she said there was no reason why they could not have a pretended reconciliation before the public, that he could stand that better than she; that she was almost driven frantic, and that after that they could settle their matters up quietly; that she had entire confidence in him and knew that if she could only see him personally that he would not see her in the position that she was in; that he would do something.

Q. What did he say? A. He said he did not see what he could do; that the proposition of a reconciliation was unthinkable; that he wanted to do anything he could to save her any unnecessary difficulty, but the proposition was unthinkable.

Q. Well, was there any discussion at that time with respect to her lawyers? A. When she first came in we immediately asked her where her lawyers were, if her lawyers were there or if they were coming, and she said no. I insisted upon calling up lawyer Simpson and gave directions to have him called. She insisted that she had discharged her lawyer; that Senator Simpson and Mr. Hopkins were acting for her brother, not for her. She refused to permit us to call up Senator Simpson. Mr. Sargent had previously written her to bring Senator Simpson along.

Q. Was there any talk at that time, on the first discussion with respect to publicity? A. Well, it was not at that time. Latterly she made the statement that he had gotten the facts in this case in the newspapers and she was driven to distraction. I asked her who told her that. She said her counsel had told her. We reminded her that there had been no mention in the newspapers after the petition had been filed until just prior to that time and that all publication of the case had preceded our having any knowledge of the answer; that the newspapers had brought the facts to us and asked us to give our side, and I had refused to do so.

Q. Was that a fact? A. That was a fact. I further reminded her that her attorneys had told us that they proposed to conduct a publicity campaign in this case that would put Mr. Sargent out of business, and that their tactics would be a publicity campaign and that we had given no information, and the publicity of which she complained and said her attorneys had attributed to us, had entirely emanated from them.

Q. What did she say with respect to that? A.

She said that she assumed that that was the case. She said that Mr. Hopkins and Senator Simpson were representing her brother. That she had told her brother that they could not handle Don Sargent that way; that she knew it was all wrong, that she was disgusted with their actions. She said that her brother insisted on these tactics.

Q. Was there anything said as to her answer at that time? A. Mr. Huck related that. What he has testified to with regard to that—

Q. Tell us what was said? A. Upon Mrs. Sargent's request for a reconciliation, Mr. Sargent or Mr. Huck—I have forgotten which—said that the thing was impossible; that she had brought countercharges against him and if he receded in this case the public would think they were true, and she asked to know what were those countercharges that she had made against her husband, what were those countercharges, and they were read to her, and she said she did not believe anything contained in them, that Don Sargent would not do such a thing. She said: "I will sign a statement to that effect". She said she wanted us to draw such a statement and she would sign it. We told her that we would not draw such a statement or permit a retraction to be signed in our office.

Q. What was said finally at the end of the conference or just before it broke up? A. Before the breakup of the conference Mr. Sargent had insisted that she consult with the people in whom she had the most confidence, lawyers or anyone in whom she had the most confidence, and should have their advice before she took any action whatsoever. She said that she thought he was right,

that she would do that, but that she did not know whom she would consult.

Q. Did she indicate with whom she was going to consult? A. She did not.

Q. Did you tell her why it was that you would not permit her to talk to Sargent alone? A. I told her that the parties were at war; I didn't think such a conversation proper. I do not recall what further we did tell her. She made the remark that she did not have any weapon with her or did not propose to harm him, all that sort of thing which she has imputed to me.

Q. You have told us substantially everything that was said at that first talk? A. All I now recall.

Q. Was anything else said at that first talk with respect to her going to Reno or any other place for a divorce? A. No. Reno or the west was not mentioned.

Q. When was the next time you saw her? A. A few days later she called on the telephone and wanted to know if she could not make an appointment with Mr. Huck and myself, and she came in that afternoon, the same day she called. She said she was on her way down.

Q. Who was present? A. Mr. Huck and myself.

Q. And Mrs. Sargent and who else? A. I don't think there was anyone else present. I do not recall whether Mrs. Linser was there on that occasion or not.

Q. What was said then? A. She said that she had thought the matter over, had slept over the matter, had consulted with the people that she had most confidence in, that she was through with the

case forever; she was not going on with the case no matter what happened; that she hoped Don Sargent would do something for her; she was going away; she didn't know where she was going; she first thought she was going south, but she had not made up her mind, but that whatever else happened she was through with the case forever. Mr. Huck warned her and I warned her what that meant, that if she did go away, judgment might be taken by default and Mr. Sargent would get his divorce, and she said she did not care; she did not think Don Sargent would do that. She knew that if she approached him in a different way that he would do something for her; she had that confidence and belief in her husband; that she knew better than we did. We warned her that she ought not to rely upon any such feeling or belief, that whatever she did she must do of her own suggestion, and she went away. I do not recall any further conversation on that occasion, now.

Q. Was there any talk at that time with respect to the payment of $1200? A. I don't think so. I think that question came up at a later conference. I do not recall at which conference it was mentioned.

Q. Was it at the first conference? A. No; I don't think so; no.

Q. What was the result of the second conference; how did it wind up? A. Why, it wound up with merely her expression of an intention of going away.

Q. Was anything discussed with respect to where she was going? A. No, she mentioned the south and then, either at that conversation or a later conversation she mentioned California; she

said she had a Cook's Tour. I do not separate the different conferences.

Q. When was the next one? A. There was a later conference, whether it was the next one or not—I think it was the last one at which she came in and said that we had not told her the truth, that it was not true that Mr. Sargent could not do anything for her; that either she or her sister had consulted some lawyer friend and that he had told her he could do something for her; that he could permit her to get a divorce and that she knew he would do it, if we would ask him. She wanted us to ask him. We told her we would not advise such a thing; we would make no agreement with her whatever; that what she did she did of her own accord. She then stated that she had planned out a Cook's Tour—I am not clear whether this suggestion was on this occasion—I won't say—or a later occasion—she had been planning to go to California and she had been advised that she could go to Reno just as well, and we told her that if she did it was entirely up to her; that we could not make any representations as to any assistance she would get from Mr. Sargent.

Q. Did you give her the name of Reno counsel? A. I did not.

Q. How did she happen to get the name? A. Just as she started to go out she said she was going to Reno; she didn't know any lawyers there; and she assumed she would have to have lawyers. I remarked that I had that morning received a letter from a firm of lawyers, but I did not think it was proper we should give it to her. Later on, when she went out, she arose from her chair and took the name—then she repeated the name,

"Stoddart & Saulsbury," which she took from a letter on my desk which had no reference to this case.

Q. Did you see her at a later conference than that? A. No. She called up on the telephone and asked us—no; I didn't see her. It may be that she called me with reference to coming over to her house about some furniture there, but I am not clear whether it was myself or Mr. Huck.

Q. At any one of these conferences did you tell her that she might go to Reno and get a divorce? A. No, never.

Q. At any one of the conferences did you agree that the suit here would be suspended giving her an opportunity to get a decree in Reno? A. We did not. We particularly warned her to the contrary.

Q. The $1200 was paid to her, was it not? A. Not at that time.

Q. When was it paid? A. Well, I could tell the date by reference to a letter which has been put in evidence.

Q. How did that come to be paid? A. It was enclosed in a letter written to Mrs. Safarick personally, the instructions which Mrs. Sargent gave us in writing—all of these letters have been offered in evidence; there was no further transactions except these letters which have been offered in evidence.

Q. Why was it that you agreed to pay her $1,200? A. Twelve hundred dollars was a subject which Mr. Hopkins had brought up at an early stage of the suit, immediately after the petition was filed; he had written us and we had written back—the letters have all been offered in evidence

—and we told him that we would submit the matter to Mr. Sargent.

Q. He raised the alimony from $225 to $300 per month. Why was that done? A. That was not done until months after, as I recall, after Mrs. Sargent went west and following up a correspondence between Messrs. Stoddart & Saulsbury and ourselves, in which they pointed out that she was sick, under care of a physician, without money to pay her bills, and the $225 was given at a time when she had her home, and that she was not at her home and they thought $75 increase would represent—

Q. Five hundred dollars was paid to Stoddart & Saulsbury as counsel fees; how did that happen to be paid? A. All in pursuance of the letters which have been offered in evidence.

Q. Did she at any one of these conferences state that when she saw Don Sargent alone she could prove to him that she was innocent, or words to that effect? A. No; no such conversation.

Q. Did she say to you, upon any one of these conversations, that she was innocent of the charge against her? A. No.

Q. Did she say to you that she could prove that she was innocent to you? A. No.

Q. On any one of these occasions or at any time did you say to her that you thought she had better take a trip, or words to that effect? A. Never mentioned such a thing; no.

Q. Did you say that if she was willing to trust her husband to San Francisco, why couldn't she trust him thirty miles further, or words to that effect? A. No, she said something of the sort.

Q. What did she say? A. She said that she

was going to Reno; that she could trust Don Sargent; that she knew what Don Sargent would do better than we did.

Q. At that conversation did she say: "I don't understand you"? And did you then take a letterhead and hand it to her, saying: "Well, well, don't you understand that"? A. No.

Q. Did something like that take place? A. No, nothing like that.

Q. Did she then say to you: "What do you mean? Do you mean to go to Reno?" and did you then reply: "Yes," or words to that effect? A. No.

Q. Did you then say: "We have a client out there now"? A. No.

Q. Did she say to you: "Well, how am I to know—how do I know what these men will do? I don't know if they are gentlemen. I have had so much notoriety here I don't want any more," or words to that effect? A. No.

Q. Did you then say to her: "I believe you can trust your husband that far"? A. No.

Q. Did she then say to you: "Are you sure he will do the right thing after I get out to Reno? Will he do whatever is necessary," or words to that effect? A. No, sir.

Q. Did you say, at any one of these conferences, that out of the goodness of your heart you would give her $75 additional alimony? A. No, sir.

Q. Or words to that effect? A. No; the increase of alimony came up months afterwards.

Q. Did you have anything to do with retaining Fisk & Fisk as counsel for Mrs. Sargent in this case? A. I did not know they were in the case until after they had been retained.

Q. Did you have anything to do with retaining them? A. No.

Q. Or anybody else? A. No.

Q. Did you tell Mrs. Sargent that all the notoriety she had was due to Senator Simpson, that he had blazed her on the front sheet of the Jersey Journal? A. No, sir.

Q. Or words to that effect? A. No.

Q. Did you ask Mrs. Sargent at one of these conferences—the first one—if she would not mar Mr. Sargent with a bookmark, letter opener or nail file when he came into the room, or words to that effect? A. I did not.

Q. Did you, or Mr. Huck in your presence, ask her at any one of these conferences if she had filed a truthful answer and as to who had told her how to frame the answer? A. I did not.

Q. Did she then say to you that she had told the absolute truth, or words to that effect? A. She did not.

Q. Did you suggest to her that she should go to Florida or Cuba or out west, or make any suggestion of that nature? A. No suggestion whatever.

Q. Did she tell you that she had some friends in San Francisco and that she would like to go to see them? A. She said that she was going to San Francisco or had first planned to go to San Francisco. Whether she made such remark I don't know.

Q. Did you tell her that she could get a divorce in Reno for winking an eye, or something to that effect? A. I did not. She made the remark, I believe, that her lawyer or some lawyer had advised her that she could get a divorce very easy out west.

Q. Was the flick of an eyelash mentioned; was that expression used? A. No, I never heard it.

Q. Did you forward a substitution of attorney Fisk & Fisk for Senator Simpson? A. I did not.

Q. To the Nevada attorneys? A. I did not.

Q. I show you this letter, P 14 for identification and ask you whether that is the letter you received and upon which you subsequently sent alimony checks? A. Yes.

Mr. Lane: I offer it in evidence.

Mr. Simpson: I object.

The Court: As I understand that letter, Mrs. Sargent says she did not write that letter. It purports to bear her signature.

Mr. Lane: I think she said it was Mrs. Safarick's handwriting, if I am not mistaken.

The Court: My recollection is that Mrs. Sargent denied she was the author of the letter or that she had authorized it. On that recollection of the testimony I could not admit the letter in evidence.

Mr. Lane: My contention is that irrespective of whether she denies authorization of it or not, it is admissible to show the reason why checks were forwarded to Mrs. Safarick, alimony checks.

CROSS-EXAMINATION by Mr. Simpson:

Q. You had a client in Reno, didn't you, by the name of Saunders—Saunders against Saunders? A. Yes, that was the subject of the letter which Mrs. Sargent saw.

Q. You say that letter referred to Saunders against Saunders and subsequently you wrote to

Stoddart & Saulsbury in which you told them that another client would call soon, didn't you? A. I do not recall such a letter; I may have made that remark.

Q. Will you look for it and produce it or a copy of it? A. Now, do you mean?

Q. After you get off the stand. You remember having a case in Reno at that time, Saunders against Saunders? A. Yes. That was the case in which we had met Stoddart & Saulsbury.

Q. You sent this check, didn't you, this $500 check, to these lawyers; it was you who mailed Huck's check, was it not? A. In the letter which has been offered in evidence.

Q. With a letter that has been offered in evidence—will you show me the letter? A. If you will give me the affidavit, I will point to it. I will say this: If I sent it, which I am not clear whether I sent it, it was sent with one of these letters which have been offered in evidence.

Q. You say it is not a fact that it was sent in a plain envelope without a letter with a small piece of paper? A. I do not think so. Here is the letter—no; that is—

Q. Your relations, as I understand you, with this woman were purely formal, were they not; that is, you looked upon her as a woman guilty of adultery with a colored chauffeur; your relations were purely formal; they were not friendly with her? A. Just as I have stated.

Q. She wrote a letter from San Francisco, November 1st in which she addressed you as: "My dear Mr. Runyon," and in that letter she says: "I prefer black—size 9". What did that mean? A. Well, that meant this; on the last occasion she

was there, she was jesting as to what her future course was going to be, and we told her we expected she would be married within a year. I made such a remark, and she said she bet she would not.

Q. So, you made a bet; she made a bet? A. Yes.

Q. This Stoddart & Saulsbury episode—there was no conversation with her about their being gentlemen or anything of that kind? A. No such conversation.

Q. You heard Huck testify, didn't you; wasn't there any such conversation? A. About what?

Q. You heard Mr. Huck. You say there was no conversation between you and this woman about Stoddart & Saulsbury being gentlemen? A. No.

Q. None at all? A. Not that I recall.

Q. What kind of a desk have you? Is it like one of these tables? A. Like one of these tables.

Q. Did she go immediately to the right letter when she took this name, without your knowledge and consent? A. I don't know what she did.

Q. In some way she got to the letter in your possession, without your knowledge or consent and got the name of Stoddart & Saulsbury. That is a fact, is it not? A. No; it is not a fact.

Q. How did she get it? A. She went and looked at it.

Q. Did she go right to the letter and look at it? A. She arose from her chair afterwards and apparently had looked at it.

Q. Had you pointed it out to her? A. No.

Q. She found it without your assistance? A. Yes.

Q. Was it the only letter on your desk? A. I don't know.

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

Q. Can you explain how this woman who was unfamiliar with the desk of a busy lawyer such as you are, could at once go to the right letter and get this letter? A. Because I had told her I had just received a letter that morning, and I lifted it up, I suppose.

Q. You think you touched it? A. I think I probably touched it; yes.

Q. Do you think you lifted it long enough to show it to her? A. I think I might have lifted it long enough to let her know it was there, if that answers your question?

Q. No; it does not answer my question. How close was she to you when you lifted up this letter and let her know it was there? A. She was sitting ten or fifteen feet away.

Q. She was not alongside of you, as Mr. Huck said? A. She was alongside of me but she was—

Q. She was sitting nearer the desk? A. I was sitting nearer the desk than she was. I was sitting in front of the desk. She was sitting at the side.

Q. Do you mean the end? A. No.

Q. Where do you mean. Suppose this desk is your desk. Where was she sitting? A. She was sitting at the side of my desk. Here is the side of my desk—

Q. Away from the side of your desk? A. Yes.

Q. Where were you when you picked this letter up to let her know it was there? A. It was in my morning mail. The letter happened to be in my morning mail, and I merely picked the letter up.

By the Court: Q. Who picked the letter up—Mrs. Sargent? A. She didn't pick it up. She went over and looked at it.

By Mr. Simpson: Q. That was after you had lifted it up to let her see where it was? A. I don't recall the exact time.

Q. You don't recall whether at the time you picked it up she looked at it or not? A. I do not.

Q. You said in your direct-examination that you were not sure whether she got the name, but she must have because she got the name of Stoddart & Saulsbury. Is that the only way that she could get the name between you and her? A. I particularly warned her that she should not consider that we suggested any firm or lawyers.

Q. After she got a name from a letter that you pointed out to her, you warned her to be careful not to consider that firm? A. She could do as she pleased; we did not suggest any firm; we did not suggest that she should go out there; we would make no agreement with her whatever she did.

Q. You have written her letters in which you have warned her you are making no agreement with her? A. Yes, sir.

Q. Judge Saulsbury, or whatever his name is, was in your office after this, was he not—after she went to Reno? A. Recently.

Q. Has he ever been in your office since the lady left your office to go to Reno? A. Yes.

Q. How many times has he been there? A. I would say twice; once anyway.

Q. Did you name Fisk & Fisk as a good reputable firm who could act in this case? A. I did not.

Q. Did you give him the name of Fisk & Fisk? A. I did not. I did not know of their association with Fisk & Fisk.

Q. You did not know that there was in existence any firm known as Fisk & Fisk A. I did.

Q. As I understand Mr. Anderson, he stated that Saulsbury told them that he got their name from you or your office; that is not true? A. He did not state that, and it is not true.

Q. The first that you knew about Fisk & Fisk was after you got a notice of their substitution; is that a fact? A. I do not recall—yes, I do; the first I recall about it is, there is some correspondence with respect to Fisk & Fisk; I do not recall knowing about it other than in the correspondence. I will retract that. The first I knew about it was when Mr. Anderson came up to the office and asked for copies of the papers, Mr. Anderson of Fisk & Fisk.

Q. When do you say that this case was ready for trial? A. It was ready for trial many times.

Q. I mean when it was first ready for trial. A. I do not recall the first.

Q. Have you ever given notice to fix a date for the hearing in this cause? A. Yes; several times.

Q. How many notices? A. The records will speak for themselves. My recollection is that various times—

Q. Did you give the first notice? A. Yes.

Q. Did you write to Stoddart & Saulsbury when I gave you notice of fixing the date for trial? A. The letters which have been offered in evidence speak for themselves.

Q. As a matter of fact, you did not seriously move in this case until this woman had served a petition from Nevada on you or your client—not until then did you move to have it brought on for trial? A. We always consistently moved to have the case brought on for trial, except at the time when she had indicated to us in writing and

otherwise that you were not her solicitor, and after you, against her express directions, were moving in the case, at that time we produced all of our correspondence, as I recall it, before the court, and asked that the case proceed and that she be notified thereof.

Q. That was not done until 1920, sometime, was it? A. I do not recall the dates.

Q. Now you say at these interviews she did not say that the answer was true. Did you have any conversation about the answer, about her answer? A. Yes; the answer was read to her.

Q. Did you have a stenographic report of all the conversation that was had with her? A. We did not.

Q. What makes you so positive that in discussing this answer she did not say the answer was true; why are you so positive about that, if you have no record of the conversation in which the answer was discussed? A. Because it was rather remarkable that the woman should make the statement she did. She said she would not believe such a thing of Don Sargent; that such a thing had never happened; that the lawyers had drawn the answer under instructions from her brother; that they told her to sign it and she would get lots of money, and that was all she was to do.

Q. Didn't you say to her at that time, after she said that, that it was probably a conspiracy of lawyers to extort money from Mr. Sargent; didn't you say that to her? A. I did not.

Q. She did not, however, tell you that she would not believe this of the lawyers and detectives, did she? A. Would not believe what?

Q. That this was a frameup. She said she

would not believe it of her husband. She did not tell you that she would not believe it of the lawyers and detectives? A. She did not say anything about lawyers and detectives.

Q. She simply said that she had confidence in her husband; he would not do a thing of this kind? A. She said it was not true. She offered then and there to draw a retraction of them for us. She said it was a result of her brother's defenses which he had set up without her consent.

Q. Are you referring to the whole answer, or are you referring to—A. To the affirmative defenses.

Q. She said that these affirmative defenses were not true? A. We read them over from beginning to end because she said she did not know what they were. She said, "What are these charges I am supposed to have made?"

By the Court: Q. Do you mean to say you read the whole answer to her from beginning to end? A. I do not recall but I know we read the affirmative defenses.

By Mr. Simpson: Q. You read all of the affirmative defenses to her? A. Yes.

Q. She said, after you read them, she would not believe that of Sargent? A. Yes; something like that.

Q. Did she say that of some of them or of all of them? A. My recollection is that she referred to all of the conspiracy charges.

Q. What was it she said she would not believe of Mr. Sargent? A. I did not ask her particularly. She made the remark which I have detailed.

Q. That she had confidence in her husband. Do you do much Reno business? Have you many cases that you send to Reno? A. No.

Q. How many cases have you sent besides Saunders? A. I don't know of any. I did not send that. Our client was sued for divorce out there.

Q. You were in correspondence with lawyers out there about a Reno divorce? A. At that time. The letter was on my desk that morning when Mrs. Sargent was there.

At this point recess was taken until two o'clock in the afternoon. After recess the witness resumes the stand and cross-examination continues.

Q. At this time that you were in conference with Mrs. Sargent, your relations with me were perfectly friendly? A. Certainly.

Q. Why didn't you tell me that you were in consultation with my client without my knowledge? A. We gave instruction to have your office called up. I guess they called your office on the wire. Mrs. Sargent said that we should not call you up, that you were no longer in the case.

Q. I was solicitor of record, was I not, at the time? A. You were.

Q. You were exhibiting to her an answer drawn by me, that is, signed by me? A. Yes.

Q. Didn't you think it was common courtesy to call me and tell me that you were in conference with my client, without my knowledge? A. Under the circumstances, no, and I will tell you why, if you want to go into that.

Q. I will go into that in a moment. Do I understand you to say, under oath, that you have no knowledge of any letter written by you or your

firm, Runyon & Autenreith, to Stoddart & Saulsbury, headed, "Saunders against Saunders" in which you say, in that letter, that another client will soon call on them? A. You do not understand me to say any such thing; no sir.

Q. Is it a fact, is there such a letter in existence? A. I do not recall any such letter; no. There may have been some mention of this case in the Saunders letter. I am now having my files searched to ascertain whether there was, and will soon find out.

Q. When you discover such a letter, if such is in existence, will you produce the copy? A. I will be very glad to do so. I am now trying to find it.

Q. Mrs. Sargent's complaint, as I understand it, was that the publicity in this case was killing her; that is what she said, was it? A. Her complaint was that you and Mr. Hopkins had told her that we had published the thing far and wide.

Q. Did she complain or state that the publicity was killing her, irrespective of its truth or falsity? A. No; the publicity was only the incident; the case and the publicity.

Q. She did not say the publicity was killing her? A. The case and the publicity.

Q. Did she say the publicity was killing her? That is what I want to know? A. She said that in connection with other things.

Q. Now, you say you took Mr. Charles J. Roe into conference? A. Yes.

Q. Is he in court? A. No.

Q. Is he under subpoena? A. No.

Q. And the Mr. Charles J. Roe to whom you refer is a counsellor at law with offices at 15 Exchange place, near your office? A. Yes.

Q. I understood Mr. Huck to say that you have made several attempts to subpoena Mr. Metz? A. Yes.

Q. Does Mr. Metz live in Jersey City? A. I believe so; I don't know the gentleman.

Q. How many times did you attempt to subpoena him since this case has started? A. Why, I think there have been repeated efforts. I gave instructions.

Q. Is he not in business with Mr. Sargent's brother? A. I don't know.

Q. Don't you know that Mr. Metz is in business with Mr. Sargent's brother and Mr. Sargent is the financial backer of that business? A. I don't know anything about that; no.

Q. You don't know that at all? A. No.

Q. Do you personally know where Mr. Metz lives? A. No; I never did.

Q. Who is the person that you say made the attempt to subpoena Mr. Metz? A. Well, one person I know is Mr. Tartalsky.

Q. Do you know whether Mr. Huck sent Mr. Metz with Mrs. Sargent to the train? A. No. I never heard of it, if he did.

Q. You don't know anything about that? A. I know that he did not, so far as I have information.

Q. And at the time that Mr. Sargent was in the office, the time she saw Mr. Sargent, did she arrive before Mr. Sargent or not? A. Well, I could not tell you.

Q. You don't know whether he was waiting in the side room? A. I don't know; no.

Q. You told her, did you not, that I was responsible for all of this publicity that she complained about? A. I did not tell her that; no.

Q. What did you say to her in connection with the publicity? A. I told her that it was rather remarkable that she should make the statement that we were responsible for the publicity, for the reason that there had not been an item in the newspapers until your answer was filed.

Q. That is not a fact, is it? A. Except a three-line item from Trenton, saying that a suit had been filed between certain parties, but without any mention in the paper that the corespondent was a negro; that the newspaper publication of your answer was had before ever we received a copy of it, and furthermore her attorneys had advised us they proposed to conduct a campaign of newspaper publication and that they would run Sargent out of business. In view of that, it was remarkable that she should make the complaint that she did.

Q. Were you notified personally that the attorneys intended to conduct a campaign of publicity? A. Yes, sir.

Q. Who notified you of that? A. You as much as said that, and Mr. Hopkins said that.

Q. When did I say to you that I was going to conduct a campaign of publicity and run this man out of business? A. You said it at Chancery Chambers in Jersey City on the only occasion I discussed the matter with you; that we better come across; if we did not, you would run Sargent out of business; you would have it in every newspaper in the country and you would bring financial disaster on him.

Q. When was the date I told you that? A. I do not recall the date.

Q. Who was present? A. I do not recall that anybody was present.

Q. Who was sitting in Chancery Chambers on that day? A. I don't recall.

Q. Do you remember when the Chancellor was there? A. I do not recall.

Q. Do you remember whether we were before any Vice Chancellor? A. I do not recall that—probably before Vice Chancellor Lewis.

Q. Was Mr. Hopkins there with me? A. No; he was not.

Q. Did Mr Hopkins himself ever tell you that? A. He told me something very similar.

Q. When did he tell you that? A. On the occasion that he came to Mr. Huck's office.

Q And he told you that we were going to conduct a campaign of publicity? A. Yes.

Q. And drive Mr. Sargent out of the business, if he did not come across? A. Yes; if Mr. Sargent did not come across he would drive him out of business with publicity. You were not in the case at that time.

Q. I was not in the case at that time? A. No; you had later gotten into it.

Q. Were they the words I used or the words Mr. Hopkins used? A. Your words were that if Sargent did not come across, you would drive him out of business; that he might as well realize it in the beginning as at any other time.

Q. What was the difference in the language? A. Your language was if he did not come across—those were your identical words which you will recall very well.

Q. I will recall nothing of the kind when I go on the stand. I have not the imagination that you have. What were Mr. Hopkins' identical words? A. His identical words were that he con-

sidered it a man's job to let his wife go and get the divorce; that he had talked over the matter and that their defense was going to be a campaign of publicity.

Q. That is what he said? A. That he had hired you for that purpose and that you were the best man to conduct it, or language to that effect.

Q. At that conversation you said that I was not in the case? A. No; you were not then in the case.

Q. How could he have hired me to conduct a campaign of publicity when Robert Cary was solicitor in the case? A. You came in the case afterwards.

Q. This $1200 that was paid, you absolutely refused to pay that to Mr. Hopkins in August, didn't you, when he made a demand for it? A. I did not.

Q. Do you know the date it was actually paid? A. By reference to one of the letters which were filed here. It was paid with a letter which was produced in court months ago before this case came here.

Q. You don't know now, do you, the date it was paid? A. Except by reference to the letter which accompanied the check.

Q. Did I, in this conversation that we had about this case say that you had been made a sucker of by detectives; did I tell you that? A. A. You may have made some such remark, something of that kind.

Q. Mrs. Linser was present at all of these conversations, was she not? A. She was not.

Q. I mean with Mrs. Sargent? A. She was not.

Q. What one was she present at? A. I could not distinguish very well. She was present probably at one conversation.

Q. Was she present at the conversation at which the answer was exhibited? A. I do not recall.

Q. Now, you say that this lady said she did not believe any of these affirmative defenses. I want to call your attention to the first paragraph: "I. That the petitioner communicated a venereal disease to the defendant and at the time was himself suffering with the said disease and was under medical treatment therefor, on or about the 10th day of September, 1918." Did she say that that was not true and she would not believe that about her husband? A. I told you what she said.

Q. Did she tell you that that was not true.

Q. You say that she said all the affirmative defenses were not true? A. She spoke of it as a whole. She did not differentiate.

Q. Then she said everything was not true? A. She did not say that. "That is not true" or words to that effect. "Don Sargent would not do such a thing." That was after all of them had been read. What she referred to I have no means of knowing. I am repeating her remark. I don't know what she had in mind.

Q. She told you that she had every confidence in her husband? A. Yes, and in Mr. Huck.

Q. And in Mr. Huck? A. Yes; at that time.

Q. At that time she asserted her confidence in Mr. Huck? A. Yes.

Q. Was Mrs. Linser present at the interview at which you exhibited the answer? A. I don't know.

Q. Did she ever come over to your office? A. Yes.

Q. On which occasion? A. Why, on later occasions. I cannot differentiate the occasions.

Q. As I remember the evidence, you have said that she called four times at your office? A. No; I have not said four times.

Q. How many times? A. In the neighborhood of three or four times; I am not sure.

Q. On each of these occasions was she alone in the office? A. She was not alone on the first occasion.

Q. Was she alone on the second occasion? A. I am under the impression she was; I am not sure.

Q. Was she alone on the third occasion? A. I am not sure—on the third occasion I am not quite sure she was alone, yes.

Q. Was she alone at the time she got this name from the letter which you lifted up and put back again; was she alone that time? A. I think she was.

Q. You say she was alone? A. That is my impression; I am not clear as to that.

Q. You say that on none of these occasions did she make any reference to fighting the case, that she said she was going away and she was going to take the risk of Sargent going on with the case in her absence; did she say that? A. She was through with the case and the defense or any part of the case; that she was through forever with the case, no matter what happened.

Q. That was at the last interview, was it not? A. No; that was before the last. That was at the second interview after she had consulted with her sister's lawyer, whoever that might be; she had.

come to that conclusion; that was settled; she was through with the case and every part of it.

Q. Did you know that these detectives had been put in her house without her knowledge on the 26th day of May; that the servants in the house, with the exception of the chauffeur, knew that the detectives were in the house, and that she was under surveillance until the 11th of July, and that the maid, Charlotte, had deliberately shut the door on her and the chauffeur, when you drew this petition? A. No, of course. I don't know it today.

Q. But you know that Charlotte in this case has admitted that she shut the door on them and then opened it? A. I do not recall the testimony just in that form.

Q. Will you refresh your memory?

Mr. Lane: I object. It is immaterial and irrelevant what he knows now.

Q. Did you draw this petition? A. I am not clear whether Mr. Huck drew it or whether I drew it.

Q. Did you make, or have you made, efforts to get Simmons to come down to your office and make an affidavit in this case? A. Never.

Q. You never sent anybody to him? A. No.

Q. You never told this man Walters to have him come down to your office? A. Never.

Q. Is it a fact that a clerk in your office is now solicitor for Simmons' wife? A. Mr. Tartalsky—not a clerk; he is a lawyer in the office.

Q. About sending this money: Do you say you sent the money to Mrs. Safarick, or was it Mr. Huck? A. I cannot recall. The letters indicate.

Q. Did you send the letters to Mrs. Safarick, or

did Mr. Huck? A. I do not recall. I had no dealings with that excepting through the letters.

Q. Through the letters? A. Yes; and the letters have all been offered in evidence.

Q. Is it not a fact that the conversation which you impute to me was held when I appeared before the Vice Chancellor on the motion for alimony *pendente lite,* and Mr. Hopkins was with me? A. No; it is not a fact.

Q. That is the only time you ever met me in Chancery Chambers since this case was on? A. That is not so.

Q. When ever did you meet me there; on what other occasions? A. The occasion of which I testified and several other occasions besides that.

Q. Cannot you point out the date so that we can fix the date? A. I can point out the occurrence very well. It was in Mr. Haggerty's private office.

Q. Mr. Haggerty heard this conversation, did he? A. No; no one heard the conversation.

Q. When you say no one heard it, you exclude yourself? A. Yes; I exclude myself.

Q. Didn't you instruct Mrs. Sargent to give the keys of the house, as a matter of form, to this same lady to whom alimony checks were sent? A. I do not recall. I think there was a letter which had something to do with that. That is my best recollection on the subject; and if so, it is on file; it has been offered in evidence.

Q. Before you drew the petition had Charlotte, the colored girl, told you she had closed the door on the chauffeur and Mrs. Sargent? A. No; I had not seen the colored girl.

Q. You had not interviewed her before the suit was started? A. No; nor any of the witnesses.

Q. Is it true that you made no investigation except to take the report of the detectives, before you started the suit? A. I did not start the suit.

Q. When you came into the suit? A. No. Well, I interviewed Mr. Sargent and Mr. Huck and saw the report; yes.

By Mr. Lane: Q. When was it that you called Charles J. Roe in consultation? A. On the occasion of his first conference to ascertain his opinion of the propriety of calling Mr. Simpson, insisting upon Mr. Simpson being there.

Q. And was the question of your not permitting Sargent to see Mrs. Sargent alone taken up with him? A. Yes.

Q. Why was it that you did not consider it an act of discourtesy in not calling Senator Simpson? A. Because of the threat that counsel had made in the case and of the fact that the woman insisted that neither Senator Simpson nor Mr. Hopkins was in her employ, but they were following out instructions from her brother contrary to her wishes in an effort to ruin Sargent, and in view of the answer filed by them, in view of the publicity given to the matters and in their answer, bringing out the fact that the corespondent was a negro, talking to newspaper reporters, all contrary to Mrs. Sargent's express desire, we considered, after consulting the matter well over with various counsel, that it was proper not to call up Mr. Simpson against Mrs. Sargent's expressed directions, although, when she first came in there we got Simpson's office on the telephone and she would not permit him to be called up.

By Mr. Simpson: Q. If that is the fact and that

is the reason you did not call me, what was the reason you did not have this woman represented by some attorney, if you did not want me as her attorney? A. We had given a call for you against her directions.

Q. Why didn't you call Mr. Hopkins if I was *persona non grata* to you; why didn't you call up Mr. Hopkins? A. We tried to call you both. She would not permit it. She said she did not want her brother to know. That her brother would not finance the matter further if he knew about it.

Q. Can you explain why it is, if your relations were so formal with this lady, and she was guilty of this horrible offense, that you offered to make a friendly little bet as to what she meant to do after she got this divorce? A. I made no such bet with her. The matter came up in a different way. I made the remark to her—

Q. Then that explanation about this letter is not correct, is it? A. No.

By Mr. Lane: Q. What is the explanation with respect to that letter?

The Court: What has it to do with this case?

Mr. Lane: Withdraw it.

WILLIAM HUCK, JR., a witness heretofore sworn, on the petitioner in rebuttal, re-called, and further examined as follows:

Direct-examination by Mr. Lane.

Q. Were you present in New York at the trial of the case of Simmons against Sargent? A. Yes.

Q. Were you with Mr. Sargent during the entire time he was in the court room? A. Yes, sir.

Q. Was there any time that Mr. Sargent sat down alongside of Simmons and talked with him? A. No, sir.

Q. You recall the testimony given in that case? A. In a general way.

Q. You heard it did you not? A. I heard testimony yes.

Q. Do you recall what he said with reference to who had invited him to have his meals in the house? A. I could not be positive about it without refreshing myself by looking at the testimony.

Q. Can you refresh your recollection by looking at the testimony? A. Yes, sir.

Q. I show you what purports to be—

Mr. Simpson: I object to it being shown to the witness unless there is some proof of it being the testimony.

Mr. Lane: This is a record of what purports to be a transcript of testimony taken in the Municipal Court of the City of New York in a suit there pending between Charles Simmons plaintiff, and Donald J. Sargent defendant.

Mr. Simpson: I object to its use.

Mr. Lane: I won't press the question.

Q. Mr. Huck, do you want to correct your testimony that you gave this morning with reference to one particular? A. Yes sir.

Q. Correct it. A. I was advised at the noon recess that I had stated that the shades on the two windows on the Kensington Avenue side of the house were partly down, and the shade on the one

window on the Bergen Avenue side of the house was all the way down. That was a mistake. I meant to say that the shade of the window facing Kensington Avenue was part way down, and the shade of the other two windows facing the side lawn on Bergen Avenue were up. There are two windows on the Bergen Avenue side of the house and one on the Kensington Avenue side. I just mis-spoke myself and said Bergen Avenue when I meant to say Kensington Avenue.

By the Court: Q. I do not quite follow what you are saying. Will you state what you now say was the correct situation with regard to the shades of the three windows; what do you want to say in that regard? A. I want to say that the shade of the window facing Kensington Avenue was down.

Q. All the way? A. All the way; and the shades of the windows facing the side of the house on Bergen Avenue were part way down only.

Q. That is what you did say this morning. A. I thought that that shade on the window facing Bergen Avenue—the one window faces Kensington and two face Bergen Avenue—somebody told me that I had made that statement. I do not recall whether I did or not.

By Mr. Lane: Q. Did you have a conversation, or were you present at any conversation, between Mr. Hopkins and Mr. Runyon at which this case was discussed and some statement made with respect to publicity? A. I don't recall. Mr. Hopkins was in my office and Mr. Runyon was there, and we were in and out I don't remember whether he made such a statement at that time or not.

Q. Did he make a similar statement at some

other time to you? A. Yes, sir; at one time he made a statement about publicity. I do not recall exactly what it was. He did say something, however, about Mrs. Sargent's brother having retained him and having instructed him to go the limit in looking Sargent up from the cradle to that day, and that he would give, or was willing to pay up to $10,000 to get any evidence against Sargent.

Mr. Simpson: I object to any statement of the brother. How is that binding on us?

The Court: I do not think it is admissible.

Q. I do not want any statement except any statement that may have been said as to publicity. If nothing was said, say so? A. I do not recall that there was anything said.

CROSS-EXAMINATION by Mr. Simpson:

Q. Did you talk with somebody at recess to change your recollection about this shade? A. It did not change my recollection. I did not recall what I did state this morning, but my attention was drawn to the fact that I had referred to two windows on Kensington Avenue.

Q. There is one window? A. Yes.

Q. There are two on Bergen Avenue? A. Two on the side of the house.

Q. That looks out on to Bergen Avenue? A. No; it doesn't look on Bergen. It looks on the lawn.

Q. You say one was down and two shades were half way down? A. Two shades half way down.

Q. Which were they? A. The two on the side facing Bergen Avenue.

Q. What was the condition of the shade on Kensington Avenue? A. That, my recollection is, was all the way down.

Q. Do you remember what color it was? A. I think it was a white shade.

Q. Was it a double window or single window like this (indicating)? A. It is a window that opens up or down.

Q. As wide as this one or wider? A. Why, I would not say it was as wide as this window.

By the Court: Q. Was it the window facing Kensington Avenue that had the window screen bent or broken? A. Well, I did not look more than—

Q. You said something about glancing? A. I did not glance at it. I said that Mr. Tienken went to that window, pulled up the shade and pulled in the screen. I don't know what the screen was.

Q. Was it a window on the side facing Kensington Avenue? A. Yes, sir.

JOSEPH M. RECTOR, sworn in behalf of the petitioner, in rebuttal, testifies as follows:

Direct-examination by Mr. Lane.

Q. What is your profession? A. I am a practising physician and surgeon.

Mr. Simpson: I will admit the doctor's qualification.

Q. Have you treated cases of gonorrhea? A. Yes, sir.

Q. For how long a period of time? A. Do you mean in regard to the practice of my profession or in regard to the length of the case?

Q. In regard to your profession. A. Twenty-seven years.

Q. Were you with the army during the last war? A. Yes, sir.

Q. In what capacity? A. I was surgeon of the old Fourth New Jersey, and I was then made Surgeon of the 114th Infantry. I was made operating Surgeon of Operating Team 543, A. E. F. in France.

Q. How long were you there? A. Eight months.

Q. Did you have, prior to the late war any experience in the army? A. Yes, sir. I was surgeon of the First New Jersey Brigade including all the forces of New Jersey on the Mexican border.

Q. Before that? A. I was surgeon of the Medical Department of the State of New Jersey for twenty-three years.

Q. In your capacity as a surgeon in the army did you come in contact with cases of gonorrhea? A. Yes.

Q. Is a test which is made by taking the secretion from the meatus, obtained by stripping the penis, a certain test as to whether or not a man has gonorrhea? A. It is not a positive test. That is, if it is found, it is positive. If it is not found, it is not positive.

Q. Why do you say if it is not found, it is not positive? A. Because in a chronic condition of gonorrhea, or gleet, there are three organs affected which are beyond the penis or meatus, and they are the prostate gland, the epididymis the vas deferens or secretory vessels, all of which cannot be determined whether or not they are inflamed except by stripping the individual organs.

Q. If a test is desired to be made as certain as

possible, what method would be taken to make such a test? A. The secretion from the prostate gland can be easily and readily taken by placing the finger into the rectum and masssaging directly the prostate gland; the secretion will come from the gland. The secretions from the seminal vessels or vas deferens and the epididymis—they are simply canals or organs which run through the testicles. By stripping them the secretion may be taken at the meatus, that is, at the end of the penis.

Q. Are these tests more certain than that of merely taking the secretion of the meatus? A. Why, yes.

Q. After having made all the tests that you can think of, is it then possible, if you get a negative result, to say that the man never had gonorrhea? A. No.

Q. Is it possible for a patient, if the secretion is taken at the meatus, by irrigating the urinal canal just prior to the test being made, to prevent the finding of gonorrheal germs, although they might be there? A. Germs that are inhabiting the part of the canal that extends through the urethra, that is, the direct canal. If the direct canal is irrigated, the secretion which comes simply from the glands of the floor of the canal, they would not show gonorrhea, because the irrigating of the canal, the passing of the urine, would wash the canal and make it clean, talking now of immediately afterwards you understand.

Q. How long afterwards? A. That I cannot tell you. A short period of time.

Q. And might that irrigation be done by simply passing the urine? A. Yes.

Q. How long does the acute stage of gonorrhea last? A. Simple gonorrhea—do you mean at the time of the acuteness of the attack or—?

Q. From the time of the infection, the acute symptoms of ordinary gonorrhea? A. From ten days to two weeks.

Q. What is the progress of the disease? A. Four to six weeks, unless it becomes gleet. The uneventful course is four to six weeks.

Q. What is the beginning; how does it progress? A. It begins with an acute inflammatory condition on the part of the organ or organs which are infected; it then progresses until it reaches its peak; it then retrogrades or passes backward until it gets to a normal state.

Q. How long does the inflammation last? A. You mean the entire inflammatory process?

Q. Yes. A. Four to six weeks.

Q. What is it that causes the pain? A. As a result it is caused from the acid urine passing through the inflamed surface.

Q. Is there any pain after the inflammation subsides? A. Well, now, inflammation—do you mean the direct inflammation condition of the gonorrhea or complications? There are different complications. If you have any complications, you may have pain, for instance in the testicle if you have a complicated condition there. If you have a complication in the prostate—prostatitis—you may have pain there.

Q. I am talking about the disease without any complications.? A. There is no pain in the acute, uncomplicated, simple gonorrhea, as a rule, after ten days or two weeks. By that time the inflammatory process has reached its peak and is retrograding.

Q. Then does it turn into what you have called gleet? A. It becomes a gleet discharge, if it is not cured.

Q. Does the presence of gonorrhea, after it has passed its acute stage its inflammatory stage, affect the ability of a woman to have sexual intercourse? A. No, sir. Well, I will not say that. It depends on where the attack was. In a woman the gonorrhea condition may be in several different places. It may be in the urinal canal; it may be in the two glands which are at the entrance of the vagina; it may be in the vagina itself; it may be in the uterus itself; the part which projects into the vaginal canal. It depends on whether one or two or three of these different regions are inflamed whether or not she may have pain for any particular length of time or whether infection takes place. If it is a simple infection of the urinal canal that will run a course of four to six weeks if it is cured. If it is not cured, it passes to a gleet discharge.

Q. Does that stage, after it passes to a gleety condition, prevent sexual intercourse? A. It does not.

Q. What is the likelihood of transmitting the disease? A. As soon as a discharge would come from the meatus and pass down into the vagina, the entrance of the penis into the vagina will cause infection.

Q. What is the next condition? A. The two glands at the entrance of the vagina, which are in action only at the time of sexual intercourse, may become involved and have the same condition that is found in the prostate gland in the male; that will prevent intercourse only during the time of

the acute inflammatory process. If the vagina itself is involved, there will be pain as long as there is the acute inflammatory process. If it passes into that part of the womb or uterus which is in the vagina, she will have pain only upon pressure against that part of the uterus or womb. We will have a discharge, we will have perhaps an ulcerated surface that does not cause pain. The danger of infection then is slight up to the time it entirely disappears, with the exception of immediately after the menstrual period in the woman.

Q. In other words, if the disease is located there, the infection only takes place when? A. With intercourse within forty-eight hours or seventy-two hours after the cessation of the menstrual period.

Q. What would you say as to the probability of a recurrence of an attack of gonorrhea after a period of twelve years in a man, where to all outward appearence the disease has been cured? A. I would say that I do not think it is possible.

Q. If there was a recurrence of the disease, would you have the acute inflammatory condition which usually accompanies a new infection? A. You could not get an acute exhibition of a chronic disease after twelve years unless you set a secondary infection upon an old condition. Then you will have the same process repeating itself as I described in the beginning.

Q. What effect, if any, has the presence of gonorrhea in a woman upon the desire for sexual intercourse? A. It has no effect at all. Of course, I am speaking of the chronic gonorrhea condition. Speaking of the acute—

Q. I am talking about the condition present aft-

er the acute inflammatory stage has passed. A. It has no effect at all upon the sexual desire.

Q. Did you ever, during your army experience, have any experience with sexual intercourse as a practice between whites and blacks? A. Well, experience—what do you mean—visually or—?

Q. I mean visually. A. Yes; visually; yes.

Q. What was that experience? A. That the white was excluded to the preference of the black by the French women.

CROSS-EXAMINATION by Mr. Simpson:

Q. Do you make that statement about all white women? A. No.

Q. Do you make that statement about all white men? A. No.

Q. You are simply limiting it to French prostitutes? A. I said "French women"—I don't know whether prostitutes or what.

Q. You don't know what they were? A. No.

Q. That visual experience was when you were in the army? A. Yes.

Q. What do you mean by "visual experience?" A. Seeing them coming and going.

Q. Where? A. From house to house; tent to tent.

Q. Seeing them coming and going from house to house, and tent to tent? A. Yes.

Q. Seeing the woman going in? A. Yes.

Q. And the black man going in? A. Yes.

Q. And seeing the woman come out? A. Seeing them both come out.

Q. How do you know what took place inside? You were not inside the tent, were you? A. No.

Q. You don't know what they did? A. No.

Q. They might have played a game of pinochle, for all you know? A. I don't know what they did.

Q. Did you have any black men in your regiment under your observation? A. No.

Q. Now, this test which you explained is not a common test? A. I don't know what test you refer to.

Q. The one referred to by Mr. Lane as milking the penis and getting the secretions at the meatus? A. Yes.

Q. That is a common test, is it not? A. Yes.

Q. Is it not the only test in the United States Army? A. No, sir.

Q. What other tests are there? A. Massaging the prostate gland.

Q. Commonly? Is that a common test? A. Yes.

Q. Is that test used as commonly as the other test? A. It depends on the condition of the patient at the time.

Q. Taking the condition of the patient, would you say one was as common as the other? A. If we are suspicious of gleet, we do not stop at the meatus; we massage the prostate gland.

Q. Is gleet infection? A. Yes.

GEORGE HOPKINS, sworn as a witness on the part of the petition in rebuttal, testifies as follows:

Direct-examination by Mr. Lane:

Q. Are you the solicitor, or one of them, for the defendant in this suit? A. I am.

Q. Are you the solicitor for Mr. Simmons? A. I am not.

Q. Have you been his attorney? A. I have.

Q. Do you know where he is? A. I do not.

Q. Do you know what his address is? A. I do not.

Q. When did you last know his address? A. I never knew his address.

Q. Did he keep in touch with you during the preparation of this case? A. He did not.

Q. Was there any communication between you and him between the 10th of April, over in New York, and the date of this trial when this case was first called for trial?

Mr. Simpson: Objected to as immaterial and irrelevant. It does not affect the credibility of Simmons. It does not clear up any of the issues involved here.

The Court: It has some bearing on Simmon's production here as a further witness, I suppose.

Objection overruled.

A. Yes; I had communication with Simmons. You mean personal conversations with him?

Q. Yes. A. Yes; I had such a conversation with him.

Q. Did you keep in touch with his address, so as to get him when he was wanted? A. I did not. I never knew his address, either then or now or at any time, from the first time until the last time I saw him in Court.

Q. Do you know how he came here? A. I don't know that I have said that I did.

Q. How was he gotten here? A. I am unable to say.

Q. You don't know how he was gotten here the first day of the trial? A. I do not.

Q. He was not gotten through you? A. I don't think he was.

Q. He was not gotten through you? A. I am saying he was not.

No cross-examination.

SAMUEL TARTALSKY, a witness heretofore sworn on the part of the petitioner, re-called in rebuttal and further testifies as follows:

Direct-examination by Mr. Lane:

Q. Did you attempt to serve process in this suit on Metz? A. I did.

Q. When? A. I should say a week before the first time this trial was up.

CROSS-EXAMINATION by Mr. Simpson:

Q. You mean before the first day of this hearing, the first day of this hearing? A. That is right.

Q. You have not tried since? A. I have not.

Q. Do you know whether he has been in Jersey City since or not? A. I don't know.

Q. Where did you try to subpoena him? A. At his home.

Q. Where is his home? A. If I recollect, it is on Fourth or Fifth Street, Jersey City.

CHARLOTTE LUMFORD, a witness heretofore sworn on the part of the petitioner, re-called in rebuttal, further testifies as follows:

Further direct-examination by Mr. Lane:

Q. On the night of July 11th did you ask Charles Simmons to sit up with you? A. No, sir.

CROSS-EXAMINATION by Mr. Simpson:

Q. Did you say that you were sick that night? A. I didn't feel well; I told him that I did not feel well.

Q. Didn't you tell him that you did not feel well? A. Yes, but I didn't say I was sick.

Q. What was the difference? A. I didn't tell him exactly, either. I told my sister. She was down there.

Q. You have just told us that you did not feel well and that you told him, and now you say you didn't tell him? A. Well, I told him that I didn't feel well. We were all present.

Q. When you told him that you did not feel well, what did you want him to do? A. I didn't want him to do nothing. He didn't have no right to do nothing for me.

Q. You didn't ask him to sit around with you? A. No; I didn't ask him; he was none of my husband. I didn't ask him.

DEFENDANT'S REBUTTAL

ANNA R. LINSER, sworn as a witness on the part of the defendant in rebuttal, testifies as follows:

Direct-examination by Mr. Simpson:

Q. Mrs Linser, did you see Mr. Sargent about the time that his wife was to be operated upon? A. I did.

Q. Where did you see him? A. Why, I met him in the automobile with Mr.—

Q. Did you have any conversation with him about going to his wife's operation? A. I did.

Q. What did he say to you about going to his wife's operation?

Mr. Lane: I object to that upon the ground that it is not proper sur-rebuttal.

The Court: Objection overruled.

A. Why, I pleaded with him for quite awhile and he promised he would go.

By the Court: Q. What did you ask him to do? A. To come home to Frances and he told me he could not come then, but he would positively do the right thing and come to her.

By Mr. Simpson: Q. Did he do anything? A. He would do the right thing.

Q. Did he give you his hand? A. He gave me his hand and promised me on his word of honor that he would come to her. I wanted him to come with me that night but he said he would not, but he would do so.

Q. Did you and he say anything about whether he believed these charges? A. I told him: "Why, Don, how could you belive such a thing?" and

he said: "Why, Anna, I cannot—I don't know what to do." I asked him to give Frances a chance to talk to him and he said he would.

Q. What did you do then; did you go back to her? A. Why, I was in Mrs. Sargent's house when—

Q. Did you, after this conversation with Mr. Sargent return to the home? A. Yes, I did.

Q. Did he come to the operation? A. No, he did not.

Q. He did not come at all, as he had promised? A. No, he did not.

Q. Were you present at the interview in which it was said that Mrs. Sargent was talking about her answer; were you at Runyon's office that day? A. I was present at one of the interviews. I went to Mr. Runyon myself and no one knew of it.

Q. Were you present at any interview, when Mrs. Sargent, Mr. Runyon and Mr. Huck were present? A. I was.

Q. Which interview was that? A. Well, I guess the first and second.

Q. Were you there at the time Mr. Sargent was present? A. Yes; I was.

Q. Did you hear Mrs. Sargent's request for an interview with him alone? A. I did.

Q. What did she say in that request? A. Why, she said to him: "Don, how could you do this?" and she pleaded with him to see her alone; she wanted to talk to him alone.

Q. And what was said to her? A. What was said to her?

Q. Yes. A. Why, he didn't say much; he just said he could not just now, and he thought he would do the right thing.

Q. What did his lawyers say, if anything, about the matter, when she said: "Oh, Don, how could you do this? I want to talk to you alone." A. They didn't say anything that time.

Q. They didn't say anything, whether he should or should not? A. No.

Q. How long were you there? A. We were there just a little while alone when they brought in Mr. Sargent.

Q. How long did you stay there? A. Until we left, I should say fifteen or twenty minutes; possibly half an hour; I could not say.

Q. Did he seem to be pleasant? A. Yes, he was.

Q. Now, you were not present at the last interview, were you, in Mr. Runyon's office? A. Well, I was present at two interviews and I never heard of another until I heard it here.

Q. Were you the person who brought about the interview with Mrs. Sargent and her husband at Runyon's office? A. I was.

Q. Did you do it at her request or of your own volition? A. I did it of my own accord.

Q. Why? A. Because I did not want it to come to this. I thought you could reason with Mr. Sargent and he would do the right thing.

Q. Was there anything connected with publicity? A. Why, I didn't want it to come here, and there would be no publicity.

Q. At that time was there publicity about it in the papers? A. Yes; there was.

Q. Was that what moved you to go to Mr. Runyon's office? A. No; I went to them of my own accord.

Q. You thought if they could get together, they

would be— A. I thought if Mrs. Sargent could talk to her husband the thing would come around all right, yes.

ALEXANDER SIMPSON, a witness heretofore called on the part of the defendant, called in rebuttal:

Direct-examination:

I never had any conversation with Mr. Runyon such as he described. The only time I ever remember talking to him about the Sargent case was upon the application for alimony *pendente lite,* at which time I appeared before his Honor, Vivian Lewis, Vice Chancellor of the State of New Jersey, and made application for counsel fees. Mr. Hopkins was with me. I discussed the case with him in a general way. My recollection is that I told him he was being made a sucker of by detectives. I am not clear about that, though. I am positive however I never told him: "We are going to ruin Mr. Sargent," or "try to ruin Mr. Sargent." I am positive that at that interview I did not tell him that it was to be a campaign of publicity. That is the only conversation I remember, and I think Mr. Hopkins was with me all the time.

CROSS-EXAMINATION by Mr. Lane:

Q. Do I understand that you were before the Court on this case but once? A. No; I was at the early inception of the case I was only once, that was the application for alimony *pendente lite.* That is my recollection.

Q. You were before the Vice Chancellor or before the Advisory Master on several occasions on motion to fix a day, were you not? A. You mean Vice Chancellor Fielder?

Q. Yes. A. That was after the case was referred to his Honor Vice Chancellor Fielder. I am talking about when the case was first brought—the first time I went before the Vice Chancellor, the only time I remember in the case, before Vice Chancellor Lewis. I have been before Vice Chancellor Fielder to fix a date after Mrs. Sargent went to Reno.

Q. On how many occasions? A. I could not say that.

Q. More than once? A. I am not sure. My recollection now, unless it can be refreshed, is that there were only two court applications, one for alimony *pendente lite,* and one before Vice Chancellor Fielder to fix a date.

Q. As I understand you, on no occasion was there over a conversation between you and Mr. Runyon, at which the publicity that had obtained was discussed? A. Yes; I think we might have talked about the horrible thing, but there was no such conversation that we gave, that we were going to ruin this man with a campaign of publicity.

Q. What was the conversation with respect to publicity? A. Why, that Mrs. Sargent was all cut to pieces by the publicity; that her friends were cutting her and she was failing in health, and that it was a horrible mess, the whole thing.

Q. That is what you said to him? A. That was the real conversation, but I never told this man that we were going to ruin Mr. Sargent with a campaign of publicity.

GEORGE HOPKINS, a witness heretofore sworn, called on the part of the defendant, in rebuttal, testifies as follows:

Direct-examination by Mr. Simpson:

Q. Mr. Hopkins, did you ever have any talk with Mr. Runyon, in which you told him that your defense was to be a campaign of publicity and that Mr. Sargent was to be ruined? A. I never did on any occasion.

Q. Do you remember being in the Court of Chancery with myself and Mr. Runyon on or application to Vice Chancellor Lewis for alimony *pendente lite*? A. I do, very clearly.

Q. Do you remember the three of us talking generally about the case? A. I do.

Q. Did I, in your presence, state to Mr. Ruyyon that I was engaged in a campaign of publicity and that I was going to ruin Mr. Sargent if he did not come across? A. No such words were stated in my presence.

Q. There was another statement I think that he attributes to you, you said that you were going to, or that you had already hired me in the case, in a talk in New York, that I was the best man for a campaign of publicity of this kind. Did you ever have a conversation of that kind with him? A. I never had any conversation or any words that could be so interpreted.

Q. Is it not a fact that at the beginning Robert Carey was the counsel and I was not brought into the case until almost time to file the answer? A. That is the fact.

Q. The $1200—do you recall that claim? A. I do, both in a letter and in two conferences at

Mr. Huck's office. On the occasion of the second conference with Mr. Huck he completely refused, and after the interview terminated in Mr. Huck's office he accompanied me up to Broadway where he took the tubes to Jersey City, and during that walk we had a further conversation and again he reiterated he would not pay.

Q. That was in August? A. I don't remember exactly the date; it was either the last week in August or the first week in September, 1919.

Q. Did he tell you why he would not pay it; on what ground did he put his refusal? A. That I do not recall.

Q. You were present at the trial in the New York, were you not, in the suit of Simmons for his wages? A. I was attorney.

Q. Do you know whether or not Mr. Sargent and Simmons sat on a bench together and conversed while waiting for the case to come on? A. I cannot say that they talked, but I did see them sitting side by side, and I did see them both smiling.

Q. That was while you were waiting for the case to come on? A. Yes; and during the course of the case.

CROSS-EXAMINATION by Mr. Lane:

Q. Did you come into this case before Judge Carey got out of it? A. That I am unable to state.

Q. Well, how soon after you got into the case was it that Mr. Simpson got in? A. About the same week.

Q. Do you recall when that was? A. No; I don't remember the date; it was in July I recall; I don't remember exactly.

Q. When was this conversation that you had when they refused absolutely to pay you the $1200? A. That conversation was at Mr. Huck's office and leaving his office about four or five days after we had written a letter on the subject—the second letter.

Q. Can you place it without reference to the letter, what month it was in? A. The letter or the interview?

Q. The interview? A. It is my impression that there was one interview along in the last week in August or thereabouts, and the one I have reference to after the letter was in September, as I recall it. I have not refreshed my memory or looked in my records. That is my best impression.

Q. I show you a letter written by your firm, a copy of which has been offered in evidence, and ask you whether you saw Mr. Runyon at all after you wrote that letter? A. Whether I saw Mr. Runyon?

Q. Mr. Runyon or Mr. Huck. I am unable to positively state, but it is my impression it was after this letter was written that Mr. Huck had the walk up to the station to which I have referred. I think it was after this letter.

Q. I show you a letter dated September 4, 1919, addressed to you, and call your attention to that part of it that is underlined and ask you whether you had a conversation with Mr. Huck after the receipt by you of that letter? A. Yes; I think it was the same day I got this letter. If I had the office record I could be more accurate about it, but it seems to me it was the same day as that, that I had the talk with Mr. Huck.

Q. Did you ever furnish to Runyon & Autenrieth

the bills which are referred to in this letter of September 4th? A. Well, in this letter they ask for all bills. We furnished them or sent them at that time several bills having to do with department stores here in Newark, and some others that we did not send—we referred to having some others, some dressmaking bills, I believe.

Q. Did you send any bills which had reference to this $1200? A. That I do not recall. We sent all the bills we had at that time to Mr. Huck.

FRANCES L. SARGENT, the defendant, already sworn as a witness in her own behalf, recalled in rebuttal:

Direct-examination by Mr. Simpson:

Q. It has been testified here that when you saw your husband you did not protest your innocence. What did you actually say to him when you went to have the interview with him? A. I said to him: "Why, Don, you know such a thing could not be possible, and I want to see you alone so I can tell you why it is not possible."

CROSS-EXAMINATION by Mr. Lane:

Q. Did you offer to tell the lawyers why it could not be possible? A. Why, I did think I deserved just a bit of privacy about my affairs.

Q. Did you offer to tell the lawyers why it could not be possible? A. I do not think that I offered to tell them.

VIRGINIA COLEMAN, sworn as a witness on the part of the defendant in rebuttal, testifies as follows:

Direct-examination by Mr. Simpson:

Q. You know Mr. Walters? You know that man?

(Counsel calls upon Mr. Walters to stand up.)

A. I do.

Q. Did he make any statement to you about if you had kept your mouth closed as far as Simmons was concerned, and not told Simmons that he was a detective, that it would be well for you?

A. Yes; he said that I could have bettered my condition a great deal by it, but as I had gone to work and puked up everything I would have to stand the consequences.

No cross-examination.

Mr. Simpson: With the exception of the letter Mr. Runyon is hunting for in his files, to the firm in Reno, Nevada, I think that is my case.

Mr. Lane: I offer in evidence the complaint that was filed in Reno.

Received in evidence and marked Exhibit P-2, December 10, 1919.

Mr. Lane: There have also been used and formally offered, I think, but not marked, the plans of the house. I ask that they be marked in evidence.

Received in evidence and marked P-3, December 10, 1919.

The Court: I would like to know whether

these are the plans of the house as originally constructed or whether they are plans showing any alterations that may have been made in the house during the construction or after Mr. Sargent purchased it.

Mr. Lane: May I recall Mr. Sargent to explain them?

The Court: Maybe you can agree.

Mr. Huck: These plans were made for making alterations in the house which never were made. The front part of the house as shown by these plans is as it is now and was then.

The Court: You mean the exterior?

Mr. Huck: No; the forward part of the house, the part nearest Kensington Avenue; I mean both exterior and interior. At the rear of the house they proposed to make some changes, and these changes are shown on these plans in light tracing.

The Court: Do the plans show the layout of the first, second and third floors as they existed on July 11th?

Mr. Huck: Yes; they do, and they also show the layout of proposed changes which were never made.

The Court: I do not know whether these plans will show the situation of July 11th. It shows what it was and what it was to be. How can I tell what the situation was?

Mr. Lane: There were no changes made. The plans show what the old layout was and what were the proposed changes, which were not made. The portion that is material was brought to your Honor's attention

when we went into the location of the pink room, and the witness, with these plans before him, pointed out the various locations.

The Court: If you can agree that they are approximately correct—

Mr. Simpson: I do not know that.

The Court: Then, you will have to offer testimony.

DONALD J. SARGENT, the petitioner, already sworn, re-called and further examined as follows:

Direct-examination by Mr. Lane:

Q. Mr. Sargent, these plans that have been referred to—is that the ground floor? A. That is the ground floor.

Q. Is that ground floor, as laid out on these plans, the way the house was on the 11th of July? A. That is the way it is today.

Q. And the way it is today? A. No alterations made there at all.

Q. Are there any lines on this particular floor which show a proposed change? A. Yes, here; around the fireplace.

Q. That is a dotted line? A. Yes. About the fireplace, between the Bergen room and the library.

Q. The solid lines are as it was and as it is? A. Yes.

Q. And the dotted lines show a proposed change? A. Yes.

Q. Is there any other line on that particular plan which shows a proposed change? A. We had intended to cut out this; to make this corner square.

By the Court: Q. Pointing to the landing of the stairs leading to the second floor? A. Yes.

By Mr. Lane: Q. The dotted line shows the present layout? A. The dotted line shows the present layout.

Q. The line in yellow shows what it was? A. Yes.

Q. Is there any other line on that showing a change? A. No, sir; I can see none.

Q. Now, passing to the second floor, will you tell me whether there are any lines on that which show a proposed change not in fact made? A. Yes, sir; these heavy lines are the proposed—this is the bedroom—

By the Court: Q. You are pointing now to the bedroom marked in lead pencil, "2"? A. This is the pink room.

Q. You are pointing to the bedroom marked "2" in pencil? A. Yes.

Q. That is the room known as the pink room? A. Yes. This is just as it is.

Q. Where the shaded lines are? A. The light lines.

By Mr. Lane: Q. The light faint lines which show the basin and closet show the room as it was on July 11th? A. And as it is today.

Q. And the heavy lines shaded in yellow show proposed changes which were not in fact made; is that right? A. Yes.

Q. Now, while I am on that subject, can you tell me the width of the door into the washroom, ap-

proximately? A. Yes; I think it is a regulation size door.

Q. That is the same kind of a door that opens out from the hall? A. Yes, through all the house.

Q. Can you tell me whether a person can stand up in that washroom and close the door? A. Certainly. There is a wash basin.

Q. For the purpose of washing? A. Oh, yes.

Q. What is opposite that basin? A. There is a small box on the floor, and then there are hooks and up above there are shelves; there are clothing hooks.

By the Court: Q. Where was the bathroom located, on July 11th, 1919, as shown on these plans? A. Just as it is today also—right there.

Q. That is, the light line? A. Yes.

Q. At the end of the hall? A. Yes.

Q. On the north end of the hall? A. Yes; you come down this hall and here is the bathroom door; here is the door; you can see right opposite the bathroom where you go up to the third floor.

Q. Where was the stairway leading to the third floor? A. (Indicating) Right there.

Q. Over what is now marked "closet" or something like that? A. Yes; that was supposed to be—

Q. So that the stairway on that day and now was immediately adjoining the pink room, immediately alongside the pink room? A. It is; yes, sir; these stairs come up over this closet.

Q. Over the closet connected with the pink room? A. Yes; you go up like that and this is the front of the house.

By Mr. Lane: Q. And in the front of the house the proposed change, or rather the balcony is

shown by the dotted lines and the proposed change by the lines shaded in yellow? A. Yes. There is the third floor.

Q. I pass to the third floor plan and ask you whether that shows the layout as it was and is and whether it shows any proposed changes, and if it does, what the proposed changes are? A. This is as it is. The changes had been made on the third floor. The servants quarters were put in there.

Q. Were they made before July 11th? A. They were except—I would correct that—that this wall was brought out here (indicating) This is a straight line here.

Q. Then the plan as shown in the heavy yellow lines or by the heavy yellow lines was the layout on July 11th, and is the layout? A. Yes, sir; except this wall.

Q. Except in that room which has been marked bedroom, on the west, the easterly wall has been carried out to the line on the northwest; is that right? A. Yes.

Q. Which is the room in which the detectives were? A. (Indicating) This one.

By the Court: Q. The bedroom marked "3"? A. Yes, sir.

CROSS-EXAMINATION by Mr. Simpson:

Q. Were the stairs changed at all after the plans were made? A. What stairs?

Q. Any stairs? A. Not in position, but there were different railings.

Q. Were there any doors changed? A. Not as to position; we put in different doors.

By the Court: Q. Let me ask you another

question: Was there a door enclosing the bottom of the back stairs on the second floor? A. Yes, sir.

Q. Did that door open out in the hall or in towards the stairs? A. It opens out in the hall.

Q. Was there any spring or other device attached to that door to cause it to remain closed? A. No, sir; just an ordinary catch.

By Mr. Lane: Q. How was that door constructed; what was it made of? A. Well, it has a large glass in the top.

By the Court: Q. What kind of glass? A. Transparent.

By Mr. Lane: Q. Where is it located with reference to the bathroom door? A. It is practically opposite.

Q. What is the bathroom door made of? A. That is glass; translucent glass.

Q. You could not see through it? A. Not through it.

Q. You could distinguish a shadow? A. Yes.

Q. You could not distinguish a person? A. Not through the bathroom door.

Q. You could through the attic door; is that right? A. That is plain glass; yes, sir.

By the Court: Q. Are you not mistaken about the bathroom door the night of the raid? Was it not all wood and the attic doors glass? A. I am not so sure as to the bathroom door.

Q. Think about it. Don't you know whether the door is wood or glass? A. No; I would not want to say on that. To tell the truth, I never took notice of that.

Mr. Lane: I offer the plans in evidence.

Plans are received in evidence and marked P-3, December 10, 1919.

FRANCES L. SARGENT, the defendant, already sworn as a witness in her own behalf, recalled and further examined as follows:

Direct-examination by Mr. Simpson:

Q. On the night of July 11, 1919, was the bathroom door on the second floor wood or glass? A. Wood.

Q. Entirely wood? A. Entirely wood.

Q. What kind of door was the door to the attic stairs? A. Well, the upper part was glass, plain glass; you could see through it.

Q. You could see through it? A. Yes; just like a window glass, and we kept a curtain on it.

Q. And the other part was wood? A. Yes, sir.

CROSS-EXAMINATION by Mr. Lane:

Q. Was there any door on that floor besides the door leading to the attic stairs that was made of glass in the upper part? A. Yes.

Q. Which one? A. The one leading to the kitchen downstairs.

Q. That is alongside the bathroom? A. No; alongside the attic door.

Q. Alongside the attic door? A. Yes.

Q. There are three doors? A. Two doors together.

Q. Two doors together and then one opposite? A. Yes.

Mr. Lane: Mr. Sargent says that that is correct; that that refreshes his recollection; that that location is correct.

Mr. Simpson: That is all we have.

Mr. Lane: I offer in evidence the letter referred to in the examination of Mr. Hop-

kins. I think a copy of that is part of the file that has been admitted in evidence. For fear it may not be, I offer in evidence the letter of August 29, 1919, signed by Mr. Hopkins.

Mr. Hopkins: It is in the file.

Mr. Lane: Mr. Hopkins says it is in the file, and I will accept that statement.

I now offer the deposition of Mrs. Lathrop, taken upon notice before a Master of this Court in New York City.

Mr. Simpson: I object upon two grounds. My first objection is that it is not taken according to the statute. I understand that the statute requires a certain procedure to be followed. According to the statute it should have been sent to the office of the clerk, under seal. That was not done. A man comes into Court and says: "I have it here." I do not think that meets the requirements of the statute. My second objection would be to the questions that were asked.

The Court: I will overrule the first objection and dispose of the second as we go along. We will have to read the testimony question and answer, and you can note your objections and the stenographer will take them down.

Mr. Lane reads deposition of Elizabeth L. Lathrop as follows:

"ELIZABETH L. LATHROP, a witness called in behalf of the petitioner, being duly sworn by the Special Master, testified as follows:

"Direct-examination by Mr. Runyon:

"Q. Mrs. Lathrop, you reside in the City of New York? A. Yes, sir.

"Q. And came here under subpoena issued out of the New York Supreme Court? A. Yes, sir.

"Q. You are acquainted with Mr. and Mrs. Donald J. Sargent, the parties to this suit? A. Yes, sir.

"Q. How long have you known them? A. I could not state whether it is four or five years, about that, perhaps five years.

"Q. And how intimately have you know them? A. Well, I have visited in their home and they have visited in mine.

"Q. And do you know one Charles Simmons, chauffeur for Mr. Sargent? A. Yes.

"Q. Were you acquainted with either Mr. and Mrs. Sargent better than the other? A. Mrs. Sargent very much better.

"Q. You have been Mrs. Sargent's friend? A. Yes.

"Q. What have you known, Mrs. Lathrop, with reference to Mrs. Sargent's relations with Simmons? A. What?

"Q. Or with reference to her feeling toward Simmons as expressed to you? A. Why, I only know what Mrs. Sargent told me and what Simmons told me.

"Q. Well, will you tell us in your own way what they have told you at different times? Going back to your earlier association, go back as

far as you remember Simmons in the case. A. Do you mean any confidences that were given?

"Q. Yes. A. I think it was the autumn following the summer that Mr. Sargent purchased his car. That is as near as I can tell you—I don't know when that was exactly.

"Q. What was that occasion? And where was it? A. Well, I could not answer that question. I don't know just how to answer that.

"Q. What was the occasion of which you were going to testify following the purchase by Mr. Sargent of the car? A. Mrs. Sargent had invited me to take a motor trip with her to Liberty.

"Q. Yes. And what happened? A. And she just simply—

"Q. Tell us in your own way. A. She simply made statements that this man, that he had a very great physical attraction for her.

"Q. By this man, whom do you mean? A. I mean Simmons.

"Q. Well, tell us precisely what Mrs. Sargent said on that occasion? A. As near as I can remember, she said—

"Q. Just tell us the words she used. A. She wanted me to go on this trip with her to chaperon her, and she told me that she intended to stay with him, words to that effect.

"Q. What did you say? A. I told her that she shouldn't do it if I went with her.

"Q. And what did she say? A. She simply reiterated her statement that he had a great physical attraction for her and she had for him. I talked to her like a mother. I told her she was crazy; that I could not believe her; that she had a loving husband who thought the world of her and a beau-

tiful child and that it was crazy for a woman in her position to talk that way.

"Q. What did Mrs. Sargent say? Try as nearly as possible to give her words. A. She said that she realized it. That she could not help it. That she felt that way toward him. I told her that I could not consent to go under those conditions at all.

"Q. Well, did you go? A. No; I did not.

"Q. And did she go? A. Yes. I wrote her a letter and I put every possible situation of her position, but it was under those circumstances—

"Q. And did you send that letter to her?"

Mr. Simpson: I object. It is clearly incompetent to attempt to bind the defendant by writing her any such letter.

The Court: Objection overruled. The question is: Did you send her a letter? I am ruling that it is admissable to send her a letter, and to expedite this matter; I will say that I think it is just as competent for the witness to testify what she said in the letter as it is competent for her to testify to what she said direct to Mrs. Sargent.

Mr. Simpson: That was my objection.

"A. I sent it to her. She called me up and thanked me for it and said it was one of the most beautiful letters she had ever had and she would follow my advice.

"Q. Where did you send it to? A. To her home, to Jersey City.

"Q. Was it 74 Kensington Avenue, Jersey City? A. Yes, sir.

"Q. And did you keep a copy?

Mr. Lane: I call upon you to produce that letter.

Mr. Simpson: We have no such letter and never had it.

"A. I told her in that letter I didn't suppose she would ever see me again. And I didn't expect she would, but I wanted her to know the absolute truth. And she thanked me for it and she said she would listen to me and she would be honorable and she would be true.

"Q. Did you ever keep a copy of that letter? A. No; I did not.

"Q. When was this letter sent with reference to Mrs. Sargent's proposed visit to Liberty? A. At the time she went up there to see this consumptive girl whom I had in charge the summer I had been up there, that is I had been up there to find a place for her where she would be well nourished and taken care of. She was tubercular.

"Q. How did you know that Mrs. Sargent took the contemplated trip to Liberty? A. She called me up at my home and said her husband wanted her to go just as she had planned and she was going with her sister and that she would follow my advice and that she was very much indebted to me for writing her and that she would always keep that letter.

"Q. And your letter was sent to her before she made the trip? A. Yes.

"Q. Have you ever seen that letter since, Mrs. Lathrop? A. No.

"Q. Did she say anything else to you with reference to her plans on that trip, with reference to the hotel accommodations, the rooms and the like? A. No. Only I told her that I would not stay in Liberty or anywhere near on account of the water and food which might have germs in it, and I

didn't advise her to do it at that time. That is about all.

"Q. Did she ever speak to you with reference to the trip on any subsequent occasion, and if so, what did she say? A. Only that she went and she didn't think the girl could live. She found her in a very low state.

"Q. Did she ever talk to you with reference to what hotel accommodations she had on the trip? A. No; she told me where she stopped, but I don't recall the place.

"Q. Did she ever say anything with reference to the type or character of the room she had at that time? A. No. Mrs. Sargent never did.

"Q. Did anyone else? A. Yes; months afterward.

"Q. Who? Who spoke to you with reference to the rooms? A. That subject was closed as far as we were concerned, the subject of the rooms. That is what you are referring to?

"Q. Yes. A. Simmons came in to get some china that I had done for Mrs. Sargent.

"Q. By Simmons you mean Charles Simmons, the chauffeur? A. Yes.

"Q. He came into your house?"

Mr. Simpson: I object to any conversation with Simmons.

The Court: Objection overruled.

"A. Yes; he told me that he was leaving. Mrs. Sargent had previously come to me and told me that she wished to get rid of Charles, that she wanted to get him a place. I said, 'Why don't you get him out of your life?' And she said that she wished she could get him a place. I said, 'I have a friend who is going to Wisconsin, and I can

get him a position there.' And she said she wished I would. That subject was closed as far as I and Mrs. Sargent were concerned. When the chauffeur called he said he was leaving and I asked him why. He said he could not just stand it any longer. That Mrs. Sargent wanted him to go. I asked him what the trouble was. He said that they had had some trouble because he had taken a photograph.

"Q. Did she say whose photograph? A. Yes; it was a photograph that Mrs. Sargent had previously shown him.

"Q. Have you ever seen that photograph? A. Yes, sir.

"Q. He told you that he, Simmons had stolen the photograph? A. Yes. He said that he had stolen the photograph. By the way, Mrs. Sargent had told me before that she had stolen the photograph, before he told me she wanted him to go.

"Q. What else did he say on that occasion? A. Why, that he had taken the photograph. I asked him how he happened to know that she had it. He said that she had shown it to him and told him who it was.

"Q. I show you the photograph and ask you if you have ever seen that before? A. Yes, that is the one.

"Q. Whom does it represent? Do you know the party? A. It is Mr. 'X.'

"Q. Now, going back to this last conversation you had with Simmons, the colored chauffeur: Did Simmons explain to you why he wanted to leave? A. He said that Mrs. Sargent was dissatisfied with him because he had taken this picture.

This photograph. That is what he explained to me.

"Q. Did he say anything to you with respect to his relations with Mrs. Sargent? A. He said 'Yes. You think Mrs. Sargent told the truth when we went to Liberty. But she didn't.'

"Q. Well, what else did he say? Did he say what was the truth? A. Yes. He said she had stayed with him at this hotel.

"Q. What else, if anything, did he say with respect to that? A. He said he had taken the photograph and Mrs. Sargent asked him why he ever did such a dreadful thing.

"Q. That is the photograph which has just been offered in evidence? A. Yes.

"Q. What else did Simmons say with reference to the trip to Liberty? A. That she was not true as I believed her to be.

"Q. Well, did he give you to understand in what way he had knowledge of what you believed her to be? A. Yes; she had told him the day she come in, told him what she had told me, what she was going to do.

"Q. Mrs. Lathrop, will you not try and give this conversation in a connected way, in your own language, if it will come in better sequence, of Mrs. Sargent's conference with you and your later conference with Simmons, in any way, even though you repeat what you have already said? A. When he told me that he had taken this photograph and that he wanted a position, he said, 'You may have friends who have cars, Mrs. Lathrop, and you can get me a position.' I snapped at the chance. Because I thought it was the only way to save Mrs. Sargent. I appealed to his man-

hood. I told him it didn't make any difference if his skin was dark, that he ought to be a gentleman and save a woman. He said he would leave if I would get him a position. And I did get him a position. I got him this position to go to Wisconsin with friends who were going for the summer and wanted a chauffeur.

"Q. Did you get him a position? A. Yes; I asked him to go to see these people and he didn't go.

"Q. Did you ever tell Mrs. Sargent what you had done with reference to getting him a position? A. The minute he left the house I called her up and told her that I wanted to see her immediately.

"Q. And did you see her? A. I did.

"Q. What was said? A. I told her—

Q. And where was it you saw her? A. In my own home. She called to see me.

"Q. And what was said on that occasion? A. I told her that I wanted her to go to her husband and tell him that Charles had stolen that photograph. I didn't tell her that Charles had told me that, but I begged her to do it. I told her that. I told her that I would not turn a good servant into the street. That she had committed no crime even if she had another man's photograph in her possession. She said she didn't dare to do it,

"Q. Did you say anything to Mr. Sargent with reference to getting Simmons another position? A. No, I didn' mention anything to Mr. Sargent.

"Q. No. Mrs. Sargent. What did you say to Mrs. Sargent? A. I told her about recommending him to these people who were going to Wisconsin and to get him out of her life.

"Q. What did she say? A. She spoke about

the photograph and she was glad to have the man go at that time. She hoped he would, but she could not go and tell Mr. Sargent about the photograph.

"Q. Did Mrs. Sargent ever talk to you further about the trip to Liberty or Jeffersonville? A. No.

"Q. On what other occasion, Mrs. Lathrop, did you talk with Mrs. Sargent with reference to Charles Simmons or did she talk to you? A. I didn't see Mrs. Sargent for weeks after that.

"Q. That was about when, so far as you now recall? A. It might have been the last of April.

"Q. What year? A. Not last year, but the year before. It was the spring before this trouble came.

"Q. What spring; the spring before the trouble came? A. Yes, sir.

"Q. On what other occasion did you have conversations with Mrs. Sargent with reference to Charles Simmons, or she with you? A. After her trouble came?

"Q. Yes. Either before or after. Give them in order if you can. A. He didn't take that position I got for him."

Mr. Simpson: I move to strike out the rest of this answer and the following two questions and answers.

Mr. Lane: I consent.

The Court: They may be stricken out.

"Q. Did you speak to him? A. Mrs. Sargent asked me what I meant by trying to get Charles to go away.

"Q. What did you tell her you meant? A. I said, 'Why, Frank, you wanted me to.' She said, 'That was some time ago.'

"Q. When was this conversation? A. This was after her trouble, a few days after.

"Q. By her trouble, you mean the occasion of the raid at her home? A. Yes.

"Q. How many times did you see Mrs. Sargent since the occasion of the raid at her home? A. I have only been to her home once. She sent for me and I went over to see her after the trouble.

"Q. And that was on this occasion that this conversation occurred? A. Yes, sir.

"Q. And what was your recollection of this conversation on that occasion? A. She told me what had occurred.

"Q. Well, what did she say? A. About the detectives being in the home and about Charles being shoved into her room and the door locked on the outside.

"Q. When was the occasion upon which Mrs. Sargent said to you, 'What do you mean by trying to get Charles away?' Can you recall that occasion? A. That was the time she sent for me to come over and she told me about her trouble.

"Q. Did Mrs. Sargent ever tell you why this fellow had a physical attraction for her or what she meant by having a physical attraction for her? A. I tried to give you her language.

"Q. Try and give her language as nearly as possible."

Mr. Simpson: I move to strike out the answer to this question on the ground that it is expression of opinion.

The Court: Strike it out.

"Q. Well, was that her language, so far as you recall? A. That was her language, 'That she was going to have him.' That was early, as I told

you. Afterwards, of course, she denied everything, said she had followed my advice and had been true.

"Q. Well, on what occasion did she say to you that she was perfectly crazy about him and she was bound to have him, so far as you recall? A. That was before she went to Liberty that she said, 'That she was going to have him'.

"Q. Did she say, 'Have him' in what way? Any particular way? A. I don't understand how I can explain it any better.

"Q. We merely want to get it as definite as possible, her precise language, the precise language that Mrs. Sargent used. Did she use any further words which would lead you to understand what she meant by having him? A. That is the plainest English I can command.

"Q. I am only asking you for Mrs. Sargent's language. A. Those were her words. He had such a physical attraction she was going to have him.

"Q. Were you ever advised as to what type of room Mrs. Sargent occupied while on this visit in the hotel at Liberty? A. Yes; Charles told me the day he was there.

"Q. Upon their return Charles came to your house? A. No; it was in the spring when he wanted this position. I knew nothing more from that time about it.

"Q. On what date did Charles tell you about the rooms on the occasion of the trip to Liberty? A. He told me they had rooms opposite each other and that she was in his room. I said, 'Charles, don't tell me such a thing.' He went down on his knees and said, 'I swear to you before God I am telling the truth.'

"Q. What else did Charles say on that occasion when he was on his knees? A. He said now that she was angry with him and wanted him to lose his good position.

"Q. What was the occasion, Mrs. Lathrop, of Charles coming over there? A. He came to get some china I had painted for Mrs. Sargent, Mr. and Mrs. Sargent, for their table. I did interior decorating.

"Q. What, if anything, led him to make this confidential disclosure? Give us the whole situation. A. He said he was leaving. I asked him why. He said that Mrs. Sargent had gotten angry with him. He said, 'You know, Mrs. Lathrop, I never made any advances to Mrs. Sargent in my life. She did it all. It might be right for me to say, but I never did any unmanly thing in my life. I never approached her.' And I begged him to go and that I would help him to get a position and get out of her life.

"Q. Well, after this when did you next see Mrs. Sargent? A. I think I didn't see her until she invited me to take a trip to Massachussetts, on the Fourth of July.

"Q. Did Charles tell you what hotel they occupied rooms in on the trip to Liberty? A. Yes; but I don't recall the name of the place.

"Q. Do you recall the village at which they stayed on that occasion? A. I don't recall. I know it was outside of Liberty.

"Q. Are you acquainted with the handwriting of Mrs. Sargent? A. Yes.

"Q. I show you Exhibit 5, being a page of the register of the Mansion House at Jeffersonville, New York, on which the date October 14, 1918, ap-

pears, and ask you if you recognize this handwriting (pointing to entry)? A. Yes; that is Mrs. Sargent's handwriting.

"Q. That is Mrs. Sargent's handwriting? A. Yes; that is Mrs. Sargent's handwriting (pointing to the three signatures).

"Q. How do you know that that is Mrs. Sargent's handwriting? A. She has written me frequently.

"Q. After seeing this exhibit, does that refresh your memory in any wise as to the conversation with respect to their visit to Liberty? A. More than what I have told you?

"Q. Yes, as to the place that Mrs. Sargent and Mrs. Kuchmann and the chauffeur stayed in? A. I positively don't remember. She told me where later, but I don't remember.

"Q. Was anything said by Charles on this occasion when he was on his knees at your house with reference to Mrs. Sargent's sister, Mrs. Kuchmann? A. Yes.

"Q. What did Charles say? A. Why, he said he was with her all the time. He said she didn't object or it didn't make any difference about her. He conveyed the idea that her presence didn't make any difference.

"Q. When did you next see Mrs. Sargent after this occasion, after the occasion that Charles got down on his knees? A. I sent for her to come and see me. That was the time I begged her to go and tell her husband about the photograph so that he wouldn't hold anything over her.

"Q. Was anything said on that occasion as to the conversation between Charles and yourself, the admission made by Charles? A. No; I never

told her that he had ever said anything to me about it."

(By consent rest of answer is stricken out.)

"Q. Now, you started to testify as to a trip in July of last year. Will you tell us what occurred on that trip, Mrs. Lathrop, and who was present? A. Mr. and Mrs. Sargent and the baby and myself.

"Q. Where did you go? A. Our destination was Templeton, Massachusetts.

"Q. And was there any conversation with Mrs. Sargent in reference to any of the parties to this suit? A. No, except that she was miserable and unhappy, and it was a very unhappy trip.

"Q. Did she make any reference to the cause of her unhappiness? A. Yes; she was unhappy; she was not contented.

"Q. Well, what did she say that led you to that conclusion? A. That she was miserable with her husband. That she never had loved him and he knew it, and she could not hope to be happy. I said he was a devoted husband and was as devoted to her as any man could be to a woman and I talked with her as any older woman would talk to a younger woman and tried to persuade her that her life was not so miserable and unhappy and she said she had never loved anyone but this one particular man.

"Q. Was there any conversation with Mrs. Sargent as to her future intentions, her future life? A. Yes; that Mr. Sargent wished her to spend the summer in Templeton, which was a very conservative place. That she did not want to stay there and that there was a great deal of

controversy over it and she wanted to go where there was more life, more young people, dancing and music. And that Mr. Sargent thought she was not well and she should be where it was quiet, she and the baby and the nurse.

"Q. Well, was there ever any discussion with reference to marriage? A. Yes; she said she could not spend her life with him.

"Q. With whom? A. Mr. Sargent.

"Q. What else? A. She said that she realized that she was in the prime of her own life and that she was not going to waste it. That he was a good man and gave her everything she wanted, but she did not love him and could not help it.

"Q. What else did she say? A. She said she wanted this man, referring to the man on the photograph, and that he had had his opportunity. She made the remark that he had had his opportunity and that he had not taken it.

"Q. Did she say anything else with reference to that? A. Yes. She spoke about, I think, a separation of herself and her husband earlier in life on that occasion. She further said she thought Mr. Sargent ought to have some one who would appreciate him, that he was a really good man, but that they were not suited to each other.

"Q. When did this conversation take place, Mrs. Lathrop? A. During the trip.

"Q. And about when was that trip, so far as you can remember? A. It was along about the Fourth of July.

"Q. What year? A. Year ago last Fourth of July.

"Q. A year ago last July? A. Yes; just before their separation.

"Q. In whose automobile was the trip taken? A. The Sargent car.

"Q. Did you or did you not ever hear any conversation between either Mr. Sargent or Mrs. Sargent or either of them with reference to Charles' duties around the house? A. Yes.

"Q. What, if anything, was said? A. Why, when he was hired it was the understanding that he was to serve when required, inside, in any capacity.

"Q. Who said that? A. Mrs. Sargent, Mr. Sargent may have, both may have said that. I understood that. Of course, I had been there when he had served.

"Q. Well, what did Mrs. Sargent tell you with respect to her husband's instructions in that regard, if anything? A. There was some question afterwards and she told me that Charles' wife had been dismissed from taking care of the baby. And that there also had been friction among the servants, the cook and the nurse and Charles was not allowed to enter the house under any circumstances.

"Q. Well, did she express any opinion with regard to the situation? A. It was a very unhappy situation, a very unhappy domestic situation.

"Q. What, if anything, did she say with regard to such instructions that Charles was not to enter the house? A. Why, the cook would not have him. They quarreled and she would not stay, as I understand it, and she was a valuable cook, a valuable servant.

"Q. Did Mrs. Sargent tell you who gave such instructions as to Charles? A. No; I don't think she did.

"Q. Well, on any subsequent occasion did you have a conversation with Mrs. Sargent with respect to Charles being in the house? A. Only that he never entered the house.

"Q. Well, what was the conversation, if any? A. She said that he never entered the house. His duties were entirely taking care of the car, serving her and taking her orders and never entering the house.

"Q. Did you ever see him in the house on any occasion after that? A. No.

"Q. Do you remember the occasion of Mr. Sargent going to Vermont on July 11th with the baby? A. Yes.

"Q. What do you know with reference to that occasion? A. I wanted to take the baby and Mr. Sargent took the baby to see the child's father who resides in Vermont.

"Q. Do you know why? A. I think it was a question of taking the child back again.

"Q. Well, who told you this? A. Both Mr. and Mrs. Sargent.

"Q. Well, on that occasion, July 11th, what conversation, if any, did you have with Mrs. Sargent, that is to say on the occasion of Mr. Sargent's trip to Vermont with the child on July 11th? A. That she was too ill to go, she was going to have an operation.

"Q. Did she tell you of what happened? A. Well, we had planned on that trip to go to South Hampton and find a place for her for the summer. We were going the following Sunday when he was away and would motor to South Hampton to find a place for her.

"Q. What further conversation did you have

with Mrs. Sargent on the trip of Mr. Sargent up to Vermont? A. I asked her to come and stay with me while he was away, because I thought she would be lonely.

"Q. Was this over the telephone? A. No; in the car on this trip to Vermont, to Massachusetts.

"Q. When was this trip to Massachusetts? A. July fourth, around July fourth.

"Q. Now, when was this trip of Mr. Sargent to Vermont? A. The following Friday, I think.

"Q. So that on the trip on July fourth, Mr. and Mrs. Sargent and yourself being in that car en route to Massachussetts you had this conversation with reference to Mrs. Sargent's action on July 11th—purposed action on July 11th? A. Yes.

"Q. And what was said, what did Mrs. Sargent say and what did you say? A. She said that she could not, that she had an engagement with her sister, and they thought someone should be home to look after the house.

"Q. Did she tell you what day it was Mr. Sargent was going to Vermont? A. They talked about it before. She said it was Friday.

"Q. What did you say? A. I invited her to stay with me.

"Q. And what did she say? A. That she had an engagement on Staten Island with her sister, that she had other plans and that she didn't want to leave the house alone.

"Q. Well, did she give any other excuse? You don't recall any other excuse that she gave on that occasion for not staying with you over the night of July 11th? A. I don't recall now. Oh! That Mr. Sargent might call her up.

"Q. Did you say anything to her with reference to such excuse? A. I said, why, he could call her up at my home just as well as at her home. But they didn't either one of them think it best.

"Q. When you say either one of them—A. We talked about her going to spend the time with me during her husband's absence.

"Q. Did you ever observe any familiarity between Mrs. Sargent and Charles in your presence, Mrs. Lathrop? A. Yes; I have observed it more than once. She cast a glance at him. I told her if other people saw it it would occasion comment.

"Q. What did you observe? A. Just a significant look that you might give an individual.

"Q. Well, what kind of an individual? A. Well, I might single out one person, a sort of smile. I don't know any more than just perhaps a recognition.

"Q. Well, did you ever observe any other familiarity between them other than glances back and forth? A. No, and I am pretty sure that I should never have thought of that if she had not told me what she had. Just as one might recognize anyone.

"Q. Well, when did you last see Mrs. Sargent? A. It was a short time after her trouble that she came to my house and saw me.

"Q. Well, when did you last see Charles? A. I don't think I ever saw Charles after that trip.

"Q. Did you ever talk to him after that trip? A. He called me up over the phone.

"Q. When was this? A. It was just after I returned from the summer, from my absence for

the summer, when I was out of the city, when I returned in October, perhaps a year ago.

"Q. What did Charles say on that occasion? A. Why, he said he understood that I was trying to injure him. He also said that Mr. Sargent had made some derogatory remarks about me. I said I didn't think Mr. Sargent wanted a mother. I didn't see why anybody would make any remark of that sort.

"Q. What do you mean with reference to Mr. Sargent not wanting a mother, any reference to your age? A. Yes.

Q. Do you mind stating on the record what you age is? A. My age is forty-seven. He led me to believe that he had a great amount of respect for me and did not believe those things, but that Mr. Sargent had made those remarks.

"Q. And when you say 'he' you mean—A. Charles.

"Q. On this occasion of that picture, when you say that you and Mrs. Sargent had the conversation about the picture, where was Charles Simmons? A. Beg your pardon?

"Q. On the occasion that you and Mrs. Sargent had the conversation about the picture, where was Charles Simmons when you had the conversation with reference to the picture, Exhibit 6, where was Charles, the chauffeur? A. He brought her over in the car.

"Q. And where was he during the time you talked with Mrs. Sargent? A. He was standing outside on the curb in front of the car.

"Q. In front of the car? A. Yes.

"Q. In front of your house? A. In front of my house.

"Q. And your house is where? A. Thirty-three West Eighty-third Street.

"Q. What did Mrs. Sargent then say on that occasion with respect to Charles? A. I don't recall more than I have told you.

"Q. Don't you know whether or not Charles knew of Mrs. Sargent having such conversation with you with reference to the picture? A. That I don't know. I never told him one word.

"Q. Did or didn't Mrs. Sargent indicate to you in any way whether Charles knew she told you about the picture episode? A. No; not to my knowledge.

"Q. Do you know whether or not Charles knew of Mrs. Sargent's conversation with you with reference to the picture, Exhibit 6? A. I have no means of knowing.

"Q. Well, on the occasion when Mrs. Sargent told you that she was crazy over Charles and was going to have him, where was Charles? A. In front of the house by the car.

"Q. And what was said, if anything, by Mrs. Sargent with reference to Charles' knowledge that she was going to tell you that? A. She told me that Charles knew she came in there to tell me that.

"Q. What did you say to her? A. I said everything that a mother could say to a child. I reproached her, I reproved her and I talked to her.

"Q. Then the next occasion was when Charles came in to explain his conduct. Is that right? A. That was months after, you understand. Nothing was further away from my mind. For she gave me her word over the telephone as I repeated to you, that she was following my advice.

That she appreciated my letter and that she would always keep it.

"Q. Have you seen or heard from Mrs. Sargent since the time of the raid on Mrs. Sargent's house, Mrs. Lathrop? A. No.

"Q. Has anyone approached you on behalf of Mrs. Sargent? A. No.

"Q. Did you ever hear whether or not on the occasion of the Liberty visit an attempt had been made to get connecting rooms? A. Yes.

"Q. What did you hear, and from whom? A. It was at the time that Charles called and wanted me to get him this position he told me that it was true and he told me that she had tried to get connecting rooms and couldn't and that she got the room opposite for him.

"Q. Was or wasn't anything said with reference to how long Mrs. Sargent stayed in Charles' room on that occasion? A. She stayed all through that night.

"Q. Did he say how much of the night? A. No.

"Q. What were his exact words? A. He said that she came to his room and remained there, as near as I can recall.

"Q. Didn't Mrs. Sargent ever tell you why Charles was personally attractive to her, or what led to the first intimacy? A. No; I don't think that she ever explained what could be—

"Q. What, if anything, did she say with reference to his color? A. She said she never thought of his being black. Never gave it a thought that he was black.

"Q. What did you say? A. I pictured to her Charles on an ash cart. I pictured to her asso-

ciations, rejected by the colored and forsaken by her own people.

"Q. And what did she say? A. She said she didn't care. She felt just the same and she couldn't help it.

"Mr. Runyon: You may cross-examine, Mr. McCombe.

"(No reply.)

"The Special Master: No cross-examination. It appears on the record that Mr. McCombe appears here specially and does not wish to cross-examine any of the witnesses.

"Mr. Runyon: I want to state on the record that we would be glad to adjourn the hearing until any time this afternoon, no matter how late, that might be agreeable to the Master in order to afford Mr. Simpson an opportunity to cross-examine. On the other hand we are willing to ask the witnesses to come back at any time tomorrow that might be convenient to Mr. Simpson and that will not interfere with our main case, though we do not undertake to bring them back.

"Mr. McCombe: If I did not state it in my application for an adjournment I wish to state now that Mr. Simpson is at Trenton attending a session of the Senate of which he is a member and proposing a bill of vital importance. I now wish to state that as a further ground in support of my application for this adjournment.

"The Special Master: As far as I am concerned I can hear this testimony this

evening at any time which will suit the convenience of counsel and the witnesses.

"Mr. Runyan: Mrs. Lathrop, would you be willing to come over to the Court of Chancery tomorrow at 10 o'clock? We cannot require you to come under the present subpoena, but we would like for you to be there if you would be willing to come to the Court of Chancery tomorrow at 10 o'clock and voluntarily give your testimony.

"Mrs. Lathrop: It is not a question of what I would be willing to do. For it is a very hard thing for me to go through, but I want to do the right thing for all concerned.

"Mr. Runyon: You understand, this subpoena only requires you to appear before Mr. Maxson. I now ask you whether you would be willing to go to Newark and give your testimony before the Court. This is before the Master. There it will be before the Court.

"Mrs. Lathrop: I am not a willing witness, I am sorry to say. I believe that Mr. Sargent is right, and I think it is only honorable for me to say what I know. I have been Mrs. Sargent's friend and it is very hard for me to testify to what I know is true. However, I want to do the just thing and the right thing.

"Mr. Runyon: Well, you have given your testimony here.

"Mrs. Lathrop: Isn't that sufficient?

"Mr. Runyon: You are not required under your subpoena to go to New Jersey. The question is whether you would be willing to go to New Jersey voluntarily and give your testimony.

"Mrs. Lathrop: Unless I am required to do so, I would rather be excused.

"Adjourned to November 9, at 5:30 p. m.

"New York, November 9th, 1920, 5:30 p. m.

"Met pursuant to adjournment.

"Present: The Special Master, Mr. Runyon, Mr. Huck, Jr.; George A. Hopkins, Esq., appears for the defendant.

"CROSS-EXAMINATION by Mr. Hopkins:

"Q. Mrs. Lathrop, what is your business? A. I do interior decorating and social service work.

"Q. What other business, if any, have you? A. None other.

"Q. Did you ever tell fortunes for a fee? A. No; only for charity.

"Q. Have you any connection with any medical doctor in New York for getting work for him for a fee? A. No.

"Q. Have you ever had such a connection? A. No.

"Q. In your testimony you stated something with reference to Mrs. Sargent's opinion of her chauffeur. Would you tell me, please, what it was she said? A. Will you please state the question? I do not recall.

"Q. You have stated in several places throughout your testimony that Mrs. Sargent told you her opinion of her chauffeur. Will you tell me what it was she is alleged to have told you? A. You mean her regard? I don't understand the question.

"Q. Do you mean Mrs. Sargent ever told you anything with reference to the quality of the chauffeur she had? A. Yes; that he was a very fine chauffeur.

"Q. Is that what you meant when you stated here in this record that she told you about her chauffeur? A. No.

"Q. When she told you that he was a fine chauffeur she said nothing about the man but of the chauffeur, didn't she? A. I don't think I quite understand your question.

"Q. When did she tell you that he was a very fine chauffeur? A. She always spoke of him as being very fine in his capacity.

"Q. Through the record, I don't recall the page for the moment, you stated that on July 11th, 1919, a trip was taken to some point in Vermont in reference to some infant member of the Sargent family. A. I don't recall the date but I remember the event.

"Q. You stated here that it was July 11th, I believe. Did you accompany Mr. Sargent on that trip? A. Never Mr. Sargent alone. When I went I went with Mr. and Mrs. Sargent only.

"Q. And when previous to July 11th did you take an automobile trip with Mr. and Mrs. Sargent? A. We left before the 4th. I don't remember the date. We returned on Monday or Tuesday.

"Q. Did you know that Mr. Sargent was going to take a similar trip on July 11th? A. I knew he was going to Vermont with the baby.

"Q. And did you know why Mrs. Sargent was not going with him? A. Yes, she was out of health.

"Q. And why she was not going with him? A. She was out of health, and the child was being taken to see his father. She was not able to take the trip.

"Q. How do you know she was out of health? A. She told me so.

"Q. Well, you stated somewhere in the testimony that she was not only out of health but she was preparing for an operation? A. Yes.

"Q. And that was the reason that she did not go on that trip on July 11th? A. Yes.

"Q. And you stated that she told you that herself? A. Yes.

"Q. When did she tell you this? A. Some time during our trip.

"Q. Mr. Sargent heard her tell you this? A. I don't know. Mr. Sargent was sitting on the front seat.

"Q. You have always been a close friend of Mrs. Sargent, haven't you? A. Of Mrs. Sargent, I have been very fond of Mrs. Sargent ever since I have known her.

"Q. And you went on numerous occasions to dinners and luncheons with Mrs. Sargent? A. Several times.

"Q. Several meaning more than a dozen? A. No.

"Q. And to the opera with Mrs. Sargent? A. Yes.

"Q. Several times? A. Weekly, usually.

"Q. Either before or after and sometimes both times you went to have luncheon or dinner with Mrs. Sargent? A. No; I think only twice during the year.

"Q. During your acquaintance with Mrs. Sargent do I understand then that you have only had luncheon or dinner with them twice? A. I may have had luncheon four or five times.

"Q. Might it have been over twelve? A. No.

"Q. Are you positive? A. Very positive of that.

"Q. And how many dinners have you had with her? A. In New York?

"Q. Yes. A. Two dinners.

"Q. And how many dinners have you had with Mrs. Sargent at other places than in New York? A. Only at her own home. She has lunched with me at my home.

"Q. And have you ever taken automobile trips with her? A. Yes.

"Q. And been her guest and she yours on numerous occasions? A. Yes.

"Q. You testified here that you are a close friend of hers? A. I was very devoted to her.

"Q. And when did you cease this devotion? A. I did not cease it.

"Q. Are you devoted to her still? A. I am very fond of her.

"Q. You have stated some of the things that you have alleged to have done to save Mrs. Sargent? A. Yes, I did.

"Q. And the testimony that you have offered during the previous hearing here you are giving for the same reason, that is, to save her. From what did you want to save her? A. Her fondness for her chauffeur.

"Q. That is why you gave this testimony here in the manner you did? A. I answered the questions which were put to me. I didn't come of my own volition.

"Mr. Hopkins: I move to strike this out.

"The Special Master: I think that that might be stricken out by consent. It was not responsive.

"Mr. Runyon: We consent that it be stricken out as not responsive.

"Q. Did Mrs. Sargent tell you anything with reference to her desire to have Charles discharged from her service? A. Yes.

"Q. Did she tell you that she had requested her husband to discharge Charles? A. No.

"Q. What did she say to you with reference to her desire that Charles should leave her husband's employment? A. She said he had stolen her photograph and she wanted him out of the way, she wanted him to go, that there had been trouble enough in the house.

"Q. Did she tell you that she did not want him about the place any more? A. Yes.

"Q. And she told you she wanted her husband to discharge him? A. No.

"Q. Whom did she say she wanted to discharge him? A. She didn't say whom she wanted to discharge him.

"Q. Do you remember about when this was, do you recall when it was that she said she wanted Charles discharged and gotten out of her house? A. As I recall it, it was in the Spring. Might have been in May.

"Q. Of what year? A. The year of her trouble.

"Q. It was in May preceding July 11th and the alleged raid? A. I think about that time. I am not absolutely positive.

"Q. You are not positive as to what? A. The exact time.

"Q. It was in late Spring? A. It was approximately that time.

"Q. You are positive it was in the year 1919? A. Yes.

"Q. And that it was in the Spring of that year? A. Yes.

"Q. You were very friendly to Mr. Sargent? A. No, not particularly. I didn't know him well. I saw very little of him comparatively.

"Q. But you did call at his house while he was at home? A. He was in to dinner, but never remained.

"Q. You were a visitor at his house while he was at home? A. I have dined there only when he had been home. I don't recall his ever being at home except during the dinner hour.

"Q. And you have been on automobile trips when he was a member of the party? A. Yes.

"Q. How many years have you known him? A. Why, I said it was four or five years ago that I met him at Roscoe. I don't recall.

"Q. How many times have you seen him within the last three months? A. Once.

"Q. How many times has he visited your home within the last three months? A. Once.

"Q. How many times has he been there since July 11th, 1919? A. I think twice.

"Q. Are you positive that it was only twice? A. It might have been three times. I could not say positively.

"Q. Might it not have been ten times? A. No.

"Q. Will you state that it has not been ten times? A. Yes, sir.

"Q. During your acquaintance with Mr. Sargent during his visits at your home, or if you have seen him elsewhere, you have never told him about the facts of Mrs. Sargent wanting the chauffeur discharged? A. I never have told him anything about his family affairs.

"Q. Have you ever discussed family affairs with Mr. Sargent? A. No, sir.

"Q. Did you ever tell him anything about his wife's desire to have the chauffeur discharged in the Spring of 1919? A. I think I did.

"Q. Do you recall what he said? A. It was all after this affair that happened. I don't recall.

"Q. Now, going back to the date before what you term 'this trouble' in July, 1919, during your visit to the Sargent home, and during your conversation with Mr. Sargent, or during conversations between Mr. Sargent and his wife, are you able to state what Mr. Sargent's attitude was? A. In their home?

"Q. Yes. Toward his wife? A. He was always very pleasant in their home.

"Q. Did you at any time see Mr. Sargent angry in the house while you were present? A. I don't ever remember of his being angry in his own home.

"Q. Did you ever hear Mr. Sargent use profanity directed to his wife in your presence? A. No, sir.

"Q. Did you ever hear Mr. Sargent use profanity at any time when Mrs. Sargent was present? A. No.

"Q. Did you ever hear Mr. Sargent use abusive terms to his wife in your presence? A. No.

"Q. Positive of that? A. I can't recall it.

"Q. During the trip to Templeton did you hear Mr. Sargent abuse his wife and direct profane remarks towards her? A. I don't remember the profanity. I do remember the disagreement. They were both out of temper.

"Q. Then you did see Mr. Sargent angry? A. In his own home, you asked me.

"Q. Now, you are quibbling with me. You have seen him angry in your own home within the last three months? A. No.

"Q. You are positive of that? A. Yes.

"Q. During the trip to Templeton did you see Mr. Sargent angry? A. Yes.

"Q. And see his wife angry? A. And saw his wife angry.

"Q. Did he direct abusive remarks towards her in your presence? A. I did not call them abusive.

"Q. Did he direct profane remarks to her in your presence? A. Not that I remember.

"Q. What did he do that led you to believe that he was angry with his wife? A. Because he wished her to go to a quiet place to rest up and she was not satisfied with Templeton, it was too conservative.

"Mr. Hopkins: I move to strike that out as not responsive.

"Q. The question was, what did Mr. Sargent do which led you to believe that he was angry? A. Well, they had a family scrap.

"Q. I don't understand the term 'family scrap.' I want to know what Mr. Sargent did in your presence at or towards his wife that led you to know he was angry with her? A. I don't know that I can answer more directly than to say they quarreled or had a scrap.

"Q. Do you say that he did not use any abusive language? A. I did not hear him use any abusive language.

"Q. And no profanity? A. Not that I can recall.

"Q. What did he say that led you to think that he was angry? A. They were both angry. He

was displeased with her because she was not satisfied with what he thought she should do.

"Q. What did he do that led you to think that he was angry? A. Talked.

"Q. What did he say? A. I cannot say except that she was not satisfied to go to Templeton and remain. She wanted to go to some place where there was more life.

"Q. Was his conduct that which, in your opinion, would be expected of a gentleman towards his wife? A. They were both exasperated.

"Mr. Hopkins: I move to strike the answer out.

"Q. What did he do? That is what I am trying to get on the record, what did the husband do that led you to believe that he was angry, what did he do, what did he say, what happened that made you think that he was angry? A. Do you wish me to relate the experience?

"Q. Now, I would like to have you tell me of anything in his manner, his conduct, his words, his voice, anything at all that would lead you to say that he was angry? A. There was controversy over whether they should go to Templeton or not. Mrs. Sargent was not satisfied to go there.

"Q. Did he speak loudly to her? A. Perhaps as loud as I am talking.

"Q. There was no profanity? A. I don't recall any profanity.

"Q. And no abusive terms? A. No.

"Q. And no insulting remarks? A. Just angry.

"Q. No insulting remarks? A. Just angry.

"Q. Was there any insulting remarks? A. I don't recall.

"Q. Are you able to say that there were not? A. Not what I would call insulting remarks.

"Q. Then there were no insulting remarks? A. Not that I recall.

"Q. No gestures or threats? A. No, not that I recall.

"Q. No blows struck? A. No.

"Q. Then, what led you to the opinion that they were angry? A. No. Mrs. Sargent—

"Q. No, I am speaking about Mr. Sargent. A. I gathered that because Mrs. Sargent was not satisfied to go to Templeton because it was too conservative and too quiet.

"Q. Then your answer is that you believe Mr. Sargent was angry, though he showed no signs whatever? A. He expressed anger in words.

"Q. How, by his loud voice? A. Not particularly loud voice.

"Q. And after hearing him express this anger which you have referred to, did you advise Mrs. Sargent as to what she should do? A. I told her I wouldn't stay in Templeton, to go to a place where there was more life.

"Q. You were a close friend of Mrs. Sargent and an acquaintance of Mr. Sargent, and did you then and there advise Mrs. Sargent that she should leave Mr. Sargent and have her own private income because of what occurred on that occasion? A. No.

"Q. Did you not advise Mrs. Sargent on that occasion— A. No, not that I recall.

"Q. Did you subsequently thereafter advise with her with reference to that occasion? A. Yes, when she told me she was miserable and unhappy I did.

"Q. And what did you advise her? A. She said she could not live out her days with him.

"Q. That is all you advised her? A. No, that is what she said to me.

"Mr. Hopkins: I move to strike that out as not responsive.

"Q. I am asking what your advice resulting from that occasion was, when you say Mr. Sargent was angry. A. It was not resultant from that.

"Q. That was on the same trip? A. No, it was not.

"Q. When was it? A. When we went to Great Barrington.

"Q. And did you go to Great Barrington before that? A. Yes.

"Q. And did you advise her on that trip to Templeton? A. I don't recall it. I was in sympathy—

"Q. Do you deny that you did? A. No.

"Q. Did you advise her after the trip to Templeton? A. I don't recall it.

"Q. Did you advise her at any time that she should leave her husband and live alone and get her own money? A. No, I didn't advise her.

"Q. Are you quibbling again? A. I am not quibbling.

"Q. Did you suggest it to her— A. She told me what she was intending to—

"Mr. Hopkins: I move to strike that out.

"Q. Answer yes or no. A. No, I didn't suggest it.

"Q. Did you at any time convey to her any method whatever that she should leave her husband and live alone on a separate income? A. I never volunteered any advice of that sort.

"Mr. Hopkins: I move to strike out the answer as not responsive.

"Q. I am asking you whether you did at any time give such advise? A. Never voluntarily.

"Q. Did you ever voluntarily or otherwise or by any method whatever give such advice? A. Yes, when she told me what she was intending to do—

"Mr. Hopkins: I move to strike that out as not responsive.

"Q. Then you did give such advice?

"The Witness: Your Honor, may I ask—

"The Special Master: You must answer the questions.

"Q. Did you give her such advice because of the conversation on that occasion? That question calls for a yes or no answer. Whether you suggested or whether she did, whether you did it under compulsion or not, did you do it? A. Yes, I think I probably did.

"Q. Do you remember upon how many occasions you advised Mrs. Sargent that she should leave her husband and live alone on a separate income? A. No.

"Q. Is this occasion to which you now refer the only time you advised her? A. I could not tell you. I don't remember.

"Q. You may have advised it a half dozen times? A. More or less. I could not tell you.

"Q. You are not able to deny that you did not advise her more than once? A. No.

"Q. And this advice that she leave her husband was given after you had visited the home and after you had taken dinner with Mr. and Mrs. Sargent and after you had made automobile trips with Mr.

and Mrs. Sargent and after you had been in the company of Mr. and Mrs. Sargent on various occasions? A. It was.

"Q. This advice was given after that? A. I don't want to quibble but I don't know just how to answer your question. It was when Mrs. Sargent came to me and told me about her unhappiness that I gave her this advice.

"Q. You gave this advice after you had been to her home and been on these automobile trips? A. Yes.

"Q. When you gave this advice, you knew Mr. Sargent very well? A. Not very well.

"Q. You had more than a casual opportunity to observe the man's conduct toward his wife? A. Yes.

"Q. You have referred to Mrs. Sargent's health. You knew what ailed Mrs. Sargent? A. I knew what she told me.

"Q. You knew what treatment she was under? A. Yes, what she told me.

"Q. You knew the source of her infection? A. No.

"Q. Did she ever tell you the source? A. Yes.

"Q. You advised Mrs. Sargent with refernece to that, too, didn't you? A. Yes.

"Q. You advised her that she should leave her husband, didn't you? A. No.

"Q. What advice did you give her with refernce to her ailment? A. I don't know what advice I gave her. I know what I expressed.

"Q. Did you tell her that you wouldn't live with him or with any other man who was infected? A. I did.

"Q. When was it that you gave this advice? A. After she told me of her infection.

"Q. About what year or what month was that, do you recall approximately? A. Whatever time she was operated upon.

"Q. Was it as early as January, 1919? A. I could not positively tell you.

"Q. Might it have been in 1918? A. I could not tell you.

"Q. Are you able to state whether or not it was not the first week of April, 1919? A. I absolutely could not state the time.

"Q. Did you ever have a conversation with Mr. Sargent with reference to the illness of his wife? A. No.

"Q. Did you ever tell Mr. Sargent the opinion you had expressed to his wife? A. Not that I recall.

"Q. You never discussed Mrs. Sargent's illness with Mr. Sargent? A. Not that I ever recall.

"Mr. Hopkins: That's all.

RE-DIRECT-EXAMINATION by Mr. Runyon:

"Q. Mrs. Lathrop, did Mrs. Sargent explain to you what made her so miserable on this occasion of which you have testified? A. What do you mean, physically?

"Q. When you said that she was so miserable that you had given her certain advice. A. Why, she was very miserable and unhappy, that she was unhappily married.

"Q. Give her exact language as you recall it. A. She said she did not love her husband, and that he knew it, and that she regretted it, that he was a fine fellow and all that, but that she couldn't help it, one could not control their love and that

she did not love him and that she was so miserable.

"Q. Did she express at that time her love for anyone else? A. She said she never had but one love in her life.

"Q. And that was for whom?

"Mr. Hopkins: I object to that as not plead in this case.

"Q. Did she mention for whom that love was? A. Yes.

"The Special Master: I am sorry I cannot rule on this evidence. I would be glad to do it if I had the power.

"Q. Mr. Hopkins has mentioned occasions that Mrs. Sargent said to you that she wanted Charles discharged. Was there any occasion when Mrs. Sargent wanted Charles discharged? A. Yes.

"Q. Well, what was the occasion? A. That was the time.

"Q. What was the language used by Mrs. Sargent? What do you mean? A. Why, they had all kinds of trouble in the household among the servants and among other things was this stolen photograph.

"Q. What did Mrs. Sargent say with reference to Charles leaving, did she use the word discharge? A. I don't know her exact words whether it was discharged or dismissed. She didn't want him there.

"Q. Did she say anything with reference to having consulted with her husband in that position? A. Yes. She said he wanted to keep him.

"Q. Did she tell you whether or not she had given any reason to her husband for wanting him discharged or whether or not she had ever spoken to her husband with reference to his discharge?

A. I think she said she had, but I could not swear to it.

"Q. Do you know what she said in that regard? Can you give us Mrs. Sargent's language? A. There has been so much trouble in the home among the servants all around, that she was tired of it all.

"Q. Then on this occasion when she said she was tired of it all what did she say with reference to getting Charles away, if anything? A. I told you.

"Mr. Hopkins: I object to that as irrelevant and immaterial and not binding upon this defendant, a conversation of a third person with regard to a servant in the household.

"Q. What did you tell her with reference to getting him away, if anything? A. I told her I could get a position for him.

"Q. Now, that was on the occasion just following the photograph episode, was it not, Mrs. Lathrop? A. Yes.

"Q. Were there any other occasions upon which the subject of Charles' leaving was discussed?

"Mr. Hopkins: I object to this question and to all this line of questioning on the ground that it is improper examination and because it has previously been testified to before on the record by this witness who is called in behalf of the petitioner and for the further reason that Mr. Runyon is now seeking to cross-examine his own witness.

"The Witness: Only at that time, that I recall.

"Q. Now, since the occasion of July 11th, 1919, have you received any communication from either Mrs. Sargent or any members of the family? A. I saw Mrs. Sargent several times after that.

"Q. You are acquainted with Mrs. Sargent's sisters? A. I have met them only.

"Q. Well, have you seen any member of the family or either of her sisters since that occasion? A. Yes, sir.

"Mr. Hopkins: I object to that as irrelevant and not binding upon this defendant and improper for the reason that it is not proper re-direct-examination.

"Mr. Runyon: We offer it as direct-examination.

"Q. What was the occasion of your seeing one of the sisters of Mrs. Sargent and which sister was it? A. I didn't see either one. I only had one communication from one sister.

"Q. What was the communication and from whom? A. Over the phone from her sister that lives on Staten Island.

"Q. Do you know her name? A. I would know it if I heard it.

"Q. What was the communication? A. She requested me not to mention anything in regard to this matter at all that Mrs. Sargent had said to me.

"Mr. Hopkins: I object to this on the same grounds and to all this line of questioning.

"Q. Now, since the hearing of yesterday, Mrs. Lathrop, have any efforts been made by counsel for the petitioner to get you to go to the New Jersey court to testify? A. Yes.

"Mr. Hopkins: I object to that as irrelevant and immaterial and having no bearing upon this defendant.

"Q. What did you do with reference to evading giving your testimony on this occasion after being served with the subpoena in the New York Supreme Court?

"Mr. Hopkins: I object to the question and move to strike out the word 'evading' as there is no evidence that the witness tried to evade.

"Mr. Runyon: I withdraw the 'evade.'

"Mr. Hopkins: And that the expression 'evade' is merely an expression of counsel's opinion, that there is no evidence that the witness did evade.

"Mr. Runyon: I withdraw the word 'evade'.

"Q. After receiving the subpoena of the New York Supreme Court directing you to come to this hearing yesterday, did you seek any legal advice as to whether or not you were required to give your testimony in this case? A. No.

"Mr. Hopkins: I object to the question as irrelevant, incompetent and immaterial and having no bearing upon this case.

"Mr. Runyon: Question withdrawn.

"Q. At the time the question of infection was discussed between Mrs. Sargent and yourself you had no information other than Mrs. Sargent's advice to you that she had procured such infection from her husband. Is that true? A. That is all I know.

"Mr. Runyon: Mr. Hopkins, will you waive the signature of the witness to the deposition?

"Mr. Hopkins: Might there not be some errors or alterations? I have had no opportunity to examine the minutes so far.

Exhibit P-1

"Mr. Runyon: The New Jersey practice requires that a witness sign a deposition and it would be impossible to get this deposition over to the Court tomorrow if we had first to get Mrs. Lathrop's signature.

"Mr. Hopkins: To that counsel replies that he is absolutely unfamiliar with New Jersey practice and because of the seriousness of the issue here involved does not wish to consent, being guided entirely by the manner of taking depositions in such matters in our own State.

"(Signed) ELIZABETH L. LATHROP.

"Subscribed and sworn to before me
this 10th day of November, 1920.

"Edw. Maxson,
"Special Master."

Case closed.

Exhibit P-1

Photograph of man described throughout case as "Mr. X."

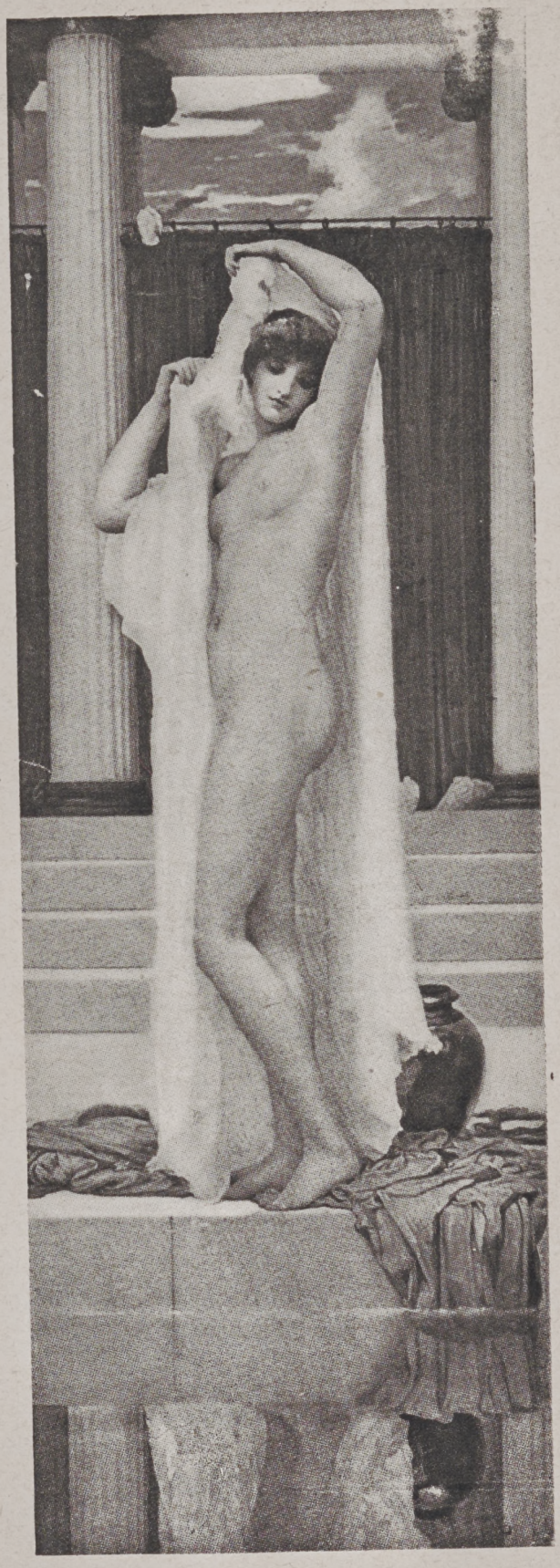


Exhibit P-2

Exhibit P-3



Exhibit P-4



Exhibit P-5



Exhibit P-19

Jersey City, August 6th, 1919.

Messrs. Peirce & Hopkins,
Woolworth Building,
New York City.

SARGENT VS. SARGENT

Gentlemen:

We have your letter of August 4th in the above matter. We are not familiar with the situation with regard to accounts prior to this date, but desire that it shall be understood there are no old accounts incurred since the separation, except the ordinary household accounts, such as those of milkman, butcher, baker, fishman, etc. Upon this understanding only Mr. Sargent, to avoid controversy and not because he can afford it or is liable to such payment, will pay on the first day of each month, in advance, pending litigation, the sum of $225 to cover all the personal, household and nurses expenses of Mrs. Sargent, with the exception of the particular physician's bill for which he has provided.

We ask that Mrs. Sargent send us all unpaid bills of any kind or character incurred to date hereof, whether against her or her husband.

Yours very truly,

(Signed) RUNYON & AUTENRIETH.

Exhibit P-20

Law Offices of

PEIRCE & HOPKINS

New York

August 12th, 1919.

Runyon & Autenrieth, Esqs.,
15 Exchange Place,
Jersey City, New Jersey.

RE: SARGENT MATTER

Gentlemen:

We have your letter of the 11th instant and contents noted. In reply thereto beg to state that the Beatus bill in the sum of $23.10 and the Britain bill in the sum of $17.68 for commodities purchased in July will be paid for by Mrs. Sargent. With reference to the Oppenheim, Collins & Company, Bamberger & Altman bills, these are bills for June, May and April and are therefore properly charged to Mr. Sargent and have no bearing upon the $250 due upon Mrs. Sargent's July allowance as that sum is required to pay the bills of July incurred in her own name.

In our last letter it was stated that Mrs. Sargent had incurred no bills during the month of July in order that you might be assured that she had not, as was suggested she might have done, run up any large bills against her husband. We did not inquire of Mrs. Sargent's outstanding bills of April, May and June for the reason that as to those, Mr. Sargent has for some time past

had notice and they certainly are in no wise chargeable against the balance due on Mrs. Sargent's July allowance.

Charles Simmons, the chauffeur's bill amounts to $192.34 for which you may send us a check to his order.

Yours very truly,
(Signed) PEIRCE & HOPKINS.

GAH/RK

Exhibit P-21

Jersey City, Aug. 28, 1919.

Messrs. Peirce & Hopkins,
Woolworth Building, City.

SARGENT VS. SARGENT

Gentlemen:

Mr. Sargent today has received a bill, dated only August 26th, from Cavereaux of One hundred sixty-nine West Seventy-ninth Street, New York, for $269 for gowns for herself.

Is this not wholly contrary to our understanding and a violation of the arrangements between counsel? We want to get all the bills together to get them adjusted at once.

You wrote us that Mrs. Sargent requested payment of the Chas. Simmons' bill, but you evidently did not send the bill. Won't you kindly send it so we can get all these things adjusted by the first of the month, if possible, and oblige,

Yours very truly,
(Signed) RUNYON & AUTENRIETH.

HWR/G

Exhibit P-15 and 22

Law Offices of

PEIRCE & HOPKINS

New York

August 29th, 1919.

Runyon & Autenrieth, Esqs.,
15 Exchange Place,
Jersey City, New Jersey.

RE: SARGENT VS. SARGENT

Dear Sir:

In reply to your letter of the 28th instant with reference to the Cavereaux bill of $269.00, this is not "wholly contrary to our understanding and a violation of the arrangement between counsel" at all. This is the dressmaker's bill to which I directed your attention and that of Mr. Huck's on the occasion of our conference and which I said amounted to about $265.00 and which represented dresses and the like purchased last spring and particularly referred to in my letter to you of the 4th instant in which I informed you that there is an unpaid dressmaker's bill of about $265.00 and in which letter following your request, I set forth that there is a balance on the July 1st allowance of $250.00. I wish you would refer to and read at this time our letter of August 4th addressed to your firm.

I do not recall writing you at any time as you stated in your letter of the 28th that Mrs. Sargent requested the payment of Charles Simmons' bill. Several weeks ago I asked Mr. Huck to have a check for the amount due to Mr. Sim-

mons sent to me for delivery to him. Later over the telephone I informed Mr. Huck of the amount due and I understood that he was to have the matter attended to at once, but up to date have not received the check and would appreciate it if you would take the matter up with your client. The amount due the chauffeur is shown by his book which he has continuously kept while in the employ of Mr. Sargent and is $195.34 made up as follows: Car expenses $134.84, salary $60.50.

Pursuant to your letter of August 6th, we have asked Mrs. Sargent to forward to you all unpaid bills incurred before July 11th, excepting such household bills of the month of July which she will pay from the $250 balance due her on her July 1st allowance. It would be appreciated if you would forward check for this amount at an early date.

Mrs. Sargent informs us that for months prior to July 1st, 1919, upon Mr. Sargent's promise to reimburse her, she loaned Mr. Sargent approximately $1250.00 by way of paying accounts for the baby and the household which were to have been paid by Mr. Sargent and not from her allowance and which she paid from monies saved at his request and upon his promise to reimburse her.

In summary we would request your check for the chauffeur bill as set forth above, secondly, $250, balance due on July first payment, thirdly, $1250 money advanced for the wife on husband account, fourthly, Mrs. Sargent will forward to us as you request in your August 6th letter all unpaid bills accruing before July 11th, 1919.

Yours very truly,
(Signed) PEIRCE & HOPKINS.

GAH/RK

Exhibit P-23

September 4, 1919.

Messrs. Peirce & Hopkins,
Woolworth Building,
New York, N. Y.

RE: SARGENT VS. SARGENT

Gentlemen:

In your letter of August 29th, we note what you say with reference to the Cavereaux bill for $269 and the Charles Simmons bill for $195.34. The latter we will present for our client's consideration when we get all the bills. The matter of the Cavereaux bill was mentioned in your letter and is our error for which we apologize.

You state that there is $250 due Mrs. Sargent as a balance for July allowance. While counsel have made no arrangement about this, we take it that you must be mistaken because if all the old allowance were paid all of the old bills should have been paid thereout and there are considerable more old bills than the $250 which you claim is the back allowance. In order to clear the matter we renew our suggestion that Mrs. Sargent send all bills, of any character incurred by her to date.

We also note your remarks as to the alleged amount due Mrs. Sargent and such is of course entirely new to us. From the circumstances we do not understand how such could possibly have been the case but when we get the bills we will take the question up with our client.

If you will kindly get all the bills in our hands we will take them up with Mr. Sargent and obtain a disposition thereof.

Yours very truly,
(Signed) RUNYON & AUTENRIETH.

Exhibit P-11

Wednesday, Sept. 24, 1919.

Dear Sargie,

Carrie and Ann have told me of their talk with Mr. Huck yesterday. I want to see you and Mr. Huck as soon as possible, things cannot be explained in any other way and I want to see you as I have said before. As you have always told me "two wrongs never make a right" I want to do all in my power to right things.

Sargie, I am sincere and I want to talk to you, I want you to know just how I feel and then there will be no further misunderstanding.

I am writing Mr. Huck also.

FRANK.

Envelope postmarked Sept. 24, 1919 addressed to Donald J. Sargent.

Exhibit P-12

Wednesday, Sept. 25, 1919.

My dear Mr. Huck:

Will you please communicate with Don and arrange a meeting just as soon as possible. In order to avoid any further misunderstanding and to right myself, I want to see you both. Any place and time that you suggest will be satisfactory to me.

(Signed) FRANCES LOW SARGENT.

Envelope:

Postmarked: "Jamaica Sep. 25 10 p. m. N. Y."

Addressed:

"Mr. Wm. Huck, Jr.,
46 Cedar St.
N. Y. City."

Exhibit P-13

September 27, 1919.

Mrs. Frances L. Sargent,
24 Kensington Avenue,
City.

Dear Frank:

I have received from a number of your friends innumerable requests from you for an interview and now your letter of Wednesday last, in which you say you want to see my attorney and myself, and Mr. Huck has shown me your letter to the same effect.

While I do not know what good can come from such an interview, as my case must be prosecuted to a conclusion, yet to give you, as you say, an opportunity to right any wrong, I will be at the office of my attorneys, Runyon & Autenrieth, Fifteen Exchange Place, Jersey City, on Tuesday next at 1:30 p. m. where I can see you and you may be likewise protected, by bringing your attorneys.

Yours very truly,

DONALD J. SARGENT.

Exhibit P-1A

Richmond Hill, L. I.,
October 6, 1919.

Mr. Wm. Huck,
45 Cedar Street,
New York City.

Dear Mr. Huck:

Referring to our conversation this afternoon, will you kindly take up the matter of the money due Mrs. Sargent, *viz:* Twelve hundred dollars ($1200) and Two hundred and fifty ($250) dollars, and also the money loaned to the girls. Also the matter of the house, etc.

Very respectfully,

(MRS.) ANNIE LINSER.

Postmark: Jersey City, N. J.—Dated Oct. 7, 1919.

Exhibit P-25

October 14th, 1919.

Mrs. Frances L. Sargent,
24 Kensington Avenue,
City.

Dear Madam:

Upon the writer's return to the office after an absence of a few days he finds a letter from Mr. George A. Hopkins, of which the enclosed is a copy, and that a substantially similar letter has been received by Mr. Huck, and enclosed is a copy of our reply.

As you know, Mr. Sargent and his attorneys have not made any propositions whatever in the above matter other than that he must proceed with his case, and none of the suggestions made by or for you have been accepted. You advised us that you had discharged your attorneys and proposed to withdraw your charges and take no further action in the case other than to leave your answer stand as a denial. Now, along come these letters which leave us in doubt as to whether you are or are not represented by counsel. If you are, you should not attempt to see us without them.

Yours very truly,

RUNYON & AUTENRIETH.

Exhibit P-26

October 16, 1919.

Mrs. Annie Linser,
8569-114th Street,
Richmond Hill, L. I.

Dear Madam:

Answering your letter of October 6th, I have discussed with Mr. Sargent the matter of $1200 which Mrs. Sargent claims Mr. Sargent owes to her on some accounts, which she claims to have paid out of moneys which were given to her by Mr. Sargent for her personal purposes during, as she says, the last part of last year and the early part of this year.

Mr. Hopkins wrote us about this account some time ago and we advised him, as we did you, that we would take the matter up with client, and if it was due it would be paid. While client has not the same understanding with regard to the amount, he is disposed to pay it rather than have any question about it.

The item of $250 which you refer to and of which Mr. Hopkins also wrote us (being, as he claims, the balance due on the July allowance), Mr. Sargent refuses to pay because of the fact that bills incurred by Mrs. Sargent, which far exceed that amount, are still unpaid and will probably have to be paid by him. He says further that he has nothing to do with any money which Mrs. Sargent may have loaned to the girls, by whom, we assume, you mean the servants.

I accordingly enclose check to Mrs. Sargent's order for $1200, not that Mr. Sargent feels that such amount is due, but upon the understanding that this question, as well as any other question

as to moneys or things claimed to be due Mrs. Sargent, be finally closed. Mrs. Sargent must not expect any further moneys whatever from Mr. Sargent except her fixed alimony.

Yours very truly,

WILLIAM HUCK.

WH/HR

Exhibit P-27

October 21, 1919.

Mrs. Annie Linser,
8569-114th Street,
Richmond Hill, L. I.

Dear Madam:

Mr. Huck informs me that Mrs. Sargent called him up yesterday and requested that both he and our Mr. Runyon call at her home last evening as there was something she wanted to talk to us about, as she was or is apparently planning to vacate the house. Mr. Huck did not consider such proper or advisable and says he so informed Mrs. Sargent. We do not know what Mrs. Sargent had in mind, except possibly that she wanted to inform us concerning the house, which she is apparently vacating.

Mrs. Sargent apparently adheres to her decision to go away although none of her various propositions to Mr. Sargent have been accepted by the latter. In any event the house should not be left vacant and unprotected and we would ask that if Mrs. Sargent should go away and delivers the keys to you, that you will immediately notify us or put us in possession of the keys.

Yours very truly,

(Signed) RUNYON & AUTENRIETH.

HWR:AN

Exhibit P-28

October 23d, 1919.

Mrs. Frances L. Sargent,
c/o Mrs. Safarick,
652 Fulton Street,
Jamaica, Long Island,
New York.

Dear Madam:

We are today in receipt of your letter mailed yesterday advising us as to future disposition of your alimony check, and yesterday the keys of the Kensington Avenue were delivered by messenger to Mr. Huck's office, and Mr. Simpson telephones us with reference to his moving of your case, which would indicate that the latter is, or considers himself, counsel. As you have persistently advised us that both Mr. Simpson and Mr. Hopkins were no longer your counsel, in view of this telephone communication we are at a loss to understand with whom we are to deal.

So there may be no misunderstanding either as to or with either counsel or principal, we are sending you herewith copy of letter today sent to Mr. Simpson.

Yours very truly,

(Signed) RUNYON & AUTENRIETH.

HWR/K

Exhibit P-14

S

Oct.

Messrs. Runyon & Autenrieth,
Jersey City.

Kindly forward alimony check to Mrs. Safarick, 652 Fulton Street, Jamaica, N. Y.

Yours truly,
(Signed) FRANCES LOW SARGENT,
(Mrs.) D. J. Sargent.

Exhibit P-29

October 23d, 1919.

Alexander Simpson, Esq.,
586 Newark Avenue,
City.

SARGENT VS. SARGENT

Dear Sir:

Since your telephonic communication of yesterday, which indicated that you still represent Mrs. Sargent, we have made inquiries as to the matters you mentioned.

As we advised you, we learned that a van or vans had yesterday or the day before come to the house and packed up some things; and yesterday a key of the house was sent to Mr. Huck's office. We have not yet, however, sent anyone to the house and consequently do not know what was taken away.

Exhibit P-30

This morning we received a short note from Mrs. Sargent advising us as to the disposition of her future alimony checks, but which does not disclose her address or whereabouts.

For some time we have been advised by Mrs. Sargent that you were out of the case as counsel, but in view of your telephone communication we are, naturally, very much interested to know whether such is or is not the case.

Very truly yours,
(Signed) RUNYON & AUTENRIETH.

HWR/K

Exhibit P-30

Richmond Hill, L. I.,
October 23d, 1919.

Mr. H. W. Runyon,
15 Exchange Place,
Jersey City, N. J.

Dear Sir:

In reply to yours of the 21st, beg to state that I do not know what Mrs. Sargent had in mind.

Am informed by Mrs. Safarick that the keys have been delivered to Mr. Huck.

Yours very truly,
(Signed) (MRS.) ANNIE LINSER.

Envelope:
Postmarked:
"New York Oct. 24 9:30 a. m.
Hudson Terminal."
Addressed:
"Mr. H. W. Runyon,
15 Exchange Place,
Jersey City,
New Jersey.

Exhibit P-31

ALEXANDER SIMPSON
Counsellor at Law
Jersey City

October 24, 1919.

Messrs. Runyon & Autenrieth,
15 Exchange Place,
Jersey City.

SARGENT VS. SARGENT

Gentlemen:

I have your letter of the 23d. I am not out of the case. Mrs. Sargent wrote me and told me to do nothing further, but since then came in and countermanded the letter to the extent that she said she would notify me of her disposition in the matter after consultation, as to whether I should represent her. I have not heard from her and of course, still consider myself as her solicitor and am now waiting for the order of reference in the case. Inasmuch as my services have not been paid for, I, of course, would not cease to represent her on the record until I was compensated or had an opportunity to apply to the Court for protection. As to what has been done about the vans or moving, I know nothing.

Yours very truly,

ALEX. SIMPSON.

AS:EH

Exhibit P-32 and 17

Envelope:
Postmarked:
"New York Oct. 22 2:30 p. m. 1919
Hudson Terminal."
Addressed:
"Messrs. Runyon & Autenrieth,
Jersey City,
N. J."

Exhibit P-32 and 17

October 27th, 1919.

Mrs. Frances L. Sargent,
c/o Mrs. Carrie Safarick,
652 Fulton Street,
Jamaica, Long Island,
New York.

SARGENT VS. SARGENT

Dear Madam:

Enclosed are copies of two letters today received from Mr. Alexander Simpson, dated respectively October 24th and 25th, as well as copy of the order of reference also received today from the Clerk in Chancery. I enclose also copy of my reply to Mr. Simpson's letters which is self-explanatory and explains also the reason for my forwarding copies of this correspondence and order to you.

Yours very truly,
WILLIAM HUCK, JR.

Enc. 4.

Exhibit P-33

October 27th, 1919.

Alexander Simpson, Esq.,
586 Newark Avenue,
City.

SARGENT VS. SARGENT

Dear Sir:

I have yours of the 25th inst., which I received this morning; at the same time I received from the Clerk a copy of the order of reference, which was mailed to the Clerk in Chancery, consented to in blank, on September 27th. Mr. Runyon has also shown me your letter of the 24th inst., which was not received by him until this afternoon.

I note your willingness to consent to fix a day for hearing. Mr. Sargent is ready to proceed within any reasonable time such as a week or two. I am, however, frankly in doubt as to the present situation.

The impression which we gain from your letter of the 24th inst., is that your prime purpose in moving the case in Mrs. Sargent's absence, is to protect your status. If this be so you can readily see that if we proceed with a hearing and get a decree by default, upon Mrs. Sargent's return, she may make some sort of an application for a re-hearing on the ground that she was not represented. Besides putting us at a disadvantage this would subject client to a great deal of trouble, delay and expense. If, however, you in good faith intend this hearing to now proceed, we suggest that you take such steps as you deem

Exhibit P-34

advisable and we must insist upon laying all the facts clearly and fairly before the Court so that there be no misunderstanding on the part of anyone, which may afterwards lead to the case being opened up.

We do not know what you mean by your statement in your letter of the 24th inst., that your "services have not been paid for." Of course, all that we are interested in is the fact that we have complied with the Court's order respecting counsel fee and you have accordingly received $800, and we know of nothing further.

Yours very truly,

WILLIAM HUCK, JR.

WH:AN

Exhibit P-34

ALEXANDER SIMPSON
Counsellor at Law
Jersey City

October 28, 1919.

William Huck, Jr., Esq.,
15 Exchange Place,
Jersey City. Sargent vs. Sargent.

Dear Sir:

Your letter of the 27th received. I had a letter from Mrs. Sargent telling me to discontinue; then she called on me and told me not to discontinue unless she definitely informed me to do so, since which time I have not heard from her. Of course, under these circumstances I will subpoena my witnesses and prepare to resist the decree.

Exhibit P-35

As to your statement of ignorance as to what I mean in my letter that my services have not been paid for, of course you have complied with the order of the Vice Chancellor, but it was specifically determined by him that I could apply to him later for further allowance if my services were worthy of same.

Yours very truly,

AS:EH (Sgd) ALEX SIMPSON.

Exhibit P-35

HOTEL ST. FRANCIS
Union Square
San Francisco

San Francisco,
November 1st, 1919.

Mr. Henry W. Runyon,
Runyon & Autenrieth,
15 Exchange Place,
Jersey City, N. J.

My dear Mr. Runyon:

Your letter of the 23d of October reached me today and I wired so as to cause no further delay.

I cannot understand the activities of either Mr. Simpson or Mr. Hopkins and have written them as per enclosures.

My word to you is quite sufficient and I will not alter my line of action.

I prefer black in size nine!

With very best wishes,

Yours very truly,

(Sgd) FRANCES LOW SARGENT.

Exhibit P-36

San Francisco,
November 1st, 1919.

Mr. Alexander Simpson,
586 Newark Avenue,
Jersey City, N. J.
Dear Sir:

Again referring to my letter written some weeks ago.

I insist that you cease all activities in regard to my case.

Yours very truly,

FRANCES L. SARGENT.

Exhibit P-37

San Francisco
November 1st, 1919.

Mr. George A. Hopkins,
Woolworth Building,
New York City.
Dear Sir:

Again referring to my letter written some weeks ago:

I insist that you cease all activities in regard to my case.

Yours very truly,

FRANCES L. SARGENT.

Exhibit P-38

WESTERN UNION TELEGRAM

7FYFUL 4 8/2 Extra NL

SanFrancisco Calif Nov 2/19

Henry W. Runyon

Runyon and Autenrieth 15 Exchange Place

JCity NJ

Mr Simpson or Hopkins no longer connected with case since date I told you of will again write them to this effect and send you copy cannot understand their persistence will you wire me on receipt of this or have Mrs Safarik have enough without this

MRS. F. L. SARGENT,

StFrancis Hotel

7 20 am

Nov 3/19

Exhibit P-39

WESTERN UNION TELEGRAM

November 3 1919.

Frances Low Sargent

St. Francis Hotel

San Francisco

California

Your wire received and removes apparent conflict as to counsel.

RUNYON & AUTENRIETH.

Exhibit P-40

WESTERN UNION TELEGRAM

1919 Nov 3 PM 2 05

St San Francisco Calif 1048A 3

William Huck Jr

2137

46 Cedar St New York NY

Simpson no authority not represented by counsel Runyon wire received

F. L. SARGENT.

Exhibit P-41

Law Offices of
Stoddard & Salisbury,
Reno, Nevada

November 5, 1919.

Messrs. Runyon & Autenrieth,
#15 Exchange Place,
Jersey City, New Jersey.

Sargent vs. Sargent.

Dear Sirs:

We have just been consulted by Mrs. Frances L. Sargent, formerly of Jersey City, with respect to a proposed divorce action against her husband, D. J. Sargent, who, as we are informed, resides in Jersey City. Mrs. Sargent informs us that she has given up her former domicile in New Jersey and intends to reside in Nevada; that there is a possibility of effecting a property settlement between the parties outside of Court. Before

Exhibit P-41

such an action may be instituted, Mrs. Sargent must have resided here for a period of at least six months prior thereto.

From the statement of alleged facts in the case, we believe Mrs. Sargent has a good cause of action for divorce upon the ground of extreme cruelty as defined by our law and the decisions of our Court of last resort. She also claims that her husband deserted her in July, 1919, but inasmuch as under our laws desertion must continue for a period of one year, her cause of action would not accrue until July, 1920. Mrs. Sargent, however, does not desire to press any ground other than desertion, but has not definitely decided upon this phase of the case.

We are informed that your firm may be in a position to handle property negotiations in behalf of Mr. Sargent. Would you kindly advise us whether or not you are in a position to correspond with us further regarding this matter?

Awaiting your early advices, we beg to remain,

Yours very truly,

(Sgd.) STODDARD & SALISBURY,
By R. C. Stoddard.

RCS/EC

Exhibit P-42

WESTERN UNION TELEGRAM

63 FY FKE 49 NL.
Reno Nev Nov 10 1919

28 10

Runyon & Autenrieth
15 Exchange Plc JCity NJ MTG 2087
Simpson harassing our client with telegrams demanding money and threatening to continue his activities in proceeding with case She says he is fully paid Mailing you copy his correspondence Can you prevent his taking any steps to continue with case in N J He has been notified his authority ended.

STODDARD & SALISBURY.
1030A

Exhibit P-43

November 12th, 1919.

Stoddard & Salisbury,
Reno, Nevada.
Gentlemen:

Your letter of November 5th and your telegram of yesterday were received.

As we understand the situation, under no promises, understandings or representations whatever, Mrs. Sargent has not only elected to but insisted upon permanently leaving her old residence and to make no further defense except to leave her answer stand as a denial, and with a great many of her friends, hopes her husband will relent in

Exhibit P-43

his pending proceeding against her in the Court of Chancery of this State. The latter has steadfastly refused to accede to the latter proposition or to make any agreement or to have any understanding whatever and is particularly insistent that his wife shall have the best independent advice; furthermore, we specifically informed Mrs. Sargent before she left, that if she left she did so at her own risk and that her husband might proceed in his case here at any time in her absence.

Since Mrs. Sargent left, Mr. Sargent has received some letters and postal-cards from her, which under our advice, he promptly returned to her as received.

Yesterday we were served with a notice from Senator Simpson of an application in Mrs. Sargent's behalf to the advisory master, to whom the case here is referred for hearing, to fix a time and place for such hearing and in view thereof, client will answer "ready," and proceed if the case is moved. We apprehend, however, that Senator Simpson is merely moving the case for the purpose of fixing his status before the court.

As the case here now stands, Mrs. Sargent in her answer, a copy of which we enclose, makes certain charges against her husband, which she verbally retracted to us and said that her brother, Mr. Low, or his attorneys, had caused to be incorporated of their accord. While these charges stand, we well know client's temper is such that he would not brook even delay in his case; if, however, according to Mrs. Sargent's advices to us, she of her own accord, formally withdraws all her charges and files an amended answer or otherwise merely leaves her answer stand as a denial

Exhibit P-43

of Mr. Sargent's charges, we believe that Mr. Sargent might feel very differently. Mrs. Sargent must not, however, do this if she believes there is any truth in her charges and must fully understand what she is doing.

Mr. Sargent feels satisfied that while he is entitled to and must have his decree, that Mrs. Sargent's charges made in her answer, were just as she advised us, entirely controlled by her brother and others, and not of her own doing or knowledge, and that under those circumstances he wants his proceeding or action to injure her future to the least possible extent, so that at least their respective lives may be lived out with as little recrimination as possible.

In the whole transaction we have been overcareful to refrain from even any suggestion to Mrs. Sargent. Furthermore, Mr. Sargent from the outset has refused to make any property settlement upon his wife other that to pay her alimony under the agreement of counsel in the New Jersey proceeding and of course it is optional with him what, if anything, he might or might not do after any decree.

Yours very truly,

(Sgd.) RUNYON & AUTENRIETH.

HER:AN
Enc.

Exhibit P-44

Law Offices of
Stoddard & Salisbury,
Reno, Nevada.

(Attention of Mr. Runyon.)

November 10, 1919.

Messrs. Runyon & Autenrieth,
#15 Exchange Place,
Jersey City, N. J.

Sargent vs Sargent.

Dear Sirs:

We are enclosing a copy of a wire this day received by Mrs. Sargent.

We have sent you a night letter stating that Simpson is harassing Mrs. Sargent by demanding money and threatening to continue his activities in the case pending there. Although the telegram is supposed to be signed by one Ross McComb, we assume that he is in some manner representing Mr. Simpson.

Mrs. Sargent is very much upset by this affair, as she claims that Mr. Simpson has been paid in full. As you know, he was paid $800.00, and in addition to that Mrs. Sargent informs us that he has received an additional $3000.00 for past services rendered.

We have copies of certain correspondence between Mr. Simpson and Mr. Huck, also letters written by your firm to Mrs. Sargent and Mr. Simpson. Aside from what information we can gather therefrom, we are not fully advised as to the situation in New Jersey.

We wrote you under date of November 5th, regarding this matter and trust that before this

reaches you we may have a reply thereto, which may throw some light upon the subject.

Meantime, awaiting your further advices, we beg to remain,

Yours very truly,

STODDARD & SALISBURY,
By R. C. Stoddard.

RCS/EC
Enclosure.

Exhibit P-45

Copy of Western-Union Telegram

1919 Nov 8 AM 11 42

A97SF 62 4 Extra Collect $1.79
JR Jersey City N J 7 via Mt. San Francisco Calif 8
Mrs. F. L. Sargent,
Care of Riverside Hotel,
Reno, Nevada.

Letter to Mr. Simpson dated November first when you left office after cancelling your letter you told him you would see he was fully paid He will not discontinue his activities in case but will proceed with same to protect himself for fees due him nor will he surrender letters and confidential papers until he is paid.

ROSS McCOMBE.

Exhibit P-46

November 19th, 1919.

Messrs. Stoddard & Salisbury,
Reno,
Nevada.

Gentlemen:

We have your letter of November 10th enclosing telegram from Ross McComb.

In view of what you say, we simply do not understand the matter from Mr. Simpson's standpoint. We knew that he had been paid $800., but which is all the Court allowed him, and do not understand that he is entitled to any more. We know nothing about the additional $3,000 you mention.

Client has informed us that he found that practically all of the silver, cut-glass and linen, and much of the china, have been removed from the house. We have not been able to trace these articles except we understand that some are in the possession of a sister of Mrs. Sargent on Staten Island. Mr. Huck has communicated with this sister, and the latter states that she is unwilling to return them without word to that effect from Mrs. Sargent. Mr. Sargent feels that he must occupy the house, and insists upon our taking action to secure the return of the articles mentioned. Cannot this be obviated by a word from Mrs. Sargent to her sister? If any of these articles are not in the possession of this sister, we wish you would find out from Mrs. Sargent where they are and let us know, so that, if possible, an amicable situation can be created with reference thereto rather than the necessity of a replevin suit.

Exhibit P-46a

We also understand that Mr. Sargent has not been able to trace the whereabouts of some of the smaller rugs, particularly from the servants' quarters. We wish you would advise us also as to the whereabouts of these.

Very truly yours,

RUNYON & AUTENRIETH.

HWK/K

Exhibit P-46A

Telegram

November 24th, 1919.

Stoddard & Salisbury,
Reno, Nevada.

Simpson failed to appear Motion adjourned to twenty-eighth but Simpson advises us to disregard motion. Certainly client has no intention to have any advantage taken of your client.

RUNYON & AUTENRIETH.

Exhibit P-47

Sargent vs. Sargent:

December 9, 1919.

Messrs. Runyon & Autenrieth,
15 Exchange Place,
Jersey City, New Jersey.

Gentlemen:

We have as yet failed to receive any reply to the suggestion we made to you in our letter of the 24th. ult. to the effect that Mr. Sargent voluntarily increase his allowance to Mrs. Sargent for her support.

Mrs. Sargent advises us that the New Jersey Court awarded her a temporary allowance of $225 per month and that the order further gave her the right to the use of the home, and furnishings. Since she is not enjoying the use of the home, she is, of course, under heavier expense than she would be if she were occupying it. Mrs. Sargent advises us that it is absolutely necessary that her allowance be increased. She stated that her expenses here have been very heavy and that it is physically impossible for her to get along upon her present allowance.

As we have heretofore advised you, Mrs. Sargent is constantly under expense for medical treatment and she has found that living at a hotel entails a heavy expense upon her. In addition to this she states that she is compelled to buy additional clothing.

Mrs. Sargent's physical condition has not been at all satisfactory since her arrival here. Although she is under constant medical attention she does not seem to yield to treatment as readily as

might be expected. Her mental worries probably account for a part of this condition, inasmuch as she is hysterical a considerable portion of the time.

Will you advise us as to whether or not there is any possibility of Mrs. Sargent's allowance being voluntarily increased?

Yours very truly,

STODDARD & SALISBURY,
By A. N. Salisbury.

Exhibit P-48

December 5th, 1919.

Messrs. Stoddard & Salisbury,
Reno, Nevada.

Sargent vs Sargent

Gentlemen:

We have your letter of November 24th. Mrs. Sargent is in error when she says she had a verbal promise made by us or in our presence

> "to the effect that when she leaves to establish a home she is to have the right to select from the present home which is occupied by the husband, such china, silver or any of the rugs and furniture that she may need or desire for the purpose of furnishing a home for herself."

Such a proposition was advanced by Mrs. Sargent as her desire, but there was no agreement or

Exhibit P-48

understanding whatever with regard thereto, and her proposition, as she knew, was not even submitted to Mr. Sargent, so that Mrs. Sargent must not base her consent to the return of Mr. Sargent's things which she has taken from his house upon any improper assumption or conditions whatever.

You further mention that when Mrs. Sargent left New Jersey she was assured that her leaving there would be attended with no publicity or notoriety whatever. While we know of or have heard of no publicity or notoriety whatever in this matter, and there has been no newspaper comment whatever on the case since she left, yet we must reiterate that Mr. Sargent has had no understanding with Mrs. Sargent whatever, and may have none. Her actions have been and must be her voluntary acts as they have been to this point. There is only one understanding and that is if Mr. Sargent elects to move his case here he will give you timely notice of the day for hearing.

You mention the matter of temporary allowance. Mr. Sargent is willing to increase such to $300 a month pending the litigation, because Mrs. Sargent has surrendered the house, and hereafter checks will be sent monthly for the latter amount.

We have not as yet heard from Mrs. Sargent as to her disposition of her affirmative charges and in this respect client is desirous of having immediate word.

Very truly yours,

RUNYON & AUTENRIETH.

Exhibit P-49

December 19th, 1919.

Stoddard & Salisbury,
Reno, Nevada.

Sargent vs Sargent

Gentlemen:

In view of your correspondence, it is proper that we advise you the result of Mr. Simpson's further motion on Mrs. Sargent's behalf, to fix a day for hearing. On his previous motions Mr. Simpson did not appear but this morning he formally appeared and stated to the Court, that although he had been discharged as Solicitor that no other solicitor had been substituted on the record; further that it had come to his notice that his client was guilty of collusion or words to such effect. In view of such most remarkable statement, which we take it was only calculated to attract newspaper publicity such as he said just before the motion he would at least be able to accomplish, we then acquainted the Court fully with the facts and of his demands for money and suggested to the Court that the day to be fixed be sufficiently distant to enable defendant to return and defend the case should she choose.

The Court announced that as no other attorney had been substituted of record for Mr. Simpson or motion made on behalf of defendant for substitution, that Mr. Simpson's motion would be recognized. Mr. Sargent is ready to try the case as he always has been.

Exhibit P-49b

With regard to your suggestion that Mrs. Sargent's counsel expenses to you be paid by Mr. Sargent, we assume there is no doubt but that he is liable to the extent of a reasonable fee, and we suggest that you wire us the amount thereof and we will take the matter up with Mr. Sargent.

Very truly yours,
RUNYON & AUTENRIETH.

Exhibit P-49A

Telegram

Reno, Nev. Dec. 26, 1919.

Runyon & Autenrieth,
Jersey City, N. J.

Regarding our fee in Sargent matter we suggest that five hundred dollars be paid us on account and that balance of fee be mutually arranged. After nature and amount of work and services are ascertained It is difficult to name fixed fee at this stage of proceedings. Advise by letter.

STODDARD & SALISBURY.

Exhibit P-49B

Telegram

January 7, 1920.

Stoddard & Salisbury,
Reno, Nevada.

Mailing check as requested.

RUNYON & ANTENRIETH.

Exhibit P-50

IN THE SECOND JUDICIAL DISTRICT COURT

Of the State of Nevada, in and for the County of Washoe

FRANCES L. SARGENT, Plaintiff,

vs.

DONALD J. SARGENT, Defendant.

Summons.

THE STATE OF NEVADA SENDS GREETING TO SAID DEFENDANT:

You are hereby summoned to appear within ten days after the service upon you of this Summons if served in said county, or within twenty days if served out of said county but within said Judicial District, and in all other cases within forty days (exclusive of the day of service), and defend the above-entitled action. This action is brought to recover a judgment and decree of this Court forever dissolving the bonds of matrimony now and heretofore existing between plaintiff and defendant upon the ground that since said marriage you, the said defendant, disregarding the solemnity of your marriage vows, have been guilty of extreme cruelty practiced upon and toward plaintiff, and which has caused plaintiff to suffer great mental and physical pain, humiliation, anguish and dis-

grace, all of which is particularly described in the complaint.

Dated this 2nd day of June, A. D. 1920.

E. H. BEEMER,

Clerk of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe.

(Seal.) By....., Deputy.

Served on defendant N. Y. City June 10/20.

Action dismissed by plff. July 3, 1920.

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE

FRANCES L. SARGENT, Plaintiff, vs. DONALD J. SARGENT, Defendant.	Complaint. No. Dept. No.

Comes now the plaintiff above named and complaining of the defendant above named, alleges and shows to the Court:

I.

That plaintiff is now and for a period of more than six months last past and immediately preceding the commencement of this action has been, an actual and bona fide domiciled resident of the County of Washoe, State of Nevada, and during all of said period has actually resided in said County and State.

Exhibit P-50

II.

That plaintiff and defendant intermarried on the 22nd day of September, 1909, at New York City, State of New York, and ever since said time have been and are now husband and wife.

III.

That no children have been born as the issue of said marriage; that plaintiff's maiden name was Frances Low.

IV.

That since said marriage, defendant, disregarding the solemnity of his marriage vows, has been guilty of extreme cruelty practiced upon and toward plaintiff, in particular as follows, to wit:

1. That for a period of about five years last past and until plaintiff and defendant ceased to live together, as hereinafter alleged, said parties made their home in Jersey City, New Jersey, where said parties had many mutual friends.

2. That defendant is possessed of a violent temper which he began to display toward plaintiff soon after said marriage and which, as the years passed, he made no attempt to control. That without just or any cause whatsoever, upon numerous and divers occasions and particularly during the past eight years defendant has frequently become violently angry toward plaintiff and applied to her vile and opprobrious language and epithets and abused her physically by seizing her by the arm, shaking her violently and throwing her from him; that upon said and other numerous occasions defendant constantly cursed and abused

plaintiff, and frequently in the presence of friends, relatives and servants, used such language toward plaintiff as "G— damn you," "You're a damn fool," "You are no G— damn good" and other words of similar import.

3. That during all of her married life plaintiff demeaned and conducted herself toward defendant as a faithful, dutiful and loving wife and exercised her best efforts to make their home life peaceful and happy; that without any justifiable cause defendant was or pretended to be jealous of mutual friends of plaintiff and defendant, and frequently and under conditions and circumstances created by himself, took occasion to insult and publicly humiliate plaintiff by vicious and false accusations and imputations of unfaithfulness on the part of plaintiff, notwithstanding the fact that he then well knew and now knows such accusations and imputations were and are wholly false and untrue.

4. That during said period of time and particularly during the past three years of their married life, defendant constantly sought and invented ways and means to rid himself of plaintiff; that he made it obvious by his conduct that he no longer loved her.

5. That during the summer of the year 1918, defendant contracted a venereal disease and communicated the same to plaintiff, and thereafter falsely and wickedly accused plaintiff of infidelity and of having communicated said disease to him; that thereafter and solely because of defendant's said actions and conduct toward plaintiff, she became sick and ill and was compelled to submit to

medical and surgical treatment by physicians for long periods of time.

6. That in the month of July, 1919, and while plaintiff was sick and ill and under the care of physicians, as aforesaid, defendant falsely and wickedly, and for the sole purpose of riding himself of plaintiff and forcing her to separate from him, again wickedly, maliciously and falsely accused plaintiff of infidelity and then deserted and abandoned her while she was sick and ill as aforesaid; that since said date plaintiff and defendant have not cohabited or lived together as husband and wife.

7. That each and all of said accusations of infidelity are wholly false and untrue and without foundation in fact; that plaintiff cannot again safely cohabit with defendant; that because of defendant's cruel treatment of her, as aforesaid, plaintiff became sick and ill in body and mind and her health seriously impaired that she has suffered and is now suffering under mental and physical pain, anguish, humiliation and distress, which is and has been caused solely by defendant's cruel and inhuman treatment of her, as aforesaid; that since said time plaintiff has been almost continuously under the care of physicians by whom she is advised that further cohabitation with the defendant would be unsafe and dangerous to her health, happiness and peace of mind.

V.

That plaintiff and defendant are possessed of real and personal property acquired by them since said marriage; that plaintiff is unable to

New Jersey State Library

particularly describe said property, or the character or value thereof; that plaintiff is informed and believes, and thereupon alleges, that during the year 1918, and immediately preceding the time she separated from defendant, defendant derived and received a net income from said property amounting to more than twenty thousand dollars ($20,000.00); that defendant is now in the exclusive possession and control of said property.

WHEREFORE, plaintiff prays for the judgment and decree of this Court:

1. That the bonds of matrimony now and heretofore existing between plaintiff and defendant be forever completely and absolutely dissolved.

2. That plaintiff be permitted to resume her said maiden name.

3. That the Court make such order with respect to a division of the community property of said parties and the future support of plaintiff as may be deemed meet and proper in the premises.

4. That plaintiff be awarded and allowed suit money herein and reasonable counsel fees for the prosecution of this action.

STODDARD & SALISBURY
Attorneys for Plaintiff.

State of Nevada, County of Washoe. ss:

Frances L. Sargent, being first duly sworn, deposes and says: That she is the plaintiff named in the foregoing complaint; that she has read the said complaint and knows the contents thereof; that the same is true of her own knowledge except

Exhibit P-50

as to the matters which are therein stated upon information or belief, and as to those matters that she believes it to be true.

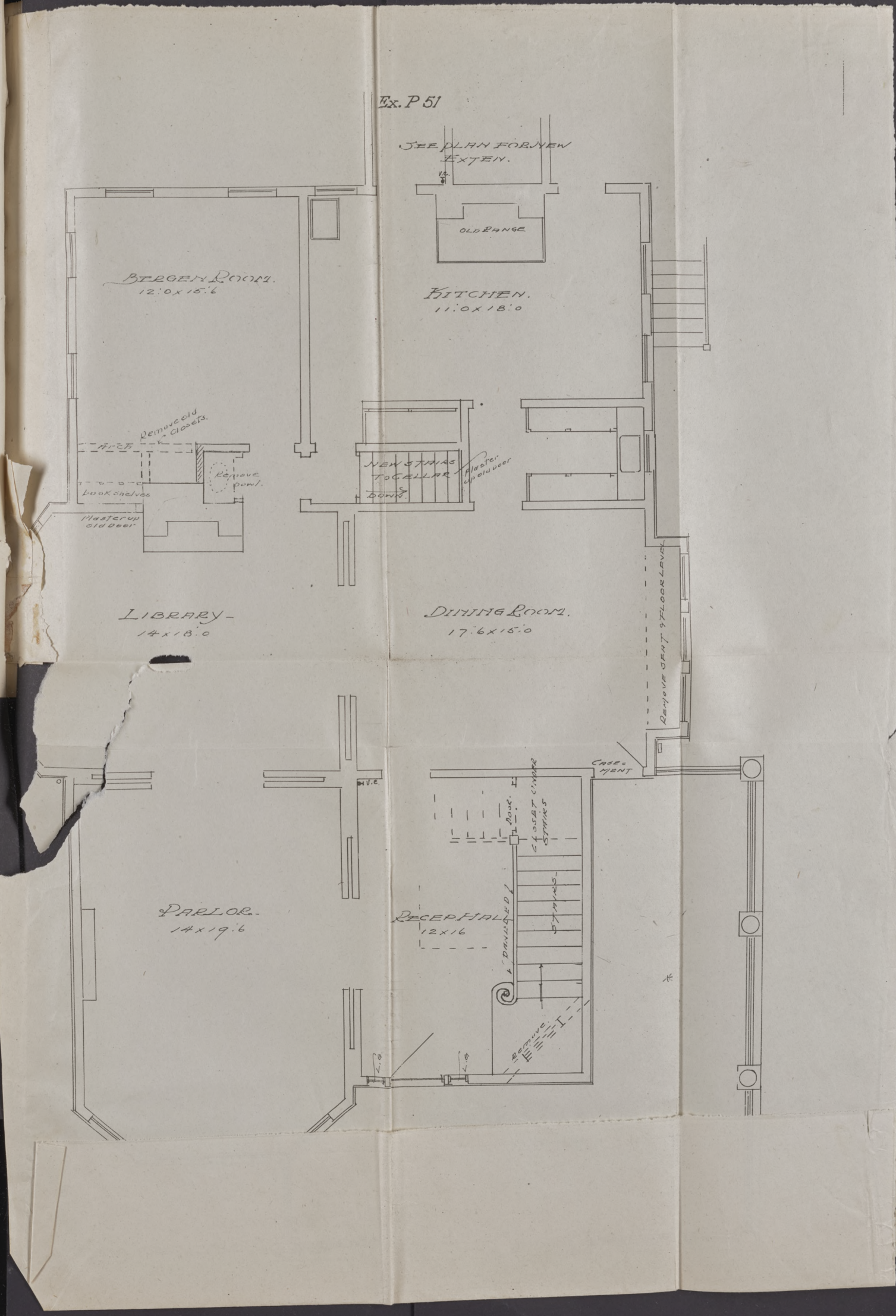
FRANCES L. SARGENT.

Subscribed and sworn to before me this 2nd day of June, A. D., 1920.

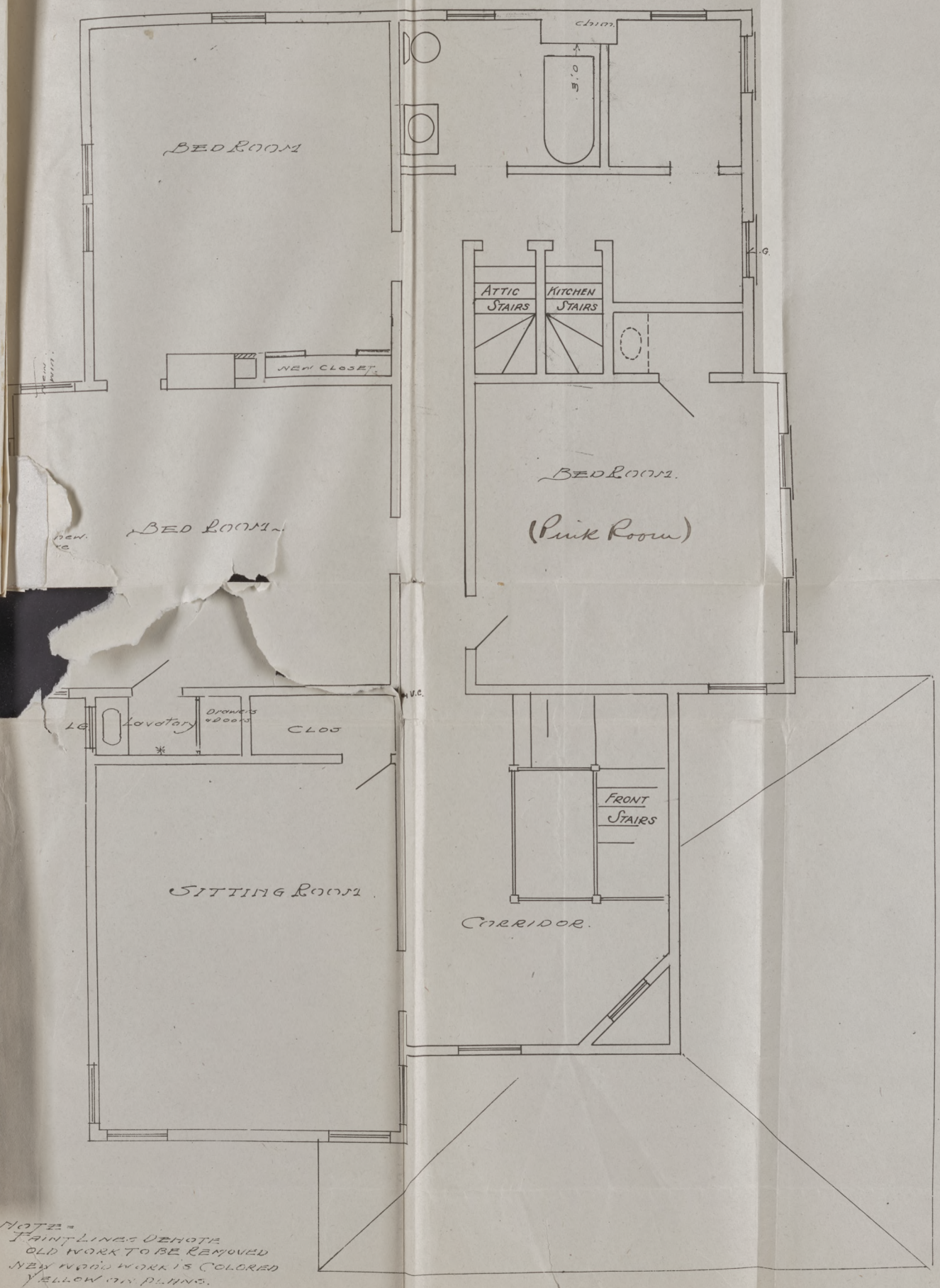
A. R. Shewalter,
Notary Public.
in and for the County of Washoe,
State of Nevada.

We the attorneys for the Plaintiff in the above entitled action, do hereby certify that the above and foregoing is a true copy of the Plaintiff's original complaint on file in the above entitled action.

STODDARD & SALSIBURY.


Ex. P 51
SEE PLAN FOR NEW EXTEN.
OLD RANGE
BERGEN ROOM.
12:0 x 15:6
KITCHEN.
11:0 x 18:0
Remove old closets.
Remove pump.
Bookshelves
Plaster up old door
NEW STAIRS TO CELLAR
Plaster up old door
DOWN
LIBRARY.
14 x 18:0
DINING ROOM.
17:6 x 15:0
REMOVE SEAT & FLOOR LEVEL
CASEMENT
H.V.E.
CLOSET UNDER STAIRS
DOOR.
PARLOR.
14 x 19:6
RECEPTION HALL
12 x 16
BANISTER
STAIRS
REMOVE

Ex. P 51

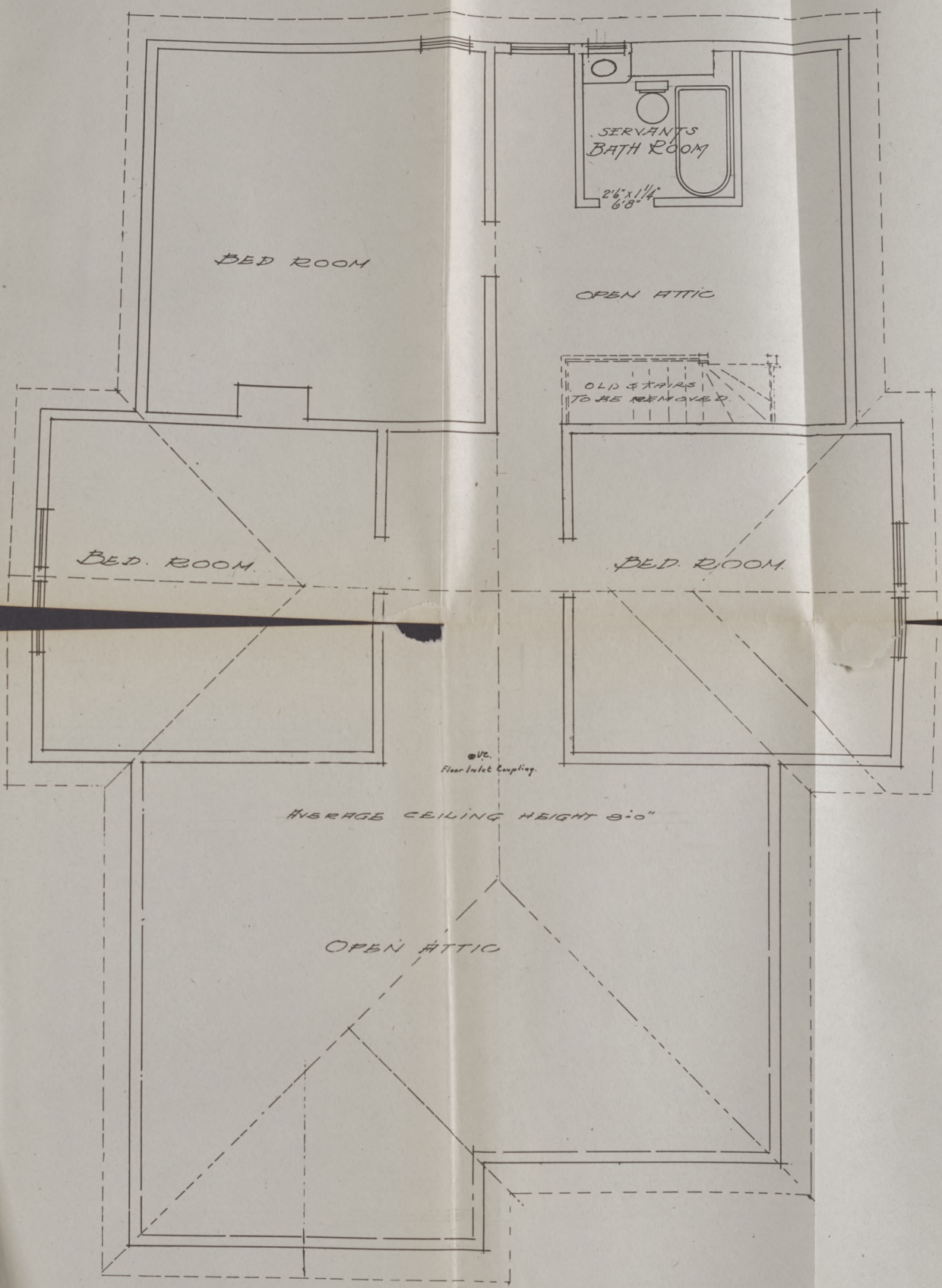


NOTE:-
PAINTLINES DENOTE
OLD WORK TO BE REMOVED
NEW WOOD WORK IS COLORED
YELLOW ON PLANS.

SECOND FLOOR.
Scale 1/4" = 1 Foot.

Ex. P 51

See plan of new extension



"PLAN OF ATTIC"

SCALE 1/4" = 1'-0"

Exhibit D-1

SARGENT TRANSPORTATION LINE
TOWING AND TRANSPORTATION
STEVEDORES
One Broadway
New York

D. J. Sargent,
General Manager.

June 19th, 1919.

TO WHOM IT MAY CONCERN:

This is to certify that Mr. William Huck, Jr., and Mr. Walter S. Tienken are authorized to act for me in and about my residence, #24 Kensington Ave., Jersey City, N. J., and any orders or directions given by them or either of them concerning my home, family or affairs are to be given the same attention and consideration and to be recognized and followed as fully as though I were personally present or were given by me personally.

Very truly,
D. J. SARGENT.

DJS.

Exhibit D-3

(Envelope)

Walter S. Tienken
31 Nassau Street
New York.

Miss Violo Jones
c/o Sargent
14 Kensington Ave.
Jersey City.

Exhibit D-4

July 3, 1919

Dear Violo:

Enclosed please find $15.00 cash. Have a good time over the holiday and get in touch with me Monday morning when everything is O.K.

Very truly yours,
W. S. TIENKEN

I will have you a/c made up; and pay you your money.

Exhibit D-5

No. 17724 New York, January 7 1920

THE AMERICAN EXCHANGE NATIONAL BANK 1-21
128 Broadway

Pay to the
Order of Stoddard & Salisbury ..... $500.
Five hundred ..... Dollers
Payable through New York Clearing House.

WM. HUCK, JR.

(*Endorsed*)
Stoddord & Salisbury
R. C. Stoddard.

Received Payment
Through New York Clearing House
prior Endorsements Guaranteed
Jan. 19, 1920.
The National City Bank
of New York
N. C. Lenfestey, Cashier. N. F.
Mail Teller

Exhibit D-6

Pay to the Order of
Any Bank, Banker or Trust Co.
All Prior Endorsements Guaranteed
Jan. 13 1920
The Reno National Bank
94-3 Reno, Nevada 94-3

Exhibit D-6

Photo of Mrs. Lillian Simmons and adopted child Anne on a front veranda.

New Jersey Court of Errors and Appeals

DONALD J. SARGENT, *Petitioner-Appellant,* *and* FRANCES L. SARGENT, *Defendant-Appellee.*	*On Petition for Divorce.*

BRIEF FOR APPELLANT.

THE CASE.

This is a suit brought by a husband for divorce against his wife upon the ground of adultery. She is charged by the petitioner with having committed adultery in September, 1918, and at various times from September, 1918, to July, 1919, at No. 24 Kensington avenue, Jersey City, and at Port Richmond, Staten Island, New York, and at other places, with one Charles Simmons, as a result of which she contracted a venereal disease, gonorrhea.

She is specifically charged with having committed an act of adultery with the said Charles Simmons on July 11th, 1919.

The petition was filed August 2, 1919.

An answer was filed September 3, 1919. It denies the charges and sets up the following defenses (p. 4):

> (A) The petitioner communicated the venereal disease to defendant.
>
> (B) That the charge against the defendant was the result of a frame-up and conspiracy, engaged in it would appear from the pleading, by the petitioner, detectives, colored help, his attorney and the co-respondent, Simmons.

While the proof of adultery was, as the Advisory Master stated in his conclusions, limited to proof with respect to the co-respondent, Simmons, there was proof bearing upon her feeling towards a person whose photograph is in evidence, and who has been described throughout the case as "Mr. X." (pp. 131-132, 740).

> "She (Mrs. Sargent) said she wanted this man, referring to the man on the photograph, and that he had had his opportunity. She made the remark that he had had his opportunity, and that he has not taken it" (p. 740, l.

18); and see Mrs. Sargent's explanation as to this photograph (p. 458), an explanation which does not explain (p. 457).

The Advisory Master denied the decree (conclusions, p. 11).

Decree was entered (p. 10), dismissing the petition, and from that decree this appeal is taken.

ARGUMENT.

The co-respondent is a colored chauffeur. The defendant from her own testimony appears to have moved in a certain circle of society in Jersey City.

The Master says (p 13) that "she was a member of various women's organizations, of a Browning Society, of musical clubs, and she was a church attendant," and that her husband "had the appearance, manner and bearing of a man of education and culture."

It is quite apparent from the conclusions of the distinguished Master that had the color or the social position of the parties been different the result must have been different.

The Master said (p. 13), after referring to the social position of the parties:

> "The thought of this cultured, refined and modest appearing white woman in sexual relation with any negro, is revolting to the senses. The acts and conduct with which she is charged by witnesses for petitioner are peculiarly contrary to the universal teachings and practice of the white society to which she belonged, which is absolutely opposed to any business or social alliance between the races, and association of the nature charged against her with a black man, *is repugnant to white women of her social standing,* is unnatural and rarely found to exist. So objectionable is it to the white race, that in many states of our Union marriage between the races is prohibited." (Italics ours.)

Social standing is not and never was a test of sexual characteristics.

Would the Master more readily believe the commission of the crime by a white woman of less *social* standing, and at what point in the sliding scale of *social* standing does it become possible to believe?

(If this repugnance stated by the Master were strong enough there would be no necessity for legislation against it.)

The Master continues (p. 14):

> "To convince me that the defendant has departed from the traditions of her race and has fallen so low in the human scale and has been so grossly immoral as to place herself among the *most debased* of woman-kind, *the evidence must be so convincing and compelling as to leave no doubt whatever existing in my mind as to her guilt.*" (Italics ours.)

On page 21 the Master says, after referring to the testimony of three servants, two male detectives and one female detective:

> "The *composite story* is so improbable as to be unbelievable, and because of *its incredibility and its source,* I decline to accept *it* as true. To accept *such a story* would be to say that every woman in her home is at the mercy of servants who, for pay or to satisfy a grudge, might relate a tale which only their mistress and the alleged co-respondent could deny. I know it has been said that the denial of the defendant is entitled to but little weight, but I understand by that, that when the guilt is indubitiably established, the defendant's denial is of little value. It would be an unfair rule that, with relation to testimony such as I have quoted, her denial under oath should be cast aside because she is the defendant. I think the rule is that where there is an endeavor to establish circumstances from which it is sought to draw an inference of her guilt and her veracity is unimpeached, her testimony should be given the same weight as any other witness, except only as affected by her interest." (Italics ours.)

But her veracity *was* impeached. Aside from the evidence of the witness referred to by the Master there was the evidence of Mrs. Sargent's statements to Mrs. Lathrop (p. 726), denied by her, and there was her story with respect to conversations with Mr. Huck (p. 610), and Mr. Runyon (p. 663), denied by them; there was her story with respect to the manner in which Fisk and Fisk became her solicitors, denied by Mr. Anderson (p. 553) and Mr. Runyon. There was the main story she told on her examination, apparently believed by the Master *in toto,* notwithstanding its discrepancies and its failure to explain.

If the stories told by the witnesses referred to by the Master were true, guilt was established beyond a doubt.

It is true that no one of the witnesses actually saw the commission of the act of adultery, but the circumstances show more than desire, or inclination and opportunity.

The Master discredits the servant witnesses, because he says they, with the exception of Jetter, had ill-feeling towards Mrs.

Sargent and Simmons, and were in petitioner's pay up to the time they testified.

There certainly was no evidence of ill-will on the part of Jetter, nor of any other witness toward Mrs. Sargent, and they were her servants until the raid.

Jetter's testimony the Master discredits (p. 25):

> "I note here that the act of familiarity covered by Jetter's testimony and which, if true, would indicate that adultery was about to be committed, occurred according to the date he last fixed, at a time when she was sick in bed."

Turning to Jetter's testimony, we find that he is not precise as to date. On pages 140 and 141 it may be indicated that it was in the spring of 1919. On page 142 he says that it was about the latter part of October or the first of November, 1918, that he observed the familiarity between Simmons and Mrs. Sargent.

Mrs. Sargent testifies (p. 396) that she was in bed from the 12th of October, 1918 to January, 1919. Ida Lewis denies this (p. 86, l. 40).

She was admittedly well enough to be in Jeffersonville, New York, with Simmons on October 14th, 1918 (p. 51).

There can be no mistake as to the Jeffersonville, New York, trip. She admitted it and the register was in evidence (p. 53).

Applying the same reasoning which the Master has apparently applied in dealing with the testimony of Jetter, it would appear that her entire testimony should be discredited because of the unquestioned mistake which she made (p. 396) as to the date that she took to her bed.

She herself says, on page 416, that the trip to Jeffersonville was on October 14th, 1918.

It is unthinkable that the mere fact that Jetter stated that the incident he relates might have occurred in the latter part of October or the first of November, indefinite as it is as to date, should discredit his entire testimony, where it appears, as it does, that up to the 14th of October, 1918, the defendant not only was not in bed ill, but was well enough to take a trip to Jeffersonville, New York, by automobile driven by the co-respondent.

The attitude of the Master is indicated by his statement (p. 26) that petitioner "apparently did not think his evidence (referring to the Jeffersonville trip) strong enough to amend his petition and set it up." No amendment was necessary. The allegations of the petitioner (paragraph 4, p. 2) covered the time and no

point was made at the trial that an amendment was necessary. The Master ought not to have attributed to counsel a belief that the evidence as to the Jeffersonville trip was not strong enough to warrant conviction. He could not, as apparently he did, let a presumption of this nature weigh upon him in forming his conclusion on the main case.

Elizabeth L. Lathrop, a white woman, and admittedly a friend of Mrs. Sargent's, who called on Mrs. Sargent after the raid, which took place on July 11th, 1919 (p. 459), and against whom Mrs. Sargent apparently had nothing, so far as her testimony indicates, testified (p. 726) to conversations with Simmons and Mrs. Sargent, consistent only with their guilt.

This testimony, circumstantial as it was, the Master disposes of by stating (p. 28): "Mrs. Lathrop's testimony is uncorroborated and is denied by Mrs. Sargent and Simmons."

The Master overlooked that, while no one overheard the conversation between Simmons and Mrs. Lathrop and between Mrs. Sargent and Mrs. Lathrop, and therefore no one corroborated the testimony in that sense, her testimony was most effectively corroborated by all the witnesses who testified that Mrs. Sargent has told them of the strong physical attraction this colored chauffeur had for her, and who testified to acts of familiarity between the colored chauffeur and Mrs. Sargent.

The testimony of Mrs. Lathrop with respect to the admissions is circumstantial (p. 726, etc.).

She testified in detail to conversations with respect to the photograph of Mr. X. (pp. 731, 732, 745).

Mrs. Sargent says that she never spoke to Mrs. Lathrop about the picture (p. 459).

So far as she knew, Mrs. Lathrop never saw the photograph (p. 459).

Mrs. Sargent had the photograph (p. 457).

If the story told by Mrs. Lathrop be not true, how did she get the correct information with respect to this photograph?

Mrs. Lathrop's story is corroborated with respect to the photograph of "Mr. X." by the stories of Sargent and the servants.

The Master finally says of Mrs. Lathrop's testimony:

> "But *this story* is so improbable. I am loath to accept *it*. It is contrary to human experience that the defendant should confide to another her intention to commit adultery and especially an act of so revolting a nature, and it is

> also contrary to human experience, that if such a confidence were given, Mrs. Lathrop would not in disgust promptly terminate her friendship with so degraded a woman. But we find Mrs. Lathrop continuing her intimacy with Mrs. Sargent, even after Simmons told her the act had been committed." (Italics ours.)

It is a dangerous doctrine that permits testimony of unimpeached witnesses to be cast aside not because their stories are "impossible," but because they are "contrary to human experience." Who shall be the judge of "human experience"? What yardstick shall be applied? And what is normality?

Wille v. *Willie,* 88 Eq. 581.

It was proven through Peter J. Walters (p. 556, etc.) and Solomon Hughes (p. 539, etc.), that Simmons, the co-respondent, had made statements admitting his guilt and facts appertaining thereto which could not have been forseen.

Their testimony is disposed of by the Master as follows (p. 41):

> "Counsel also referred to alleged admissions made by Simmons of many acts of adultery with Mrs. Sargent. Such admissions were testified to by two negroes produced as witnesses on behalf of the petitioner, one of whom had been employed by petitioner's solicitors for the purpose of obtaining such admissions. They are alleged to have been made after the raid and after the local newspapers had advertised Simmons as a negro Lothario. As I have already said, referring to the alleged admissions to Mrs. Lathrop, statements of this nature, if made by Simmons, are not evidence against the defendant, and can only be considered as affecting Simmons' credibility as a witness. I can disregard the whole of Simmons' testimony and find myself unconvinced of the charges against Mrs. Sargent." (In other words we submit Mrs. Sargent's testimony standing alone is sufficient to prove her innocence.) "I do not think, however, that his testimony should be deemed entirely worthless, but that what he said in court, under oath, should be entitled to some weight, notwithstanding that on other occasions, when proud of his notoriety, he may have boasted of his amatory prowess to two supposed friends of his own race, who may have been exciting him to flights of imagination, either through expressions of envy, or by design to induce him to commit himself." The admissions made to Mr. Lathrop were not only by Simmons but by Mrs. Sargent herself.

In view of the fact that it must be conceded that the testimony offered by the petitioner called at least for an explanation, we submit that the testimony given by the defendant and the co-respondent should be considered with care; and guilt is indicated by their testimony and by the conduct of Mrs. Sargeant after the raid on July 11, 1919.

Slack v. *Slack,* 89 N. J. Eq. 589, affirmed 89 Eq. 589.

A most important line of testimony, that is with respect to Mrs. Sargent's trip to Nevada, is ignored by the Master in these words (p. 42):

> "I have not referred to all points made by counsel on both sides, such as the Nevada suit and the photograph incident, because I feel that the evidence to which I have not referred can be of no assistance to me in determining the issue and this review of the case is now overlong."

Mrs. Sargent testified that she was sent to Reno by her husband and his lawyers, Messrs. Runyon and Huck.

She said that Mr. Runyon and Mr. Huck had, when she went to Reno, secured other counsel for her, *i. e.,* Fisk & Fisk; that she had nothing to do with the retention of Fisk & Fisk.

This testimony is absolutely denied circumstantially by Mr. Runyon, Mr. Huck and Mr. J. Fisher Anderson, a member of the firm of Fisk & Fisk, and who had charge of this case at the time that Fisk & Fisk were her solicitors and is contradicted by the correspondence of her attorneys in evidence (p. 769, *et sequi*). The witness, Judge Stoddard, her attorney, of Nevada, who was present at the trial, was not called to the stand. Why not?

Is it of no importance, in determining whether this woman's story or the story of the petitioner, Huck, several servants and detectives and the one friend and others is true, to at least consider that she has told a story with respect to a matter vital in this case which is directly contradicted by three reputable members of the bar, and the correspondence of herself and her attorneys.

The Master says that this evidence "can be of no assistance to me in determining the issue."

And as bearing upon the credit to be given to Mrs. Sargent, we desire at this time to refer to her testimony with respect to how it was that she came to see Mr. Runyon and Mr. Huck in September, 1919.

Mr. Huck swears (p. 619) that Mrs. Safarick and Mrs. Linser, a friend and sister, respectively, of Mrs. Sargent, came to him and endeavored to arrange a conference for Mrs. Sargent (pp. 621 and 622).

The Master ruled out the testimony as to all conversations had between Mr. Huck and Mrs. Safarick and Mrs. Linser, notwithstanding the fact that Mrs. Sargent wrote Mr. Sargent a letter, Exhibit P. 1 (p. 775), dated September 24, 1919, and addressed "Dear Sargie. Carrie and Ann have told me of their talk with Mr. Huck yesterday. I want to see you and Mr. Huck as soon as possible. * * *" Note the "Dear Sargie." This to a man whom she believed guilty of participating in a "frame-up" upon her and who had charged her with association with a negro "horrible" to her. She had no love for her husband. She does not profess *that*. She does not deny the statement she is alleged to have made indicating an absolute absence of any such feeling toward her husband. See her admission to Mr. Huck that she did not and never had loved her husband (p. 13), as well as the testimony of all servants and Mrs. Lathrop.

And now consider the testimony of Mrs. Sargent when this letter is brought to her attention (pp. 428, 429, 430 and 431).

Her denial that the letter was written as the result of anything that Ann and Carrie had said—her lack of memory as to anything that Carrie and Ann had said to her.

It is not only the colored servants and detectives and the white "so-called friend" who are perjuring themselves, if Mrs. Sargent is to be believed, but also at least two members of the bar.

We submit that, under these circumstances and the conduct of Mrs. Sargent and the co-respondent, their testimony should have been scrutinized with care, and their conduct, subsequent to knowledge on their part that they had been accused of adultery, should have likewise received consideration, in an attempt to determine whether it was consistent with innocence or guilt.

Likewise the conduct at the trial should have been considered.

It is conceded in the case that on July 11, 1919, at about eleven o'clock at night, detectives found Mrs. Sargent and Simmons together in a room in the Sargent house.

It is likewise conceded that Simmons had been in the house for a period of approximately two hours, and that when the detectives came to the door of Mrs. Sargent's room, where they were, Simmons jumped out of the window eighteen feet above the ground and escaped, and never thereafter made any attempt to see Sargent.

Mrs. Sargent knew at that time that she was charged with adultery with Simmons (p. 432).

She testified (p. 433) that in May, a short time before the raid on July 11, she had asked Mr. Sargent to discharge Simmons, and sat up until three o'clock in the morning attempting to induce him to do so (p. 433).

On the night of the raid she was taken by Mr. Huck and the detectives to her sister's in Richmond Hill, Long Island (p. 615). The next day she again went to her sister's in Richmond Hill, Long Island.

The co-respondent, Simmons, spent the night of the raid at the City Carpet Cleaning Company (p. 292). The next day he called up Mrs. Kuchman, a sister of Mrs. Sargent, on Staten Island, who informed him that Mrs. Sargent had gone to her other sister's house in Richmond Hill.

Simmons then went to the sister's house on Long Island (p. 292, fol. 40) expecting to find Mrs. Sargent there, but she had left. Mrs. Sargent said she talked to him on the telephone that day (p. 523). See Simmons' testimony as to this telephone communication (p. 295).

After Simmons' failure to find Mrs. Sargent at her sister's on Long Island he testified (p. 293) that he went "over to Forest Hills to see some friends of mine."

He said that Forest Hills was in Long Island and that he spent three nights there.

When asked how near Forest Hills is to Richmond Hill *we obtained the information that they are adjoining.*

When asked who the friends were he stayed with he said he stayed at the Forest Hills Inn with the head waiter. This head waiter, however, is not there now. He don't know where he is (p. 294).

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He says that he did not leave the Forest Hills property during the three days, and that he did not know what was happening, because he did not communicate with Mrs. Sargent (pp. 295 and 296).

That he thought he was in a good place down there; that he was among a lot of friends (p. 296).

He later admitted talking with Mrs. Sargent.

Consider this in the light of Walter's testimony that Simmons told him that he, Simmons, was with her, Mrs. Sargent, three nights after the raid (p. 560).

Mrs. Sargent proceeded to re-hire as her servant the wife of this colored chauffeur with whom she had been charged with adultery.

When Mrs. Sargent goes to Asbury Park in August, 1919, Lillian, the wife of the co-respondent, and the co-respondent go also (p. 317).

The co-respondent says that he advised his wife not to go back to work (p. 317). "My wife said, 'Mrs. Sargent wants me to go back to work. What can I do?' I said, 'Well, you can stay away. You know Sargent ran you away from there once. Why don't you stay away.'"

In other words, Simmons was advising his wife not to work for Mrs. Sargent, although Simmons was, during all of that time employed off and on by Mr. Kuchman, Mrs. Sargent's brother-in-law. (Mrs. Sargent did not produce Lillian at the trial.)

Consider in this respect the testimony of Mrs. Sargent (p. 437), which is to the effect that Lillian was working for her prior to the trip to Asbury Park, and that Lillian came to Mrs. Sargent and asked her, Mrs. Sargent, to re-employ her (pp. 437 and 438). That the reason why she, Lillian, was in Asbury Park was because she was on a vacation.

This testimony is inconsistent with that of Simmons on page 317.

This testimony of Simmons was given under oath and not to one of his negro friends or supposed friends.

The Master disposes of this hiring of Lillian by saying (p. 39):

> "Petitioner's counsel argued that Mrs. Sargent's subsequent conduct, taken in connection with all the evidence against her, indicates guilt. He referred to the fact that about a month after the raid she employed Simmons' wife

as a domestic in her household." (The witness, Mrs. Sargent, testified (p. 437) that it was a week or ten days after the raid. On a leading question by counsel she said (p. 437) that it was a short time after the raid. She says that Lillian was re-engaged before the Asbury Park episode). "This suit had then been commenced. She was unstrung and ill and was about to undergo an operation and was without domestic help and she may have turned to Mrs. Simmons at a time when, as everybody knows, servants were difficult to secure; or it may have been that her experience with servant spies had been such that she did not know whom to trust and she felt she would be safer with the co-respondent's wife than with any one else."

(No one of these explanations is given by Mrs. Sargent. They proceed from the mind of the Master.)

And while on this subject of Lillian, we desire to refer to the Master's statement made parenthetically (p. 16) in referring to testimony of intimacy between Mrs. Sargent and Simmons—"although Mrs. Simmons was then living at the house"—that this would make little difference is indicated by Simmon's testimony (p. 365),

A Charlotte has shown more decent treatment toward me than my wife has ever shown.

A My wife never acted towards me * * *

And see the testimony (p. 320), that he is not living with his wife.

It appears from the testimony of Mrs. Sargent and that of Mr. Kuchman, her brother-in-law (p. 534), that after the raid Simmons was employed by Mr. Kuchman off and on, and he kept in touch with him.

See Simmons' testimony on page 325.

In August or September, 1919, Simmons drove Mrs. Sargent and Mrs. Kuchman on a three-day trip from Staten Island to Rutland, Vermont, and return (pp. 327 and 329).

They stayed all night in Rutland.

The purpose of the trip was to see the father of a little child which had been adopted by Mr. Sargent (p. 417).

Mrs. Sargent testified in response to the following leading questions by her counsel.

"Q You had an attorney in New York, Mr. Hopkins? A Yes.

"Q Did you consult him about the propriety of the chauffeur driving you to Vermont? A I did.

"Did he advise you that there was nothing improper in it? A He certainly did."

They got home the second night about three o'clock in the morning (p. 433).

"Q (p. 334) You didn't like him (Simmons) from the beginning? A No, I didn't like him from the begining."

(She had already testified that she had urged her husband to discharge him.)

"Q Will you tell me what it was that within a few weeks from the 11th of July you permitted this chauffeur to drive you to Vermont? A *I did so on the advice of counsel.*

"Q Will you tell me why it was that you thought it necessary to ask the advice of counsel as to whether the chauffeur should drive you? A He was the only one we could get at the time. In fact, he had been working for my brother-in-law from time to time. I had to go up in his car. *There was no special reason for having him.*

"Q Did you tell your brother-in-law that this man had been impudent to you to such an extent that you asked your husband to discharge him on several occasions? A They all knew that I didn't like him."

And on page 435:

"Q Why didn't you tell your brother-in-law that this man, while in your employ had been so impudent to you that you wanted your husband to discharge him? A I didn't discuss my family affairs, or trouble with my servants, with my brother-in-law."

* * * * *

"Q Why did you permit this man to drive you to Vermont? A I don't know how to answer that question.

"Q There were other chauffeurs, were there not? A It was not my car; I cannot answer that.

"Q Is that the reason? A I cannot answer the question."

Mr. Hopkins was in court during the entire trial, and although called by the defendant (p. 713,) was not asked anything with respect to this vital matter.

Simmons says, with respect to this trip, that he noticed trouble with the distributor after the car had gone about one hundred miles (p. 331).

That the second day when they drove from Rutland back to Danby, about eighteen miles (p. 331), at which place the child's father resided, he suggested that as they had an awful lot of

trouble with the car he would stop there and get it in shape to make the trip back, whereupon he stopped in the village *and the women got out of the car and walked* to the father's house, a *distance of a mile, at least.*

Simmons also says that during this trip nothing whatever was said with respect to the case.

Simmons goes into detail with respect to driving the car to Rutland first, and then the next day driving it back to Danby, and his stopping at the village because of trouble with the distributor.

Mrs. Kuchman testified with respect to this trip.

She says that they left Staten Island at eight o'clock in the morning (p. 275), *and that the trouble was fixed before they got to Rutland.*

That they stopped at Danby on the way up (p. 376), and they then went to Rutland and stayed all night, and started for Danby the next morning, and they were there (Danby) for lunch (p. 376).

That they left Rutland about nine o'clock in the morning and did not get to Danby until twelve o'clock (p. 376).

In other words, it took three hours to go eighteen miles.

What were they doing in the meantime?

This lapse of time is significant, unaccounted for, when taken in connection with the lapse of time unaccounted for on the night of the raid.

Mrs. Kuchman says there was no reason the second time why they left the car in the village (p. 377); that they thought they would walk to the house, "that was all." Simmons had only told of one trip to Danby.

She says she knows they left the car in the village the first time, because it was to be fixed, but that was not the reason the second time.

Of course the real reason was that they did not want the father of this child to see this colored chauffeur under the circumstances.

They knew full well that he had no business there.

When counsel for petitioner sought to examine Mrs. Kuchman with respect to the employment of Simmons by Mr. Kuchman, it was objected to by counsel for defendant and overruled as not proper cross examination.

Charles F. Kuchman, the brother-in-law, was called, and he testified (p. 534) that he had hired Simmons to take this trip to Vermont.

He swore (p. 536):

"Q Did she (Mrs. Sargent) every say anything to you with respect to your employing him? A No, sir.

"Q You, of course, knew, the first time you employed him, that Mrs. Sargent had been charged with intimacy with him?

"*By Mr. Simpson.*

"Q Do you know what 'intimacy' means? A *Why, I believe there was some trouble over there, but I didn't know what the trouble was.*

"*By Mr. Lane.*

"Q You did not know what the trouble was? A No, sir.

"Q When did you first find out what the trouble was? A I really could not say.

"Q Before the trip to Vermont or after the trip to Vermont? A I really could not say.

"Q Then you do not know; you cannot tell us today— A (Interrupting.) No, sir.

"Q —whether, when the trip was taken to Vermont, you knew that Mrs. Sargent, who is your sister-in-law, is she not? A Yes.

"Q Had been charged with intimacy with this colored man? A Why, I don't know what the trouble was, and I didn't know it at the time."

The Master says of this trip to Vermont (p. 39):

"Counsel also referred to the fact that in the latter part of the month of August, 1919, Mrs. Sargent and her sister took an automobile trip to Vermont to see her adopted child, and that Simmons drove the car. Mrs. Sargent explains this occasion by saying that her brother-in-law arranged the trip for her, sent her in his car, and that he engaged Simmons for the trip, because Simmons had been to the Vermont town before and knew the road; that before allowing Simmons to drive the car she asked her counsel if it would be proper for her to go with him and received his opinion that it would, and that she scarcely spoke to Simmons on the trip. It may not have been good judgment or good taste to permit Simmons to go with Mrs. Sargent and Mrs. Kuchman, but if Mrs. Sargent was innocent of the charges against her, the fact that she did consent to make the trip with him as chauffeur cannot militate against her, and I am unwilling to convict her of the crime charged against her because of this incident."

The Trial Master quite clearly indicates in this excerpt that he is considering each incident alone by itself.

No one, of course, will contend that if Mrs. Sargent was innocent of the charges against her, her taking a trip with the chauffeur should militate against her.

Nor will any one contend that because of this incident she should be convicted.

But we do insist that this incident, with others, is important as bearing upon the question as to whether her conduct was consistent with innocence and the absolute horror which she expressed on page 431, of the intermingling of the races and with the shock she said she received by the charge that she had been accused of intimacy with a colored man (p. 432).

In her answer filed September 3, 1919, page 6, she charges her husband with conspiracy, to which conspiracy Simmons was a party.

She signed this answer. She testified that at the time she filed her answer she believed it was true (p. 473). Nevertheless she permits her brother-in-law to engage Simmons and she permits Simmons to drive her to Vermont. She engages Simmons' wife as a domestic.

His very presence must have at all times reminded her of the horrible charge that had been made against her.

The supreme indifference of Kuchman, the brother-in-law of Mrs. Sargent (Mr. and Mrs. Kuchman were the keepers of a road house, p. 268) (in view of the Master's criticism of the testimony of Mrs. Lathrop, p. 28) would indicate that it is not at all improbable that Mrs. Kuchman would be a party to the adultery alleged to have been committed in Jeffersonville.

We submit that a consideration of the testimony of Mrs. Kuchman (pp. 264 and 372) and of Mr. Kuchman (p. 534) will indicate that there is nothing so improbable in this. Charles admitted to Mrs. Lathrop that Mrs. Kuchman knew of the relations between Mrs. Sargent and himself.

That both Mrs. Kuchman and Charles had called her up before the trial to intimidate her (p. 766, l. 25; p. 744, l. 36).

On the trial it was a conceded fact that in October of 1918, Mrs. Sargent had gonorrhea.

It was, however, at the time a chronic case. There was a soft, polypoid growth at the neck of the womb (p. 370). This indicated that the condition was "*at least* four or six weeks old."

In an attempt to show that the defendant could not have been guilty with Simmons, defendant attempted to show that Simmons had never had gonorrhea.

Simmons testified that he never had gonorrhea (p. 301).

In an attempt to bolster up this testimony, Dr. Feury, who was called by the defendant (p. 529) testified that he had examined Simmons (nearly two years after the raid) with a view of ascertaining whether he had gonorrhea. The doctor testified that he made a slide from the meatus of his penis and afterwards stained and examined it miscroscopically; that he did not find any evidence of gonorrhea.

He was then asked whether if a woman with gonorrhea had sexual intercourse with a man who had not had it, whether the man would contract it, and the doctor said the chances would be in favor of contracting it.

On cross examination the doctor said (p. 531) that he *could not say* that Simmons never had had gonorrhea.

It then developed on cross examination that the doctor used a test which was not at all certain, and that there were other tests which were more certain, which he did not use.

Immediately upon the conclusion of the testimony of Dr. Feury counsel for the petitioner asked whether Simmons was in court, and said he wanted to know whether Simmons would submit to an examination by Dr. Rector. The reply of counsel for the defendant was "*if you want him, you can subpoena him;* he is not here today" (p. 534).

This colloquy took place on the 19th of November, 1920. Simmons had only been present on one day when he testified.

The petitioner attempted to subpoena Simmons by sending process servers to the place of residence that Simmons had given (p. 579), and it turned out to be *a beauty parlor with living room behind* (pp. 605-607).

At the conclusion of the testimony the following colloquy took place between counsel (p. 580):

> *Mr. Lane.* At the last session, senator, you stated you would attempt to produce Simmons here this morning. I would like to know whether Mr. Simmons is in court.

Mr. Simpson. I don't know anything about that.

Mr. Lane. You stated you would produce him this morning.

Mr. Simpson. I don't think I did. *I am not his keeper. What I said, I would produce him if I could.*

Mr. Lane. I want it upon the record that we have asked for the production of Mr. Simmons, who was a witness produced by the defendant in this suit; that we have tried to subpoena him and get him here to find out whether or not he will submit to a physical examination by a doctor other than his own doctor. I want it to appear upon the record.

Mr. Simpson. I object to it. It is no part of the record. In the first place, he has not been examined by his own physician, but by Dr. Feury for the defendant. In the second place, he was here many times and they could have gotten him then. (He was only in court on the one occasion.) He submitted to an exhaustive cross examination for four hours in which he never asked such a question, although it was in issue. There has been no attempt to subpoena him until the last moment, when they come here with these stories of attempts to subpoena him. Furthermore, it cannot bind the defendant. Suppose he went to the stand and said, "I will not submit to another physician." How can that effect this defendant?

Petitioner at the next hearing called Ethel Wilson (p. 605).

She was a colored girl who came to court with Charles Simmons. (See Simmons' testimony, p. 307) He swears that he has known this girl a long time; practically, he says (p. 308), ever since she was old enough to know any one.

Ethel Wilson swears that she lived at the address that Simmons gave as his address and that he no longer lived there. After much evasion she said he left the place after the last time he was in court (p. 607).

That he came to live there in October, 1920.

Petitioner then produced a process server (p. 608) connected with the Court of Common Pleas of Essex County and a lawyer who testified that they had attempted to make service of subpoena on Simmons at the address given by him in court, but could not find him.

Petitioner then called Mr. Simpson, solicitor for the defendant (p. 609) and he testified that he did not know where Simmons lived and had no information as to where he lived, after his office had served him with process to appear as a witness.

(See Charles' testimony about reporting to Simpson, pp. 289 and 290.)

Mr. Hopkins, the New York counsel for Simmons and for Mrs. Sargent, who was present during all of the trial, was called by petitioner (p. 704). He stated that he did not know where Simmons was, and that he did not keep in touch with his address; that he did not know how he came to court or how he was gotten there.

Compare this testimony of Mr. Hopkins with the testimony of Simmons (p. 367):

> "Q Has Mr. Hopkins always been your attorney from that time? (January 9, 1920.) A *From that time on I have been in communication with Mr. Hopkins.*
>
> "Q You have been in touch with Mr. Hopkins right along? A Yes, sir."

This is a clear palpable attempt on the part of the defendant to get the benefit of an unfair and inconclusive examination nearly two years afterwards by a doctor of its own choosing.

It it not only to prevent an examination of the co-respondent by another doctor, but even to prevent the co-respondent being put to the test as to whether he would consent to such an examination or not.

It is clear upon this testimony that the defendant could have produced Simmons if she desired.

It is an attempt to suppress testimony.

The reason that defendant did no produce Simmons is clearly indicated by the testimony of Dr. Rector (pp. 697, 698 and 699), which, taken in connection with the testimony of Dr. Feury, shows that the test made of Simmons was incomplete.

There was no legitimate desire on the part of the examiner to ascertain in good faith whether Simmons had or had not gonorrhea. Why no examination of Simmons immediately following the raid?

The nature of the test made by Doctor Feury, in a case where the circumstances required as exhaustive a test as could be made, taken in connection with the testimony of Doctor Rector, not denied, and the suppression of Simmons, is conclusive that Simmons in fact had suffiered from gonorrhea, and that a proper test WOULD have shown it.

Sargent, it is conceded, first mentioned gonorrhea to his wife. It was then discovered that she had a case "*at least* four to six weeks old." Mrs. Sargent had suffered *in silence* the **ACUTE** attack. **WHY?** She does not explain. Is it conceivable that if she were innocent she would have said nothing about it. This silence is indicative of guilt. More will be said on this subject in considering the Master's opinion.

The defense did not dare have or produce a proper test of Simmons.

In this connection let us refer to the significant fact that after Mrs. Sargent went west Simmons became employed at the City Carpet Cleaning Company; that when she came East he left his employment in Jersey City and went to this place at 78 Barclay street, Newark. (See his testimony, pp. 319 and 320.)

He left a good job, and since his leaving until the trial he had no regular job. He was not living with his wife. Mrs. Sargent was here.

His excuse for leaving Jersey City was: "I had been trailed by so many that I was sick and disgusted and I wanted to get out somewhere for recreation, to get another job and be entirely out of it" (p. 319).

He stayed in Jersey City between July 19th and September, 1920, and then left his job and went to Newark. He now only does washing of cars off and on.

When it suits the defense, Simmons can be found at the address he gave in court, *a beauty parlor with living room behind* (pp. 605, 607).

Defendant's story of the night of the raid.

This brings us to the story told by Simmons and Mrs. Sargent with respect to what happened at the Sargent home on the night of July 11th.

Simmons said on direct examination (p. 275):

> "Q Will you tell what occurred from one o'clock in the afternoon of July 11th, until you went out of the house that night? A Well, I will say I left the house of Mrs. Sargent at four o'clock for Bergen Point Ferry, where she was to meet her sister, Mrs. Kuchman, and then she met her at the ferry, she entered the car and went in the car and left there for Ridgewood, New Jersey, her brother's home, and she stayed the evening, afternoon, out there. Then she returned back, on the way to the ferry, with her sister; her sister left the car, Mrs. Sargent came back to the grocery store and the vegetable store, where she bought some goods, taking these goods back home, arriving back home twenty-one minutes past eight o'clock; Mrs. Sargent left the car; I had taken the parcels out and made a couple of trips with them, taking them around the back way. I said: 'Well, I will go home.' Charlotte said: 'No, don't go. I want to take this stuff out and you will have to put it in the waste basket in the cellar, so it can be taken out.' I said: 'All right. I want you to make a hurry, because I want to go home; you know, I have not had anything to eat.' She said: 'You can have something to eat with me. I have been sick all day, Charles,' and she said, 'I would like you to stay and sit with me for awhile, anyway, because I have been lying down all day, and I have been practically sleeping all day, and it will be some time before I will be able to get to sleep tonight, so, therefore, I will consider it a favor if you will stay with me.' 'You know I could not do that,' I said, 'I have got to go home.' She said, 'I wish you would stay with me for awhile.' She said, 'I will prepare you something to eat.' So, she had been very nice to me for the time I had been there in the house—so she prepared something and Mrs. Sargent said, 'Charlotte, as long as you have been sick all day, so long as you are going to give Charles something to it, you can prepare mine on the tray and I will sit in the kitchen with you and eat.' Charlotte said: 'No, Mrs. Sargent, I don't care for anything.' Mrs. Sargent said, 'Well, if you are not going to eat, you will have to go in the dining-room for me to eat, because I am not going to stay in this kitchen and eat with Charles.' Charlotte said, 'All right, Mrs. Sargent, I will eat.' So Charlotte had something. *So I and Mrs. Sargent sat around and talked a few minutes* and Mrs. Sargent said, 'By the way, Charles, before you go, I would like

you to go all over the house to see if it is safe; you know Mr. Sargent is out of town and you cannot tell what will happen. We don't know who knows it. Something like there might be some robbers around.' I said, 'All right.' She said, 'In the meantime, I will give you the key, so you can get some whiskey, and I can give Charlotte a drink, and she may feel better.' *So she gave me the key and I go down in the cellar and I get a bottle of booze for her and I bring it up and give it to her.* Then I said, 'I will begin my job.' *I goes back down in the cellar again; I searched the cellar and I found a couple of windows open in the cellar in the laundry,* the screens still in them. *I goes on the first floor; I go in every place, closets and all,* and all was safe, except one window in Mr. Sargent's room was unlocked, in his Bergen room, downstairs. *I goes on the second floor. I goes all through there.* Everything was all safe there. *I goes up in the attic;* I goes up in the attic; *I goes all over there,* all over except two rooms which were occupied by the maid; they were locked; *I came down stairs and went to the room*—Charlotte was standing at Mrs. Sargent's door, and she said, 'We are here now, Charles; come down here.' All right, *I went down the hall;* Charlotte was standing there with a little small whiskey glass in her hand—it looked like whiskey—I don't know—

"Q (Interrupting.) Did you, when you came down, make any report about two doors being locked? A I came down and *stuck my head in the door* and said, 'Mrs. Sargent, everything is all right; I found a couple of windows open, unlocked, and I fastened those.' I says, 'I went into every room and closet and all over; there is no one around or nothing, except two bed rooms that are occupied by the maids, and they are locked, which is natural.' She said, 'That is all right.' Charlotte was standing so (indicating), with a small whiskey glass with something, I could not just say what it was.

"Q Where was that? A That was at the bedroom; they had entered the bed room.

"Q When you came down from the inspection you found them in the bed room? A When I returned from the attic on my inspection, Charlotte was standing in the door of Mrs. Sargent's bed room and replied to me that they were there.

"*By the Court.*

"Q Who do you mean by 'they'? A That is what Charlotte said; they were there. I guess she was referring to herself and Mrs. Sargent; there was two of them.

"*By Mr. Simpson.*

"Q Then what did you do? A I went on down and stuck my head in the door and said to Mrs. Sargent I had been over every room and all, and I found a couple of

windows open in the cellar and one in Mr. Sargent's room, and I had went through every closet and everything was safe except the maids' rooms and they were locked, and it was a natural thing for them to be locked. She said, 'That is all right.' In the meantime, Charlotte had the glass in her hand, which I say was about half full. *Charlotte stepped inside of Mrs. Sargent's bed room and placed this glass on the dresser* and said: 'Charles, would you like to have a little drink?' I said, 'I don't care.' She says, 'There it is: get it.' I says, 'No; pass it here.' So she would not. *I stepped inside of the room* to get it, and when I reached over to get the glass off the dresser *the door was slammed on me.*

"Q Then what happened? A Mrs. Sargent began to holler and knock on the table. 'Charlotte! Charlotte! What are you doing, Charlotte!' And Charlotte ran. I heard her running when she ran down the hall.

"Q Did you hear her say anything about funning? A I never heard her say a word about funning.

"Q You heard her running? Charlotte ran down the hall.

"Q What did you do? A Well, I tell you, I didn't know what to do. I guess I had a thousand thoughts, but the best one of any came to me was to jump out of the window.

"Q Did you go to the door first? A No, sir; when Charlotte ran I heard footsteps coming, running down; it sounded to me like horses.

"Q Like horses? A Yes, sir; so many there were there, awful heavy, and they came and tried the door; they shook the knob and they could not get in, and *they knocked on the door; 'Charles, Charles, are you there?" I stepped to the window, shoved it up, busted the screen, and went out in the yard.*

"Q You were not going to take any chances? A No, sir."

On page 287, he said:

"I had thoughts enough to think; I didn't know whether there were robbers in the house, of whether it was somebody to kill someone; I knew I was in the wrong place, being locked in the room. It wasn't quite natural that I could think of anything that could put me in trouble whatsoever."

"Q You thought it was wrong to be in that room? A I knew I was in the wrong place being locked in there."

On page 345 he says *he entered the house at 8:21 P. M.*

He came in the house with the parcels that Mrs. Sargent had received at the grocery store and the vegetable store, and the maid, Charlotte, asked him not to go. "That she wanted to

open the parcels and wanted me to take the paper and stuff downstairs, that it might be taken out.''

On page 346:

''Q What did you do? A I did it. I says: 'Charlotte, I must go home.' I said, 'You know I have not had anything to eat.' She says; 'That is all right. I want to get you to stay here and sit with me awhile because I have been sick all day and I have been practically lying down and I have been sleeping.' And she says: 'I am sure it will be late when I lay down when I go to sleep. Therefore, I would like to have you sit with me for awhile.'

''Q Who said that? A That is what Charlotte said.

''Q She wanted you to sit with her? A Yes; she had been complaining about being sick; she had been complaining that she was very sick and she was not able to do anything. So, she had been very nice to me, and I said—

''Q (Interrupting.) You thought that you would sit with her? A Yes, sir. (Afterwards denied that he had sat with her.)

''Q Where were you going to sit? A In the kitchen.

''Q After this invitation to sit with her, what did you do in fact? A Why, I said, 'Charlotte, I will have to run the car around to the garage. I will come around and I will stay with you a little while.' But I says: 'I cannot stay'; and Mrs. Sargent says: 'By the way, Charles, before you go, I want to get you to go over the house and see that it is safe.' ''

(See his testimony, pages 360 and 361.)

He entered the house *at 8:21.* The raid took place at about *11 P. M.* of this day.

''Q Now, as I understand your testimony, you got into the house after you put the car up about a *quarter past nine;* you found Charlotte had unwrapped the packages? A Yes.

''Q And you took the paper and you went downstairs and put that in the receptacle for it? A Yes, sir.

''Q And you got the bottle of booze? A Yes, sir.

''Q Or whiskey? A Yes.

''Q You went upstairs? A Yes.

''Q And then Charlotte called: 'Mrs. Sargent, Mrs. Sargent,' and she came in and then the moment that she came in, you went through the house for the purpose of ascertaining whether there was anybody there; you went through the second floor; you went through the attic floor where the two bedrooms were locked; then on the way down you walked down to the pink room and you saw Charlotte standing in the door, and you stuck your head

in and told Mrs. Sargent that everything was all right, and then Charlotte then stood or had this glass of whiskey—she took the glass of whiskey and put it on the bureau, walked back to the door, then said: 'Won't you have a drink?' And you said: 'Pass it here.' She said: 'No, if you want it go and get it'; you then went to the bureau to get it, and as you walked over there she slammed the door and you heard the noise coming down stairs, and you then jumped out of the window. That is what you did?

"*Mr. Simpson.* I object to that as misquotation of the testimony, and there is an omission of what this man testified to. He said they had something to eat.

"*The Court.* I understand your objection. I overrule the objection.

"*By the Court.*

"Q Is that a right statement of what happened? A That is right.

"Q From the time that you came back from the car? A That is right.

"*By Mr. Lane.*

"Q I do not want to mislead you. What is that Senator Simpson referred to when he said something about a meal? A Well, we had a meal, a few mouthfuls to eat, yes.

"Q When did that occur in this time; you have not told me about that? A Well, I think that happened, I could not say whether it happened just before I went to the garage or after I returned, but I think we had this meal before I put the car away.

"*By the Court.*

"Q You have already fixed the time when you went to the garage, or the time when you came back; you said you came back from the garage about 9 o'clock or a few minutes after nine, and you reached the house with the car before going to the garage at 8:21. Was it between 8:21 and 9 o'clock, or 9:10 or 9:15 that you had this meal, or was it after? A I am positive it was before I went out and put the car away.

"Q So all of this incident that Mr. Lane has recited in this question occurred between 9:15, we will say, and half-past ten or eleven o'clock? A Yes.

"Q *And that is all that occurred; is that right?* A *That is all that occurred in the house?*

"Q *Yes.* A *Yes, sir; so far as I know.*

"*By Mr. Lane.*

"Q That is all that occurred that night so far as you know? A *As fas as I know.*

"Q Whatever time this meal took place, whenever it was, it was a very hasty bit on your part? A Yes, sir; on my part; *I only had a mouthful.*

"Q So that it did not take more than at the outside for you to eat it, five minutes; is that right? A Well, very likely *it was not that, not five minutes,* because I eat very quick.

"Q Giving you much leeway when I say five minutes; it that right? A Yes."

Now turning to Mrs. Sargent's story as to what transpired on the evening in question (p. 403):

"Q July 11th, will you tell us what time you came home? A I had taken my sister and niece down to the ferry, and I stopped to do some shopping—I don't know just what it was. After I got to the house *I went upstairs and took off my hat and coat. I came down to Charlotte,* and she had been in all day. I said, 'Charlotte, you can fix a little bite for me on a tray.'

"Q I asked you about the time? You have not told me about the time. A No; I don't know what time it was.

"Q Was it after you came home? A Yes.

"Q Go on. A *She fixed something for me to eat.* When I finished *I took the tray out and I went down to the kitchen.* I said: 'Charlotte, I feel very uneasy and nervous. I feel as though there was someone in this house. When Charles comes back I want him to go through the house.' She said, 'Mrs. Sargent, you are all upset because the baby is gone. You are nervous. There isn't anybody here.'"

And also on pages 404, 405, 406 and 407.

"Q You have already told about telling Charlotte that you were uneasy and that you felt that there were strange people around and Charlotte said: 'No, no; you are nervous because the baby is gone.' What was the next thing that happened? A I told her when Charles came in to let me know because I wanted him to go through the house.

"Q Did you eat your dinner on the tray in the kitchen? A No, I did not. *I ate my dinner on the tray in the dining-room. I took it out of the kitchen myself* because Charlotte had complained about being ill and when Charles came back *I gave him the key* to the wine cellar and told him to go down and get a bottle of whiskey, I wanted to give Charlotte a drink, and *he went down and got it and came up and opened it and Charlotte took it up to my room.*

"Q You were going to give Charlotte a drink out of it? A Yes."

(Why take it up to her room. Charlotte was downstairs, so was Mrs. Sargent, so was the whiskey. Why not give it to Charlotte there. As a matter of fact they were all—Simmons, Charlotte and Mrs. Sargent drinking up in Mrs. Sargent's room.)

"Q What happened downstairs? You got a tray and you took it into the dining-room and you had your dinner? A Yes.

"Q After your dinner what did you do? A *I went back to the dining-room and took the Jersey Journal and spread it out on the dining-room table and I leaned over the table and I read this paper.*

"Q You were standing up, leaning over the table? A Yes.

"Q Was it while you were leaning over the table that you spoke about searching the house? A *I went back to the kitchen door and I said:* 'Charles, before you go, I want you to go through the house because I am very uneasy.' Then I went upstairs to my room.

"Q Have you any idea what time it was when you went upstairs to your room? A No; I have not.

"Q *Can you estimate what time elapsed from the time you came in, ate your dinner, read the paper and had this conversation, until you finally went upstairs?* A *No; I have not the least idea what time it was.*"

(Not being able to account for the time, the importance of accounting for it having been brought to her attention by the previous examination of Simmons, she conveniently forgets it. Obviously the time it took her to do what she says she did *was limited to the time it took Charles to take the paper to the garbage pail in the cellar, get the "booze" and search the house.* She herself says the raid took place about one and and one-half hours after she came in the house (p. 506).)

"Q Do you know what Charles then did? A He went downstairs and I went upstairs, and I sat in my room and I was mending or darning over in the corner of the room, and I had been up there a little while when Charlotte came in; *it was my custom to ask her to come in and sit down with me when I was alone,* and I did, and she was sitting there, and we were talking about the baby and what we were going to do. I sat in the corner there. Presently I heard footsteps and Charlotte got up and she walked over to the door and stood with her hands in back of her and Charles came to the door and he looked in. He said: 'Mrs. Sargent, I have been all through the house and I find everything all right, but the two rooms on the top floor, Viola's room and Charlotte's room, and they are both locked.' I said that it was all right. I was paying

no attention to Charlotte or Charles, but I heard her say: 'If you want that drink, go and get it,' and as he leaned over to get the drink stepped in the door, Charlotte pushed the door to. I rapped on the dressing table. I said: 'Charlotte! Charlotte!' She opened the door; she looked in; she said: 'I was only funning, Mrs. Sargent. You are nervous. You are all upset.' I said: 'Don't you dare do such a thing again.' With that she pulled the door shut; she clicked the lock and I heard her. I jumped up. I hammered at the door. I pulled it. I heard a voice say: 'That will do, Charlotte,' which I now recognize as Tienken's voice.

"Q 'That will do, Charlotte'? A 'That will do, Charlotte.' I hammered on the door and I pulled it. I said: 'Please let me out. Please let me out.' Mr. Tienken said, 'Madam, the house is surrounded by detectives; there are detectives in the house; I will let you out when I get ready.'

"Q At that time, up to that time, when you got up to that point, had you become aware at all of what Simmons was doing? When you were pounding on the door and saying 'let me out'? A I don't know what he did.

"Q When you turned he was gone, was he? A Yes."

And see her testimony on cross examination, pages 507, 508, 509, 510, 511 and 512.

It is utterly impossible, giving all the leeway that can possibly be given, that what both Simmons and Mrs. Sargent testify that Simmons did between 9 and 10:30 P. M., giving Mrs. Sargent the benefit of the earliest possible time fixed as the time of the raid (it is really about eleven o'clock, p. 158), should have taken up the entire time.

Yet the Master says (p. 35): "The story told by Mrs. Sargent and Simmons is probable."

It is more probable, in other words, that petitioner should have "framed up" his wife and that numerous witnesses should have committed perjury than that Mrs. Sargent should have been guilty of adultery.

And on page 42 the Master said:

> "Counsel also argued that the explanation of Mrs. Sargent and Simmons as to how they spent the time on the night of the raid from 8:20 to 10:40, failed to account for the whole period. The answer is that both stated what they could recall of their movements and did not attempt to fix the time consumed in the performance of each de-

> tail. The evidence on behalf of the petitioner as to what they did does not stand the test of probability. Simmons may have very easily have consumed two hours and twenty minutes in the performance of the various things which he and Charlotte say he did, and considering the testimony of all the witnesses, I am not convinced that he was in Mrs. Sargent's room any length of time before the door was closed on him."

We now invite the attention of the Court to what Simmons testified to upon pages 276 and 277; and **we do submit that, however slowly a mortal may move, it is absolutely impossible that any two hours and twenty minutes could have been taken up in the doing of the things which Simmons said he did.**

And this is not a matter of human experience.

Something else happened.

We find what happened when we turn to the testimony of Charlotte Lunford, the servant (pp. 126 and 127).

She says that Mrs. Sargent and Simmons did eat together in the kitchen and drank together (as Charles had said they did); that they then went upstairs; that Mrs. Sargent did not feel as though Mr. Sargent had gone away; that they were drinking upstairs; that Simmons then went to look around the house; Charlotte left and went upstairs to her room and then came down again, and the raid was made.

And see the testimony of the detective, Tienken, pages 156, 157, 158 and 159.

And the testimony of Wilsdon, pages 200, 201 and 202.

Notwithstanding the failure of Simmons and Mrs. Sargent to satisfactorily account for the time elapsing, and notwithstanding the highly improbable story told by Simmons with respect to the manner in which he was invited by Charlotte to get a drink of whiskey, which Charlotte had poured out and which was standing on the bureau of his mistress' room (all this in the presence of Mrs. Sargent), the testimony of Charlotte and the detectives is disregarded by the Master, because of the repugnance *the Master feels* towards believing that Mrs. Sargent could be guilty of the shocking conduct charged, and because of certain discrepencies between the story of the detectives and that of Charlotte, which discrepencies are accounted for by the fact that the witnesses are not telling a prepared story, but are giving the story as they recollect it. As Tienken testified Charlotte was completely upset and beside herself (pp. 160-162).

The discrepancies are a badge of truth and not of falsehood.

One more thought before considering the testimony more in detail.

The Master says (p. 13) "She (the defendant) appears to be a woman of modest demeanor and of refinement and education and she possesses beauty of face and form."

Whether the defendant possessed beauty of face and form is a matter, we submit, of supreme indifference in this case, and a matter about which men might reasonably differ.

There are different types of beauty, both of face and form, and no one type appeals to all men.

It has never been suggested, so far as we know, that a woman devoid of beauty of face and form is more liable to be an adulteress than one possessed of those attributes.

A woman possessing beauty of face and form, if she desires to commit adultery, has at least one advantage over her more homely sisters—she can generally attract the male, and she is more often subjected to temptation.

It is extremely difficult, with respect to the statement of the Master that she appeared to be of modest demeanor, to get before this Court what we consider to be the true fact.

We have no photograph of her in evidence, as we have of the co-respondent.

We submit that from his photograph it does not appear that he is quite so unattractive an individual as the Master paints him on page 12.

We submit that a consideration of the manner in which Mrs. Sargent testified will indicate that she was not quite so modest, as she seems to have appeared to be to the Master.

It is apparent from her testimony that she was posing, and in her posing it is submitted that she was not even a good artist.

Her cleverness is shown by her ability to follow a lead given her by her counsel's objections on her cross examination, and her acting by her answer to the questions by petitioner's counsel as to whether any one in the upstairs hall could be observed from the door of the dining-room. "No, you cannot, as far as I know. You see I never spied on any one" (p. 510).

Consider one incident. Mr. Huck was present the night of the raid. She charged him with being a party to the conspiracy. He was the solicitor for her husband who had filed the petition charging her with adultery with the colored chauffeur, and the

entire story, immediately following the filing of her answer, had been spread in full in the public press. And yet, on September 25th, she writes a letter to Mr. Huck in which she addresses him "My dear Mr. Huck," and in which she says "In order to avoid any further misunderstanding, and to *right myself,* I want to see *you both.*" (p. 775.)

She attended a very pleasant conference with Mr. Huck and Mr. Runyon.

She wrote a letter to Mr. Runyon on November 1st (p. 675), in which she says "My dear Mr. Runyon: I prefer black, size 9." And (p. 693) to use the language of her counsel "a friendly little bet."

But **on the stand** she is careful, when referring to Mr. Huck (p. 468), to say—

> "Then this Huck man came in." "Why this Huck person told me he would not go into the merits of the case." (p. 469.) "To the best of my memory I believe Mr. Runyon or this other man asked me if I had filed a truthful answer, or who had told me how to frame my answer. I told them that I had told the absolute truth." (p. 471.)
>
> "Mr. Runyon and this Huck man came alone." (p. 477.)

On page 479 she forgot herself and referred to him as Mr. Huck.

And consider her testimony on page 446:

> "Q Will you tell me what there was, assuming that that colored man was fully clothed and you were fully clothed, what there was in the mere closing of that door which caused you to take the position which you did? A Because I would not have the door closed when I was in a room with any man.
>
> "Q Then it was your general thought that you ought not to have the door closed there with any man; is that right? A Certainly.
>
> "Q That caused you to use the language you did to Charlotte, is that right? A I was horrified at what she did.
>
> "Q You had no suspicion that your husband suspected you of intimacy with this colored man? A He had no reason to.
>
> "Q Did you have any suspicion? A Certainly not.
>
> "Q And you had no suspicion that there were detectives in the house, had you? A No; I had not.
>
> "Q So far as you knew on that night, the relation between your husband and yourself were the same as ever? A Well, in fact, *just a little better than they had been.*"

She had no suspicion that all was not right, yet she comes without difficulty to this conclusion indicated by her question to Mr. Huck (p. 613): "Does this mean Don is going to sue me for a decree?"

Consider this attitude of mind with her conduct, and one cannot escape the conclusion, we submit, from a perusal of her testimony, that she was attempting to act.

The modesty found to exist by the learned Trial Master, did not in fact exist.

THE CASE IN DETAIL.

Ida B. Lewis, a colored woman servant, acquainted with Mr. and Mrs. Sargent for eight or nine years, and her servant off and on for the past five years, testifies (p. 56 *et sequi*) that in the fall of 1918 Mrs. Sargent told her that Simmons was handsome; that in the fall of 1918 there was a scene which she observed between Simmons and Mrs. Sargent because Simmons had taken the photograph of Mr. X. (pp. 62 and 63); that Mrs. Sargent told her that she did not love Mr. Sargent; that she had observed Mrs. Sargent and Simmons together in Mrs. Sargent's bedroom when Mrs. Sargent was in bed, and also upon an occasion when she was partly undressed (p. 67); that some time before, when they were living in Union street, Mrs. Sargent had had a conversation with her in which Mrs. Sargent said that she thought it was perfectly proper if a colored man loved a white woman, to marry, and if a white man loved a colored woman to marry her.

This conversation is testified to by Ida Lewis in detail. Did she imagine all these details?

Charlotte Lunford, employed by the Sargents for over five years, says that Mrs. Sargent told her that Simmons was nice and handsome (p. 90); that she, Mrs. Sargent, charged Charlotte with being jealous of Simmons (p. 91), but that it was Mrs. Sargent who was jealous; that she has seen Simmons in Mrs. Sargent's room many times talking and drinking wine; that Simmons has been in her room at all hours of the day when Mrs. Sargent was in bed; that they would be alone in the room together sometimes for half an hour (p. 92); that on one occasion she (Charlotte) and Mrs. Sargent and Simmons were in the room together drinking wine and that they spilled the wine all

over their clothes and the bed and the furniture, and that Simmons laid down on the floor alongside of Mrs. Sargent, "just like a dog, lying down on the floor," etc. (p. 95); that Mr. Sargent was away and Simmons slept in the pink room (Sargent's room) that night (pp. 96 and 97).

If the testimony of Charlotte is to be believed, adultery was committed by Mrs. Sargent on that night.

Charlotte testifies that Mrs. Sargent often told her that she did not care for her husband, and that she thought Simmons was handsome, &c. (p. 99); that she has heard Mrs. Sargent call Simmons sweetheart, &c.; that she has seen Simmons put his arm around Mrs. Sargent and hug her in the hall (p. 101); that she has found towels, &c., and stains on her robes, indicating that sexual intercourse had been indulged in (pp. 102 and 103).

Max Jetter worked for Mr. Sargent in 1918 and the spring of 1919.

Jetter testifies that he was washing windows on one occasion (p. 141) and heard Mrs. Sargent call Simmons.

His testimony is as follows:

> "What I know, I say she called him up there; he came in the room and when he got to the door, he walked towards the door and pushed it open. He said, 'What did you call me for?' She said, 'I called you. Why didn't you come up before now? You know I want you.' He said, 'Oh, no; you don't want me.' She says, 'Yes, I do.' About that time this boy pushes the door back just a little bit and I could see she was lying on the bed there and she had her arm out that way (illustrating) towards him. He walked up to her and she told him why she wanted him, I guess; I didn't hear that."
>
> "Q What did you see? A I saw enough to know it was not proper.
>
> "Q What did you see? A I saw she caught hold of his hand and I heard them, and I knew it was something wrong, and I told him—I didn't tell him then."

Mrs. Lathrop, a friend of Mrs. Sargent's, a white woman, who had, according to the testimony of Mrs. Sargent, interests in common with Mrs. Sargent, music, &c. (p. 450), testifies Mrs. Sargent admitted she invited her to go with her to Jeffersonville, and says she had her over to the house after the night of the raid (p. 459); under examination in New York (she would not come to New Jersey, nor would she testify except under sub-

poena) (p. 726), that she had been Mrs. Sargent's friend; that she talked with Mrs. Sargent and that Mrs. Sargent told her that Simmons had a very great physical attraction for her; that she intended to go with Simmons to Jeffersonville and that she intended "to stay with him" (Simmons), or words to that effect; that she, Mrs. Lathrop, told her that she was crazy, and that she could not believe her; that Mrs. Sargent said she realized it, but that she could not help it; that she, Mrs. Lathrop, wrote a letter to Mrs. Sargent, trying to get Mrs. Sargent to give up her infatuation for Simmons; that Mrs. Sargent never told her about what happened in Jeffersonville.

Parenthetically we desire to suggest that if this testimony were perjured and a frame-up, is it not reasonable to suppose that Mrs. Lathrop would put words in the mouth of Mrs. Sargent with respect to what happened in Jeffersonville?

She did have a conversation, however, with the co-respondent, Simmons (p. 730), in which conversation Simmons said that he had had some trouble with Mrs. Sargent over the photograph of Mr. X. (p. 731); that he also said that he had stayed with Mrs. Sargent at the hotel in Jeffersonville (or Liberty, as the witness calls it) (p. 732); that witness tried to get Simmons another position so as to get him away from Mrs. Sargent; that after the raid Mrs. Sargent sent for the witness and she went over to see her at her home (pp. 734 and 735) (Mrs. Sargent admits this visit); that upon that occasion Mrs. Sargent found fault with the witness for trying to get Simmons another position; that upon this occasion Mrs. Sargent told the witness that she had followed witness' advice and been true (p. 736); (Is it possible, if this witness were lying, if this testimony was all part of a frame-up, that the witness should testify to a denial by Mrs. Sargent of her guilt?) that Simmons told her (p. 736) that at Jeffersonville they had rooms opposite each other and that she was in his room; that Simmons also stated *that Mrs. Kuchman knew about it and it did not make any difference to her;* that this is probable is indicated by the manner in which Mrs. Kuchman and Mr. Kuchman testified, and by the fact that Mrs. Kuchman was present on the Jeffersonville and Vermont trip, and had both so frequently at her home, and of all of Mrs. Sargent's relatives and friends Mrs. Kuchman was the only one in evidence whenever Simmons was involved; that the witness, Mrs. Lathrop, took a trip with Mrs. Sargent (admitted by Mrs. Sargent) in July of 1920, a short time before the raid; that upon that occa-

sion Mrs. Sargent told the witness that she never had loved her husband, and that he knew it, and that she could not hope to be happy; that she could not spend her life with him (p. 740); that upon that occasion, Mrs. Sargent's going to Vermont on July 11th was discussed (pp. 742 and 743); *that Mrs. Lathrop asked Mrs. Sargent to stay with her while Mr. Sargent went to Vermont, and that Mrs. Sargent said that she had other plans, and that she did not want to leave the house alone, and that she had an engagement on Staten Island with her sister;* that she has observed conduct indicating familiarity between Simmons and Mrs. Sargent (p. 744); that after the raid, some time in October, Simmons called her up and told her that Mr. Sargent had made some derogatory remarks about her, the witness (p. 745); that Mrs. Sargent said to the witness that she never thought of Simmons as being black (p. 747).

And see her testimony, page 763.

This witness was not shaken on cross examination. Her credibility was in no wise affected.

Mrs. Sargent in her examination indicated no reason whatever why she should falsify.

The testimony is circumstantial. The witness testified under subpoena.

She refused to come to New Jersey because, as she said, "I am not a willing witness" (p. 749). "I am sorry to say I believe that Mr. Sargent is right, and think it only honorable to say what I know. I have been Mrs. Sargent's friend and it is very hard for me to testify to what I know is true. However, I want to do the just thing and the right thing."

She says that in view of the fact that she is not obliged to go to New Jersey she will not do so.

The Master apparently criticised her because she would not come to New Jersey (p. 28).

She would have been equally subject to criticism if she had voluntarily come to New Jersey to testify against her friend. In New York she was obliged to testify.

This testimony is denied by Simmons and Mrs. Sargent. They deny every statement made by Mrs. Lathrop.

Mrs. Lathrop must have deliberately perjured herself and manufactured the story from beginning to end with respect to the photograph of Mr. X, with respect to the statements alleged to have been made by Simmons and with respect to the statements alleged to have been made by Mrs. Sargent.

If this testimony is the result of a frame-up, why did not the witness go farther and have Mrs. Sargent admit her guilt?

The Master not only refuses to hold that this is sufficient proof of adultery committed in Jeffersonville, but apparently refuses to consider it as bearing upon inclination and desire.

Viola Jones (p. 233) was a detective, and was engaged by Mrs. Sargent as a maid.

She testifies to similar conduct between Simmons and Mrs. Sargent (p. 235); that Mrs. Sargent and Simmons drank together; that Simmons took a bath in the Sargent house and put on Mr. Sargent's underclothes, and shaved in the house (p. 236).

This witness, the detective, was away upon the night of the raid, having gone to Vermont with Mr. Sargent and the little girl; and yet the Master intimates that the raid was a frame-up and arranged to take place that night.

The story of the raid and the occurences of the night of July 11th comes from the following witnesses. Walter S. Tienken, a detective p. 151, Albert W. Wilsdon, a detective, p. 196, Charlotte Lunford, a servant heretofore referred to, p. 112.

Tienken (p. 151) says that Mrs. Sargent and Simmons came in the house about eight o'clock; that Simmons came up through the attic where the two detectives were hid (Simmons admits this); that he tried the door; this was about 9:20 (p. 157); Simmons says he got back from the garage about 9 or 9:10; that he then went down to the cellar and took some papers down and brought up a bottle of whiskey, and then went through the house.

Taking Simmons' statement with respect to time as correct (and it coincides with that of the detectives), it was about 9:20 that Simmons went through the house to ascertain whether everyhing was O. K.

This going through the house was the last thing that Simmons did before the raid, according to his testimony and according to that of Mrs. Sargent.

According to both, upon Simmons' return from the attic, after ascertaining that things were all right, he stopped at the door of the pink room for a second and stepped in to get the whiskey, whereupon Charlotte closed the door and the raid occurred.

The raid was not earlier than 10:30. The detectives say about 11 o'clock.

What was Simmons doing between 9:20 and 10:30 or 11 o'clock.

And what becomes of the Master's statement that what Simmons did might easily take place between 8:20 and 10:40? (p. 42.)

What he testified he did between 9:20 and 10:40 was—NOTHING.

The last thing which he did was to examine the house, and that was concluded at 9:20.

The detective, Tienken, tells us what was done.

He says that about ten minutes of ten he looked over the balcony and saw Mrs. Sargent enter the bathroom with a nightgown on and pink robe over her and with Simmons directly behind her; "Mrs. Sargent said, 'Stop, Charles, I saw the arm of a man kind of poking at Mrs. Sargent. Mrs. Sargent entered the bath room and door was closed.''; that he then went back to his room for fear of being caught; that he heard voices in the room below, indicating that Mrs. Sargent and Simmons were in the room; that at a quarter of eleven o'clock he got a signal from Charlotte and then dashed downstairs and ran up to the door of Mrs. Sargent's bedroom and grabbed the knob *but could not open it* (pp. 160-161). (This corresponds with Simmons' testimony.)

He then locked the door (p. 158-160).

The other detective was with him.

Simmons jumped out of the window and made off down the street.

The detective saw Mrs. Sargent in her gown trying to adjust the shade (p. 159).

The detective then telephoned Mr. Huck.

Mr. Huck testifies (p. 613) as to what occurred when he got to the Sargent house; that Mrs. Sargent told him that she did not love her husband and suggested that if he wanted to get a divorce he could have said so; that he did not need to do this (p. 614).

And then follows a circumstantial recital of the events following the raid.

The room had not been opened until Mr. Huck got there (p. 611).

When he entered the room he observed Mrs. Sargent's hair was dishevelled and her shoes were unbuttoned (pp. 612 and 641).

Mrs. Sargent telephoned to her people.

Mrs. Sargent said "Charlotte, come in and button up my shoes and help me get ready" (p. 616).

Then she and Charlotte went in the room and the door was closed.

Charlotte went away with them and they left Charlotte at her sister's home.

Mrs. Sargent said to Charlotte, as she was leaving, to remember her to Alice, &c. (p. 617).

Is the conduct of Mrs. Sargent, thus related by Mr. Huck, consistent with her story now, that she believes that Charlotte had deliberately locked them in the room, and that it was a frame-up?

The detectives say the door was *locked from the inside* (pp. 158, 160, 161).

The Master says (p. 33), in reciting the version given by Mrs. Sargent and Simmons:

> "There was no lock or bolt of any kind on the inside of the door (no witness except petitioner testified that there was) and neither Mrs. Sargent nor Simmons fastened the door."

Parenthetically stating that no witness except petitioner testified that there was a bolt or lock on the inside of the door, the Master apparently overlooked the testimony of the detective (pp. 158, 160, 161), or did not consider that his testimony that he could not open the door and that he then locked the door from the outside, was equivalent to an assertion that there was a bolt or some kind of fastening, other than an ordinary lock, on the inside.

Mrs. Sargent did not testify that there was no bolt or lock of any kind on the inside of the door.

She said (pp. 610 and 611), "I really don't remember."

Simmons says (p. 279, l. 12) in describing the onslaught by the detectives, "A Yes, sir; so many there were there, awful heavy, and they came and *tried the door; they shook the knob* and *they could not get in*, and they knocked on the door;

'Charles, Charles, are you there?' I stepped to the window, shoved it up, *busted the screen,* and went out in the yard."

And to the same effect on page 358 and 359:

On page 358, he says:

> "Q At the same time you heard them at the door? A They had tried the door before that *and they could not get it open* and then began to knock and call."

There is no doubt but that the door was afterwards locked from the outside with a key.

Simmons' statement that the detectives knocked on the door and tried to open it cannot be true, unless there was a bolt shot on the inside of the door.

It could not have been locked on the inside with a key, else it would have been impossible for the detectives to have locked it on the outside.

There is further the testimony of Solomon Hughes (p. 539), a colored man not in the employ of petitioner, and an old friend of Simmons, and of Peter J. Walters (p. 556), a colored man in the employ of the petitioner (not, however, a detective), of admissions by Simmons of his guilt.

Both of these men recite circumstantial conversations, bringing in matters of which they could have known nothing had not Simmons in fact told them.

Mrs. Sargent.

Mrs. Sargent's explanation of Charles' presence and conduct in her bedchamber refutes any reasonable hypothesis of innocence. Can the Court conceive that this cook, Charlotte (five years in her employ) trapped this "gawky Indian"? Are the facts capable of two interpretations?

Mrs. Sargent says she "always had Charlotte come up and sit with her when she was alone." How could Charles get in her bedchamber for a drink and be left there for the raid? How was it possible that such servants might tell these tales of their mistress?

If Mrs. Sargent were as the opinion pictures her, wouldn't she have promptly ordered Charles out? Why did she ("modest" and "refined") so quickly realize that *she* could be charged with so impossible and "repugnant" an offense by an admittedly loving husband, as she says she then knew her spouse (p. 47, l. 8),

and how could she *so instantly adjust herself* to actually believe that the mere closing of her door with a servant in the room (Charlotte, a servant of years' standing, saying, "I was only funning") could mean such charge of *her,* and that she was charged to be "the most debased of womankind."

Why was Mrs. Sargent admittedly so friendly with Charlotte and Mr. Huck after the raid (p. 616, l. 8; p. 616, l. 37; p. 119), and with Mr. Huck at the lawyers' conference, and by her letters, seeking him out (Exhibits P. 11 and P. 12), and in fact until the trial, and yet there describe him as "that Huck person" (p. 469, l. 20) and "that Huck man" (p. 462, l. 8)? And upon Mr. Huck's arrival after the raid, why did she not then immediately denounce Charlotte for having locked a negro in her bedchamber, and why permit Charlotte to help her dress if her story was true, and why such friendly parting with Charlotte on the night of the raid, asking "to be remembered to Charlotte's sister" (p. 616, l. 37)? Why was it necessary for Charles to walk back around the corner from the garage to get orders for the next day when he had been with Mrs. Sargent all that day and was to take her to the doctor's in the morning? Why was Mrs. Sargent afraid to tell her husband about the spilling of the wine, if, as she says, it was an accident on Charlotte's part, and what motive did Charlotte have in telling Sargent that Simmons had spilled the wine, if her act were in the presence of her mistress? Why did she take pictures of Charles? Why permit the latter to take his leap?

Was it as likely that it was Mrs. Sargent's intuition that there were burglars in the house that caused Charles to look around as the hypothesis that a guilty conscience sought to make the avenue safe for meretricious relation, and Simmons twisted the chain on the front door so that they would be safe from interference both from within and without? The detectives swear the chain was twisted (p. 158) and Simmons told Walters that he had (p. 559).

Her mere continued remarkable familiarity with this man, over such a period of time, *especially after the raid and charge and her countercharge,* casts more of an inference of guilt than similar conduct would if the co-respondent were a white man.

Mrs. Sargent testified that Jetter was discharged by her for undue familiarity with a maid, who was neither named nor produced (p. 396); that Mr. Huck ordered her out of the house, but told her she could return the next day (p. 410). If he was will-

ing that she should return within a few hours is it probable that he put her out? That her sister was with her when she "saw" Simmons at Asbury Park. Which one? Was it Mrs. Kuchman again? Why was she not questioned about this? Why did Simmons not so testify? Mrs. Sargent does not deny the statement of any witness except Mrs. Lathrop, that she told them she did not love her husband. She denies that she ever had any talk with Mrs. Lathrop about her husband (p. 462), and yet her counsel on the cross examination of Mrs. Lathrop asked her repeatedly if she had not advised Mrs. Sargent to live separate from him (pp. 759 *et seq.*). She attempts to deny friendship with Mrs. Lathrop and yet her account of their relationship shows "they had much in common" and a most intimate friendship (pp. 449-450).

Charles.

Why was Charles so jealous over the picture of Mr. X. as to give it to Sargent (p. 614, l. 32). If not from jealousy what was the motive inducing Charles to give this picture to Sargent. Mr. Huck says (p. 614) that Mrs. Sargent asked him if Charles had given Sargent the picture. Did Mr. Huck perjure himself? If he did not, why should Mrs. Sargent think that Charles had given the picture to Sargent?

If Charlotte was unfriendly to Charles, why was he influenced to come back and "sit with her" and then *not do it?* Charles admits that on the occasion of the raid *he never sat with Charlotte* and abandoned that plan (p. 364, ll. 10 and 18). What was he doing?

Why on the occasion of the raid did Charles, as he says, know he was "not in the right place"? Why such conclusion? If he was there as a servant, what impelled his leap? He could have been frightened by burglars, but if innocent of wrongdoing what was his fear after getting safely out? Why stay overnight at City Carpet Cleaning Company, but singularly always turn up where the woman was? Obviously the alleged pretended closing of the door by Charlotte the *first time* did not frighten him, then why should the footsteps have done so the second time and *kept him running* after he was well out? When on the Vermont trip with Mrs. Sargent and Mrs. Kuchman, why did Charles stay the best part of a mile from their destination and *let the ladies walk?*

Is it probable that Sargent, at various times after May 23rd, paid Charles $10 to keep a record of the movements of Mrs. Sargent while he then had detectives in the house watching Charles? Is Charles' story of his lost memorandum, or of his purchase of the motorcycle, leather suit, leather coat, diamond ring and possession of large sums of money believable? Did the Master believe anything to which this paramour testified?

Guilty admissions and acts before and after the raid.

Disregarding petitioner's evidence, do not all of Mrs. Sargent's and Charles' admitted actions before and after the raid smack of guilt and refute the idea of "modesty" and "refinement" and "abhorrence" of the colored race? Do not these facts show that the Master erred?

Could any witnesses' conduct further belie innocence than that of Mrs. Sargent and the co-respondent? Yet alone upon the testimony amounting to a denial of these interested parties the defense practically rests.

Renunciation of defense. Flight to Reno.

Defendant's flight to Reno would have little bearing on the case except that her version thereof *was proven a fabrication,* and we are the better enabled to judge her veracity on other occasions.

Why Mrs. Sargent's persistent efforts for an interview? In view of such rebuffed efforts, is it believable that she had the alleged telephone conversation with Sargent, of which her particular school-girl friend—(who pretends to have listened in on the wire), testified; and if so, why did not Mrs. Sargent then tell Sargent of the "private matters," or at least mention her desire to speak to Sargent privately? Why did not her letters to Sargent and Mr. Huck speak of these private matters instead of saying she wanted to see them both? Why hadn't she spoken before the lawyers?

Is it probable that Sargent offered her "something in six figures" meaning at least $100,000?

Why was Mrs. Sargent ready to let the case go by default and flee west? Why does she now pretend to reside in Reno (p. 391), and why was her suit there based on different grounds than she says were proposed?

Mrs. Sargent's story is that Sargent deliberately shipped her to Reno to get her divorce.

Is it conceivable that Sargent went to this expense and, when, at the moment his object was within reach (her Reno suit for divorce started), that he should then restrain the very suit which she would have the Court believe he had connived to instigate?

It is apparent that Sargent wanted to do any thing proper to save his wife, but the western move was distinctly hers in her belief that Sargent would relent and settle with her on her terms.

Can her lawyers' correspondence be read (Exhibits P. 11 to P. 59), and Mrs. Sargent's version of her trip west be believed? Was her tale thereof not *a deliberate fabrication to excuse her guilty conduct?*

Is not the story related by Mr. Huck and Mr. Runyon probable, to wit: that Mrs. Sargent after abandoning her case went west under the advice of her lawyer friend, and that she believed Sargent would relent, or that at all events "she was through with the case?"

If Mrs. Sargent's tale of the conference at Mr. Runyon's office (whereat her lifelong friend, Mrs. Safarik, and her sister, Mrs. Linser, were present) were true, would she not have put both the friend and sister on the stand to support it against the emphatic contradiction of Messrs. Huck, Runyon and Anderson and the correspondence of her attorney? Does not her tale as to this conference, contradicted as it is, not strikingly illustrate the efforts of the woman to present an appealing story? Why did not her witnesses and Judge Stoddard take the stand and clear any mystery, and why did defense try to keep out the correspondence to and from Mrs. Linser and Mrs. Safarik? Furthermore, can the Court believe that Mrs. Sargent, if innocent, would have gone to Reno voluntarily, or even have been induced to go by her husband or his attorneys?

Frame-up.

If it were a frame-up, as the Master was bound to believe, to accept Mrs. Sargent's story, why was so unlikely a proposition as a negro adopted?

Was it not reasonable that, in the laying out of such a conspiracy there must be some limit to the number of perjurers that Sargent and his attorney, Mr. Huck (a member of this Bar), could retain and control, in various stages of life?

To believe defendant's story and to excuse her acts before and subsequent to the raid, the Court must consider that the servants, detectives, outsiders, lawyers (who were forced to testify to deny defendant's slurs), doctors, Mrs. Sargent's intimate friend, who testified against her will, all deliberately conspired, and perjured themselves, each as their contribution to prove what the Court adjudicates is a most unlikely story of a negro paramour, and this for a loving husband who admittedly had no motive to be rid of his wife.

Mrs. Sargent does not contend that her husband did not love her.

Mrs. Sargent's story cannot be believed or unimpeached without rejecting the undisputed facts and so stamping petitioner's witnesses; one or the other falsified; yet the opinion *omits the slightest reproach* of any (unless it be a general remark as to detectives), that can lead this Court to believe that the Master's opportunity to observe and see their conduct led him to impugn their testimony, *and he did not see Mrs. Lathrop.*

The language of Vice-Chancellor Van Fleet, in *Whitenack* v. *Whitenack,* 36 N. J. Eq. 474, is pertinent:

> "Their denials are contradicted by so many witnesses of character and credit, and by a mass of evidence so positive, and persuasive, *that nothing short of an arbitrary and unreasonable rejection of what appears to be truth,* can relieve the mind from the conviction that their denials are untruthful. This conclusion renders the duty of the Court plain. * * * *Falsehood is the shield of guilt.*

Race Prejudice.

Can there by any doubt, from the opinion, that were Mrs. Sargent's paramour white, that with much less proof the Master would have granted the divorce?

Because of a different race (and this outraged husband is the greater disgraced), is his path to justice *to be made insurmountable* by even the devising of new considerations of evidence against him?

Prejudice against race is particularly a matter of individual like, whether or not classes have trod in the path of ancestors.

Why was the thought of sexual intercourse between this white woman and colored man so inconceivable? Was it more "revolting" than murder, or the repugnant acts hereafter detailed? Each have been committed by refined, modest appearing women

"pretty of face and form." Sexual perverts are often attractive in appearance.

Certainly if such decision is affirmed *no white woman could ever be found guilty of adultery with a colored man.* Is it not reasonable that prejudice against color, once overcome must be forever lost. Where was "prejudice" when she and her sister (who kept the roadhouse and knew (it is said) of the meretricious relations), took the surreptitious trip with him to Vermont. When she hired his wife, and when her brother-in-law hired Charles, both after the raid?

Doubtless every colored witness belonged to clubs and attended church, and their heart and blood may have been better than that of Mrs. Sargent. There was naught in the evidence to the contrary and they were entitled to be believed when none were impeached or had any interest to be served. What motive did all these law abiding people have to deliberately falsify. How could they all have been controlled by petitioner? The servants received a less wage than they could command anywhere, and they thus spoke of their mistress: She had hired them and apparently did the discharging.

Adultery in itself is opposed to public opinion.

Kipling's remarks with respect to "the colonel's lady and Mrs. O'Grady being sisters under the skin" was not the expression of poetic license but an immutable fact. These sisters of all races or colors, or whether society women or mere women, or no matter what station of life their husband's rank, or servants or friends, have elevated them to, are alike susceptible to the same inward physical attractions, and the idle rich, who have named themselves refined and may be "surrounded by servants" are the more susceptible than the busy and the poor, *and all are alike entitled* only to the *same* settled *judicial consideration.*

Our decisions and our medical books (such as so great a classic as "Psyschopathia Sexuales," by Dr. R. von Kraft Ebing, Professor of Psychiatry and Neurology, University of Vienna), recite common instances where many citizens, including the most "refined" in appearance and members of "exclusive" societies and, therefore, undiscovered in our midst, were victims of such dastardly and unbelievable impulsive acts as fetchism, sodomy, pederastry, paedication, mulierum, incest and like almost unbelievable acts; yet seldom do the close associates of these miserable people know of their acts. Is the "thought" of these

things less "revolting to the senses" than that Mrs. Sargent should have chosen a man of different color?

In the south where the race prejudice was so great—forty per cent. of the population of Georgia are mulattos. In Louisiana the colored race is practically obliterated by years of intermarriage with whites, and why do whole communities of mulattos exist in our midst? Colored teachers instruct white children in our public schools; our present legislature has a negro member; a president appointed a negro to the responsible position of Collector of Internal Revenue in New York and to other positions of responsibility. Can we shut our eyes to these not uncommon things? Adultery itself is not supposed to be common.

It may be asked why should this woman choose a colored man to satisfy her passion? The answer is, as she told petitioner's witnesses, and as Mrs. Sargent did not deny, that she did not love her husband, and Charles had a great physical attraction for her and she for him (p. 727, l. 33), and she never considered him as black (p. 747, l. 35), she "believed in intermarriage of the races" (p. 69, l. 38).

The opinion fails to enumerate which states prohibit intermarriages; certainly no northern state. But if such be true, the very necessity to enact such legislation proves such intermarriages not "so uncommon."

Facts unexplained by the defense.

Although the opinion attempts to deal at length with the testimony, it *either omits mention of or brushes aside* the following *pertinent* facts, to wit:

(a) That Simmons risked life and limb to insure his hasty exit from the defendant's bedchamber window by *"busting through the screen"* and *"jumping from the second story to the ground"* a *"height of 18 feet"* (p. 233, l. 26), ran away and *kept on running* and never thereafter made the slightest effort to return or see Sargent, or to ascertain the cause of an alarm sufficient to have induced such risk. (Had he thought of anything but his guilt; would he not have notified the police, given alarm, made inquiry or at least satisfied natural curiosity; instead of running away and remaining (away from his house) *over that night at the City Carpet Cleaning Company* (p. 291, l. 23).

(c) The following three days finds this chauffeur (a married man of meagre salary, who lived in Jersey City) staying, pleasure bent, at a distant hotel on Long Island, contiguous to where the lady went on the night of the raid (pp. 261, 292), and both admit they had communication with one another the next day (Charles told Waters and Hughes he had intercourse with Mrs. Sargent the night after the raid) (p. 558, l. 19).

(d) Mrs. Sargent spent ten days at Asbury Park where Charles also was (p. 438, ll. 10 and 29). And although he says she asked his wife to come back to work for her (p. 317), Mrs. Sargent says Lillian was then already working for her and was on a vacation (pp. 420 and 437).

(e) Mrs. Sargent excused her three-day trip with Charles to Vermont (after the raid and her countercharges), by saying "Charles knew the roads," that is was under advice of Mr. Hopkins, and yet with Mr. Hopkins on the stand he failed to corroborate her on so important a point. Is it probable that counsel so advised her? On this trip Charles remained in the Village of Danby *while the ladies walked* the best part of a mile to their destination and returned on foot to their car.

(f) Although Mrs. Sargent so excused her Vermont trip, both she and her brother-in-law, Mr. Kuchman, testified that she did not know that Charles was going until the day previous, and they left at 8 A. M.

(g) The non-production of Mrs. Sargent of her white nurses (p. 396), or of other people who were the natural ones to corroberate her as to her home life, or while she was out in the car in the company of Charles.

(h) Charles was latterly never in the house when Sargent was around, this according to Sargent's strict instructions (p. 462, l. 38; p. 463, l. 14; p. 98, l. 8; p. 236, l. 25).

Mrs. Sargent's efforts to keep Sargent from knowing Charles was in the house (pp. 236, and 237).

(i) Charles voluntarily leaves good job and disappears contemporaneous with Mrs. Sargent's return (September, 1920), from the west (p. 320, l. 47). He reappears whenever required for the convenience of her case, and disappears when the very pertinent medical examination was required of him to locate trace of an old venereal disease (p. 534, l. 16; p. 580, l. 26, etc.; p. 605, l. 21; pp. 606, 608).

(j) Failure to show any medical examination of Charles (who testified he was always in touch with Mr. Hopkins (p. 367),

and kept reporting to Mr. Simpson (Mrs. Sargent's counsel), until one and one-half years after the raid; then the use of an admittedly ineffective test (p. 533, l. 15), and refusal of defense to facilitate test by petitioner's physician. (See examination of Simpson.)

(k) Mrs. Sargent's first examination for gonorrhea showed her affected parts to have a bulbous polypoid or proud flesh growth, indicating a chronic ailment of *at least* four to six weeks' standing (p. 370, l. 22; p. 371).

(l) At the Jeffersonville Hotel, where Charles slept across the hall, he served drinks in Mrs. Sargent's bedchamber to herself and sister (who kept the roadhouse and knew of the meretricious relation according to the testimony), and there this "refined woman" threw public opinion as the Master knew it to the winds, although "so sick" (p. 226, l. 24), found her pleasure in an evening *two hours'* stroll with this "offensive," "gawky Indian" chauffeur, stalking in the rear (p. 267, l. 33), this *without other objective than pleasure,* the only explanation being that they were "afraid to go alone." Defendant had testified that she was too sick that day to make the trip and called Dr. Coleman (who was not produced), to attend her at the hotel the next morning (p. 266, l. 24). But why was not Dr. Coleman produced, or his testimony taken, to corroborate Mrs. Sargent as to the nature of her malady? The hotel proprietor does not recall that any doctor was called, and Dr. Woodruff did not corroborate Mrs. Sargent as to the removal of any growth at that time.

(m) Mrs. Sargent's successive five lawyers, to wit: Judge Carey, Mr. Simpson, Mr. Hopkins, Stoddard & Salisbury, Fisk & Fisk, and then Mr. Simpson again; her efforts to disavow each as it furthered her varying defense; her abandonment and renunciation of her defense; her flight West; the correspondence of her counsel (Exhibits 11 to 50), flatly contradictory to her testimony. Her testimony that the $1,200 for her back bills and the $500 counsel fee was sent to her surreptitiously, the written early correspondence of her attorney, Mr. Hopkins, of August 29, 1910 (Exhibits 15, 19 and 22), and of her Reno lawyer to the direct contrary. Her testimony that Runyon hired Fisk & Fisk denied by the latter, Mr. Huck, her own counsel and her lawyers' correspondence (Exhibits P. 1 to 41). Mrs. Sargent testified that her $75 advance in alimony was given to her at the lawyers' conference, this flatly contrary to the detailed correspondence of her counsel which showed such was only arranged

and paid in January, months thereafter, and then only in view of her illness and vacation of Sargent's house since the order fixing alimony which had allowed her the use of the house. Her testimony that she did not go to Runyon's office after word from her sister contradicted by her letter to the contrary (Exhibit P. 11).

(n) The non-production by Mrs. Sargent of her girlhood friend, Mrs. Safarik, who was present with her at the office of Runyon & Autenreith to corroborate Mrs. Sargent's story which had been flatly contradicted by the witnesses, Messrs. Huck and Runyon, and the correspondence of her Reno lawyers and the failure of defense to question Mrs. Lindser as to this; and the attempt of defense to keep the letters to and from Mrs. Lindser and Mrs. Safarik out of the case.

(o) Mrs. Sargent bore no love for her husband; she never testified that she had; her affair with the other gentleman described as "Mr. X" (Exhibit P. 1), whose picture she kissed and described as her "sweetheart" and "lover." (And yet the opinion says there was no evidence of her previous "impropriety" "or even frivolity.")

(p) Mrs. Sargent's admitted friendliness for Charlotte and Mr. Huck *after* the raid (p. 616). Failure of her answer to mention Charlotte as a conspirator, and of Mrs. Sargent to deny Mr. Huck's testimony about what took place immediately after the raid. She mostly said she "did not remember," and manifestly was not willing to deny Huck's version.

(q) The "uncommon" intimacy which existed between this lady and her colored help, refuting all possibility that the race was "repugnant."

(r) The frequency of the drinks.

(s) Her abandonment of her defense first advanced in the answer that Sargent "had solicited Charles to commit adultery with her," and her actings with this man after the raid and her countercharges.

(t) After the raid Charles was represented by Mrs. Sargent's attorney, Mr. Hopkins, in his suit against Sargent to recover wages and constantly reported to him and Mr. Simpson.

(u) No possible motive advanced for this husband to "frame up" a wife whom until her disgrace he had loved.

(w) Mrs. Sargent fails to account for her actions while Charles was in the house just prior to the raid. The time of

their coming in and his jumping out was definitely fixed by Charles and not denied by Mrs. Sargent. Mrs. Sargent testified that "one hour and one-half, *or maybe longer than that,*" elapsed from the time both entered the house until the raid (p. 506, l. 21). The burden of proof was squarely up to her and all either of them accounted for could not have consumed fifteen minutes. From the moment of the raid she and he (under advice of counsel) were at once put to this urgent query, and if innocent could readily account for every minute; she may not therefore advance lack of memory. Most certainly she must be held to this imminently proper burden. Charles explained precisely the minute when he came in 8:21 P. M. He said he had looked at the clock (pp. 363; 345, l. 24); he immediately returned from the garage around the corner 9 P. M. (p. 349, l. 34); he jumped out, 10:30 or 11 P. M. (p. 360, l. 30); which Mrs. Sargent does not dispute, and both pretended to *relate everything* in detail they did in the meantime; all of which could not have consumed fifteen minutes. While Mrs. Sargent did not remember the exact time she testified they were both in the house "for an hour and a half or *maybe longer than that*" (p. 506, l. 21). Shall this woman be permitted to escape this burden? Charlotte and the detectives explain what took place during this time.

(w) The possession by Charles of the motorcycle, leather coat, diamond ring and large sums of money (p. 540), and his explanations thereof (p. 311).

(x) *Both* Charles and Charlotte testified that *Mrs. Sargent had dinner* with Charlotte and Charles *in the kitchen* the night of the raid. Mrs. Sargent denied it.

(y) The testimony of Mrs. Sargent and Charles (interested parties), contradictory as it is, is pitted against the weight of evidence *and her own acts and admissions.*

(z) The corroborating fact that Mrs. Kuchman (whom Charles had told Mrs. Lathrop knew of the meritricious relationship) was always the only one on their trips, to wit: Vermont, Jeffersonville and Staten Island, and was the one whose husband employed him after the raid. She was the one person who was always on hand where Charles was involved, and the *only one* who testified about her relations with him.

Recital of certain facts in opinion.

Ida Lewis did not testify that "she had been discharged for stealing linen from some trunks." It did appear, however, and was admitted by Mrs. Sargent, that, after the latter missed some linen from trunks, Ida left, but Mrs. Sargent rehired and continued Ida in her employ until the raid.

While Charlotte Lunford did testify that "Mrs. Sargent drove her out of the house," yet she also said such was because Charlotte had told Lillian on Mrs. Sargent (p. 109, l. 19), and the latter got mad.

Dictaphone.

There was no evidence that a "dictaphone" or "dictagraph" was in the house, except what quite apparently was a misnomer made by Viola, in her description of the "extension telephone" to attic (of which the detectives had testified), under attempt to confuse her (p. 238). If the question was doubtful (which it was not), and yet important in the mind of the Master, why did he not clear it up at the trial by a simple question, instead of resolving such inference against petitioner, contrary to all the other evidence? The *same witness* later explained what she meant by dictaphone (p. 238, l. 31), "What would you call it * * * *I mean a telephone* that was put upstairs in the closet—a receiver."

The detectives had repeatedly testified that from their attic room they *could not hear* what went on in the pink room. They could *only hear* mumblings (p. , l.).

The Master says (p. 23) that he cannot see the necessity for an extension telephone line, but counsel for defendant (p. 246), by his question, quite clearly suggests the reason.

The Master says that apparently Simmons was the only man under suspicion (p. 23), and that under these circumstances it is difficult to understand why an extension telephone was thought necessary. There is no evidence whatever that Simmons was the only man under suspicion, nor is it the fact.

Gonorrhea.

It appears from the cross examination of Mrs. Sargent's witness and family physician, Dr. Spence (p. 372, l. 26), and of Dr. Rector (p. 702), that her gonorrhea would in nowise interfere with sexual intercourse; that any pain therewith would dis-

appear a few days after inception, and by her witness, Dr. Woodruff, that a growth of proud flesh or polypoid character (indicating a chronic case of *at least* four to six weeks standing), had developed prior to her first examination (p. 370, l. 22), at which time Sargent had just discovered that he had the disease. And Dr. Rector says (p. 703) that the admitted condition of Mrs. Sargent would have no effect whatever upon desire—and this was not contradicted.

The conduct of the detectives.

Why should the detectives not have locked Mrs. Sargent and the evidence in after they viewed the culpable parties undressed, their intimacy at the bathroom, saw Mrs. Sargent undressed through the window and Charles jump?

Charlotte had seen Mrs. Sargent in bed undressed. Had the door been broken after Charles' escape and had they seen Mrs. Sargent undressed a third time, it would have been in view of the same three witnesses; and Charles himself testified that before his leap he heard them trying to get in the door, but that they could not.

The failure of Sargent to employ detectives in October, 1918.

Why should Sargent, as the opinion suggests, have employed his detectives in October, 1918, when admittedly he was not until May 5, 1919, ready to believe his infection *from her* and considered his trouble (as he testified), a recurrence from before his marriage, twelve years previous, as Dr. Woodruff had first told him was possible.

The statement of the Master that "if petitioner was sure he had not contracted it from a woman other than his wife, it impresses me as strange that he did not employ his detectives in October, 1919," is in view of the evidence unjustified. There is contained in it an intimation that it is likely that Sargent was guilty of adultery. Of this there is not only not a scintilla of evidence, but not even a suggestion from the defendant, save such as may be implied from the question put by her counsel to Simmons (p. 281) as to whether he, Simmons, ever drove any woman with Sargent save Mrs. Sargent, which question Simmons answered in the negative. Why should he have employed detectives when he believed that it was a recurrence, in which belief he was confirmed by his doctor?

Gonorrhea.

Why does the Master only "pause and remark" that "Sargent spoke of the disease first"? Was it not most smacking of innocence that he did so openly mention his (acute) trouble first and at once and **why had Mrs. Sargent not before mentioned her (chronic) trouble (pp. 370-371) first? Why had she not demanded an explanation of her spouse, left him or sought enlightenment on so damnable a subject.**

Mrs. Sargent must have gone through the acute stage of this disease without saying a word about it—she does not explain why she did. Can you conceive an innocent woman going through the tortures of an acute attack without saying something about it? This silence alone indicates her guilt. Her lack of protest at the time she was informed of it shows her guilt.

Considering the evidence as to gonorrhea with the other evidence in the case—the ineffective test of Charles one and one-half years or more afterwards, and his failure to submit to any test by petitioner, as well as defendant's *refusal* to facilitate such—can there be any reasonable doubt *that Mrs. Sargent was infected by Charles?*

"Dearie" and "Sweatheart" conversations.

Why were conversations, wherein Mrs. Sargent called Charles "dearie" and "sweetheart," * * * "proven to have been a falsehood," as the opinion says, by the mere production of three women, who happened to be on Mrs. Sargent's porch a year and a half before, and who now testify that they do not recall that one and one-half years before Mrs. Sargent momentarily left their presence to answer the telephone? Is it likely that they would remember such incident now called to their mind? If the fact did not exist the necessity to remind these ladies thereof did not arise until the trial.

If it were these particular ladies who were there, and they did remember, how might they know what she left them for? The phone was in the rear of the house; Mrs. Sargent may have answered the phone without their knowing it unless she had told them.

Is not her explanation of the use of the words "sweetheart" and "dearie" while at the telephone and her explanation of the reference to the equipage (car and chauffeur) as "handsome"

not a tacit admission that such expressions were used as petitioner's witnesses claim they were?

Raid.

Can there be any doubt as to what happened at the raid? Mrs. Sargent and Simmons heard the footsteps of the detectives, and being already suspicious, as is evidenced by the previous search of the house, realized instantly what was going on. Mrs. Sargent or Simmons shut the door and slipped the bolt on the inside. This gave Simmons time to get out of the window, at which the detectives heard him when they got to the door. The detectives tried the door and could not get in, and then locked it to prevent Simmons coming out that way, and ran downstairs to catch him. This latter plan was frustrated by the twisted chain on the front door, which Simmons admitted to Walters, was his work (p. 559, l. 35).

Amendment.

Must the case fail because the petition omitted the words "at Jeffersonville, N. Y.," the event being *within the period and with the man* charged. Defendant's counsel evidently thought the evidence within the pleadings for no such objection was made. The evidence of place developed at the trial. As the Court below seemed to have considered such amendment necessary, we move to amend accordingly.

Opportunity to observe witnesses in Court did not lead Trial Master to discredit them.

The opinion does not discredit petitioner's evidence, except to say that some were her servants or ex-servants and some were "black"; that the "Court refuses to believe * * * the thought is revolting to the senses."

The opinion lacks any impeachment of petitioner's witnesses or words to the effect that they were not believed, but the Master apparently reached his conclusions because, as he reiterates, "the complete *story* is so improbable as to be unbelievable, and because of *its* incredibility and its sources I decline to accept it as true."

It was the *story* that he did not believe, his observation of the witnesses had apparently not led him to impugn them.

The opportunity to see and hear the witnesses, and to *observe* their conduct in court during a protracted trial, *apparently af-*

forded the Master no visual reason to discredit petitioner's witnesses, or the Master would certainly have made mention below.

This Court is, therefore, free to accept the record on its merits.

It was the revolting *thing* the Master refused to believe. He *did not see or hear Mrs. Lathrop,* whose testimony was taken in New York under a subpoena of the New York Supreme Court.

THE LAW.

The law on the main case.

1st. In an action for divorce on the ground of adultery, the adultery may be proven by direct or indirect evidence. The concurrence of desire and inclination raises a presumption of intercourse.

The proof must be such as to lead the guarded discretion of a reasonable and just mind to the conclusion of guilt. Proof need not be beyond a reasonable doubt.

The law has never been expressed that the proof must leave no doubt whatever. *Rector* v. *Rector,* 78 Eq., at 401.

In view of the attempted explanation of Mrs. Sargent and Simmons, the language of Vice-Chancellor Backes, in *Slack* v. *Slack,* 89 N. J. E. 589, affirmed on his opinion in this court 89 Eq. 589, is apt.

> "To overcome, or to neutralize the presumption of guilt, her explanations must be probable; they must have the ring of truth; they must be supported. I do not say supported by the testimony of others, but by the surrounding circumstances, at least, to lend probability. It is true, as her counsel argued, that we cannot conjecture, we cannot speculate, as to crimes of this kind having been committed, and that we must have proof, clear and convincing, but when we have that proof in the form of admitted circumstances of a decidedly incriminating nature, unsatisfactorily explained, we are not driven to either in arriving at a verdict."

As to Mrs. Sargent's statement that she desired to see her husband in order that she might explain, and the refusal of counsel to allow her to see her husband, in which refusal they were joined by Charles J. Roe, the language of Vice-Chancellor Backes still from the same case is apt:

> "In fact, when the defendant was first charged with the offense, she declared the appearances capable of explanation, and all she desired was an opportunity to explain the

matter to her husband. Some women can explain anything to some husbands, I have no doubt, but when they come into a court we must view their unconventionalities according to established standards, to which appeals and considerations in the domestic forum bear no relations."

As to the claim that the husband ought not to have set detectives to watch his wife the language of this Court in *Wille* v. *Wille,* 105 Atl. 74, reversing the Court of Chancery, is apt:

"A husband is legally justified in using any and all lawful means to procure testimony so as to enable him to get rid of a wife whom he has reasonable grounds to believe is guilty of infidelity. While the motive of a husband suing for divorce might properly be the subject of inquiry, if he offers himself as a witness, for the purpose of testing his credibility, it cannot of itself bar his legal right to a divorce."

The Court, remarking upon the escape of the co-respondent on the night of the raid, says, at the bottom of page 77:

"The fact that Price (the co-respondent) hurriedly seized his hat and coat and made his escape was a circumstance in itself which speaks loudly of guilt."

The case of *Wille* v. *Wille* had to do with a raid and a consideration of the testimony in this case will indicate that there was much less proof of the commission of the act of adultery than there is in the case at bar.

In considering the plea of counsel that he represented not only Mrs. Sargent, but every white woman in the State, we beg to refer to the statement of Vice-Chancellor Pitney, in *White* v *White,* 64 N. J. E., p. 84, at p 89:

"Such a case naturally excites the sympathies of a judge towards the unfortunate female; and the books furnish instances where judges have permitted their sympathies to lead them from the plain path of judicial duty so far as to deliberately smother their real convictions and delude themselves into a sort of belief that the evidence is insufficient to show the guilt of the wife. I am glad to say that few persons of intelligence and sound judgment approve this mode of administering justice, and I believe that most persons condemn it. The striking picture, so graphically drawn by the masterly hand of Chancellor Zabriskie in Derby *v.* Derby, 6 C. E. Gr. 39, 40, of a delinquent husband taking 'feeble hold' with 'weakened, blanched and attenuated hands upon the horns of the altar of justice' seems to me to be distracting and dangerous object to have lodgment in the minds of the earnest, diligent and honest seeker for the truth, tending, as I think it does,

to produce dimness and obliquity of vision and erroneous results. Better far, in my judgment, to keep at all times in view the time-honored motto: 'Let the truth prevail, though the heavens fall.' Conscious as I am that my judgment is convinced by the evidence in the cause that this defendant is guilty, my oath of office compels me so to declare, and let the law of the land fix the consequences."

Connivance.

At the conclusion of the Master's extended opinion, wherein he finds that defendant was not guilty of adultery, he adds—that the "petitioner was nevertheless guilty of connivance" insofar as any alleged adultery in July, 1919 is concerned.

The opinion says:

"About May 1 preceding the raid, Charlotte had given the petitioner her version of the occurrence, on which the second act of adultery is based, and had also told him of acts of the familiarity between his wife and Simmons." * * * "Petitioner, therefore, had reason to suspect her; * * * and he should have taken the steps which lay in his power to keep Simmons away * * * discharge him. * * * Instead, he retains Simmons, giving him a chance to be with his wife frequently. * * * And on at least two occasions, between May 22nd and July 11th, absented himself from home for a night or nights, and he did all this, if not believing that defendant would commit adultery, at least to facilitate it. He placed detectives in his home. * * * Threw no protection around his wife. He did not even warn her against intimacy with Simmons, but left her in danger, and did nothing whatever to warn her from Simmons' evil influence. For two months after he was in possession of Charlotte's information he maintained friendly intercourse with her, as though nothing had occurred. * * * Would an outraged husband * * * want to be in the presence of a wife who had so dishonored him without an ulterior motive? * * * Charlotte and the detectives knew there was to be a raid that night and Mr. Huck expected it."

First, as to the fact:

There is no evidence that Sargent absented himself between May 22 and July 11, 1919, to facilitate the raid. On the other hand it is specifically shown that during that period he had not absented himself on more frequent occasions than before (upon only the two occasions in regular course), and that his trip to Vermont was only in ordinary course, in relation to the re-

turn of the adopted daughter to its father, and it affirmatively appears that Sargent did not expect the raid, for why had he taken with him to Vermont, and away from the scene of raid, one of the operators, Viola, who was hired, as defendant claims, for the raid purpose?

Mrs. Lathrop testified (p. 741), that both Mr. and Mrs. Sargent had told her that the Vermont trip was a question of taking the child back again. That Mrs. Sargent had told her that she was too ill to go; that she was going to have an operation; and that Mrs. Sargent had refused to stay at her house, saying she had other plans and did not want to leave the house alone on July 11, 1919 (p. 743).

Mr. Huck repeatedly said he did not expect the raid at any particular date, and likewise the detectives.

There was no evidence in the case that Charlotte and the detectives expected a raid particularly on July 11, 1919, or that Mr. Huck expected it. The most there is in the case along such lines is the testimony of some of these witnesses that they rather expected there might be a raid at any time; never at any specific time, showing that all were convinced that Mrs. Sargent had already committed adultery with Simmons and that with the watch, they could get their evidence.

The *only* evidence as to Mr. Huck on this point is found (his cross-examination) at p. 639, fol. 20:

> "Q Did you make any arrangements on the night of the 11th of July that you could be summoned when the detectives were in the house and the situation was such as I have described? A No, sir.
>
> "Q Did you give them your telephone number? A I had given it to them when they were first engaged.
>
> "Q You expected to be called, didn't you? A I thought I might be."

And at p. 646, fol. 20:

> "Q Did you expect anything to happen on that particular night, the 11th? A I cannot say that I *expected* anything to happen.
>
> "Q But you were waiting for it? A No.
>
> "*By the Court.*
>
> "Q You thought something might happen? You said only a few minutes ago that you rather expected to get a call that night? A I don't recollect that.
>
> "Q You said you thought you might be called that night? A I thought I might be called any night."

We concede that it was not to the liking of this outraged husband that he should *have to* continue in the presence of a wife who had so dishonered him, and that his ulterior motive in *of necessity* so continuing in her presence and graces, pending the watch and location of evidence, was so that he could get the necessary evidence of an adultery *which had apparently long since occurred* without which he would either have to continue for life with this same wife, who had thus dishonored him and his name, and support her forever.

What could this husband do, under the circumstances? He was wholly in the hands of counsel; *she was guilty,* but he was yet without the necessary evidence?

May 6th was the first information or thought this husband had of anything wrong *with respect to Simmons,* and on that occasion Charlotte had told him in detail all about the escapades, including the fact that Charles had slept in his room overnight after what must have been a drunken brawl. With many corroborating facts already within the knowledge of and before this husband's very eyes, to wit: the vivid memory of his gonorrhea *contracted from this woman;* the picture, "Mr. X." episode, being accounted for by Charles' jealousy, in bringing it to his (Sargent's) attention; the wine episode, and the *history of his married life* over which there had been one previous separation, all just then, Charlotte's story, accounting for the missing links all so vividly before him; how can it be said that this husband then only "suspected her of an inclination for illicit relations"?

Is it possible that with such a picture and the corroborating facts and after his experience with the disease, which he had been influenced to believe was a recurrence from a case before his marriage, twelve years before, *that he yet only "suspected"* her? Rather is not it certain and beyond any doubt whatever that he then and there was wholly *satisfied,* in his own mind, that she had *right along been guilty* of adultery with Simmons? Could this husband escape such conviction, and does not the fact that he thereafter refused to interview his wife, or to even listen to any explanation from her speak strongly of the state of his mind from the moment of Charlotte's tale and the consequent placing of detectives in the house?

See his testimony (pp. 597, 602), in which he says that the experiences of his married life made him believe that his wife was guilty. He was not asked by defendant, who was the only

party who could bring out the evidence to explain. That there had been previous trouble was admitted by Mrs. Sargent (p. 522). The Court excluded any further testimony along this line (p. 521), yet for the purpose of indicating whether Sargent might reasonably believe Charlotte when she told him the story of the wine episode it was material. We must assume that Sargent believed Charlotte's story and had reason to.

If this husband was then *satisfied* that the defendant had already been guilty with this man, his attempt to get his evidence was in nowise "consenting thereto."

14 Cyc., 644, states the rule as follows:

> "Connivance in the law of divorce is the complainant's consent, express or implied, to the misconduct alleged as a ground for divorce. A corrupt intent on the part of the complainant that the guilty party *should commit* the offense is generally considered an essential element of connivance" (*Warn* v. *Warn,* 59 Eq. 642).

At p. 645:

> "The husband's failure to protect the wife against temptation will not relieve her from the consequence of adultery unless he actively or passively consents thereto; if he suspects her of the offense he may take measures to secure proof to be used by him in an action for divorce without being guilty of connivance" (*Reisersen* v. *Reisersen,* 52 N. Y. Supp. 409).

In the case of *Wilson* v. *Wilson,* 154 Mass. 194 (28 New England 167; 12 L. R. A. 524), the leading case on connivance which has been cited with approval in numerous cases in New Jersey, the Court states among the facts the following (Italics ours):

> "Petitioner suspected his wife of infidelity and one day, while watching her, saw her in the company of a man, with whom she proceeded to a hotel. Petitioner summoned the assistance of detectives and went with them into the hotel, where he found his wife, the defendant, in bed with a man, in whose company he had previously seen her. The wife defended the action on the ground of connivance. The Court said:
>
> "Petitioner *had hoped she would commit adultery* so that he could get a divorce and *he gave her plenty of time* and *did not warn her so* that she might do it. He thought before this she had committed adultery.
>
> "We think as a matter of law it cannot be said on this state of facts that the libellant was guilty of connivance. It is true that he *could have prevented* his wife from com-

mitting adultery and did not; on the contrary, he *wished she would,* that he might have evidence on which he could get a divorce. But he did not make or aid in any way in making the opportunity. He did no overt act unless keeping still was one, which it clearly was not. *It was not a case where he supposed she was about to commit adultery for the first time,* and where it would have been his duty to have given her the assistance which husband and wife are mutually expected to give to each other.

"It certainly cannot be held that a husband who suspects his wife of adultery can take no means to ascertain the truth of his suspicions without being deemed guilty of connivance. 'There is a manifest distinction,' say the Court in *Robbins* v. *Robbins,* 140 Mass. 531, 'between the *desire* and *intent* of a husband that his wife, *whom he believes to be chaste,* should commit adultery and his desire and intent to obtain evidence against his wife, *whom he believes already to have committed adultery* and to persist in her adulterous practices whenever she has opportunity.' Merely suffering in a single case a wife whom he already suspects of having been guilty of adultery *to avail herself of the full extent of an opportunity to indulge her adulterous disposition,* which she has arranged without his knowledge, *does not constitute connivance* on the part of the husband, even though *he hopes* he may obtain proof which may entitle him to a divorce, and purposely refrains from warning her for that reason. He may properly watch his wife, when he suspects his wife of adultery, in order to obtain proof of that fact. He may do it with the hope and purpose of getting a divorce if he obtains sufficient evidence. *He is not pledged to throw obstacles in her way.*

"The law does not compel a husband to remain always bound to a wife whom he suspects, and it allows him, as it does other parties who think they are being wronged, reasonable scope in their efforts to discover whether the suspected party is or is not guilty, without themselves being adjudged guilty of connivance of the crime which they are seeking to detect."

As to the claim that the husband ought not to have set detectives to watch his wife the language of the Court of Errors and Appeals in *Wille* v. *Wille,* 103 Atl. 74, reversing this Court is apt:

"A husband is legally justified in using any and all lawful means to procure testimony so as to enable him to get rid of a wife whom he has reasonable grounds to believe is guilty of infidelity. While the motive of a husband suing for a divorce might properly be the subject of inquiry, if he offers himself as a witness, for the purpose of testing his credibility, it cannot of itself bar his legal right to a divorce."

In *Lehman* v. *Lehman,* 78 Equity 316, the question at issue was whether the wife who was the complainant had connived in her husband's adultery. Vice-Chancellor Emery held:

> "* * * The effect of mere watching the actions of the suspected wife, without her knowledge and without directly effecting and encouraging them, was not involved in the Delaney case (71 E. 246), or intended to be passed on. On the facts of the case the Court found that the conduct of the husband toward his wife conduced or contributed as one of its effective causes to the commission of the crime complained of. To extend the bar of connivance to the mere act of watching the movements of a suspected wife could not have been the intention of the Court, for the question was not involved. In a previous case— Warn *v.* Warn, 59 Eq. 642—the same Court had unanimously approved the opinion of Vice-Chancellor Reed, in which he stated that the facts necessary to constitute connivance must have a direct and necessary tendency to cause adultery to be committed, and this case was approved and not overruled in the Delaney case. And in reference to the express point now involved Chief Justice Gummere in a later case—Inderlied *v.* Bullen, 77 Atl. 469—stated, 'A husband may properly watch his wife whom he suspects of that offense (adultery) in order to obtain proof of the fact, and such conduct does not constitute connivance,' approving the principle stated in Wilson *v.* Wilson, *supra.*
>
> "* * * I intend now only to decide that the watching of a suspected husband, and suffering him to avail himself of an opportunity created by himself, without any previous knowledge or encouragement on the part of the wife, is not connivance or consent on her part which would bar the divorce. This was the view taken by Vice-Chancellor Pitney in Brown *v.* Brown, 62 Eq. 62, 67, and seems to be the general, if not universal, rule in upper American courts (Citations) Wilson *v.* Wilson, &c."

In *Warn* v. *Warn,* 59 Eq. 642, where the question of the husband's, the petitioner, connivance arose, the Court said:

> "* * * It is undoubtedly true that connivance may consist of a passive assent to the train of circumstances leading to adultery, when the complainant could have prevented the wrong or injury of which he complains. The facts, however, necessary to constitute connivance *must have a direct and necessary tendency to cause adultery* to be committed. Corrupt intent is the very essence of connivance. It cannot be inferred from the husband's great inattention to his family. * * * The gravity of the offense, its infrequency, and the general presumption of innocence requires that this defense should be established by direct and conclusive proof."

It was held in the case of *Dilatush* v. *Dilatush,* 98 Atlantic 255, that a husband's desire to be rid of his wife, allowing her to pursue her own course, and failing to prevent her from committing adultery, is not such connivance as prevents him from securing a divorce. Backes, *V.-C.,* said:

> "Though the defendant be guilty, it is argued that the petitioner is not entitled to relief because of connivance at his wife's crime. Of this, there is no proof whatever The unholy alliance which sprung up between the co-respondent and defendant, after her separation from her husband, and which has resulted in such dire consequences to her, was in no wise contrived, invited, or encouraged by the petitioner. It was solely the work of the defendant. Suspecting her infidelity, the petitioner set a watch upon his wife to obtain proof. While it was in the power of the petitioner to prevent the crime on New Year's morning by intercepting his wife, he was not called upon to do so by that duty of protection which is ordinarily afforded by husband to wife. He was strictly within his rights in refraining; and culpability cannot be imputed to him for allowing his wife to avail herself of the opportunities she created for indulging her licentious desires. Warn *vs.* Warn; Lehman *vs.* Lehman.
>
> " * * * That the petitioner fell far short in the discharge of his marital obligations; that the marriage ties were irksome and distasteful, and that he wanted to be rid of his wife; that his deportment and attitude toward her, and his shameless disclosures of their bed-chamber secrets to his companions were most despicable —cannot be questioned. That he was willing to give his wife a free rein to perdition, if she so chose, I have no doubt. She went her way and sinned, not by his procurement, but of her own volition. His conduct, reprehensible as it was, was not connivance in the legal sense, as laid down by the authorities, and he cannot be deprived of his right to a decree."

The rule is well settled that an innocent party may watch the suspected spouse, and suffer him to avail himself of an opportunity created by the suspect himself without any previous knowledge or encouragement on the part of the innocent one; this is not connivance or consent. Biddle, p. 174, and cases cited.

In the case of *Leavitt* v. *Leavitt,* 118 N. E. 262 (Mass.), the Court said:

> " * * * But even if as further appears the libellant was fully informed as to her adulterous disposition, and did not remonstrate or warn his wife of her peril and of the consequences which might follow, because he hoped she

might go far enough to enable him to obtain a divorce, his conduct did not amount to connivance. Citations."

Conclusion.

Either one of two hypothesis is correct.

(1) The defendant is guilty of adultery.

(2) The raid against her is a frame-up.

If a frame-up, it must have been deliberately planned by intelligent counsel.

Would a negro be chosen as co-respondent just to produce a case most difficult to prove?

If the raid were a frame-up, the servants, the two detectives, Jetter, Mr. Huck and Sargent must of necessity have been parties.

If Mrs. Sargent is telling the truth the following witnesses perjured themselves: The two male detectives, Charlotte, Viola, (detective), Ida Lewis, Walters, Hughes, Jetter, Mr. Sargent, Mr. Anderson, Mr. Huck, Mr. Runyon and Mrs. Lathrop.

Is the explanation of Mrs. Sargent and Simmons, plus a presumed abhorance to sexual relations between white and black, sufficient to lead the guarded discretion of a just Judge to the conclusion that all of these witnesses committed perjury?

It is submitted that the decree should be reversed and the record remitted to the Court of Chancery with directions to enter a decree of divorce in favor of the petitioner.

Respectfully submitted,

~~WILLIAM HUCK, Jr.,~~
~~HENRY W. RUNYON,~~
MERRITT LANE,
Of Counsel with Petitioner-Appellant.

MAR. 1. 1921
by leave of Court.

Arthur W. Cross, Law Printer, 243 Market Street, Newark, N. J.

New Jersey Court of Errors and Appeals

Between

DONALD J. SARGENT,
Petitioner-Appellant,

and

FRANCES L. SARGENT,
Defendant-Appellee.

On Appeal from Chancery.

REPLY BRIEF OF APPELLANT.

The brief of appellee has just (March 15, 1921) been served.

There is not sufficient time to make an extended reply nor do I think it necessary.

There are certain points, however, that I desire to shortly answer.

I.

The brief of appellant in referring to the testimony gives page numbers. The brief of appellee omits any reference whatever to pages.

There is no criticism in the brief of appellee of the statement of facts of appellant. Attention is not drawn to any misstatement or misconception of the evidence. Under these circumstances I urge that the brief of appellant so far as the facts are concerned must be taken as correct.

To point out the inaccuracies of the statement of facts of the appellee would amount to preparing an entire new brief. Nevertheless, I shall attempt to refer to a few of the mistakes.

a. On page 3 counsel says "There was no proof that her case (the gonorrhea) was of long standing or chronic. There was some medical testimony from which it might be surmised that this was the fact, but there was her testimony and the physician that it was not the fact."

The testimony of Mrs. Sargent and of the physicians, either Woodruff (p. 368), or Spence (p. 371), both called by her, may be searched in vain for any such testimony. She does not say when she first observed any symptoms. Dr. Woodruff says (p. 368) that in his opinion when he saw her, which was on Octo-

ber 9th (p. 369) he found a condition which indicated to him that the disease had probably existed for some time, four or six weeks (p. 370). It is true that he testified that he could not tell which was the later case and that there were other things which might possibly have produced chronic irritation. (P. 371.) Dr. Spence called by her, who treated her from the middle of October, 1919, is not asked a single question with respect to her condition when he examined her.

We have considered this subject on pages 50 and 52 of the original brief and I have nothing to add to what I there said.

b. Counsel says that Mrs. Sargent was examined *some time after* Sargent was found by physical examination to be infected. The length of time was nine days (p. 368).

c. On page 3 counsel has Charlotte saying that at the time the burgundy was spilled in the pink room Mrs. Sargent "had no clothes on," probably for the purpose of making the story sound improbable.

Charlotte did not so testify. She said that Mrs. Sargent had on a night gown and a robe (p. 95).

d. There was no dictagraph or dictaphone in the house as indicated on page 4 of appellee's brief. (See p. 50 of appellant's brief.)

e. From the appellee's brief it would appear that there was no testimony whatever except that of Charlotte with respect to familiarity between Mrs. Sargent and Simmons.

The testimony of Ida B. Lewis (p. 56), Mack C. Jetter (p. 140), Viola G. Jones (p. 233), Elizabeth L. Lathrop (p. 726), is ignored.

f. It is said that although the defendant was under espionage both day and night from May 26th to July 11th, nothing was seen out of the way.

This ignores the testimony of Viola, and Charlotte, and the testimony of the detectives as to the telephone conversations (p. 154). It indicates also that these detectives were continuously in the house. This is not so. They worked on the case altogether eight or ten days (p. 165), that is, the time that they spent between the dates mentioned would make about eight or ten days. They were not in the house at night more than from two to four times before July 11th (pp. 166, 191, 210, 209).

g. On page 5 counsel says that Mrs. Sargent came home with the chauffeur some time *after nine o'clock.* No one makes any

such statement. All agree that they came to the house about twenty minutes after eight; that the chauffeur took the car around to the garage and returned and entered the house a few minutes after nine.

h. Much is made, on page 5 of appellee's brief, of the apparent discrepancies in the story of Charlotte.

Her testimony is considered on pages 31 and 28 of appellant's brief.

It is clear that Charlotte was completely upset and beside herself (pp. 160, 162). (P. 202) where Wilsdon says that most of the time after the detectives came downstairs Tienken was in different parts of the house looking for Charlotte. Counsel says that she is ignorant. That is true. He says that she testified that after pressing the button she stood in hallway with the detectives fifteen minutes before they went to the door. That is not true. (See pp. 115, 118, 127.) From her testimony one would imagine that she stood in the hall after the detectives went to the door but before Mr. Huck came. As a matter of fact she disappeared. There is no doubt from a consideration of her testimony (p. 137) and of the testimony of the detectives that shortly after nine o'clock she left Simmons and Mrs. Sargent in the bedroom and went upstairs to bed and that she afterwards came down just prior to attempting to press the button at half-past ten or quarter to eleven.

i. On page 6 it is suggested that the testimony of one of the detectives, Treulsen, that they tried the door and were unable to open it may be false.

The difficulty is that this testimony is corroborated by the corespondent, Simmons, also by the detective, Wilsdon (p. 220). (See appellant's brief, p. 37, at bottom of page.)

j. Considerable is made of the fact in the brief (p. 6) that Mr. Huck was "very opportunely" waiting for the call, that is, the telephone call from the detectives and much was made of it upon the oral argument.

Is it an unusual thing for a man to be home between half-past ten and eleven o'clock at night?

k. Counsel indicates on page 6 that the testimony on the part of the petitioner is that Mrs. Sargent immediately knocked on the inside of the door and pleadingly demanded to have the door opened.

The testimony of the detective is that it was six or seven minutes after they went to the door and tried to open it, that is, after

they had gone downstairs and came up again that she started to knock on the door (p. 170).

The reason for the delay was that she was getting dressed. See the evidence of Charlotte as to her condition of attire and also the evidence of the detectives (pp. 201, 223), that when he was out in the yard immediately after the negro jumped through the window he saw her at the window attired in a pink kimono.

l. Again by saying "This is practically all the evidence of the petitioner as to the main facts" (p. 6) counsel ignores the testimony of Ida B. Lewis, Viola G. Jones, Mack C. Jetter and Elizabeth Lathrop.

m. Counsel, on page 9, in explaining the negro's jump from the window: "he remembered certain conversations he had had with the petitioner and thought that there was something to be done to him and he immediately went out of the window."

I know of no such testimony nor is there any reference in counsel's brief to page numbers. The negro says on page 278: "Q What did you do? A Well, I tell you I didn't know what to do. I guess I had a thousand thoughts, but the best one of any came to me was to jump out of the window. Q Did you go to the door first? A No, sir; when Charlotte ran I heard footsteps coming, running down; it sounded to me like horses. Q Like horses? A Yes, sir; so many there were there, awful heavy, and they came and tried the door; they shook the knob and they could not get in, and they knocked on the door: 'Charles, Charles, are you there?' I stepped to the window, shoved it up, busted the screen and went out into the yard. Q You were not going to take any chances? A No, sir." Page 287: "A I had thoughts enough to think; I did not know whether there were robbers in the house, or whether it was somebody to kill someone; I knew I was in the wrong place, being locked in the room. It wasn't quite natural that I could think of anything that could put me in trouble whatsoever. Q You thought it was wrong to be in that room? A I knew I was in the wrong place being locked in there."

n. There is no evidence as to what Simmons told the so-called bosom friend of Mr. Sargent's (p. 279). This friend, Mr. Metz, was as much a friend of Mrs. Sargent's as Mr. Sargent. He is not called by Mrs. Sargent (p. 583). He is not now a friend of Mr. Sargent's (p. 589). And the reason why he was not called is explained on page 589.

o. There is no testimony whatever that I know of that the colored chauffeur went down to Forest Hills because he was unable to find out what was behind the matter or that he feared for his safety.

p. On page 9 of appellee's brief counsel says that three days afterwards he, the negro, took the defendant and her sister on an automobile trip to Vermont, being hired by the brother. This trip took place, as nearly as it is fixed by anyone, the latter part of August, 1921. There was no testimony whatever that it was three days after July 11th.

q. Paying her $1,200 and the raising of the alimony from $225 to $300 had nothing whatever to do with her going to Reno. (See p. 11 of appellee's brief.) (Pp. 41, 42 of appellant's brief, p. 47, subdivision *m,* appellant's brief.)

No attempt has been made to point out all of the inferences in appellee's brief which it is submitted by appellant are not in accord with the facts and to do so would be to rewrite appellant's main brief. In closing upon this subject, however, I again draw the attention of the Court to the fact that in no place in appellant's brief does he cite the testimony or refer to it.

II.

Counsel repeats in his brief (p. 11) what he stated in the oral argument, to wit, "counsel for the petitioner (Mr. Lane) * * * said that when counsel was called in the case counsel refused to allow the Nevada suit to proceed because a decree would be a void decree and worthless," thereby intending apparently to indicate that counsel arguing the case (Mr. Lane) had advised the dropping of the Nevada suit. This is not in accord with the facts. It is a misstatement, deliberate or otherwise, of the summing up of counsel. It is, indeed, the exact reverse of what counsel said. Counsel, summing up in the court below and arguing in this court, had nothing whatever to do with the case until after Mrs. Sargent's return from Reno and until a very short time before the case was moved for trial before the Vice-Chancellor. He was called in solely as trial counsel and he so stated before the Vice-Chancellor in the summing up. Upon the merits of the case the matter is wholly immaterial, and it is hard to conceive the motive of counsel for the appellee in making the statement.

III.

It was apparently considered during the oral argument that it was improper or might be improper to refer to the occasion of July 11th as a raid. The Court will find by an examination of the testimony that counsel for the appellee throughout the case, pp. 125, 108, 112, 287, and other places, referred to this occasion as a raid as did the Vice-Chancellor (p. 125).

IV.

Again reference was made on the oral argument to the fact that Mr. Huck could be reached by telephone. Counsel for appellee in his brief refers to this in two places, lastly at page 16. If it is a strange circumstance that a lawyer should be home between ten-thirty and eleven o'clock at night then it is a strange circumstance that he was "on call."

V.

On page 18 of the brief reference is made to the discrepancy between the stories of the two white detectives and it is said that either one was "lying" because of a discrepancy about the key, that is, as to whether it was in the pocket of one of the detectives or in the door. If the detectives' testimony be read with respect to this key it will be quite clear that each is testifying as to his best recollection.

VI.

On page 19 of the brief counsel says: "Argument of the brief of the petitioner that the more we find in the status of a white lady, the less it has to do with her repugnance to association with black men is one that it seems to me rather daring to advance to be adopted by a Court."

I know of no such argument made in the brief of petitioner. All that is said up on the subject is on page 43 of the brief. It is stated and reiterated that, assuming that the bars had been broken down, the brazen manner in which Mrs. Sargent is said to have acted is quite conceivable.

VII.

The question of connivance is dealt with *in extenso* on page 56 of appellant's main brief and I have nothing to add to that. It is there pointed out and reference is made to the testimony,

that Sargent did not leave for the purpose of creating an opportunity. He did not in any respect change his plans or his habits. The trip on July 11th was a matter of mutual concern (p. 57). He told the female detective with him. Had he expected what did in fact occur he never would have done this (p. 57 of appellant's brief).

VIII.

It was apparently assumed that counsel in the oral argument in referring to the letter printed (p. 788 of the state of case) intended to have the Court believe that in the expression "I prefer black in size 9" Mrs. Sargent was referring to black men as opposed to white.

In view of the reference to this letter, p. 30 of appellant's brief, referring specifically to the testimony (pp. 675 and 693), it would seem to be clear that there was no such intent on the part of counsel unless he is to be credited with having no sense whatever. It is impossible for counsel in arguing the case to, in one breath, explain an entire situation. The purpose of the reference to the letter, in the oral argument, as it was in the brief, was to indicate that there was no such feeling of hatred on the part of Mrs. Sargent as she says there was. It was suggested in the oral argument that the "black in size 9" referred to gloves. A size 9 in a woman's glove is somewhat unusual.

Conclusion.

Counsel states that the brief of appellant consists in a piling of suspicion upon suspicion which counsel says is, of course, not a substitute for facts or testimony.

It is my recollection that this statement was also made during the oral argument. In any case in which the parties are not caught in *flagrante delicto* and conviction depends upon circumstantial evidence there is a piling up of suspicion upon suspicion. Else there could be no conviction upon circumstantial evidence. If the suspicion raised by the testimony has been satisfactorily explained it is submitted the decree should be affirmed, but if not satisfactorily explained it is submitted that the decree should be reversed.

Respectfully submitted,

MERRITT LANE,
Of Counsel with Appellant.

10 MAR. T. 1921

Filed after the Oral Argument
by leave of Court.

New Jersey Court of Errors and Appeals

Between
DONALD J. SARGENT,
Petitioner-Appellant,
and
FRANCES L. SARGENT,
Defendant-Appellee.

On Appeal from Chancery.

BRIEF FOR DEFENDANT

POINT I

The opinion of the learned Vice Chancellor so thoroughly discusses the case and refers to the evidence that the brief for the defendant below will refer to that for a detail discussion of the evidence. No conclusion of fact is drawn by the Vice Chancellor without referring to the testimony and to draw a lengthy brief analizing the testimony would be merely surplusage.

POINT II

The acts of adultery relied upon were an alleged act committed at Jeffersonville, New York, when the defendant went with her sister on a motor trip and stayed over night. There was no testimony

offered to prove this act of adultery, except the fact that she stayed at this hotel which she did not deny. She and her sister both testified that they occupied the same room and the chauffeur occupied a different room. The proprietor of the hotel was called and testified to the same effect. The chauffeur testified to the same effect. The only proof adduced was proof by the defendant that while at the hotel the chauffeur had at the request of the defendant's sister, the defendant being ill, taken her a drink to them but that he had not remained in the room. He had walked out with them through the village, but behind them as it was dark and they were afraid to go alone. There was no proof of intimacy. The only proof adduced was an alleged statement by the chauffeur to a third party of something that had occurred at Jeffersonville, but this, of course, was available only to, if believed, affect his creditability and could not establish the main facts. See *Earle v. Earle,* 81 N. J. Equity, 444.

The other acts of adultery were alleged to have been committed in an automobile and at the house on Kensington Avenue and as stated in the petition, the main act was alleged to have been committed on the night of the "raid." The petitioner sometime in October, 1918, told his wife he was suffering with gonorrhea; that it was an old case which had reopened, a case of 12 years standing, of which he thought he had been cured and he suggested to her that she be examined by a physician to see whether she had been contaminated. He at no time directed any suspicion against her but laid the inception of the disease to himself. She was examined sometime after he found by physical examination that he was infected and the examination disclosed that she also was infected and

he did not at this time manifest any suspicion that she had infected him. There was no proof that her case was of long standing or chronic. There was some medical testimony from which it might be surmised that this was the fact, but there was her testimony and the physician that it was not the fact.

The colored maid, Charlotte testified that before the detectives came to the house of the date she is uncertain she brought a bottle of sparkling burgandy to the pink room and that in opening it the colored chauffeur had spilled it on the wall; that Mrs. Sargent had no clothes on and that the chauffeur lay like a dog along side of her and Mrs. Sargent went to bed in one room and the chauffeur in another and when she came down in the morning she found them still in separate beds. That she told Mr. Sargent about it. Mrs. Sargent explanation was very rational; that she had a bottle of sparkling burgandy on the ice, expecting a friend to come, the friend did not come and it was not on the ice she supposed and when the maid brought it up it exploded. When she saw the wall in ruins, she said "Charlotte, what shall I do, my husband will kill me" and the next day she told her husband about it and he said never mind. The husband testified the maid had told him of the facts which she testified to in court; that he never spoke to his wife about it but after the maid told him he put the detectives in the house.

He continued living with his wife and in May, at the instance of his solicitors, employed detectives. These detectives were secreted in the house on the top floor and the defendant was under constant espoinage by servants in the house, by two white male detectives and one colored female detective who was introduced to the defendant as a nurse.

Of this spying defendant was unaware. There was according to the testimony of the female colored detective, a dictagraph in the house, which could be used to overhear conversations. Although these men were in the house and although one of these men followed the automobile in a motorcycle when the defendant went alone with the chauffeur, there was no act of impropriety testified to, except the testimony of the colored maid, Charlotte, who was an ignorant and vicious woman, who had never received anything but kindness from the defendant. This Charlotte testified that she once saw the chauffeur, Simmons, out in the hall with his arm around Mrs. Sargent, while she was in the dining room. The maid, Charlotte, also testified to overhearing a conversation between Mrs. Sargent and the chauffeur in which she called him "dearie" and asked him to bring some ice cream. This conversation was denied by three white women who were at the house as testified to by Charlotte at the time of the conversation. These ladies were all of excellent social standing and contradict the testimony of the maid as to this conversation. The two white detectives testified as to hearing two conversations over the telephone. Although the defendant was under their espoinage both night and day, while she was in the automobile and while she was in the house, they saw nothing out of the way. They testified that in their room they could hear mumblings as if they came from the pink room but their attic room was on the other side of the house from the pink room and the mumblings were at a time when Mr. Sargent would be at home and the mumblings might have been his; they did not go so far as to attempt to identify the mumblings as coming from an Etheopian. This was the condition until the

night of July 11th. On that night Mr. Sargent absented himself from home. Mrs. Lathrope, a witness for the plaintiff testified that previous to that time in a conversation in the automobile, Mrs. Sargent was asked to go to her house but that Mrs. Sargent said no, she wished to be at home because her husband would be in Vermont and might telephone her. He did absent himself from the home, took the child with him to Vermont, left his wife surrounded by corrupt colored servants and the two white detectives. His wife came home with the chauffeur sometime after 9:00 o'clock, and according to the testimony of the witnesses produced by the petitioner, after certain unimportant events had occurred, she, the defendant and the chauffeur were in the room. The chauffeur having been induced to go into the room by the colored maid, Charlotte, who was not examined as to the raid by the petitioner, but testified on cross-examination that she shut the door on the chauffeur and the woman while they were in the room and that immediately thereafter, although she swore she did not lock the door, she went to the button, which was on the 3d step from the bottom of the stairway leading to the attic and attempted to push the button to sound the buzzer and flash the light in the room of the detectives. The two detectives, the petitioner's witnesses, not defendant's, testified that they did not get the signal but what caused them to come downstairs was the cry of "Charlotte, Charlotte!" This cry the defendant testified she made when Charlotte shut the door upon her and the chauffeur and locked it. The colored maid says that she after pressing the button stood in the hallway with the detectives fifteen minutes before they went to the door. They say they immediately hurried down stairs and

found her fumbling with the button; they did not receive the signal but came down because they heard the cry. The chief detective went to the door and locked it with the key, which he says was on the outside of the door and had been there always from the time he first went in the house in May until the night of the raid. The assistant detective says that the chief detective locked the door with a key which the chief detective had kept in his pocket from the first day he went in the house when he had put it in his pocket and kept it until the night of the raid. The chief of the detectives, Tienkin says he tried the door before he locked it but he immediately locked it after he tried it. He said he was unable to open it. He did not burst it in. He made no further attempt to open it but turned the key in the lock, according to his testimony, and put the key in his pocket. He and his assistant say they rushed down immediately after the cry of "Charlotte, Charlotte!" The petitioner's witnesses further say that having locked the door they called on the telephone, Mr. Huck, who very opportunely was waiting for the call, and then although Mrs. Sargent knocked on the inside of the door and pleadingly demanded to have the door opened, the detectives did not open the door until Mr. Huck came there. Mr. Huck on arriving there had the door opened and Mrs. Sargent protested her innocence, and said in a very hysterical way "What does this mean, I have done no wrong. I am not guilty of any wrong doing, what does this mean?" Does Don want a divorce; why didn't he tell me he wanted a divorce?" This is practically all the evidence of the petitioner as to the main facts.

Disregarding the reliability of the testimony as coming from detectives and servants in the house,

the petitioner's evidence demonstrated that the woman was under constant surveillance from May 26 to July 11 and had done nothing; although she was surrounded by detectives, the house was wired, the detectives were in the attic; there was a signal there, the maid was in the house and the colored maid who was a detective were all waiting to find her in a wrong position, yet at the end they were compelled to make this spectacular raid. The detectives further testified that during the night they looked over the balustrade and saw her in a pink kimona go in the bath room with Simmons and locked the door after some familiarity with him. Although they had been waiting for just such an episode for over a month, they did not noiselessly come down stairs and listen at the bath room door; they did not wait a sufficient time if there was impropriety for the impropriety to be under way and then come down softly and break down the door to find the people in a dishabille condition, but according to their own testimony they waited, let them come out of the bath room, went back into their own room and did not come down until they heard the cry "Charlotte, Charlotte!" It is a demonstration that they were waiting to trap the woman in the room but their trap went astray because of the lack of intelligence on their part. The colored woman, Charlotte, was so ignorant that in her eagerness to get something for the detectives she shut the door. She did not wait to have the door shut, whether she was fearful that Simmons would come out of the room and not give her an opportunity. She did not listen with the door open, but in her blind, ignorant way in attempting to do what she thought she should do, she shut the door and attempted to give the signal by the button,

but it was the shutting of the door that caused Mrs. Sargent to hammer on the table and say, "Charlotte, Charlotte! What do you mean?" Charlotte says in her testimony that she did say to Mrs. Sargent "I was only funning" when she closed the door.

The testimony of the defense was, of course, limited to the defendant and the chauffeur. There were no other witnesses in the house but those hostile to her who had been spying on her, although waiting on her during all this time and the paid detectives. The defendant testified that she came home with the chauffeur. That she thought there was someone in the house; that she told him to go and look over the house; that he did so. That she had something to eat and then she went upstairs alone. That he came to report to her and when he stepped into the room Charlotte walked out of the room and shut the door opened it and said "I am only funning" closed it again and she thereupon cried "Charlotte, Charlotte!" and she heard the detectives say "That will do, Charlotte." Immediately she went to the door, having heard the lock click when Charlotte shut the door, and hammered on the door. The door was locked from the outside and a man said she should be quiet, that the house was surrounded by detectives. In this situation, being a normal woman, she of course became hysterical, cried, shrieked and demanded to be let out, but was kept a prisoner for fifteen minutes; when Mr. Huck arrived then the door was opned and she came out and Mr. Huck, being a gentleman who had frequently dined at her table with his wife, she said "You of all men, Mr. Huck. What does this mean?" whereupon the chief detective took her by the arm and shook her and said "Keep quiet or

we will load you and all your damned blacks in a patrol wagon.'' The woman was hysterical and did not know what it meant, but by intuition knew that something was wrong, had been plotted by husband, did not know what to do and finally called up her sister and went to her sister's home. The chauffeur testified practically to the same effect, except that he testified that when the door was slammed and locked and he heard the footsteps on the stairs he remembered certain conversations he had had with the petitioner and thought that there was something to be done to him and he immediately went out of the window, thinking of his own skin and of nothing else, which cannot be held to incriminate the defendant as she knew nothing of what he was doing nor could she have held him in the room if she had wished to. His attempt was to save himself and immediately after jumping out of the window he went to Mr. Sargent's bosom friend and told him of this occurrence and asked him what it meant. This friend of Mr. Sargent's was not called as a witness by Mr. Sargent. After the occurrence of the 11th of July, Mrs. Sargent went to the home of her sister and the colored chauffeur, not being able to find out what was behind the matter and fearing for his safety, went to some friend who had a hotel at Forest Hills. He knew the brother of the defendant and three days afterwards took the defendant and her sister on an automobile trip to Vermont, being hired by her brother. Much is made of this, but the defendant knowing that there was nothing wrong between her and the chauffeur there was no reason why she should refuse to allow him to drive if she was properly accompanied, as she was on this occasion. There was a long examination of the chauffeur on the question of

the action of computators on automobiles on this trip, but the trip itself proved nothing. It had nothing to do with any acts of adultery alleged in the petition and simply showed the conduct of the defendant afterwards. It may have been that some women, feeling they were accused, would have desired to have the alleged corespondent out of sight but there was no reason for this, if the defendant knew that she was innocent. The action was brought sometime after the night of July 11th and it dragged on until Sept., 1919. The petitioner had absolutely refused to have any communication with his wife, although the sister had begged him to see her when she was ill and about to undergo an operation, saying she could convince him that he was the victim of detectives but although he promised to see her, he did not see her. There was much notoriety about the case in the papers which of course was distasteful to the defendant and she insisted upon an interview with her husband. His lawyers, as they testified, refused to allow her to see him alone even in their offices and she had an interview with him in their presence in which she told him how could he believe such a story. She had a number of interviews with them and finally went to Reno with their knowledge. She said she went to Reno to attorneys there recommended by Mr. Runyon, a witness called in the case. Mr. Runyon denied that he recommended the attorneys. She said he had told her the attorneys were responsible gentlemen and could be relied on. He denied that. He admitted that he had had some correspondence but he says she got the name from a letter which was lying on his desk. If the court will read her description of how she came to go to the at-

torneys in Nevada and then will read the contradictory description given by Mr. Huck and Mr. Runyon, both of whom were called as witnesses, although they were both in court during the entire case, contradicted each other. The story of how she got the name of the attorneys is droll. Mr. Runyon says she got it from a letter lying on his desk. She says that her husband before she went to Reno called her on the telephone and wished her a pleasant journey. She was corroborated in this by a friend who was in her house and heard the conversation. She says her husband's intimate friend took her to the train. This intimate friend was not called by the husband. She arrived in Reno and was finance by her husband, who paid the lawyers in Reno, paid her $1200 and raised her alimony from $225 to $300. A suit was started and then suddenly for some reason undisclosed except by the summing up of the eminent counsel for the petitioner, who in his argument before the Vice Chancellor said that when counsel was called in the case, his counsel refused to allow the Nevada suit to proceed because a decree would be a void decree and worthless. The petitioner refused to allow the suit in Nevada to proceed and she returned here to litigate the original action which had slept. There were two colored witnesses put on the stand to testify as to admissions made to them out of the presence of the defendant by the chauffeur, which were very extravagant, one of them going so far as to say the chauffeur had told him that Mrs. Sargent had told him when they were in the act of intercourse and he hearing some noise and thinking it was her husband, Mrs. Sargent told him "I would not care if he walked into the room" and testimony of that kind. One

of these was a colored gentleman who cleaned the spittoons in the office building where the solicitors of the petitioner have their offices and was set out to what the detectives call "rope" Simmons by getting him to make admissions. The other was a man who had been a wagon helper with Simmons. There was another witness called, Jetter, a short, thick set colored man, who testified that one morning he saw Simmons enter Mrs. Sargents room and she seized him by the hand and said "You know what I want" but his testimony if carefully read it will show that the way he located the bed and the door of the room he could not physically have seen what he said he saw. He was put out of the house by Mrs. Sargent for attempted familiarity with one of the colored maids. This is a resume of about all the evidence there was. On these facts the Vice Chancellor held that as a fair minded man he was not convinced that the defendant was guilty of adultery and dismissed the petition.

Argument

The burden of course was upon the petitioner to prove his case. Instead of proving his wife was guilty of adultery he showed that although she was under constant surveillance by detectives, while she was in and out of the house alone with the chauffeur, that nothing was seen of an incriminating nature. They were never alone in the room together and were never seen in the room together by the testimony of the detectives and when she was out in the automobile nothing was seen indiscreet in her conduct, although she was followed on a motorcycle so that the petitioner practically demonstrated that she did nothing wrong by his own testimony. The husband, without any reason to suspect his wife of intimacy with the chauffeur, who he had paid to watch his wife, but being of a suspicious nature, put the detectives in the house, put his wife in the way of the colored chauffeur knowing that there were paid detectives surrounding her and the colored servants which she could not trust, put a colored maid in the house and then went away to the country and left the way open for her if she were inclined to commit adultery to do so. This, of course, is far different to cases holding that a husband having good grounds to be suspicious can use any legal means to watch his wife. He put his wife in a position of danger and attempted to put the germ of adultery which he thought was in her mind under hot house conditions so that it would be forced into action. *Brown v. Brown,* 62 Eq., was reversed on appeal by the petitioner. If in the face of the denial of the defendant, unshaken by the exhaustive cross-examination and of the

chauffeur, upon testimony of detectives and servants, which testimony admittedly demonstrated that one of the servants shut the door and tried to put the defendant in a compromising position with the colored chauffeur, she being at the time innocent, a divorce can be decreed, then no woman who is the wife of a jealous husband, surrounded by corrupt servants and detectives, is safe in New Jersey. The opinion of the learned Vice Chancellor demonstrates the tendency of the testimony, the contradictory nature of it; the witnesses do not agree. The testimony that she was in love with the chauffeur by her own declarations, by a reading of the testimony it will show that both she and her husband had said of the chauffeur that he was not attractive as a man but that he and the automobile made a good appearance and that they have attempted to twist in Court into a statement that she liked the chauffeur. It was also proved that this chauffeur with whom they say she was enamored was repugnant to her and that she had asked her husband to discharge him and her husband had refused to discharge him.

Much of the brief of petitioner is made up of attempting to pile suspicion on suspicion, which is of course not a substitute for facts or testimony. It is argued that because there was a time unaccounted for by the chauffeur, in that time he was doing something wrong, but the chauffeur may have made a lapse as to time. He admitted that he got in the house after 9:00 o'clock and that the raid was around 10:30. The mere fact that he does not describe acts which in the opinion of counsel for petitioner would fill up the time does not raise the presumption of adultery. The defendant gave the time as well as she could and

tells what happened and there is no such great void in the time as would indicate anything wrong was going on. The case cited by the petitioner, *Stack v. Stack,* is a case where two people were in a bed room together from 4 o'clock in the morning or earlier until 7 or 8 the next morning. There the Vice Chancellor said there was a presumption of the going of the man and woman into the room together would commit adultery, but this is no authority for the statement that a woman shut in a room by her colored maid and immediately thereafter the detectives knocking on the door, and the chauffeur jumping out of the window, creates a situation from which a presumption of adultery will arise. The case of *Earle v Earle,* is very much like the present case, although stronger in its evidence against the defendant. The brief of the petitioner questions the statement of the Vice Chancellor that the woman was comely of face and form, but I have no interest in that. Whether the present Vice Chancellor is an authority on female loveliness or the counsel for petitioner is a better authority, has nothing to do with the fact as to whether the burden of proof was upheld by the petitioner in this case. The fact that the woman was of pleasing form and feature might indicate that she would not, if inclined to have improper intercourse, had to do with a colored chauffeur but that she might have had white people. A curious circumstance is that the photograph of Mr. X was brought in, much care is taken by the petitioner not to disclose the identity of Mr X but he cares nothing at all about dragging his wife into public notoriety with a colored chauffeur. Such extremes of consideration on his part for the unknown Mr. X who was identified at the trial, contrasts strangely

with his lack of interest in notoriety for his wife, whom, as the brief of the petitioner says he had devotedly loved up to the time of the putting of the detectives in the house. When asked by the defendant's counsel why he had not sought out his wife or let her talk to him about the alleged raid planned by the detectives, he gives no other reason than that he had complete confidence in his counsel.

An argument is made that if this was a frame-up, it must have been with the connivance of the lawyers. This of course is not so. The detectives may have planned the whole thing and in an endeavor to show that they had obtained results had deceived the eminent counsel for the petitioner. It may have been that the eminent counsel knew nothing about the connivance of the detectives but it is a strange circumstance that one of the counsel was on call. It was one of the witnesses for the petitioner, a maid, Viola, I think significantly said: "I knew something was going to be pulled off, but I didn't know it was going to be that night."

All the cases cited on connivance, although connivance is not interposed here as a defense, because there was no proof of adultery, but rather tend to show the attitude of mind of the petitioner in his desire to have the thing accomplished, if it was accomplished; but all the cases make a distinction, which the brief of the petitioner does not, that the passive conduct of an injured spouse is not connivance and there may be activity, as long as the activity is merely in the nature of watchfulness, but no case goes so far as to hold that the spouse assuming the guilty intentions of the spouse can place her in a position where new circumstances are created which she

does not create, new conditions brought about which she has nothing to do with, which might lead her to commit the act which he is seeking to have committed, and if there were any question in this case it seems to be admitted that after he believed she was in lecherous intercourse with the co-respondent, he made no investigation but on the contrary surrounded her with detectives and spies and threw her into the company of the supposed corespondent, left her alone with him, absented himself from the home so as to make the opportunity and placed his attorneys in the position where they might benefit by compromising appearance, and this of course is very far from the doctrine of any cases that are cited in the brief of the petitioner. As to the dogmatic conclusions in the brief of the petitioner, I think they can readily be dissolved especially the contention that either the defendant was guilty of adultery or they guilty of a frame-up; there may be neither situation. She may be innocent of adultery and the detectives in their haste to get evidence may have produced the situation, which even if believed, would not amount to adultery, so that it is not necessary either to find the guilt of the defendant or that there was a frame-up. It can be found that even if the servants in the house and the detectives were angels, then they were also fools and in hasty action produced the situation, which however it might tend to inferences inimicable to the innocence of the defendant, yet do not warrant a conclusion of guilt. If a frame-up, this conclusion goes on, it must have been deliberately planned by intelligent counsel. This does not follow. Counsel might have been the victim of detectives or the victim of their own insufficient reasoning, and if the detectives were attempt-

ing to bring about guilt or appearance of guilt, why would not a negro be chosen if a negro was the only person in the house who was in the pay of the petitioner who could be made a corespondent? Who else could be made a corespondent? Could they go out in the street and bring in a noted divine and place him in a compromising position? They were bound to work with the material at hand and the only material at hand was the colored chauffeur. It does not follow that if it was a frame-up, that Mr. Huck and Mr. Sargent must have been parties, they were neither of them in the house; the house was turned over to the detectives under whose charge were the servants. The man Jetter is a negligible proposition because his testimony showed it was physically impossible for him to see what he says he saw. The conclusion that if Mrs. Sargent was telling the truth, many persons must have perjured themselves does not follow, because if the two detectives be eliminated, Charlotte, Viola and Lewis were negligible as to their testimony except Charlotte and she undoubtedly was perjuring herself by her stupidity as demonstrated in her testimony. As to perjury, either one of the two white men detectives were lying they disagreed so absolutely about the key, which at first appears a small thing but when it is remembered that the key is the instrument that locked the door that held the two people in the room, then the proposition of the key is important. The first detective said it was in the door and he never touched it from the time he entered the house. The second detective said the first detective had the key in his pocket all the time from the time he entered the house, so as to perjury it must be settled which of the two detectives was telling the truth, not as

opposed to Mrs. Sargent, but as opposed, to each other.

The petitioner's counsel argues from the photograph of the colored chauffeur that he is not unattractive. I am frank enough to state that I am no authority upon Etheopian male beauty and am quite willing to allow counsel on the other side to be considered in that aspect, but I fail to see that that has anything to do with establishing the facts in this case of the guilt or non-guilt of the defendant. If she was criminally inclined and it can be assumed that she would be criminally inclined because a colored man, the degree of his personal beauty would it seems to me hardly weigh with any normal minded or normal moraled individual, not to speak of a Court which is speaking for all individuals.

Argument of the brief of the petitioner that the more we find in the status of a white lady, the less it has to do with her repugnance to association with black men is one that it seems to me rather daring to advance to be adopted by a Court. Every normal minded white man instinctively knows that a white woman of normal type has a repugnance to intercourse with black men and although the petitioner in this case went so far as to put a physician on the stand and to attempt to prove that in France white women preferred black men, yet on cross-examination he shrank a little from this statement, involving as it did all white women in this country and did not go further; although the petitioner put him on the stand with the purpose of establishing that as a fact that there was nothing to be drawn from the alleged instinctive repugnance of good white women to association with black men. If this is rested on as a basis for an argument for reversal

of the decree it seems to me it destroys itself in the minds of any white man who is of normal mind or morals.

Respectfully submitted,

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