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CITATION.

New Jersey, to wit: The State of New Jersey to Frieda Sturm,

(SEAL) GREETING:

You are hereby cited to answer the petition of Sanford Z. Sturm, a copy of which petition is herewith served upon you, by filing your answer in writing in the office of the Clerk of the Court of Chancery, at Trenton, within twenty days after the 5th day of July, 1924; and in default of your so doing such order or decree will be made against you as the Court shall think equitable and just.

Witness, his Honor Edwin Robert Walker, Chancellor of our said State, at Trenton, the 25th day of June, 1924.

THOMAS BARBER,
Clerk.

FEDER & RINZLER,
Solicitors.

PETITION.

In Chancery of New Jersey

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

The petition of Stanford Z. Sturm, of the City of Newark, in the County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Frieda Sturm, the defendant in this suit on the twenty-fourth day of March, Nineteen Hundred and Twenty-Four, by Edwin C. Caffrey, Justice of the Common Pleas Court, at Newark, in the State of New Jersey.

2. Defendant since her marriage to your petitioner, and on the twenty-fourth day of May, Nineteen Hundred and Twenty-Four, and on other days in said month of May, Nineteen Hundred and Twenty-Four, committed adultery with a person unknown to your petitioner, and whom your petitioner is unable to describe, in the City of Newark, in the County of Essex, and State of New Jersey.

3. Petitioner and defendant were bona fide residents in the State of New Jersey, when this cause of action arose, and they have ever since continued to be bona fide residents of this State, down to the time of the commencement of this action residing at Newark, in the County of Essex and State of New Jersey.

4. There were no children born of said marriage aforesaid.

5. 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, &c.

FEDER & RINZLER,
Solicitors of Petitioner.

FEDER & RINZLER,
Of Counsel.

STATE OF NEW JERSEY, }
COUNTY OF PASSAIC. } *ss.*

SANFORD Z. STURM, of full age, being duly sworn according to law, upon 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 petition.

SANFORD Z. STURM.

Sworn to and subscribed before me,
this 23rd day of June, 1924.

HARRY M. FEDER,
Notary Public of N. J.

A true copy.

THOMAS BARBER,
Clerk.

Answer.

ANSWER.

IN CHANCERY OF NEW JERSEY.

Between	
SANFORD Z. STURM, *Petitioner,*	*On Petition, etc.*
and	*Answer.*
FRIEDA STURM, *Defendant.*	

The answer of Frieda Sturm, to the petition of Sanford Z. Sturm, petitioner.

1. This defendant admits the allegations set forth in paragraph 1 of the petition.

2. Defendant denies the allegations set forth in paragraph 2 of the petition.

3. Defendant admits the allegations set forth in paragraphs 3 and 4 of the petition.

4. Defendant denies that petitioner has any ground or right for divorce, and prays to be hence dismissed with her reasonable costs and charges in that behalf most wrongfully sustained.

PHILIP J. SCHOTLAND,
Solicitor for Defendant.

ORDER OF REFERENCE.

IN CHANCERY OF NEW JERSEY.

Between	
SANFORD Z. STURM, *Petitioner,*	*On Petition, &c.*
and	*Order of Reference.*
FRIEDA STURM, *Defendant.*	

This matter being opened to the Court by Feder & Rinzler, solicitors of the petitioner, and with the consent of Philip J. Schotland, solicitor of the defendant:

It is on this 28th day of August, 1924, ORDERED, that the above-stated cause be referred to the Honorable V. M. Lewis, one of the Vice-Chancellors of this Court, to hear the same for the Chancellor and to report the same for the Chancellor and to report thereon to him and advise what order or decree should be made therein.

E. R. WALKER,
C.

FEDER & RINZLER,
Solicitors of Petitioner.

I do hereby consent to the making of the above order.

PHILIP J. SCHOTLAND,
Solicitor of Defendant.

A true copy.

THOMAS BARBER,
Clerk.

Opening.

IN CHANCERY OF NEW JERSEY.

Between SANFORD Z. STURM, *Petitioner,* *and* FRIEDA STURM, *Defendant.*	*On Petition for Divorce on the Ground of Adultery.* *Testimony.*

Transcript of testimony taken in the above-entitled cause, at the Chancery Chambers, Paterson, New Jersey, on the twenty-third day of October, nineteen hundred and twenty-four, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances:

Feder & Rinzler, Esqs., associated with Ward & McGinnis, Esqs., for the petitioner.

Philip J. Schotland, Esq. (9 Clinton St., Newark, N. J.), for the defendant.

Mr. Ward: We note that an important date, the 20th of June, has been omitted from the petition, the date upon which we allege the adultery took place, and I would like to amend to include that date—the 20th of June.

Mr. Schotland: I object to the amendment for this reason: the petition simply says this regarding the adultery: "Since her marriage to your petitioner, and on the 24th of May, 1924, and on other days in said month of May, 1924, committed adultery with a person unknown to your petitioner." (Reading petition.)

It gives no other information. I, therefore, on July 30th mailed to the solicitors for the peti-

tioner interrogatories in order to be able to get information to defend the case. I asked in the first interrogatory: "Where do you intend to charge that the adultery alleged in paragraph 2 of your petition took place?" And the second interrogatory: (Reads it); (and also reads third interrogatory). I received by mail with a letter dated October 10th, I received it on the 13th, the answers to the interrogatories, not under oath. (Reads answer to the first interrogatory, also answer to the second interrogatory; also answer to fourth interrogatory; also answer to fifth interrogatory; also answer to sixth interrogatory.)

I cannot meet a new issue under these circumstances.

The Court: Then there will have to be a continuance of the matter under the well-established rule in this Court. If you amend, you will not be able to offer your testimony today.

Mr. Ward: I don't think he is entitled to interrogatories at all.

The Court: I will allow counsel to confer and see what they want to do.

Mr. Ward: We wish to amend.

The Court: I will allow you to amend, but there will have to be a continuance; we can go ahead now as far as we can.

SANFORD Z. STURM, being duly sworn in his own behalf, testified as follows:

Direct examination by Mr. Ward.

Q You are the petitioner in this case? A Yes, sir.

Q You were married when? A The 24th of March, 1924.

Q Before your marriage to the defendant, how long had you known her? A Since 1919.

Q Were there any proceedings instituted against you by Mrs. Sturm prior to your marriage? A Yes, sir.

Q You had known Mrs. Sturm for how long? A Since 1919.

Q Had you ever kept company with her? A Yes, sir.

Q Did you ever become engaged to her? A It was never announced, but between ourselves we had become engaged.

Q And did you give her a ring? A Yes, sir.

Q Did you have any controversy or difficulty with the present Mrs. Sturm after having given her the ring? A Yes, sir, quite some.

Q As a result of that, was the engagement broken or not? A Yes, sir.

Q After that, did you attempt to effect a reconciliation? A I did, on a number of occasions.

Q Successfully? A No, sir, unsuccessfully.

Q Eventually did you, or not, start to visit and keep company with some other young woman? A I was introduced to another young woman.

Q Then, proceedings were started against you by Mrs. Sturm? A In the latter part of 1923, yes, sir.

Q What were the proceedings? A The first proceeding was a breach of promise action for $25,000; the second was an indictment found on a charge of fornication; and the third was seduction under promise of marriage.

Q And as a result of these proceedings that were instituted against you, what happened? A I was found guilty on the charge of seduction.

Q Were you guilty?

Mr. Schotland: Objected to.

The Court: What is the object of the question?

Mr. Ward: It is always important in a case of this sort to ascertain whether or not acts of sexual intercourse took place before marriage.

The Court: All right; frame your question differently.

Q Did you have sexual intercourse with the defendant before your marriage? A No, sir.

Q After your marriage did you live together? A No, sir, never.

Q After your marriage did you ever go to see your wife? A Once.

Q And with whom? A My brother-in-law.

Q Tell us what you said to her at that time. A I went up there for the purpose of finding out whether she was going to support herself, and to give her some money; and I told her that just at the present time it was impossible for me to live with her, because I was financially embarrassed. I owed a lot of money going through these other cases; and secondly, that I had been hurt very badly; she tried to break up my life in the worst way; and thirdly, she threatened my life a number of times with blackhand letters, and also with different things that came back to me from different people; and I told her the only thing that would bring us together was time, and I would want to forget it a little bit and have it quiet down; and I told her to take care of herself, behave herself, and that I would try my best so that I could furnish her a home and live with her.

Q You asked her to behave herself; why was that?

Mr. Schotland: Objected to.

Q What did you tell her with reference to her behaving herself? A I told her to behave herself and not to run around, because I knew she had been out with a number of fellows after we parted, and particularly she told me there were a few fellows that she liked very well, and she did not want to tie herself down with me any more, and she wanted to go and see the world.

Q Did she mention the names of the fellows? A Yes, sir.

Q What did she say? A There was one young man—

Q This was the conversation you had with her when you went to see her after your marriage? A You asked me who these fellows were.

Q At the time you went to see her after your marriage, you say you then referred to some fellows, did you? A Yes, sir.

Q What did you say about that? A I told her not to run around, because I knew she had before we were married, done so.

Q Who were these fellows? A One in particular was a gentleman by the name of Zemmel.

Q From where? A Newark, New Jersey.

Q How did you learn his name? A She went with him long before she went with me, and then, towards the end of our courtship she was taunting me about him, telling me she went with him and all that sort of stuff; his name was Harry Zemmel.

Q You say she also mentioned some other names to you? A Yes, sir, but I do not recall the names.

Q At that time what were your intentions, so far as your wife and your future life with your wife was concerned?

Mr. Schotland: Objected to.

The Court: Objection sustained.

Q What did you say to her? A I told her that just as soon as I could rid myself of some of the debts and could feel a little bit more at ease as to the feeling of the world as to this case, I would come and take her to live with me.

Q Mr. Sturm, at that time were you sincere in what you said with reference to at some time in the future living with her? A Absolutely.

Mr. Schotland: I am not satisfied to take his opinion of himself.

The Court: Re-frame that question.

Q At the time you had your conversation with her, did you say anything to her with reference to your sincerity, the sincerity of your proposition? A Yes, sir, and she took it in an offhand way, very giddy about it; she laughed it off.

Q Was anything else said at that time? A She asked me to go in a side room with her, which was separated from the living room with a curtain, and I went in there with her, and she said to me, "I want some dough;" and I had four dollars in my pocket and I offered it to her, and she said that was not sufficient; so I told her I would send her some money just as soon as I got it, which I did on the following Monday.

Q That was the only conversation you had with her? A In the side room.

Q I mean, did you ever afterwards have any further conversation with her? A Yes, sir.

Q When? A A number of my friends told me they had seen her out—

Mr. Schotland: Objected to.

The Court: Strike that out.

Q Did you yourself see her out with anyone? A Yes, sir, many times I saw her out with men.

Q Did you ever see her doing anything that was wrong? A Absolutely. On one occasion, on the 24th of May, 1924, I saw her with a gentleman, who, I believe, was her employer, I saw him put his arm about her waist and walk into the office with her in front of the Cook Re-Lining Patch Company, Livingston street, Newark, New Jersey; it was around noon; and later on she got in his car with him and he drove her home; that was in about five or ten minutes more; he drove himself, and they drove to her house, which was two blocks away, and they sat in the car there loving and carrying on, and that took ten or twelve minutes; and then she went upstairs in the house; he did not go up at that time. Then a few days later he called for her one evening, or rather, he took her from the office to her home, and he called for her there about an hour later and took her out for a ride, and she sat in the front seat with him, and there were two other women in the back of the car.

Q Were they his employees? A No, sir, I believe one of them was the wife of the man that drove the car; and then, at a later date,

the same gentleman took her home on a Saturday noon again; it must have been around 1 o'clock, and drove her to her house in a brand new closed car.

Q Was he driving? A Yes, sir.

Q Where did she sit? A In the front seat with him, and they drove to her home and both of them went upstairs; and about 10 or 15 minutes later I saw Mrs. Jacoby come out of a delicatessen store and walk down to the front of the apartment, and she lingered in front of the doorway for 5 or 10 minutes before she went upstairs; 10 minutes after that, this gentleman came down again and drove away in his car.

Q Who is Mrs. Jacoby? A Mrs. Jacoby is her aunt.

Q When was that? A June 7, 1924.

Q Going back, after this one interview about which you have told us, did you ever have any further talk with your wife? A Yes, sir.

Q Where? A I told her—

Q Where? A I called her on the telephone.

Q When was that, please? A This was the early part of May, on the 10th of May.

Q What did you say to her then? A I told her a number of people had told me of her misconduct, and I told her she should behave herself if she ever wanted to live with me; that I wanted this thing to stop.

Q Had you made provision for her support? A Yes, sir, I sent her $6.00 every week from the first week I was married to her until the 10th of June, when I was summoned to the Court of Domestic Relations in Newark, New Jersey, at Newark, New Jersey, and Judge Brennan set aside $7.00 a week, and I have paid that up to the present time.

Sanford Z. Sturm, direct.

By the Court.

Q Did you never live with your wife? A No, sir.

Further direct.

Q Mr. Sturm, as a matter of fact, did anyone make any representation to you with reference to your wife? A Several people, yes, sir.

Q And as a result, what did you do? A I called her on the telephone, as I said, and she sort of laughed it off; and to convince myself, as I did not know whether these people were telling me the truth or not, I got in touch with the Kopf sisters and hired them to investigate, to find out if these things were really true; and they started to work on the 20th of May, 1924, and on the 24th of May I showed the Kopf sisters who she was, and that was the day her employer brought her home in the car.

Q Was that the first you had observed anything yourself? A Yes, sir.

Q Where was it that you pointed your wife out to the Kopf sisters? A In front of the Cook Re-Lining and Patch Company.

Q Who is the company? A The name of the owner I don't know, but this man who had driven the car and had his arm around Mrs. Sturm, appeared to be the owner of it.

Q Is that where your wife works? A Yes, sir.

Q And you have described to us all you saw on the 24th? A Yes, sir.

By the Court.

Q How did you form these suspicions about your wife when you did not live with her? A

Sanford Z. Sturm, direct.

A number of people told me they had seen her out with different men.

Q When you found out she went out with different men, why didn't you seek her out and establish a home for her? A Because I was not in a position to do so at that time.

Further direct.

Q Had the expenses of these different litigations been very considerable? A Very much so, because it broke me and I borrowed money.

Q When you did hear about these things, you did call her up and remonstrate with her? A Yes, sir.

By the Court.

Q How often did you see her? A I saw her just that Friday night.

Q How often did you see her to talk things over with her as husband and wife; why didn't you meet her; you were married how long before you hired the Kopf sisters? A About seven months.

Q How many times did you have sexual intercourse with her? A I never had sexual intercourse with her.

Q Why is it you did not consummate your marriage? A Because I felt rather hard at her trying to put me in jail and lying so much about me; it was not true; I did not feel that I was doing myself justice by living with her.

Q You did not, in other words, consider yourself married to her? A I did, absolutely; I sent her money of my own accord.

Q Is that your idea of the duty of a husband, to send her money? A I tried to protect her the best I could. I told her at the house that I

would come up again, and she said "Let me know before you come, as I may not be home."

Q Where did you live? A At my parents'.

Q How much did you pay them? A Four or five dollars a week.

Q What is your business? A Drug salesman.

Q How much do you make? A In the last year it has not averaged over $1,200.00; I am on a drawing account.

Q Don't you think it is your duty to establish a home for your wife? A I realized it was my duty, and I realize it is my duty to pay my debts to those I had borrowed from to help me out of trouble.

Q All the money you borrowed, you had borrowed prior to your marriage; what did you get married for? A I either had to get married or go to jail.

Q That was told to you pretty plainly, that you had to marry or go to jail? A Absolutely.

Q Who told you that? A My lawyers told me that.

Q Was anything said by the Judge? A Yes, sir.

Q I mean about your going to jail if you did not marry her; what judge was it? A Judge Caffrey.

Q Was anything said by him about your going to jail, if you did not marry her? A No, sir, he did not say so; but the prosecutor said I had two alternatives.

Further direct.

Q When you had this first interview with her at the time of your two brothers- in-law were present, was anything said about these charges? A Yes, sir.

Q What was said about that? A Mr. Goodman and Mr. Levine and myself were up there that night, and I said to her that I did not think it was her doing.

Q What was said about the charges and the number of charges? A I told her she knew it was not the truth; and she said, "I was determined to have you marry me, and my lawyer told me to institute the suit against you for breach of promise, and when I did that and found there was nothing in it, I was advised to go on further, never thinking it would go, this far." She said that. So she said she started this suit and nothing had come out of it, and she went to the Grand Jury with a story, and they issued an indictment for fornication, and that did not satisfy her or her advisers, and she went back and told another story.

Q Did she tell you this? A Yes, sir, and they came out with an indictment for seduction; so I told her, "You did not think that was the right thing to do?" and she said she did not expect it to go that far; if she had known it, she would have dropped it long ago.

Q You have related what took place on the 24th of May? A Yes, sir.

Q That was the first time that you saw any familiarity on her part with this man? A Yes, sir.

Q When was the next occasion you saw anything? A On the 26th.

Q Who was with you on the 24th? A The three Kopf sisters and a gentleman named Mr. Trost and myself.

Q On the 26th, who was with you? A The same people.

Q Have you related what occurred on the 26th? A Yes, sir. That is when her employer took her home, and then they took a ride.

Q The next occasion was the 28th of May? A Yes, sir; at that time I got a call from the Kopf sisters about 12 o'clock at night.

Q What did you do as the result of what they told you? A I started these divorce proceedings.

Q Now, Mr. Strum, about two months after your marriage did you do anything else for the purpose of bringing your wife to you and for the purpose of having your marriage a happy one, or did you consult with anyone? A Yes, sir, I consulted with my family and asked them what they thought about it.

Q What about it; did you consult any Rabbi? A No, sir, a Rabbi came to me.

Q And did you consult and talk with him for any purpose? A Yes, sir, to try to bring around some sort of reconciliation.

Q Now, you have related about the 28th; you said that you received some word from the Kopf sisters; what about it; what did you do as a result of what you heard? A It upset me a whole lot and bore out what people had told me, and I was convinced at that time that she did not care whether I ever did go to live with her or not; and I told the Kopf sisters to continue to watch her, and if anything did come up that would warrant a divorce, I would start divorce proceedings.

Q What was the next thing that occurred? A After that, I saw her go out with her employer.

Q When was it? A On the 7th of June.

Q Where did you see her? A She went for a ride that night way up through Springfield, and Millburn, on up along that way.

Q Alone, or was anyone with them? A I did not see anyone else in the car, just her and her employer.

Q What was her employer's name? A That I don't know.

Q Who accompanied you? A The Kopf sisters.

Q On that occasion did you see any improper actions on the part of your wife? A I could not get close enough to see them, although they were sitting close together.

Q Did they stop at any place? A They got away.

Q What was the next occasion when anything took place? A June 20th.

Q What happened on that occasion? A On June 20th, about the evening of June 20th, about 10 minutes after 7 that evening, Mrs. Sturm and her aunt left their apartment and walked to Clinton avenue, and boarded a bus going west on Clinton avenue; her aunt got off the bus at 10th street, and she continued up to Irvington Centre, and there she stopped in front of the bank at the apex of Springfield avenue and Clinton avenue, and walked across the street to the south side of Springfield avenue, and walked back to Clinton avenue and just seemed to act very impatient, as if somebody was going to meet her there; we watched twenty minutes, and then a tall chap came up, about five feet eleven inches tall.

Q Had you ever seen him before? A No, sir; he wore a gray suit and carried a spring overcoat, and they boarded a bus that was going east on Clinton avenue.

Q You said you saw her standing or walking around there for twenty minutes? A Yes, sir.

Q Then this tall man came up to her? A Yes, sir; and he tipped his hat and they shook hands, and then they spoke for half a minute, and then they got on the bus and rode down as far as Chestnut street and Broad street; they got off the bus there and walked north on Broad, very slowly; and as soon as they got in the shadow of the new Elks' home, the gentleman put his arm around her waist, and they walked until they came across and got in front of the Lincoln Hotel, and in front of a big tree, and they stood in the shade of that tree and he had his arms about her; I don't know what went on, but it did not look very nice; and they stayed there for about ten minutes. One time they walked right up to the entrance of the Lincoln Hotel, and Mrs. Sturm sort of backed away, and they walked across Broad street through on the sidewalk of the Lincoln Park; that is the name of the street; and they boarded a jitney going west again on Clinton avenue; when they got up to Belmont avenue they both got off, and the gentleman hurried on ahead and turned into Belmont avenue, and Mrs. Sturm walked up to the park situated on the corner of Belmont avenue and Clinton avenue, and Miss Constance Kopf followed Mrs. Sturm, and Mr. Trost followed this gentleman, when he saw him turn into Belmont avenue.

Q Did you see all this yourself? A Yes, sir.

Q What then? A When Mr. Trost saw this gentleman walk into Belmont avenue, he ran ahead and went into the apartment at 322 Belmont avenue; I was in the car with the two Kopf sisters, and we passed by Mr. Trost as he was

walking very fast, and we stayed right across from the apartment at 322 Belmont avenue; and then I looked back and I saw her coming up the street; and this gentleman stopped in front of the apartment; and Mr. Trost came out of the apartment, and Mrs. Sturm met this man there about five feet north of the entrance of this apartment house, and they both walked upstairs together with Miss Kopf and Mr. Trost behind.

Q Right at that point, Mr. Sturm, I would like to ask you to describe this apartment house and the apartment that is occupied by Mrs. Sturm. A It is a four-story building, built very wide, and has a plain entrance, two steps to go into the lobby, and three or four steps to go into the main corridor of the apartment; and the stairway turns about fifty feet from the entrance; it started at the left and a sort of winding stairway goes up one way; and the apartment that was occupied by Mrs. Sturm was at the head of the first landing, at the left, just as you get to the head of the stairs.

Q How many apartments are there in that building that open out upon that hallway, on that floor? A Four.

Q And hers was at the head of the stairway? A Yes, sir.

Q Describe the apartment itself to his Honor. How many rooms, and the size of it? A It is not a very big apartment; it has about four rooms.

Q What were the rooms, the character of the rooms? A In the left-hand corner facing the front of the house is a living room.

Q Is this the same apartment where you talked to your wife? A Yes, sir; and facing

the front of the house, a room that has a piano in it and two rocking chairs and a davenport; it is about 10 by 12 feet; and then to the right of that is a bedroom that has a large opening and separated from the other room with a curtain; the bed stands right in the doorway, and right in front of that is a kitchen; there is a little hallway that runs from the living room right into the main corridor.

Q You say your wife and this man went into the apartment house and up to the apartment? A Yes, sir.

Q What was the next thing that happened? A Miss Constance Kopf and Mr. Trost and myself ran around to the back of the apartment house; we got way back to the fence and we looked up into the apartment; and there was a dim light in the bedroom which sort of shone into the living room through the curtain, and standing in a position that I could see very well was this here gentleman; he had his coat off and his vest off; one cuff was undone; and he had his hands up to the back of his neck as if he was taking his collar off; and Mrs. Sturm was standing close to him with her head resting on his chest and one arm about him; I could see that plainly as we stood there for about five or ten minutes.

Q What did they do? A They were there for about a minute, and then they walked away from the window and we could not see them any more; and then we came around to the front of the apartment; we climbed the stairway and got up to the apartment, and Mr. Trost knocked at the door and he asked if he could see Mrs. Jacoby; Mrs. Sturm answered when he knocked; she hollered as if she was about fifteen or twenty

feet from the door, and she said that Mrs. Jacoby was not there; and he said, "Open up the door; I want to come in." So she did not answer that; and I knocked on the door, and I called her name out; I said, "This is me; open the door, I want to talk to you;" and I said that twice; and I could hear some mumbling inside, and I heard the man say, "Don't open the door; keep quiet." I knocked at the door violently and got no response. A number of people gathered in the hallway; and Miss Kopf knocked on the door of the next apartment, and the woman came out, and Miss Kopf asked this woman if there was any way she could get into this apartment through her flat, and she said "No." All this took about a half an hour, and we waited.

Q During that time, did your wife come out of that apartment at all? A No, sir.

Q Did the man who was in with her come out of the apartment? A No, sir.

Q From the time that you saw the man enter up to the time you and Miss Kopf and Mr. Trost went up to the door, and Mr. Trost knocked on the door, how much time elapsed from the time this tall, slender man and Mrs. Sturm went into her apartment, from that time up to the time when Mr. Trost knocked at the door, how much time elapsed, about? A A little more than half an hour.

Q And then, from the time Mr. Trost knocked on the door up to the time that you left, how long a time elapsed? A We waited there about five minutes, and then—

Q Answer my question. Mr. Trost knocked on the door, and then you knocked on the door; how long after that did you remain there, about? A About five minutes.

Q Then where did you go? A Then Miss Kopf and myself walked down out of the apartment and down to the corner in the park.

Q Did you leave anyone at the apartment? A Yes, sir, there were the other two Miss Kopfs there, and Mr. Trost. We walked down to the park, and Mrs. Jacoby was sitting on the bench in the park; she is my wife's aunt.

Q What happened there? A Miss Kopf called her aside and asked her if she was Mrs. Jacoby, and she said "Yes," and Miss Kopf said, "Do you know your niece is up in the apartment with a strange man?" and Mrs. Jacoby got up off the bench and walked over and said, "What of it; this is her husband." And she also said, "Hasn't a girl a right to be in an apartment with a man if she wants to?"

Q Without telling what was said, tell what was done. A After that we walked back to the apartment and Mrs. Jacoby followed us, and Mrs. Jacoby ran up to the apartment, and we waited around there for about twenty minutes and no one came out of the apartment, and then we went away.

Q From the time Mr. Trost knocked on the door up to the time that you went away, how much time elapsed? A About 35 or 40 minutes.

Q Before you went to the park to see Mrs. Jacoby with Miss Kopf, did you see the janitor there? A Yes, sir.

Q Tell us about that. A He was standing in the corridor there on the first landing of the stairs.

Q What happened; did you have any conversation with him there? A I personally did not.

Q Was there a conversation there? A Yes, sir.

Q From there you went on to the park, did you? A Yes, sir.

Q During the entire time you waited there, did your wife come out or attempt to make any explanation to you of any kind? A No, sir.

Q After Mrs. Jacoby had gone in, after you had told her, after Mrs. Jacoby had gone into the apartment, had your wife and Mrs. Jacoby come out or attempted to make an explanation to you or say anything to you? A No, sir.

Q About what time was it that this occurred? A About 9 o'clock at night.

Q Was that the last that you saw of your wife? A Yes, sir.

Q Have you had any talk or conversation with her since? A No, sir.

Q And that is the last that you have seen her? A Yes, sir.

Q Now, there is one other instance that I would like to call to your attention. Do you remember the date, June 18th, an incident in the park? A Sir?

Q (Question read.) A Yes, sir, I remember that.

Q Tell us about that. A Mrs. Sturm came out of the apartment with another young lady and some gentleman; I don't know who he was; they walked to the corner in the park and they sat on the bench talking for a while; and when it got dark, she got up with this gentleman; they walked with their arms interlocked up West and Madison avenue.

Q Did you know who the gentleman was? A No, sir.

Q Can you describe him? A He was about five feet nine or ten inches in height, and weighed about 150 or 160 pounds.

Q Where did they walk to? A They walked up Madison avenue to Ridgewood avenue, and they turned north on Ridgewood avenue, as far as Avon; then they walked—

Q Were their arms interlocked during all this time? A He would put his arms around her waist; they walked until they came to Avon avenue, and they walked to Belmont and back to the park, and they sat there and talked for quite a while.

Q Did you remain there until they went away? A We remained there until 10 o'clock, and then the party started breaking up and going home.

Q I believe you said in answer to a question by his Honor, that you have never had sexual intercourse with your wife? A No, sir, never.

Cross examination by Mr. Schotland.

Q Mr. Sturm, you were tried on the indictment for seduction and found guilty by the jury, were you not? A Yes, sir.

Q The verdict was "Guilty?" A Yes, sir.

Q At the trial, you had this other young lady that you say you were introduced to after the engagement was broken between you and your wife, you had this other young lady in court with you, didn't you? A She was in court, but she was not with me.

Q She was in the court room? A Yes, sir.

Q That is the young lady you were paying attention to up to the time of the trial? A I would not say that.

Q Do you say you were not paying attentions to her? A I took her out a number of times.

Q What was her name? A Miss Grace Adelman.

Q Now, immediately after your conviction you married your present wife to save yourself from jail? A I had two alternatives, and I took one and married her.

Q You did not marry her then because you loved her and wanted to marry her; you married her to save yourself from prison? A I thought I could probably bring about a reconciliation and forget things; at least, I tried very hard.

Q That was on March 24, 1924, that you married her? A Yes, sir.

Q And when did you see her? A On the following Friday.

Q What day was it you married her? A On Monday.

Q Did you kiss her after the marriage? A No, sir.

Q You were married by the Judge before whom you were tried—Judge Caffrey performed the marriage ceremony? A Yes, sir.

Q What did you say to her immediately after the marriage? A When do you mean?

Q Immediately after the marriage ceremony was performed? A Nothing was said by either one of us immediately.

Q You went away? A I did not.

Q Did you stay there? A We came downstairs to the ground floor together.

Q And you did not say anything to her? A Yes, sir, I spoke and talked to her and her aunt, and I told her I would come up and see her.

Q And you went to see her the following Friday? A Yes, sir.

Q And you did not go alone, did you? A No, sir.

Q You took two brothers-in-law along? A Yes, sir.

Q To see your wife and tell her you were hoping to become reconciled and to make a home for her; you took your two brothers-in-law as witnesses? A I had been threatened so many times, and Mrs. Sturm herself said, "The reason you married me was, that somebody tipped you off that you would not come out of there alive, if you did not."

Q So you took them for protection against your wife killing you? A Anybody who might be in the house.

Q Why didn't you call up your wife and ask her to meet you somewhere? A She had no telephone at that time.

Q And is that the only reason that you had your two brothers-in-law with you, as protectors, the Friday after you were married? A Yes, sir.

Q And is that the only conversation that you had with your wife, the one in the presence of your two brothers-in-law, the Friday after you were married, that you had with her face to face? A Yes, sir.

Q That is the only time you ever talked to her face to face since your marriage? A Yes, sir.

Q The only other conversation of any kind that you ever had with her at all was the one over the telephone where you told her to behave herself, or some such thing? A Yes, sir.

Q That is true? A Yes, sir.

Sanford Z. Sturm, cross.

Q And that is all the communications you have had with your wife? A Yes, sir.

Q That is true, is it? A Yes, sir.

Q You could not establish a home because you did not have any money; that is the reason you give, isn't it? A Yes, sir.

Q That is the reason you give for not taking your wife to live with you, isn't it? A No, sir.

Q What else? A I felt hurt because she tried to do all this harm to me.

Q She tried to make you marry her? A She succeeded.

Q But that was all she was trying to do? A No, sir, she would sooner see me in jail.

Q Wasn't all she was trying to do to make you marry her? A I think she would have tried to get out of it if she could.

Q I am asking what she was doing. A That is what she did.

Q Every move she made was to make you marry her? A Not at first.

Q When the suit was started, who was your attorney, who represented you in that case? A Mr. Kleinman.

Q Did you receive a report from him as a result of a conference he and I had? A No, sir, I did not.

Q Who succeeded him as your attorney? A Mr. Sigler.

Q When did Judge Osborne represent you? A He was just advising us.

Q And he advised you to marry the girl? A No, sir, he did not.

Q And then Mr. Sigler represented you? A Yes, sir.

Q The reason that you did not make a home and have your wife live with you, as you now

say, is because, in the first place, you did not have any money, and in the second place, you had no love for her? A I had love for her, yes, but it was hurt and burned so much that it had to be heated a bit.

Q You were only earning about $25.00 a week? A I was just working on a drawing account.

Q And on May 20th, less than two months after the marriage, you engaged how many detectives to watch your wife? A The Kopf sisters; they operated as one.

Q How many operators did you have? A I engaged the Kopf sisters; that is the name they work under.

Q You have described four operators that you know of. A Four were in the party.

Q And all you were paying your wife was $6.00 a week? A Yes, sir.

Q In order to get any more she brought you up before the Domestic Relations Court of Essex County? A Yes, sir.

Q And Judge Brennan ordered you to pay $7.00? A Yes, sir.

Q How much did you pay your operators? A I did not pay them anything; my sister is advancing that for me.

Q You had no difficulty in getting your sister to finance the expenses for the corps of operators? A Why shouldn't she? We are protecting our name.

Q To protect the name of the family, you could not get your sister to finance your making a home and living as a respectable man should with his wife?

Mr. Ward: Objected to as offensive.

The Court: Objection overruled. I want to get the attitude of this witness. It is very important under the circumstances of this case, and I don't think the question could be directed to him too strongly. I will allow it.

Q (Question read.) A Well, I was so heavily indebted to her at that time, that, I did not feel that it was right.

Q But you felt it was right to have her finance the cost of operatives to watch your wife day and night? A Yes, sir.

Q And you still say you loved your wife at that time and intended to live with her? A I would not say that I loved her as much as you intimate, but I had some love for her.

Q Where is that love located?

Mr. Ward: Objected to.

Q You said that in this conversation on the Friday after you were married, when your brothers-in-law were along, that she mentioned two young men that she had known and that she liked, and that she wanted to go out with them? A She mentioned one name at that time.

Q In the presence of your brothers-in-law? A Yes, sir.

Q Now, as a matter of fact, Mr. Sturm, don't you know that the name that you mentioned, Zemmel, is the name of a young man that you knew that she knew and had known for a long time? A I know that.

Q She did not have to mention that in that Friday conversation before your brothers-in-law? A She seemed to be proud of it.

Q You saw Zemmel at a wedding? A Yes, sir, at my brother's wedding.

Q When did that wedding take place? A A few years ago.

Q You saw Zemmel there? A Yes, sir.

Q Do you know how he came to be at your brother's wedding? A He has courted a young lady who is a friend of my sister-in-law's.

Q He was there and you knew who he was? A He was pointed out to me.

Q You would not mistake him for anyone else, would you? A Well, there are lots of people who are built that way and look that way.

Q Had you ever seen him? A I have seen him once or twice.

Q I mean, after your brother's wedding did you ever meet him on the street occasionally and see him pass by? A I don't think so.

Q You have never seen him since then? A I don't think I have.

Q Would you know him if you saw him? A I think so.

Q Can you describe him? A Well, I can, roughly. He is about six feet tall; rather round-shouldered, thin, with a long face.

Q Is that the man that you are trying to describe that you claim your wife was with on June 20th? A No, sir, I am not.

Q Didn't you meet Zemmel and his fiancee at your brother's house a year ago? A No, sir.

Q Are you sure? A I believe I did not.

Q Will you give me the exact conversation, as near as you recall it, that you had with your wife the only time that you went to see her and talked with her since your marriage? A I don't believe I can give you the exact words.

Q As nearly as you can. A We went up there for the purpose of—

Q I asked for the conversation; you and your two brothers-in-law got there; now what was said; who spoke and what was said? A Everybody spoke; everyone spoke.

Q Who were there? A Her aunt and herself and my two brothers-in-law and myself.

Q Did her aunt speak, too? A Yes, sir.

Q What did everyone say? A Both her and her aunt wanted to know when I was going to furnish a home for her, and I told her that just at that time I was not in a position to make a home; that I was very heavily indebted to different people for loaning me money to finance myself through this trouble that I had had, and just as soon as I was in a position to do so, I would be only too glad to furnish a home. And her aunt said, "Well, why don't you buy furniture on installments?" and I said, "That is a good idea;" but at that time I was struggling and struggling very badly to make ends meet, and I told her so; and I told her that I had been hurt badly, and just as soon as those wounds healed up, I would come and take her and live with her; and she seemed satisfied with that, although Mrs. Sturm laughed it off in a very casual way; it did not seem to make any difference; she just sneered at it at that time.

Q Sneered at what? A At the different things I said.

Q At your excuse for not making a home for her? A At the whole conversation.

Q Proceed. A And she was asked why she went through all this trouble and caused all this trouble for me, knowing that I was innocent of it; and she said she did not believe it would go that far. She said she started this breach of promise action purely out of jealousy and after

they found out there was nothing to that and they could not gain anything by it, she went to the grand jury and told a story there, and they found an indictment.

Q She told you this story in front of her aunt and your two brothers-in-law on this Friday? A I am not telling you the exact words.

Q You say Mrs. Strum said all this to you and your two brothers-in-law in the presence of her aunt on this Friday? A Yes, sir.

Q That she went to the grand jury, and all that? A Yes, sir.

Q Was there anything further in this conversation? A She also said she went back and told that story, and they found an indictment for seduction; and she said she did not realize it would go that far; and she was asked about a certain blackhand letter which I received; my brother-in-law asked her about that; and she laughed and said, "If it comes from Brooklyn, I know who sent it."

By the Court.

Q What is your idea as to a blackhand letter? A A blackhand letter is a threatening letter.

Q This was a threatening letter? A Yes, sir.

Q Have you got it? A I believe one of my brothers-in-law has it.

Q It was not in your wife's handwriting? A No, sir; she claimed she knew who sent it; she said "If it came from Brooklyn, I know who sent it;" and it did.

Q Did she make any further remarks about the letter? A No, sir, that was all; and then she said, "The reason you married me is be-

cause you were tipped off that if you won the case you would never leave the court room."

Q She said this in this conversation when her aunt was present and your brothers-in-law? A Yes, sir.

Q What did you say in reply to that statement by her that you married her because you knew if you did not marry her you would not go out of the court room alive? A I did not answer her; all that time I was talking to her aunt.

Further cross.

Q Was the letter post-marked Brooklyn? A Yes, sir.

Q And it demanded that you marry her, did it? A No, sir, it just said that I should watch myself, that sometime when I least expected it, my life would be ended by some unknown person.

Q So it was a threatening warning? A It was a threat and a promise.

Q When did you begin to watch your wife? A On the 24th of May.

Q You did not begin until four days after you engaged the detectives? A Yes, sir.

Q And on the 24th of May where did you see your wife? A In front of her place of employment.

Q Where is that place of employment? A In front of the Cook Re-Lining and Patch Company on Livingston street, Newark, New Jersey.

Q Do you know Mr. Cook? A No, sir.

Q Did you ever see him? A If the man I saw was Mr. Cook, then I have seen him.

Q Do you know if he is any way related to Mrs. Sturm? A In no way that I know of.

Q Do you know whether he is married or single? A I believe he is married.

Q And do you remember what day of the week the 24th of May was? A Yes, sir.

Q And you watched your wife that night? A This was around noontime.

Q I am asking you about the night. A I did not watch my wife that night.

Q You did not see anything wrong on the 24th of May, did you? A Only he put his arm about her and walked into the office, and they stayed there a few minutes; and then they came out and got into the car, and he drove her home, two blocks away; and they were sitting in the car talking and carrying on for ten minutes.

Q Who was with you when you saw that; this was in broad daylight; this is a thickly populated section? A They were standing right across the street from the house.

Q Who was? A The Kopf sisters and the chauffeur.

Q How many of the Kopf sisters? A Three.

Q And who else? A The chauffeur, Mr. Trost.

Q And who else? A And myself.

Q What car was that you were using there? A The Kopf sisters' car.

Q Were you paying for that, too? A No, sir.

Q Your sister was paying for it? A No, sir.

Q Did you have a car at that time that you were using? A No, sir.

Q Or borrowing from somebody to use? A No, sir.

Q You were out in a car daily around that time, around the 24th of May? A Only when my business demanded it.

Q What car did you use then? A The company's car.

Q What company? A The Colden Motor Company.

Q Are you still employed by them? A Yes, sir.

Q You are not interested in any garage of your own? A No, sir.

Q You did have one? A In 1922.

Q Who runs it now? A Mr. Lavine and my father run the garage now.

Q Did you transfer the business to them? A No, sir, I lost it to my father and my brother-in-law; they took it over.

Q When was the next time you saw your wife with anyone? A The 26th of May.

Q Where? A Coming home from work and going out for a ride with the same man.

Q What time of day? A In the evening.

Q And going out for a ride, who was along? A I think there was her aunt and another woman.

Q Her aunt and this man's wife? A I don't know.

Q Didn't you say so? A I believe it was his wife.

Q Why do you want to change it now? A (No answer.)

Q And on May 26th you saw this same man with Mrs. Sturm, Mrs. Sturm's aunt, and another lady, who, you believe, was this man's wife? A Yes, sir.

Q Did you see anything wrong on that occasion? A Only that Mrs. Sturm sat on the front seat with this man, and this other woman that might be his wife, and Mrs. Jacoby, in the back seat.

Q You objected to that? A I believe I have a right to.

Q Did you take your wife out for any rides? A I had no car.

Q Did you provide her with any means of entertainment? A The best I could.

Q You never called on her? A I never had any reason to.

Q And still you say you think it was objectionable for her to have gone out with her aunt and another man and his wife for a ride? A I think so.

Q What was the next time you saw your wife? A In the early part of June.

Q Didn't you see her on May 28th; didn't you describe in great detail the occurrence on May 28th, on your direct examination? A No, sir.

RECESS AT 2 P. M.

AFTER RECESS.

SANFORD Z. STURM, resumes the witness stand.

Cross examination (continued) by Mr. Schotland.

Q Mr. Sturm, didn't you testify on direct examination, that on May 28th, the same man that you saw take Mrs. Sturm out on the 24th, and that you think is her employer, took her out again in his car? A No, sir, I did not.

Q You say you did not testify to anything about any occurrence on May 28th? A I testi-

fied that I saw nothing on the 28th, only a telephone call.

Q When was the next time you saw Mrs. Sturm? A In the early part of June.

Q When? A The first Saturday in June.

Q When and where did you see your wife? A Coming home from her place of business where she worked.

Q About what time? A Around 1 o'clock.

Q With whom? A With her employer.

Q What did you see happen? A She waited around there outside the place there for a few minutes, and they both got into a new closed car, and they drove over to her house.

Q What happened at her house? A They were talking there for a few minutes, and then they both went upstairs into the house; they were there for about ten minutes, and I saw Mrs. Jacoby come out of a delicatessen store and walk over in front of the apartment, and she lingered there for a few minutes and then went upstairs, and ten minutes after this man came down and got in his car and went away.

Q Who was with you that day? A The Kopf sisters and Mr. Troast.

Q The five of you were together? A Yes, sir.

Q In a car? A Yes, sir.

Q Why didn't you go upstairs to the apartment at that time? A Well, I did not feel that I ought to go up there.

Q Did you call on your wife and tell her you saw her doing these things and you wanted her to stop? A I called her up before this and told her I had seen different things and heard different things.

Q That was before May 24th? A Yes, sir.

Q Then you started to watch her? A Yes, sir.

Q But I mean, since you started to watch her. A I did not think I should let myself down entirely—

Q Mr. Sturm, I want to know if, after you saw your wife and the man that you think was her employer go up into the apartment where she lived about 1 o'clock on Saturday, June 7th, I want to know if you got into communication with your wife to tell her you objected to any such conduct? A No, sir, I did not.

Q Why not? A Because I called her once before that, and she sort of made a fool out of me.

Q How? A She ignored what I said to her, and sneered and laughed it off.

Q That was on the telephone? A Yes, sir.

Q When was that, what date? A Around the middle of May.

Q That is before you had ever seen her with anyone? A That is after I had been told by different people, different things.

Q After you saw her with anyone you never called that to her attention and told her you did not want her to go out with anyone? A I told her twice before, and pleaded with her not to do it.

Q Twice before? A Yes, sir.

Q When was the first time? A The night up at her apartment, and once over the telephone.

Q The Friday after you got married you told her that? A I told her to be good and not to go out.

Q Was she running around between the Friday that you called on her—up to the time you married her you were engaged to Miss Adelman? A No, sir.

Q Hadn't you given her a ring? A No, sir.

Q Didn't Miss Adelman on your seduction trial, when called as a witness, testify you gave her a ring in December, 1923?

Mr. Ward: I object to that.

Q Didn't you give Miss Adelman a ring in December, 1923? A No, sir, I did not.

Q Didn't you hear Miss Adelman so testify?

Mr. Ward: I object to that; it makes no difference what she said.

The Court: The objection will be overruled.

A No, sir.

Q Will you say she did not so testify in your presence? A I did not hear her testify.

Q On Monday following this occurrence of June 7th, that was the day that you were brought up before Judge Brennan in the Domestic Relations Court of Essex County? A Yes, sir.

Q Did you make any mention in court of the fact that you saw your wife go into an apartment with another man two days before that hearing? A No, sir.

Q You did not make any statement regarding your wife's conduct as a reason why you should be compelled to support her? A I was never allowed to say anything.

Q You were represented by counsel, were you not? A Yes, sir.

Q Who represented you at that time? A Mr. Feder.

Q Had you informed your counsel as to what you and the hired operatives had seen on the previous Saturday? A Yes, sir.

Q But you made no mention of it when your wife was asking to have you support her? A There was nothing of that sort brought up; the only thing that was brought up was the question of how much I was supposed to give her.

Q You did not know that if your wife misbehaves herself and violates her marriage vows, that you are not compelled to support her?

Mr. Ward: That is not so; he is stating that as a fact.

The Court: What is the object of the inquiry?

Mr. Schotland: If it were true that this witness saw any such occurrence as he has described having taken place two days before—

The Court: I will allow it on the ground that it affects his credibility.

Q (Question read.) A I did not know it at that time, no.

Q When was the next time after June 7th that you saw your wife? A On the 18th of June.

Q When you saw your wife in court on June 9th, did you speak to her? A I bid her the time of day; I said, "Hello" to her, and she did not answer; she just nodded her head.

Q How near did you pass to her? A About six inches away from her.

Q That is all you said, "Hello?" A Yes, sir.

Q Why didn't you talk to her then about what you had seen happen on the previous

Saturday? A The reason was, because she was standing in the doorway, and we were called into the court room, and I did not have time to talk to her.

Q Why didn't you tell her you wanted to talk to her, afterwards? A After the court was over, I was taken to the probation office.

Q The next time you saw her was on the 18th of June? A Yes, sir, she was coming out of her apartment.

Q With whom? A Another girl and some man.

Q Who was the man? A I don't know his name.

Q The same man that you saw before? A No, sir.

Q You never saw that man? A No, sir.

Q Did you take any pains to find out who he is? A Yes, sir, I did.

Q Did you find out who he is? A No, sir.

Q Did you ever see that man since? A No, sir.

Q Can you describe the man? A I can, roughly, yes, sir.

Q Describe him. A He is a man about five feet nine inches tall; weight, about 150 or 160 pounds; appeared to be 28 or 30 years old.

Q Can you describe him any further? A I was not near enough to him to see his features.

Q Whom were you with then? A The Kopf girls and Mr. Troast.

Q Were all five of you together again in a car? A Yes, sir.

Q What time of day or night was this? A Right before dark; about 7 o'clock; a little after 7 o'clock, daylight saving time, on June 18th.

Q How near Mrs. Sturm's house, that is, the street entrance to the house, were you? A Across the street.

Q You sat inside the car? A Yes, sir.

Q Was it an open car? A Yes, sir.

Q Did she see you? A I don't know.

Q What did you see her and the man do? A Walk down by the park on the corner, and they sat in the park there.

Q The crowd of them? A Yes, sir; they stayed there for a little while and did some talking, and then my wife and this man walked around the block arm in arm, and every once in a while he would put his arm around her waist; it was dark; and they came back to the car again.

Q You followed them? A Yes, sir.

Q Why didn't you jump out and talk to her? A I did not think it was right to do so; I did not think it was right, and she always ignored what I said to her, and so I did not feel as if I wanted to be embarrassed again.

Q Now, was not the real reason that you did not jump out of the car and go up and accuse your wife and the man she was with, and find out what he was doing with your wife, because you were simply trying to make a case to get rid of the woman you did not want as a wife? A Absolutely not, I did not think of that.

Q Why did you use all this money that you say you were borrowing from your sister to shadow your wife, instead of protecting her from other men? A To show everyone in the world that she is not what they tried to make her out; and when she proved she was what everybody said she was, then I decided on a divorce.

Q Then when you saw her go into her apartment with her employer, and you were watching

her for the purpose of proving she was a perfectly good woman, the reason you did not go up to her and stop her from continuing that way, is what? A Because I did not think it was right for me to do that.

Q I am going back now to June 7th, the first time you saw that happen; you did not think it was right for you to do that? A No, sir.

Q Why did you watch her on that day? A I wanted to convince myself that everyone was telling me the truth.

Q Were you not purely and simply trying to make evidence for a divorce? A No, sir.

Q Then why didn't you stop your wife from continuing that? A I tried to stop her.

Q You mean by that telephone conversation and that other conversation? A Yes, sir, I did everything that I could do to stop her.

Q You call your conversation on that Friday and your telephone conversation about the middle of May, everything possible for a man to do to protect his wife against wrongdoing? A Yes, sir.

Q That is all you could possibly do? A Yes, sir, I think I have done my part.

Q Now, when was the next time you saw your wife after June 18th? A June 20th.

Q That is the occasion when you say you went around to the back of the apartment? A Yes, sir.

Q Now, that was in broad daylight? A No, sir, it was not.

Q That was at night? A Yes, sir.

Q Will you tell me just who was with you and what you saw when you went around into the yard in the rear of the apartment? A Constance Kopf was with me; Mr. Troast was with

me; and we went around to the back and walked way back to the fence, to the end of the yard.

Q How far away from the window into which you looked? A About fifty feet, 35 or 50 feet.

Q Was there any shade drawn in that room? A Half-way.

Q And how much higher than your head was that window? A About eight feet.

Q You were fifty feet away and this window was eight feet above your head? A About eight feet.

Q Was there a light in the room? A Yes, sir.

Q And the shade was half-drawn? A Yes, sir.

Q Was the window open or closed? A Closed, a screen was in it.

Q The window itself was open? A It appeared to be open.

Q Were you able to see through the screen part or the window part? A The screen.

Q The shade was not drawn covering any part of the screen? A No, sir.

Q And you saw there a man that you don't know? A I do not.

Q And whom you never saw before? A No, sir.

Q And whom you have never seen since? A Yes, sir, I have tried to find out who he was.

Q You have never seen him since? A No, sir.

Q What did you see him do? A He had his hand up to the back of his neck taking off what appeared to be his collar.

Q What else did you see him do? A He had his hat and coat off, and my wife was

standing close by him with her hand about his waist, and he had his arm over her shoulders; he was a good bit taller than her.

Q Did you see them kiss? A No, sir, but they were very close together.

Q What else did you see them do? A They stood that way until he got his collar off; then they moved back a little way, and I could just see his head, and when I did see him that way, it appeared as if he sat down, and I could just see the top of his head then; then we went around the front a few minutes afterwards.

Q You were then positive that your wife was in that apartment with a strange man all alone when you went around to the front door, the entrance to the apartment? A Yes, sir, I was.

Q Why didn't you break in the door with your five operatives with you, and see who the man was? A We tried to, but I didn't want to be arrested for making a noise, or anything of that sort.

Q That is the only reason you did not do that? A That was enough reason.

Q That is your judgment, that that was enough reason? A Yes, sir.

Q Then all you did was wait around, and you never saw him come out? A I knocked on the door and called her twice.

Q But you never saw the man come out? A We waited there quite some time, and he did not come out.

Q And you have never seen the man since? A No, sir.

Q And you have never been able to find out who he is. Describe him. A He is about five feet eleven inches tall, with square shoulders, a sort of dark complexion, not very dark.

Sanford Z. Sturm, cross.

Q A long face, do you say? A No, sir.

Q Who was it you described as having a long face? A Mr. Zemmel; a rather clean-cut fellow in his appearance.

Q You know your wife's brother? A Yes, sir.

Q Isn't that description that you have just given a description of her brother? A No, sir, it is not.

By the Court.

Q How far away were you from the window? A A distance of about thirty-five feet from the window.

Q What time of the day or night was it? A About nine o'clock at night.

Q Was there a light in the room? A A very dim light.

Q Was there a bed near at hand? A I could see the back of a bed; it appeared to be about—he sort of walked back into the room; it appeared to me as if he sat on the bed.

Q Was your wife fully dressed? A I could only see her shoulders.

Q Was anyone else in the room? A No, sir.

Further cross.

Q You don't know whether anyone else was in the room? A I do know there was not.

Q How do you know? A From what I have been told.

Q By whom? A Mr. Troast.

Q Where was he at that time? A He was upstairs.

Q Inside? A Not in the apartment, no, sir.

Q Where was he? A Mr. Troast was out in the hallway.

Sanford Z. Sturm, cross.

Q When did he tell you there was no one else in the room? A When they entered the apartment.

Q Who? A My wife and this man.

Q You don't know whether anyone was in there before they entered, do you? A I know there was not.

Q How do you know? A Well, Mr. Troast went into the apartment house before.

By the Court.

Q Somebody told you this? A Yes, sir.

Q That is all you know about it? A Yes, sir.

Q Do you know of your own knowledge? A I sat out in front of the house there and no one entered the apartment.

Further cross.

Q This man that you described as being near the window taking his collar off is the same one that you saw earlier that same evening meet your wife at Irvington on the street? A Yes, sir.

Q You had a good look at him then? A Yes, sir, I was across the street.

Q You saw him and your wife get on a jitney and you followed the jitney? And you saw them get in a jitney? A Yes, sir.

Q You had a good look at them again? A I was fifty feet away.

Q Why didn't you go up to them and find out who he was and what he was doing with your wife? A I have been embarrassed so many times in the course of a year, that I did not feel as if I wanted to be embarrassed again; I did not think it was my place to do it; I had no right

to do it; I had begged her many times not to do it.

Q When were those many times? A On that night at her apartment I asked her and pleaded with her a number of times not to go out.

Q What other times? A And that time I called her on the telephone; she knew that I was working hard, and I begged her to help me a bit.

Q When you testified as to the conversation you had with your wife on the Friday after you got married, the only reference you gave us to any warning was when you told her she should behave herself; is that true? A I told her I had heard from different people of different things she had done.

Q That is true, isn't it—that all you said to her was about behaving herself? A No, sir.

Q What did you say on your direct examination that you told her? A I told her to behave herself, and that I was trying to bring things to a head; that I heard she went out with a number of different fellows and things of that sort.

Q What else did you tell her? A I told her I was trying to get things to a head, so that I could pay back some of these debts and make a home for her.

Q I mean, on the score of her behaving herself, what else did you say to her? A That is all.

The Court: He has been over that two or three times.

Sanford Z. Sturm, re-direct.

Re-direct examination by Mr. Ward.

Q You were asked why you did not talk to your wife when you were before Judge Brennan in Newark, New Jersey, and why you had not confronted her with the fact that she had been out; do you remember everything that Judge Brennan said at that time with reference to simply discussing what was due her? A Yes, sir.

Q Tell the Court about that. A After the Court said $7.00 for her weekly support, my wife's attorney got up and said he wanted me placed under bond to guarantee that I would pay that every week; and Judge Brennan said he did not think that was necessary; he said "This man paid the six dollars."

Q Was anything said by Judge Brennan at that time that nothing would be discussed or gone into excepting the amount? A Yes, sir.

Q What was said at that time? A He asked his clerk just what the case was about, and he told him it was for support; and he said that was all they would go into on that, as to whether she was getting sufficient support or not.

Q And do you recall what the judge at that time said to Mr. Feder as to the only subject Mr. Feder was to discuss at that time? A Just about the support.

Q And as a matter of fact, that is all that was discussed at that time? A Yes, sir.

Q And Mr. Sturm, how did you lose your business; you were asked about your garage business; the expression you used was that you lost that business; how did you lose it? A I was selling some kind of a motor truck back in 1922, before my marriage.

Q You were representing some motor truck company? A Yes, sir, and the truck that we sold was built very poorly, and we sold them for bus work, and we had quite a number of comebacks, a lot of them had been sent back, and we had the burden of that.

Mr. Ward: I thought the insinuation might be made that he was still interested in this business.

The Court: I would not go into that now.

Q You mentioned at the time you saw your wife go down to the park with this man, that there was a crowd; what did you mean by that? A My wife was there and this man, and her aunt and another young lady, went to the park.

Q After you had heard these things that you have mentioned about your wife from different persons, before you hired the Kopf sisters, did you do anything? A I called her on the telephone.

Q Or anything else—not as far as she is concerned, but did you do anything else with reference to pursuing this course of action before you pursued it? A Yes, sir, I took it up with my family, and we had a lengthy discussion about the whole thing.

HERMAN GOODWIN, sworn in behalf of the petitioner, testified as follows:

Direct examination by Mr. Ward.

Q You are a brother-in-law of Mr. Sturm, the petitioner in this case? A Yes, sir.

Herman Goodwin, direct.

Q Were you acquainted with the defendant, Frieda Sturm, before the marriage of your brother-in-law to her? A Yes, sir.

Q After the marriage of your brother-in-law to Frieda Sturm did you ever visit her? A Yes, sir, on Friday following his wedding.

Q Who was with you? A Mr. Lavine and Mr. Sturm.

Q Did you have any conversation, or hear any conversation that was had with her? A Yes, sir.

Q State what it was. A When we came up there we got into a conversation about the whole affair; she wanted to know when he was coming to live with her, and he told her that at the present time he could not, because he was indebted very much defending himself because of the trouble she had made for him before, and that he was not in a position to support himself alone; but that if she had patience and proved she is a lady, and behaved herself better than what she did, he would positively make a home for her in the very near future; and she mentioned, she said, "If you haven't any money, why not get furniture on the installment plan?" in fact, I said, "It is all right to get furniture on the installment plan; it is easy to get it in the house, but mighty hard to pay for it if you have not the money to pay for it later on." Mr. Sturm had asked me to go up there, because he said he had been threatened so many times, and he said he was afraid that they might pop up something on him unexpected, and he wanted to have somebody with him as protection.

Q Did he tell you he was afraid of his wife before he went down there? A No, sir, but he said he was afraid of more trouble with his wife.

Herman Goodwin, direct.

Further direct.

Q What else was said at that time? A I asked her the question. I said, "Why did you go to all that trouble; why did you make all that trouble?" In fact, my being the oldest brother-in-law in the family, and my name has been very good all my life—so I said, "You actually made a disgrace on the family by doing these things. Why did you do that? Why didn't you come to his parents, which any girl would under ordinary circumstances, as you claim that he has seduced you, why didn't you come to his parents and explain the matter to them, and then we would consider what to do, which usually is the case"; and she said, "I was over once and nobody was home." I said, "Why didn't you come again?"

By the Court.

Q You were a sort of adviser? A I was simply asking her why she did it; I asked her why didn't she come previously.

Q Did you advise your brother-in-law to take up his relationship with his wife? A Absolutely, and that is the reason I went down that day, just to ask her to please to not make any more trouble until he was in a position to come to her in a proper way.

Further direct.

Q What was he doing at the time you went down there; what was he working at? A He was working for the Colden Motor Service; and then I said, "Why didn't you come again?" and she said, "I did not want to take that trouble, and instead of that I went down to my lawyer's and he advised me to bring a breach of promise

suit against him, and that may bring him around; so as long as I did not get any response from him on that charge," she said, "my lawyer advised me again to bring a more serious charge against him, but," she said, "I really and truly never intended to go as far as I did, and I am sorry I did."

Q Anything else? A And then we brought up the question about the letter, about a threatening letter, and she said, "Yes, if it comes from Brooklyn, I know who sent it." I said, "What was the idea of doing it?" and she laughed at it and thought it was a joke. She said, "If this letter comes from Brooklyn, I know who did it"; so I pleaded with her. I said, "Give him a little time."

Q Did you fix a time they were to get together? A I meant a few months' time, and I said, "He will positively come back and live with you, because we don't want any more trouble, and we want you to come together again, and it will be all right." Then she said to him, "Why don't you want to stay here overnight?" and he had admitted he was not in a position to stay over night, and she said, "Give me some dough"; and he said, "I have a few dollars, but I will send you some as soon as I get the chance." That is about all I can remember.

Q After that did you see Mrs. Frieda Sturm? A On several occasions.

Q Where? A I was with the Kopf sisters on and off.

Q Where was it you saw her? A On one occasion on Livingston street, right in front of that place, whatever it is; the name I cannot recollect; it was the place where she worked.

Q When was it you saw her there? A I don't remember the exact date, because I was

not so much interested at the time to notice the exact date.

Q Just describe the place, if you can? A It is like a garage with a sort of office right at the window.

Q What did you see on this occasion? A I saw her sitting at a desk, and he came over behind her, this boss, or whatever he was; he put his arms around her and leaned very close to her and spoke something, and finally they went in the back.

Q What do you mean? A Back of the office, which is a part of the building.

Q Were they in a position after they went in the back where they could be seen from the street? A No, sir.

Q Was there any other occasion when you saw her? A On several occasions when I was out with the Kopf girls.

By the Court.

Q How did you come to take so much interest in this matter? A Simply because Mr. Sturm sometimes had no time to go there. He was out of town, or something like that.

Q Why did you want to catch your sister-in-law? A I simply wanted to see that nothing was put over—

Q Who asked you to go with the detectives? A Mr. Sturm asked me to take his place.

Q And you wanted to find out if the things that had been said were true? A Certainly.

Cross examination by Mr. Schotland.

Q You were present at the trial of the seduction case? A No, sir.

Herman Goodwin, cross.

Q Do you remember going to the court house and talking to Mr. Slutsky before the marriage took place?

Mr. Ward Objected to. I examined this witness from the time of their marriage and that is all.

The Court: What is the object of it?

Mr. Schotland: To show diametrically opposite statements.

The Court: I will allow it for the purpose of affecting the credibility of the witness.

Q Did you talk to Mr. Slutsky about the proposed marriage? A No, sir, I never saw him in the past two years, probably.

Q You did not tell Mr. Slutsky, who was the prosecutor's detective that prosecuted this case, that there was "no use to force a marriage, because he will never live with her?" A Absolutely not.

Q You know, don't you, that the parents of Mr. Sturm objected to the marriage?

Mr. Ward: I object to that.

A Not that I know of.

Q You knew Mr. Sturm was keeping company with Frieda Sturm for quite a while? A Yes, sir.

Q And you knew that he then kept company with another girl? A I know I saw him several times with another girl, the Adelman girl, in the house of his folks.

Q How long had you known of his keeping company with Mrs. Sturm, his wife? A I should think a few years.

Q When did he take up the Adelman girl? A That was after the breaking off of the engagement; she came up to the house to see his sister.

Q Did you ever see him take her home? A Not that I know of.

Q He just came up to see his sister? A Yes, sir.

Q I thought you said he had been attentive to her? A In a certain way, the same as I would myself; if a girl comes up to the house I would be friendly to her.

Q Didn't you hear Mr. Sturm himself say here that he took the Adelman girl out? A That does not say that I have to see it.

Q The conversation on the Friday after the marriage; you talked to Frieda Sturm, did you? A Yes, sir.

Q And she asked Sanford Sturm when he would make a home for her? A Yes, sir.

Q And he said he did not have any money to make it with? A Yes, sir.

Q And she suggested that he could buy furniture on the installment plan? A Yes, sir.

Q What did he answer to that? A He said he was not in a position to buy it, because he did not have the money.

Q What did she say then? A She did not say anything; the only thing she said was, that she was sick and unable to work.

Q And she wanted him to make a home for her and support her? A Yes, sir.

Q What did he say? A He said, "If I give you $6.00 a week, you can live on it."

Q Didn't you personally, when she at that conversation was asking her husband to make a home for her and live with her and support her, say to her, "It is impossible for him to live

with you?'' A I did not; I said, ''At the present time.''

Q You said ''At the present time it is impossible for him to live with you?'' A Yes, sir.

Q But she wanted him to do it? A Yes, sir.

Q And he refused to do it? A He did not.

Q Did he do it? A He said he could not do it just at the time, because he felt hurt, and to give him a little time and then he would surely come back to her.

Q Didn't he say that she did everything that she had done to make him marry her? A Yes, sir.

Q Didn't she say, when she first started with the civil suit it was for the purpose of making him marry her? A She said she thought if she brought suit against him, it would make him come around.

Q You don't know what she meant by the expression to make him come around? A No, sir.

Q When he did not come around, she prosecuted the criminal complaint? A Yes, sir.

Q Then you say that you scolded her for prosecuting the criminal complaint instead of going to his parents first? A I simply told her it was not right and that she should have come to the parents and notified them first.

Q Didn't she tell you it was the parents that prevented him from marrying her? A She did not tell me that.

Q Didn't you know that was the real fact? A No, sir.

Q And you don't know it yet? A No, sir.

Q Don't you know that in order to get the parents' consent, Sanford Sturm even forged

entries in a bank pass-book to make believe they had money? A I don't know that.

Q And you don't know that his parents were strongly objecting to his marrying her? A No, sir.

Q You testified to something that seemed improper to you in the conduct of Mrs. Sturm? A Yes, sir.

Q When was that? A Well, I believe it was on a Saturday afternoon.

Q Was that during the time that the detectives were operating on this case? A Yes, sir.

Q It was since the detectives were hired? A Yes, sir.

Q And whom were you with when you saw that? A With the Kopf sisters.

Q And was Sanford Sturm along? A He was not, not that day.

Q Do you know what day that was? A I don't remember the exact date, but I know it was on a Saturday; we closed up Saturdays at 12 o'clock, and I met those girls.

Q Were you in a car then? A Yes, sir.

Q And where were you? A Right across the street from her place of employment.

Q And you saw the employer put his arm around her and whisper to her? A Yes, sir.

Q And then they both walked into the back office? A Yes, sir.

Q Were you ever in the back office? A No, sir.

Q Did you ever go in to investigate? A No, sir.

Q And this was about 1 o'clock? A About that; I cannot exactly tell.

Q In the summer time? A Yes, sir.

Harry Lavine, direct.

Q Was the door open? A I don't recollect, because I watched the show window and not the door.

Q You don't know whether the door was open? A I cannot recollect.

Q Do you know whether the place was open for business at that time? A It was.

HARRY LAVINE, sworn in behalf of the petitioner, testified as follows:

Direct examination by Mr. Ward.

Q Where do you live? A Newark, New Jersey.

Q Do you remember the time when you went down with Mr. Goodwin and your brother-in-law, Mr. Sturm, to visit Mrs. Frieda Sturm shortly after their marriage, on the Friday after their marriage? A Yes, sir.

Q State to the Court what you recollect that was said there at that time? A We came into the room and Mrs. Sturm and her aunt were in the room. We came in and the first thing we asked Mrs. Sturm was—the first thing we told Mrs. Sturm at that time was, that the best thing to do was to wait until Mr. Sturm would be in a position to furnish a home for her, so that they could get together and live together like a man and his wife; in fact, I did not do very much talking to her.

Q What else was said there; what prompted you to go down there? Had you had any communication with Mrs. Sturm to the effect that she would not live as his wife? A No, sir, Mr. Sturm asked me to go along with him that

night, and I went along with him for that reason, and also to see if we could not get matters straightened out and affect a reconciliation, so that in a short time we would be able to get the two of them together and live the same as every other couple does.

Q You knew the young woman had sued him for breach of promise? A Yes, sir, and I knew he was convicted on that charge; and for that reason I thought if we came up there we could talk things over and explain the situation.

By the Court.

Q You would presume, therefore, that she wanted him if she sued him for this? A Yes, sir.

Q Then why did you go there? A To see if we could not get her to see things the way Mr. Sturm did, so that she would wait until he felt better in spirits and also placed himself in a better financial condition to make a home for her; in fact, I spoke to Mrs. Sturm that night and told her exactly the way he felt; that he really did want to make a home for her, and feeling that way she could give him a little time; and she seemed to think that way, and when we left everything was all right, and she was supposed to call him up again and find out about the next time they could get together, so that they could make things come around.

Q Do you remember anything else that she said there? A The conversation between Mrs. Sturm and Mr. Goodwin with reference to why she instituted the suit; Mrs. Sturm said she started the first proceeding, the breach of promise suit, in order to make him come around and satisfy what she wanted; and after that did

not work she said she was obliged to go ahead and start criminal proceedings against him; and she said she did that only because she was forced to do it; that she was really sorry that she had done it after she saw the outcome of the case.

Q Tell us about the letter. A There was mention made of a letter that Mr. Sturm received through the mail from Brooklyn, and this letter, she said regarding it, "If it comes from Brooklyn, I know who sent it." It was a threatening letter.

Q Do you recall anything else that was said there? A She took him in the side room there, and what was said in that room I don't know.

Q Was there anything said about anything that had been said in the court room? A Yes, sir, she said that if he had won the case he would not have gotten out of the court room alive.

Q Do you recall, whether or not Mr. Sturm said anything to her about her conduct? A Mr. Sturm pleaded with her for about ten or fifteen minutes; he said, "If you will only give me the chance to make good until I can place myself in a position, I am going to make a home for you, but you have to be careful and don't go around with anybody else; if I come up here I shall expect to find you at home, and if you prove yourself worthy I will make a home for you, in spite of the fact of what I have gone through;" and she seemed to laugh it off; she did not take the attitude that she should have taken that night.

Cross examination by Mr. Schotland.

Q Where do you live? A 190 Shepherd avenue, Newark, New Jersey.

Harry Lavine, cross.

Q What is your business? A The automobile business.

Q Do you conduct that automobile business that Sanford Sturm formerly conducted? A Yes, sir.

Q Didn't Sanford Sturm tell you that Friday when you called with your other brother-in-law and him upon Mrs. Sturm, that Mrs. Sturm had telephoned to him that she wanted to see him, and he asked you to come along with him? A He asked me to go along with him.

Q You went for the purpose of seeing if you could make some arrangement? A Yes, sir.

Q You knew that she sued him for breach of promise, didn't you? A Yes, sir.

Q Why didn't you then go with him to try to make an amicable arrangement? A Because I asked him whether he was guilty, as a brother-in-law, and he said "No."

Q I am talking about the breach of promise suit before any criminal proceedings. A That was the time that he had a fight with her right after they broke off the engagement, and at that time I did not think there was anything to do at all—just a friendly spat.

Q When you got to the apartment where Mrs. Sturm was living, she kept insisting, didn't she, that she wanted Sanford Sturm to establish a home for her and live with her? A Yes, sir, she wanted that.

Q That is what she wanted? A Yes, sir.

Q And he gave as an excuse for not doing that, that he did not have any money, and he felt too hurt about the previous actions that she had taken against him? A He gave no excuse outside of saying that he was not in a position to make a home for her.

Q That is the only reason he gave? A Yes, sir.

Q Are you sure of that? A Absolutely, because, from the conversation that went on there, I know that Mr. Sturm meant what he said.

Q But you are sure that all he said was, that he was not in a position to make a living for her, and that after things got all right he would certainly come around to her and make a home for her. Did he say when that would be? A He said in probably two or three months' time.

Q He said that? A Yes, sir.

Q He mentioned two or three months' time? A Yes, sir.

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

Q Did he offer her five dollars a week? A He offered her something, I don't know what he offered her.

Q And didn't she say in response to his offer, "How can I live on five dollars a week?" A Not in my presence.

Q Didn't he say to her, "Go out with boy friends." A Not in my presence.

Q You knew that the family were opposed to Sanford Sturm marrying his present wife even before there were any lawsuits? A No, sir.

SAMUEL STEWART, sworn in behalf of the petitioner, testified as follows:

Direct examination by Mr. Ward.

Q What is your business? A I am a janitor.

Q How old are you? A Fifty-three.

Samuel Stewart, direct.

Q You are employed where? A 322 Belmont avenue, Newark, New Jersey.

Q Is that the apartment house in which Mrs. Sturm lives? A Yes, sir.

Q And Mrs. Sturm still lives there? A Yes, sir.

Q With whom? A With her aunt, Mrs. Jacoby.

Q How long has she lived there? A Two years.

Q Do you remember the occurrence of June 20th last? A Yes, sir.

Q And prior to that time did you ever know this young lady, the defendant, as anything but Miss Singer? A No, sir.

Q Was that the way you knew her up to that time? A Yes, sir.

Q Did you know what her first name was up to that time? A I did not.

Q How did she represent herself to you? A She never represented herself in any way to me; I only dealt with her aunt.

Q Did any telephone calls ever come in for her? A Yes, sir.

Q How did they come in? A I don't know myself just how they come in.

Q What name? A Mostly calls for Mrs. Jacoby, and once in a while for Miss Singer.

Q There was no telephone in her apartment? A Not at that time.

Q And when you would deliver these calls, would you address her as "Miss Singer?" A Certainly.

Q And deliver the message that the calls were for Miss Singer? A Yes, sir—when they were for her; but as a rule, my wife tended to that.

Q The telephone was in your apartment? A Yes, sir.

Q What relationship exists between Mrs. Jacoby and Miss Singer? A Miss Singer is her niece.

Q Do you remember an incident when a car drove up to your apartment and you were asked to get Miss Singer? A Yes, sir.

Q When was that? A I don't remember; it was on a Friday night.

Q It was before June 20th, wasn't it? June 20th being the time when this disturbance took place. A Yes, sir, it was before that.

Q How long before that? A Well, I could not just say; in fact, I never took any notice; it might have been in May.

Q What kind of night was it? A I think it was a stormy night.

Q Did you, as a matter of fact, get the person for whom this man had called? A Yes, sir.

Q Whom did you get? A Mrs. Jacoby and Miss Singer both went down to the car.

Q Did you see the car? A Yes, sir.

Q Was anyone in it? A I think all three were men.

Q And you called Miss Singer and she went down? A Her and her aunt together.

Q Have you ever before mentioned that her aunt went down on that occasion with her? A Yes, sir.

Q To whom? A I have.

Q To whom? A To a gentleman; who he is I don't know myself.

Q Did you ever, before the night of June 20th, see Mr. Sturm, her husband? A The way I understand, he was the man that called for Miss Singer that night; same man right there was in the car, and I never knew who he was either.

Q Did you see Mr. Sturm on June 20th? A Yes, sir.

Q Had you ever seen him before that time? A I took him for the same man that was in that car the night of the call for Miss Singer, but that was the night he represented himself as Mr. Sturm, the night when they were all there, when the whole gang was up there, June 20th, I think it was.

Q Mrs. Sturm and her aunt still occupy that apartment? A Yes, sir.

Q And have just acquired a new lease? A Yes, sir.

Q And you are still janitor there? A Yes, sir.

Q You are here under subpoena? A Yes, sir.

Q In behalf of Mr. Sturm? A Yes, sir.

Q Is this your signature (showing witness a paper)? A Yes, sir.

Q Do you remember signing that? A Yes, sir. That is all right; what is on there is just what I said.

Q Do you remember stating in that—

Mr. Schotland: I object to cross examining or attempting to impeach his own witness; that is cross examining his witness.

The Court: I will allow it.

Q Do you remember swearing to this paper, signing and swearing that what was in it was true? A I only signed it.

Q Don't you remember the young lady that was there taking your affidavit and you signed it on the last page? A Probably so.

Q What do you remember? A Read it over and I will tell you; it is all right.

Q Do you remember at that time saying "Mrs. Jacoby, in answer to an inquiry, told Mr.

Stewart that Frieda Singer was a married woman, and that the man who has been calling upon her with the dealer's five-passenger touring car was her husband; I know that this was a misrepresentation, because this was not her husband who had been calling upon her;'' do you remember swearing to that? A That has been read in there.

Q Is not that your signature, right alongside of that paragraph? A It must have been misunderstood.

Q Was not this read to you at the time? A Probably it was.

Q Didn't you read it yourself at the time before you signed it? A I guess I did.

Q Is what you said there true? A Yes, sir.

Q What you said in that paper, was that the truth or not? A Read it over.

Q What I have just read to you, was that the truth or not, Mr. Stewart? A The touring car which drove up there was a new car, of course, and I guess it was a car from the factory; oftentimes a gentleman brought her home.

Q That Friday, the evening when you said in this paper, that the aunt, Mrs. Jacoby, had said in answer to an inquiry by you, ''That the man who was there that night''—''that the man who has been calling upon her with the dealer's five-passenger touring car was her husband; I know that this was a misrepresentation, because this was not her husband who had been calling on her.'' Was that the truth or not? A That is wrong; I said Mrs. Jacoby told me that Friday night that that was Mr. Sturm, her husband, that Mr. Sturm on that Friday night—but what date it was I don't know—that called for Miss Singer, that it was Mrs. Singer's husband, that

her name was Sturm; that is the first night that I knew she was married.

Q Didn't you just swear a little while ago you never knew she was married until June 20th? A That is what I say, June 20th.

Q Now, you said that the Friday night was before June 20th? A No, sir.

Q How many were present when this affidavit was taken? A Three or four of us.

Q Now, then, on the 20th of June, 1924, do you remember Mr. Sturm and these other people being at that apartment house? A Yes, sir.

Q Do you remember seeing Mr. Sturm there? A Yes, sir; he introduced himself to me as Mr. Sturm.

Q Do you remember what happened about an hour after Mr. Sturm left that night? A Two men went away from the house.

Q Two men, you say now? A Yes, sir.

Q This is your signature, isn't it? A Yes, sir.

Q By the way, when did you last talk to Mrs. Sturm about this case? A Never.

Q You never mentioned it to her? A No, sir.

Q When you got the subpoena, did you tell her you were subpoenaed? A Not her I did not tell; I told her aunt.

Q When was it you told the aunt that? A Last night.

Q Where was she when you told the aunt? A She came down to my apartment.

Q Where was Mrs. Sturm when you told the aunt? A Upstairs in their apartment.

Q Did you go upstairs to tell her? A No, sir, she was upstairs.

Q Why did you call and tell Mrs. Jacoby you were subpoenaed in this case? A I saw fit to do so.

Q What were your reasons for doing that? A No reasons whatever; I said, "I am subpoenaed tomorrow on your case"; she had spoken of it before.

Q Do you remember signing this paper there? A Yes, sir.

Q That is your signature? A Yes, sir.

Q "I went upstairs immediately, and upon inquiring from the strangers who were outside the apartment, found out it was Mr. Sturm, the husband of Frieda, who was trying to enter the apartment, he knowing that there was another man with his wife in the apartment alone."

Mr. Schotland: Objected to. Even if there was no question at all as to this witness having made some *ex parte* affidavit for their use before having been subpoenaed, he would not be permitted to testify as to conversations he had with others not in the hearing of the defendant.

Q Tell us when you went up there that night whom you saw there, on June 20, 1924; whom did you see there? A I saw three women and two men and a dog.

Q Did you see Mrs. Sturm that night? A No, sir, I did not see her.

Q Did you see her aunt? A Yes, sir.

Q Did you see any other man there? A I did not, because I did not go in the apartment.

Q Well, about an hour after that you saw what? A Two men went away; there was another man there.

Q Describe the men whom you saw go away? A One was a tall man, maybe five feet seven or eight or nine inches tall, I could not say exactly; and the other one was five feet six inches, a short, heavy-set man.

Q The tall man, how was he dressed? A I could not say; it was dark, and I was fully fifty feet from them.

Q Didn't you say this in the affidavit that you signed, "And about ten minutes after, I saw Mr. Sturm in front of the apartment house at 322 Belmont avenue, Newark, New Jersey, and after Mr. Sturm left, I would say it was about an hour later, after the incident above related, I saw a man about five feet nine inches tall, slender built, medium color and medium complexion, and he wore a light suit—leave the apartment of Mrs. Minnie Jacoby, the aunt of Frieda?" A I said there were two men.

Q You have had a conversation with Miss Norma Kopf, and with Miss Constance Kopf? A Yes, sir.

Q And with Mr. Troast? A Yes, sir.

Q Isn't it true that you have always, up until today, represented that you saw one man coming from that apartment? A I did not say that.

Q Haven't you always told them that until today, when you changed it? A No, sir, I don't change; I tell the same thing; that is me. I want you to understand that; you cannot fool me with that stuff.

Mr. Ward: We offer the affidavit.

Mr. Schotland: We object; it is not binding on us.

Marked "Exhibit W. 1."

Samuel Stewart, cross.

Cross examination by Mr. Schotland.

Q When the three men came to this apartment and asked you to call Miss Singer, you say one of those three men was Mr. Sturm? A Yes, sir; I did not know it was him at first until the night of the 20th; that is one of the men that was in the car.

Q And Mr. Goodwin, is that another one? A That I could not say.

Q Mr. Lavine; was that the other one? A It may be, but this man I can pick out; I looked him over, because I saw him on the night of the 20th again.

Q How long before that night of the 20th was that? A I could not say; it might have been a month or more.

Q It was some considerable time? A Yes, sir.

Q And it was that night that Mrs. Jacoby told you that the man that called with those two men was Frieda's husband, and that her name now was Sturm? A She did not tell me that until the night of the 20th, when she told me that the man who had called on that occasion was Mr. Sturm, her husband.

Q And that is the man himself who asked for Miss Singer when he came there? A He is one of them.

Q Did you ever have anyone else outside of Mr. Sturm, come there and ask you to get Miss Singer? A No, sir.

Q Did you ever have any calls after the occasion when Mr. Sturm himself came there and called for Miss Singer, calling for Miss Singer? A I have had calls on the telephone once or twice for Miss Singer, but who it was I don't know; I don't know who they were.

Samuel Stewart, re-direct.

Q You say that on the night of the 20th you saw two men go out of that apartment? A Yes, sir.

Q Where were you when you saw one or two men or any number of men go out? A Standing in front of my entrance.

Q How do you know which apartment of that building they came out of? A You can hear when they come out of the apartment; this was quite close to mine, and they were talking, and I could hear as plain as could be because I did not know what the idea was.

Q When you saw two men come out of that apartment was that when all these people were around there? A No, sir.

Q What time was it when you saw the two men come out of that apartment? A Around 11:00 o'clock, maybe 10:45, nearly 11:00 o'clock, I guess.

Q Do you know who was in the apartment at the time? A Mrs. Jacoby was there and the niece was up there.

Q Was Mrs. Bopis there? A I could not say, but I think they were all home.

Q There is quite a family lives in that apartment? A There are five ladies, Mrs. Bopis' two daughters.

Q How many rooms are there in that apartment? A Four rooms.

Q And these three women and two children live there? A Yes, sir.

Re-direct examination by Mr. Ward.

Q Did you ever see Mr. Slutsky (Slotski) there? (Stand up, Mr. Slotski.) Did you ever see him there at the apartment? A I don't know.

Samuel Stewart, re-direct.

Q Haven't you talked to him there at that apartment or the apartment house? A Maybe I have.

Q Don't you remember having talked with him there at that apartment house? A No, sir; I talk with so many.

Q Doesn't he call there regularly on Mrs. Jacoby? A Maybe he does.

Q Don't you know? A No, sir; hundreds of people go in and out there, and I don't know just where they go.

Q Something has been called to my attention: Why did you go upstairs that night? A I was called up.

Q By whom? A By Mrs. Sturm.

Q What did she say to you when she called up? A She said, "Mr. Stewart, come up quick; somebody is trying to break in." That was from the call bell of the dumbwaiter.

Q Is there a communication between your apartment and hers? A Yes, sir, by a ring of the bell.

Q Did she say this to you before you came upstairs? A That is what caused me to go up. She said, "Come up, there is somebody trying to break in."

Q What was the means of communication of that remark? A It is a push button.

Q Was that all that happened—the button was pushed? A It rang an emergency call.

Q How did you hear her? A I talked direct through the dumbwaiter.

Q Did you have any talk or did you go in that apartment at all that evening after you went up there? A No, sir, I did not.

Q Did Mrs. Sturm make any effort to get you in the apartment that night after her hus-

band, Mr. Sturm, was there; after Mr. Sturm was there at that apartment on June 30, 1924, and after Mrs. Sturm had called to you to go upstairs because somebody was trying to break in that apartment; did she open the door and let you in? A No, sir, I did not go to the door.

Q Now, then, you went up there, and you talked in the hall to the people who were in the hall, didn't you? A Yes, sir.

Q Right outside of her door? A Yes, sir.

Q And she never opened her door, did she? A No, sir.

By the Court.

Q When you went up there coud you see in the room? A No, sir, the door was closed and I did not try the door, because I found the trouble was on the outside.

The Court: We will adjourn now. How many further days shall you require?

Mr. Ward: I think it will take two days at least; we had better have the days together and finish it up.

Mr. Schotland: I should like to have the testimony written out and the petitioner pay for it for my use.

Mr. Ward: That will be a heavy burden on our client, situated as he is now.

The Court: I presume both sides will need to have it written out. I will deal with Mr. Schotland's request later on and will not make the order to give him a copy at the expense of the petitioner at present, anyhow.

Mr. Schotland: I will order a copy of the testimony.

Mr. Ward: We also shall require a copy.

The Court: That will make three copies. Come in and I will fix two days for you.

SECOND DAY.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Paterson, New Jersey, on the seventeenth, eighteenth and nineteenth days of February, nineteen hundred and twenty-five, before Hon. Vivian M. Lewis, Vice Chancellor.

Appearances:

Feder & Rinzler, Esqs.; associated with Ward & McGinnis, Esqs., for the petitioner.

Philip J. Schotland, Esq. (9 Clinton street, Newark, N. J.), for the defendant.

MISS CONSTANCE KOPF, being duly sworn, testified as follows:

Direct examination by Mr. Ward.

Q What is your business? A Private investigator.

Q Do you know Mr. Sturm, the petitioner? A Yes, sir, I know him.

Q When did you first meet him? A On May 20, 1924, through Mr. Feder.

Q And as the result of your meeting him did you make any investigation? A Yes, sir.

Q Did you become acquainted with the appearance of Mrs. Sturm, the defendant? A Yes, sir, May 24, 1924, at the Cook Re-Lining & Patch Company, in Livington street, Newark, New Jersey.

Q Did you observe anything on that occasion with reference to Mrs. Sturm? A Yes, sir, it was about ten minutes after 12 and Mrs. Sturm was standing in front of the Cook Re-Lining & Patch Company in Newark, New Jersey. With her in front of the building was a man, and they were in conversation together. This man, after about five minutes' talk, put his arm around her and led her back into the building and into the office of that building.

Q Describe briefly the character of the building and the character of the office. A The building has the appearance of a garage, and as you enter to the right is the office; it is partitioned off from the rear of the building, and I would say it was about twelve by fifteen feet, to the best of my knowledge; and Mrs. Sturm and this man entered the office.

Q From there where did they go? A Mrs. Sturm then sat down to a desk and started to do some typewriting; this man was standing at the left side of her with his arm on her shoulder; they were there ten minutes that way. They then came out of that office and walked about twenty feet to the back of the building, and then disappeared from my view behind the office.

Q Was it possible to observe the place where they were from the street after having disappeared around the partition? A No, sir, I could not see them.

Q How long did they remain there? A Ten minutes, and then they came to the front of the building and got into a Chevrolet touring car, and they drove to 322 Belmont avenue, Newark, New Jersey, and they remained in the car ten or fifteen minutes, laughing and fooling; and then Mrs. Sturm got out and went into this building at 322 Belmont avenue.

Q When did you next see them? A On May 26, 1924.

Q Where? A At the same place, and this time they went out in a Cleveland sedan, a new one.

Q Before they left did you observe their actions? A Yes, sir, Mrs. Sturm got in the front seat with this man, and a lady with a baby got into the back seat of the sedan; they drove to Belmont avenue and got Mrs. Sturm's aunt; then they drove out to Springfield avenue and on the outskirts of Newark, New Jersey, and we then left them. We did not continue.

Q Do you know who that man was? A As I found out, that was the owner of the Cook Re-Lining & Patch Company.

Q What was his name? A I don't know.

Q After the 26th of May did you see Mrs. Sturm again? A I saw her on the 28th.

Q Where? A Leaving her home with a young lady, from 322 Belmont avenue.

Q Did anything of importance occur on that day? A She left her home at 7:10 and walked to 85 Rose Terrace. She remained in Rose Terrace about one hour. From there she went down to Broad street, Newark, New Jersey, where she went into the Studebaker salesroom; she met two men there, and with this young lady she came out with these two men and walked across the street and went into a Studebaker car.

Q Whose home was it at Rose Terrace? A The home of Mr. Slutsky.

Q Do you know whether Mr. Slutsky, who is one of the county detectives of Newark, New Jersey, lives in that building with his family? A He does.

Q What occurred after she went to the salesroom and met these two men? A Mrs. Sturm

got into the back seat with one of the gentlemen, and this other young lady got into the front seat with the other man.

Q Do you know who the men were? A No, sir.

Q Continue. A They then drove to Halsey street and went up Halsey street north, which is a one-way street; we followed them and were both stopped by an officer. We were allowed to go, however; and they turned the corner and went into William street, where they stopped the car. This was in the City of Newark. We proceeded on about fifty feet and stopped our car. This was then about 9:30.

Q You say they turned into William street? A Yes, sir.

Q And stopped their car? A Yes, sir.

Q What kind of street is William street? A It is more or less wholesale houses; it is not a shopping district.

Q At that time of night, at 9:30, what is the character of the street? A It is absolutely dark.

Q After they stopped their car what occurred? A We get out of the car after about five minutes, and Mrs. Sturm and this man loved and hugged one another, and so did the couple that was in front.

Q What were their positions? What was the position of Mrs. Sturm and the man in the back seat? A Mrs. Sturm sat on this man's lap for the greater portion of the time, and she had her arms around him, and he was kissing and loving and hugging her, and they were both very much excited.

Q What happened then? A I could see that they were intimate with one another.

Q What do you mean by that? A I could see that Mrs. Sturm was on this man's lap, and that they were then in the act of sexual intercourse.

Q How long did they remain there? A For half an hour.

Q And then where did they go? A They rode off from there and went to the Weequahic Park section.

Q How far from William street was this park section? A Five miles at least, and they stopped two or three times in the park and just kissed and loved and then drove out of the park.

Q From there where did they go? A They stopped their car at a stand on the outskirts of the park, where they had refreshments.

Q And then what? A From there they went to a house in Rankin street, Elizabeth.

Q Now, going back to the occurrence on William street, after the act of sexual intercourse that you have mentioned, what was the condition or appearance of Mrs. Sturm? A Mrs. Sturm's hair was ruffled up, and when she sat down she straightened out her garments.

Q Who was with you at that time? A My sister, Miss Norma Kopf; Cornelius Troast, Mr. Paul Gattie and Florette, my other sister.

Q You have told us that they stopped at a refreshment stand; from there where did they go? A To the Rankin street address in Elizabeth; and this man had Mrs. Sturm in his arms the greater portion of the time, and at times she sat on his lap. On the ride from the stand to Rankin street she sat the greater portion of the time on his lap.

Q When they got to Rankin street what happened there? A At Rankin street this man got out, and as he did they kissed each other; he stood on the sidewalk when he kissed her final

kiss, and then she drove home with this other gentleman to 322 Belmont avenue.

Q What time was it when she arrived home? A It was then between 11 and 12 o'clock.

Q When did you next see her? A May 31st.

Q Where? A At the entrance of the Cook Re-Lining & Patch Company.

Q Under what circumstances? A She again got in the car of this man who owns the Cook Re-Lining and Patch Company and drove to her home at 322 Belmont avenue; she got out of the car with this man and went up into the apartment.

Q What time of day was that? A When they arrived there that was 12:20 at noon on Saturday noon.

Q You say they entered the apartment house together? A Yes, sir.

Q Continue. A And we remained there, and in about ten or fifteen minutes' time I saw Mrs. Jacoby come from the northeast corner and out of the store, which was a delicatessen store, to the house. I understand that Mrs. Jacoby is Mrs. Sturm's aunt. She came from this store to the apartment house, and she engaged in conversation with some ladies at the front door for five or ten minutes, and then went upstairs. In about ten minutes' time this man then came downstairs and drove off to the Cook Re-Lining & Patch Company.

Q And about how long a period of time had he been in this apartment house before Mrs. Jacoby came there? A Between twenty and twenty-five minutes.

Q When did you next see the defendant? A The next time was June 7, 1924.

Q Where? A This man from the Cook Re-Lining & Patch Company met Mrs. Sturm at the

corner of Livingston street, at the corner where his place of business is; he did not drive to the garage. Mrs. Sturm got into the car with this man. They rode north and passed the Colden Motor Corporation, and then drove in the direction of Millburn. We followed for about seven or eight miles, but we lost them in traffic.

Q About what time of day was that? A That was then about a quarter to eight in the evening.

Q When next did you see her? A The next time was June 18, 1924.

Q Whereabouts? A At her residence with her aunt and a gentleman.

Q What occurred there? A She, with her aunt and this gentleman, went down to a park situated about one block from the house; they all sat down in the park together; this was around 8:00 o'clock in the evening. After a while, after half an hour or so, Mrs. Sturm with this man took a walk through that section of Newark. I don't know the names of the streets, but I know it was within six or eight blocks of the location of the park, and they returned to the bench where the aunt was sitting. That is what I saw June 18th.

Q What was their attitude towards each other? A When they left the aunt they walked a block down Clinton street and then went to the right. They went up that street, and while walking along he had his arm around her and she had her arm around him, and they continued walking that way all the while.

By Mr. Schotland.

Q You mean Clinton avenue? A Yes, sir.

Miss Constance Kopf, direct.

Further direct.

Q And they returned to the park to the aunt? A Yes, sir, and then they walked up to the house and went in the house—Mrs. Sturm and Mrs. Jacoby and this gentleman—at about 10:00 o'clock in the evening that was.

Q After they had returned from their walk when they got back to the park, and before going to their home, how long did they then remain in the park? A About half an hour or more.

Q And who was there at the time? A Mrs. Sturm—

Q I mean with you? A Mr. Troast and my sisters, Norma and Florette.

Q Was Mr. Sturm there at the time? A Yes, sir.

Q When they returned to their home, did the gentleman leave them? A Yes, sir.

Q About what time was that? A About 10:00 o'clock.

Q When next did you see Mrs. Sturm? A On June 20th.

Q Whereabouts? A At 322 Belmont avenue.

Q Under what circumstances? A Mrs. Sturm and her aunt, Mrs. Jacoby, left their residence in the evening about 7:00 o'clock.

Q Going back for a moment to June 18, where was Mr. Troast while these people were sitting on the bench? A He was sitting in the park on a bench right alongside of Mrs. Sturm.

Q On June 20th, you say you saw Mrs. Sturm and her aunt at their home? A Yes, sir.

Q What happened then? A They left their house about 7:00 o'clock and went in the direction of Clinton avenue; they took a bus up Clinton avenue, and Mrs. Jacoby got out on Tenth street, and Mrs. Sturm went up as far as Irving-

ton Centre; that is a place where a number of streets come into; Mr. Sturm, Mr. Troast, my two sisters and myself were together.

Q Was anyone with Mrs. Sturm after her aunt left her? A No, sir.

Q When she reached the place that you have mentioned, what happened? A She stood on the right-hand side of the street, walking up and down for a while, and then she went on the other side of the street and waited a while, and then she came back on the same side of the street, where a man met her.

Q How long did they wait there? A About twenty minutes.

Q What time was it? A About 7:40

Q Describe the appearance of the man. A He is a man about five feet eleven inches tall, a young fellow, broad shouldered, wore a grey suit and had an overcoat on his arm; they just said "How do you do," and then went over and took a Clinton avenue bus down town, where they got off at Chestnut and Broad street; it was bus 73. They walked in the direction of the Elks' Home, where they stopped for a moment, and he then put his arms around her and was talking to her; from there they walked, he still with his arm around her, in the direction of the Lincoln Hotel. They stood conversing in the shadow of a tree there for a while.

Q What occurred? A He had his arm around her, and afterwards linked his arm into her left arm, and in that way they walked to the entrance of the Lincoln Hotel; he said something and she shook her head and came back again to the tree, and while standing by the tree, I heard her say, "No, I don't want to, somebody may see us."

Q Then what? A They stood there for ten minutes more, and she reluctantly walked away from the place. They then walked up to Clinton avenue and took a bus up as far as one street before you get to the park on Belmont avenue, where both got out. Mrs. Sturm walked alone to the park; they separated when they got out of the bus, and this man walked ahead fast, and I saw Mr. Cornelius Troast follow him. Mr. Troast was with me—

Q Who else was with you? A Mr. Sturm and my two sisters; I followed Mrs. Sturm to the park, and her aunt was sitting on the bench.

Q When Mr. Cornelius Troast left you, in which direction did he go in reference to the man? A Up Belmont avenue.

Q Where had the man gone? A He followed the man.

Q When he got to the park, what did you see there? A I saw Mrs. Jacoby sitting on the end of the bench, sitting alone—the bench nearest to Clinton avenue; and Mrs. Sturm stood talking to her; and from what I could learn there was an argument. She remained there about five minutes. I then followed Mrs. Sturm up Belmont avenue, and she walked on the right-hand side of the street; she crossed over through the grounds; there is a section of trees, and she walked through them to the house, where she met this man who had been out with her earlier in the evening.

Q To what house? A 322 Belmont avenue, where Mrs. Sturm lives.

Q Where did she meet him? A Five feet from the entrance to the door; and they went in the house. I crossed over; Mr. Troast was there; I crossed over with him; and they went down the

corridor of the apartment house. I was in the door of the apartment house by the time that she got to the steps; the steps go to the left going upstairs.

Q And then what? A And this apartment is on the next floor, the second floor; and the door is the very first door that you meet on the left-hand side; it is at the head of the stairway.

Q The apartment occupied by Mrs. Sturm at that time? A Yes, sir.

Q What did you see when you had gotten into the entrance of the building? A I saw Mrs. Sturm and this man go around up the stairway to the left.

Q Did you see whether they entered the apartment? A They did; Mrs. Sturm unlocked the door and went in with a key, unlocked the door with a key and went in.

Q Now, before she entered that apartment, were there any lights there visible from the outside? A I did not see any lights visible from the outside; this apartment is in the back.

Q After she had entered the apartment with this man, what did you then do? A I called Mr. Sturm, and I, Mr. Sturm, and Mr. Cornelius Troast all went into the yard in the back of this apartment house; and there is a board fence from three to four feet high, and we looked up to the apartment of Mrs. Sturm.

Q How far from the building did you go when you looked up into the apartment occupied by Mrs. Sturm? A About 30 feet.

Q And could you see the apartment? A Yes, sir.

Q What was there there? A I could see a bedroom and a living room; there was a light in the bedroom.

Miss Constance Kopf, direct.

Q Continue, and tell us what you saw. A While standing there, I saw this man in this bedroom with Mrs. Sturm; Mrs. Sturm had on a sort of a kimona or negligee, and this man was in his shirt sleeves; he had no coat or vest on; Mrs. Sturm was standing facing him with her arms around his waistline; they stood that way for two or three minutes, and then receded into the room and sat down, as though sitting down. I saw the head of the bed—

Q What was the man doing? A At times he was petting her hair and her head.

Q After you saw them apparently sitting down, what occurred? A Then Mr. Sanford Sturm became very much distracted, and we then went through an alleyway or cellar and up to the apartment, and first Mr. Troast rang the bell—

Q From the time you saw these people standing in this bedroom up to the time Cornelius Troast rang the bell, how long a time elapsed, about? A About ten minutes.

Q And then Mr. Troast rang the bell of the Sturm apartment? A Yes, sir.

Q What happened? A And Mrs. Sturm said, "Who is there?" and Mr. Troast said, "I want to see Mrs. Jacoby." And there was no answer to that then, and he again rang the bell and there was no more answer to that. Mr. Sturm then rang the bell again, and he banged on the door, and he said, "Frieda, Frieda, it is San; let me in;" and I could hear the man's voice inside say, "Don't let him in." And then I rang the bell of the apartment directly next to that apartment, to the right of this apartment; and a lady came out, and I said to her—

Q Never mind that; what did you do? A I had a conversation with her.

Q After the conversation what did you do then; did you make any effort to get into the Sturm apartment through her apartment? A Yes, sir.

Q Were you successful? A No, sir.

Q After you were unsuccessful in doing that, what did you do? A A colored man came to the foot of them stairs, and he said, "What is all this excitement about?" he was the janitor.

Q Is that the man that was on the witness stand, who was confronted with his affidavit? A Yes, sir.

Q The colored man? A Yes, sir.

Q What happened then? A We remained there for about twenty minutes, and we could not get into the apartment, although we continued to make efforts to do so.

Q Was anything heard from the man or from Mrs. Sturm during that twenty minutes? A No, sir.

Q Did Mrs. Sturm make any explanation or attempt to make any explanation to her husband? A No, sir, the door was not open.

Q During that twenty minutes did anyone else come there? A A number of people came there; the tenants from the apartment came there.

Q During the twenty minutes that you waited there, was there anything else heard from Mrs. Sturm or any other person in that apartment? A No, sir.

Q Then what happened? A Mr. Sturm and I then went down to the park, where we found Mrs. Jacoby sitting on the same bench where Mrs. Sturm had talked to her; and I said to her, "Are you Mrs. Jacoby?" and she said, "Yes;" and I said, "You know this man, this is Mr.

Sturm;'' and she said ''Yes;'' and I said, ''Do you know your niece is up in your apartment alone with a man;'' she said, ''What of it? She has a right to be in the apartment with a man.'' And I said, ''You know she is a married woman;'' and she said, ''What of that?'' and then we all left the park and walked up towards the house—Mrs. Jacoby, Mr. Sturm and myself. Mrs. Jacoby then went to the front entrance, and I saw her standing there talking to the janitor and a couple of women; she remained outside there about five minutes, and then went into the house.

Q What did you do then? A We remained there about twenty minutes, and we then left.

Q Did you see anyone leave that apartment house? A We did not see anyone leave that apartment house.

Q Did you see Mrs. Jacoby go into the apartment? A No, sir, she went into the house.

Q After leaving, did you ever see Mrs. Sturm again excepting in court? A No, sir, I did not.

Cross examination by Mr. Schotland.

Q How long have you been in this business as a private detective? A I have been a private investigator for a number of years, about six or seven years.

Q And all these people that you mentioned as accompanying you on these occasions when you saw Mrs. Sturm, were co-workers with you in the same profession? A Not all.

Q All except Mr. Sturm? A And Mr. Paul Gaddie and Mr. Troast.

Q What connection did they have? A Mr. Paul Gaddie was with me on a case of his own; I had a case with Mr. Paul Gaddie.

Miss Constance Kopf, cross.

Q Is he also a private investigator? A No, sir.

Q You had a similar case for him? A Yes, sir.

Q And he was with you on how many of these occasions? A Just that one occasion on May 28th.

Q And the others, except Mr. Sturm, were your co-workers? A Mr. Troast is my chauffeur; he is in my employ.

Q He assists you how? A He drives my car, and at times assists me in my work.

Q You know that the man you are describing as having seen Mrs. Sturm with on the first occasion that you saw her, is her employer, don't you? A Yes, sir.

Q Mr. Cook? A I don't know his name.

Q You know the sign there is the Cook Re-Lining and Patch Company? A Yes, sir.

Q You know that he is her employer? A From what I have heard, that is her employer.

Q When you saw Mrs. Sturm sitting in the front seat of his car and go out driving on the 28th of May, do you know who the lady with the child that you saw was, in the back of the same car? A No, sir, she did not go out riding on the 28th of May, with this gentleman; that was on the 26th she went out riding with him.

Q Do you know who the lady with the child was in the back of that car? A From what I know, it was the wife of this man.

Q And then Mrs. Sturm's aunt, Mrs. Jacoby, also got in the car? A Yes, sir.

Q And that was the party that took the ride on the 26th of May? A Yes, sir.

Q Now, on the 28th of May, you saw the defendant leave her house? A Yes, sir.

Miss Constance Kopf, cross.

Q Was she alone? A No, sir, she was with a young lady dressed in red.

Q Have you ever seen that young lady since? A No, sir.

Q Do you know her? A No, sir.

Q You saw them walk to 85 Rose Terrace? A Yes, sir.

Q And then you saw the defendant and the same young lady walk from Rose Terrace to the Studebaker salesroom on Broad street? A Yes, sir.

Q And then you saw them come out with two young men? A Yes, sir.

Q Do you know who those two men were? A No, sir.

Q Did you ever see them before? A No, sir.

Q Have you ever seen them since? A No, sir.

Q Can you describe them? A Yes, sir.

Q Do so. A The gentleman that sat with Mrs. Sturm was a man about five feet eight inches tall, weighing about 185 pounds and he was about 38 years old; and he lived at the Rankin street address in Elizabeth; I could not learn his name because they removed away—

Q When? A Shortly after I had seen this incident of May 28th; I believe it was within the next two or three days.

Q On May 28th, Mr. Sturm was with you? A No, sir.

Q Who was with you on that occasion? A My sister, Cornelius Troast and Mr. Paul Gaddie—

Q That was the only occasion Mr. Paul Gaddie was with you? A Yes, sir.

Q You saw them get into a Studebaker car? A Yes, sir.

Miss Constance Kopf, cross.

Q Proceed. A And then went down Broad street first, and then turned into a side street, and they rode on Halsey street, which is a one-way street, and the cop stopped them, and he also stopped us, and he said, "Don't you know this is a one-way street;" we actually did not know it was a one-way street, because we had not much occasion to go over that street at any other time; and we told the cop that fact. Then they turned into a street called William street.

Q Now, Halsey street is a street that parallels Broad street? A Yes, sir.

Q And is just one block west of Broad street? A I think it is one block west of Broad street.

Q And you saw them turn into William street? A Yes, sir.

Q Now, at William and Halsey street is where they stopped? A They pulled up along the curb at William and Halsey street.

Q What time was that? A About 9:30 or 9:40.

Q There had been a fire right at that corner, hadn't there? A No, sir.

Q Didn't you see a burnt building? A I know there was a fire, but not that night.

Q Didn't you see a burnt building which had been occupied as a man's hotel? A Yes, sir; I know, but I did not see any fire that night.

Q Now, that is just a short block from Halsey to Broad street right there, isn't it? A I cannot say that; I am not positive about that.

Q William street is quite a wide street, isn't it? A Yes, sir.

Q And diagonally across the street is Oppenheim-Collins Company's store, isn't it? Is not that at the corner of Broad and William? A Yes, sir.

Q And extends all the way back almost to Halsey street? A I don't know.

Q Right there are a lot of tire stores? A Yes, sir.

Q A great many of them were open at that time? A There was one that was open.

Q Right at the corner of Halsey and William street was open? A Yes, sir.

Q And right next to that is the entrance to a garage for transient cars? A I did not see that.

Q Didn't you see a lot of cars parked there? A There were none parked there at all.

Q On William street near Halsey; what day of the week was that? A That was on a Wednesday.

Q Have you been in that neighborhood frequently? A Yes, sir.

Q And were you ever there of an evening, except possibly on a Sunday evening, when every available space was not occupied with parked cars? A I have been there Sunday evenings and other evenings, and I have seen cars parked there; I have seen evenings when cars were parked there, but on May 28th, there were no cars parked there, and I saw none there.

Q There is a lot of traffic there, isn't there? A No, sir, there is not.

Q Was there not a lot of people coming there looking at that burnt building at that time? A No, sir.

Q And there was not much traffic on that Wednesday evening? A No, sir.

Q And no cars parked? A No, sir.

Q You are positive of that? A Yes, sir.

Q There is an electric light at the corner? A Yes, sir.

Q An electric light in the middle of the block, also? A I did not see that.

Miss Constance Kopf, cross.

Q There is a little street, Treat Place, that runs into William street from Branford Place? A I think there is.

Q Wasn't there an electric light there? A There may be.

Q You know where that is—that is 75 feet from Halsey street, isn't it? A I don't know.

Q There were no people present on the sidewalk? A Not very many.

Q Where were you when you saw what was going on in this car? A I was in my car and out of my car; I was in an alleyway; that is right beyond the building in front of which their car stood.

Q You were in an alleyway? A Yes, sir.

Q What alley is that? A I don't know what alley that is. Anyway, it is an open space there, and that is where I was.

Q How far away from the entrance to a garage is that? A I don't know.

Q You did not notice any garage there? A No, sir.

Q Was this west of Halsey street or east of Halsey street? A This was west of Halsey street.

Q You said they turned to their left into William street? A Yes, sir.

Q That would bring them east of Halsey street? A No, sir, that would bring them west, I think.

Q Halsey street, you said, is a one-way street? A Yes, sir.

Q This is the way Halsey street is? A Yes, sir.

Q Parallelling Broad street? A Yes, sir.

Q Halsey street is west of Broad? A Yes, sir.

Miss Constance Kopf, cross.

Q Then when you turned to your left, when you got to William street, you turned west of Halsey street? A Yes, sir, that is what I said.

Q And did they stop on the right side of the street? A Yes, sir.

Q That block west of Halsey street runs on to Washington street, doesn't it? A Yes, sir.

Q Did you notice a lot of taxis and a lot of cars there on William street? A No, sir, I did not notice any car on William street with the exception of my car and this Studebaker.

Q You did not even notice any man there with a badge as a special policeman that checks cars that are to be parked? A No, sir; there were no cars parked there that night.

Q Now, then, this Studebaker car was parked at the curb? A Yes, sir, it was an open touring car, and this was in the summertime, May 28th.

Q And the curtains were, of course, not on? A No curtains on, perfectly open.

Q You mean to tell us that on an open touring car on William street, west of Halsey street, between 9:30 and 10:00 o'clock, you saw this defendant have sexual intercourse with a man? A I saw Mrs. Sturm sit on this man's lap, and I and two others saw his private parts exposed, and I saw her sit on his lap and have sexual intercourse with him.

Q How far away from this car were you when you saw that? A About 18 feet.

Q There was no traffic policeman there on the corner? A No, sir, he was further in on Halsey street; this car did not stand on the corner.

Q Where was the policeman that had stopped you? A The policeman that stopped us was thirty feet in that block, in Halsey street.

Miss Constance Kopf, cross.

Q Was he a traffic officer? A I don't know, he was in a blue uniform; he came out from the sidewalk.

Q There was no traffic officer at the corner of William and Halsey street? A I did not see any.

Q Had you ever seen this man before who had sexual intercourse with the defendant? A Only at the Studebaker salesroom, the first part of the evening, at 9:15.

Q You had never seen the defendant with him before or since? A No, sir.

Q And that is the man you say who lived in Elizabeth at that time on Rankin street? A Yes, sir.

Q And you have never been able to ascertain his name? A No, sir, they moved away; I tried to ascertain his name about two or three weeks after that; I drove to this house and learned these parties had moved away; I went to the house and from the family that lived downstairs they told me that the parties upstairs had moved away; I did not know the name; I only wanted to find out who the family was. This was a lady that had half a dozen children, and her husband was home, and, as I understand, he is a painter, and he is a thin short man.

Q How do you know whether this man you followed lived upstairs or downstairs? A My query was this: I asked for a party that lived in this house, and I described this gentleman; and this lady said to me, "There is nobody lives on this floor of that description;" then this man came out to the front door, and I saw that this was not the man that I had seen with Mrs. Sturm, and the woman had told me the people upstairs had moved away.

New Jersey State Library

Miss Constance Kopf, cross.

Q You did not ask these people for his name? A No, sir, I did not; I did not know it.

Q Now, on all these occasions when you followed Mrs. Sturm, you always saw her with a different man, except in the case of her employer? A I saw her on the occasion of May 28th, and on the occasion of June 20th with a different man, and on June 18th.

Q You never saw her again with the man you saw her with on William street? A No, sir.

Q You never ascertained the name of any of these men? A I know the one that was in the park was named Morris.

Q The one that was in the park was seen by Mr. Sturm, too? A Yes, sir.

Q And he did not know who he was either? A No, sir.

Q Did you ascertain the name of the man you saw her with on June 18th? A I learned that through what I had heard.

Q Who was that? A Mr. Troast told me that they called him "Morris;" he went by that name while he sat on the bench.

Q That is all you ascertained about it? A Yes, sir.

Q And did you ascertain the name of the man you saw her with on June 20th? A I tried to, but I could not find it out.

Q When you saw Mrs. Jacoby go into the apartment after you had had the conversation with Mrs. Jacoby that you have related, why didn't you go in with her and see who was inside? A Because Mrs. Jacoby was very much on the defensive; she said to Mr. Sturm, "I am going before the Judge, and I will tell the Judge everything." She was very antagonistic.

Q Is that the only reason? A That is the primary reason.

Miss Constance Kopf, cross.

Q You were there, Mr. Sturm the husband was there? A That is when I came back from the park.

Q You were there—Mr. Sturm, the husband was there? A Yes, sir.

Q Your chauffeur was there? A Yes, sir.

Q Your sister was there? A Yes, sir.

Q And who else? A That is all.

Q Didn't you have another operative with you? A Mr. Sturm, myself, my sister Norma, my sister Florette, Mr. Troast, and that was all.

Q That made five of you all together? A Yes, sir.

Q And you had been making frantic efforts to get in the house? A No, sir, Mr. Sturm made the efforts to get in the house.

Q That is what you were all there for? A Yes, sir.

Q When Mrs. Jacoby came along and went in, did you try to force your way in with her and see who was in there? A Mrs. Jacoby remained downstairs on the street, talking to the janitor, and talking to two or three women, and she remained down there for ten or fifteen minutes, and we went to our cars.

Q You testified she remained downstairs about five minutes, and then went in, and that after she went in you stood around twenty minutes more and then went away? A Yes, sir.

Q After she got through talking the five minutes, she remained there, she went in, and the only reason that you and your co-workers and Mr. Sturm did not try to force your way in to see who was inside, was because she appeared to be antagonistic? A Yes, sir.

Miss Norma C. Kopf, direct.

MISS NORMA C. KOPF, being duly sworn, testified as follows:

Direct examination by Mr. Ward.

Q You are a sister of the last witness? A Yes, sir, and I assisted her in this work investigating Mrs. Sturm.

Q Do you remember when you first saw Mrs. Sturm? A Yes, sir.

Q Tell us the story. A On the 24th of May I saw Mrs. Sturm the first time; on May 28th, I followed Mrs. Sturm as she left her home to go to Rose Terrace; from there she went to the Studebaker salesroom on Broad street. I stood right next to her as she went in the store and called this young man outside. There she met another young man that this young lady was with that evening; they crossed Broad street and got into the Studebaker touring car; from there they proceeded up to Halsey street and so on to William street, stopping on the right-hand side of William street, forty feet from the corner of William and Halsey street. During their drive from the salesroom to this place she was very affectionate with the man she was sitting with in the back.

Q How old would you say the man was? A I should say the man was 35 years old; he had a pimply complexion, weighed 180 pounds about, and wore a grey coat, and I remember well that he had something the matter with his left hand. They remained on William street near Halsey street probably 25 minutes. During that time Mrs. Sturm acted indiscreetly with this man.

Q What do you mean? A I mean that Mrs. Sturm had sexual intercourse with this man that she was sitting with in the back. The girl she

was with that night was sitting with a young fellow in the front; they were also affectionate with one another; I could see this very plainly as I stood in this alleyway, probably ten or fifteen feet from the car; then I passed right by the car when the act of sexual intercourse was committed.

Q Were any cars parked on that street? A There were not any cars parked on that street; I took particular notice of it; and there were few people passing by. The officer had stopped us on Halsey street. From William street we went to the park, and from there they got to the stand, and while they were buying refreshments there, I also got out and got some refreshments at the same stand. Then they left this man at Rankin street, Elizabeth.

Q When this man got out of the car I was out of my car, and I saw him go up the steps of the house. He embraced and kissed her before he left. That was May 28th. I was with my sister on all these other occasions she has testified to; on May 24th and 26th I was with her.

Q Now, get down to June 20th? A On June 20th, Mrs. Sturm left her home with her aunt, and her aunt left the bus, and she went up to the section where the streets meet, where she met this young man. She went with this young man on bus 73; she got out and stood by the Lincoln Hotel. After he had asked her to go to the hotel with her, she was afraid to go there.

Q What was their attitude towards each other? A He kissed her right by the street, by the Lincoln Hotel, and when they got on the bus they got off together and she went to this little park to her aunt. I followed the man with Mr. Troast and Mr. Sturm. This man waited

outside at the apartment where Mrs. Sturm lived until Mrs. Sturm came.

Q What did Mr. Troast do before Mrs. Sturm came there? A He went into the apartment and tried to get into this apartment where Mrs. Sturm lived with Mrs. Jacoby; there was no one at home. He then came where I was; meantime, Mrs. Sturm came up and went into the apartment with this man. She unlocked the door and they entered. I remained in the hallway while I saw my sister and Mr. Sturm and Mr. Troast go into the rear part of the apartment.

Q What do you mean? A The rear yard; they had to go through to go to the back. When they returned—I never took my eyes off the apartment door of Mrs. Sturm's apartment. Finally, Mr. Sturm, my sister and Mr. Troast returned. Mr. Sturm asked Mr. Troast to ring the bell at the door; he rang it and knocked; he asked to see Mrs. Jacoby. When he rang no one answered. I heard voices on the inside. Mr. Sturm then commenced to rattle the door and knock on the door, and rang the bell and said, "Let me in, this is San; this is your husband." In the meantime, the janitor came, and he said to Mr. Sturm, Mr. Schotland—

Q Never mind the conversation.

Q (By the Court.) What did you do in consequence of what he said to Mr. Sturm? A Mr. Sturm again knocked on the door and made every effort to enter this apartment; I heard a man's voice inside say, "Don't open it." My sister and Mr. Sturm then left to go down to the park. I saw them leave the apartment. When they came back they came back with Mrs. Jacoby. In the meantime, I never left the inside of the apartment. Different women came out of the apartment.

Miss Norma C. Kopf, cross.

Further direct.

Q Did Mrs. Sturm come to the door at all, or make any explanation through the door? A Absolutely not; from the time I saw her walk in with this man, she never showed herself again.

Q From the time you saw her go into this apartment with this man, up to the time Mr. Troast came around and rang the bell and knocked at the door, how long a time elapsed, about? A You mean from the time Mr. Troast rang the bell?

Q I mean from the time she and this man entered that apartment when she unlocked the door with her key and went in with him; from that time up to the time that Mr. Troast came back with Mr. Sturm from the back yard, how long a time elapsed? A It was at least twelve to fifteen minutes, if not longer.

Q On the occasions when you saw Mrs. Sturm at her place of business, did you ever see any acts of affection on the part of any man there with her? A Yes, sir.

Q What were they? A He put his arm around her and kissed her, her employer did.

Q Right in the store? A No, sir, he did that in his car when he stood in front of her home.

Cross examination by Mr. Schotland.

Q That was at noon, broad daylight? A Yes, sir.

Q You saw her employer put his arms around her and kiss her? A Yes, sir.

Q This park you have been talking about at Belmont avenue—that is just a little triangle? A Quite a few people sit there in the evening.

Miss Norma C. Kopf, cross.

Q It has about three benches in it? A I think there are more than three benches in it; it is only a small park; there are bushes in that park that would shield them a little bit at night.

Q That is very well lit up there, isn't it? A It depends on where you sit; you can sit in a place where it is dark.

Q Did you ever see Mrs. Sturm sit there with anyone in the dark? A I saw Mrs. Sturm sitting there at night with her aunt and this man Morris.

Q When? A On the 18th of June.

Q Did you ever see this man Morris on any other occasion besides the 18th of June? A No, sir.

Q You saw the three of them sitting there? A Yes, sir, and I saw Mrs. Sturm leave with this man Morris and take a walk, because I was right behind her.

Q You saw him put his arm around her? A Yes, sir.

Q On Clinton avenue? A No, sir; when he left the park and went to the street in the back of Belmont avenue they walked from the park to the next street, and then walked up that street, and as he did so he put his arm around her.

Q Was it the street below Belmont avenue? A Yes, sir.

Q How far did they walk on that street? A They went right around the block.

Q After they left the park he went with her and her aunt to their home? A Yes, sir.

Q And did not go upstairs? A No, sir.

Q Just went away? A Yes, sir.

Q That is the only time you ever saw him? A Yes, sir.

Q Can you describe him? A He is a man with dark hair, rather dark complexion; to the

best of my knowledge and belief he is about forty years of age.

Q Those are all the particulars you can give of him that you have given? A Yes, sir.

CORNELIUS TROAST, being duly sworn, testified as follows:

Direct examination by Mr. Ward.

Q You are employed by Miss Constance Kopf as a chauffeur? A Yes, sir.

Q You were with her on these occasions when she saw Mrs. Sturm that she has related? A Yes, sir.

Q Do you remember the 24th of May, the first occasion? A Yes, sir.

Q Were you always with her on the dates she has mentioned that you were present? A Yes, sir, every one.

Q And on the occasions that she mentioned, when she saw Mrs. Sturm at the place of business of the Cook Re-Lining & Patch Company, did you ever see anything of a peculiar character there? A Several times the man that we understood to be the owner of the place took her home in his Chevrolet car and his Cleveland car. I saw him put his arms around her and walk in the office with her, and they remained in the office ten minutes, and then they walked in the rear of the shop.

Q How old is he? A He is between thirty-five and forty years of age, I should say.

Q Do you remember any occasion when his car stopped in front of her home? A Yes, sir.

Cornelius Troast, direct.

Q Did you see any acts of affection take place then? A He sat in the car fifteen minutes before she entered the house one time and they had a regular frolic. He put his arms around her and fooled with her and kissed her.

Q Many times? A Not many times.

By the Court.

Q Just one or two? A Yes, sir.

Further direct.

Q Do you remember the 28th of May when it is stated that Mrs. Sturm left her home with a girl dressed in red? A Yes, sir.

Q Did you see them in the car on William street? A Yes, sir; there was another gentleman driving the car in the front with a girl; they loved and kissed there for twenty minutes or half an hour, and then they went to Weequahic Park.

Q Did you see what went on? A Just loving and kissing, and her sitting on his lap.

Q Getting down to the 20th of June, do you remember that occurrence? A Yes, sir.

Q After having followed them as has been described, do you remember their getting on the bus? A Yes, sir.

Q Now get right down—you have heard detailed her meeting this man and getting on the bus with him? A Yes, sir.

Q Do you remember the incident at the Lincoln Hotel? A Yes, sir. Mrs. Sturm and a gentleman stopped right alongside of a big tree in front of the Lincoln Hotel. They walked towards the entrance of the hotel and back again and finally walked along the park over to the

main street that leads over to this diamond-shaped park where the aunt was sitting.

Q While they were underneath the tree did you see anything? A He tried to coax her into the hotel; his actions showed that, and he had his arms around her.

Q Then you saw them walk back towards the diamond-shaped park? A They took a bus there.

Q When they got to the park what happened then? A When they got off the bus the gentleman walked in front of her; she was behind him and he walked up the street to her home, and she walked over towards the park, and Miss Kopf followed Mrs. Sturm and I followed the gentleman. I went up into the apartment house; Miss Kopf told me to do that, to find out if anyone was home; and I went to the apartment she occupied and I rang the bell and no one answered. The lady in the adjoining apartment came out and said, "There is no one home," and then I came down across the street and I sat down on the stairs that lead into the house across the street.

Q Did you see this man come up to the apartment? A Yes, sir; he stood and waited there in front of the premises; he waited there for five or ten minutes until Mrs. Sturm came up.

Q If you will, just relate in your own way what happened from the time Mrs. Sturm came up and joined him there in front of the apartment. A Mrs. Sturm came up and met the gentleman in front of the apartment, and they both proceeded into the apartment. Miss Constance Kopf came up and passed me, and we walked back behind Mrs. Sturm and this gentleman. Mrs. Sturm opened the door with a key; and then we called Mr. Sturm and walked to the

rear of the apartment and saw Mrs. Sturm and this gentleman in the rear room. There was a fire escape right at this window where she was, and we saw Mrs. Sturm and this gentleman in the rear room.

Q What were they doing? A They had their arms around one another.

Q What was his attire? A He had his coat and vest off.

Q Then what happened? A We waited there a few minutes.

Q Did you see them disappear? A They went in back of the room and sat down.

Q Did you see upon what they sat? A It looked as if it was a bed, because the head of the bed showed up plainly.

Q Then what did you do? A We walked around to the front, and Mr. Sturm was excited and he ran up the stairs and I knocked first, and then Mr. Sturm knocked, and we did not receive an answer; and then Mr. Sturm hollered, "Frieda, this is San; let me in"; and the man inside said, "Don't open the door," and when we found out she would not let us in we walked downstairs.

Q How long were you there after you first knocked on the door, all together? A Every bit of five or ten minutes.

Q During that time was there any explanation made by Mrs. Sturm, or was anything said by her? A No, sir; the only man that came up was the colored fellow, and he wanted to know what was going on; he said he could have helped us long ago if he had known we were following her.

Q Miss Kopf went to the park and came back with the aunt? A Yes, sir.

Q And you remained twenty minutes or so and then went away? A Yes, sir.

Q On June 18th do you recall going to the park, as has been mentioned here, which is in the vicinity of the Belmont apartment house, and sitting on the bench next to Mrs. Sturm? A Yes, sir; she came down and they sat in the park and they were talking, and I overheard all the conversation. Mrs. Jacoby was telling Frieda, that is Mrs. Sturm, she told Mrs. Sturm how she picked up a fellow on the street with a beautiful sedan; and then as the conversation went on Mrs. Jacoby told Frieda she could not do what she wanted to do—that she was a married woman; and Mrs. Sturm insisted on going out with some particular fellow that night.

Q Did you hear the name mentioned? A Morris.

Q What was said about her going out with Morris; what was said by Mrs. Jacoby and Mrs. Sturm? A Mrs. Jacoby said she would not get away with it all the time and she should not do it, and Mrs. Sturm whined and wanted to go, and finally they did go for a walk—this man and Mrs. Sturm did.

Cross examination by Mr. Schotland.

Q When was that? A June 18th.

Q What hour of the evening was that? A About 9:00 o'clock; probably a little earlier.

Q How would you describe Morris? A He was not very tall; he had dark hair; he was a fellow about twenty-three or twenty-four years of age, I should judge.

Q You heard Miss Kopf on the witness stand? A Yes, sir.

Q You heard Miss Kopf describe the man to be a man about forty?

Mr. Ward: Objected to as comparing evidence.

A This fellow was a young fellow.

Q The fellow you saw that was called Morris was a young fellow? A Yes, sir.

Q And Frieda wanted to go out with him? A Yes, sir.

Q And Mrs. Jacoby told her she was a married woman now, and she might have got away with it before, but she could not do it now that she was a married woman? A That is it.

Q How long have you been working for Miss Kopf? A Nearly two years.

Q Do you assist her in her investigating work as part of your work? A I do help at times, but my business is merely driving the car. It is interesting work, however.

Q On this evening of June 20th, where were you when Mrs. Sturm and the man that you have described entered that apartment house? A Across the street from the apartment house.

Q And what did you see them do? A Enter the apartment house and open the door.

Q What did you do? A We went to the rear of the apartment.

Q This street where she lived and where this apartment house is located is Belmont avenue? A Yes, sir.

Q It is a wide street at that point? A Very wide street.

Q It has a sort of a parkway in the center? A Yes, sir.

Q You were on the other side of the street when you saw Mrs. Sturm and a man enter the

main entrance of that apartment house? A Yes, sir.

Q Now, as you saw them go into the main entrance of that apartment house, what did you do? A We started to go across, Miss Constance Kopf and I; as they were aiming for the entrance we started across; just as they got to the top landing we were on the bend of the landing.

Q How many feet were you behind them on the stairs? A Five or six feet.

Q You saw Mrs. Sturm take her key and open the door and walk into the apartment with this man? A Yes, sir.

Q The moment they got inside what did you do? A Went around to the rear of the apartment.

Q Quickly? A We took our time about it; we had to find out how to go first.

Q You went downstairs again? A We came out to the front and then went in again; somebody told us how to go and we went out the back through the cellar.

Q How much time elapsed from the time you saw Mrs. Sturm enter the apartment—I don't mean now the front entrance; I mean the individual apartment; and you went down and got through the cellar and around into the yard? A Seven or eight minutes.

Q And when you got out into the yard, what time was it? A That I don't know.

Q Approximately? A It was late in the evening; the exact time I don't know.

Q Cannot you approximate the time? A I would say it took about two or three hours.

Q It was night? A Yes, sir.

Q But it was not late in the evening; it was not after 10:00 o'clock, was it? A Yes, sir.

Q Was it after 11:00? A About 11:00 o'clock, I think.

Q Now, when you got out into the yard, who was with you? A Miss Constance Kopf, Mr. Sturm and myself.

Q And where was Miss Norma Kopf? A I don't know.

Q Didn't you see her at all? A No, sir.

Q You did not see Miss Norma Kopf? A No, sir, not at that time.

Q Now, when you got out to the yard you looked up to the window of this apartment, did you? A Yes, sir.

Q And there is a fire escape in front of the window? A Yes, sir.

Q And there was a light in the room? A Yes, sir.

Q A bright light? A A dim light.

Q And the shade was up? A Yes, sir.

Q All the way up? A Halfway.

Q And the window was open or closed? A That I don't remember.

Q Was there a screen on the window or not? A I don't remember.

Q You know what I mean—a mosquito netting screen? A I know what you mean.

Q You were able to see; you remember that distinctly—Mrs. Sturm standing with a man in his shirt sleeves with their arms around each other? A Yes, sir.

Q How close to the window were they? A Very close to it.

Q Close to the window? A Yes, sir.

Q With the shade up? A Yes, sir.

Q Are there any other buildings that face on this yard in the vicinity there? A Yes, sir; there are other buildings from the adjoining block.

Cornelius Troast, cross.

Q Did you see any lights in those windows? A I did not look.

Q Did you see them? Do you know whether there were any or not? A I don't know.

Q How much of the rooms were you able to see from the yard? A This room that they were in; that was all; and there was another room alongside of it—two rooms that were facing the yard.

Q Was there a light in the other room? A Yes, sir, there was a light in the other room; the apartment was lit up.

Q The two rooms in the rear? A Yes, sir.

Q There was a light in both rooms? A Yes, sir.

Q You are positive of that? A Yes, sir.

Q How far into the room were you able to see? A The full depth of the room.

Q The full depth of the room? A Yes, sir.

Q How big a room was it? A I don't know how big it was.

Q You saw it? A Yes, sir.

Q You could see all the way to the rear wall? A Yes, sir.

Q Do you know how high above the ground that room was and is? A One story.

Q Would you be surprised to learn that room is twenty-six feet above the level of that yard? A I don't think it is.

Q How far back from that window were you? A About forty feet.

Q Is the yard level? A It slopes uphill to the rear; the further back you go the higher it is.

Q In the yard? A Yes, sir; the slope is down towards the building; the yard slopes towards the building.

Q How many stories in the rear are there in that building? A I believe there are three.

Cornelius Troast, cross.

Q Is not the cellar quite high there in the rear? A Yes, sir.

Q The cellar is a considerable distance above the grounds—the top of the cellar? A Yes, sir, it is.

Q In the rear the cellar extends above the level of the yard? A Yes, sir.

Q And above the cellar there is one story? A Yes, sir, where Mrs. Sturm lived.

Q Mrs. Sturm lived on the second floor, one flight up? A Yes, sir.

Q In the yard you had the cellar extending above the level of the yard? A Partly; yes, sir.

Q And above that the first floor? A Yes, sir.

Q And then on top of that was the window that you looked into? A Yes, sir.

Q You looked into that window from a distance forty feet away? A Yes, sir.

Q And Miss Kopf and Mr. Sturm were alongside of you? A Yes, sir.

Q Now, tell me just what you saw. A I saw Mrs. Sturm and this gentleman in the room with their arms around each other, and he had his coat and vest off, right close to the window; she had a negligee of some kind.

Q She did not have a sweater? A No, sir.

Q What else did you see them do? A That is all.

Q That is all you saw them do? A Yes, sir.

Q After you saw them do that, you came around to the front of the house up to the door? A Yes, sir.

Q Did you go quickly then? A No, sir, not quickly.

Q Why did you go at all? A To see what was going on.

Q Why didn't you hurry? A We did not have to be in a hurry.

Q How long did it take you to get around to the door in the hall? A About the same amount of time that it took us to get to the rear.

Q Who was the rest of the party? A Florette and Norma Kopf.

Q The other two Kopf sisters? A Yes, sir.

Q Then when you came back out of the yard the other two Kopf sisters were sitting in the car that belongs to them? A Norma Kopf was in the hall and Florette was outside; we gathered the party any way and went upstairs.

Q Don't you know where you gathered the party from? A In the vicinity of the hall and in front of the apartment there, and we all went upstairs.

Q What did you do when you got upstairs? A Knocked on the door.

Q Did anyone ask, "Who is there?" A No, sir.

Q Didn't you knock at the door and somebody asked who was there, and you asked for a Mr. Smith? A I asked for Mrs. Jacoby.

Q Didn't you ask for a Mr. Smith? A No, sir; I think it was Mrs. Jacoby that I asked for.

Q Who did you ask for Mrs. Jacoby? A I think it was Frieda that answered.

Q When you knocked on the door a woman's voice answered and asked "Who is there?" didn't she? A Yes, sir.

Q And you said you wanted Mrs. Jacoby. What did she say? A That was the end of the conversation; there was nothing more said.

Q Either by you or by her? A No, sir. Then Mr. Sturm tried to get in.

Q What did he do? A Hammered on the door and said, "This is San, Frieda; open the door."

Q And then the colored janitor came up? A After the hammering was all over the colored janitor came up, I believe.

Q Wasn't it while Mr. Sturm was hammering on the door? A No, sir; I think he had already given it up for a bad job.

Q How long did you stay there hammering on the door trying to get in? A Quite a while; five minutes, I guess.

Q Did all of you stay there the whole five minutes? A Yes, sir.

Q Then what happened? A All the people came out of the apartments there.

Q And what did you do after the five minutes which you stayed there? A We went on downstairs.

Q Who did? A The entire party; I remained in front of the building and they went down to the diamond-shaped parq.

Q When they came back, did anyone come back with them? A Mrs. Jacoby came back with them, and she remained in front of the apartment.

Q How long? A Five or ten minutes.

Q Then what did she do? A She went on up into the apartment.

Q Did you see her go into the apartment? A I saw her go into the building.

Q Where was the rest of your party when you saw Mrs. Jacoby go into the building? A We walked all over to the car.

Q Where was your car parked? A Across the street.

Q All of you walked over to the car? A I believe we did.

Q And then you left? A Yes, sir.

Q Then after you saw Mrs. Jacoby go in you did not stay there any more? A No, sir.

Q And did you try to go in with her? A No, sir; it would not have done any good, anyhow; no one tried to go in with her.

MR. WALTER JASON, being duly sworn, testified as follows:

Direct examination by Mr. Ward.

Q Where do you live? A South Orange avenue, north.

Q Do you know Mrs. Sturm? A Yes, sir.

Q How long have you known her? A Four or five years.

Q Do you remember having seen her since March, 1924? A Yes, sir.

Q Where did you see her? A I was coming out of the theatre once and I saw her walking arm in arm downtown with a man.

Q Do you remember when that was? A That was in the early part of May, 1924.

Q That was the only occasion you saw her? A Yes, sir.

Cross examination by Mr. Schotland.

Q When was that? A In the early part of May.

Q What day of the week was it? A I could not say.

Q What time in the evening? A This was after the show, about 10:45 or 10:30.

Q What theatre was it? A I was coming out of Proctor's, and I saw Mrs. Sturm walking down the street arm in arm with a man.

Q No one else with them? A There was quite a number of people walking along.

Q You don't know whether any of the people in front of her or back of her were in her party? A No, sir.

Q Did you ever see that man who was with her before, to your knowledge? A Yes, sir.

Q Did you ever see that man since, to your knowledge? A No, sir.

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

Mr. Ward: I want to have the privilege of calling Mr. Gattie; he is not here.

The Court: You may call him later.

SANFORD Z. STURM recalled.

Direct examination by Mr. Ward.

Q Is this the letter you received that you referred to as the "blackhand letter?" A Yes, sir.

Q That is the letter you discussed with Mrs. Sturm? A Yes, sir.

Q How old are you? A Twenty-three years of age.

Q And why was it that you did not go into the apartment that night after having knocked and told your wife who you were?

Mr. Schotland: Objected to; we cannot be bound by the reasoning of this man's mind given now.

The Court: Re-frame the question.

Q After Mrs. Jacoby came back to the apartment, I believe you were still there; what did

Mrs. Jacoby do or say; after Mrs. Jacoby came back to the apartment, and you tried the door; what did she say? A She said, "Oh I will tell the Judge a lot of things about you."

Mr. Schotland: We are not bound by that; we object.

The Court: We will adjourn now.

Mr. Schotland: May I ask the Court to instruct the petitioner to kindly pay up his arrears—he is four weeks in arrears—$28.00.

Mr. Ward: We offer the blackhand letter in evidence, and the envelope.

Letter marked "Exhibit P. 1 1/2."

Envelope marked "Exhibit P. 2 1/2."

Adjourned to February 18, 1925.

THIRD DAY.

Continuation of the taking of testimony in the above-entited cause, at the Chancery Chambers, Paterson, New Jersey, on the eighteenth day of February, nineteen hundred and twenty-five, before Hon. Vivian M. Lewis, Vice-Chancellor.

Same appearances as before noted.

ARTHUR G. STOCKHEIMER, being duly sworn, testified as follows:

Direct examination by Mr. Rinzler.

Q What is your occupation? A I own and operate a bus in Newark, New Jersey.

Arthur G. Stockheimer, cross.

Q Do you know the parties to this suit? A Yes, sir, both of them.

Q How long have you known them? A I have known Mr. Sturm for three years or so; I don't know Mrs. Sturm personally, but I know her when I see her; there she is now (pointing to the defendant).

Q Did you see the defendant on June 20, 1924? A On my bus, yes, sir; she boarded the bus at Irvington Center, that is in Irvington.

Q Did she board your bus alone? A There was a young man with her.

Q Do you know that young man? A No, sir.

Q Did they get on together or not? A They got on together and got off together.

Q Where did they get off the bus? A At Chestnut and Broad, Newark, New Jersey; they got off together, and the man paid the fares.

Q Have you ever seen her since that time? A No, sir.

Q Have you ever seen the man since that time? A No, sir.

Cross examination by Mr. Schotland.

Q Where did you see the defendant to know who she was? A At the place where Mr. Sturm worked.

Q Where was that? A Colden street, Newark, New Jersey.

Q And when? A I don't know the exact date; I was there several times for repairs on my car.

Q Don't you know what year? A It was around 1922, near the latter part of it.

Q How many times did you see her? A It was more than once.

Q Did anyone point out to you who she was? A Yes, sir, that it was the young lady that Mr. Sturm was going with.

Q About 1922? A I imagine it was about then.

Q Then you did not see her again until 1924? A No, sir, I cannot say that I did.

Q Did you talk to her when you did see her at the garage? A No, sir.

Q Where was she when you saw her? A In the office part.

Q Were you in the office? A Sometimes, occasionally—

Q Were you in the offiec when she was there? A That I don't remember.

Q You were not introduced to her? A No, sir.

Q You heard somebody say when you were there, "That is Sanford Sturm's girl?" A That is about the size of it.

Q Did you take a good look at her? A A very good look at her.

Q Did you make a memorandum on June 20th that she got on your bus? A On the 21st of June I had occasion to have some more repairs made on my car, and that is how I know that it was on the 21st of June.

Q You told Sanford Sturm you saw his girl on the bus the day before? A I said "his wife."

Q Did you know they were married? A Yes, sir.

Q When did you find out they were married? A I think it was about a month before that or so.

Q How did you find out they were married? A I believe he told me; somebody told me, I know.

Q Are you and Sanford Sturm pretty intimate? A Not very.

Q You happened to go there on the 21st of June, and told him you saw his wife get on your bus with a man? A Yes, sir.

Q Did you ever see her on your bus at any other time? A I cannot say that I have.

Q Can you describe the man? A Well, he was tall, an average built man.

Q A young man? A Yes, sir.

Q Is that all you recollect of his description? A Yes, sir.

Q What time of the evening was that? A Well, I should judge it was around 7:40, because I left the end of my line—to get down to Irvington Center, which takes me normally ten minutes.

Q That was daylight then? A Seven-thirty is not so much daylight at that time of the year, and it is not dark either.

Q It was the longest day of the entire year, wasn't it? A Yes, sir.

Q And it was about 6:30 sun time? A About that.

Q Then it was daylight? A It was daylight, but not bright daylight.

Q The sun had not set yet? A I did not take particular notice whether it had or not.

Q That is all you know about Mrs. Sturm and this man, that you saw them board the bus at Irvington Center and get off at Chestnut and Broad? A That is all.

Paul Gattie, direct.

PAUL GATTIE, being duly sworn, testified as follows:

Direct examination by Mr. Rinzler.

Q What is your business? A I am now at the Barnard Hospital; I am driving for them.

Q How long have you lived in Paterson, New Jersey? A I was born here forty years ago.

Q Do you know Mr. Sanford Sturm? A No, sir.

Q Have you seen Mrs. Sturm, the defendant? A Yes, sir.

Q Do you see her in court now? A Yes, sir.

Q Point her out. A She is the one (indicating the defendant).

Q On May 28, 1924, were you in a party that included the Misses Kopf sisters? A Yes, sir.

Q Were you with them in Newark, New Jersey? A Yes, sir.

Q Did you see the defendant while you were in the company of the Kopf sisters? A Yes, sir, I saw her at her apartment on Belmont avenue.

Q Do you remember the number? A No, sir.

Q What city? A Newark, New Jersey.

Q Was she alone or in company with somebody else? A She was with another girl.

Q Do you know the other girl? A No, sir.

Q How did you know she was the defendant? A She was pointed out to me by Miss Constance Kopf.

Q When you first saw this woman, was she going in? A Yes, sir.

Q And did you people remain or go away? A We remained there.

Q Just what happened? A Then after a short period of time she came out with this girl and went to a drug store.

Q What did you do? A I was asked to go up and buy a tooth brush and some pills for Miss Florette; at the same time, Miss Norma asked me to buy some ice cream.

Q Did you do that? A Yes, sir.

Q And there did you see Mrs. Sturm and this other woman? A Yes, sir.

Q What did they do there? A Mrs. Sturm was in the store, and her friend was telephoning.

Q How close to Mrs. Sturm were you at that time? A Five feet from her.

Q After the woman that was with Mrs. Sturm finished the telephone conversation, what was said or done by either of them? A The girl came out of the telephone booth and said he was going to call at the house; she said that to Mrs. Sturm; and then they walked back to the apartment.

Q And what did you do? A I went back to the car that was standing across the way from her apartment.

Q Did the rest of your party go with you? A No, sir, I was alone.

Q How did you happen to be in the company of the Kopf sisters at that time? A That day I went over to them; I had two dresses that Miss Kopf had made for my two children, so I went over to get them, and I told them if they were going down in my direction, if they would take me out to the home to my children, and I went with them.

Q After they left the drug store, what did they do? A They went back to the apartment.

Q Did they enter the apartment house? A Yes, sir.

Q Did they come out again? A They came out and went up to a fruit store for a bottle of milk, and then came back to the apartment again; then around 7:00 o'clock they came out together, Mrs. Sturm and her friend; they walked up some hill, and they went a short distance and turned around and came down another street, and they stopped at some house.

Q Where was that house? A That I don't know; they went in the house and stayed there from twenty to thirty minutes; the two women came out alone, and then they walked down to Broad street; then from there they walked down on Broad street to the Studebaker salesroom. It appeared that when the two girls arrived at the Studebaker salesroom there was a gentleman in front of the store, and Mrs. Sturm threw her arms around that gentleman who was standing there.

Q Did you know the gentleman? A No, sir.

Q How did they act towards each other? A It appeared to me that they had met before; they appeared to be very friendly.

Q Mrs. Sturm threw her arms around this gentleman? A Yes, sir, and he put his arm around her waist, and they were fooling.

Q Did they kiss each other? A No, sir; then the fellow left Mrs. Sturm and went in, and got another fellow who was inside, and Mrs. Sturm and her friend got in the car and drove off; all four of them got in the car.

Q Where did they drive? A They turned around and went down Broad street, and then, I don't know just what street they turned up, but they went down through Halsey street in

Newark, New Jersey, and while we were going through Halsey street, we were stopped by an officer in the middle of the block, who asked us if we did not know this was a one-way block.

Q Do you know if Mrs. Sturm and her party were also stopped by this officer? A It seemed to me that they were; then the car swung into William street—the Studebaker—turned into William street 35 to 40 feet from Halsey street on William street, and stopped; and we got to the corner just as they were coming to a stop, and we proceeded ahead of them.

Q Thirty or 40 feet from Halsey and William streets? A Yes, sir.

Q Was your car going? A We passed them and then stopped.

Q Now, that night, was that a dark or lit-up street? A It was a dark street.

Q Were there any other vehicles parked on the street besides the one you were in and the one Mrs. Sturm was in? A There was no other car.

Q Then what happened; how near did you get to them? A Between fifteen and twenty feet from them.

Q Do you know where Mrs. Sturm had been sitting up to that time in the car? A Yes, sir, on the left-hand side of the car in the back seat.

Q Where did the gentleman whom she had embraced, sit? A On the right-hand side, in the back seat.

Q What did you observe them do in that car, if anything? A They were kissing and embracing each other, Mrs. Sturm and her friend were.

Q And the other couple? A They were doing the same thing.

Q Did you remain in the car? A I was in an alleyway.

Q On what street is the alleyway? A On William street.

Q How far from where the car was in which Mrs. Sturm and her party were sitting? A Between fifteen to twenty feet from their car; I judge that.

Q I show you a photograph, and ask you whether or not it correctly represents the locality where the alleyway is located? A Yes, sir.

Mr. Rinzler: Have you seen this, Mr. Schotland?

Mr. Schotland: No, I have not seen it.

Mr. Rinzler: I offer this photograph in evidence.

Mr. Schotland: I object to the photograph.

The Court: Of course, it is not proved; the objection is sustained. You may mark it for identification. Who took it?

Mr. Schotland: I just want to explain my objection. I don't want to be technical and insist upon the photographer being here, but I object to it because it does not show the corner of Halsey street.

The Court: I cannot let it in if you object, because it is not proved in any way.

Mr. Rinzler: The rule of evidence is that proof by a photographer is not necessary; that all that is required to be proved is, that the subject matter of the photograph is correctly represented by that photograph. Now, my only desire in offering this photograph in evidence is to prove that there is an alleyway there; and the witness has testified that this photograph correctly represents the *locus* of the alleyway.

The Court: I shall sustain the objection. Marked "Exhibit R. 1 for identification."

Q Now, you were in the alleyway, Mr. Gattie? A Yes, sir.

Q And what did you see and hear? A I did not hear, but I saw they were kissing, they were kissing and embracing each other.

Q Did you see anything further? A Yes, sir, I saw that she straddled the man, sat across him; I could see that.

Q Did you see them expose themselves? A When I walked back, her clothes were up above her knees then, and the man was sitting in such a position that I saw his privates.

Q Did you pass the automobile in which this happened? A Yes, sir.

Q Was Mrs. Sturm sitting on this man's lap? A Yes, sir, right straddling, just like that (indicating).

Q What was the position of Mrs. Sturm's clothing at the time? A This way (indicating).

Q While they were in that position, what did you see; what else, if anything, did you see while they were in that position? A I saw her moving; in other words, working.

Q Then did you see anything done? A After that I saw that she had put her clothes down and fixed her hair and powdered herself, and then they drove off.

Q What kind of an automobile was it? A A Studebaker touring car.

Q Was the top up or down? A It was up, but there were no curtains on it.

Q What was the condition of the window in the rear of the car? A I think the window was broken out of it.

Paul Gattie, direct.

Q Could you see through it? A I could see from the light that is on the corner of Halsey and William street, which shone in that car.

By the Court.

Q Did anyone pass at this time at all that you noticed? A No, sir.

Further direct.

Q Then they drove off? A Yes, sir.

Q And did your party drive off? A Yes, sir, and they went through Weequahic Park; that park looks to be a lovers' park.

The Court: No, no, no! Strike that out.

Q Did you see Mrs. Sturm—what did you see Mrs. Sturm do in the park, if anything? A They were just kissing as they went along.

Q They did not get out of the car? A No, sir.

Q And then what happened? A Then they drove out of the park and stopped for some refreshments, and naturally, we pulled up ahead of them and stopped also.

Q And after Mrs. Sturm and her party had refreshments, did they back in the car? A Yes, sir, and they drove back through Elizabeth, and we followed; then Mrs. Sturm's friend got off the car at some street, and I don't know the name of it, and I saw he kissed her good-night, and he went in the house.

Q The man that Mrs. Sturm was with kissed whom? A Kissed Mrs. Sturm.

Q That was the last you saw them that day? A Yes, sir.

Paul Gattie, cross.

Q Since that day, have you ever again seen Mrs. Sturm until today? A No, sir.

By the Court.

Q How can you identify her so well? A I was right face to face with her.

Q That was last May? A Yes, sir.

Further direct.

Q How close were you to Mrs. Sturm in the drug store? A Between four and five feet.

Q How long were you and she in the drug store? A Between 30 and 35 minutes.

Q Was the drug store lit up? A No, sir, it was in the daytime; it was light enough in there.

Cross examination by Mr. Schotland.

Q Did you see your children that night at the home? A That afternoon I did.

Q Let us go back to the beginning, Mr. Gattie; what is your connection with the Kopf sisters? A None whatever, only that they worked for me on my case.

Q What case was that? A On my divorce case.

Q What did you say about dresses for your children? A Miss Florette Kopf made two dresses for my little girls that are in the Home.

Q Where is that Home? A 327 Central avenue, West Hoboken.

Q How did you come to go to Newark, New Jersey? A They drove me to my destination, and then after I got through there, I rode with them.

Q At whose request? A I asked if I should go along with them, and they said, "Yes, you

are perfectly welcome;'' and they pointed this lady out to me.

Q And asked you to do those different things? A They asked me to go to the drug store.

Q They asked you to get out of the car and go in the alleyway? A No, sir; I was curious myself to see.

Q And when you say you saw these occurrences in this car, were you in the alley? A From the alley I saw where they were kissing, loving and embracing.

Q Answer the question. A The real action I saw when I passed their car.

Q When did you pass their car? A At the time when they were in action.

By the Court.

Q Didn't they move or anything? A She had got on his lap before I left the alley.

Q Did they say anything or do anything when they saw you pass? A They never even saw me; they were too busy.

Q And the couple in front did not see you either? A No, sir.

Further cross.

Q How long did you say you saw Mrs. Sturm in the drug store? A Between thirty and thirty-five minutes.

Q And her friend was in the telephone booth the whole time? A She may have been part of the time, but she could not get her connection; she came out once and then went in again.

Q Was anyone else in the drug store? A Yes, sir, there was a man by the name of Frank; he seemed to be a little bit silly in his ways, and Mrs. Sturm was talking to him at times. I was

eating three plates of ice cream, and I paid for it out of my own pocket.

Q You saw this young lady that was with her come in and out of the booth several times? A Once; she came out and then went back.

Q You saw this young lady two or three times going back and forth to this apartment house? A Yes, sir.

Q All in daylight? A Well, between five and six.

Q And you saw this young lady that was with her walk with her and stop in a house? A Yes, sir.

Q And you were following? A In the car.

Q How far behind? A Oh, somewhere around 100 feet.

Q And how far in front of them did the car in which you were riding park on William street? A About fifty feet in front of them.

Q Who parked first? A Her party.

Q Now, Mr. Gattie, you mean to say that the party that Mrs. Sturm was with in this open touring car parked on William street; then the car in which you were with the Kopf sisters passed them, parked forty feet in front of them, and you people got out and walked into the alley, and you came out and you walked around, and none of them paid any attention or saw you do anything? A I actually state that.

Q Did you notice that at the corner of Halsey and William streets there was a burnt building? A I did not notice whether it was burnt or not; there looked to be like a hotel across the way.

Q Did you notice a lot of people there looking at the remains? A No, sir, there were none.

Q What time was it? A Between 9:30 and 10:00 o'clock.

Paul Gattie, cross.

Q You are positive of the hour? A Yes, sir.

Q And you are positive of the date? A Yes, sir.

Q Could you identify the young lady that was with Mrs. Sturm? A Not so well.

Q Will you look around the court room and see if you see her here? A I think that resembles her, this end girl here (indicating Miss Edelstein); she resembles her in build.

Q Can you identify the man that was in the front seat of the car? A He looked to be about five feet seven inches.

Q Is he in the court room? A I don't think he is.

By the Court.

Q Can you identify the man that you saw sitting on the rear seat? A No, sir.

Further cross.

Q Can you describe the man you saw sitting on the rear seat? A Yes, sir. He appeared to be five feet seven inches in height, and he must weigh between 170 pounds to 180 pounds, and he had pimples on his face—that I remember seeing at the Studebaker salesroom.

Q You did not notice anyone looking around at this burnt building? A There was nobody there.

Q Don't you know that just about that time the newspapers were full of descriptions of a fire right there where some lives were lost and investigations being made—headlines in the newspapers all the time? A I do not; I was from Paterson; there was nobody on that street, I say.

Q There were no firemen there watching, either? A No, sir, not while I was there.

Paul Gattie, cross.

Q Did you notice the cabaret right there? A No, sir.

Q Did you notice the building in front of which the car in which Mrs. Sturm was parked? A It looked to be a big building.

Q Was that the corner building? A It looked to be a corner building—ran all the way down—

Q It was the corner building? A It looked to be a pretty big building.

Q The building in front of which this Studebaker car was parked, was that the corner building, or was it a building further up the block? A I don't remember.

Q Do you know what kind of business was in that building? A No, sir.

Q Do you know what kind of building was next to the corner? A Next to that building was this alley.

Q The alley is next to the corner? A That is that building that I was leaning against; there is an alleyway between the butcher shop and then one building at the left.

Q And in front of what building was the Kopf car parked? A They were up above—two doors up above this butcher shop, or probably three; I did not measure it.

Q Do you know the appearance of the buildings there? A No, sir; I paid no attention.

Q You don't know the appearance of any of the buildings on the block? A I remember the butcher shop and the house next to it; I sat on the steps for about five minutes.

Q On the steps of what building? A Next to the butcher shop.

Q Which side of the alley? A On the left hand—west of the alley.

Q And you sat on the steps west of the alley? A Yes, sir.

Q And could you see them in the car from where you sat on the steps? A Yes, sir, I could see them, but not plain enough.

Q Did anyone sit with you on those steps? A Yes, sir, Mr. Neil Troast set with me.

Q How far away from the Studebaker car was that? A That must have been about thirty-five or forty feet, or possibly more than that.

Q And you were exposed to the view of anyone on the sidewalk, you and Mr. Troast? A Yes, sir.

Q And if they had looked from the car they would have seen you there? A No, sir, they could not; we were watching them but they were not watching us.

Q Could you see them looking in your direction? A They did not look in our direction.

Q Did you see them look in any direction? A No, sir.

Q Don't you know that the building right across the street that had been burned down was being guarded by salvage corps men at that very time? A No, sir, I don't know that.

Q How long were you there, right there on William street, stopping altlogether? A About twenty-five minutes.

Q And during the whole twenty to twenty-five minutes no one else appeared? A No, sir.

Q Not a soul passed there between 9:30 and a quarter to 10:00 that Wednesday night? A No, sir.

Q On William street, just a little west of Halsey street? A Not a soul; no, sir.

Q Not a car drove through? A Not while we were there.

Re-direct examination by Mr. Rinzler.

Q Did you pay any particular attention to the woman with whom Mrs. Sturm was? A No, sir, I did not.

Q Did you pay any particular attention to the buildings on Halsey street? A No, sir.

Q Have you ever been a detective or an operative or investigator? A No, sir.

Mr. Rinzler: I would like to call Mr. Sturm to corroborate that the alleyway as it appears on that picture is as it was on that day in question.

SANFORD Z. STURM, the petitioner, recalled.

Direct examination by Mr. Rinzler.

Q I show you a photograph, which has been marked "R 1 for identification," and I ask you if you had that photograph taken? A Yes, sir.

Q When was it taken? A Yesterday.

Q Does that photograph correctly represent the alleyway, its condition, and the locality where the alleyway was as it was in June, 1924? A Yes, sir.

Mr. Rinzler: I now offer it in evidence.

Mr. Schotland: I again object.

The Court: The objection is sustained. Let it be marked for identification only.

PETITIONER RESTS.

DEFENSE.

MR. MAX COOK, being duly sworn in behalf of the defendant, testified as follows:

By the Court.

Q Where do you reside? A Newark, New Jersey.

Q What is your business? A Making reliners.

Q For tires? A Yes, sir.

Direct examination by Mr. Schotland.

Q Where is your place of business? A 189 and 191 Livingston street, Newark, New Jersey.

Q Do you employ the defendant, Mrs. Sturm? A Yes, sir.

Q What does she do for you? A Whatever we need—bookkeeping and bills to make out.

Q She is a clerk in the office? A Yes, sir.

Q Where is the office located with relation to the factory? A Right in the front of the street, a big show window, that is the office.

Q Where is the factory? A Way in the back.

Q Do you employ men? A Yes, sir; sometimes eighteen, sometimes twenty-four, sometimes fifteen—depending on the season.

Q What is the lowest you employ? A About twelve men all the time.

Q How long has Mrs. Sturm been working for you? A It is over a year now.

Q In May, 1924, did you have a Chevrolet car? A No, sir.

Q Did you ever have a Chevrolet car? A No, sir.

Q It has been testified to that on May 24, 1924, on a Saturday, at ten minutes after 12:00, noontime, Mrs. Sturm was in front of your place of business on Livingston street, and you were there with her talking to her, and that you put your arm around her and led her back into your office in the rear. Did any such thing as that ever happen? A No, sir.

Q Did you ever put your arm around Mrs. Sturm? A No, sir.

Q Did she ever put her arm around you? A No, sir.

Q It has been testified that on that same day she did some typewriting and that you had your arm on her shoulder while she was typewriting? A That is not true; that never happened.

Q And that you whispered something to her, and then you and she went to the rear? A No, sir, never.

Q That you stayed in the rear about ten minutes? A There is always a man in the rear all the time.

Q Did you ever go with Mrs. Sturm to the rear, or did any such thing happen on that day or any other time? A No, sir.

Q And on that same day that you both came out from the rear, you and she got into your Chevrolet car and you drove to 322 Belmont avenue? A No, sir; I never had a Chevrolet car.

Q Did you ever take her to 322 Belmont avenue? A Many times I took her home.

Q Did you sit in your car with her and fool with her and make love to her and put your arm around her or kiss each other? A No, sir.

Q Did you ever make love to each other? A No, sir.

Q Are you a married man? A Yes, sir, I have a wife and two children; my wife is sitting over there now.

Q It had been testified that on May 26th of last year you went out with Mrs. Sturm in a new Cleveland sedan; is that true? A I took her out many times, but I always had my wife and two children with me.

Q Why did you take Mrs. Sturm with you? A I took her along; she is a relative of mine.

Q Did you ever go out with her alone? A No, sir.

Q When you took her out, who else did you take along? A I always had my wife and two children and her aunt and my kid brother-in-law.

Q Who is that? A He lives with us.

A Is he here? A No, sir.

Q Sometimes you took him, too? A Yes, sir.

Q Now, it has been testified that on May 31st, which is the Saturday the day after Decoration Day last, you and Mrs. Sturm went in your car to her apartment about twenty minutes after twelve noon, and you went up with her into her apartment, and that you stayed there between twenty and twenty-five minutes; did any such thing happen? A I went up many times into her apartment; she used to take my kid home to lunch, and I would take her back with me.

Q Did you go with her? A No, sir.

Q Did you ever go with her together? A No, sir, never.

Q You went there alone to call for your child? A That is right.

Q Did you ever go with Mrs. Sturm up to her apartment? A No, sir.

Q Now, it has also been testified that on June 7th last, you met her at the corner of the street where your place of business is, and drove

north to the Colden Motor Corporation, and then on towards Millburn, just you and Mrs. Sturm; did any such thing ever happen? A I took her to Colden street and from there, it was a rainy day, and so I took her right home; she asked me to take her there to pass by and see what her husband was doing, to see if he was there or not; we did not see Mr. Sturm, and I took her straight home.

Q Is that where the garage is where he used to be? A She asked me to do it and I went.

Q And you drove right back home? A Yes, sir.

Q Did you go up with her? A No, sir.

Q Did you ever, on that occasion, or any other occasion, make love to her or she make love to you? A No, sir.

Q Or did you ever get intimate in any way? A No, sir.

Cross examination by Mr. Ward.

Q You have known Mrs. Sturm how long? A Three or four years, I think.

Q How long has she worked for you? A Over a year.

Q What relation is she to you? A She is a relation of mine through marriage.

Q What relation through marriage? A My cousin married one of her cousins.

Q And that is all the relationship that exists between you and Mrs. Sturm? A Yes, sir.

Q How long have these cousins of hers and of yours been married? A I think it is more than ten years.

Q This place of business that you have, there is an office in front, is there not? A Yes, sir.

Mr. Max Cook, cross.

Q And there is a large plate glass in front of the office? A Yes, sir.

Q Then in back of the office is a workshop? A Yes, sir.

Q So that if you go to the back part of the building you are out of sight of the street? A Yes, sir.

Q And you mean to say there is a man there all the time? A Yes, sir.

Q There has never been a time when there has not been a man there? A There are men always in the place of business; if I go out for lunch there is always a man in there.

Q What does Mrs. Sturm do? A She does my bookkeeping; she cannot sell anything.

Q Isn't she there alone sometimes? A Very seldom; maybe she was once in a year.

Q And the hour for the dinner for the men is between 12:00 and 1:00? A They only take half an hour.

Q It is between 12:00 and 1:00, anyhow? A Yes, sir.

Q And you have taken Mrs. Sturm many time out in your automobile? A That is right.

Q You have taken her home many times? A Yes, sir.

Q In fact, you made a practice of taking her home in your automobile? A Not exactly.

Q Well, very frequently? A I took her home; most of the time I go to the store at noon; and I took her home; she lives at the corner of Avon avenue and Belmont avenue, and I took her out on my way to the store.

Q These cousins you have mentioned have been married for ten years? A Yes, sir.

Q Well, you have only known Mrs. Sturm for three years? A Yes, sir.

Mr. Max Cook, cross.

Q How far do you live from your place of business? A One and a half blocks away.

Q Mrs. Sturm lived only four blocks from the place of business? A Yes, sir.

Q Then you say that there were a number of occasions when you did go up in her apartment? A Just to take my baby home.

Q How did your baby get there? A Frieda would take my baby home.

Q How old is your baby? A Three and a half years of age.

By the Court.

Q What does Frieda do with your baby? A She likes her; the kid is in the office lots of times.

Q Why didn't you let Frieda bring the baby back? A In the middle of the week Frieda used to bring her home, but sometimes Frieda did not; on Saturday afternoons Frieda did not come in, so I went and got the baby.

Q How long has this been going on? A Frieda got the baby maybe two or three times in the last three months.

Q And in the last two months two or three times you have gone up for the baby? A No, sir, not all the time.

Q How many times? A On Saturday beteween 12:00 and 1:00 I used to go out and get the baby.

Q And you would go up there alone? A Yes, sir.

Q Why didn't you send your wife up? A She was in the house with the other baby.

Q You knew more than two months ago that you had been spoken of in this case, didn't you? A Yes, sir.

Mr. Max Cook, cross.

Q And yet, even though you knew that, you still went up to Frieda's apartment? A Yes, sir.

Q And went out, you say, many times in a Cleveland car with her? A Yes, sir, but I always had my wife with me.

Q But at the time you took her down to Colden street, your wife was not with you then? A No, sir.

Q So you took Frieda in the car with you and started out with her alone, and you went out as far as Colden street? A Yes, sir.

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

Q Then you say you took her home? A Yes, sir; it was in broad daylight.

Q Your baby was not there then? A No, sir.

Q How do you spell your name? A C-o-o-k, Cook.

Q Is that your real name, Mr. Cook? A That is my real name.

Q Were you born in Europe? A Yes, sir.

Q Was that the name under which you were born? A No, sir.

Q What was the name under which you were born? A Do I have to answer that?

The Court: Yes.

Q (Question read). A Crook, C-r-o-o-k.

MRS. NELLIE COOK, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q You are the wife of the last witness? A Yes, sir.

Q How long have you been married? A Five years.

Q Do you know Frieda Sturm, the defendant in this case? A Yes, sir.

Q Do you know where she works? A Yes, sir.

Q Where? A She works for my husband at 189 Livingston street, Newark, New Jersey.

Q Do you know how long she has been working for him? A For about one year.

Q Did you ever go out with her in your husband's car, driving? A Yes, sir, we go out together.

Q How often have you gone out together? A I could not say just how often, but we go quite often.

Q And why do you take Frieda along? A Because I feel towards her like a sister; she is a friend of ours.

Q Have you ever noticed Frieda and your husband showing any improper affection to each other? A Nothing at all; I go over to the office at all different hours, and I have not seen anything out of the way between them.

Q Do you remember an occasion when your husband went out driving and Frieda sat in the front seat with him, and you and a baby and her aunt in the back seat? A Yes, sir; I asked Frieda to sit in front.

Mr. Ward: Do not volunteer statements.

A Yes, sir, I asked Frieda to sit in front, because there was not enough room for the children and myself and my husband driving; I had both children with me.

Cross examination by Mr. Ward.

Q You knew that Mrs. Sturm had this trouble with Mr. Sturm? A Yes, sir.

Q You knew she accused him of having seduced her? A Yes, sir.

Q And you knew that she accused him of having been intimate with her before marriage? A Yes, sir.

Q And you knew it was after that that your husband got her in his employ? A Yes, sir.

Q That is true, isn't it? A Yes, sir.

Q You know also, that your husband visited her apartment for the purpose of getting your child? A Yes, sir.

Q You knew all about that? A Certainly, I did.

MISS ANGELA POE, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q What is your business? A Switchboard operator, working for Vanderbilt and Hedden, Counsellors-at-Law in Newark, New Jersey; I work for those lawyers.

Q Where do you live? A 322 Belmont avenue, Newark, New Jersey.

Q Do you live in the same apartment with Frieda Sturm and her aunt? A Yes, sir.

Q You live there with your mother and sister? A Yes, sir.

Q Now, do you remember the night of June 20th last? A Yes, sir.

Q When there had been some trouble there? A Yes, sir.

Q Were you home at the time of the trouble? A No, sir.

Q What time did you get home? A I got in between 9:30 and 9:45.

Q At that time was there anyone around in the hallway? A No, sir, I did not see anyone in the hallway.

Q Did you enter the apartment? A Yes, sir.

Q How did you get in? A I had my own key.

Q How many have keys to that apartment? A We all have our own keys.

Q When you got in, who was there? A Mrs. Jacoby, Mrs. Sturm and I; that is all that were there.

Q You then learned that there had been some trouble there? A Yes, sir.

Q Where is your and your mother's bedroom in that apartment? A My bedroom is in the rear, facing the yard.

Q And what room is alongside of the bedroom? A A dining-room.

Q Is that a combination dining and living room? A Yes, sir.

Q How many bedrooms are there in that apartment? A Two.

Q How many rooms all told? A We have four rooms and a bathroom.

Q Kitchen, dining-room and living-room combination, bathroom and two bedrooms? A Yes, sir.

Miss Angela Poe, direct.

Q Who occupies the other bedroom? A Mrs. Jacoby and Mrs. Sturm.

Q Where is that located in the apartment? A That is facing the court.

Q With relation to the dining and living room combination, where is that bedroom located? A That is in the back, facing the court.

Q Does that face the yard at all? A No, sir, not at all.

Q Now, when you got in on that night, June 20th last, did you go into your bedroom? A Yes, sir.

Q In what condition did you find the bed? A Just as I left it—in a straight condition.

Q Did it show any evidence of having been disturbed or used? A No, sir, not at all.

Q What kind of light have you in your room? A Electric light.

Q And have you a dimmer in your bedroom? A No, sir.

Q Is it possible to have a dim light in your bedroom? A No, sir.

Mr. Ward: I object; this witness is incompetent to testify to that.

The Court: Objection overruled.

Q When you turn on the light in your bedroom, is there any attachment connected with it so that you can make it burn dimmer or brighter? A No, sir, we cannot make it any dimmer.

Q And that is right alongside of the living room? A Yes, sir.

Q Now, had there been anything disturbed in your bedroom? A Not at all.

Q When had you gone out that day? A That must have been about 7:30; I don't re-

member the exact time, between 7:00 and 7:30; I had only been gone two hours; I was the first one of my immediate family to come home, and when I saw Frieda she was crying.

Q She told you about some excitement that had taken place there? A Yes, sir.

Q How was she dressed? A She was fully dressed.

Q Do you know the man that was there? A No, sir.

Q Had you ever seen him there before? A No, sir.

Q Did you ever see him there since? A No, sir.

Q Did you ever see Frieda go out with him? A No, sir.

Q Are you related or in any way connected with Frieda or her aunt? A No, sir, not at all.

Q Are you of the same religious faith that she is? A No, sir.

Cross examination by Mr. Ward.

Q Your name is Miss Popovics? A Yes, sir.

Q Your father is living? A Yes, sir.

Q But your father and mother are not living together? A No, sir.

Q How long have you been living at 322 Belmont avenue? A Two years, I believe.

Q With Mrs. Jacoby and Mrs. Sturm? A Yes, sir.

Q And this bedroom to which you refer, what was the size of it? A It is quite a large bedroom.

Q Can you give us any idea by taking this room—is it as far as from here to the end of this room? A No, sir, the length of it is not as

much as that; it was from about here to that rail; it is about square (indicating about 8 or 10 feet).

Q The bed is near the window? A No, sir, it is not right near the window.

Q Quite near the window? A No, sir, it is in the middle of the room.

Q What kind of a bed is it? A On the two sides it has poles going up; you call it an English style bed—poles on each side.

Q These poles extend above the window sill? A No, sir.

Q The window sill is about three feet from the floor? A Yes, sir.

Q And, of course, these poles are higher than that? A Yes, sir.

Q On the 20th of June your mother and sister had gone away? A Yes, sir.

Q They had gone to Asbury Park? A I don't remember.

Q They had gone away that day? A Was that the night that it happened?

Q Yes, the 20th of June. A I don't remember just where they went to.

Q You know they were out? A Yes, sir.

Q And the room that was usually occupied by your mother and your sister and yourself, was to be occupied only by you that night? A That is true.

Q And all that you know is, that when you came back you found the bed in a smooth condition? A Yes, sir.

Q Now, that bed, of course, is made up every morning? A Yes, sir.

Q And it could have been made up just as you found it if it had been disturbed while you were away, couldn't it; that is true, isn't it? A

Yes, sir, but it takes quite a while to make that bed.

Q It is an ordinary bed, isn't it, and it was in the springtime? A Yes, sir.

Q As a matter of fact, the yard in the rear of the building where this apartment is, slopes from the building, so that as you get further away from the building the ground rises; that is true, isn't it? A I did not take particular notice.

MISS HELEN EDELSTEIN, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q Are you related in any way to Frieda Sturm, the defendant in this case? A I am her first cousin.

Q How is that relationship brought about? A Her mother is my mother's sister.

Q Her mother is not living? A No, sir.

Q Did you, together with Frieda and two men, go out in a Studebaker touring car one night last May? A Yes, sir.

Q Where did you meet Frieda that evening? A Up at her home.

Q What time? A About 7:00 o'clock; it may have been 7:15.

Q Where did you go? A We went to the drug store, and I called my fiance up, that is Mr. Koplen; I called him up and I made an appointment for him to take me home.

Q Where did you go then? A Then we went up to Rose Terrace, I and Frieda; and we went in and stayed there about half an hour.

Q Whom did you call on there? A Mr. Slutsky.

Q Which Mr. Slutsky, the father or the son? A They were both there; we paid a friendly visit to them.

Q Mrs. Sturm and you? A Yes, sir.

Q Then where did you go? A Then we walked all the way down town, and we walked as far as the Studebaker place on Broad street; it was then about 8:45; Mr. Koplen came out and told me that a friend of his—

Mr. Ward: I object to what was said.

Q Mr. Koplen is your fiance? A Yes, sir.

Q How long have you been engaged to him? A A year and a half.

Q You were keeping company at that time? A Yes, sir, we were.

Q And you are still keeping company with him? A Yes, sir.

Q And when you got to the Studebaker salesroom on Broad street was there anyone outside? A People were walking past the place of business.

Q I mean, connected with your party in any way? A No, sir.

Q Then what happened when you got there? A I got there, and Mr. Koplen was standing near the window, and there was a man, and he came out and he told me—

Q He came out? A Yes, sir.

Q And when he came out, how did you greet each other? A I said, "Good evening, Harry; are you ready to go home yet?"

Q Wasn't there a man right in front of the place when you and Frieda got there, and did Frieda put her arms around this man, and did

this man put his arms around her waist? A No, sir.

Q Was there a man outside? A There were several men there.

Q I mean, connected with your party? A No, sir.

Q And did the man go in and call out Harry? A No, sir, he did not.

Q When you got there your friend saw you and came out to you? A Yes, sir.

Q Then after something was said between the three what was the next thing that was done? A Harry went in and got his hat and coat and called Mr. Kenney out.

Q Then what did you do? A We crossed the street and got into the car.

Q What car? A A Studebaker, Mr. Koplen's Studebaker; and I suggested going over to look at the fire. The night before that there had been a large fire; the Mills Hotel had burned down. I remember we stopped at Halsey and William street.

Q Where did you stop? A Near the corner of Halsey and William.

Q When you stopped there what did you do? A Got out of the car, and we walked across to look at the building, and there was a number of firemen there, and we were looking at the various apparatuses there, and it was an interesting sight, and we were there for about twenty minutes; then we got back and went into the car. It was then around 9:30, and Mr. Kenney had a business engagement very early for the next morning, and we got into the car and took Mr. Kenney home to Elizabeth.

Q Did you stop anywhere on the way? A Yes, sir, we stopped at a friend of ours who had a stand and we each had a drink of soda.

Miss Helen Edelstein, direct.

Q Did you go through Weequahic Park? A No, sir.

Q What road did you go? A Elizabeth avenue.

Q You did not go into the park at all? A No, sir.

Q Then after you left Mr. Kenney at Elizabeth where did you go? A Mr. Koplen took Mrs. Sturm home and then took me home.

Q You were sitting in front with Mr. Koplen and Mrs. Sturm was in the back seat with Mr. Kenney? A Yes, sir.

Q Was there any love-making in that car? A There was not any at all.

Q Didn't your fiance kiss you? A No, sir; there were people around.

Q Did either of you kiss each other or hug each other? A No, sir.

Q Did Frieda sit on Kenney's lap? A No, sir.

Q Did you stop about forty feet west of Halsey street on William street and sit and hug each other and love each other? A No, sir, we did not sit in the car at all.

Q How long were you away from the car? A About half an hour.

By the Court.

Q You did not see anyone else get in your car? A No, sir.

Further direct.

Q There was nobody in your car when you got back to it? A No, sir.

Q Were there any people around there at that time at William and Halsey streets? A

Yes, sir, there was a lot of people looking; the papers were full of the fire.

Mr. Ward: Objected to.

The Court: Objection overruled.

A There were firemen there and also policemen there; the building was in a dangerous condition, and they were afraid to have the people get too near to the building.

Q Was there any rope around the building? A Yes, sir, there was.

Q Were there any cars on the street? A Yes, sir.

Q How many? A They were lined up on William street.

Q How near was the nearest car to your car? A We parked right in back of a car.

Q Were cars lined up on both sides of the street? A Not on the side where the fire had occurred, but on the side where we parked.

Q Was yours the first car from the corner where you parked? A No, sir, there was a car in back of us.

Q You parked in between? A Yes, sir; we waited for somebody to pull out, and that car pulled out and we drove right in.

Q The car pulled out from that particular space and you drove right into it? A Yes, sir.

Q Do you know how many cars were ahead of you? A I don't know, but there were cars all the way up.

Q Were there many people passing there? A Yes, sir, continually.

Q On William street? A Yes, sir.

Q And while you were there on William street did any vehicles or any cars of any kind

pass up or down? A They kept passing up and down continually.

Q Did Frieda and Kenney have sexual intercourse in that car? A No, sir, they did not.

By the Court.

Q Did you have sexual intercourse? A I should say not.

Further direct.

Q Was there any affection between Frieda and Kenney? A Mr. Kenney was a total stranger to Frieda.

Q Who introduced her to him? A I don't remember.

Q How long had you known Mr. Kenney? A Just as long as I knew Mr. Koplen; they were very good friends.

By the Court.

Q Has Mr. Kenney pimples on his face? A No, sir.

Further direct.

Q Describe Mr. Kenney. A He is a man about five feet eight inches in height and weighs about 170 pounds.

Q How long were you out all together that night with the gentlemen? A From about 9:00 o'clock until 10:00 o'clock.

Q What time was it you got Mrs. Sturm? A I went to her home at 7:00 o'clock.

Cross examination by Mr. Ward.

Q I think you said you were cousins? A Yes, sir.

Q Are you living with your father and mother? A I have a mother; my father is dead.

Q Did you have any arrangement to meet these men? A I did; I called Mr. Koplen before.

Q You knew Mrs. Sturm was going to meet Mr. Kenney? A No, sir, I did not.

Q Are you engaged? A Yes, sir, but I have not any engagement ring.

Q Is Mr. Koplen here? A Yes, sir.

Q When you did get down to the place where Mr. Koplen was, you then did know that you were going somewhere, you and Mr. Koplen and Mrs. Sturm and Mr. Kenney? A You mean after I had spoken to him? No, sir, we had no place to go.

Q Well, how far is the Slutsky house from Belmont avenue? A It is quite a walk; I don't know how far it is.

Q Well, in order to get from Rose Terrace to Belmont avenue where Mrs. Sturm lived it was not necessary for her to go out to the Studebaker agency in order to get home? A No, sir, it was not.

Q You took a walk? A Yes, sir.

Q You telephoned your fiance before that? A Yes, sir.

Q You had some difficulty in getting him? A Yes, sir, the line was busy.

Q You telephoned from a drug store? A Yes, sir.

Q Well, now, isn't it customary for you to kiss your fiance? A It is, yes, sir.

Q Yet, on this night, although you knew Mr. Kenney was a great friend of his and had been for years, and although you knew your cousin was with you, you did not kiss him? A I did not.

Q Then you went to the Studebaker car? A Yes, sir.

Q The fire had taken place on the morning of the 27th of May, hadn't it? It had taken place more than a day before that night, hadn't it? A I think it took place the day before.

Q The day before in the morning? A Probably at 1:00 or 2:00 o'clock in the morning.

Q When you went over to this place where the fire was you say you parked your car? A Yes, sir.

Q And you parked your car right near an alleyway, didn't you? A I cannot remember.

Q Don't you recognize that as the part of William street where you were opposite this hotel (showing witness a photograph)? A I don't remember.

Q And you don't know whether there was an alleyway right there or not? A No, sir.

Q You say your fiance was anxious to get home early? A Not my fiance; I said Mr. Kenney was anxious to get home early.

Q Yet you remained in the vicinity of that fire for half an hour? A Yes, sir.

Q During all that time you were out of the car? A Yes, sir.

Q Couldn't you have observed just as well in the car as out of it? A No, sir.

Q Where were you? A We were half a block from the fire, up further; there were firemen there, and they were chopping wood off the building.

Q Are there any firemen here now that were there? A No, sir.

Q Are any of the policemen here now that were there? A No, sir.

Q You were stopped at Halsey street by a policeman? A No, sir, we were not.

Miss Helen Edelstein, cross.

Q Didn't you come through Halsey street the wrong way? Which way through Halsey street did you come? A I don't remember that, but I know we were not stopped by any officers.

Q Was Mr. Koplen in a hurry to get away during that half hour to speak to you? A No, sir.

Q Then you got in the car, and in order to get to Elizabeth where Mr. Kenney lived—(Question withdrawn.) How far were you at that time from where Mrs. Sturm lived? A I don't understand the question.

Q At the time that you got in the car at the fire, how far were you at that time from the place where Mrs. Sturm lived? A About a five-minutes' drive.

Q And Belmont avenue—is Belmont avenue north of Halsey street or not? A Belmont avenue is a long avenue.

Mr. Schotland: It is west.

Q So it would be possible, wouldn't it, for your fiance to have gone from the place where the fire was up to Belmont avenue and then to have continued on out to Elizabeth? A Yes, sir.

Q You knew Mrs. Sturm was married? A Yes, sir.

Q You knew at that time that she had formerly accused her husband of having seduced her? A I did, yes, sir.

Recess to 2:00 P. M.

After Recess.

HELEN EDELSTEIN resumes the witness stand.

Cross examination (continued) by Mr. Ward.

Q As I understood you, Miss Edelstein, before going down to the Studebaker place you visited Mr. Slutsky's family. He is a married man? His wife was dead at the time that you visited their home? A Which Mr. Slutsky do you mean?

Q Were you here at the last hearing when Mr. Slutsky sat in the audience? A Yes, sir.

Q He is the county detective from Essex county, connected with the prosecutor's office down there? A Yes, sir.

Q Is that the gentleman whom you visited? A No, sir, we did not visit him.

Q Did you visit his home? A Yes, sir.

Q And his wife was not living at the time? A No, sir.

Q And he appeared as a witness against Mr. Sturm at the time of the trial? A No, sir, he did not.

Q He assisted in the prosecution of Mr. Sturm, didn't he? A Yes, sir.

Q I mean at the time of the trial for seduction? A Yes, sir.

Mr. Schotland: He is the one that had charge of the case on behalf of the prosecutor.

Q Had he been your friend and Mrs. Sturm's friend? A Not my friend; I don't know whether he was her friend, but he was assisting her in the case.

Q Of course, when you visited his home was after that case and after the marriage of Mr. and Mrs. Sturm? A Yes, sir.

Q How long after you arrived at this place on William street was it that you got out of the car? A We rode up to the parking space and we got out.

Q How long was it before—how long after you rode up to the place was it that you got out? A Immediately.

Q You found the parking space immediately? A No, sir, we waited until the car pulled out.

Q You pulled into the parking space and immediately got out? A Yes, sir.

Q Did you all get out at the same time? A Yes, sir.

Q Were you paying any particular attention to that? A We were all talking together; I had Mrs. Sturm's arm.

Q And you did not have the arm of your fiance? A Yes, sir, and I had his arm also; and Mr. Kenney was walking besides Mr. Koplen.

Q Did Mr. Kenney return with Mrs. Sturm up to that place in the back seat? A Yes, sir.

Q During the entire time you remained there were you out of the car? A Yes, sir.

Q For half an hour? A Twenty or thirty minutes, approximately.

Q Then you rode in front with Mr. Koplen and Mr. Kenney and Mrs. Sturm rode in the rear? A Yes, sir.

Q You were not paying any particular attention to them? A No, sir.

Q You went to this refreshment stand at the Weequahic Park? A It is a block past the entrance of the park.

Q And this park is directly on the road between Newark and Elizabeth? A Yes, sir.

Q Then you took Mr. Kenney home? A Yes, sir.

Q You knew Mrs. Sturm was married? A Yes, sir.

Q You knew she was attempting to effect a reconciliation with her husband? A No, sir, I did not know that.

Q Did you know that she anticipated living with her husband again? A No, sir, she did not.

Q She did not anticipate living with her husband again at that time? A Well, he made no attempt to—

Q (Question read.) A I don't know.

Q You felt it was perfectly all right to take her out with this strange man? A He was not strange to me.

Q Who is Mr. Kenney? A He is a friend of mine and of Mr. Koplen's; I have known him as long as I have known Mr. Koplen; Mr. Kenney is a furniture salesman.

Q What is his first name? A Tom; he now lives in New Brunswick; he has moved since then.

Q You knew, of course, about the hearing that took place in this case several months ago? A I was present.

Q You knew he had been mentioned? A No, sir, he was not mentioned.

Mr. Schotland: Objected to as not cross examination; in the second place, it does not state a fact.

The Court: It goes to credibility; if it is immaterial or irrelevant, I will have it stricken out afterwards.

Q You knew his name had been mentioned? A No, sir, it had not.

Miss Helen Edelstein, re-direct.

Q You knew that some man had been mentioned who had accompanied you and Mrs. Sturm and another man on the 28th of May, on an automobile ride? A That was never discussed between me and Mrs. Sturm.

Q And she never made any inquiry of you or asked you to ascertain the address of Mr. Kenney? A No, sir, never.

Q You have discussed this case with her, haven't you? A I never discussed it.

Q Have you discussed with her the incident that was related as having occurred on the 28th of May? A No, sir, we had no cause to.

Q So then Mrs. Sturm, after this last hearing, never mentioned to you that the occurrence of the 28th of May had been mentioned and testified to in court? A I don't remember.

Q When did you first ascertain the address of Mr. Kenney? A I don't know his address.

Q I mean, the city in which he lived? A When he moved, he had taken a new position in New Brunswick.

Q Have you any idea how long after the 28th of May, it was that Mr. Kenney moved from his residence in Elizabeth? A No, sir, I have not.

Re-direct examination by Mr. Schotland.

Q When you called at the Slutsky home, whose home is that? A That is the young Mr. Slutsky's.

Q Was his wife there? A Yes, sir, and the baby, too.

Q That is where he lives and his father lives with him? A Yes, sir.

Q And you saw Mrs. Slutsky there? A Yes, sir.

HARRY L. KOPLIN, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q What is your business? A Automobile salesman.

Q With what company? A Studebaker Company.

Q How long have you been such? A A little over a year for that company.

Q Where is their office—salesroom? A 1015 Broad street, Newark, New Jersey.

Q Where is that with relation to William street? A That is about six or seven blocks from William street.

Q South or north? A William street is north of 1015 Broad street.

Q And you are the gentleman friend of Helen Edelstein? A Yes, sir.

Q Do you remember the occasion in May when you and Miss Edelstein and Mrs. Sturm and somebody else went out in your car? A Yes, sir.

Q Now, when did you first see Mrs. Sturm and Miss Edelstein that night? A When they came in front of the show room.

Q Do you recall the date? A I know it was the latter part of May.

Q Was it before or after Decoration Day? A It was before Decoration Day, if I recall.

Q It has been testified that it was the 28th of May; does that agree with your recollection? A That is about the time.

Q What time of day or night was it that you met Mrs. Sturm and Miss Edelstein? A About 7:30 to 8:00 o'clock.

Q And where did you see them first? A I saw them through the show window as they walked up.

Q Then what did you do? A I went out and greeted them, and my friend came with me, and I introduced Mrs. Sturm to Mr. Kenney, my friend.

Q Then what did you do? A Then walked back and got my hat and coat, and somebody suggested seeing the ruins of the fire; and we had nothing else to do and we went to William street.

Q How did you drive to William street? A Over Broad street; turned around and went north on Broad street and turned into William street.

Q Were you on Halsey street? A No, sir.

Q Did you go north on Halsey street, contrary to the traffic regulation? A No, sir.

Q Where did you go on William street? A We stopped on William street just above Halsey street, across the street from the building that had been burned.

Q What time was it when you got there? A Around a quarter of 9:00 or 10:00 o'clock, I should say.

Q Have you any positive recollection as to the time? A No, sir, I have not—no positive recollection.

Q You are only guessing as to the time? A It is about the time.

Q How far above Halsey street did you park? A There was one car behind me, and that car was about 20 feet from Halsey street, fifteen or twenty feet.

Q The car behind you? A Yes, sir.

Q And you got right in front of that car? A Yes, sir.

Q Were there any other cars there? A Plenty of them; a good many cars.

Q Did you have any trouble finding a parking place? A No, sir, I just waited a few seconds and backed right into the place; there were a good many cars ahead of me.

Q What kind of car was it you were driving? A A Studebaker touring car.

Q Curtains on it? A No, sir.

Q Top up? A Yes, sir.

Q What part of the car were you sitting in? A I was driving the car.

Q Who was sitting alongside of you? A Miss Edelstein.

Q And Mrs. Sturm and Mr. Kenney were sitting in the rear seat? A Yes, sir.

Q What did you do when you parked the car on William street west of Halsey? A We got out so as to get a good view of everything that was going on.

Q What was going on? A There was plenty of confusion from people, from sightseers, policemen, watchmen; there was considerable excitement.

Q Was there a lot of people there at that particular time? A There were much more than 100 at that particular time.

Q Did you and Miss Edelstein and Mr. Kenney and Mrs. Sturm stay in the car when you parked it on William street? A No, sir.

Q You got out and viewed the ruins and looked around? A Yes, sir.

Q Were there any policemen or firemen there? A Yes, sir.

Q At that very time? A Yes, sir.

Q Did either you or Miss Edelstein, or Mr. Kenney and Mrs. Sturm, make love to each other? A Absolutely not.

Q Did you kiss each other? A No, sir.

Q That was the first time Mr. Kenney and Mrs. Sturm had met? A Yes, sir.

Q Where were you going to go with the girls when you started out? A Miss Edelstein called me up and said she was out at her cousin's house, and I said "If you have nothing particular to do come by the place and I will be glad to drive you home."

Q After you got through viewing the ruins of the fire, what did you do? A Mr. Kenney wanted to be driven home, so we immediately turned around and went towards Elizabeth.

Q As soon as you got in the car you drove off? A Yes, sir, we went towards Elizabeth, and we stopped at a stand for a few minutes, and then continued on to Elizabeth.

Q Did you drive through Weequahic Park? A No, sir.

Q Did you go into the park at all? A No, sir.

Q What road did you travel on? A Over Elizabeth avenue into Elizabeth.

Q When you got to Elizabeth you let Mr. Kenney off? A Yes, sir.

Q Then where did you go? A Turned around and went back to Newark, New Jersey, took Mrs. Sturm and Miss Edelstein home.

Mr. Schotland: I forgot to ask Miss Edelstein one question, which I want to ask after I am through with this witness.

The Court: Very good.

Q You took Mrs. Sturm home first? A Yes, sir.

Q And then Miss Edelstein? A Yes, sir.

Q Did you do any kissing that night? A I certainly did.

Q When and where? A When we got home to Miss Edelstein's home.

Q That is when you kissed her good-bye? A Yes, sir.

Q While your car was parked on William street, did any people or any vehicles pass? A Plenty of them, a continual stream.

Q That is a very busy corner? A It is one of the busiest in Newark, New Jersey.

Q How about at night? A At night you would have to spend 25 minutes to find a space to park your car any time at all.

Q Where do the cars come from that park there? A From the theatre district.

Mr. Ward: Objected to.

The Court: Objection sustained.

Q How often have you passed Halsey and William street in the evening, right along in the evening? A I have occasion to pass William street almost every night; it is right around the routes that I take.

Q Is that or isn't it, a busy thoroughfare between Broad and Washington street? A It is a very busy thoroughfare, very busy.

Q Did you ever pass there in the evening when there were no cars parked on the block between Halsey and William? A Not that I can recall.

Q What has been your experience in regard to cars being parked there as you pass there nights?

Mr. Ward: Objected to. The test is, the night in question.

Harry L. Koplin, direct.

The Court: Objection overruled.

A I don't know what you mean.

By the Court.

Q When you have been passing this given point, have you noticed whether there was a number of cars there or not, on William street? A I know as a matter of fact, that there is always a specially appointed officer there, that is at the junction of Halsey street and William street, and there is one on William street.

Q They have an officer stationed at Halsey and William street for that particular purpose? A Yes, sir; you cannot park on Branford Place any more.

Q Is that a city policeman? A I think he is appointed.

Q He goes there just for the tips? A Yes, sir; he is not a regular uniformed officer.

Q What has been your observation as to whether there were many or few cars blocked on William street on the block between Halsey and Washington? A The street is always filled with cars.

Q On this particular night when you went to view the ruins of the fire, were there any cars parked on the same side as the building that was burned? A No, sir.

Q What was there to prevent that? A There were policemen and firemen.

Q And the sidewalks? A And the sidewalks were roped off.

Q Now, did Mrs. Sturm and Mr. Kenney, or anyone else that was with her, if it was not Mr. Kenney, make love or have sexual intercourse in that car? A That is ridiculous.

Harry L. Koplin, cross.

Q Did they or did they not have sexual intercourse? A They did not.

Q Did any of you have sexual intercourse? A No, sir.

Q Did any of the four of you make love or sit on each other's laps in that car that night at any place where you were? A No, sir.

Q Did you kiss or hug at any place where you were, at any place that night? A No, sir.

Q I interviewed you this morning as to what you knew about this? A Yes, sir.

Q And it is from you it was learned who the man was that was with you? A Yes, sir; the first time I knew I was wanted was last night; if I had known it before last night—

Cross examination by Mr. Ward.

Q You were asked if you were keeping company with Miss Edelstein, and you said "Yes;" are you engaged to her? A Between the two of us we are, yes, sir, but it has never been announced.

Q You have asked her to marry you? A Yes, sir.

Q How long have you known Mr. Kenney? A All my life.

Q What is his name? A Thomas.

Q Have you got in touch with him since last night? A No, sir, the last I saw him was last Sunday.

Q Did you discuss this matter with him? A No, sir.

Q Do you know where he lived in Elizabeth at the time this happened in May, whereabouts? A He lived on Rankin street; I don't know the number.

Q He removed away from there immediately after this? A Quite some time after he moved away from there.

Q How long after the incident you have related, when you went to see the ruins of this fire, did you see him? A I saw him Sunday and Thursday; the night that I went up to see the fire was Wednesday.

Q How do you know that? A As a rule, I always see Miss Edelstein on Wednesday.

Q Don't you call upon her at her home? A I do, but particularly on Wednesday evenings.

Q Is Mr. Kenney here now? A No, sir.

Q Are any of the policemen or firemen who were around that night on William street here now? A No, sir.

Q Do you see anybody that you recognize that was on the street on that night? A No, sir.

Q How do you remember the date? A I did not remember; I knew the exact date; it was in May sometime.

Q There was nothing to call your attention to this fact until yesterday? A Yesterday was the first time that I knew anything in connection with that evening.

Q Miss Edelstein called you up on that evening? A Yes, sir.

Q And then she came down to where you were? A Yes, sir.

Q You and Mr. Kenney came out and greeted Mrs. Sturm and Miss Edelstein? A Yes, sir.

Q And Mr. Kenney was introduced, and as a matter of fact, you did not call Mr. Kenney first? A Yes, sir, I did.

Q Did you go out first, and then call him out? A I went out first and then called him out.

Q Then did he tell you at that time, or express the idea that he had to go down home because he had an early engagement the next morning? A He said he did not want to stay out late.

Q You did not urge that he go with you? A He wanted to see the excitement, and he came along.

Q What excitement? A The scene of the fire.

Q Had you been there before? A No, sir.

Q Then, how did you know whether there was any excitement there or not? A I knew there was a big fire, and that people were burned up.

Q Don't you know there was only one man lost his life in that fire, and that his body was found immediately? A I understood there were six or seven people burned up.

Q You had not been curious enough, however, before, to look at the ruins? A I did not have the time.

Q Had not two days elapsed between the time of that fire and the time you went there? A I don't know when it occurred; I know it occurred shortly before that.

Q Did you urge Mr. Kenney to go with you? A He was with us and he came along.

Q Did you urge him to go with you? A No, sir.

Q You don't know what persuaded him to go with you? A He was with the four of us, and he came with us.

Q Did you park the car near an alleyway? A I don't remember any alleyway.

Q Does this picture refresh your recollection at all as to being that portion of William street where you parked your car? A I think it was nearer to Halsey street.

Q That does show William street, doesn't it? A Yes, sir.

Q You recognize that? A Yes, sir.

Q Rosler—you remember his place? A Yes, sir.

Q And it was right near there that you parked your car? A It was nearer to Halsey street, as I recall it.

Q You were out of that car for half an hour, were you? A Close to half an hour.

Q You were just gazing around on the ruins? A Yes, sir.

Q And then you went back to the car? A Yes, sir.

Q Did you pay any particular attention to Mrs. Sturm all that time? A No particular attention, no, sir.

Q Do you know whether or not she was with you all that time? A She was absolutely with us.

Q You took Mr. Kenney home that night? A Yes, sir.

Q And it was possible for you to have gone directly to the west up to Belmont avenue to have taken Mrs. Sturm home first? A Yes, sir.

Q You knew Mrs. Sturm was a married woman and was not living with her husband? A Yes, sir, I knew she had some trouble.

Q Didn't you know she was a married woman? A Yes, sir.

Q And you knew she was a cousin of your fiancee? A Yes, sir.

Q And Mr. Kenney was a very close friend of yours? A Yes, sir.

Q Did you know that there was a prospect of Mrs. Sturm and her husband becoming reconciled and going back together? A I did not know any of those details.

Q You did not inquire? A No, sir.

Q You were alone with your fiancee and Mrs. Sturm and Mr. Kenney before you took your fiancee home, were you not? The four of you were alone in that car, were you not? A Yes, sir.

Q And you never kissed your fiancee? A Not there.

Q Not until after you had gotten her home? A That is right.

Q Although Kenney was a very close friend of yours. Why didn't you? A I don't think it is a general practice to kiss people in the street.

Q Haven't you ever kissed your fiancee when you have been in the automobile with her? A Not in that section of the city.

Q In the section of the city which would be similar to between Newark and Elizabeth? A No, sir; I have kissed her in front of her house when she got out at the house; she lives in Orange.

Q Do you wear glasses? A No, sir.

Q Have you ever worn them? A Yes, sir, I did wear glasses for a short while.

Q You wore glasses about this time? A No, sir, I wore them when I was twelve years of age, and not since.

Q It is true that Mrs. Sturm and Mr. Kenney rode in the back seat of the Studebaker car to William street, and you had your car parked there for half an hour? A Yes, sir.

Q And it is true you went from there to Elizabeth with Mrs. Sturm and Mr. Kenney in the back seat? A Yes, sir.

Q You were not paying any particular attention to that, were you? A I was driving the car.

Morris Feldman, direct.

Q Whose car was it? A It was my car.

By the Court.

Q What car is it? A A Studebaker.

MORRIS FELDMAN, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

By the Court.

Q Where do you reside? A 28 Hillside Place, Newark, New Jersey.

Q Do you know the parties to this suit? Do you know Mr. and Mrs. Sturm? A Yes, sir.

By Mr. Schotland.

Q What relation are you to Mrs. Sturm? A I am her cousin; her mother and my mother are sisters.

Q And your name is Morris? A Yes, sir.

Q It has been testified to in this case, that on June 18th last, a gentleman came out of the apartment where Mrs. Sturm lived at 322 Belmont avenue, Newark, New Jersey—with her aunt, and Mrs. Sturm, and the three of them walked to the park, the little triangle at Belmont avenue and Clinton avenue, and then the gentleman and Mrs. Sturm took a walk and then came back to the park, and that his name was Morris. Are you the "Morris?" A Yes, sir.

Q Is Mrs. Jacoby your aunt as well as Mrs. Sturm's aunt? A Yes, sir.

Q Mrs. Jacoby and your mother and Mrs. Sturm's mother, were sisters? A Yes, sir.

Morris Feldman, direct.

Q And Miss Edelstein's mother is another sister? A Yes, sir.

Q Did you often call on your aunt and cousin? A Yes, sir.

Q And did you go out with them? A Well, quite often.

Q Do you recall the particular occasion in June when you went out? A Well, no, I don't know really the date, but I remember that I walked with my aunt and cousin to the park; from the park Mrs. Sturm asked me to walk with her on Ridgewood avenue, to see if her husband, Mr. Sturm—

Mr. Ward: Objected to.

Q As a result of what Mrs. Sturm asked you, you and she walked where? A To Ridgewood avenue.

Q What were you looking for?

Mr. Ward: I object to that on the ground that we are getting in the conversation in an indirect way.

By the Court.

Q What were you looking for yourself? A To see if Mr. Sturm is by his sweetheart—at his sweetheart's home.

Q Did you see Mr. Sturm? A To see if Mr. Sturm was there.

Further direct.

Q Was he there?

Mr. Ward: Objected to as incompetent, irrelevant and immaterial.

The Court: Objection overruled.

Q Was he there? A No, sir, we have not seen him there.

Q Not seeing him there, what did you do? A Mr. Sturm's sweetheart and mother were there on the porch.

Q You saw Mr. Sturm's mother and the young lady? A Yes, sir, this sweetheart.

The Court: Do not characterize it; strike that out.

Q What did you do after that? A And we walked back to the park to my aunt; my cousin was waiting for us; the other young lady, Miss Cohen, was waiting for us; Miss Cohen was at the park with my aunt.

Q After that, what did you do? A We sat down in the park and we were there for about half an hour, my aunt and my two cousins, Mrs. Sturm and Miss Cohen.

Q Then what did you do? A Then I walked my aunt and Miss Cohen to the door and took Miss Cohen home.

Q Did you ever make love to Mrs. Sturm? A No, sir.

Q Did she ever make love to you? A No, sir.

Q Did you ever hug each other? A No, sir.

Q Did you ever have any sexual intercourse together? A No, sir.

Q Did you ever talk about such a thing with her? A No, sir.

Q Did you ever urge her to go anywhere with you for that purpose? A No, sir.

Q Did you ever invite her or mention it to her? A No, sir.

Morris Feldman, cross.

Cross examination by Mr. Ward.

Q You are a first cousin? A Yes, sir.

Q And you have known her all your life? A Yes, sir.

Q You have an affection for her, cousinly affection? A I like her as a sister.

Q And you have never kissed her? A Oh, yes, I have kissed her.

Q You have kissed her? A Yes, sir.

Q And embraced her? A I have kissed her at my sister's wedding; that was the only time.

Q Only once? A Yes, sir.

Q You have never kissed her but once and that was at your sister's wedding? A That is all I recall.

Q Have you ever embraced her? A No, sir.

Q There is no reason why you should not have; you were cousins? A There was no reason why I should; I like her as a sister.

Q Have you any sisters? A Yes, sir.

Q Do you embrace and kiss them? A No, sir.

Q You do not? A No, sir.

Q I understood you to say that you did not remember this date; that is correct, isn't it? A I don't understand you; get a little nearer.

Q I understood you to say on your direct examination that you did not remember this date in June? A No, sir, I do not.

Q But the fact is that you used to visit your aunt and your cousin; is that it? A That is true.

Q And on occasions when you have visited them you have walked into this park? A Yes, sir.

Q And you do recall an occasion when you went down to Ridgewood avenue? A Yes, sir.

Q But the date you do not remember? A No, sir.

MISS MARION COHEN, being duly sworn in behalf of the defendant, testified as follows:

Direct examination by Mr. Schotland.

Q Where do you live? A 160 Jelliff avenue, Newark, New Jersey.

Q You are a cousin of Mrs. Sturm? A Yes, sir.

Q Were you in this park at Belmont and Clinton avenue one night in June when Mrs. Jacoby was there, and Morris Feldman and Mrs. Sturm also were there? A Yes, sir.

Q And then they took a walk and came back? A I did not go with them for a walk but I stayed at the park with Mrs. Jacoby; but I saw them take the walk.

Q Did you hear the conversation that took place when they came back? A Yes, sir.

Q Were you there all the time that they were there? A Yes, sir.

Q Did you hear any conversation between Mrs. Jacoby and Mrs. Sturm? A Nothing but every-day conversation.

Q Did Mrs. Jacoby say to Mrs. Sturm that she should not go out with a man; that she would not get away with it; that she was a married woman?

Mr. Ward: Objected to.

The Court: Fix it by the parties present.

Miss Marion Cohen, cross.

Mr. Ward: The direct evidence is that Mrs. Jacoby and Mrs. Sturm were there alone on this night.

The Court: Objection overruled.

Q (Question read.) A No, sir.

Q You did not hear her say it? You heard the conversation? A I was there and heard what conversation took place.

Q Was there any such conversation or anything of that nature? A No, sir; there was no necessity for it.

The Court: Strike out "There was no necessity for it."

Q Miss Cohen, did you see how Morris and Frieda Sturm walked together when they left the park and walked to Ridgewood avenue? A Yes, sir.

Q Did they have their arms about each other? A No, sir.

Q Did they have their arms about each other at any time? A No, sir.

Q Then, when you left the park, where did you go? A We walked over Belmont avenue to their home and stayed there a while and talked, and then Mr. Feldman took me home.

Q And Frieda Sturm and her aunt, Mrs. Jacoby, went up into their own apartment? A Yes, sir.

Cross examination by Mr. Ward.

Q On the occasion you referred to, you all left the park together? A Yes, sir.

Q And walked to Belmont avenue together? A Yes, sir.

Q On the occasion to which you refer you did not separate in the park? A Mrs. Sturm and Mr. Feldman walked along the block; they left us for a while.

Q When you eventually left the park, the party did not break up in the park on that night? A No, sir.

Q Did you see that man that night (indicating Mr. Cornelius Troast)? A No, sir.

Q You would have noticed him if he had been sitting on the same bench, wouldn't you? A I probably would.

Q You don't know what particular evening this was, do you? A I know it was an evening in June.

Q And that is all you know? A It is not probable that the incident would have happened more than once.

Q Do you mean the incident of your aunt telling your cousin she should not go out? A She said nothing like that.

Q You know the incident that has been testified to was an incident when your aunt told your cousin she should not go out with men because she was married? A She did not say that.

Q Not on that night? A No, sir.

Q You are very friendly with your cousin? A Yes, sir.

Q And very fond of her? A Yes, sir.

Q You are a first cousin? A No, sir.

Q Second cousin? A Maybe more distant than that; I am not sure of the relationship.

Q How are you related? A On my father's side.

Q In what respect? A I think he is a third or second cousin of Mrs. Sturm.

Q Have you seen Morris Feldman at your cousin's, Mrs. Sturm's, very often? A Not very often.

Q What incident were you referring to when you said, "The same incident would not probably have happened more than once?" A The incident when we all went over to the park together, because we were not together many times.

Q Were you together more than once in June when you went to this little park, and when, while you were there, Morris and Frieda took a walk to Ridgewood avenue? A No, sir, that was the only time that ever happened that we were together at that park.

MEYER SLUTZKY, being duly sworn on behalf of the defendant, testified as follows:

Direct examination by Mr. Schotland.

Q What is your business? A Constable.

Q Where? A City of Newark, New Jersey.

Q Your father's name is Louis? A Yes, sir.

Q He is prosecutor's detective of Essex county? A Yes, sir.

Q Do you know Frieda Sturm? A Yes, sir.

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

Q And live with your wife? A Yes, sir.

Q And family? A Yes, sir.

Q Who makes up your family? A My wife, two children and myself.

Q Does your father live with you since your mother died? A Yes, sir.

Q Are you friendly with Mrs. Sturm and her aunt? A I just know them; my wife is personally acquainted with Mrs. Jacoby; they have known each other for a number of years.

Q How long have you known her? A For about a year.

Q Do you remember what the occasion of your acquaintance was? A Yes, sir; something about a case that my dad handled for the prosecutor.

Q It was through that criminal proceeding that you got acquainted? A Yes, sir.

Q Do you recall, on or about the night of May 28th, or the early evening, Mr. Sturm and Miss Edelstein calling at your house? A I don't know what day it was, but those two came up to my house to visit my wife and I.

Q Do you recall anything special happening on the night of June 20th? A I received a telephone call from Mrs. Jacoby, very excitable; I had my car outside and I ran down there; I had just come home for dinner; it must have been about 7:00 or 7:30, around that neighborhood; I cannot say exactly the time because I paid no attention to it.

Q What did you do? A I went down to the house down there.

Q Whom did you see there? A I saw Mrs. Jacoby, Mrs. Sturm and Mr. Zemel.

Q And what did you do there? A Stayed a few minutes; Zemel and I went down together; he went in my car.

Q You came there in response to a telephone call? A Yes, sir.

Q Now, are you positive as to the time? A No, sir, I won't say positively, because my work keeps me out until six, seven, eight and nine o'clock.

Q Do you know Mr. Sturm? A I never spoke to the man in my life, but I have seen him.

No cross examination.

MRS. MINNIE JACOBY, sworn in behalf of the defendant, testified as follows:

Direct examination by Mr. Schotland.

Q You are Mrs. Sturm's aunt? A Yes, sir.

Q Her mother's sister? A Yes, sir.

Q Mrs. Sturm lives with you? A Yes, sir.

Q Where? A 322 Belmont avenue, Newark, New Jersey.

Q How long has Mrs. Sturm been living with you? A About a year and a half this last time; she has lived with me on and off.

Q You mean before that year and a half? A Yes, sir.

Q She has been living with you all the time since she was married? A Yes, sir.

Q You were present when she was married? A Yes, sir.

Q Where was that? A In the court house; Judge Caffrey's private office.

Q Did Judge Caffrey perform the ceremony? A Yes, sir.

Q Do you remember the date? A March 24, 1924.

Q And what, if anything, did you see Sanford Sturm, the petitioner, do immediately after the marriage ceremony? A Nothing; we met in the vestibule, and he wanted to know whether she was living with me, and he said that he would come up and see her some time during the week.

Q That is all he said? A Well, not much more in my memory.

Q Did he come up? A He came up. I believe they were married on a Monday, and he came up on Friday, by request—his wife's request.

Q In what way did she make the request? What means did she use? A She telephoned to him.

Q In your presence? A Yes, sir.

Q When he came up was he alone? A No, sir; he was with two brothers-in-law of his.

Q The ones who testified here, Goodwin and Lavine? A Yes, sir.

Q The three of them came together? A Yes, sir.

Q Where did they meet Mrs. Sturm? What room were you in? A In the living room. They sent the janitor to call Mrs. Sturm down and I would not allow it. I told them if they wanted to see her they could come in the house, which they did.

Q When they came up they came into the living room? A Yes, sir.

Q What conversation was had then and there? A They went over the whole thing, the trial and different things; I cannot recall just the words; and Frieda and I asked about making a home for her, etc.

Q What did he say about it? A He said he could not make a home, and the brothers-in-law said it was out of the question after what she did to him to make a home for her.

Q Did he give any reason? A He said it had taken so much money for lawyers that he was not financially placed to make it.

Q What else was said? A Then I suggested that if he could not make a home then to get a few rooms and furnish it up on the installment plan.

Q What did he say to that? A He said "No," he would not do that.

Q What next was said? A I cannot just recall.

Q Do you recall anything else that was said? A Not clearly.

Q Did you ever see Sanford Sturm up there again? A No, sir.

Q That is the only time he ever called on his wife since their marriage? A Yes, sir.

Q And she has been living at the same address since before their marriage? A Yes, sir.

Q And is still living there? A Yes, sir.

Q Did you ever have any occasion to find fault with Frieda for not behaving herself properly? A No, sir.

Q Did you ever find her misbehaving herself at all with anybody? A Not to my knowledge.

Q Did you ever hear any charges against her of any kind?

Mr. Ward: Objected to.

The Court: That is entirely hearsay. The objection will be sustained.

Q Do you know a Mr. Cook, Frieda's employer? A I do, yes, sir.

Q Did you ever accompany Frieda when he took her out for rides? A Many times; his wife and children and brother-in-law would go along.

Q In what way did you keep in touch with her? A I would always inquire from her and keep in touch with her. I would say to her, "What are you going to do tonight?"

Q Do you recall June 18th, when it has been testified that you and Frieda and a gentleman came from your apartment and sat down in this little park at Belmont and Clinton avenues together? A I recall the occurrence.

Q And then Frieda and that gentleman took a walk and came back to the park? A Yes, sir.

Q How many times did such a thing happen? A They took a walk just that one time.

Q What month was that? A In the latter part of June.

Q You know it was in June? A Yes, sir.

Q Now, who was the man? A My nephew, Morris Feldman.

Q Did they make love to each other, he and Frieda? A No, sir.

Q Did they put their arms around each other as they were walking along? A I don't remember whether they took each other's arms or not.

Q Did you ever see Morris have his arm around Frieda or Frieda have her arm around him? A No, sir.

Q On that occasion, when Frieda was with somebody by the name of Morris and took a walk and then came back to the park, which it has been said, was June 18, 1924, did you talk to Frieda about going out with a man? A No, sir.

Q Did you caution her that she was a married woman and she should not do that and she would not get away with it? A No, sir.

Q Did you ever have any conversation with Frieda of that nature? A No, sir.

Q Why didn't you ever caution her about it?

Mr. Ward: Objected to.

The Court: I think that is objectionable.

Q Did Frieda ever, to your knowledge, or in your presence, express a desire to go out with a man, to go somewhere? A No, sir.

Q And did you tell her not to do it? A No, sir.

Q Did Frieda ever, to your knowledge, go to any place to do any wrong with any man? A No, sir.

Q Or go out with any man? A No, sir, positively not.

Q Who was Frieda associating with since her marriage? A Most of the time she has been with Miss Cohen.

Q A prior witness today? A Yes, sir; she spends a lot of time with her, and once in a while with the other cousins, and a lot of time she spends with me.

Q Do you remember the night of the 20th of June when there was this rumpus? A Yes, sir.

Q Did you on that occasion leave, together with Frieda, at about 7:00 o'clock to get on a bus to go to Clinton avenue, and did you get off at Tenth street? A No, sir, it was close by 8:00 o'clock.

Q Did you leave the house with Frieda? A Yes, sir, and I put her on a bus on Clinton and Belmont avenue.

Q Did you get on the bus yourself? A No, sir; I remained in that square, so-called park.

Q Did you know where Frieda was going? A Yes, sir.

Q Where was she going?

Mr. Ward: I object; it is purely hearsay.

The Court: Certainly, and it is outside of the presence of the petitioner in this case. What is the object of the inquiry, anyhow?

Mr. Schotland: If your Honor please, I want to bring out exactly what occurred, and show the occurrences of the 20th in their true light. I appreciate the fact that conversations between Mrs. Sturm and her aunt are incompetent, but I take it that I am permitted to go this far, to ask the aunt if she knows where Frieda was going and for what

purpose; then follow up whether she saw her after that, and with whom, and so on. Suppose I should receive a letter from somebody telling me of certain facts; I would not be permitted to testify as to the contents of that letter, but I could ask as a result of reading the letter "What did you do?"

The Court: It is not parallel.

Mr. Schotland: I will withdraw the question.

Q How soon after you put Frieda on the bus going up Clinton avenue did you see Frieda again? A Not for an hour or more.

Q Was anyone with her? A Not that I saw; she told me of somebody being there.

Q And do you know where she went after seeing you in the park—"Yes" or "No?" A Yes, sir.

Q How long did you remain in the park after Frieda told you whom she was with before you went home? A I should judge in the neighborhood of about fifteen minutes.

Q Is that your best recollection as to the time? A Yes, sir.

Q Whom else did you see before you went home, who is connected with this case? A Mr. Sturm and Miss Kopf.

Q Tell us what they said to you and what you said to them. A Mr. Sturm said, "This is Miss Kopf," and she asked me if I was Miss Jacoby, and she asked me if I knew that my niece Frieda was upstairs with a man. I told her "Yes, I did;" and she began to holler about her being married and her husband paying the alimony, and said she was going out with other men, and had I been with her in the Studebaker car;

and I did not feel that I should tell her, because I did not know who Miss Kopf was; I simply got up and started for home, and they went ahead of me; I almost ran.

Q When you got home, how did you get into the apartment? A When I reached the apartment, I thought they wanted to come up with me; I saw a young man that I saw here a little while ago, that young man sitting there (indicating Mr. Troast), and some other young fellow I saw on the side, a smaller person, and when I reached the apartment our janitor was there, and I said to Miss Kopf, "I would like to see who you are;" and she said, she sneered at me and said, "She wants to see who I am, come and turn the car around;" and then the janitor said, "What is the trouble, Miss Jacoby?" and I said, "They are looking for trouble," and then I ran upstairs.

Q How did you get into your apartment? A I opened the door and walked in.

Q How did you open the door? A I had a key.

Q When you got in who was there? A Frieda and Mr. Zimmel; Frieda was crying.

Q How was she dressed? A If I am not mistaken, I think she had a grey dress on.

Q Was she in negligee? A No, sir.

Q And did you know that Mr. Zimmel was going to be there? A Yes, sir.

Q Did you or not send Frieda to meet Mr. Zimmel for some particular purpose that night?

Mr. Ward: Objected to.

The Court: Objection overruled.

A Yes, sir, I sent her there. I was to go with her, but I could not go.

Q Now, you know Mr. Zimmel? A Yes, sir.

Q Is he here in court? A No, sir.

Q Did he ever make love to Frieda in your presence? A No, sir.

Q Did he ever kiss her or hug her or put his arms around her, or did she put her arms around him? A No, sir.

Q Did she ever go out with him? A No, sir.

Q What did you want Mr. Zimmel for? A I wanted him to use his car for the purpose of following Mr. Sturm, to take my niece and myself to see if Mr. Sturm is going with his so-called sweetheart; there were rumors that he was—

Q Are you sure that no more than fifteen minutes elapsed between the time that Frieda saw you at the park, and the time you came into the apartment that evening?

The Court: She said it was fifteen minutes.

Q When you got in you say you saw Frieda crying and you saw Zimmel there, and I suppose Frieda told you what had happened, that there had been an alarm and a racket? A Yes, sir.

Q Who sent for Meyer Slutsky?

Mr. Ward: Objected to.

The Court: Objection sustained.

Q It had been testified that on some occasion in May—oh, yes, on May 31st, which is the day after Decoration Day, Saturday, about twenty minutes after 12:00, at noon, that Frieda and her employer, Mr. Cook, went up into your apartment, and that about ten or fifteen minutes

after that you came out of a delicatessen store near your house, and then stopped to talk for five or ten minutes, and then went into your apartment, and that after that Mr. Cook came out; is that true? A No, sir.

Q Was there ever any occasion when you were there that Mr. Cook was there with Frieda on a Saturday at noon? A I cannot just recall the dates, but he has come up time and again when his little daughter was up at the house.

Q Did he come after Frieda? A No, sir.

Q He came alone? A Yes, sir.

Q Did he ever come there while you were out? A Not to my knowledge.

Q And you found him going when you came back? A No, sir.

Q Did you ever go to a delicatessen store on Saturday? A No, sir, I never shopped on Saturday.

Q Are you home noons? A Yes, sir.

Q Who does the cooking? A I do.

Q And you furnish Frieda with her meals? A She gets a hot meal every day at 12:00 o'clock.

Q Did you ever notice any signs of affection between Mr. Cook and Frieda? A No, sir.

Q Did they ever put their arms around each other in the apartment, or in your presence anywhere, or kiss each other, or hug? A No, sir.

Q Did you ever see them down on the street in front of the apartment on a Saturday at noon, fooling around with each other? A No, sir.

Q Did they ever fool around with each other? A I have never seen it.

Q Now, when you came in on that night of June 20th, when you saw Mr. Troast and Miss Kopf and Mr. Sturm, when you got into the

house, you say Frieda was dressed? A Yes, sir.

Q And not in negligee? A No, sir.

Q Was there anyone else home? A Not just then.

Q Later on, who came in? A Angela Poe.

Q The young lady that was a witness here this morning? A Yes, sir.

Q How long after you got in did she come in? A Not very long, perhaps five or ten minutes.

Q Did you have occasion to go into your bedroom? A Most likely I did.

Q You went to bed that night, didn't you? A Yes, sir.

Q Had your bed been disturbed? A No, sir.

Q Where were Frieda and Mr. Zimmel when you came in? A In the living room.

Q How was he dressed? A He had a suit on; I don't remember the color of the suit.

Q Did he have his coat or vest off? A No, sir.

Q He was not in his shirt sleeves? A No, sir.

Q Whose bedroom faces the yard? A Miss Poe's.

Q Where is your bedroom and Frieda's? A That is at the other end of the living room, facing the court.

Q Can that room be seen from the yard? A Yes, sir.

Q That room is not connected to the yard? A Yes, sir.

Q What room is alongside of Miss Poe's bedroom? A The living room.

Q Was there a light in the living room? A Yes, sir.

Mrs. Minnie Jacoby, cross.

Q Was there a light in any other room? A In the kitchen and in the hall.

Q Was there a light in any other rooms besides those? A No, sir.

Q Now, you have been in court here every time this case came up? A Yes, sir.

Q Did you go out in the yard and try to look up into the back bedroom and see what you could see? A Yes, sir.

Q Can you see into the back bedroom from the yard? A I can only see anything close by the window.

Q Can you look inside the room? A No, sir.

Q Can you see any part of Mrs. Poe's bedstead? A All you can see is somebody close by the window.

Q Did you try to look for the purpose of seeing if you could see after you heard the witnesses testify? A Yes, sir, I went there more than once.

Q How tall are you? A Five feet three inches.

Cross examination by Mr. Ward.

Q You went out there to help your niece—out in the back yard? A What do you mean by "helping?"

Q Helping her in this case? A Certainly.

Q Are you married? A I have been.

Q How many times? A Must I answer that?

Q Yes. A I have been married twice.

Q Twice or three times? A Twice.

Q Are you living with your husband? A No, sir.

Q Now, then, Mrs. Sturm was married and she was not living with her husband? A No, sir.

Q And you were married and were not living with your husband? A No, sir.

Q Mrs. Poe was married and she was not living with her husband? A No, sir.

Q You five women occupied this four-room apartment? A Yes, sir.

Q And, of course, you are familiar with the things that had taken place, in which your niece had instituted proceedings against Mr. Sturm for seduction under promise of marriage? A Yes, sir.

Q And you knew that in that case she had testified that he had sexual intercourse with her before her marriage? A Yes, sir.

Q And you knew she had testified in that case that he had had sexual intercourse with her a number of times? A Yes, sir.

Q You knew that? A Yes, sir.

Q Then, after Mr. Sturm married her, it is true, isn't it, that he and his two brothers-in-law came up to see her and to see you at your home? A Yes, sir.

Q I think you testified in your direct examination, that there the whole matter was talked over, the case was talked over, and he blamed her for making the charge, and the brothers-in-law tried to arrange so that everything eventually would be all right; that is true, isn't it? A No, sir.

Q Isn't it true that he arranged for the payment of six dollars a week; did he pay her six dollars a week thereafter? A Sometimes six and sometimes five dollars.

Q Despite that, however, you went to Mr. Slutsky and again had him brought up before

the court; that is right, isn't it? A When was that?

Q After his marriage? A I cannot recall.

Q Mr. Slutsky calls on you frequently, doesn't he? A That is a lie.

Q Answer the question. A No, sir.

By the Court.

Q Why do you get heated so much; is there anything wrong between Mr. Slutsky and you? A No, sir.

Further cross.

Q Whether it was before or after this case, isn't it true that Mr. Slutsky called upon your family and called upon you frequently? A He called at my home just before the case of seduction; twice he was up there.

Q Isn't it true that he called upon your family after the case? A No, sir.

Q Never? A Never.

Q Isn't it true that he is still calling on you? A It is not true.

Q Isn't it true that Mr. Slutsky was present when you signed the new lease for your apartment a short time ago? A That is not true.

Q Who was present then? A There was nobody but Mrs. Stewart; she brought up the lease and left it there; and she said I would have a week to decide.

Q When you signed it, was Mr. Slutsky there? A No, sir.

Q Was Mr. Slutsky present the first time you saw your lease? A No, sir.

Q The Mr. Slutsky to whom I refer is the elder Mr. Slutsky? A That is my understanding of what you mean.

Mr. Schotland: I want to object to it as not cross examination.

Q Mr. Slutsky, Jr., who was on the witness stand, was not friendly with your family at all? A No, sir.

Q Then after this discussion that was had in your house— Question withdrawn.) It is true, isn't it, that your niece expected to go back and live with the petitioner?

Mr. Schotland: How can this witness be asked to testify to the condition of the mind—

Q (Question withdrawn.) Isn't it true that your niece told you frequently that she expected to go back with her husband, Mr. Sturm? A She was in hopes she was.

Q And that was after she and Mr. Sturm had had the conversation in the presence of his brothers-in-law, wasn't it? A She was in hopes right along until these proceedings started.

Q Now, she had lived with you for a year and a half the last time? A Yes, sir.

Q Before that, with whom did she live? A With her father.

Q Were her father and mother separated? A No, sir—her mother is dead.

Q I think you also testified, that on the occasion of this visit, that Mr. Sturm or his brothers-in-law said that the trial had cost him so much, the trouble in which he had been, and the trials, that it would be impossible for him to provide a home for her at that time; that is true, isn't it? A Yes, sir.

Q And that was the excuse he gave? A Yes, sir.

Q Then, after that, however, Mrs. Sturm kept on going out, didn't she? A She did not.

Q You knew that the question of Mr. Zimmel had come up in the trial for seduction that was had in Newark, New Jersey? A Yes, sir.

Q And you knew she was asked there if she had not been keeping company with a man named Zimmel? A I knew that.

Q You knew that she admitted, didn't you, at that trial, that after his return from France she had been going around with him?

Mr. Schotland: I cannot possibly conceive how that line of questioning can be allowed for the purpose of attacking the credibility of this witness—to confront her with the testimony of the defendant herself in another trial.

The Court: I think it is very material; and in addition to that, it may affect the credibility of the witness.

Q You knew that at the trial she had been asked and had stated that she had been going around with this man named Zimmel? A Yes, sir.

Q What was his first name, by the way—Harry Zimmel, wasn't it—Harold, wasn't it? A Yes, sir, Harold.

Q You knew he had caused a great deal of trouble between your niece and Mr. Sturm, from what Mr. Sturm had tried to say to her? A What Sturm tried to testify at the trial.

Q And what Sturm said to your niece as well? A I did not know anything about that.

Q But you knew from the evidence that was given at the trial, that Mr. Sturm accused your niece of going out and being on very familiar and very friendly terms with Zimmel? A Yes, sir.

Q Now, then, when your niece commenced to work for Mr. Cook—before that Mr. Cook had never visited your home, had he? A No, sir.

Q But after she commenced to work for Mr. Cook, then he began coming to your home? A Not paying visits.

Q He came there, didn't he? A Yes, sir.

Q You don't know whether he came there when you were not home? A I am at home at noontime and at suppertime and at breakfast-time.

Q Haven't you been down in the park night after night in the summer time? A I have been there lots of times.

Q When your niece has not been with you, too? A Yes, sir.

Q Did you know Mr. Cook was coming up to see your niece? A He did not come to see my niece.

Q Did you know he was coming to your home? A I knew when he came up to get his little girl.

Q Did you know he was bringing your niece home from work in his car? A Yes, sir.

Q Did you make any objection to it? A I did not see anything to object about.

Q Yet you knew all that time, that there had been this jealousy on the part of Mr. Sturm because of Zimmel and other men; you knew he had made that excuse? A Yes, sir.

Q What means of livelihood have you? A I have an income.

Q From what? A Property.

Q Real estate? A Yes, sir.

Q Now, as a matter of fact, you knew also, didn't you, that a threatening letter had been sent to Mr. Sturm? A I knew nothing about the letter, only that Mr. Sturm mentioned the letter the night that he was up to the house with his brothers-in-law.

Q Didn't you hear your niece say "Yes," she knew where the letter had come from? A No, sir, I don't remember that.

Q You have stated that you were in the park, I believe, when Miss Cohen and Mr. Morris Feldman were there? A Yes, sir.

Q Did you see Mr. Feldman and your niece leave alone that night? A Yes, sir.

Q You had no objection to that? A No, sir.

Q Then about 5:00 o'clock on the 20th of June you put your niece on the bus? A No, sir, it was about 8:00 o'clock, about that time.

Q And you say that you arranged with her to arrange with Harold Zimmel, to arrange for a car? A Yes, sir.

Q Where does Mr. Zimmel live? A Up in Irvington some place; his place of business is in Irvington Centre.

Q Why didn't you telephone? A She did telephone, but she could not get him.

Q Where did she telephone from? A From the drug store.

Q Were you with her when she telephoned? A No, sir.

Q Then you found out that he was out? A That we could not get him on the telephone.

Q Then why did you send her up there? A My niece and I were to meet him in Irvington between 8 and 8:30.

New Jersey State Library

Q When had you made that arrangement with him? A My niece had made that arrangement with him that afternoon.

Q Your niece had made arrangements with Harold Zimmel to meet him before you knew about it? A Yes, sir.

Q And you knew it was the same Harold Zimmel about whom Sturm had complained? A Yes, sir.

Q You did not make any objection to her meeting him? A No, sir, I did not.

Q Then you let her go alone to meet him? A Yes, sir.

Q And you sat in the park with nothing to do? A That is where the trouble came in; I had to meet another niece of mine.

Q But you sat in the park, didn't you? A Yes, sir.

Q And you had to meet another niece? A Yes, sir, a niece named Elsie.

Q Is she here in court? A No, sir.

Q Why did you have to meet her in the park; didn't she know where you lived; couldn't she come to where you lived? A She had to get the car or the bus.

Q Couldn't she have come directly to your home? A Yes, sir.

Q After that, your niece came to you? A Yes, sir.

Q And she told you that Harold Zimmel was with her? A Yes, sir.

Q And she told you she was going to the apartment? A Yes, sir.

Q And you knew there was no one there? A Yes, sir.

Q And you knew they had been accused of being sweethearts? A Yes, sir.

Louis Slutsky, direct.

Q And you let them go down there alone? A Yes, sir.

Q And you let them stay there alone? A Yes, sir.

Q And you did not go back to that apartment until your niece's husband came and got you and told you that she was alone in the apartment with a man? A Allow me to explain; let me tell you why I did not.

The Court: We will adjourn till tomorrow morning at 10:00 o'clock.

Mr. Schotland: May I put a short witness on?

The Court: Yes.

MR. LOUIS SLUTSKY, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q You are prosecutor's detective of the County of Essex? A Yes, sir.

Q And have been for how long? A This is my 22nd year.

Q Did you have charge on behalf of the State of the prosecution against Sanford Sturm? A Yes, sir.

Q After the indictment for the seduction, did he talk to you? A On two occasions; he asked me if I would accept—

Mr. Ward: I object to that; it is too remote; there is no time fixed.

A On one occasion he asked me whether Mr. Fishkind, the court stenographer, spoke to me in

behalf of taking a plea of fornication; he said that he would be willing to plea to fornication; and I said to him, "Yes, Mr. Fishkind spoke to me, but" I said "it cannot be done;" and on the morning of the trial—I could not exactly say what date it was, it was the 10th or 12th of March—he again said to me—his lawyer was back of him—his lawyer and I were talking together, and he said, "Will you consider taking a plea of fornication?" I answered, "You will stand trial on the charge you are indicted for, or you will plead."

Cross examination by Mr. Ward.

Q You did not testify to anything of that kind in the criminal case, did you? A No, sir, I did not.

Q This man, acording to you, practically admitted his guilt to you? A As to fornication.

Q And you did not testify in the criminal case to any such effect as that? A No, sir.

Q Where did you have the first talk with him? A From the time of his pleading to the time of trial.

Q Where? A At the court house.

Q Who was present? A I was in the corridor when he stopped me; there was some young man with him; and the second time, his lawyer was right in back of him.

Q Isn't it true that this man was first indicted on the charge of fornication? A Yes, sir, I have received a case against him for fornication, and since then later there was another complaint against him for seduction under promise of marriage.

Adjourned to 10 o'clock, February 19th.

FOURTH DAY.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Paterson, New Jersey, on the 19th day of February, 1925, before Hon. Vivian M. Lewis, Vice-Chancellor.

Same appearances as before noted.

MINNIE JACOBY resumes the witness stand.

Re-direct examination by Mr. Schotland.

Q You have testified that you were married twice? A Yes, sir.

Q What became of your first husband? A He died shortly after we were married.

Q When was that? A We were married in 1902 and he died in 1904; about fifteen months we were married at the time he died.

THOMAS A. KENNY, sworn in behalf of the defendant, testifies as follows:

Direct examination by Mr. Schotland.

Q What is your business? A I am manager of a retail furniture store at New Brunswick.

Q How long have you been such manager? A Since the first of this year.

Q How long have you been employed by this firm? A Since February 1, 1924.

Q Do you know Mrs. Sturm, the defendant in this action? A I have met her.

Q Do you recall when you met her? A Not the exact date.

Q How many times did you meet her? A Once.

Q Do you recall where you met her? A Yes, sir; in front of the Studebaker Corporation in Broad street, Newark, New Jersey.

Q Who introduced you? A Mr. Koplin.

Q Who is he? A A personal friend of mine.

Q Do you remember what month that was? A It was in the summertime.

Q Does Decoration Day refresh your recollection as to the period of the year it was? A It was around that time.

Q What time of the day or night was it? A I should judge it was, possibly, around 8:30 in the evening.

Q And what were you doing there? A Talking to my friend, Mr. Koplin; I had been in Newark and had been over to see him.

Q How did you happen to meet Mrs. Sturm? A Mr. Koplin looked out and saw his lady friend, Miss Edelstein, and he went out and he called me out and introduced me; and I knew Miss Edelstein for possibly a year or more.

Q When he introduced you what did he say? A He said, "This is Helen's cousin."

Q Did he introduce her by name? A I don't remember.

Q Do you remember her name? A I could not say; I may possibly remember the first name.

Q What is your recollection about that? A I believe it is "Frieda."

Q Was that the only time you met her? A Yes, sir.

Q And after the introduction where did you four go and what did you do? A We rode

around to where a hotel on Halsey street had been burned.

Q What did you ride in? A In a Studebaker car.

Q Open car? A I believe it was an open car.

Q What part of the car were you sitting in? A In the rear.

Q And what part of the car was Mrs. Sturm sitting in? A In the rear.

Q And Mr. Koplin was driving? A Yes, sir.

Q You say you rode around to look at the hotel that had been burned? A Yes, sir.

Q Where was that located? A On Halsey street—on the corner of Halsey and William street I believe it is.

Q Did Mr. Koplin park the car you were in? A Yes, sir, on the right-hand side of William street.

Q How near Halsey street. A Possibly fifteen or twenty feet.

Q Was there any car parked behind you? A Yes, sir.

Q And in front of you also? A Yes, sir.

Q When you came along was that parking space in which your car was parked vacant? A I am pretty sure there was a car pulling out and we pulled in that space when it pulled out.

Q After you parked the car, did you stay in the car? A No, sir; we got out to where the fire was and looked around.

Q Was the fire raging at that time? A No, sir, it had been extinguished, I believe.

Q How long did you stay around looking at where the fire had been? A Fifteen or twenty or twenty-five minutes.

Q Then what did you do? A We got into the car with the intentions of taking me home to Elizabeth.

Q Did you stay in the car while it was parked? A No, sir.

Q As soon as you got in, what was done? A We drove off to take me home.

Q Which way did you go? A We went through Clinton avenue and then through Elizabeth avenue, I think.

Q Did you stop anywhere on the way? A Yes, sir, we stopped at a refreshment stand and had some soda water.

Q And after you stopped and got the soda water what did you do? A We continued on to my home.

Q Where were you living at that time? A In Elizabeth.

Q What street and number? A 43 Rankin street.

Q When you got to your home, what did you do? A I got out of the car and said "Good night."

Q Did anyone get out of the car with you? A No, sir.

Q Are you still living in Rankin street, Elizabeth? A No, sir; I live at 415 Washington avenue, Elizabeth.

Q When did you move to Washington avenue? A The exact time I don't remember—possibly the middle of July or the early part of August, 1924.

Q Whom are you living with? A My sister.

Q Are you a married man? A No, sir.

Q Did you know whether Mrs. Sturm was married or single at the time you met her? A I did not know anything about the lady whatever.

Q When did you first learn about this case going on and that you were needed as a witness? A Yesterday, around 5:00 o'clock, Mr. Koplin called me up.

Thomas A. Kenny, direct.

Q It has been testified here, Mr. Kenny, that you were standing in front of the Studebaker salesroom on Broad street and Mrs. Sturm came along and saw you there; that is, she came along with Miss Edelstein and saw you there, and that she put her arms around you and that your put your arms around her waist; did any such thing occur? A It is not true.

Q Were you outside when she and Miss Edelstein came along? A No, sir; I was inside in the Studebaker showroom and Mr. Koplin called me out.

Q When the two girls came along, Mrs. Sturm and Miss Edelstein, was Mr. Koplin outside? A He was inside and saw Miss Edelstein through the window, and then he came out and then he called me out and introduced me to the young lady, to Sturm.

Q It has been further testified that after you and Mr. Koplin came out you entered this Studebaker touring car and drove to William street, where it was parked—that you parked it about forty feet west of Halsey street on William street, and that you all stayed in the car? A No, sir.

Q Also, that Mrs. Sturm sat in your lap; that you were hugging and kissing each other; and that Mr. Koplin and Miss Edelstein were making love to each other and hugging and kissing each other, and that you had sexual intercourse with Mrs. Sturm while she was sitting on your lap at that place while the car was parked. Did any such thing occur? A It is not true; it is ridiculous.

Q Don't characterize it. Did she sit in your lap? A There was absolutely no opportunity for any such thing to take place.

The Court: Strike that answer out.

Q Refrain from characterizing what has been testified to and give us the real facts. Did Mrs. Sturm sit in your lap at all? A No, sir.

Q Did she hug you and kiss you or did you hug and kiss her? A No, sir.

Q Did you make love to each other in any way? A Not at all.

Q Did Miss Edelstein and Mr. Koplin kiss each other or hug each other or make love to each other in the car? A No, sir.

Q Was there anyone around there while your car was parked? A Yes, sir, there were people around there.

Q What were the people doing? A They were there, I suppose, for the same purpose that we were there.

Q Were there any policemen or firemen around? A There was a policeman there.

Q Did you at any time, anywhere, have sexual intercourse with this defendant, Mrs. Sturm? A No, sir.

Q Did you ever kiss or hug her at any time in any way? A No, sir.

Q Did she ever kiss or hug you? A No, sir.

Q Did you ever put your arms around her? A No, sir.

Q Did she ever sit in your lap at any time, anywhere? A No, sir.

Q Did you ever meet her before that occasion when you were introduced to her that night or any other time? A The first time I have met her since that time was today, and if I saw her on the street today I would have to look at her twice; I really don't know her.

Thomas A. Kenny, cross.

Cross examination by Mr. Ward.

Q How old are you? A Twenty-six past.

Q Have you ever been married? A No, sir.

Q How long have you been in this particular business? A About seven years.

Q You have known Mr. Koplin for some time? A Yes, sir.

Q You knew Miss Edelstein for some time before that? A Yes, sir.

Q And you went over to see Mr. Koplin that night? A Yes, sir.

Q You got there how long before Miss Edelstein came? A Maybe half an hour.

Q You did not know that Miss Edelstein was coming there to see Mr. Koplin? A No, sir.

Q Isn't it true that Mr. Koplin received a telephone call shortly before Miss Edelstein arrived; isn't that true? A That I don't know.

Q Don't you know whether or not he left you to answer the telephone? A He did not.

Q He did not leave you at all to answer the telephone? A No, sir.

Q For the three-quarters of an hour you were there he was with you all the time? A Mostly.

Q And you went over to spend the evening with him? A I spent some time with him; I did not come for that purpose, to spend the evening with Mr. Koplin.

Q You had been there since before 8:00 o'clock? A Yes, sir.

Q And you did not intend to spend the evening with him while you were in Newark, New Jersey? A No, sir.

Q You did spend all the time you were in Newark with him? A Yes, sir.

Q After 7:45 P. M., from that time on, the rest of the evening while you were in Newark

you were with Mr. Koplin? A I was not in Newark, New Jersey, very long.

Q All that time you were with him? A Yes, sir.

Q You knew he was engaged, did you? A I understood he was keeping steady company.

Q Did you know he was engaged to Miss Edelstein? A Slightly.

Q A man cannot be slightly engaged, can he? A I believed they were engaged.

Q Had he told you that? A He had confided in me to a certain extent.

Q During the three-quarters of an hour you were with him—during all of which time he had not answered any telephone call—he did not state that he expected his fiancee? A He did not.

Q And you were surprised to see her? A In one sense of the word, yes.

Q And then when Mr. Koplin saw her through the window he went out. Why didn't you go out if you knew her? A I don't know why I did not.

Q There was no reason at all why you stayed inside until you were called out? A No, sir.

Q And you were not introduced to Mrs. Sturm by her name, excepting as a cousin of Miss Edelstein? A That is it.

Q You addressed her that evening, of course, while you were with her? A We did not have much of a conversation at all.

Q While you were riding in the back seat from the Studebaker agency over to the burned hotel didn't you address any remarks to her? A I may have made a few remarks.

Q When you were riding from that place to Elizabeth didn't you address her? A Yes, sir.

Q And you knew her name was Frieda? A I had heard her name mentioned.

Q Did you call her "Frieda?" A I cannot say about that.

Q Well, Mr. Kenny, you would have no compunctions about kissing this young woman, would you? A Just what was that.

Q (Question read.) —if the opportunity had presented itself, would you? A That would all have depended on how I felt at the time.

Q If you felt so inclined you would have had no compunctions, would you? A No, sir.

Q And there are occasions when you have felt so inclined to kiss a young woman? A Certainly.

Q She did not appear unattractive to you? A I think she is attractive.

Q And there were no reasons or compunctions which you had for refraining from kissing her or making an effort to kiss her? A Of course I did not try to.

Q What were the reasons? A No reasons; there was no effort made.

Q There was no reason why you should not have done it? A There was no effort made to do it.

Q And you went over to this place where the fire was? A Yes, sir.

Q A fire that had occurred two days before—at least the day previous to that? A I think you are right.

Q And this fire was in the Mills Hotel, a small cheap lodging house? A Yes, sir.

Q And when you got there there were no cars on the side of the street, where the hotel was? A No, sir, they were on the other side.

Q Do you say there were cars on the other side? A Yes, sir.

Q Now, as a matter of fact, do I understand you to say that there was an officer stationed

there that night? A There was an officer, yes, sir.

Q Was there an officer there during the half-hour that you were there, Mr. Kenny? A Yes, sir.

Q All the time? A Yes, sir, there absolutely was.

Q Was there any firemen? A I would not say "Yes" to that.

Q Have you made any inquiry as to who that officer was? A No, sir, I did not. Why should I?

Q You knew you were accused of having had sexual intercourse with this young woman? A I did not.

Q You knew it last night? A I knew last night that such accusations were made, which are untrue.

Q Did you know that the accusations had been made against you the day before yesterday? A No, sir.

Q And yet, yesterday morning, or at least the night before last, you were not informed of these accusations? A No, sir.

Q Yesterday morning no information was conveyed to you? A No, sir.

Q And the first information that was conveyed to you, or the first request that was made for you to be present here today, was after 4:30 yesterday afternoon? A Early yesterday evening.

Q Were you at your place of business all day? A Yes, sir.

Q And all the day before? A Yes, sir.

Q Up to 6:00 o'clock? A Yes, sir.

Q Is the officer here who was at the fire that night? A I could not point him out to you.

Thomas A. Kenny, cross.

Q Did you immediately leave the car upon going to the place where the fire was? A We left the car.

Q And then you remained in the vicinity of that fire from fifteen minutes to half an hour? A The exact time I could not say; it was around that.

Q You were doing what? A We were looking around.

Q All of this time you were simply looking at the ruins? A Yes, sir.

Q How large a plot was this building on where the fire occurred, in your opinion? A I should guess, probably, 50 by 100 feet, maybe 75 feet by 100 feet.

Q And you could not go anywhere along the front of it, and there was nothing to see but the ruins? A That is right.

Q Were you in a hurry to get home that night? A I was in a sort of a hurry, yes, sir.

Q Did you tell Mr. Koplin you were in a hurry to get home? A Yes, sir.

Q Why didn't you go home then? A My friend offered to give me a ride home in his car.

Q Why did you linger for half an hour around this fire? A It was an interesting thing.

Q Just the ruins were interesting? A Yes, sir.

Q How far is Newark, New Jersey, from Elizabeth? A Maybe seven or seven and a half miles, maybe eight miles.

Q You sat on the back seat with Mrs. Sturm during all that time that you rode from Newark to Elizabeth? A Yes, sir.

Q And she never informed you that she was married? A No, sir.

Q And you knew of no reason, so far as her being married was concerned, why you should not have paid attention to her? A No, sir.

Q Or why you should not have attempted to kiss her? A I had personal reasons of my own at that particular time.

Q But not because she was married? A That had nothing to do with it.

Q From that time to this you remembered her first name was Frieda? A No, sir, I did not remember.

Q You did not remember that? A Unless my mind had been refreshed.

Q But your mind has been refreshed about that? A Yes, sir.

Q And about other things as well? A Just about everything, everything that ever happened.

J. HAROLD WALLACE, being duly sworn in behalf of the defendant, testified as follows:

Direct examination by Mr. Schotland.

Q What is your business? A Police officer.

Q Of the City of Newark, New Jersey? A Yes, sir.

Q And are you familiar with the location of Halsey and William streets in the City of Newark? A Yes, sir.

Q Around the end of May were you on duty in that vicinity? A Yes, sir.

Q What were you doing? A Keeping the people away from the building on the side where the fire was.

Q For how long? A Between 7:00 and 9:00 in the evening.

Q You were on duty? A Yes, sir.

Q And for how many days after the fire were you on duty there for that purpose? A I was not on duty any day after the fire; that was the only day that I was ever there; there was always an officer there, but I was not there, except on the day of the fire.

Q Were you there the day after the fire? A Yes, sir; it was either the 28th or the 29th of May that I was on duty.

Q Did anyone relieve you when you came off duty? A Yes, sir.

Q What is the name of the officer who relieved you? A Officer Shine.

Q Do you know whether or not any other officer was on duty after you left? A Yes, sir, Officer Shine relieved me, Arthur Shine.

Q And attached to which precinct? A First precinct.

Q You were on duty from 7:00 to 9:00? A Yes, sir.

Q Describe that corner and the condition of the first ruins at that time, as near as you can recall. A The building is on the corner of Halsey and William streets; it is a four-story building, three or four stories; it was pretty well burned.

Q Was there any part of the sidewalk roped off around it? A There was on the Halsey and William street side where the building was—that corner.

Q Were many people coming there to view the ruins? A There were hundreds of them.

Q And are you familiar with that block as a rule? A Yes, sir, I work in that precinct.

Q And is that on your beat at all? A No, sir, it is not my post.

Q Is that a busy street or otherwise? A Very busy.

Q William street? A Halsey and William, but Halsey is a busier street.

Q And at night, or that particular night when you were on duty there, were there any cars parked on William street opposite this building? A Yes, sir.

Q What is William street as to character, business or residence? A Business.

By the Court.

Q What character of business? A Automobile accessories.

Q Are there any automobile supply concerns on it? A Yes, sir.

Q Any stations for furnishing gasoline? A I guess so.

Q Do you know if there is any garage in that vicinity for transient cars on William street; how long is William street? A It runs from Broad to Springfield avenue; that is about fifteen blocks.

Q But the part that is busy is what part? A Between Washington and Broad.

Q And Halsey street is right in the center of that? A Yes, sir.

Q Now, do you know whether there is any garage around there for transients? A Yes, sir, the Meadow Brook Garage on Halsey street.

Q Do you know of any on William street? A Yes, sir, at Pierson's Alley there is a garage on William street.

Q Now, this particular night that you were on duty, do you remember whether that was a

Wednesday night or not? A I cannot recall what day it was.

Q Was it the day after the fire?

Mr. Ward: Objected to as leading.

The Court: It is leading and suggestive; the objection will be sustained.

Q How soon after the fire was that? A The next day.

Q Now, that particular night when you were on duty, you say there were cars parked on William street on the right-hand side toward Washington street? A Yes, sir.

Q Were many cars parked there? A Quite a few cars.

Q On William street? A Yes, sir.

Q How about Halsey street? A That was full of cars.

Q Have you ever been there in the evening when there were no cars parked around 9:30? A Never.

Q You never found that block on William street without cars being parked on it about 9:30 in the evening? A No, sir, and I passed there every night in the week.

Q For how long a period? A Four or five times every week.

Q For how many weeks has it been that you have been doing that? A For over a year.

Q And you never found that part of William street free from parked cars? A (No answer.)

Q Do you know, from having observed yourself how many nights after the fire there was a policeman kept on duty on that corner? A I could not tell you that, but I know it was for some time.

Q Was it more than two nights after the fire? A Yes, sir, I believe it was more than two nights.

Q Was it more than three? A I could not say exactly about that, but I am pretty sure it was more than two nights.

Cross examination by Mr. Ward.

Q You know that that fire occurred at 9:35 A. M., in the morning, and that the box was 355, don't you? A I don't know what box was pulled.

Q Do you know the box in that vicinity was 355? A I don't know whether it is or not.

Q You know the fire occurred at 9:35 A. M., as the police blotter shows? A I don't know.

Q Have you looked at the police blotter? A I have no right to look at them.

Q Did you? A No, sir.

Q You knew why you were coming here, didn't you? A I heard this morning, yes, sir.

Q What time did you hear? A 3:55 A. M.

Q Whereabouts did you hear? A When I went to the precinct the lieutenant gave me this subpoena.

Q Did you make any effort at that time to find out what night it was that you were stationed at this place? A Yes, sir.

Q Did you find out? A Yes, sir, I did.

Q What night was it? A Either the 28th or the 29th.

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

Q Now, as a matter of fact, don't you know that you were stationed there the night immediately following the fire, which occurred at 9:35 A. M.; don't you know that to be true? A I was there the second night of the fire.

Q Don't you know it was the night immediately following the fire—the same day that the fire occurred, the same night of the day that the fire occurred? A No, sir—you mean the fire was in the morning and that night I was there?

Q Yes. A No, sir.

Q Was it the next night? A Yes, sir.

Q Do you know who was there the first night? A I do not.

Q The night that you were there, was there any protection over the ruins while you were there, I mean any physical protection, such as covering of any kind? A Yes, sir.

Q Don't you know that these coverings were put on the day of the fire—the afternoon following the fire—by the insurance adjusters, and the salvage department of the Fire Department of Newark, New Jersey? A I don't know when they put them on.

Q You know the coverings were put on before you got there? A Yes, sir.

Q Do you also know that the only officer who was on duty at that place on the 28th of May, was Officer John M. O'Rourke; do you know that? A I do not.

Q Do you know John M. O'Rourke? A Yes, sir.

Q Do you know where his beat was at that time? A No, sir, I do not.

Q Don't you know that his beat was from Washington to Broad street, and rom Branford to Marshall street, and that he was the only officer on that beat on the 28th of May? A I do not know.

Q Don't you know there was no special officer placed to guard these ruins on the 28th of May? A I don't know.

Q So you don't know whether you were there or not on the 28th of May? A I know I was there the day after the fire.

Q You don't know whether you were there or not on the 28th of May, do you? A I do not, no, sir.

Q Do you know that Officer O'Rourke was relieved at 12 o'clock in the morning by Officer Hamilton? A I don't know.

Q Do you know Officer Hamilton? A I do.

Q Don't you know they were the only two men on that beat, either on special or general duty on the 28th, and the morning of the 29th of May? A I don't know.

Re-direct examination by Mr. Schotland.

Q The only thing you are positive of is that you were on duty from 7:00 to 9:00 the second night after the fire? A Yes, sir.

Re-cross examination by Mr. Ward.

Q Were you on special duty? A No, sir.

Q General duty? A Yes, sir.

Q Where was your beat generally? A That particular night?

Q Yes. A I was working 24 post, which is bound by Academy, New, Halsey and Plane streets.

Q So on the night you refer to, you turned 24 post? A Yes, sir.

Q And that was a general beat? A Yes, sir.

Q And that was where you were the night you referred to? A That is where I went after I left the fire.

Q You were doing general patrol duty? A Yes, sir.

Re-direct examination by Mr. Schotland.

Q How did you happen to be at this particular place from 7:00 to 9:00? A I was sent there from the precinct by the lieutenant to relieve a man.

Q After that, you went back to your regular post? A Yes, sir.

Re-cross examination by Mr. Ward.

Q Whom did you relieve? A Officer Reed.

Q What time? A At 7:00 o'clock, maybe a few minutes before.

Q Was Officer Weiss there? A Not when I relieved Officer Reed.

Q Was he there any time when you were there? A I never saw him, no, sir.

Q Isn't it true that Officer Weiss, or don't you know that Officer Weiss was there the first day immediately following the fire, up to 7:00 o'clock, and it was then that you relieved him? A You mean to say that I relieved Officer Weiss that day that I was there?

Q Do you know that Officer Weiss was there up to 7:00 o'clock of the first night immediately following the fire, and didn't you go then on special duty to watch from 7:00 until 9:00? A When I went on there was the night after the fire; I don't know whether Officer Weiss was there; I did not see Officer Weiss; I saw Officer Reed.

Frieda Sturm, direct.

FRIEDA STURM, being duly sworn in her own behalf, testified as follows:

Direct examination by Mr. Schotland.

Q You are the defendant in this suit? A Yes, sir.

Q And the wife of the petitioner? A Yes, sir.

Q How old are you? A I am 22 years of age.

Q How long have you known your husband? A Almost five years.

Q When did you first meet him? A In the early part of 1920.

Q Where? A At my home in our place of business.

Q Whom were you living with at that time? A My father and my brother.

Q Where? A At 371 Bank street, Newark, New Jersey; my father was in the stationery store, and that is where Mr. Sturm came in and met me.

Q After you became acquainted, what followed? A I kept company with him.

Q Were you engaged? A He used my own ring, my mother's ring, and had it reset.

By the Court.

Q Did you have an understanding that you were going to get married? A Yes, sir, the second time I went out with him he asked me if I would marry him, and I went with him for two years.

Frieda Sturm, direct.

Further direct.

Q What happened; you kept company for two years; did you ever meet his people? A Yes, sir, I did.

Q How? A He took me to his home.

Q How soon after you first became acquainted? A A few weeks afterwards.

Q How often did he call on you? A I saw him every day, but we did not go out every night; we went out a few times a week; I saw him every day, because he worked a few steps away from us.

Q After you had been keeping company for a while, did he marry you then? A No, sir.

Q What happened? A First of all we were supposed to be engaged, and he told me his mother would not let us be engaged unless I had money; and he used to cry, and say he could not marry me against his mother's will. And finally we had a joint account, and there was not much in it; he had used it for his business; and he took this bank-book and he told me to do it because his family knew his writing, and he told me to take it and have somebody mark it in for me, enter a deposit of $2,000 in a savings deposit book; and that was shown to his mother, and then it was all right. One night he came and told me he was sick; there had not been any argument, but out of a clear sky he said he was sick and had been treated by a doctor, and that the doctor did not give him long to live, and he cried and said, he told me to marry Mr. Zimmel, a man I had known before I met him; and he said he would always love me, but he could not marry me, but that he would always be a friend and do all he could for me; and I said I would wait and see if he

got better; and he said, "You had better marry somebody else," as his days were numbered. I kept seeing him until Christmas, 1922, and then he stayed away altogether, and I thought it was because—

Mr. Ward: That is objected to—"I thought it was because."

By the Court.

Q He did not come that Christmas; did you get in touch with him? A I tried to at first, but it seemed to me that he must have felt that he could not marry me, so I did not call him; but I met him a few times down town with another girl; and then in May, 1923, a girl friend of mine called me up, and she told me he wanted—

Further direct.

Q Never mind that; what did you do? A He called me up himself and asked me if he could see me if he came up, and he told me how sorry he had been for what he had done, and he had a trial in Pennsylvania; he had killed two people with a truck.

Q Who did? A He did, and that his trial was over; he asked me to go to New York with him.

Q He killed two people? A Yes, sir, with a truck; he had a collision—

Mr. Ward: I ask to have that struck out.

The Court: Strike it out.

A He asked me if I would go to New York with him.

Q Did he tell you then about his trial? A Yes, sir, he told me that when he came back to me around April, 1923, and he said would I go to New York with him and get married, so that no one would know until we got married; and I told him I did not know whether to believe him or not; and he said, "I am a different person; I don't lie any more; I am telling the truth." And he took me to a restaurant in Paterson, he took me to a restaurant in Paterson; he took a ring off my right hand and put it on my left hand, and said, "Keep it there;" and he took me home that night; and then he went away to his trial.

Q He took you to your house? A Yes, sir, and then he went away to Pennsylvania, and he sent me a letter.

Q Did you have sexual intercourse with him then—had you had it? A Yes, sir.

Q That night or that day? A No, sir, not then.

Q When? A Before that, and when he came back he called me up and told me he would come to see me, but he never came, and a friend of his came over and I told him what had happened.

Mr. Ward: Objected to.

A And he said—

Q Never mind what he said; tell us what was done. A A friend came, and I went over to his garage with my cousin; I went to Mr. Sturm's garage with my cousin, and we spoke to him, and she said, "If you don't want her, why don't you say so; don't let people pity her." And he said, "Business is bad, and if it is not better in two weeks I shall leave town; and if it is better, I

will marry you;" and he said, "I will never marry anyone else;" he said, "I will be over on Friday for sure;" and we waited and waited, and he never came. Then I found out he had been going with this other girl.

The Court: Strike that last part out.

Q As a result, what did you do? A I went to this girl's home, Grace Adelman's home; I saw Mr. Sturm's car in front of Grace Adelman's home, and I waited there in the car until about 3:00 o'clock in the morning, when he came out; and he said, "What are you doing here?" and I said, "I was waiting for you;" and he said that he had met her, and he said he had to take her out, and that was the first time he had taken her out; and he said he did not care a rap for her, and he would be over the next day. He took me home and told me a story about a position offered to him in Elmira, and would I go there with him and marry him; and I did not quite make an answer; I waited all that week, and he did not come around; and the next Sunday I went to the girl's house and they both came out, this Miss Adelman and he.

Q What time was that? A About 12 o'clock at night; I knocked on the door and Mr. Sturm and Miss Adelman both came out. I said, "San, I did not come here to make trouble; I want to know what the idea is;" and he said, "I won't say a word;" and I said, "Grace," I said, "are you going steady with him?" and she said, "Yes, for five months;" he did not say anything, and, naturally, I felt bad and I cried and told her what had happened, and she seemed surprised, and said, "San, is that so?" and I said to her, "He does not say a word now; but when I have

Frieda Sturm, direct.

left, he will tell you I am lying;'' then I left them and I went home.

Q Then you sued him for breach of promise? A Yes, sir.

Q And then you made the criminal complaints against him? A Yes, sir.

Q Did you ever have sexual intercourse with the petitioner? A Yes, sir.

Q Under what circumstances; just tell the Court.

The Court: There has been a conviction, hasn't there?

Mr. Schotland: Yes, sir.

The Court: Proceed.

A That was before he gave me the ring; he used to cry and plead, and say ''It is all right; you are going to be my wife;'' he told me different stories.

Q Tell us what he told you? A He told me if I did not he had to go with other girls, and he did not want to take chances.

By the Court.

Q You had never had sexual intercourse with anyone else before? A No, sir, he always used to tell me that I was as pure as a lily, and all kinds of crazy things.

Further direct.

Q It is important for you to tell us just what happened and what he said, and what you said; so please compose yourself and tell us as clearly and as accurately as you can recall it? A I don't know what you want.

Frieda Sturm, direct.

By the Court.

Q Tell us how it came about that he had sexual intercourse with you the first time, how he induced you to have sexual intercourse, how he brought it about. What did he tell you— A He told me if I did not, that he would have to go with somebody else, and he did not want to do that; he said that we were going to be married and that it was all right; and I had no mother and no sister, and I believed him.

Q What did he say about marriage to you when he had sexual intercourse with you? Did he say anything to you about marrying you before you had sexual intercourse with him? A He said he could not get married until he could settle in business.

Q What did you have sexual intercourse with him for? A We were as good as engaged; I had been to his home; his sisters called me their sister—

Further direct.

Q Tell us all that he said to you that you started to say before, that he was going to marry you, and all that; just finish that conversation? A I did tell that.

Q Where was it? A In my home.

Q In what room? A In the bedroom.

Q And when was that? A That was the early part of 1922.

Q Was that the first time—the early part of 1922? A Yes, sir.

Q Had you ever had sexual intercourse with anyone before that? A No, sir.

Q Did he have any sexual intercourse with you after that? A Yes, sir.

Frieda Sturm, direct.

Q How often? A I could not say just how often.

Q About how often? A I used to see him almost every night, so I really could not say.

Q Was there anything further said on the other occasions about marrying? A He always spoke about marrying; he called me his wife; he wrote to me and signed "Your hubby."

Q Where is that letter and telegram? A I have it at home.

Q Did you get it back from the Court where it was used in evidence? A Yes, sir.

The Court: Get it in at another time.

Q You gave him money? A Yes, sir, that is all I ever did.

By the Court.

Q Did he ever give you any presents during your engagement? A Yes, sir, he gave me an onyx ring and a wrist watch.

Q Have you got those yet? A Yes, sir.

Q Did he take you out to theatres and other places? A I bought the tickets when we went to the theatres.

Further direct.

Q Who paid for the Rosebud Lunch? A He paid for that; sometimes I had to give him carfare.

Q What about the joint savings account; what bank was that in? A In the American National Bank.

Q Did he tell you what that was for? A He said he could not seem to save anything; so I suggested opening up a joint account; I had

one hundred dollars, and he deposited that; and every week I used to give him my pay or ask him to deposit it; and every week I used to give him my pay.

Q What were you saving that money for in that joint account? A So that we could have enough for a store or something; and then I drew some of it out towards my coat; my father gave me the rest; but whatever was in the bank there he had.

Q Did you get into trouble during the time he was keeping company with you?

Mr. Ward: I have not objected; he wanted her to marry up to the time of this trouble; up to the time she brought this suit against him.

Q (Question read.) Did you get into trouble? A Yes, sir.

Q When was that? A That was in 1923, around the fall.

Q What did you do about it, when you got into trouble? A I told him to get married and he said "No," it would not look right; he said he would take me to a doctor, and I would not go; and then he brought me something himself to take, and told me not to tell anybody, or we would both get in trouble, and I took what he brought me.

Q Did it work? A Yes, sir.

Q After that, did he continue to call on you? A At the end of that year he left me.

Q Did he say he was leaving you? A He said nothing at all.

Q And was it before that or after that, that you found him keeping company with this other

girl, when you went to the house there? A That was afterwards.

Q Did he call on you after you found him and the girl in her house at 12 o'clock at night? A No, sir.

Q Did he ever call on you after that? A No, sir.

Q Did you ever see him after that to talk to him before you started suit against him? A I did not, but my relatives did.

Q You yourself did not? A No, sir.

Q Did he come and offer to marry you when you started suit for breach of promise of marriage, civil suit? A No, sir, but when he came back to me in May he said he had heard that I was suing him; and I said, "No, I would not lower myself;" and he said "No," he did not think I would. I said to him, "I really should; everyone tells me to, but I would not do it;" and he said, "No, I did not think you would."

Q But after you saw him with the other girl, you did sue him? A Yes, sir.

Q After you did sue him for breach of promise, did he come to see you at all and offer to marry you? A No, sir, nothing at all.

Q Then you met him in the criminal court in Newark, New Jersey, at the trial, on his indictment, did you? A Yes, sir.

Q That is where you saw him? A Yes, sir.

Q Now, after he was convicted, tell us what happened in conection with getting married? A Judge Caffrey sent for me, and asked me if I was willing to marry him, and I said "Yes;" and he said, "Well, he is willing, too;" so it seemed as long as he was willing to make good—that is the only reason I did, and we got married.

Q You were married by Judge Caffrey? A Yes, sir.

Q Right after the marriage, where did you go? A We went downstairs; and he said, "Do you live with aunt Min?" and I said "Yes;" and he said, "I am busy, but I will come up to see you tomorrow or the day after;" I said, "Have you got a ring?" and he said "No, my sister has it, and she is outside;" I said, "Let me know when you are coming so I will be home;" and his brother-in-law said, "A married woman is supposed to be home all the time;" so I said, "You have to have a home to stay in;" and he said, "Well, that may come," real sarcastic; and that was the last time I saw him after that; I did not see him after that. Then on Friday, I called him up, and they told me he was not there; his brother-in-law said that, and I said if he did not come to see me, I would have to get to see him some other way; and then after that, he and his two brothers-in-law came there; the janitor rang the bell and said they wanted to see me; and my aunt went down, and she came up with them. Mr. Goodman, his brother-in-law, did all the talking; he said, "Why didn't she come to the mother?" and I said, "The mother had caused all the trouble with the money;" and we told them how my aunt had gone to Mr. Sturm and told him that they wanted to see his mother; and every time he told them to come up, the mother was out, and the house was locked, and they were down to the seashore; and my aunt asked him when he was going to furnish a home for me; and he said he was not in a position to do so; and I said, "If you were decent, I could work and help you;" and he said, "Don't be a coquette; don't try to vamp

me;" and he said, "I will give you five dollars a week;" and I said, "What can I do with five dollars a week?" and he said, "Go out with your boy friends;" I said, "I have no boy friends, and I am married now;" his brothers-in-law could hear, because they were out in the other room; he said he was only working two days a week, and he was not making much, and that he was in debt; and then I asked him for a ring; and he said, "I am very busy now, I work every night; the first night I get off, I will bring it up."

Q Did he ever bring you a ring? A No, sir, he never gave me a wedding ring, but he took my mother's ring and had it reset for an engagement ring.

Q Did he ever come to see you again after that conversation? A No, sir.

Q The only time that he ever came to see you after marrying you, was when you threatened to make him come to see you some other way, when he came with his two brothers-in-law? A I said to him five days after we were married, "Why did you take Miss Adelman home from your house the night after we were married?" and he did not know what to answer; and his brother-in-law said, "That was me;" just helped him out.

Q Did he send you any money for your support? A That was after I called him up again.

Q What did he send you then? A He sent me either five or six dollars by the Western Union; one week he would send it, and the next week he would not.

Q So what did you do? A Well, I waited until June, and when I saw he was not coming

around, and was doing as he pleased with his money, and I knew he was going with the other girl, then I went to Judge Brennan of the Court of Domestic Relations of Essex County.

Q How do you know he was going around with her? A Because people had seen him.

The Court: Strike that out.

A I did see him one night bring Miss Adelman home.

Q Was that girl in the court at his trial, too? A Yes, sir.

By the Court.

Q Is she here today? A No, sir; she was at the other trial, but she is not here today.

Q Has she been here at any of the hearings in this court? A No, sir, I did not see her.

Mr. Ward: I object to that as irrelevant.

The Court: Objection overruled.

Q Have you seen her here in this trial? A No, sir.

Further direct.

Q Did you get any better support through the Court? A Judge Brennan ordered him to pay $7.00 a week, and put him on probation, and he paid that some weeks; he is four weeks behind now; every week he brings it a day later until it runs into another week.

By Mr. Ward.

Q Do you say he is four weeks behind? A Yes, sir.

Frieda Sturm, direct.

Further direct.

Q Then you never lived together at all? A No, sir.

By the Court.

Q Did you ever have sexual intercourse with him since your marriage? A No, sir.

Further direct.

Q Did you ever have sexual relations with anyone other than your husband? A No, sir, I did not.

Q At any time, or any place, or any occasion? Never? A No, sir, never.

The Court: There has been no consummation of the marriage, then, according to her testimony?

Mr. Schotland: There has been no actual physical consummation—not after the ceremony, no. That is his testimony, too.

Q You say he never called on you other than on that one occasion after the marriage? A No, sir.

Q Did he ever call you on the telephone? A No, sir.

Q You heard him testify that he called you up on the telephone and told you not to run around with anybody? A He never did; he used to ride by my office and sneer at me, but he never spoke to me.

Q How long have you been working for Mr. Cook? A About a year.

Q Where were you working before that? A At home. I was not well and I was home.

Q Are you able to work steadily? A No, sir, I don't work steady.

Q Why not? A Because I am not well.

Q Did you ever put your arms around your employer or permit him to put his arms around you? A No, sir, I did not.

Q Did he ever make love to you? A No, sir.

Q Did you ever make love to him? Speaking of Mr. Cook? A No, sir, I did not.

Q Now, it has been testified that on May 24th, Saturday, at ten minutes after twelve at noon, you were in front of your employer's place of business, talking to him, and he put his arm around you and led you back into the office in the rear. Did any such thing ever happen? A You mean into the office or into the rear? I walked into the office with him but not with his arm around me.

Q You had been out in front and talked to him? A Yes, sir.

Q And you had walked into the office with him? A No, sir. On Saturdays Mrs. Cook is always there all day long. No, sir, I did not.

Q You walked into the office with him, of course? A I have walked into the office with him.

Q Did you ever walk into the office with his arm around you? A No, sir.

Q And on that Saturday, May 24th, it has been testified that you then did some typewriting in the office, and that while you were typewriting your employer had his arm on your shoulder. Do you remember that? A No, sir, that never happened.

Q And that he whispered something to you, and then you and he went back into the rear out of sight of anybody from the street. Did that ever happen? A No, sir, it did not.

Q Did you ever go back into the shop with your employer? A Not with him, no, sir.

Q What is there in back of that office? A Junk, and then back of that is the shop where the men work; most of them are colored fellows, and there are two white fellows.

Q How many men work there on the average? A About twelve or fifteen or twenty; it all depends on the season.

Q Are there any men there a little after 12:00 on a Saturday? A Saturdays in summer they work until 1:00 o'clock, and they are off in the afternoon, mostly Saturdays.

Q Did you ever go back in the rear, into the shop, with your employer? A No, sir, I did not.

Q It has been testified that on that one Saturday, May 24th, you then came out after about ten minutes and got into a Chevrolet car, and your employer drove with you in front of where you lived at 322 Belmont avenue, and that you both sat in the car and fooled around with each other. Did that ever happen? A No, sir.

Q Has your employer ever taken you home? A Yes, sir, quite often.

Q On a Saturday? A Well, not usually on Saturdays, unless he happens to be going to the store on Clinton avenue and past my house. It is a ten minutes' walk to my house and so he takes me.

Q Was it a Chevrolet car? A He never had a Chevrolet.

Q What kind of a car was it as long as you have known him? A He has had a Ford and a Cleveland sedan.

Q It has been testified here that on the 26th of May, two days later—that would make it on a Monday—you went out in a Cleveland sedan? A That has happened.

Q On any occasions did your employer ever make any advances to you? A No, sir, he never has.

Q Did he ever show any affection for you? A No, sir; only friendly; that is all.

Q Has he ever kissed you or hugged you or anything like that? A No, sir.

Q Has he ever proposed that you kiss him? A No, sir, he has not.

Q Did you ever kiss or hug him? A No, sir.

Q Did you ever have any improper relations with him? A No, sir.

Q It has been testified here that on May 28th, about 7:00 o'clock in the evening, you and the young lady—that young lady has since been identified as your cousin, Miss Edelstein—walked from your house to 85 Rose Terrace. Do you remember that occasion? A Yes, sir, I do.

Q Now, you tell us just exactly what happened that entire evening after you started out from your house with your cousin at 7:00 o'clock? A About 7:00 o'clock Helen and I went up to see Mrs. Slutsky at 82 Rose Terrace. I don't remember what we went for, but I remember I had to see her for something; and we went there, and we were up there twenty minutes or half an hour, and then we walked down towards my home, and it was early in the evening; it was a warm summer night; and Helen said take a walk, so we walked down; and when we passed the Studebaker showroom Helen's sweetheart saw her and he came out, and then he called his friend out; he was going to take Helen home, but she did not mind if he took Tom home first; so we got into the car and Helen sat with her sweetheart and I sat in the back with Mr. Kenny. I don't know who suggested going to see where the hotel burned down, but we went around there

and we parked the car near Halsey street. We got out of the car and walked around and talked for a while, not more than fifteen or twenty minutes; and we got into the car and then we rode towards Elizabeth, and when we got near the entrance of the park there was a refreshment stand there, and we stopped there for a drink, and then we rode straight to Elizabeth, and through Elizabeth avenue, and took Mr. Kenny home.

By the Court.

Q Did you kiss or hug him that night? A No, sir; that was the first time I had met him.

Further direct.

Q Proceed. A I did not have much to say to him because I did not know him. He was speaking to them most of the time.

Q Before you got to Rose Terrace it has been testified you went to a drug store and your cousin did some telephoning. Do you recall that? A Yes, sir.

Q When you were in the Studebaker car with Mr. Kenny in the back seat did you sit on his lap? A No, sir, I did not.

Q Did you ever sit on his lap? A No, sir.

Q Did you hug and kiss each other? A No, sir.

Q Did your cousin and her friend hug and kiss each other in the park? A No, sir, they did not.

Q Now, when you got to William street you parked. Do you remember how far from Halsey street you parked? A It was right near the corner. I think there were cars in back of us. They kept coming and going.

Q What night was that that you met Mr. Kenny? A I think it was the 29th of May, Thursday night; that is what I have in my diary.

Mr. Ward: I ask that the last be stricken out.

The Court: Strike it out.

Q Did you ever meet Mr. Kenny or go out in a car when he was alone on any other occasions? A No, sir, that is the only time.

Q Now, when a man was described as having been in the car by the witnesses for the petitioner, in the Studebaker car, when you went to see the ruins of this hotel, did you at that time know who the man was. Did you remember who it was? A No, sir, I did not. I knew it was a friend of Mr. Koplin's, but I did not know who he was. I did not even remember his name.

Q When did you find out just who he was and his full name? A Tuesday night; I called up Mr. Koplin and asked him if he could get him.

Q When did you make arrangements for Mr. Koplin to get him? A Last night I asked Mr. Koplin.

Q Give us the time? A Yesterday, here in court.

Q Did you hear any arrangements or any attempted arrangements made by me with Mr. Koplin?

Mr. Ward: Objected to as irrelevant and immaterial.

The Court: There is no question raised about the matter, anyhow. I don't think you need to go any further.

Mr. Schotland: I want to show that neither the defendant or I knew who the man

was or where to locate him until the story was sufficiently brought out in court.

The Court: It was brought out yesterday that he lived in Elizabeth. I cannot recall who it was brought it out that he lived in Elizabeth and the street where he lived, where they had taken him to and so on.

Q What did you do when you got to William street in the Studebaker car? A They parked the car and we got out.

Mr. Ward: She has described all right.

By the Court.

Q Did you see any officers of the law there? A There were people guarding the place, but whether they were policemen or firemen I don't know; they had uniforms on.

Further direct.

Q When Mr. Kenny got out did you kiss him good-bye? A No, sir.

Q Did you get out of the car on the sidewalk? A No, sir.

Q Did you ever kiss Mr. Kenny? A No, sir, I have never kissed him.

Q You have never had any sexual intercourse with him? A No, sir.

By the Court.

Q You did not have any sexual relations with him in the car that night? A No, sir, never.

Further direct.

Q It has been testified that on Saturday, May 31st, your employer got into a car with you in

front of your place of employment, at about twenty minutes after twelve at noon, and went up with you into your apartment, where he stayed from twenty to twenty-five minutes. Did that ever happen? A I did not work that day.

Q Did it ever happen? A No, sir, it did not.

Q Did your employer ever go with you up to your apartment at any time? A No, sir, he did not.

Q Was he ever in your apartment when you were there? A Yes, sir.

Q On what occasions? A When I go home for lunch his little girl runs after me and wants to go home with me, so a few times I took her home for lunch, and if he happened to pass my home he called for both of us; and if it happened to be in the evening he would come and take her home, and that was all.

Q When he came there who else would be there? A My aunt is always home at noon.

Q You never came into your apartment together? A No, sir, not with him.

Q Now, it has been testified also that one June 7th you met your employer at the corner of Livingston street—that is the corner where he has his place of business? You got into a car and that you drove to the Colden Motor Corporation, and then towards Millburn, where the followers lost you in traffic. Is that true? A That is not true.

Q Did he ever take you to the Colden Motor Corporation? A Yes, sir, he drove me past there.

Q Why did you go past there? A That is the time that I had been before Judge Brennan and Mr. Sturm had claimed he was not working, and I asked Mr. Cook to drive me past there to see if Mr. Sturm was there in the garage.

Q Was he there? A Yes, sir; he was sitting at the telephone; twice I went by; once he was sitting at the telephone and once I did not see him; and then Mr. Cook turned around and took me home; and once I went with him to the Bush-Goerke Motor Company, and I passed the garage going back that time. Those are the only times.

Q Now, who is the Morris that you took a walk with—the date has been stated as the 18th of June? A That was my cousin.

Q You mean the one that was here on the witness stand? A Yes, sir.

Q What is his full name? A Morris Feldman.

Q How old is he? A Twenty-one or twenty-two.

Q Have you testified how old you are? A Yes, sir.

Q How old were you when your husband started to keep company with you? A Just passed my seventeenth birthday.

Q Now, just tell us what you did on the occasion when you walked with Morris Feldman up to Ridgewood avenue? A My aunt and I came from the house and we met Morris and my other cousin, Marion; and it looked very cloudy and we were afraid to go away from the house; so we walked down to the corner and I said to Morris, "Come around the block."

Q Where did you go to? A To Ridgewood avenue, where Miss Adelman lives, to see if my husband was around there, and he walked around with me, and I did not see my husband, but she was sitting on the porch; and we walked around the block and just came back to the square and sat there.

Q Did he have his arms around you? A I think I did hold his arm; I put my arm through his; that was all.

Q Did he ever make love to you? A No, sir.

Q Or you to him? A No, sir.

Q Did you ever kiss each other? A I think I have kissed him twice; I am sure I did; he did not kiss me.

Q Did you ever have sexual intercourse with him? A No, sir.

Q Now, on June 20th—that is the occasion when Mr. Sturm was attempting to get into your apartment when you called the janitor—just tell us what happened from the time you started from your house? A On June 20th I was in my office during the day, and then Mr. Zimmel, that I had known for years, came to the place across the street to buy parts for his car, and he happened to look over and see me there; and he came over and spoke to me, and I told him everything.

Mr. Ward: I object to what she told him.

Mr. Schotland: She ought to be permitted to put on the record what things she told him about—to explain the conduct and what they did.

Mr. Ward: I know of no rule of evidence which will permit that.

The Court: I do not think she ought to be permitted to do it, if you object.

Mr. Schotland: This is a situation where I think, in order to get our version before the Court, the witness ought to be permitted—

Mr. Ward: I object.

The Court: The objection is sustained.

Frieda Sturm, direct.

Q Who is this young man Zimmel? A His cousins were my girl friends, and I know his whole family.

Q How long have you known him? A Ever since I was fifteen.

Q Did you ever keep company with him? A Not steady company.

Q Did he ever call on you and take you out at all? A A few times.

Q Before or after you started to keep company with the petitioner? A Before.

Q Did he ever call on you and take you out after you started to keep company with the petitioner? A No, sir.

Q How long before this June 20th a time elapsed that you saw Mr. Zimmel? A You mean to speak to?

Q Yes. A I don't know; I think about a year and a half or two years.

Q You had not seen him to speak to for a year and a half or two years? A No, sir.

Q So on this occasion you did talk to him? A Yes, sir, I did.

Q Now, don't give the conversation, but did you talk to him about your affairs? A Yes, sir, I did.

Q Now, as a result of your conversation with him, did you make any appointment with him? A Yes, sir, I made an appointment.

Q For when? A For that evening.

Q For whom? A For my aunt and myself.

Q To meet him where? A At Irvington Centre.

Q To go where and to do what? A To go to a certain address at Irvington, where I heard my husband met this girl, and to follow them; and in order to save time I told him—

Frieda Sturm, direct.

Mr. Ward: I object to what was said.

By the Court.

Q What was the object of following your husband? A To see if he really did go with this girl; I wanted to convince myself about it.

Q You went to follow him? A Yes, sir.

Q Why did you make the appointment with Mr. Zimmel for the purpose of your following him? A Because he has a car, and I don't know any other fellows with cars, and he is an old friend.

By the Court.

Q You had not seen him in a year and a half? A He was still a friend of mine.

Q Had you corresponded with him? A No, sir, never; that is, when first I met him I did.

Q What is his business? A He is in a music store in Roselle.

Further direct.

Q Did you meet him that night with your aunt? A When I got home my aunt could not go as she had an appointment.

Q She gave you instructions?

Mr. Ward: Objected to as leading.

The Court: The rule is very broad, and we don't want to limit anything about the case, but we don't want self-serving declaraitons if we can help it, and we don't want hearsay; but I want to get the whole story in.

By the Court.

Q What did you do? A I went to Irvington myself to meet him and told him I could not go with him.

Frieda Sturm, direct.

Mr. Ward: I object.

A Well, I went up myself.

Q And you went to Irvington Centre? A Yes, sir.

Q Did you see your husband? A My aunt did not go, so I did not go to follow him.

Further direct.

Q Was that the appointment to meet Mr. Zimmel at Irvington Centre? A Yes, sir.

Q Where does he live? A He lives in Irvington.

By the Court.

Q Was he there? A No, sir, I had to wait for him.

Q Did he come? A Yes, sir.

Q What did you do when he came? A His car was not fixed and he could not go, and that is why he came late, and I had to wait for him; he took me home; he did not have his car and he took me home in the bus, and riding down when we passed my street I did not notice my aunt sitting in the little square, and he wanted to see her; and I said I did not want to go up to the house alone, so we went down a little ways down Broad street, and we stood there and talked a little while; then I thought my aunt would be back by this, and then we got on the bus and rode up, and I got off at Hillside avenue, and I sent him to my home.

Q You got out at Hillside avenue—where did Zimmel go? A He went to my house, and I went to see if my aunt was sitting in the square to call her. I did not want to go up to the house with him alone. She was sitting there, but she was waiting for somebody.

Frieda Sturm, direct.

Further direct.

Q As a result of what she told you, what did you do? A I went up and she was to follow as soon as this party came.

Q As a result of what your aunt told you when you found her sitting in the square, what did you do? A I went up to the house.

Q Where was Zimmel when you got there? A He was standing outside; there was no one home.

Q Did he try the door? A I don't know.

By the Court.

Q Did you both go in together? A Yes, sir.

Q Was anyone in the apartment? A No, sir.

Q Did you lock the door? A The door locks itself.

Q How did you get in? A With my key.

Q About how long did you stay in there alone with Zimmel? A Not more than ten or fifteen minutes, and then my aunt came in.

Q You say you got off at Hillside avenue? A Yes, sir, I usually got off there, because then I don't have to cross through the park.

Q The park extends between what streets? A Between Madison and Clinton avenue and between Belmont and near Hillside.

Further direct.

Q When you got in what room did you go to? A We went through the hall to the kitchen and went to the living room. I lit the lights as I passed each room.

Q How many bedrooms are in that apartment? A Two.

By the Court.

Q What happened as you got into the living room? A I had just taken my hat and coat off—

Frieda Sturm, direct.

Q Why didn't you tell Zimmel to wait outside until your aunt came home? A I did not see anything wrong in it.

Q Had he been mentioned in the case in the trial before Judge Caffrey? A Yes, sir.

Further direct.

Q What happened? A Somebody knocked on the door, and on my way to the door I said, "Who is there?" and a man said "Mr. Smith," and I said "I think you have the wrong party;" and he said, "No, I want you to open that door;" and Mr. Zimmel said, "Let me open it;" and I said, "No;" and I said, "You had better get away;" and he said, "No, I won't," and he kept knocking on the door, and I rang for the janitor and asked him to see who it was, and then I heard a woman yelling, saying, "We want that woman; she is in there with a man, and she is married."

Q Did you hear Mr. Sturm talking? A I did not hear Mr. Sturm's voice at all.

Q Did you go into any bedroom at all with Mr. Zimmel? A No, sir, I did not.

Q Did you have sexual intercourse with him? A No, sir.

Q Were you standing in the bedroom facing the yard near the window with your arm around Zimmel and he in his shirt sleeves? A No, sir.

Q Were you in that bedroom at all? A No, sir.

Q Whose room is that? A Mrs. Popovics'.

Q Did Mr. Zimmel take off his coat and vest and appear in his shirt sleeves in that apartment at all? A No, sir.

Frieda Sturm, direct.

By the Court.

Q Why was it you picked Zimmel to go down and follow your husband? A He had a car, and I had no one else to help me; he was always like a brother to me.

Further direct.

Q He was at that time keeping company with another girl? A Yes, sir, and he has had his honeymoon now with her.

Q Did your husband, the petitioner, know Zimmel? A Yes, sir, he knew him.

Q How long had he known him? A I introduced him shortly after we started to keep company.

Q Where did you introduce Zimmel to him? A In front of Mr. Zimmel's home.

Q Where is that? A At Springfield avenue, Irvington.

Q Now, how long a period of time elapsed from the time that you and Mr. Zimmel entered the apartment until somebody knocked at the door and demanded admission? A That was about two minutes. I had just taken my hat and coat off when they knocked.

Q Was there a light in the bedroom facing the yard? A No, sir.

Q Was there a light in it when you got into the apartment? A No, sir.

Q Is there a dim light in there? A No, sir.

Q Or any apparatus for making a dim light? A No, sir.

Q Where is your bedroom in that apartment? A Off the living room, on the other side, facing the court.

Q Can your bedroom be seen, or any part of it, from the yard? A No, sir, not from the yard.

Frieda Sturm, cross.

Q Did you embrace Zimmel? A No, sir.

Q Did you ever embrace him? A No, sir.

Q Did you ever hug him and kiss him? A No, sir, I did not.

Q Did he ever hug and kiss you? A No, sir.

Q Did you ever make reference to do either? A No, sir.

Q Now, what happened after you refused to open the door when all this noise was created? A They kept knocking, and then my aunt came in.

Q What happened to you? A I was crying, and she wanted to go out and call up somebody, but she did not want to leave me alone; and five minutes later Angela came in; that is Mrs. Popvics.

Q After she came in was anyone sent for? A Then my aunt went downstairs.

Q As a result of that did somebody come? A Yes, sir.

Q Who? A The young Mr. Slutsky came up.

Q The one that was here yesterday afternoon? A Yes, sir.

Q What became of Zimmel? A They both stayed there a little while and then Mr. Slutsky and Mr. Zimmel went out together.

Mr. Schotland: Will you permit me to ask this witness why Zimmel agreed to use his car and take her and her aunt to follow the petitioner?

The Court: That is ruled out.

Cross examination by Mr. Ward.

Q Now, Mrs. Sturm, after having met Mr. Sturm, you say on the second occasion you went

out with him he asked you to marry him? A Yes, sir.

Q And he was very devoted to you, wasn't he? A Yes, sir, in the beginning.

Q He seemed to love you very much? A Yes, sir.

Q That is correct? A Yes, sir.

Q And he even went so far as to attempt to placate his mother by showing her that you had $2,000; that is true, isn't it? A Yes, sir.

Q You and he agreed or arranged to show her a bank book, so that she would consent to his marriage to you; that is true, isn't it? A Yes, sir.

Q And he took you and introduced you to his family? A Yes, sir.

Q And at the wedding of his sister in June, 1921, you were the only person outside of the members of his family who was present; that is true, isn't it? A No, sir.

Q You were there? A Yes, sir.

Q Isn't it true that there were only the immediate members of his family who attended his sister Rose's wedding? A That is not true.

Q Do you remember Thanksgiving Eve, 1921, there was another sister who was married, and at that time there were only the immediate members of his family present? A That time I don't remember.

Q Do you remember when his sister was married on Thanksgiving Eve, 1921? A 1922.

Q No, I mean 1921. A Yes, sir.

Q And you were the only person outside of his family who was present? A His brother's sweetheart was there, and I think there were other strangers.

Q Then you remember on the 21st of February, 1922, Washington's Birthday, his brother was married and you were present? A Yes, sir.

Q And only the immediate members of his family were present then? A No, sir, Mr. Zimmel was there also.

Q You were received by his family, were you not? A Yes, sir.

Q And received pleasantly and agreeably, were you not? A Well, the same way they received anyone else.

Q Were you not taken into the home by his eldest sister when you were sick and nursed and taken care of? A I was taken in; yes, sir; that was his brother's home, not his sister's.

Q And isn't it true that you were invited out by the family on different occasions, and taken on trips and rides, and so forth, with the other members of his family? A When he took them along, yes.

Q And isn't it true that in the winter of 1921 that San and his brother contributed money to the purchase of the very coat that you have got on? A I should say not.

Q I beg your pardon—his sister, Mrs. Goodman? A No, sir, she never gave me anything.

Q She received you in her home, didn't she? A No, sir; she never liked me from the beginning; I was there twice.

Q Isn't she the eldest sister? A Yes, sir.

Q Isn't she the one that nursed you when you were sick? A No, sir, I never stayed in her home.

Q But it is true, isn't it, that when you were taken ill and you were living in the rear of the candy store owned by your father, that you were receiving no medical aid; that is true, isn't it? A I did not want it.

Q And isn't it true that San took you to his eldest brother's home and had you nursed and procured medical aid for you there? A He called the doctor.

Q Didn't they attend to your wants? A No, sir; I was up and around; I was only in bed one or two days and then I got up.

Q That was at the home of his brother? A Yes, sir.

Q And isn't it true that you remained at that home for a period of two months? A It might have been.

Q And you were attended by Dr. Otto Lowitz, the family physician of the Sturms? A He is one of them.

Q Well, the bill was paid by the Sturm family. It was not paid by you? A Mr. Sturm paid with my money.

Q It was not paid by you? A Not to the doctor, no, sir.

Q You did not pay any board there? A Yes, sir, I did. I returned the money to him.

Q Now, Mrs. Sturm, you say you were giving your salary to him, and that you were also giving him money all the time; you knew he was making $50.00 a week at that time? A Yes, sir.

Q And you knew he had had a bank account for four years? A I knew he had a bank account.

Q Didn't he go down and change the bank account that he had in his name and change it into your name and his name? A At my suggestion, yes, sir.

Q At that time, or during that period of time, Mr. Sturm was with you every night, wasn't he? A At the time that I was sick.

Q During the period of time I referred to in 1921-1922? A That I lived with his brother?

Q No; 1921 and 1922, when he was courting you? A Yes, sir.

Q And he was very attentive to you. Was he with you every night? A I saw him almost every day.

Q Wasn't he there almost every night— A He often did not come down at night.

Q He was very loving and very attentive to you? A Yes, sir, in the beginning.

Q Then do you remember he took your mother's ring and had it reset for the engagement ring; that is true, isn't it? A Yes, sir.

Q And isn't it true that the first trouble that you had was about that ring—when he wanted you to go up and show that ring to his mother; isn't that true? A We had a little argument about it.

Q He gave you the ring at the garage? A Yes, sir.

Q Then he wanted you to show the ring to his mother? A Yes, sir.

Q And you refused to do it? A No, sir, I did not.

Q You said you would not go up there, didn't you? A No, sir.

Q What did you say that caused the trouble? A His mother was not home that night and I said, "There is no use of your taking the ring; I will come up tomorrow and show it to her myself."

Q Didn't you tell him you did not care whether his family saw it or not? A Yes, sir.

Q Didn't you try to slap his face? A Yes, sir.

Q And it was then that a coolness arose between you over that quarrel? A No, sir; that was not the first quarrel we had had.

Q Wasn't it from that time on that he ceased seeing you? A No, sir.

Q When was that? A It was a couple of months later.

Q When you tried to slap his face, were you not angry with each other from that time on? A No, sir, that same night we went to Proctor's, and he took me out to dinner; I did not want to go; I was crying.

Q Isn't it true that you slapped his face, and then you went out of the garage, and then you went back and continued to quarrel with him and slapped his face again? A No, sir, that is not true.

Q Did you go out and come back? A He would not let me out.

Q Did you go out and come back? A No, sir.

Q You did not go out and come back? A No, sir.

Q Didn't you go home that night and stay there? A No, sir, I did not.

Q Then you say he came to you at one time and told you he was sick? A Yes, sir.

Q And he told you to marry Zimmel, you say? A Yes, sir.

Q So that there had been much talk between you and him about Zimmel? A No, sir.

Q You had gone round with Zimmel for two years? A No, sir, I did not.

Q Do you remember testifying at the trial of the State *v.* Sturm, for seduction, page 22 (reading): "Ans. Well, when I moved to Newark in September, 1919, he did not know where I had moved to, and when he found out through his cousin, who was a friend of mine, he came to see me."? A That was 1920.

Q 1919, the answer was; that is true, isn't it? A Yes, sir.

Q Referring to Zimmel—that referred to Zimmel? A Yes, sir, it did.

Q Then do you remember being asked: "Ques. How often did you go with him during that year?" "Ans. Well, maybe once every few weeks;" do you remember testifying to that? A No, sir, I said a few times.

Q Do you say you did not testify that you went out with him every few weeks? A I don't remember that I said it.

Q Do you remember this question being asked you: "And you went with him, off and on, until April of 1920, when you met Mr. Sturm?" and you answered, "Ans. I went with him until then; I did not see him for a few months, and he came around in about July."? A That was taken up wrong.

Q Now, you testified that you did not see him at all after you met Mr. Sturm? A I met him at Mr. Sturm's brother's wedding.

Q Didn't you testify in Newark, New Jersey, at the trial referred to, page 23, "Ans. No, I had not seen him for one or two months before that, and when he came in, he came in the evening; he was there for a little while, and he was going home, and he asked me when I could see him, and I said, 'Didn't you hear anything?' and he said, 'No, what is it?' because his cousins are my girl friends, and I said, 'Didn't Hilda tell you I was keeping steady company?' " A That is when I told him I was keeping company, and not to come around any more.

Q Then he did come to see you after you started to keep steady company with Mr. Sturm, didn't he? A Yes, sir, he did.

Frieda Sturm, cross.

Q You said on direct examination, that you never saw him to talk to, or he never came to see you after you started to keep company with Mr. Sturm; that is not true, is it? A I forgot that time.

Q So then, there had been considerable discussion between you and Mr. Sturm about Zimmel, hadn't there? A No, sir, none at all.

Q You had never mentioned Zimmel to him? A Yes, sir, I had.

Q Had you told Sturm you had been going around with Zimmel for two years? A I never went with him for two years, but I told him I had been out with Zimmel.

Q Now, then, after Mr. Sturm told you that he was sick, I understood you to say you did not see him again until Christmas, 1922; is that right? A No, sir, I said that was the last that I had seen him.

Q So that around Christmas, 1922, was the last time that you saw him? A Yes, sir.

Q According to your statement, had you already had sexual intercourse with him? A Yes, sir.

Q And then according to you, although he stopped seeing you around Christmas, at that time you made no complaint against him or did not attempt to do anything to have him prosecuted, did you? A I thought he was sick.

Q Did you or did you not? A No, sir, I did not.

Q And then you waited until May, 1923, didn't you; and then of his own accord Mr. Sturm came back to you, didn't he? A Yes, sir, he did.

Q And he told you he was in trouble in New York about having run over some men with a truck? A In Pennsylvania, it should be.

Frieda Sturm, cross.

Q And he wanted you to go to New York then and marry him? A No, sir, after he came back from the trial. He said "If everything is all right, will you go to New York and marry me?" and I said, "Why New York?" and he said, "There you can get your license and get married the same day."

Q Didn't you state on your direct examination, that on the first occasion before he told you about his trouble, when he came back to you in May, that he wanted you to go to New York, and you told him that he had deceived you so much that you did not know? A I said, "Yes," but I did not know whether to believe him or not.

Q Didn't you say on your direct examination that you told him you did not know whether to believe him or not, and you did not know when he asked you to marry him? A That was the second time.

Q Then he wanted you to go to Elmira? A Yes, sir.

Q And it was then you told him you did not know whether you would, because he had deceived you? A Yes, sir.

Q So that, although you say he had had sexual intercourse with you, and although he had been greatly in love with you and he wanted you to marry him, you did not know whether you would or not? A I did not know whether he was telling the truth or not.

By the Court.

Q Why didn't you try him out? A He never got that far.

Q When he suggested to you going to New York State, you did not try him out, did you? A He said that when he came back from

Pennsylvania after the trial, he would take me to New York and marry me.

Q But did he ever, after he came back from the trial, ask you to go to New York? A He did not come to see me any more.

Further cross.

Q Didn't he send you a telegram from Pennsylvania, announcing his acquittal up there? A Yes, sir and he called me up and told me, but he never came.

Q Although he had voluntarily come back in May of that year, without your seeking him out, and although he had sent you a telegram from Pennsylvania, and although he had telephoned to you when he came back to Newark, you say he never came to see you? A He did not.

RECESS TO 2:00 P. M.

AFTER RECESS.

MRS. FRIEDA STURM, resumes the witness stand.

Cross examination (continued) by Mr. Ward.

Q What was it you said about taking your mother's ring and having it reset? A He took my mother's ring and had it reset, and he gave it to me, but he wanted it back to show it to his mother, and she was not home that night: so I told him I would go up the next day and show it to her myself; but he did not ask me to do so, and so I did not go; and he gave me the ring that night.

Q Now, then, Mrs. Sturm, it was not until after you had ceased to see Mr. Sturm in May, and after this case in Pennsylvania, and after he had telephoned to you, that you contemplated taking any action against him; is that right? A That is right.

Q And when was it that you first took any proceedings against him? A I think it was the 1st of August.

Q So that you waited from May until August, didn't you? A Yes, sir.

Q Well, you say he came back to you in May? A Well, I had been to this girl's house.

Q He came back to you in May? A Yes, sir.

Q And then you say he went to Pennsylvania and had this trial? A Yes, sir.

Q And he telephoned to you? A Yes, sir.

Q And did not come to see you? A No, sir.

Q And that all occurred in May, didn't it? A April and May.

Q And then you allowed the rest of May and June and July and part of August go by before you took any action against him at all? A I was trying to see him.

Q But it is true that you did not take any action until August? A At the end of July.

Q And at that time you don't claim to have been in the family way? A No, sir, I did not think that was necessary.

Q As a matter of fact, when you instituted proceedings against him, you were not in the family way? A No, sir, not then.

Q And the first thing you did was to sue him for breach of promise? A Yes, sir.

Q How long after that was it that you had him arrested for fornication? A I did not

Frieda Sturm, cross.

have him arrested at all; I don't know how long it was.

Q You did swear to a complaint charging him with having committed fornication with you? A Yes, sir, I did.

Mr. Schotland: She appeared before the Grand Jury under an arraignment; she did not make any complaint.

By the Court.

Q How did you come to appear in court against your husband? A (No answer.)

Further cross.

Q You did charge him first with fornication? A Yes, sir.

Q And you did not mention the seduction? A No, sir.

Q And then later on you charged him with seduction? A Yes, sir.

Q And isn't it true, that when he did not come around to see you with reference to the breach of promise case, that you then made up your mind to appear before the Grand Jury? A I don't remember that.

Q And when you made the charge of fornication against him, then when he did not come around, isn't it true you then determined you would make the more serious charge of seduction against him? A No, sir, I did not determine it; I did not mean to tell that, but it slipped.

Q It did not slip the first time when they brought in an indictment for fornication against him, did it? A No, sir.

Q So then there were those three distinct proceedings that you instituted against this man,

were there not, before you married him; the civil suit for alienation; the criminal case for fornication, and the criminal case for seduction?

Mr. Schotland: You mean breach of promise.

Q Yes, breach of promise; that is true, isn't it? A Yes, sir.

Q And then when he married you he asked you where you were living, didn't he? A He said, "Are you living with aunt Min?"

Q Then he said he would come up to see you? A Yes, sir.

Q And later on, he did come up to see you? A I sent for him.

Q There had been threats made against him, hadn't there? A Not by me.

Q You knew of this letter that had been written to him from Brooklyn? A No, sir.

Q Didn't he mention it to you, and didn't you say who it came from, if it came from Brooklyn? A No, sir.

Q Were you not present as late as today when Mr. Koplin, in walking out of the door of this court room, said "If he wins, I will kill him?" Didn't you hear Mr. Koplin say that? A I did not walk out with him.

Q How near to Mr. Koplin were you when you walked out? A I was at the door, and he was standing there with Mr. Schotland and Mr. Kenny, and I was out of the door.

Q Do you know Mr. Koplin has made threats against your husband's life, and threatened to kill him if he wins this case? A No, sir, I don't know that.

Q Mrs. Sturm, I notice you are laughing; you don't think it is a joke, do you? A No, sir, it is no joke.

Q Now, when Mr. Goodman and Mr. Lavine and your husband came up to see you, it is true, isn't it, that you did tell him you were sorry you had brought those proceedings against him? A I did not.

Q Were you not sorry? A No, sir, I fought for my name, and I won it.

Q Didn't you love your husband then? A I don't know whether I did or not.

Q Now, what time of night was it when they came up? A About 10:00 o'clock.

Q And you felt pretty bitterly towards him? A The way they spoke, yes.

Q You just said when your husband came up to see you that night, the first time you saw him after you were married, you did not know whether you loved him or not? A Yes, sir.

Q And after he left you, you did not know whether he loved you or not? A I never thought about it.

Q After he left you, you even felt worse towards him? A No, sir.

Q Didn't it make you feel worse towards him that he would not live with you, and care less for him? A No, sir, it did not.

Q Up to that time he had not said anything about not living with you; yet, when he came up that night, you did not know whether you loved him or not, did you? A It was a funny feeling, naturally, after what had happened.

Q And after he left and you did not see him, you even felt worse towards him, didn't you, naturally? A No, sir, I did not.

Q Did you love him more? A Not more, no, sir.

Q You loved him less, then? A No, sir, just the same.

Q Just indifferent; that was it, wasn't it? A Not exactly that.

Q Now, as a matter of fact when your husband came to see you that night, were you not all dressed ready to go out? A I had just come in.

Q Then you did not expect him? A I did; that is why I came home.

Q That is the reason you came home? A Yes, sir.

Q Then you were not just ready to go out then? A No, sir; I called him and came right home.

Q And even when you called him on that occasion, you threatened him? A No, sir, I did not.

Q Didn't I understand you to say on your direct examination, that you told him if he did not come you would find a way to make him come? A Yes, sir, but that was not a threat.

Q What way did you have in mind to make him come, if it was not a threat? A I just said it because I knew he would come if I said that.

Q You had it in mind to take him to court again? A No, sir.

Q How long was it after you were married that he came to see you? A Five days afterwards.

Q I think you said also on your direct examination, if I am not mistaken, that Mr. Goodman told you it would be impossible for your husband to live with you at that time? A He did not say "at that time."

Q Wasn't there a discussion, and didn't you suggest buying furniture on the installment plan? A No, sir.

Q Didn't your aunt suggest it? A Yes, sir.

Q So there was talk of your living together? A They did not, but she did.

Q Didn't they say he could not afford to buy the furniture, and furnish a home for you, and was not that the reason your aunt suggested the installment plan? A That is what he said.

Q So then their plan was that he should wait until he could furnish a home for you; and your aunt's plan was that he could furnish a home right away on the installment plan? A His brother-in-law said it was out of the question, "living with her was out of the question," he said.

Q So then at that time, Mrs. Sturm, your husband was talking about living with you some time in the future, wasn't he? A Well, he did not say anything about the future.

Q Didn't you just say that that was what he said, that he could not furnish a home just then? A He did not say that he could at any other time.

Q He said he could not live with you just then? A Yes, sir.

Q He told you he was deeply in debt? A Yes, sir.

Q And he told you he wanted to get out of that debt, didn't he? A Yes, sir.

Q He told you he wanted to clear himself of this debt that he had contracted, before he got a home for you; that is true, isn't it? A Yes, sir.

Q You also said, that when he seduced you, in answer to his Honor's question as to why you had permitted it, that you were as good as engaged? A As good as married, I said.

Q Do you mean you were as good as engaged at that time? A Yes, sir.

Frieda Sturm, cross.

Q So that you mean then, that although you were not actually engaged, you were as good as engaged; is that it? A Yes, sir.

Q And that was in the early part of 1922? A Yes, sir, it was.

Q Where did this alleged act of seduction take place? A In my home.

Q And as a matter of fact, your father, at the time you allege this act took place, had sold the store, hadn't he? A He had another store then.

Q He had sold the store where you were living at the time of this alleged act of seduction? A No, sir, he had just bought it.

Q There was another family living right in that place? A They were there for two weeks.

Q And when you say he seduced you, this other family was living in the same rooms? A They had their things there, but they did not live there.

Q Were they not staying there and living there? A They were there, and they went out for days at a time looking for a place to move to, and they did not come home nights sometimes; they were not there long.

Q Did this act of seduction that you allege, take place right in the room right back of the store? A No, sir, it was in my bedroom.

Q With this other family living in the same place? A They were not there then.

Mr. Schotland: Is the issue as to whether or not he was guilty of seduction?

The Court: It is cross examination; I don't think there is any issue raised by Mr. Ward as yet.

Mr. Schotland: On the direct examination, I simply rebutted what your Honor allowed over my objection on the main case of the direct, of the petitioner. You are not going to make an issue on the question of whether he was guilty of seduction or not?

Mr. Ward: No.

Q Before you were married by Judge Caffrey, did you ever write to Mr. Sturm and tell him to stay away from you? A Yes, sir, I did.

Q And that was in January, 1923, wasn't it? A That was in April, 1922.

Q April, 1922? Why, you said you did not see him until May, 1922? A That was 1923, May, 1923.

Q What was the occasion of your writing to him? A He was going in business in April, 1922, and he wanted money, and my father noticed that he had not been acting just right, and he did not want to give him the money.

Q According to your evidence, during all of that period of time 1922, he was most attentive and loving to you? A Yes, sir.

Q And he, right at the time you wrote this letter, was most attentive and loving to you? A Yes, sir.

Q And wanted you to marry him? A No more than any other time.

Q Then he always wanted you to marry him? A Yes, sir, until he stayed away.

Q Now, as a matter of fact, wasn't it in January, 1923, that he wanted to go into business? A It was in April, 1922, when he bought the garage.

Q And that is the letter you wrote to him? A Yes, sir.

Frieda Sturm, cross.

Q So you were not so anxious to marry him then, were you? A I was.

Q As a matter of fact, you say he had seduced you before that? A Yes, sir.

Q And yet, after having seduced you, you you wrote him this letter? A Yes, sir.

Mr. Ward: I offer this letter in evidence.

Marked "Exhibit W. B. 1."

Mr. Schotland: It was in evidence in the criminal trial.

(Mr. Schotland examines the letter "W. B. 1.")

All right, I have no objection to its being marked in evidence.

Q So after this man had seduced you, and after you had gotten in the family way, you wrote him this letter; he seduced you in February? A Yes, sir.

Q (Reading "Exhibit W. B. 1."): "San: I cannot do as you want me to, but I am sure you can get what you need inside of a week. You know a lot of people and have many friends. Don't ever come to see me again—you know why, but please excuse me for doing this, I can't help it. I know you will get the money and will be successful, and I wish you all the luck a person could possibly have. Tear this up and don't say anything to them. Good-bye, F." What you meant by "but I am sure you can get what you need inside of a week," you meant the money? A Yes, sir, I did.

Q You did not want him to marry you then? A I felt so badly about the money.

Q Did you or didn't you? A I did.

Q But you wrote to him to stay away from you? A Yes, sir.

Q And when you did arrest him for seduction and breach of promise, or at least sue him for breach of promise, and had him arrested for fornication and seduction, you were not in the family way? A Not then, no, sir.

Q You also stated that there was an occasion when you saw him with another girl, and that in the presence of this other girl he told you, "I shall never marry anyone but you;" is that true? A Yes, sir, it is.

Q So even as late as that, he wanted to marry you, from what he said? A From what he said, yes, sir.

Q And then after you had him convicted of seduction, Judge Caffrey told you that he still wanted to marry you? A Rather than go to jail, yes.

Q And he asked you to agree to that? A Yes, sir.

Q And you stated that his mother caused all the trouble about the money, was that true? A Yes, sir.

Q So, despite the objections of his mother, he wanted to marry you? A Yes, sir.

Q And apparently he loved you, didn't he? A Yes, sir.

Q Now, after your marriage, five days after, as you say, you sent for him, and then you threatened him, didn't you? A I did not threaten him.

Q Didn't you tell him if he did not support you, you would make more trouble for him? A No, sir.

Q Did he volunteer then to give you the money you have mentioned? A Speaking about

making a home, he said, "I will send you five dollars a week."

Q You stated that he is four weeks behind now? A Yes, sir, he is.

Q Do you recognize that as a book issued by the probation officer, with a receipt of money paid to date? A I was there last night, and that is what they told me.

Q Do you know on the 10th he paid $14.00 and on the 18th $14.00, which paid up in full to date? A No, sir, they did not tell me that.

Q You recognize that to be a fact now, don't you? A (No answer.)

The Court: Where is the probation officer?

Mr. Schotland: At the Newark court house.

Q How long after you were married did you go to work for Mr. Cook? A I was working part time before I was married.

Q And you did not hesitate to go out with other men, did you, after you were married? A Yes, sir, I did.

Q You did not hesitate to go out with Mr. Kenney in company? A That was not going out with him.

Q With others? A No, sir, I did not go with others, not alone.

Q I say with others? A Yes, sir.

Q You did not hesitate to have Mr. Cook come to your apartment? A No, sir.

Q Didn't you think if you were sincere with your husband, that all those things might make your husband suspicious? A I am not evil-minded, and that did not occur to me; he did not want me.

Q You have testified that Morris Feldman was the man that was in the park with you on the night of June 18th? A Yes, sir.

Q Now, as a matter of fact, wasn't there another Morris who was an acquaintance of yours in court here yesterday, who was in the park with you that night? A No, sir.

Q Did you know another man named Morris who was in this court room yesterday? A He is here now.

Q What is his last name? A Morris Cook.

Q Is he your employer? A No, sir.

Q (Stand up, Mr. Cook.) (Mr. Cook stands up.) Was that man in the park with you on the 18th of June? A No, sir.

Q Is he a friend of yours? A He is my cousin.

Q Is he a witness here? A No, sir.

Q Mrs. Sturm, up to the time of your marriage with your husband and afterwards, isn't it true that Morris Feldman's family and your family had scarcely been on speaking terms? A That is not true.

Q Isn't it true that you have had trouble, the two families have had trouble? A No, sir, never.

Q Never have had any trouble at all? A No, sir; my brother lives there now—for two years.

Q Before your marriage to Mr. Sturm, I mean? A No, sir, we never had any difficulties of any kind with them.

Q Mr. Cook frequently came to your apartment? A Not frequently.

Q He took you home frequently, didn't he? A Yes, sir.

Q And frequently, when he took you home, he would go upstairs with you? A No, sir.

Q Frequently he would come there to get his child? A Yes, sir, himself.

Q You would take the child home, and then he would come and get the child? A Yes, sir.

Q And you lived four blocks from the office? A Yes, sir.

Q This office that you have mentioned, as a matter of fact, there is an entrance from the rear of that office into the back of the shop, isn't there? A No, sir.

Q There is no way of your getting from that office into the shop without going outside? A There is a large sliding door in front.

Q You don't have to go outside to get from that office into the rear of the shop, do you? A No, sir.

Q And I think, you said the men quit there on Saturdays at 1:00 o'clock? A Yes, sir.

Q You frequently worked there Saturday afternoons, didn't you? A No, sir.

Q Sometimes, didn't you? A Once Mr. Cook was sick and I stayed and took care of the office.

Q And other times, too? A No, sir.

Q Then you took care of the office, didn't you? A Not on Saturday afternoons.

Q Didn't you just state that once when Mr. Cook was sick on Saturday afternoon you stayed there? A Just once.

Q Then there were not salesmen to take care of the office all the time? A Not always.

Mr. Schotland: So many of the questions are argumentative; the last one is a good illustration of it.

Q I noticed this morning you mentioned Mr. Kenny as "Tom?" A Yes, sir.

Q Is that what you called him on the night you were out with him? A I don't remember what I called him.

Q Then you may have called him "Tom?" A Yes, sir.

Q Do you remember whether or not he called you "Frieda?" A I don't know; we had very little to say to each other; I know they called him Tom, and I may have called him Tom because they did.

Q You knew Mr. Slutsky very well, around the 20th of June? A Yes, sir.

Q You knew his son pretty well? A Yes, sir.

Q You knew them well enough to call on the family? A Yes, sir.

Q And you knew him well enough to call on Mr. Slutsky to come down in his car when this attempt was made to enter the apartment? A Yes, sir.

Q And you knew Mr. Slutsky was a constable? A Yes, sir, I did.

Q Yet you did not go to Mr. Slutsky to ask him to look up your husband? A No, sir.

Q But you went to your old friend Zimmel? A I did not go to him.

Q Well, you asked him? A He offered.

Q And you had not seen him for a year and a half? A No, sir.

Q And I believe you stated on your direct examination, that he was keeping steady company, and, therefore, his girl would not have understood his coming to your apartment? A No, sir.

Q Didn't you state in answer to a question that he was keeping steady company at the time, and that was why you went to your aunt, because his girl would not have understood his coming

to your apartment? A That was not the question.

Q Well, this man whom you had not seen for a year and a half, and who had a car, you made an appointment to meet him out in Irvington? A Yes, sir.

Q And you believed he would have his car there, did you? A Yes, sir.

Q And yet you went all the way from Newark, New Jersey, to Irvington, to meet him, did you? A Yes, sir.

Q And you did not ask him to come from Irvington in his car to Newark to meet you? A No, sir, to save time.

Q You had to go back to Newark, if you wanted to watch Mr. Sturm? A No, sir, I was going to watch Mr. Sturm in Irvington; that is where he had been meeting Miss Adelman.

Q To save time, you went out to Irvington to meet Mr. Zimmel? A Yes, sir.

Q And isn't it true, that prior to that time, during your engagement to Mr. Sturm, that Mr. Sturm, in the presence of his brother told you, because of something that Zimmel had said or done to you, that he would like to kill him? A No, sir, never.

Q Do you remember an occasion when Zimmel was discussed before Mr. Sturm's brother (stand up, Mr. Sturm), this gentleman here? A No, sir, that never was discussed.

Q You knew from the evidence that was given at the trial, the seduction trial, that you were accused of having gone out with Mr. Zimmel and having been on intimate terms with him? A Yes, sir, I knew that.

Q And yet, knowing that your husband believed that you had been on intimate terms with

Frieda Sturm, cross.

Mr. Zimmel, you went to this man and went to Irvington to meet him, did you? A Yes, sir.

Q You went out there alone? A Yes, sir.

Q On a public bus? A Yes, sir.

Q And through well-traveled thoroughfares? A Yes, sir.

Q This man was keeping steady company, who accompanied you home, to your home? A He took me home; he wanted to speak to my aunt.

Q And those were the only reasons he had? A He had a lot to tell me, and I had a lot to tell him; I had not seen him for some time.

Q You saw him the same day, didn't you, when you made the appointment? A Yes, sir.

Q And you had the opportunity to talk to him then? A No, sir.

Q You had the opportunity to talk to him about your affairs? A Yes, sir.

Q And you did tell him about your affairs? A Just a brief outline.

Q And you told him enough to permit him to make an arrangement to meet you that night, you say? A Yes, sir.

Q Then when he got down town in Newark with you, although he wanted to see your aunt, you and he got off at Broad street; is that right? A Yes, sir, that is right.

Q Why didn't you go where your aunt was? A I did not know whether she was there or not.

Q You knew you had left her in the park? A Yes, sir.

Q And you knew your aunt was waiting for your cousin? A Yes, sir.

Q You knew she had not any place to go excepting the park, and the apartment house which

was adjacent to the park, didn't you? A Yes, sir.

Q And yet, despite, the fact that you say this man wanted to talk to your aunt, you did not get off at that park, but you went to Broad street, and you went to the place where the Lincoln Hotel was? A No, sir, I don't know where the Lincoln Hotel was.

Q Didn't you on your direct examination say, that when you passed the park you saw your aunt, you saw your aunt in the park, but you did not want to talk to her until she got home at the apartment? A No, sir, I said I did not notice her there.

Q And didn't you say on your direct examination, that you expected to watch Mr. Sturm at Miss Adelman's house in Newark; was not that your direct evidence? A No, sir, I did not say that.

Q You expected to see Mr. Sturm at his sister's house, did you say, in Irvington? A At her sister's home in Irvington.

Q Why was it necessary for you to have a car? A To follow them.

Q Where? A To see where they went to from the sister's.

Q So, you did not think it better to follow them from Newark to see if they went to the sister's or any other place? A Well, he met her there.

Q Do you know now where the Lincoln Hotel is? A No, sir.

Q Since you heard the testimony in this case, do you know where it is? A I know it is on Broad street; I heard so.

Q But you did stop and talk for a considerable period of time with Mr. Zimmel, didn't you? A Yes, sir, for a few minutes.

Q Then you walked back to the park, didn't you? A I don't understand you; I was not in the park.

Q The park where your aunt was? A We rode back on the bus.

Q How far was it that you had to ride back? A It is about fifteen blocks.

Q So that, although you were on the bus and rode to the place where you stopped, you then got off and talked, didn't you? A Yes, sir.

Q Then you got on the bus and rode back? A Yes, sir.

Q And then you rode fifteen blocks to the park to your aunt? A Yes, sir.

Q Why didn't you go directly to the apartment house if you had not seen her? A Because she told me she would wait for me in the park.

Q But you say when the bus passed the park she was not there? A She told me she had gone to the drug store for a soda.

Q So she did not wait all the time for her niece? A She had seen her; she was with her in the drug store.

Q Was this niece with her when you came back? A No, sir, she was waiting for her, she had gone up the street and she was coming right back; she told the niece that she had to meet me in the square.

Q Had you had any arrangement to meet in the square? A Yes, sir.

Q Why didn't you take Mr. Zimmel there? A Because I did not want to.

Q Why not? A I sent him up to the house.

Q Why did you do that? A I told him to go up and see if she was there, and if she was not there—

Frieda Sturm, cross.

Q When you had an engagement with your aunt to meet her in the square, why didn't you meet her with Zimmel in the square? A I did not know for sure whether she was there.

Q Why didn't you go with Zimmel and see? A I said, "You go up to the house and I will go to her."

Q You did not want to go up with Zimmel into your apartment alone? A That is right.

Q You wanted to get your aunt? A Yes, sir.

Q And you had to pass that square to get to your apartment? A No, sir, I did not.

Q Well, along the edge of it? A Across the street from it.

Q And yet, although Zimmel had come all the way down to see your aunt, and you did not want to be alone with him, you sent him along to the apartment? A Yes, sir, I did not want to be seen with him sitting in the park.

Q You had been with him all the evening riding on the bus? A There was nothing wrong about that; I did not want the neighbors to talk.

Q After you saw your aunt, you went there and found your aunt in the park? A Yes, sir.

Q Now, in your own mind, there was a thought, wasn't there, that it was not proper for you and Zimmel to go into that apartment of yours alone together? A Well, no, I did not think it was wrong.

Q Didn't you say you wanted your aunt with you; didn't you say that on your direct examination, and that you did not want to go in there alone with him? A I wanted her to know where I was.

Q Didn't you say on your direct examination, that you did not want to go in that apartment alone with him; that you wanted your aunt to be with you, and that is why you went to get her? A Yes, sir, I did.

Q So you did know you should not go in that apartment alone with him, didn't you? A No, sir, there was nothing wrong in it.

Q You went back to your aunt, and you found her there, didn't you? A Yes, sir.

Q And then you left her and went up and joined Mr. Zimmel alone? A I did not know whether anyone was home or not.

Q You knew he and you would be alone when you joined him, didn't you? A If he was not in the house he was not alone.

Q You had not told him to go up in the house? A He must have rung the bell downstairs.

Q Didn't you state on your direct examination that you told him to wait in front of your apartment? A No, sir, I told him to stay there and wait for me.

Q Why did you want this man to wait for you? A I had the key.

Q Why did you want to get in alone with him there? A I did not want to stand on the street and talk to him.

Q That is the reason you stood in the street at Broad street to talk matters over? A I could not go in the hotel with him.

Q What hotel? A Any hotel.

Q Then there was a hotel that you might have gone into? A No, sir.

Q What did you mean when you said when you were standing on Broad street and talking to him on the street that you could not go into

any hotel to talk to him? A I mean I had to stand on the street; I was not home; you cannot sit on the curbstone and talk.

Q When you came back and you knew your aunt was not with you, and you found him there alone waiting for you, why didn't you go back to your aunt? A She told me she was coming right up.

Q Why didn't you wait for her then? A What was the difference?

Q You say you knew you should not be alone with him? A As long as my aunt knew I was there I did not mind.

Q You went upstairs and unlocked the door yourself? A Yes, sir.

Q When you unlocked that door you knew there was nobody at home? A No, sir, I did not.

Q When you were inside you knew there was nobody at home, didn't you? A Yes, sir.

Q You knew Mrs. Popovics and one of her daughters were away? A They were all out.

Q You knew they were all out? A I did not know it, but I knew when I got in the house.

Q You knew that Mrs. Popovics and one of her daughters had gone away to Asbury Park that day? A They had not.

Q You knew they had left for some trip that day? A No, sir.

Q Didn't you know at dinner time, at the evening meal, when you had your evening meal at home that night, didn't you know that Mrs. Popovics and one of her daughters had gone away to stay? A The daughters were working, and Friday is her day off and she was not home all day, but she came home in the evening.

Q When you got inside and opened that door you found that you were alone with this man, didn't you? A Yes, sir.

Q Why didn't you go out to your aunt then? A She was right up after me.

Q You knew your husband had accused you of being intimate with this man? A Yes, sir.

Q And yet you took him in this apartment alone and permitted the door to lock? A I could not leave it open; it was always locked.

Q Why didn't you leave the catch in the door? A My aunt has a key; there was no reason to leave it open.

Q When you knew, as you have said before, that you should not have been alone with that man, and that was the reason you had not gone directly to the apartment, didn't you think you should have left that catch off? A No, sir; I was not afraid of him.

Q Although you had gone with him approximately two years before? A He came back from France just one year before I met Mr. Sturm.

Q From the time you had gone with him before you had been married? A Yes, sir.

Q And he knew you had accused your husband of having had sexual intercourse with you before you were married? A Yes, sir, I think he did, because he knew about it.

Q Now, then, Mrs. Sturm, after you had gotten in this apartment you say you took your hat and coat off? A Yes, sir.

Q Did you have a coat on on the 20th of June? A Yes, sir; it had been raining

Q And Mr. Zimmel was reading the newspaper? A He did not have his coat on; he had a raincoat over his arm, and he took his hat off

and he picked up a newspaper and started to read.

Q So there was a sufficient time elapsed for you to take your hat and coat off and for him to begin reading a newspaper before there was any interruption there? A It does not take long.

Q There was not enough time for him to start in to read a newspaper? A He had just picked it up.

Q And the light from the living room reflects into the bedroom occupied by the Popovics? A If the curtains are open, yes, sir.

Q Whereabouts did you go to take your hat and coat off? A Into my bedroom.

Q Then you heard this knock on the door, did you? A Yes, sir, I did.

Q And somebody demanded to know if Mr. Smith lived there? A I said, "Who is there?" and somebody said, "Mr. Smith."

Q Why didn't you open the door? A I don't know any Mr. Smith. We always ask "Who is there?" I have often seen men intoxicated fumbling at the wrong door.

Q You had a male protector, Mr. Zimmel? A Yes, sir.

Q Don't you usually open the door to anyone that knocks? A We always ask first.

Q When you found out it was Mr. Smith, and you did not know what Mr. Smith it was, why didn't you open the door then? A I thought he had the wrong party.

Q Why did you think that? A Because none of us know Mr. Smith.

Q How did you know it was not some Mr. Smith that had business with your aunt? A I don't think he would be there at night.

Q How long did this knocking continue while you refrained from opening the door? A He

knocked and I called the janitor, and the janitor came right up.

Q How long did the knocking continue? A Three or four minutes.

Q During all that time you did not let Mr. Zimmel go to the door? A I would not let him.

Q Why not? A I did not want him to.

Q Why not, if there was nothing wrong in his being there? A I just did not want him to.

Q Wasn't it that you wanted to conceal his being there? A No, sir.

Q Then why didn't you let him go and find out what this person wanted at the door? A I did not want him to.

Q Can you give us any reason? A I do not usually let company open the door.

Q And that is your only reason for that? A Yes, sir.

Q But you did call down to the janitor? A Yes, sir. I said, "Please see who it is."

Q You did not know your husband was there at all? A No, sir, I did not hear his voice; but when I heard the woman say, "We want that married woman," then I knew my husband was there.

Q Why didn't you open the door then? A Because all the neighbors were there.

Q Why didn't you let him come in and protest your innocence? A I did not know what I was doing. He told me to open it but I would not do it.

Q Were you dressed? A Yes, sir, I was dressed, but I was ashamed because I did not want the neighbors to know about this.

Q Didn't you hear your husband call out, "Frieda, open the door?" A No, sir.

Q But you knew he was there? A I knew it was somebody that belonged to him; I did not know that he was there.

Q Haven't you just said that when you heard this woman's voice say, "We want that married woman in there," that you knew your husband was outside? A I knew it was somebody from him, I meant to say; I did not know that he was there himself.

Q If you were innocent in this matter and nothing had taken place, why were you fearful that your husband had sent somebody down to watch you? A No one else would say that I was in there with a man.

Q If you were innocent in this whole transaction now, while you were fearful of letting these people see you and opening the door and disclosing the entire situation in there? A I was excited and I did not know what I was doing; another thing, they would frame me up.

Q You did not know who these people were outside there? A I knew he had been watching me for a week, because I saw him nights. When I would come home he would be sitting across the street, and when he would see me come home he would drive away.

Q Your husband? A Yes, sir.

Q Was not that all the more reason why you should not have taken a man up in your apartment alone? A I am not evil-minded.

Q Why did you take an old sweetheart of yours up in your apartment alone with you if you knew your husband was suspicious? A My aunt knew I was there.

Q Then, Mrs. Sturm, if you knew or believed that it was your husband who was watching you out there that night, why didn't you open the door and let them in directly and let them see it

was all right? A Because they would have said it was not even if it was.

Q That is the only reason you had? A Yes, that, and the people seeing me; those are the two reasons.

Q Isn't is true, Mrs. Sturm, that when the bell was rung, and when they continued to ring the bell, that you stopped—disconnected it? A Our bell had not been working since we have lived there; it is out of order.

Q Did you disconnect the bell that night? A The bell never rang as long as we lived there.

Q Do you know whether or not there was an effort first made to ring your bell before there was any knocking? A You cannot tell much when they do that.

Q Now, Mrs. Sturm, if you were innocent when you called for the janitor, why didn't you let him come in there? A He did not knock.

Q Why didn't you tell him to come up and knock—let him speak to you so that you would know his voice? A I did not think it was necessary to tell him.

Q You thought it was necessary to call for the janitor? A When you are excited, you do a lot of things.

Q And it was not until a considerable time after, when these people had gone and got your aunt and brought her back that you first opened that door; that is true, isn't it? A About ten minutes later it was, ten or fifteen minutes.

Q Then when you did open that door and your aunt went in there, you and Mr. Zimmel were alone in there? A Yes, sir.

Q And the door had been locked up to that time upon you and your old sweetheart? A My aunt opened the door with a key and walked in.

Q It had been locked upon you and your old sweetheart up to that time? A He was not my old sweetheart; he was an old friend.

Re-direct examination by Mr. Schotland.

Q You testified before that the first time that he seduced you, he said to you, "We are as good as engaged;" and then you said he said, "We are as good as married;" which did he say? A He said, "We are as good as married."

Q Now, you testified at this time that he was willing to marry you; he always said that, did he? A Yes, sir.

Q But did he ever get to the stage of actually offering marriage? A No, sir.

Q You said you wanted to meet Mr. Zimmel at Irvington Centre? A Yes, sir.

Q For the purpose of saving time? A Yes, sir.

Q Where were you going to go from there? A To another street in Irvington, and he came from that direction, so I thought to save time I told him I would meet him there.

Q Mrs. Sturm, did you walk towards the entrance of any hotel with Mr. Zimmel that night? A No, sir.

Q The Lincoln Hotel or any other? A No, sir.

Q Have you ever seen that hotel to your knowledge? A The Lincoln Hotel, no, sir.

Q Did you walk towards any hotel or any building as if you were going to go in? A No, sir. We stood right near the curb on Broad street.

Q Did you stand in the shade of a tree and hug and kiss? A I don't know about the tree,

but I know we did not hug and kiss; I don't know whether there was a tree around there or not.

Re-cross examination by Mr. Ward.

Q How long had you gone with Mr. Sturm when he first kissed you? A A few months.

Q Didn't he kiss you when he proposed marriage to you? A No, sir.

Q And it was a few months before he kissed you? A Yes, sir, and I often remarked about it.

Q You mean that that was very unusual, and that is why you remarked about it? A Yes, sir.

MORRIS COOK, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q Are you a cousin of the defendant? A Yes, sir.

Q Did you ever walk with her from that little square in Belmont avenue anywhere? A No, sir.

Q Did you ever walk with this defendant anywhere at all? A Some places, around the house, my mother-in-law's house—

Q I mean walking on the street; did you ever walk anywhere alone with her? A No, sir.

Q Did you ever make love to her? A No, sir.

Q Did you ever kiss her? A No, sir.

Q Did you ever have your arm around her? A No, sir.

Q Or have her arm around you? A No, sir.

Q Are you a blood cousin? A No, sir, my wife is her first cousin.

Q And it was in her house that you saw her? A Yes, sir.

Cross examination by Mr. Ward.

Q Your brother married her cousin? A I married her cousin.

MRS. FRIEDA STURM, recalled for further re-cross examination.

Re-cross examination by Mr. Ward.

Q Mrs. Sturm, if you knew that that bell was out of order, why do you say that you sent Mr. Zimmel up to ring the bell, to see if anybody was at home? A I mean the bell downstairs in the hall.

Q So that was not out of order? A No, sir, that was not; no one rang the bell.

Q Did any of those bells ring that night? A No, sir, none of them.

Re-direct examination by Mr. Schotland.

Q If anyone would push the bell down in the hall, was that in order so that you could hear it ring? A Yes, sir.

Re-cross examination by Mr. Ward.

Q And the door downstairs was open, wasn't it, downstairs, so that you could get up to your apartment without ringing any bell? A Yes, sir.

Q And then there was a bell on your apartment upstairs? A Out of order, yes, sir.

Mr. Schotland: That is all I have, your Honor, with the exception that Mr. Zimmel is on his honeymoon and is expected back within a week. I have learned the name of the policeman who was actually on duty that night; I want to get that police officer.

The Court: I will give you an opportunity to put both witnesses on.

REBUTTAL

MISS NORMA KOPF, recalled.

Direct examination by Mr. Ward.

Q The man who walked in the park with Mrs. Sturm on the 18th of June, do you see that man in court? A I do.

Q Where is he? A Mr. Morris Cook.

Q Is that the man sitting right there? A Yes, sir, that is the man.

The Court: Stand up, Mr. Cook. (Mr. Cook stands up.)

Q Is that the man? A Yes, sir; I have seen him on more than one occasion walking with her.

Q And the Morris Feldman that was here, did he walk with Mrs. Sturm on that night? A He did not.

Cornelius Troast, direct.

By the Court.

Q I think on your direct examination you described the witness Kenny as having pimples all over his face. Did you see Mr. Kenny on the witness stand today? A The man that went with Mrs. Sturm on the night of the automobile ride was entirely more Jewish looking than the man that appeared on the witness stand here; his face was one mass of pimples; I know that to be a fact.

Q Was this the man that was in the car that night? A I would not say it was not the man, but I know the man had pimples; his face was one mass of pimples.

Q He might have gotten over the pimples in that time? A Yes, sir; he might have gotten over them.

CORNELIUS TROAST, recalled in rebuttal, testified as follows:

Direct examination by Mr. Ward.

Q You testified in your direct examination to having seen the man with Mrs. Sturm on the 18th of June in the park that was referred to as adjacent to where she lived. Do you see that man in the court room? A Yes, sir; that is the man (indicating Morris Cook, who was on the witness stand).

Q Is he the one that was with her in the park that night, Belmont Square Park? A The stout man is the one I saw with her in the park, not the thin one.

Cornelius Troast, cross.

Cross examination by Mr. Schotland.

Q Is that the man you described as twenty-three years old? A Yes, sir.

By the Court.

Q Did he have his hat off? A No, sir.

Q What kind of a hat did he have on? A I don't remember.

Q Did you hear them call him "Morris"? A Yes, sir; he had a blue suit of clothes on.

By Mr. Ward.

Q Did you ever see them together on more than one occasion? A Not that I remember.

Mr. Schotland: That would not be rebuttal.

Q When Mrs. Sturm and Mr. Zimmel were in front of the Lincoln Hotel on the 20th of June last, aside from their standing underneath the tree and walking towards the hotel, as you have described, what else did they do with reference to busses? A Just before they got to the busses they separated, she walking in front and the gentleman behind.

Q Did they get on together or not? A No, sir; they went single file—past these busses.

Re-cross examination by Mr. Schotland.

Q I don't understand your last answer. A The jitneys that were parked half a block away from the Lincoln Hotel, they passed single file.

Q They got on the same bus, didn't they? A

That was after they stood in front of the Lincoln Hotel.

Q Neither one of them boarded the busses that were parked there? A No, sir; they walked through the park and got on a different bus altogether.

Q They walked through the park and got a bus that was going in their direction? A Yes, sir.

Q And they got on that bus together? A Yes, sir.

Q Where is the Lincoln Hotel? A It is across the street from that park that they went through; it is on Broad street.

Q Do you know where the Elks' home is? A Yes, sir; the new one; it was being constructed then.

Q Is not that directly opposite the park? A Yes, sir; it is.

Q And is not that directly opposite where the jitney busses are parked? A Yes, sir.

Q And is not that entire block vacant lots, with the exception of where the Elks' home has since been erected? A Yes, sir; there are vacant lots there.

Q Now, where is the Lincoln Hotel with relation to the position of where these jitney busses are? A It is further down towards the Elizabeth end; they had to cross the street.

Q How do you know it is the Lincoln Hotel? A It has the name on.

Q Where you saw them get off the bus on Broad street, corner of Chestnut street, how many blocks south did they walk from Broad and Chestnut street? A Three or four, I guess; I don't know exactly; about three or four.

Q Do you know the names of the streets they passed? A No, sir; I do not.

Cornelius Troast, cross.

Q You don't know the names of any of those streets? A No, sir.

Q Do you know where the Lincoln Hotel is on the block immediately west of where the Elks' home has been erected? A I won't swear whether it is just the next block, but it is below; it is right even with the street that they walked up to get the bus to go back to the aunt.

Q Do you know whether that hotel accepts transients or not? A I don't know.

Q Then the only thing you saw was, that, as they passed the park busses, they passed single file? A Yes, sir.

Q Do you remember the description you gave us on your original direct examination of the man you heard called Morris? A Yes, sir; about twenty-three years of age, very young fellow.

Q And did you describe his build? A Yes, sir; I did.

Q Didn't you describe Morris Feldman to a "T"; you remember your description? A Yes, sir.

Q Did you see Morris Feldman on the witness stand? A Yes, sir.

Q Did not Mr. Morris Feldman exactly fit your description? A I see the fellow now, and I know I have made a mistake; I know the fellow that I saw in the park.

Q You are mistaken as describing him as a twenty-three-year-old boy? A Yes, sir.

By the Court.

Q That is the man, though? A Yes, sir.

Sanford Sturm, direct.

SANFORD STURM, the petitioner, being recalled, testified as follows:

Direct examination by Mr. Ward.

Q I neglected to ask you on direct examination, were you present at the time when this Mr. Troast sat on the bench at the time when Mrs. Strum and some Morris walked together? A Surely.

Q Did you know Morris Cook? A Yes, sir.

Q And who was it that walked with her on that occasion? A Mr. Morris Cook.

Q Do you know whether Morris Feldman was on friendly terms with your wife or her family before the marriage? A I know they were not.

Q How do you know that? A Because all the time I was going around with Mrs. Sturm prior to the wedding, none of the Feldmans ever came up to visit.

Q Did Mrs. Sturm ever say anything to you as to whether or not they were on friendly terms? A On a number of occasions, yes. There was a considerable amount of jealousy.

Q What did she say as to whether or not they were on friendly terms? A I don't recall.

By the Court.

Q Did you believe her? A Yes, sir.

Further direct.

Q Was there ever any occasion when you, in the presence of your brother, stated "I would like to kill Zimmel," before your marriage to Mrs. Sturm? A Yes, sir.

Sanford Sturm, cross.

Q Where was that and when was it? A In the latter part of 1922, at my brother's home.

Q When was that? A 1922.

Q What were the circumstances? A Mrs. Sturm continually taunted me as to going out with Mr. Zimmel, and telling me how much she thought of him, and the good times he could show her that I could not, and things of that nature.

By the Court.

Q Is he a wealthy man? A He is in business for himself and has a car.

Further direct.

Q Now, your wife has testified that on the 7th of June she passed your garage—that she was out riding with Mr. Cook, and went to the Colden Motor Company and from there past your place of business, and at your place of business saw you at the desk telephoning; is that true? A No, sir.

Q Where were you at that very time? A About 100 feet behind her.

By the Court.

Q Who was this young woman, Miss Adelman, that your wife said you were with? A That is Miss Adelman.

Cross examination by Mr. Schotland.

Q What time was it that Mrs. Sturm came to her house? A On a Sunday evening, about 8:30 in the evening.

Q Had you ever had any trouble with Mrs. Sturm over this young woman? A Mrs. Sturm only knew she was a friend of the family, and

Sanford Sturm, cross.

knew I took her home from the house once in a while; she is a friend of my sister's.

Q Did Mrs. Sturm ever complain to you in any respect about this Miss Adelman? A I never knew Miss Adelman until sometime in June, 1923.

Q Is she in court? A No, sir.

Q Did Mrs. Sturm ever complain to you about Miss Adelman? A No, sir.

Q This Miss Adelman is living at your folks' house right now? A That is a lie.

Q Isn't she? A No, sir.

Q Does she visit there very frequently? A I have not seen her in the past nine or ten months.

By the Court.

Q Why do you get so ill-tempered at the mention of her name? A Counsel knows it is not true.

Q How long have you known her? A Since 1923.

Q How many times have you seen her this year? A No times.

Q How many times last year? A The last time I saw her was the day she testified in another court before Judge Caffrey.

Further cross.

Q She was your witness in the seduction trial? A She was present.

Q Didn't you testify in the criminal case that you found Mrs. Sturm sitting in a car when you came out from Miss Adelman's house? A Yes, sir.

Q She was there just as she said? A She was in the car.

Sanford Sturm, cross.

Q What time was that? A About 12 o'clock.

Q Midnight? A Yes, sir.

Q Did you ever give Miss Adelman a ring? A I gave her a friendship ring, just as a friend.

Q You know the obligation that generally goes with the passing of a ring from a man to a girl—was it a diamond ring? A No, sir; just a black onyx ring.

Q The only ring you gave your wife was after you had her mother's engagement ring reset? A The setting was a diamond setting.

Q You don't mean to say you only have a slight friendship with Miss Adelman, and that you presented her with a ring—there must have been a close relationship between you? A No, sir; there was not.

Q How long after Mrs. Sturm waited in your car in front of Miss Adelman's home until you came out, was it, that she called on Miss Adelman and found you there again? A I could not tell you the exact length of time; I think it was about a month.

Q And during that month had you called on Mrs. Sturm at all? A I am not quite sure; I think during that month I was in Pennsylvania.

Q When was it that this occurred? A I believe it was sometime in May; the exact time I could not say, 1923.

Q May of 1923? A Yes, sir.

By the Court.

Q Did you state to Judge Caffrey you would marry the girl if they would let you off without a sentence? A At what time?

Q I mean on the day of the trial, after you were convicted and the Court was going to sen-

tence you; you did not marry her until you were convicted and you waited to find out what way the verdict was going before you decided what to do, and when you were convicted, then you decided to marry her? A Yes, sir.

Q And the object was to avoid being sentenced by the judge? A No, sir; the prosecutor told me I had two alternatives, either to marry her or go to jail.

Q So you would rather marry her than go to jail? A I would not say I would rather marry her than go to jail.

Further cross.

Q Do you remember testifying (reading from page 67) in the Criminal Court, as follows: Ques. After you found her sitting in your car when you came out of Miss Adelman's house?'' and you answered, ''Ans. Well, about a week after she came to Miss Adelman's house.'' ''Ques. What was said? Ans. She called and we were told there was somebody on the porch there, and this party called us down.'' ''Ques. You came down with Miss Adelman? Ans. Yes; Miss Adelman and I came down, and she said, 'I have a surprise for you and a shock for you.' Now, just what she meant—Ques. What is that? Ans. She said she had a surprise for you and a shock for me; now, what she meant, I did not know.''

By the Court.

Q Who suggested the production of Miss Adelman as a witness? A Mr. Seigler.

Further cross.

Q Are you sure Miss Adelman was subpoenaed; didn't she come with you? A Not with me.

Sanford Sturm, cross.

Q With some member of her family; wasn't she present in court all the time the trial was going on? A No, sir; she was not.

Q Well, now, let us go back to the question I asked you where I was reading the testimony; you remember that part of your testimony in the criminal case? A I think I do.

Q You remember testifying the way I read to you? A Yes, sir.

Q Does this refresh your recollection as to the time that elapsed between Mrs. Sturm's waiting in your automobile until 2:00 or 3:00 in the morning, and the time that she called at Miss Adelman's house and found you there again? A What is that?

Q My last question was as to whether or not, having read the part of the testimony you gave in the criminal case, that refreshes your recollection as to the length of time from the occasion when Mrs. Sturm sat in your automobile until you came out of Miss Adelman's house, until she called at Miss Adelman's house and found you there again? A It does, but not clearly.

Q You testified in the Criminal Court it was about a week, and you have testified here that it was about four weeks or a month? A I said I thought it was around a month.

Q Which was it; what is your recollection? A I am not positive.

Q You married her on the 24th of March, the day you came up for sentence? A Sentence day.

By the Court.

Q Did the judge marry you? A Yes.

William Sturm, direct.

Further cross.

Q Now, when Mrs. Sturm called a week after she had been sitting in your automobile and waiting for you to come out, and found you at Miss Adelman's house, she sent up for you to come down—that she wanted to see you?

Mr. Ward: Objected to on the ground that it has all been gone into.

WILLIAM STURM, sworn in rebuttal, testified as follows:

Direct examination by Mr. Ward.

Q You are a brother of the petitioner? A Yes, sir.

Q Where do you live? A At 130 Godwin avenue, Newark, New Jersey.

Q Do you remember a conversation that took place between your brother and Mrs. Sturm, who was then Miss Singer, with reference to Mr. Zimmel? A Just a few remarks were passed in my house.

Q Do you remember your brother saying he would like to kill Mr. Zimmel? A Words to that effect.

Q Do you remember your brother saying he would like to kill Mr. Zimmel? A Yes, sir; to that effect.

Mr. Schotland: I ask that that question and answer be stricken out.

The Court: Let it stand.

Q Mrs. Sturm was present at the time? A Mrs. Sturm, my wife and my brother.

Q And Mrs. Sturm at that time was Miss Singer? That was either late in December or early in January? A It was around the time about the ring episode; the engagement ring.

Q The resetting of her mother's ring? A Yes, sir; I did the resetting; I don't know where the argument took place, but Miss Singer was up to my house on Friday for supper, and my brother called for her after supper, and it seemed that there was a little argument; and as he was going out, they were both going out at the same time, and he said, "If I ever get that fellow Zimmel I will kill him; if I ever get hold of Zimmel I will kill him."

Q Who was it? A Zimmel.

Q What did Mrs. Sturm say about that? A They walked out the back way.

Q What other discussion was there about Zimmel at that time? A I don't think there was any until he came up.

Q What else was said to Zimmel on that occasion? A Nothing that I know of.

Q Just out of a clear sky your brother said to her, "If I ever get hold of Zimmel, I will kill him?" A They were talking on the subject.

Q They did not discuss Zimmel at all? A They might have; I was not in their presence all the time; I was sitting in another room, and as they were getting up to go out, it seemed they were just finishing an argument, and my brother said, "If I ever get hold of Zimmel, I will kill him," or words to that effect.

Q That is the only reference you heard to Zimmel? A Yes, sir.

Q And that is the only part of the entire conversation that you heard between your brother and Mrs. Sturm? A No, sir; there was more.

Arthur M. Shine, direct.

Q Did any other part of the conversation refer to Zimmel? A No, sir.

Mr. Schotland: I want to offer the interrogatories and the answers that have been given.

Marked "Exhibit Sch. B-A-1."

FIFTH DAY.

Continuation of the taking of testimony in the above-entitled cause, at the Chancery Chambers, Paterson, New Jersey, on the eighteenth day of May, nineteen hundred and twenty-five, before Hon. Vivian M. Lewis, Vice-Chancellor.

Appearances:

Feder & Rinzler, Esqs., for the petitioner (associated with Ward & McGinnis); (only Mr. Feder appearing).

Philip J. Schotland, Esq., for the defendant.

(Note that today's testimony in this case was taken before Charles E. Roberts, the court stenographer, by consent of counsel on both sides, and the acquiescence of the Court, the Court being engaged in hearing motions.)

ARTHUR M. SHINE, being duly sworn for the defendant, testified as follows:

Direct examination by Mr. Schotland.

Q What is your business? A Police officer of the City of Newark, New Jersey.

Q Attached to what precinct? A The Night Detective Bureau now.

Q On May 28th, 1924, what precinct were you attached to? A The First Precinct.

Q Were you on duty the night of May 28th, 1924? A I was.

Q And where were you detailed? A I was detailed at the scene of the Mills Hotel fire.

Q Where is that located? A On Halsey and William streets.

Q Which corner? A On the southwest corner of Halsey and William streets.

Q What time did you go on duty at that point? A About 9:00 o'clock.

Q Whom did you relieve? A Officer Wallace.

Q How long did you remain on duty that night? A Until 5:00 the next morning.

Q Was that the day of the fire at that place, or the day after the fire? A The day after the fire.

Q Have you looked up your records to make certain of the date that you were on duty at that point? A Yes, sir.

Q You are positive it was May 28th? A Yes, sir; I have it right here (looking at a little diary).

Q Now, officer, between 9:00 and 10 o'clock was there anyone around there? A People were around there all the evening up until midnight; from the time I went on until midnight there were people viewing the fire.

Q Many people? A Yes, sir; quite a few coming and going all the time.

Q Were there any cars parked around there that night? A On William street, beyond the fire, the south side of William street, beyond the fire, and on the north side there were cars parked there, and on Halsey street, both on the

east and west side of Halsey street, north of William street, there were cars parked.

Q Were there many cars parked?

Mr. Feder: Objected to as very leading.

Q Were there many cars parked on the north side of William street from Halsey to Washington? A There was quite a few cars parked along there; people park and go to the theatres.

Q Are you familiar with that neighborhood? A Well, I am; I work around there.

Q How often do you pass the corner of Halsey and William at night? A When working that post, I pass William and Halsey a dozen times a night.

Q How long were you working on that post? A I work off and on on that post; we change to different posts.

Q How long were you yourself working on that post? A That is Officer O'Rourke's post, one of his posts, and when he was off sick I worked it.

Q Well, now, during May of last year, and prior to that time, did you pass that place frequently, corner of Halsey and William? A In May of last year Officer O'Rourke was back, and he worked one week there and one week on the other side.

Q When you were not working that post, did you pass that point? A Yes, sir; we passed on Washington street, going north on Washington street.

Q Passed William street? A Yes, sir.

Q Are you familiar with the character of that neighborhood and the conditions that prevail at Halsey and William streets nights? A Well, yes, I am.

Q Between 9:00 and 10:00 on Wednesday nights, is that a quiet neighborhood, or otherwise? A Most every night up until 11 o'clock, it is pretty busy on account of the show crowds.

Q And how about the parking of cars there, as a rule? A Well, a special officer is there parking cars, and he is kept pretty busy.

Mr. Feder: I ask that that be stricken out "kept pretty busy."

Q You have seen that? A Yes, sir; I have seen the special officer around there.

Q Is he detailed there by the city? A They work on their own hook—just depend on what tips they get from the people that park the cars there.

Q You are speaking of William street between Halsey and Washington? A William street between Halsey and Washington, and Halsey right near William.

Q Did you see this young lady there that night (indicating the defendant)? A I don't remember; there were so many people coming and going, looking at the fire.

Q Was there an interval of twenty-five minutes between nine and half-past ten, when there were no cars parked on William street, on either side, between Halsey and Washington, and then no one was around at all, on that night, May 28th? A Not to my knowledge—on William street, between Halsey and Washington street there is a restaurant, which is open until the early hours of the morning, and there are always two or three cars in front of that place.

Q Now, this particular night of May 28th, that you were detailed on duty at the burned building I am talking about, was there any inter-

val between 9:00 and 10:30 of twenty-five minutes when not a car was parked on either side of that block. Was there any interval of twenty-five minutes between 9:00 o'clock and 10:30 when people did not pass around there? A No, sir; they were coming and going from the time I arrived on the scene of the fire until midnight.

Cross examination by Mr. Feder.

Q On May 28th you say you were then a patrolman or a night detective? A I was a patrolman.

Q On that day? A Yes, sir.

Q And you were covering what the assignment would be designated on the police blotter as covering posts Nos. 2 and 3? A No, sir.

Q What post were you covering? A I was detailed at the fire.

Q You were detailed to take care of that fire? "Yes" or "No"; were you detailed to take care of that fire on that particular night? "Yes" or "No." A I was detailed at the scene of the fire.

Q And you were unaccompanied; you were the only patrolman there that night while you were on duty? A I was the only patrolman at the scene of the fire until 11 o'clock, when Officer O'Rourke came.

Q Prior to Officer O'Rourke going on duty, you were there alone then from 9:00 until 11:00? A No, sir; there was a fireman detailed there.

Q I am talking now about a patrolman—you were the only one? A I was not alone when I was with a fireman.

Q You were the only patrolman? A Yes, sir; I was the only patrolman there until 11 o'clock.

Q When you say you don't know whether this young lady was there on that night, you also mean that you would not say that she was not there that night? A I say I don't know myself whether she was or was not.

Q As far as your knowledge is concerned, she might have been there? A Yes, sir.

Q And she might have been in one of those automobiles that were parked on William street? A That is right.

Q And she might have been in the company of three other people in an automobile? A Yes, sir.

Q Your duties were not to take care of the automobiles on that road, or pay any particular attention to who was in it? A That is right.

Q Neither were you detailed to clock the time as to the intervals between when the automobiles would come and go? A That is correct.

Q Who is the captain of the First Precinct? A At that time Joseph K. Ebert was.

Q And he was also captain of the First Precinct on February 20th, 1925, as far as your knowledge is concerned? A Yes, sir; he was.

Q Did you see any Studebaker touring cars that night? A I did not pay any attention to that; I won't say there was or was not.

Q And fixing the time, you will not say there was not a Studebaker car a little before or a little after 10:00? A I won't say.

Q Your attention was not centered on automobiles or whether cars were parked near one another or parked at a distance from each other; you had no concern with those things at all? A I was there to see no cars parked on the site of the scene where the fire was.

Q But up William street you had no duty to chase people away in automobiles, did you, away

from the fire? A I was detailed there to chase them from the building where the fire was.

Q Answer my question; when cars were parked some distance from the scene of the fire, you were under no particular duty to chase them away? A No, sir; not when they were parked away from the scene of the fire.

Q You say you looked at the records of May 28th to ascertain whether or not that was the night that you were detailed to the scene of this fire? A I looked at the records and saw that I was detailed at the Mills Hotel fire, the scene of the Mills Hotel fire, on the night of May 28, 1924, from 9 P. M. until the morning of May 29, 1924, until 5 A. M. (Witness looking at his diary.)

Q Will you tell us just what records you made reference to to refresh your recollection? A I went to the record book.

Q Has that a designated name in your department—that book you are now talking about? A Blotter, we call it.

Q And who is in charge of that blotter? A It is behind the desk in the First Precinct, and the lieutenant in charge has it in charge.

Q And what is his name? A Whatever lieutenant may be at the desk at the time.

Q Which lieutenant detailed you to go to this post? A Sergeant Van Steenburgh was acting lieutenant.

Q Now, then, whom did you succeed that night, what was the name of the patrolman? A Officer Wallace was the man I relieved.

Q What post do we call that? A The post is called No. 2 post, but I was detailed to the scene of the fire.

Q That is known as Post No. 2? A Yes, sir.

Arthur M. Shine, cross.

Q You know the handwriting of Captain Ebert, don't you? A I think I do.

Q Do you recognize that signature on that paper? (Showing witness a letter from the Department of Public Safety, Police Division, Office of Captain, dated February 20, 1925.)

Mr. Schotland: Objected to as incompetent.

Q Is that his handwriting, sir? A I am not sure.

Q Is that the stationery of your department with its official seal? A Yes, sir.

Q Will you tell us whether or not you find on that paper that Patrolman Wallace was on Post 2 or Post No. 24?

Mr. Schotland: Objected to as irrelevant.

Mr. Feder: Let him answer.

Mr. Schotland: No, he cannot answer unless the Court so rules.

Mr. Feder: As I understand it, we are to take the testimony, and the Court will then rule as to the propriety of the testimony, whether it is legal or illegal; otherwise, we will call off the taking of the testimony before the stenographer.

Mr. Schotland: He cannot answer the question with my permission.

Mr. Feder: Then we will take it before the Court.

Mr. Schotland: I instruct the witness not to answer.

Mr. Feder: I am entitled to have an answer.

The Stenographer: Why not let the answers go in? The Court will strike them out if they are not admissible.

Mr. Schotland: If the letter is competent, it speaks for itself and can be offered in evidence.

Mr. Feder: I am helping you this morning by taking the testimony before Mr. Roberts, the court stenographer. You instruct the witness to answer the quesion, and I will proceed. I shall not go ahead unless he answers.

Mr. Schotland: All right, that is all.

The Stenographer? Why don't you proceed?

Q You have seen the piece of paper which I presented to you two minutes ago, dated February 20, 1925, issued by the Department of Pubic Safety— A Is that the date on it?

Q I show you the paper. A Yes, sir.

Q From this paper can you tell us by reading it, whether or not you find the date on it May 28, 1924?

Mr. Schotland: I object to the question on the ground that the paper is not in evidence and is not competent, but I don't object to the witness answering that particular question, subject to my objection.

A May 28th does appear in the letter.

Mr. Feder: I will offer this in evidence and ask that it be marked for identification now.

Marked "Exhibit F-A-1 for Identification, May 18, 1925."

Q This paper that was marked for identification, "F-A-1 for identification"; can you tell us whether you know the officers that are mentioned in that paper?

Mr. Schotland: I object to that; what is the use of taking up the time. Don't answer any more questions as to the contents of that paper; the paper is not in evidence and he cannot answer the question. My suggestion is, if you want to know the names of the officers, you can ask him the question, giving him the names of the officers, and he can answer it.

Q Do you know the names of the officers appearing on that paper— A Read the paper.

Q (Question read.) A Read the paper, and I can answer your question.

Q Are you in any way interested in this case? A Not at all.

Q Why do you persist in following the objections that counsel just made—is there any particular reason attached to your making the same objection that he is making? A No, sir.

Q Why do you refuse to answer the question whether or not you know the names of the officers on this paper; is there any particular reason attached to that? A None at all.

Q You know Patrolman Wallace? A Yes, sir.

Q And O'Rourke? A Yes, sir.

Q Those are the names appearing on this paper, are they not? A That is two of the names.

Q Those names appear on this paper?

Mr. Schotland: Objected to for the reasons already stated.

Arthur M. Shine, cross.

Mr. Feder: You will answer the question before we go ahead.

Q Are those the names you read on this paper?

Mr. Schotland: I object to that.

A Those are two of the names that I read on the paper.

Mr. Schotland: I move to strike out that answer.

Q Don't you know that Patrolman Wallace was not preceded by you on that night, for he was covering Post 24, which post embraces the streets known as Academy, Plane, New and Halsey street, and the nearest point of this post, Post 24, is three blocks north of William street, don't you know that? A I don't know what post Wallace took after I relieved him.

Q Didn't you say you relieved him on that night? A Yes, sir; I did, at 9 P. M. I relieved Officer Wallace.

Q And he did not cover the post that you spoke about, Post No. 4? A I don't know what he covered from 9:00 until 5:00 in the morning.

Q I am talking about the time you succeeded him on May 28th, Wallace was not covering Post No. 4? A May 28th I relieved Wallace at the scene of the fire; I don't know what post he took after he reported in to the precinct.

Q Where was the first time you saw Patrolman Wallace that night? A At the scene of the fire.

Q You say he was covering that post, then? A I say he was at the scene of the fire, and I relieved him.

Q You were succeeding him, taking the post that he was covering that night? A I relieved him, yes, sir, at the scene of the fire.

Q Now, do you know Miss Kopf? (Indicating Miss Norma Kopf.) A I never saw her before.

Q You were not in uniform that night? A I was; yes, sir.

Q Were you inside the building? A No, sir; I was on the outside.

Q On the Halsey street side? A I was on Halsey and William both.

Q Right in front of the building? A Yes, sir.

Q The ground you covered chiefly that night was the side upon which this building was situated, on Halsey street, and the ground it covered on William street? A Yes, sir.

Q And the space it covered on William street is no more than 20 feet, or about 25 feet? A I just don't know how much ground they have on William street.

Q Can you answer that last question? Approximate the number of feet this building covers on William street? A I just don't know.

Q Is it more than 20 feet? A I don't know what it is.

Q You covered, you say, about 12 times walking around on Halsey street and William street, on that particular evening and morning? A I don't know how many times I walked around there. I was back and forth all night from 9:00 until 5:00.

Q You say you know this particular neighborhood? A Yes, sir.

Q And yet, in the face of all that, you cannot give us any conception of the distance in feet

that this building covers on William street? A I don't know exactly how many feet.

Q And you cannot approximate, can you? A My judgment is about 35 or 40 feet.

Q Can you tell us anything about the type of stores that are immediately across from this particular building that was burned? A On one corner there is an automobile accessories, Halsey and William; up from there there was a radio shop of some kind.

Q What is between the radio shop and this accessories store you are talking about? A I don't remember.

Q I thought you said you knew this particular neighborhood? A That is a different post.

Q Isn't that immediately across the street from the fire scene? A Yes, sir.

Q Yet you say you don't know what is between this radio shop and this accessories store? A I do not.

Q Is there a driveway to a garage anywhere near this fire scene—that is, on the other side of the street? A There is one between Halsey and Trent place.

Q Now, towards Washington street, is there any driveway that you can recall to a garage? A There is a driveway; I don't know where it leads to.

Q Isn't there a drive right alongside of this radio store that you are talking about? A It comes in there somewhere; I don't know whether it is alongside of the radio store, or which place.

Q Is there a butcher store there near this fire scene? A A butcher store up on William street.

Q And do I understand you to say you recall there is a driveway between the butcher store and the radio store? A There is a driveway on

William street around the butcher store; I don't know whether it is next to it or a door or two away from it, but I know there is a driveway there in the neighborhood.

Q Do you know whether or not the butcher store follows this radio store? A I don't know.

Q You say you are familiar with this neighborhood? A With No. 2 post, not No. 4.

Q Did you pay as much attention to the automobiles that were on the street, to the automobiles that were on the thoroughfare, and the people that were there, as you did to the stores that were surrounding this particular fire spot? A On this night I saw that no automobiles parked—

Q Listen to my question. I asked you whether you paid as much attention to the automobiles on that street, Halsey and William, as you did to the tire stores that were about that fire scene? A I saw there were no machines parked in around the fire scene—that is, in front of the building.

Q In other words, immediately in front of the building? A Yes, sir.

Q And immediately in front of the building on both sides of the street on Halsey and William? A Yes, sir.

Q That is all your attention was centered on? A That no machines or no people parked or passed on the side that the fire was on.

Q Do you know whether there is an undertaker's establishment near this fire scene? A There is a stable next to the fire scene.

Q Is there, to your knowledge, an undertaker's establishment or store immediately next to this fire spot? A Next to the fire spot is a stable.

Q Is there an undertaking establishment near this fire spot, "Yes" or "No," as far as your knowledge is concerned? A I am not sure whether there is an undertaker there or not.

Q You don't know anything about the distance of this driveway leading from the street between this radio shop and the butcher shop? A No, sir.

Q You don't know anything about the width of this driveway, either? A No, sir.

Q Whether there were automobiles parked in that driveway or near that driveway, you don't know? A Not if they were parked in the driveway or in front of it.

HARVEY VAN STEENBERGH, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q Sergeant, you are connected with the Police Department of the City of Newark, New Jersey? A Yes, sir.

Q Were you, on May 28, 1924? A I was detailed to the First Precinct as an acting lieutenant.

Q Did you, on the night of May 28, 1924, while acting as acting lieutenant of the First Precinct, detail any officers for special duty around the fire scene at Halsey and William streets? A I did.

Q Whom did you detail? A Officer Shine.

Q And from what time until what time? A I sent him from the station house at 8:45 P. M., at the time of the roll call.

Q To stay there until when? A I instructed him to go to the Mills Hotel fire and relieve Officer Wallace.

Q Did you tell him how long you wanted him to stay there? A Until he was relieved in the morning at 5:00 o'clock.

Q Are you familiar with that particular neighborhood? A I am.

Q How often do you pass there, or have you been passing there? A I do not pass there very often just now, because we are assigned to a different precinct every night.

Q But how about during the year 1924? A At that time I was working as an acting lieutenant in the First Precinct, inside.

Q How long did you work that way? A From the early part of May until July.

Q During that month of May, beginning with the early part of May, did you pass Halsey and William streets often at night? A No, sir.

Cross examination by Mr. Feder.

Q Officer, you say you are not familiar with this locality? A I am familiar with the neighborhood.

Q Do you recall whether there is a butcher store on the William street side, opposite this fire scene? A There is a butcher shop in the middle of the block on the north side of William street.

Q How far would you say that the butcher store is from that fire building we are talking about? A It is across the street and about a half block west.

Q And do you recall this radio store on William street? A There is a radio store on William street; I don't know the number.

Harvey Van Steenbergh, cross.

Q How close is that to the butcher store? A I could not say exactly.

Q Is it the building next to it? A I am not sure.

Q At any rate, it is not any great distance from it? A No, sir.

Q Do you know whether there is a driveway leading from the street to a garage between the radio shop on William street and the accessories store there? A There is a driveway there, but I am not sure where it is.

Q You were not on Halsey and William street on May 28th? A No, sir.

Q You have no personal knowledge that Officer Shine was there, excepting that you say he was asked to come there? A I sent him there and told him to remain there.

Q What duties he performed there, you don't know? A No, sir.

Q You were not with him at any part of the night? A No, sir.

By Mr. Schotland.

Q You were subpoenaed here by the complainant? A Yes, sir.

Further cross.

Q You were asked by the complainant to bring your records? A The only record I brought—

Q Did you bring the original records? A No, sir.

Q You were asked to bring them? A We are not allowed to take them out of the station house.

Mr. Feder: I ask to have that struck out as not responsive.

New Jersey State Library

John M. O'Rourke, direct.

By Mr. Schotland.

Q Why didn't you bring the records? A Because we are not allowed to take them.

JOHN M. O'ROURKE, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q You have been subpoenaed to appear here by the complainant? A Yes, sir.

Q In May of last year, what precinct were you attached to? A The First Precinct of the City of Newark.

Q As what? A Patrolman.

Q And what was your post? A I have two posts, steady posts—do you mean around that time?

Q Yes. A We have two posts—we work one post one week, and the other post the following week.

Q What two posts have you been working? A No. 2 and No. 20.

Q And will you give us the boundaries of Post 2? A Broad, William, Washington and Marshall.

Q And Post 20? A Post 20 is Bank, Cedar, Halsey and Broad.

Q Post 2—does that take you above Halsey and William?

Mr. Feder: Objected to as being very leading.

A Yes, sir.

Q On which side of William street does that take you? A Well, it would be the far side, that would be—

Q Is it the side towards Elizabeth or the side towards Belleville? A The side towards Elizabeth.

Q That is the south side? A Yes, sir.

Q How long have you been working on those two posts? A About 18 months.

Q And while working on Post No. 2—you say that is about half the time? A Yes, sir.

Q Were you working nights or days? A Nights.

Q From what hour to what hour? A Well, some nights it is different.

Q Just let me have the time when you were around there. A You would have to ask me which night—we start the first night—

Q Which night of the week do you call your first night? A The first night of the week would be after your day off—

Q You start when? A 12 o'clock, P. M., to 8:00 in the morning; and the second night is 7:00 in the evening to 5:00 in the morning; the third night is 9:00 in the evening to 5:00 in the morning; the fourth night is 9:00 o'clock in the evening till 4:00 in the morning.

Q Those are your different hours? A Yes, sir.

Q Now, in the course of patroling Post No. 2 how often would you pass each night on the block from William street to Halsey and Washington? A Oh, 15 or 16 times, I suppose; some nights more and some less.

Q Are you familiar with that particular neighborhood? A Yes, sir.

Q Now, do you remember the night of May 28th, on a Wednesday night? A Yes, sir.

Q May 28, 1924? A Yes, sir.

Q Do you remember where you were on duty that night? A Yes, sir.

Q Where? A No. 2 and No. 3 post.

Q Where are the boundaries of that? A William to Clinton avenue—Broad to Washington.

Q And what hours were you on duty? A From 9:00 until 4:00; I am pretty sure—4:00 or 5:00, one of the two.

Q Did you see Officer Shine that night? A Yes, sir.

Q Where did you see him? A In the precinct before we started to work, and I saw him at William and Halsey street after 11 o'clock.

Q That is when you got there? A Yes, sir.

Q How long did you remain on William and Halsey street? A Just to say "Hello"; I was patrolling the post.

Q What was he doing there? A He was detailed there.

Q Did you hear him getting the orders when he was detailed there? A That I cannot say; I don't know whether I did or not.

Q Now, what kind of a neighborhood is Halsey and William street between 9:00 and 10:30 in the evening during May?

Mr. Feder: Objected to on the ground that it is immaterial; we are concerned only with the date in question.

A That is a pretty busy section; there are people going up and down there nearly until midnight.

Q And how do you find that block on William street between Halsey and Washington, as to

parking conditions, with reference to whether cars are parked there or not, evenings? A I get up there after 11 o'clock; there are cars there generally after 11 o'clock; I cannot speak from 9:00 to 11:00.

Q Have you ever passed it earlier than 11:00 o'clock? A My post calls for me to do Broad street straight from 9:00 to 11:00.

Q Have you ever passed there earlier than 11 o'clock, when you were not on duty?

Mr. Feder: Objected to on the ground that the officer has twice answered for his reasons as not being on William street between 9:00 and 11:00, and counsel cannot impeach his own witness.

Mr. Schotland: I am not trying to impeach him.

Q Did you ever pass there when you were not on duty, earlier than 11:00 o'clock? A Yes, sir.

Q How often? A Quite often.

Q What condition did you notice as to cars being parked on William street or not?

Mr. Feder: Objected to as immaterial; we are not concerned with what happened on any other date, except the date involved in this case.

A Every time I pass through William street up to midnight at night, there are always automobiles parked on William street.

Mr. Feder: Objected to as leading.

Q Many, or just one or two? A Up to midnight the street is pretty well lined up with them.

John M. O'Rourke, cross.

Q On this night of May 28th, when you met Officer Shine in front of the scene of the fire, were there any cars parked there at that time, that is, on that block on William street? A Yes, sir; there were automobiles parked in the block.

Q Were there any people around looking at the scene of the fire? A There were some; yes, sir.

Q And that was after 11 o'clock?

Mr. Feder: Objected to as being very leading.

Cross examination by Mr. Feder.

Q Your personal knowledge of—what transpired between 9:00 and 11:00 P. M., on the night of May 28th, you are unfamiliar with; is that correct? A Yes, sir.

Q So that, what happened between that time as to the number of cars or the number of people, of your own personal knowledge you cannot tell us? A No, sir.

Mr. Schotland: Are you through with the officers?

Mr. Feder: Yes.

Mr. Schotland: Then they can go, I guess.

(The police officers then left.)

Harod Zimmel, direct.

HAROLD ZIMMEL, being duly sworn, testified as follows:

Direct examination by Mr. Schotland.

Q What is your business? A The music line.

Q What do you mean? A I sell musical instruments—musical merchandise.

Q Have you a store? A Yes, sir.

Q Where? A At Roselle Park, New Jersey.

Q How old are you? A Twenty-six years of age.

Q Are you married? A Yes, sir; I am.

Q Tell us when you were married. A I was married on February 15, 1925.

Q Do you know the petitioner, Sanford Z. Sturm, the petitioner in this case? A Yes, sir.

Q How long have you known him? A A number of years.

Q Where did you first get acquainted with him? A I met him at my aunt's home, which happened to be my home at that time.

Q How long ago is that? A About three years ago.

Q And have you met him since that time? A Yes, sir; I met him at his brother's wedding; I don't just recall the date.

Q Did you speak to him? A Yes, sir.

Q Do you know each other well? A Yes, sir.

Q Did you meet him at any other place? A Yes, sir; I met him at his brother's home; I do not recall what date that was; it was about two years ago, I guess, something like that.

Q And do you know Frieda Sturm, the defendant in this case? A Yes, sir.

Q How long have you known her? A About five years and a half, or six years.

Q And do you remember June 20th of last year? A I do.

Q Did you see Mrs. Frieda Sturm on that day? A Yes, sir.

Q Where did you meet her? A I happened to meet her where she was employed. I was just across the street from that place.

Q And you met her? A I happened to see her, and I walked across the street to her.

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

Q As a result of that conversation, did you meet her on the evening of that same day? A I volunteered my services—

Q Answer the question; you are not permitted to tell the conversations; as a result of the conversation that you had with her, did you meet her that evening? A Yes, sir.

Q When and where? A At Irvington Centre.

Q What time? A About 9:00 o'clock.

Q Where were you living at that time? A In Irvington.

Q Did you have your car with you? A No, sir.

Q Were you supposed to have your car? A Yes, sir.

Q Not having your car, after you met Mrs. Sturm, what did you do? A We got a Clinton avenue bus and we went east on Clinton avenue to Broad street.

Q What did you do there? A Got off and got on another one going west on Clinton avenue.

Q Then where? A Then went to Belmont avenue.

Q You got off at Belmont avenue? A Yes, sir.

Q Where did you go then? A I walked up to the house, to Mrs. Jacoby's house.

Q That is Mrs. Sturm's aunt? A Yes, sir.

Q And did you go inside of the house alone? A No, sir.

Q When you walked up to the house, where was Mrs. Sturm going? A Over to the park.

Q Who was there? A Her aunt was there.

Q And did anyone join you at the house on Belmont avenue? A Not right away.

Q How long did you stay there? A Three or four minutes.

Q Then what happened? A Mrs. Sturm came up and said to her aunt—

Q As a result of what she said, what did you do? A We went right upstairs.

Q How did you get in? A I believe she had a key.

Q Where did you go? A I sat down in the living-room.

Q And did anything happen there? A I had just gotten in about two minutes when I heard some knocking at the door.

Q Yes. Proceed. A And Mrs. Sturm asked who was there, and this party mentioned "Mr. Smith," did Mr. Smith live here, and insisting on the door being opened; I don't know just what she said to him, but the party insisted that the door be opened; and Mrs. Sturm walked over and hollered down the dumbwaiter for the janitor.

Q What happened then? A I asked her to open up the door—to let me go and open it—and she did not want me to do it.

Q What happened then? A Mrs. Jacoby came up a few moments after that.

Q What happened after Mrs. Jacoby came up? A We sat around a while, and I do not just recall that party's name who was there.

Q Mr. Slutsky? A Yes, sir; he came up. I believe he is a detective of some kind.

Q Then what happened? A We sat around half an hour, and Mr. Slutsky and I then left together, and he took me home in his car.

Mr. Schotland: Will you object to permitting the witness to testify to the conversations with the defendant?

Mr. Feder: I object to it because it is illegal and not evidential.

Q Now, did you, on this occasion when you met Mrs. Sturm, walk down Broad street with your arm around Mrs. Sturm? A No, sir.

Q Did you hug her? A No, sir.

Q Did you kiss her? A No, sir.

Q Did you get under a tree on Broad street to talk to her? A No, sir.

Q Did you walk towards the Hotel Lincoln? A No, sir.

Q Do you know where the Hotel Lincoln is? A I do.

Q When you got into Mrs. Jacoby's apartment on Belmont avenue did you go out to the bedroom that faces the yard? A No, sir.

Q And take your collar off and your coat and vest off? A No, sir.

Q And stand in front of the window with your arm around Mrs. Sturm and she resting her head on your shoulder? A No, sir, I never entered the bedroom.

Q How many rooms in that apartment did you enter that night? A Two, to my knowl-

edge; and there is a little hallway going into the kitchen from the outside.

Q Which of the two rooms did you enter? A The kitchen and living-room.

Q Which room do you enter as you come in from the hall? A The kitchen.

Q Then you went from the kitchen in order to get into the living-room? A Yes, sir.

Q Did you undress at all? A No, sir.

Q Did you kiss or hug Mrs. Sturm? A No, sir.

Q Did you have any intercourse with her then? A No, sir.

Q How long were you inside when the knock at the door came? A Just about two or three minutes.

Q What had you done after you got in there until the knock at the door came? A Just got in and was just getting ready to sit down, and I picked up a newspaper from the chair that I wanted to sit on, and then I heard this knocking.

Q That is all the time that had elapsed? A Yes, sir.

Q Were you married at that time? A No, sir.

Q Were you engaged? A Yes, sir.

Q Were you and Mrs. Sturm making love to each other at that time? A No, sir.

Cross examination by Mr. Feder.

Q How old are you? A I shall be twenty-six in November.

Q How long are you living in Newark, New Jersey? A All my life.

Q How many years of your twenty-six have you known Miss Frieda Singer, now known as Frieda Sturm? A Five and a half or six years.

Q So that you became acquainted with her some time in the year 1919? A Yes, sir.

Q You at that time lived where in Newark, New Jersey? A 698 Springfield avenue, just a block from Irvington, New Jersey.

Q Where did she live in 1919? A She lived with Mrs. Jacoby when I first met her in East or West Orange—one of the Oranges, I don't know which.

Q And this is the same Mrs. Jacoby that you referred to in your testimony as being her aunt? A Yes, sir; she lived at Bank and Warren streets.

Q Where in the Oranges did she live? A It is one of the Oranges, but I don't know which Orange it is.

Q Do you know the place? A Yes, sir.

Q You have been in the place? A Yes, sir.

Q Where you called on her? A I used to see her often.

Q How often? A As often as I could get away—probably once or twice a week.

Q That kept up from 1919 until she moved away from Orange, that you called on her on an average of once or twice a week? A I won't say that. I don't just recall the time—how long from the time I had met her until she moved away from Orange, but there was a lapse of time.

Q You met her, you say, when she lived in East Orange? A Yes, sir.

Q While she was living there you are certain you called on her at least once or twice a week? A No, sir, I called on her from time to time.

Q Didn't you say once or twice a week you called on her? A I don't just recall how often I called on her.

Q When you said, "I called on her once or twice a week," didn't you refer to East Orange? A No, sir.

Q Wasn't that the only place I asked you about where you met her; wasn't that the only one mentioned up to the time you said "once or twice a week"; is not that right? A I mentioned before something about Warren street. She lived at Bank and Warren street.

RECESS TO 2 P. M.

AFTER RECESS.

HAROLD ZIMMEL, resumes the witness stand.

Cross examination (continued) by Mr. Feder.

Q I believe you testified, Mr. Zimmel, that your acquaintanceship with the defendant in this case commenced while she lived in East Orange, New Jersey? A Yes, sir.

Q And that you don't recall the street; you don't recall the number of the street; you were merely acquainted with the place itself? A The street I knew as Valley Road.

Q Was that the only street in East Orange that you would call upon Mrs. Sturm, the defendant in this case, to take her out? A Yes, sir.

Q Do you know of a street in East Orange by the name of Dey street? A I imagine it is Valley Road.

Q When you said you know the name of the road you are not as certain as you were before when you said it was Valley Road? A I did not say I was sure.

Q You don't know the avenue? A I imagine it is Valley Road, as I stated before.

Q For how long a time did you continue to visit her in East Orange from the time you first started? A I called on her two or three times up there.

Q And that extended over what period of time? A Some time up to around August, 1919.

Q From when? A From May 14, to be exact, 1919.

Q How do you happen to remember specific dates that you first commenced to call on Mrs. Sturm? A Because I was discharged from the army on May 14, 1919, and I had met her in my home that very night with a cousin of mine, May 14, 1919—the night I was discharged from service.

Q Hadn't you known her while you were in service? A Yes, sir.

Q And you had corresponded with her while you were in service? A Yes, sir. I went in service in 1915.

Q And you corresponded with her until the date you were discharged? A No, sir; I believe we started to correspond in 1918. The first I met her was on May 14, 1919.

Q You corresponded with her without knowing her then? A Yes, sir.

Q How did you happen to write to her? A It came about some way through a cousin of mine that I had written to one time and asked her to have some of her friends write to us while we were in service; and my first letter came from Mrs. Sturm at that time.

Q So you knew her for a period, including correspondence, for about seven years? A Yes, sir.

Q When you got out of service your first attention to any young lady was to her? A My attention was not directed to anyone; she happened to be in my home when I got home.

Q The fact is, that as soon as you were discharged an acquaintanceship sprang up between you and Miss Frieda Singer? A Yes, sir.

Q Then you commenced to call on her on an average of once or twice a week? A Yes, sir.

Q And that continued how long? A For a month and a half.

Q Then she moved from East Orange? A Yes, sir.

Q Where to? A I don't know. I did not know at that time where she moved.

Q Right after she moved you made it your business to find out where she went to? A That was impossible. I did not find it.

Q Where did you next see her? A I saw her way back in October, 1919.

Q You then commenced to take her out again? A Occasionally.

Q To dances? A No, sir; only to the theatre.

Q Automobile rides? A No, sir.

Q Wasn't she ever in your automobile? A Yes, sir, but I did not take her for automobile rides. Taking her to a theatre in an automobile I would not consider taking her on an automobile ride.

Q You never took her to any restaurant or any cabaret? A Not at that time.

Q You mean 1919 you did not? A At the time you are mentioning I had never taken her to a restaurant.

Q In 1919? A That is right.

Q At that time, when you had taken her out, did you know that she knew Mr. Sturm? A She did not know him at that time.

Q How do you know that? A When I had called on Mrs. Sturm again in Newark, New Jersey; I don't recall the street; probably you know the street; I don't know if it was Bank; I had called on her three or four times when she mentioned this Mr. Sturm to me, and it was an understood fact that he was to keep company with her, and I discontinued calling on her.

Q When was that? A That was in October or November, 1919.

Q Don't you know the first time Frieda Singer, now Mrs. Sturm, met Mr. Sturm was in 1920? Don't you know that? A Not to my knowledge.

Q You may be mistaken about that? A No, sir.

Q You would say she had met Mr. Sturm some time in October or November, 1919? A Yes, sir.

Q Have you discussed this case with anyone? A No, sir.

Q Have you talked to Mrs. Sturm, the defendant, about this case? A No, sir.

Q So that from the time you went out with her up to this very moment that you are testifying, you had never discussed this case in any respect with Mrs. Sturm, the defendant, is that right? A Not in any respect.

Q Did you discuss this case with her; did you or didn't you, discuss it with her? A Yes, sir, I discussed it.

Q When you said before that you did not discuss it, you did not mean that? A That is not what I said.

Q Didn't you say you never discussed this case with her? A I never discussed the case in full.

Q Did you hear any part of the question I asked you containing the words "in full?" A Yes, sir.

Q So you thought I used in my question the words "in full?" A Yes, sir.

Q You say you discussed it with her? A Yes, sir.

Q You refreshed your recollection of the dates by talking to her? A No, sir.

Q Didn't you talk the case over with her at length as to when you first met her? A No, sir.

Q You were subpoenaed in this case several times? A Yes, sir.

Q And do you mean to say, that during the time you were subpoenaed, you never spoke to Mrs. Sturm? A No, sir.

Q You realize you are under oath? A Yes, sir.

Q Did you talk to her aunt, Mrs. Jacoby? A No, sir.

Q Whom did you talk to about this case? A No one.

Q You did not discuss this case with anyone? A Yes, sir.

Q A moment ago you said you did not discuss it. A We discussed a certain part of it.

Q Don't you call discussing a certain part of the case, discussing it— A Only to the effect that I was to be subpoenaed in the case; that was all that was ever mentioned.

Q You knew you were going to be subpoenaed in this case long before testimony was taken, didn't you? A I can tell you just when I knew I was going to be subpoenaed.

Q Answer the question. A No, sir.

Q Didn't you know you were going to be called as a witness when the papers were filed in this case? A No, sir.

Q Were you not approached by anyone at the time the papers were filed against Mrs. Sturm, and talked to about this case? A Yes, sir, in my place of business.

Q By whom? A Some detectives from Passaic or Paterson.

Q Do you know Detective Slutsky? A Yes, sir.

Q Didn't he talk to you about this case? A No, sir.

Q Didn't he come to see you about this case? A No, sir.

Q Who subpoenaed you to come here today? A Mr. Schotland.

Q Who brought the subpoena to you? A It was given to me by a man in my business; the server gave it to me; I don't know his name.

Q Were you not talking to Mrs. Sturm about this case at noontime today? A No, sir.

Q Well, now, do you mean to say now, that not being spoken to by anyone, and being for the first time approached with a question of the kind I am asking you, you distinctly recollect specific dates, such as May 14th, and specific times that you saw or did not see Mrs. Sturm? A That is what I mean to say.

Q And your memory is not hazy about the dates at all, being for the first time asked about these dates this afternoon? A That is right.

Q Where do you live now? A 141 Huntington Terrace, Newark, New Jersey.

Q Where did you live before that? A Before that I lived at 519 Avon avenue, Irvington.

Q In 1919 did you know a young lady, Gussie Richter? A No, sir.

Q At that time you did not know her? A No, sir.

Q Now, then, after you heard Mr. Sturm's name mentioned by Miss Singer in 1919, in November, you stopped going with her? A That is right.

Q And had not seen her until June 20, 1924? A That is right.

Q During those five years, more or less, you did not converse with her in any way? A No, sir.

Q Nor, had you even spoken to her? A No, sir, I did not even see her.

Q For five years, or a little less than that, you had not corresponded with her, spoken to her, or telephoned her, or in any other way communicated with the defendant in this case; is that right? A That is right.

Q Until June 20, 1924? A With the exception that I had met her at her brother-in-law's wedding; I do not recall, but I think it was about three years ago.

Q Wintertime, was it? A Yes, sir.

Q That was only a casual meeting for exchange of "Hellos," and that is all? A Yes, sir.

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

Q So that the intimacy between yourself and Mrs. Sturm terminated in 1919? A That is right.

Q You say the reason was, because she was going out with Mr. Sturm? A Yes, sir.

Q Isn't it a fact, that it was because you found out she was very attentive to a jitney driver? A No, sir.

Q Didn't you know she was then going out with a jitney driver? A No, sir.

Q You knew nothing about a jitney driver of any kind? A No, sir.

Q Do you know where she lived in Newark, New Jersey, the last time that you called on her? A Her dad had a business on Bank and Bruce streets.

Q At that place you called on her with your automobile? A Yes, sir.

Q That was in 1919? A Yes, sir.

Q You are sure it was not 1920? A I am positive it was 1919; I owned that Studebaker in 1919.

Q You had other automobiles in 1920? A No, sir, I did not own that Studebaker in 1920.

Q Did you own a car in 1920 of any kind? A No, sir.

Q Now, in June, 1924, the 20th of that month, you were still unmarried? A Yes, sir.

Q You had been engaged for how long a time? A About two years and a half.

Q Including up to June 20th? A Yes, sir.

Q And it was while you were engaged that you met Mrs. Sturm, then Miss Frieda Singer, to talk to her? A She was Mrs. Sturm at that time, on June 20th.

Q You spoke to her? A Yes, sir.

Q And that was in the daytime, the first conversation? A Yes, sir.

Q In the morning? A In the afternoon.

Q In the morning? A In the afternoon.

Q About what time? A About 4:00 o'clock.

Q Where? A On Livingston street, Newark, New Jersey.

Q She approached you? A No, sir, I approached her.

Harold Zimmel, cross.

Q Had you seen her at any time during the five years that you say you separated from her? A No, sir.

Q Excepting on the night of this wedding? A That is it.

Q Other than that, you had not seen her? A No, sir.

Q So you went over to talk to her? A Yes, sir.

Q To renew friendship? A I just walked over to say "Hello," to exchange greetings.

Q As a result of your first talk in the afternoon, you met her by arrangement? A Yes, sir.

Q In Irvington? A Yes, sir.

Q She came out there to meet you? A Yes, sir.

Q And you then escorted her back to Newark? A Yes, sir.

Q When you got to Newark, what time was it? A About 9:00 o'clock.

Q You took a jitney bus from Newark, New Jersey? A Yes, sir.

Q And you got off at what street coming in to Newark, New Jersey? A At the Lincoln Park.

Q Is there a Lincoln Hotel there? A Yes, sir.

Q You know the hotel? A Yes, sir.

Q You walked together? A Yes, sir.

Q You paid her fare on the jitney? A Yes, sir.

Q Where did you stop? A We did not stop.

Q You walked to a certain spot? A Yes, sir.

Q Did you stop anywhere? A No, sir.

Q Where did you walk to? A We walked back from Broad street and Clinton avenue, over

past Lincoln Park, west again on Clinton avenue to a jitney bus.

Q You got on another jitney bus? A Yes, sir.

Q Where did you go then? A We rode as far as Belmont avenue.

Q Did you talk to her all the way down in the jitney from Irvington into Newark, New Jersey? A Yes, sir.

Q Did you talk to her when you got on the second jitney bus until you got to Belmont avenue? A Yes, sir.

Q At that time you knew that she had prosecuted a case against Mr. Sturm in the Criminal Courts in the City of Newark, New Jersey, didn't you? A Yes, sir.

Q You knew that she had obtained a conviction, and that there was a forced marriage between her and the petitioner in this case? A Yes, sir.

Q And you knew more or less, when you were riding with her from Irvington to Newark, and then in Newark on the jitney bus to Belmont avenue, that she was not living with the petitioner in this case? A That is true.

Q You both got into a conversation about the marital life of the petitioner and the defendant? A No, sir.

Q What I mean is, you discussed with her, or she told you her story about her then situation in respect to this petitioner? A She did not tell me anything concerning her forced marriage, as you call it, at that time.

Q Wasn't there a conversation in regard to the fact that she was compelling the petitioner to support her, that he was not living with her? A No, sir; I knew he was not living with her, but there was no such conversation.

Q Did you know whether he was supporting her? A No, sir.

Q Didn't you know she was living with Mrs. Jacoby, her aunt? A Yes, sir, I know Mrs. Jacoby very well.

Q You knew her family? A Yes, sir.

Q You knew her relatives besides knowing her? A Yes, sir.

Q Well, now, the ride that you were taking with her from Irvington to Newark, New Jersey, was an arranged trip, wasn't it? A Well, not from Irvington to Newark was not an arranged trip.

Q Were not you riding with her by virtue of some arrangements you made with her? A Not prior to the time I had met her at Irvington Centre.

Q Was she supposed to meet you by appointment? A Yes, sir.

Q And you were carrying out the arrangement when you were going back to Newark with her? A No, sir.

Q It was an abrupt arrangement that you both came to after she met you in Irvington? A Yes, sir.

Q You then had full knowledge of the fact that she was Mrs. Sturm? A Yes, sir.

Q Didn't you inquire into her difficulties? A That is what our arrangement was.

Q You did inquire into that? A Yes, sir.

Q And talked over with her, as would be natural, where you knew the woman, as to how she was getting along, and the different facts circumscribing her relationship with Mr. Sturm? A We did not discuss that any.

Q You just talked about current topics then? A Yes, sir.

Q And everything but the name of Mr. Sturm? A We did not talk about Mr. Sturm's immediate trouble in any way.

Q Was Mr. Sturm's name mentioned? A Yes, sir.

Q In fact, it was mentioned a good many times on that ride into Newark, New Jersey? A Once or twice.

Q She mentioned his name to you? A Yes, sir.

Q And you were just a friend of hers, were you not? A Yes, sir.

Q You are friendly with her today? A Certainly I am a friend of hers.

Q You are here testifying as a friend of hers? A That is right.

Q You are here testifying in her interest? A Yes, sir.

Q Personally, you would like to see her win this case? A That is not for me to say.

Q Answer the question: Are not you here ready to see her, if possible, win this case? A That is true.

Q Now, when you got through with the second jitney ride, she got off the jitney bus first? A No, sir, I did.

Q And she went to the park? A Yes, sir.

Q And you went to this house? A Yes, sir.

Q And this house number is what? A I don't know.

Q Who pointed the house out to you? A She told me it was the second house with the big stoop.

Q What do you mean? A There are only two houses with the same fronts, and she mentioned it was the one nearest to Avon avenue.

Q Don't you know this house has no stoop? A It has two steps; I meant the large doorway in front.

Q You stayed there until she came back from the park? A I rang the bell first.

Q You stayed in front of this house until she came from the park? A Yes, sir.

Q You rang the bell first? A Yes, sir.

Q There was no response? A No, sir; there was not.

Q So you knew no one was there? A That is it.

Q And this was about what time? A I believe it was about 9:30.

Q It was dark? A Yes, sir.

Q She came alone from the park to meet you in front of this house? A Yes, sir.

Q Besides the two steps in front of this house is it a frame building? A From the size of it I think it is a brick building; it is a large building.

Q Don't you know whether it is brick or frame? A It was a brick building.

Q Now, then, when she came back, did she lead you into these rooms? A I had never been there before and she was leading me.

Q You marched up to the second floor? A Yes, sir.

Q The rooms you are talking about are the rooms in the rear of the second floor? A Yes, sir.

Q She had a key? A Yes, sir.

Q There is no Yale lock? A I don't know what kind it is.

Q Was it one of those long skeleton keys? A I don't know.

Q You could turn the doorknob— A Yes, sir.

Q You both went together? A Yes, sir.

Q And the door locked? A I know now it was locked, but I did not know then.

Q You testified on direct examination that you knew the door was locked? A Yes, sir.

Q So when you were inside with this woman the door was closed and locked with a key? A Yes, sir.

Q You did not think it advisable to go over to the park to talk to whoever was there? A I did.

Q But you did not go? A No, sir.

Q So, in face of the fact that you thought it advisable to go to the park, you did not go? A I did not go.

Q Now, then, after you were there for some minutes in the room you say you heard a knock at the door? A Yes, sir.

Q It is nothing unusual for you to hear a knock at a door when you are in an apartment? A No, sir.

Q The fact is, you did not go over to open it? A No, sir.

Q The fact is, that she did not? A She did not.

Q You had seen people on the thoroughfare when you waked into the building? A Yes, sir.

Q The hall was light? A Yes, sir.

Q You knew people were in the building besides you two? A Yes, sir.

Q Yet you did not go over until the aunt came up, to open the door, to see who was there? A We did not go to open the door.

Q But Mrs. Sturm went to the dumbwaiter to holler down? A Yes, sir.

Q And you were with her? A Yes, sir.

Q The door did not break open at that time? A No, sir.

Q There was knocking at the door? A Yes, sir.

Q And she called down the dumbwaiter? A Yes, sir.

Q And then it was not until Mrs. Jacoby, this aunt, came up, that the door was opened? A That is right.

Q You had not, prior to the appearance of the Kopf sisters, seen them on that street? A No, sir.

Q You had not seen Mr. Sturm on the street prior to that? A No, sir.

Q Ordinarily, when a knock came on the door, you would walk over to open it? A Yes, sir.

Q But on this occasion you did not think it advisable? A Yes, sir, I did think it advisable, but I did not open it.

Q Now, did you hear a voice from the other side of the door say, "Open the door, this is San"? A No, sir.

Q That might have been said but you did not hear it? A I did not hear it.

Q There was a little excitement? A Not as far as I was concerned.

Q Was not Mrs. Sturm excited? A I don't know.

Q Running to the dumbwaiter, did not that indicate excitement to you on her part? A No, sir.

Q You considered it an ordinary thing for a woman, with you inside, when a knock came at the door, to run to the dumbwaiter and yell for the help of the janitor; is that right? A I did not hear her yell for help.

Q She hollered, didn't she? A She called out in a loud tone of voice.

Q She does not speak in a loud tone of voice? A She called in a loud tone of voice.

Q Was that her ordinary tone of voice? A She called a little louder than she generally talks.

Q You did not see any excitement about her at all? A No, sir.

Q Was she calm? A She was not what you call calm, but she was not excited, as far as I could see.

Q She was not emotional at that time? A No, sir.

Q Did she go for her key? A I don't know.

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

Q Do you remember what she yelled down to the janitor? A Yes, sir. She said, "Will you kindly see who that is at our front door," or "Will you see?" She asked the janitor to see who that Mr. Smith was at the door.

Q Why didn't you walk over to the door? A Because she did not want me to open the door.

Q And you wanted to open it and she would not let you? A That is the idea.

Q Did you walk over to the door and ask, "Who is there?" A No, sir.

Q Would not you consider that to be an ordinary thing to do when somebody is merely knocking at the door? A Yes, sir.

Q But the fact is, you did not? A I did not do it.

Q You never walked over to the door to ask any questions of any kind? A No, sir.

Q The mere name, "Mr. Smith," did not frighten you? A Nothing frightened me.

Q When she was yelling down the dumbwaiter there was nothing to prevent you from walking to the door to inquire who was there? A That is true, nothing prevented me, but I did not do it.

Q Did anyone inside say, after the knock came on the door with the request to open it, did

anyone then say, "Don't answer?" A Not to my knowledge.

Q You don't remember that? A I did not hear anything like that.

Q 9:30 P. M., that street, Belmont avenue, things are kind of humming around that hour; people are going and coming, are they not? A That is right.

Q Did you tell your sweetheart at that time you were going to meet Mrs. Sturm? A I did, yes, sir.

Q Does she know you were going to testify in court today? A Yes, sir; she is taking care of my business now.

Q You were married February 15th? A Yes, sir.

Q That was two days before you were supposed to testify in this case on the 17th? A Yes, sir.

Q That was a week before the marriage was scheduled? A Yes, sir.

Q Now, when Mrs. Jacoby came up, Miss Kopf was there, wasn't she? A I did not see her.

Q Did you see this lady there? A I did not see anyone.

Q Was your vision all right that night? A Yes, sir.

Q You walked outside, didn't you? A No, sir.

Q When the door opened there was nothing to spoil your view from seeing who was there? A Yes, sir, the kitchen was in the way; I was sitting in the living-room when Mrs. Jacoby walked in; there was no sense in standing out in the hallway; I stayed right in the living-room.

Q There was a commotion, wasn't there? There was a disturbance at that time? A Outside the door there was.

Q And the knock was at your door? A Yes, sir.

Q And the disturbance was due to the fact that they knew that you were with Mrs. Sturm in this room? A Yes, sir.

Q And did you stay right in your chair? A Yes, sir.

Q You did not budge at all? A No, sir.

Q Did Mrs. Sturm cry? A No, sir.

Q You were not present when she testified that she did cry? A I did not see her cry; she did not, as far as I know.

Q You were looking at her? A How do you know I was?

Q Answer my question. A I was not looking at her; I was sitting inside in the living-room; she was looking down the dumbwaiter until she got an answer from the janitor.

Q Did she keep her head in the dumbwaiter until the door was opened? A No, sir.

Q Her head was on you sometimes during that night, wasn't it? A No, sir, it was not.

Q Her head was away from the dumbwaiter when Mrs. Jacoby came in? A Yes, sir.

Q At that time was she crying? A No, sir.

Q So that you are positive when you say she was not crying? A I am positive she was not crying.

Q And you were there from the time you came in until the time that everybody left? A Yes, sir.

Q Was Mrs. Jacoby excited or disturbed a bit? A I did not notice whether she was.

Q So you did not happen to notice? A No, sir.

Q You were indifferent about everything, were you not? A I was not indifferent about anything.

Q You say you did not notice Mrs. Jacoby and you did not notice Mrs. Sturm? A I noticed her, but I did not notice that she was excited.

Q When Mrs. Jacoby came in did she walk in alone? A Yes, sir, she opened the door herself.

Q Was Mrs. Jacoby doing any talking when she came walking in? Were there not four or five people in the hallway at that time? A I don't know.

Q Who came in first, Mrs. Jacoby or Mrs. Popovics? A No one came in but Mrs. Jacoby.

Q You are sure about that, are you, that Mrs. Popovics did not come in at all? A I did not see her; I don't know her yet.

Q You did not see her at all around that place? A No, sir.

Q You certainly wanted to know, after you heard the knocking at the door and after Mrs. Sturm yelled down the dumbwaiter, who it was that did the knocking? A Yes, sir.

Q You were interested to the extent of finding out who was knocking at the door? A Yes, sir.

Q Did you see Mr. Sturm there that night? A No, sir.

Q Did you see Mr. Troast there that night? A No, sir.

Q Do you remember anyone passing you while you were going down the stairway? A No, sir.

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

Q Did you find out that there were certain women detectives knocking at the door? A I did not know who was knocking at the door.

Q You did not see anyone at all who did the knocking? A No, sir.

Q When you got out of the kitchen did you see anyone? A No, sir.

Q Wasn't there a disturbance downstairs in the hall, too? A I did not go down to find out.

Q You considered it none of your affairs? A That is it.

Q Although you knew the entire disturbance was due to the fact that you were locked up in rooms with this defendant, Mrs. Frieda Sturm? A I did not know that was the reason for all the noise.

Q Didn't you know when you were in there alone when the knocks came? A Yes, sir, but I did not know that all the noise downstairs was due to that.

Q Didn't you know when Mrs. Jacoby came in that it was a case of somebody following you up with Mrs. Sturm that night? A I learned that later.

Q And you knew you were being followed? A I did not know until after it occurred.

Q At the time it occurred didn't you make inquiry? A I found out later on that evening that we were followed that night.

Q When you saw Mrs. Jacoby didn't you ask her what was the matter? A Mrs. Jacoby walked in.

Q When she came walking in and opened the door, that was right after the knocking? A Yes, sir.

Q There was no conversation between you and Mrs. Jacoby? A I asked her what the trouble was.

Q Then you did know the trouble was on account of you and Mrs. Sturm being together? A I found out, yes, sir.

Q The fact is, that when you were in these rooms with the door locked, the only ones present were yourself and the defendant in this case, Mrs. Sturm? A That is right.

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

Q Do you know whether he was there? A I don't know; I never saw him.

Q Did you meet any colored people that night in that hallway? A No, sir.

Q You got away from the place as fast as you could? A No, sir.

Q You did get away that night? A Later on, about 11:00 or 11:30.

Q So you learned afterwards that it was detectives that were at this door and Mr. Sturm. Whom did you discuss that with? A Mrs. Jacoby.

Q Was Mrs. Sturm there? A Yes, sir.

Q You and Mrs. Sturm and Mrs. Jacoby talked it over? A Others were there, too.

Q You all discussed it as to what had happened and so on and went into a conversation concerning what occurred? A Yes, sir.

Q You then knew that it was a rather serious matter, didn't you? A Yes, sir.

Q And you found fault that you would be connected with this case? A Yes, sir.

Q At that time you knew that you were going to be connected with this case in the event that a divorce suit was started? A I did not know at that time there was going to be a case.

Q You did know, when you spoke to Mrs. Jacoby a little later, knowing you were locked

up with Mrs. Sturm, that you would, in all probability, be connected with her in a divorce case? A I did not know there would be a divorce case.

Q You had a thought on the subject? A I did not think that far at all.

Q The seriousness of the fact that you were there alone brought you into a discussion about the matter; is that right? A About what matter?

Q About the fact that you were there and the fact that the detectives had knocked at the door? A Yes, sir.

Q When was the next time you saw Mrs. Jacoby then concerning what had happened on that night? A This morning, I believe.

Q You had not seen her after that night? A No, sir.

Q So that when you testified before that you had not discussed this case with anyone, you forgot to mention the name "Mrs. Jacoby?"

Mr. Schotland: I object to that as misstating the fact.

A I have not discussed this case with anyone.

Q Didn't you discuss what happened on June 20th with Mrs. Jacoby? A What happened that night, no, sir; I did not know there was any case at that time.

Q Didn't you discuss it with Mrs. Sturm that night? A I discussed what had occurred that night only.

Q And you went over the matter thoroughly with them? A I did not go over any matter at all.

Q Discussing the details of what had happened that night? A I discussed what had happened that night, yes, sir.

Harold Zimmel, re-direct.

Q On June 20, 1924, did you own an automobile? A Yes, sir, Stearns-Knight.

Q You were supposed to meet her with your car? A Yes, sir.

Q Then it changed to taking a jitney bus? A The car was broken.

Q How long was it broken? A About a week.

Q You arranged in the afternoon to take the car? A Yes, sir.

Q How did you arrange to take her in the car if on the same day you knew the car was broken for a week before that? A Because I happened to be across the street where I was buying a part to fix up the rear of the car, which would have put it in commission in one hour's time; but I could not get that part.

Q Where did your sweetheart live on June 20, 1924? A At 541 Belmont avenue, Newark, New Jersey.

Q Is that on the same street where you got off after taking the second jitney bus? A She lives on South Belmont avenue.

Q How many blocks away from the place where you got off the jitney bus with Mrs. Sturm? A About four blocks.

Q Did you go over with Mrs. Sturm to your sweetheart's that night at all? A No, sir.

Q Even after this thing happened you never went to your sweetheart's house, did you, that night? A No, sir.

Re-direct examination by Mr. Schotland.

Q You fix the date of May 14th as the date when you first personally met Mrs. Sturm. How do you fix that date? A I have my discharge

papers in my pocket to verify the date I came back from the army.

Q And you fix it by the date of your discharge? A Yes, sir.

Q Now, after Mrs. Jacoby came into the apartment on that night in June, did Mrs. Sturm stay in the room with you all the time that you were talking to Mrs. Jacoby? A Yes, sir.

Q Did anyone else come in while you were there? A Some man came in, whose name I don't recall.

Q Did a young lady come in? A Yes, sir.

Q How long after Mrs. Jacoby came in did the young lady come in? A Not very long after that one of the daughters came in.

Q One of the daughters that lived in the apartment? A Yes, sir.

Re-cross examination by Mr. Feder.

Q You are talking now about the time after the knocking at the door? A Yes, sir.

Q And the opening of the door by Mrs. Jacoby? A Yes, sir.

Q She was not there at the time before the knocks came? A Who?

Q Mrs. Jacoby. A No, sir.

Q Or any other person? A No, sir.

Re-direct examination by Mr. Schotland.

Q The young lady that came in a few minutes after Mrs. Jacoby came in, how did she get in? A She had her own key to the door, I believe.

Q No one that was inside with you went to the door to open it for her? A No, sir.

Harold Zimmel, re-cross.

Re-cross examination by Mr. Feder.

Q Who is this young lady you are talking about? What is her name? A I don't know her name.

Q Weren't you introduced to her? A Yes, sir, but I have forgotten her name.

Q So your recollection about certain things that happened this night is very hazy now? A Yes, sir.

Q There are certain things that happened this night that since that night you have forgotten about them? A There is nothing that occurred there that I have forgotten that I know of.

Q This young lady came in, you say, three or four minutes after Mrs. Jacoby? A Yes, sir.

Q And you were introduced to her? A Yes, sir.

Q Didn't you consider it an important thing to you that when you were locked up alone in this room and there were knocks on the door for you to remember and take and keep everything that happened that night in your mind? A I did not.

Q And you don't know this young lady's first or last name? A No, sir.

Mr. Schotland: I offer the interrogatories and the answers. I did offer them the last time, but they were not marked. I want them marked.

Marked "Exhibit Sch. A. 1" and "Exhibit Sch. A. 2."

Mr. Schotland: I want to offer the certified copy of the conviction of the petitioner.

Marked "Exhibit Sch. A. 3."

Mr. Schotland: We rest.

MISS GRACE ADELMAN, being duly sworn, testified as follows:

Direct examination by Mr. Feder.

Q Where do you live? A 30 Ridgewood avenue, Newark, New Jersey.

Q How long have you been living in Newark, New Jersey? A All my life.

Q How long is that? A Twenty-two years.

Q Do you know the petitioner in this case, Mr. Sturm? A Yes, sir.

Q When was the last time you saw Mr. Sturm? A I have not seen him for more than a year.

Q Give us the month and the year. A That was the time I testified for him in Newark, New Jersey, in his case—some case that he had.

Q Was it a criminal case against him? A Yes, sir.

Q It has been testified in this case that you are and were very intimate with him since the testimony given by you in that case. Is that true? A That is not true.

Q It has been testified to in this case that he has been keeping company with you in the last year or so. Is that correct? A No, sir.

Cross examination by Mr. Schotland.

Q Was he keeping company with you before you testified in the criminal case? A Not exactly.

Q But he was calling on you? A Yes, sir.

Q And going out with you? A Yes, sir.

Q Have you been calling on any of his relatives during the past year? A No, sir.

Q Have you visited any of his relatives? A No, sir.

Q Since when? A Not for more than a year.
Q What month did you stop? A I could not recollect the month.

SANFORD Z. STURM, being recalled, testified as follows:

Direct examination by Mr. Feder.

Q I show you a letter, dated July 5, 1923, and ask you whether you had any conversation in respect to that letter with the defendant in this case, Frieda Sturm? A Yes, sir. The Friday night following the marriage before Judge Caffrey I met her up at her aunt's apartment, and in the course of the conversation we got talking about this particular letter, and she said if it came from Brooklyn, which it did, she knew who sent it.

Q Did you tell her where it came from then? A She suggested that herself. She said, "If it came from Brooklyn I know who sent it."

Q Did that letter come from Brooklyn? A Yes, sir.

Q What did she say? A She laughed and sneered it off and said, "That is only one of the many that have been sent."

Mr. Feder: I offer that in evidence and also the envelope.

Letter marked "Exhibit Feder 1."

Envelope marked "Exhibit Feder 2."

Q Did you talk to her concerning the contents of this letter? A She seemed to know just what was in it.

Q During the whole of the conversation was reference made to this letter by you and her? A Yes, sir.

Cross examination by Mr. Schotland.

Q You testified all about your Friday night conversation on your original testimony, didn't you? A Yes, sir.

Q That is the occasion when your two brothers-in-law accompanied you, isn't it? A Yes, sir.

SUR-REBUTTAL.

MRS. FRIEDA STURM, the defendant, being recalled, testified as follows:

Direct examination by Mr. Schotland.

Q I show you "Exhibit Feder 1" and "Exhibit Feder 2" of this date. Did you ever see this letter before? A No, sir.

Q Did you ever discuss this letter with your husband? A Yes, sir.

Q When? A That night he came to my house.

Q Do you know anything about this letter? A No, sir.

Q Do you know who sent it? A No, sir.

Q It appears to be signed by some name—"Milton"—I cannot read the name. Can you make out that name? A It looks like "Charson," but I know no one of that name.

Q Did you tell the petitioner that if this letter came from Brooklyn you knew who sent it? A I said just the opposite. He told me about

the letter and I said, "Where does it come from?" and he said, "From Brooklyn;" and I said, "I don't know anyone in Brooklyn," and that is all I said about it.

Cross examination by Mr. Feder.

Q There is no question about the fact that there was a conversation about this letter? A That is true.

Q He charged you with having knowledge concerning this letter and charged you with being the one that had this letter written? A No, sir.

Q You observed it was a blackhand letter? A He did not show me the letter; he just told me about it.

Q Didn't you just say you remembered the talk about this letter. When you said "This letter" were not you referring to the letter held in my hand marked "Feder 1," or, as it was originally marked, "Exhibit P. 1½"? A I did not see any letter.

Q He designated the letter was from Brooklyn? A Yes, sir.

Q At that time were you friendly or unfriendly with the petitioner in this case?

Mr. Schotland: Objected to as going into the main cross examination again.

Q You were then unfriendly with him? A Yes, sir.

Q Isn't it a fact that this letter marked "Exhibit P. 1½" was the means that you were using to carry out a threat that you made to the petitioner in this case, that "I am going to make you come around just in this way," meaning by threatening letters; didn't you say that to him,

or words to that effect? A I said, "Remember, you will never marry her," meaning Miss Adelman.

Q Didn't you say you would use means whereby he would come around to you? A No, sir.

Q No words to that effect at all? A No, sir.

Q You never made any threats to him at all? A The same night I called him up and told him if he did not come willingly I would have to make him come up.

Q You did use words of threat that night? A Over the telephone that way.

BOTH SIDES REST.

Mr. Schotland: The case is closed; let us go and see the Vice-Chancellor (which was done).

Exhibit Sch. A 2.

EXHIBIT SCH. A. 2.

IN CHANCERY OF NEW JERSEY.

Between	
SANFORD Z. STURM, *Petitioner,*	*On Petition, etc.*
and	*Interrogatories.*
FRIEDA STURM, *Defendant.*	

To the Petitioner, Sanford Z. Sturm:

You are hereby required to answer, under oath, the following Interrogatories, and to serve your Answers thereto, upon me, within ten days after service of the Interrogatories upon you.

Dated July 30, 1924.

PHILIP J. SCHOTLAND,
Solicitor of Defendant.

First Interrogatory: Where do you intend to charge that the adultery alleged in paragraph 2, of your Petition, took place?

Second Interrogatory: What are the other days that you intend to charge defendant with having committed adultery, as alleged in paragraph 2 of your Petition?

Third Interrogatory: Where do you intend to charge defendant committed adultery on the other days mentioned in paragraph 2 of your Petition?

Fourth Interrogatory: With whom do you intend to charge defendant committed adultery as alleged in paragraph 2 of your Petition?

Exhibit Sch. A 2.

Fifth Interrogatory: Give description of person you charge defendant committed adultery with, as alleged in paragraph 2 of your Petition.

Sixth Interrogatory: Give circumstances and particulars under which you claim defendant committed adultery to sufficiently appraise her of the charge, so as to enable her to meet it.

Service of a true copy of the within Interrogatories is hereby acknowledge this 27th day of August, A. D., 1924.

FEDER & RINZLER,
Solicitors for Petitioner.

Exhibit Sch. A 1.

EXHIBIT SCH. A. 1.

IN CHANCERY OF NEW JERSEY.

Between SANFORD Z. STURM, *Petitioner,* *and* FRIEDA STURM, *Defendant.*	*On Petition, &c.* *Answer to Interrogatories.*

The following are answers to Interrogatories propounded by the defendant in the above suit:

1. At the home of the defendant's aunt, Mrs. Minnie Jacoby, the address of which is within the knowledge of the defendant herein, at Newark, N. J.; said home consisting of an apartment at or near Clinton street and Hillside avenue.

2. On other dates during the month of May, to wit, May 24 and May 28.

3. At Newark, N. J., near Weequahic Park.

4. Defendant is in possession of all the facts respecting and relating to said adulterous relationship in that said defendant at the time of the commission of said wrongs was immediately charged therewith in the presence of said correspondent.

5. Petitioner is unable to actually describe said person with exactness and that the description of said person is within the knowledge of petitioner's witnesses.

6. Defendant is in possession of all facts circumscribing said occasions and is in sufficient

Exhibit Sch. A 1.

possession of all facts in relation thereto in that defendant was present at the time that the charges were made against her concerning said adulterous relations and commission of said wrongs.

FEDER & RINZLER,
Solicitors of Petitioner.

Exhibit Sch. A 3.

EXHIBIT SCH. A. 3.

ESSEX COUNTY COURT OF QUARTER SESSIONS.

THE STATE, *vs.* SANFORD STURM.	*Sur Indictment. (No. 228 Dec. Term 1923) for Seduction.*

January 8, 1924, Indictment presented by Grand Jury.

January 16, 1924, Plea of Not Guilty entered by defendant.

Trial dates. February 6, 20. March 10, 12, 13, 1924.

March 12, 1924, Trial moved, Hon. Edwin C. Caffrey, presiding.

Plea of Not Guilty withdrawn for the purpose of making motion to Quash.

Motion to Quash denied by the Court.

Plea of Not Guilty re-entered.

Jury.

State 3.

Challenges Deft. 5.

1. Charles H. Plattener	7. John B. Hillman
2. Thomas A. Curtis	8. Ogden Williams
3. John A. Franz	9. W. Irving Scott.
4. Leon C. Tryon	10. Alfred M. Hartley
5. John F. Stanton	11. Alfred Harding
6. Joseph L. Holzinger	12. John V. Beam.

The Court on motion of the First Assistant Prosecutor order the indictment amended to read: 1922 instead of 1923.

Exhibit Sch. A 3.

March 13, 1924. Verdict: We find the defendant Guilty in the manner and form as is set forth in the indictment, and so they say all.

March 24, 1924. Sentence: The Court (Hon. Edwin C. Caffrey) order sentence suspended and that defendant be discharged. (Memo.—Defendant married prosecutrix.)

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

I, JOHN H. SCOTT, Clerk of the Court of Common Pleas, in and for the County of Essex in the State of New Jersey;

DO HEREBY CERTIFY that the annexed instrument is a true and correct abstract of the criminal record in the case of

The State *v.* Sanford Sturm for Seduction and the same is taken from and compared with record on file in my office and as the same now remains on the files of said office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of said Court and County at Newark, N. J., this 21st day of October A. D., 1924.

JOHN H. SCOTT,
Clerk.

(SEAL)

Decree Nisi.

DECREE NISI.

Filed May 18, 1926.

IN CHANCERY OF NEW JERSEY.

Between SANFORD STURM, *Petitioner,* *and* FRIEDA STURM, *Defendant.*	*On Petition, Decree Nisi. &c.*

This cause coming on to be heard in the presence of Joseph A. Feder, Esq., of the firm of Feder & Rinzler, Esqs., of counsel with the petitioner, and Philip J. Schotland, Esq., of counsel with the defendant, on petition, answer, and oral proofs taken in open court; whereupon, and upon duly considering the said pleadings and proofs, and hearing and considering the arguments of counsel; from all of which it now appears satisfactorily to the Chancellor, that the petitioner and defendant were lawfully joined in the bonds of matrimony on the twenty-fourth day of March, nineteen hundred and twenty-four, and that the defendant has been guilty of the adultery charged against her in the said petition, and that at the time the cause of action for divorce therefor arose the petitioner and defendant were bona fide residents of this State, and have continued so to be down to the time of the commencement of this action, and it further appearing that jurisdiction herein has been acquired by personal service of process upon the defendant within this State:

Decree Nisi.

It is thereupon, on this 18th day of May, A. D. nineteen hundred and twenty-six, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED, and the said Chancellor, by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby order, adjudge and decree that the said petitioner, Sanford Sturm, and the said defendant, Frieda Sturm, be divorced from from the bond of matrimony for the cause aforesaid, and the said parties, and each of them, be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why this decree should not be made absolute, within six months from the date hereof.

E. R. WALKER,
C.

Respectfully advised,

VIVIAN M. LEWIS,
V.-C.

Notice of Appeal.

NOTICE OF APPEAL.

IN CHANCERY OF NEW JERSEY.

Between	
SANFORD STURM, *Petitioner,*	*On Petition, etc.*
and	*Notice of Appeal.*
FRIEDA STURM, *Defendant.*	

Frieda Sturm, the above-named defendant, hereby appeals from the Decree Nisi filed in this cause, on the advice of Vice-Chancellor Lewis, and dated May 18, 1926, and from every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

Dated June 21, 1926.

PHILIP J. SCHOTLAND,
Solicitor for and of Counsel
with Defendant.

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

PHILIP J. SCHOTLAND,
Solicitor for and of Counsel
with Defendant.

Service of a true copy of the within Notice of Appeal is hereby acknowledged this 21st day of June, 1926.

FEDER & RINZLER,
Sol'r and Counsel with Petitioner.

PETITION OF APPEAL.

New Jersey Court of Errors and Appeals

Between	
SANFORD STURM, *Petitioner-Respondent,*	*On Petition, etc.*
and	*Petition of Appeal.*
FRIEDA STURM, *Defendant-Appellant.*	

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

The petition of Frieda Sturm, the defendant-appellant, respectfully shows, that your petitioner finds herself aggrieved by a Decree Nisi made in the Court of Chancery, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, on the 18th day of May, 1926, in that, the said decree recites and adjudges that the defendant has been guilty of the adultery charged against her in the said petition.

And your petitioner humbly appeals from said decree, and from every part thereof, on the ground that the same is erroneous and that the Chancellor should have found and adjudged that the defendant is not guilty of the adultery charged against her in the said petition, and should have ordered, adjudged and decreed, that the petitioner in said petition is not entitled to the relief prayed for.

Your petitioner therefore prays, that the said decree may be reversed, rescinded and for

nothing holden; and that your petitioner shall have such other further relief as shall be meet.

PHILIP J. SCHOTLAND,
Solicitor for and of Counsel with
Defendant-Appellant.

Service of a true copy of the within Petition of Appeal is hereby acknowledged this 21st day of June, 1926.

FEDER & RINZLER,
Solicitor and of Counsel with
Petitioner-Respondent.

FEB.T.1927

Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

New Jersey Court of Errors and Appeals

Between SANFORD STURM, *Petitioner-Respondent,* *and* FRIEDA STURM, *Defendant-Appellant.*	*On Petition for Divorce.* *On Appeal from Decree Nisi Advised By Vice-Chancellor Lewis.*

BRIEF FOR DEFENDANT-APPELLANT.

Facts.

A petition for divorce was filed in this suit on *June 23, 1924,* by the husband, petitioner, seeking to be divorced from his wife, whom he married *March 24, 1924* (see Petition, Case, pp. 2 and 3).

The petitioner seduced the defendant, under promise of marriage, and was indicted for seduction on January 8, 1924, by the grand jury of Essex County, where both petitioner and defendant reside, and where the crime was committed.

The trial was begun on March 12, 1924, after petitioner had pleaded Not Guilty, and was concluded on March 13, 1924. The jury found the petitioner guilty in manner and form as charged on March 13, 1924, and the petitioner was remanded for sentence to March 24, 1924, at which time, to avoid going to prison, petitioner married the prosecutrix (defendant in this suit), and thereby procured his discharge (see copy of Essex County Q. S. Record, pp. 365 and 366 of Case).

They were married by the Judge before whom petitioner was convicted and who was about to

impose sentence (see Petition, pp. 2 and 3 of Case).

Petitioner never consummated the marriage by co-habitation and never lived with defendant; never provided a home or proper support for her, and saw her only once after the marriage (see Case, p. 9, ll. 12-20). He paid her six dollars per week for her support, until ordered by the Domestic Relations Court of Essex County to pay had seven dollars a week, on June 10, 1924.

Petitioner, instead of seeing his wife, taking her out, providing a home for her, or treating her as a husband should, *proved* by his conduct that he only married defendant to save himself from prison, and immediately set about finding ways and means of getting rid of her. Before any date, or occasion when defendant was watched or seen with anyone is brought into the case, the chronology of events shows:

1. Solicitor for petitioner, Mr. Feder, is engaged.

2. Petitioner's solicitor engaged the Kopf Sisters, professional detectives, to get evidence for the petitioner (see Case, p. 77, ll. 30-34).

3. Petitioner and his detectives constantly followed and watched the defendant until June 20, 1924 (see evidence of Constance Kopf, Case, pp. 77-90).

4. Petition for divorce filed June 23, 1924.

The petition for divorce is very general and alleges that defendant committed adultery on *May 24, 1924, and on other days in said month of May with a person unknown* (see par. 2 of Petition on p. 2 of Case).

Defendant, seeking information as to what the charge against her was based on, served interrogatories on petitioner (see Case, pp. 361 and 362), inquiring where the alleged adultery took place and on what dates.

Petitioner, although he evidently desired to keep from the defendant knowledge of all details connected with his charge, did, nevertheless, to a certain extent, answer the interrogatories (see Case, pp. 363 and 364), and therein informed defendant:

1. That she is charged with adultery in her own home, where she was living with her aunt.

2. That the dates are May 24 and May 28, 1924.

3. That the place outside of her home is Newark, N. J., near Weequahic Park.

When the petitioner attempts to prove his case, he offers evidence of two acts of adultery, one on William street, Newark, forty feet west of Halsey street, on Monday, May 28, 1924, at 9:30 P. M., in an open touring car, with no shades up, and the glass in the rear of the top also broken out (see Case, pp. 88 and 81).

This location is about three miles from Weequahic Park, where the answer to the interrogatories informed defendant she would be charged with having committed the act.

The other act of adultery, according to the proofs, is charged to have taken place in her home, but not in the month of May at all, but on June 20, 1924.

The second act of adultery, according to petitioner's proofs, took place three days before the petition was filed, but is not mentioned in the

petition, and is not mentioned in the answers to the interrogatories.

The petitioner's proofs, or attempted proof of the two acts of adultery, is based entirely on the evidence of hired detectives and the petitioner.

The defendant denied the alleged acts, and her denial is corroborated by the evidence of every person mentioned in the case as having been present on the various occasions, or who could possibly throw some light on the question. The vice chancellor advised a *decree nisi,* which has been entered, and it is from this decision that the defendant brings this appeal.

The testimony introduced on the part of the petitioner as well as on the part of the defendant will be dealt with in the argument.

ARGUMENT.

I.

In the instant case, the proof on the part of the petitioner as to the first act of adultery, that is, on May 28, 1924, is based on the testimony of the detectives, Miss Constance Kopf, Miss Norma C. Kopf, their assistant, a chauffeur, Cornelius Troast, and Paul Gattie, who assisted the detectives.

The strongest testimony for the petitioner is that given by the chief of the detectives, Miss Constance Kopf, and her testimony is a fair sample of the testimony given by the other witnesses.

She testified regarding the May 28, 1924, occurrence, on direct examination, from the middle of page 79 to the top of page 82, and on cross examination, on pages 92 to 97.

Her testimony is to the effect that on the evening of May 28, 1924, she saw the defendant leave her home at 322 Belmont avenue, Newark, accompanied by a young lady who walked with her to 85 Rose Terrace, and from there they went down to Broad street, Newark, and went into the Studebaker salesroom; they met two men there, came out with these two men and entered a Studebaker car on the other side of the street; that the defendant and one of the gentlemen got into the back seat, and the other lady and the other gentleman into the front seat; that they drove to Halsey street; up Halsey street north, which is a one-way street, to the corner of William street, and stopped; that this was 9:30 P. M.; that the detectives got out of their car and after waiting for about five minutes saw the defendant and the man with her, and the couple in the front seat, loving and hugging each other; that they actually saw the defendant and the man with her in the act of sexual intercourse. That Weequahic Park is at least five miles from this place at William and Halsey streets.

On cross examination, this chief of the detectives testified, on page 94, lines 3 to 18:

"Q Right there are a lot of tire stores? A Yes, sir.

Q A great many of them were open at that time? A There was one that was open.

Q Right at the corner of Halsey and William street was open? A Yes, sir.

Q And right next to that is the entrance to a garage for transient cars? A I did not see that.

Q Didn't you see a lot of cars parked there? A There were none parked there at all.

Q On William street near Halsey; what day of the week was that? A That was on a Wednesday."

And lines 28 to bottom of page 94:

"Q There is a lot of traffic there, isn't there? A No, sir, there is not.

Q Was there not a lot of people coming there looking at that burnt building at that time? A No, sir.

Q And there was not much traffic on that Wednesday evening? A No, sir.

Q And no cars parked? A No, sir.

Q You are positive of that? A Yes, sir.

Q There is an electric light at the corner? A Yes, sir.

Q An electric light in the middle of the block, also? A I did not see that."

Also, page 95, lines 13 to 20:

"Q Where were you when you saw what was going on in this car? A I was in my car and out of my car; I was in an alleyway; that is right beyond the building in front of which their car stood.

Q You were in an alleyway? A Yes, sir.

Q What alley is that? A I don't know what alley that is. Anyway, it is an open space there, and that is where I was."

Also, page 96, lines 9 to 15:

"Q That block west of Halsey street runs on to Washington street, doesn't it? A Yes, sir.

Q Did you notice a lot of taxis and a lot of cars there on William street? A No, sir, I did not notice any car on William street with the exception of my car and this Studebaker."

Also, page 96, lines 19 to bottom:

"Q Now, then, this Studebaker car was parked at the curb? A Yes, sir, it was an open touring car, and this was in the summertime, May 28th.

Q And the curtains were, of course, not on? A No curtains on, perfectly open.

Q You mean to tell us that on an open touring car on William street, west of Halsey

street, between 9:30 and 10:00 o'clock, you saw this defendant have sexual intercourse with a man? A I saw Mrs. Sturm sit on this man's lap, and I and two others saw his private parts exposed, and I saw her sit on his lap and have sexual intercourse with him.

Q How far away from this car were you when you saw that? A About 18 feet.

Q There was no traffic policeman there on the corner? A No, sir, he was further in on Halsey street; this car did not stand on the corner.

Q Where was the policeman that had stopped you? A The policeman that stopped us was thirty feet in that block, in Halsey street."

This testimony is met by the evidence of the defendant herself, who testifies regarding this occurrence from the middle of page 238 to the bottom of page 241, and shows by her testimony that that particular evening she went with her cousin, Miss Edelstein, exactly as described by the detectives who followed her, and that when they passed the Studebaker showrooms, her cousin's sweetheart saw her and came out and called his friend out, and as he was going to take her cousin home, asked if she did not mind if he took his friend, called Tom, home first; so they got into the car, her cousin and sweetheart sitting in the front seat and the defendant and Mr. Kenny in the rear seat, and someone suggested that they go to see where the hotel burned down, so they went around there, parked the car near Halsey street. Got out of the car, walked around and talked for a while, and then got in the car, rode towards Elizabeth, stopped for refreshments on the way at a sidewalk stand, then took Mr. Kenny home; that there was no kissing or hugging and no intercourse; that the defendant met Mr. Kenny for the first time, and didn't

have much to say to him; that she never sat on his lap and never hugged or kissed him; that the car was parked right near the corner and that she has never met Mr. Kenny since, that being the only occasion when she ever saw him; that she first found out the full name of the man that accompanied them on that occasion by calling up Mr. Koplin, her cousin's sweetheart, who had driven the car, the night before she testified, to get the name of the friend who was with him.

She further testified that there were people guarding the place, but she did not know whether they were policemen or firemen.

The testimony of Miss Helen Edelstein, who testified regarding this occurrence, on pages 150 to 155, on direct examination, shows that she is the first cousin of the defendant, was with her on that evening, and that she was keeping company with Mr. Koplin, and was engaged to be married to him, and flatly contradicts the descriptions given by the detectives for the petitioner of the manner of greeting and conduct of herself and the defendant and the gentlemen with them. She is the one who suggested going over to look at the fire, stating that the Mills Hotel at Halsey and William streets had burned down the night before; that they parked the car at Halsey and William street, got out, looked at the burned building, which was rather interesting; then got back into the car and drove to Elizabeth, only making a stop at a street stand for refreshments, without driving through Weequahic Park at all, but by way of Elizabeth avenue; that there was no love-making in the car at all, no kissing or hugging by anyone, and that the defendant did not sit on Kenny's lap; that there were a lot of people at Halsey and William streets at the time; that firemen and policemen

were there and a rope was about the building and that parked cars were lined up on William street, but their car was parked right in back of another car, and that there was another car in back of theirs; that people were passing there continuously as well as vehicles running up and down; that the defendant did not have sexual intercourse in that car, and neither did the witness.

The testimony of Harry L. Koplin, a third member of that party, appearing on pages 163 to 169 of the Case, is to the same effect as Miss Edelstein's testimony, and he denies in great detail all of the charges made on behalf of the petitioner, and says that there was plenty of confusion and people and sightseers, policemen and watchmen, and that there was considerable excitement at that place, and that there were more than one hundred there at that particular time; that none of them stayed in the car while it was parked; that they got out and viewed the ruins and looked around; that there was no love-making or kissing or hugging, except that this witness kissed his fiancee good-bye when he left her at her own home, after taking the defendant home; that while the car was parked on William street there was a continual stream of traffic; that William and Halsey streets is one of the busiest corners in Newark; that at night you would have to spend twenty-five minutes getting space to park your car any time at all.

The testimony of Thomas A. Kenny, who is the fourth member of the party on that occasion, and who is the person charged to be unknown, with whom the defendant is alleged to have had the intercourse, appears on pages 203 to 209 of the Case, and squarely denies the charges made on behalf of the petitioner in detail and corrobo-

rates fully the testimony of the defendant, her cousin and Mr. Koplin.

The testimony of Arthur M. Shine, a police officer of the City of Newark, who was attached to the First Precinct at the time of this alleged occurrence, and was on duty at this particular place, at the very time testified to on behalf of the petitioner, on page 304, testifies as follows:

"Q Were you on duty the night of May 28th, 1924? A I was.

Q And where were you detailed? A I was detailed at the scene of the Mills Hotel fire.

Q Where is that located? A On Halsey and William streets.

Q Which corner? A On the southwest corner of Halsey and William streets.

Q What time did you go on duty at that point? A About 9:00 o'clock.

Q Whom did you relieve? A Officer Wallace.

Q How long did you remain on duty that night? A Until 5:00 the next morning.

Q Was that the day of the fire at that place, or the day after the fire? A The day after the fire.

Q Have you looked up your records to make certain of the date that you were on duty at that point? A Yes, sir.

Q You are positive it was May 28th? A Yes, sir; I have it right here (looking at a little diary).

Q Now, officer, between 9:00 and 10:00 o'clock was there anyone around there? A People were around there all the evening up until midnight; from the time I went on until midnight there were people viewing the fire.

Q Many people? A Yes, sir; quite a few coming and going all the time.

Q Were there any cars parked around there that night? A On William street, beyond the fire, and on the north side there were cars parked there, and on Halsey street,

both on the east and west side of Halsey street, north of William street, there were cars parked.

Q Were there many cars parked?

Mr. Feder: Objected to as very leading.

Q Were there many cars parked on the north side of William street from Halsey to Washington? A There was quite a few cars parked along there; people park and go to the theaters.

Q Are you familiar with that neighborhood? A Well, I am; I work around there.

Q How often do you pass the corner of Halsey and William at night? A When working that post, I pass William and Halsey a dozen times a night.

Q How long were you working on that post? A I worked off and on on that post; we change to different posts.

Q How long were you yourself working on that post? A That is Officer O'Rourke's post, one of his posts, and when he was off sick I worked it.

Q Well, now, during May of last year, and prior to that time, did you pass that place frequently, corner of Halsey and William? A In May of last year Officer O'Rourke was back, and he worked one week there and one week on the other side.

Q When you were not working that post, did you pass that point? A Yes, sir; we passed on Washington street, going north on Washington street.

Q Passed William street? A Yes, sir.

Q Are you familiar with the character of that neighborhood and the conditions that prevail at Halsey and William streets nights? A Well, yes, I am.

Q Between 9:00 and 10:00 on Wednesday nights, is that a quiet neighborhood, or otherwise? A Most every night up until 11:00 o'clock it is pretty busy on account of the show crowds.

Q And how about the parking of cars there, as a rule? A Well, a special officer

is there parking cars, and he is kept pretty busy.

Mr. Feder: I ask that that be stricken out 'kept pretty busy.'

Q You have seen that? A Yes, sir; I have seen the special officer around there.

Q Is he detailed there by the city? A They work on their own hook—just depend on what tips they get from the people that park the cars there.

Q You are speaking of William street between Halsey and Washington? A William street between Halsey and Washington, and Halsey right near William.

Q Did vou see this young lady there that night (indicating the defendant)? A I don't remember; there were so many people coming and going, looking at the fire.

Q Was there an interval of twenty-five minutes between nine and half-past ten, when there were no cars parked on William street, on either side, between Halsey and Washington, and then no one was around at all, on that night, May 28th? A Not to my knowledge—on William street, between Halsey and Washington street there is a restaurant, which is open until the early hours of the morning, and there are always or three cars in front of that place.

Q Now, this particular night of May 28th, that you were detailed on duty at the burned building I am talking about, was there any interval between 9:00 and 10:30 of twenty-five minutes when not a car was parked on either side of that block? Was there any interval of twenty-five minutes between 9:00 o'clock and 10:30 when people did not pass around there? A No, sir; they were coming and going from the time I arrived on the scene of the fire until midnight."

The testimony of J. Harold Wallace, another police officer of the City of Newark, who was on duty at the same place from 7:00 until 9:00 on the same evening, and was relieved by Officer

Shine, the last witness, as to the character of the neighborhood, on page 217, lines 23 to 29, when asked the question regarding Halsey and William streets, is as follows:

> "Q Have you ever been there in the evening when there were no cars parked around 9:30? A Never.
>
> Q You never found that block on William street without cars being parked on it about 9:30 in the evening? A No, sir, and I passed there every night in the week."

Defendant submits that the testimony produced in her behalf demonstrates beyond peradventure of a doubt, that the story of an act of adultery committed by her at the corner of Halsey and William streets, Newark, about 150 feet from Broad street, and two blocks from Broad and Market streets, on the night of May 28th, 1924, is manufactured out of the whole cloth, either by the petitioner or by his hired detectives, or by someone connected with him, in endeavoring to make a case for him, and respectfully calls the Court's attention to the fact that in the answers to the interrogatories, the place where the adultery is supposed to have been committed is near Weequahic Park, which the detective admits is about five miles from the place where she testified she saw the act committed.

The law applicable to such a state of facts has been settled in a very large number of decisions in this State, both in the Court of Chancery and in the Court of Errors and Appeals.

The case most cited and referred to as correctly stating the rule applicable is *Berckmans* v. *Berckmans,* 1 C. E. Green, 122, and one of the most recent decisions is *Johnson* v. *Johnson,* 4 N. J. Adv. Rep. 359, wherein Vice-Chancellor

Bentley quotes with approval, and says, on page 362, referring to the Berckmans case:

> "The Court of Errors and Appeals there laid down the rule to be that a charge of adultery in a suit for divorce operates strongly in the nature of a criminal proceeding and must be proved beyond a reasonable doubt."

To the same effect are:

Hurtzig v. *Hurtzig,* 44 N. J. Eq. 392;
Culver v. *Culver,* 11 Stew. Eq. 163;
Brown v. *Brown,* 63 N. J. Eq. 348;
Farrow v. *Farrow,* 70 N. J. Eq. 777;
Smith v. *Smith,* 91 N. J. Eq. 154;
Sargent v. *Sargent,* 114 Atl. Rep. 428;
Affirmed by the Court of Errors, 114 Atl. Rep. 439;
Grundy v. *Grundy,* 92 N. J. Eq. 687;
Letts v. *Letts,* 82 Atl. Rep. 845;
Torrens v. *Torrens,* 94 N. J. Eq. 480.

II.

Mere imprudence, indiscretion or folly is not conclusive evidence of guilt.

Berckmans v. *Berckmans,* 16 Eq. 122.

The second act of adultery which the petitioner endeavored to prove at the trial is one alleged to have occurred in the home of the defendant on June 20, 1924, and is an act not pleaded in the petition nor set up in the answers to the interrogatories.

The petitioner to sustain his charge on this occasion, has testified himself and has sought to prove the charge by the evidence of the same detectives, who testified as to the May 28th allegation, but who are not assisted in this instance by their other client, Mr. Gattie.

As to this occurrence, the chief detective, Miss Constance Kopf's, testimony is found at the bottom of page 84 to the middle of page 90, on her direct examination, and is as follows (p. 85, l. 18, &c.).

"Q What time was it? A About 7:40. Q Describe the appearance of the man. A He is a man about five feet eleven inches tall, a young fellow, broad shouldered, wore a grey suit and had an overcoat on his arm; they just said 'How do you do,' and then went over and took a Clinton avenue bus down town, where they got off at Chestnut and Broad street; it was bus 73. They walked in the direction of the Elks' Home, where they stopped for a moment and he then put his arms around her and was talking to her; from there they walked, he still with his arm around her, in the direction of the Lincoln Hotel. They stood conversing in the shadow of a tree there for a while.

Q What occurred? A He had his arm around her, and afterwards linked his arm into her left arm, and in that way they walked to the entrance of the Lincoln Hotel; he said something and she shook her head and came back again to the tree, and while standing by the tree, I heard her say, 'No, I don't want to, somebody may see us.'

Q Then what? A They stood there for ten minutes more, and she reluctantly walked away from the place. They then walked up to Clinton avenue and took a bus up as far as one street before you get to the park on Belmont avenue, where both got off. Mrs. Sturm walked alone to the park; they separated when they got out of the bus, and this man walked ahead fast, and I saw Mr. Cornelius Troast follow him. Mr. Troast was with me—

Q Who else was with you? A Mr. Sturm and my two sisters; I followed Mrs. Sturm to the Park, and her aunt was sitting on the bench.

Q When Mr. Cornelius Troast left you, in which direction did he go in reference to the man? A Up Belmont avenue.

Q Where had the man gone? A He followed the man.

Q When he got to the park, what did you see there? A I saw Mrs. Jacoby sitting on the end of the bench, sitting alone—the bench nearest to Clinton avenue; and Mrs. Sturm stood talking to her; and from what I could learn there was an argument. She remained there about five minutes. I then followed Mrs. Sturm up Belmont avenue, and she walked on the right-hand side of the street; she crossed over through the grounds; there is a section of trees, and she walked through them to the house, where she met this man who had been with her earlier in the evening.

Q To what house? A 322 Belmont avenue, where Mrs. Sturm lives.

Q Where did she meet him? A Five feet from the entrance to the door; and they went to the house. I crossed over; Mr. Troast was there; I crossed over with him; and they went down the corridor of the apartment house. I was in the door of the apartment house by the time that she got to the steps; the steps go to the left going upstairs.

Q And then what? A And this apartment is on the next floor, the second floor; and the door is the very first door that you meet on the left-hand side; it is at the head of the stairway.

Q The apartment occupied by Mrs. Sturm at that time? A Yes, sir.

Q What did you see when you had gotten into the entrance of the building? A I saw Mrs. Sturm and this man go around up the stairway to the left.

Q Did you see whether they entered the apartment? A They did; Mrs. Sturm unlocked the door and went in with a key, unlocked the door with a key and went in.

Q Now, before she entered that apartment, were there any lights there visible from the outside? A I did not see any lights visible from the outside; this apartment is in the back.

Q After she had entered the apartment with this man, what did you then do? A I called Mr. Sturm, and I, Mr. Sturm, and Mr. Cornelius Troast all went into the yard in the back of this apartment house; and there is a board fence from three to four feet high, and we looked up to the apartment of Mrs. Sturm.

Q How far from the building did you go when you looked up into the apartment occupied by Mrs. Sturm? A About 30 feet.

Q And could you see the apartment? A Yes, sir.

Q What was there there? A I could see a bedroom and a living room; there was a light in the bedroom.

Q Continue, and tell us what you saw. A While standing there, I saw this man in this bedroom with Mrs. Sturm; Mrs. Sturm had on a sort of a kimona or negligee, and this man was in his shirt sleeves; he had no coat or vest on; Mrs. Sturm was standing facing him with her arms around his waistline; they stood that way for two or three minutes, and then receded into the room and sat down, as though sitting down. I saw the head of the bed—

Q What was the man doing? A At times was petting her hair and her head.

Q After you saw them apparently sitting down, what occurred? A Then Mr. Sanford Sturm became very much distracted, and we then went through an alleyway or cellar and up to the apartment, and first Mr. Troast rang the bell—

Q From the time you saw these people standing in this bedroom up to the time Cornelius Troast rang the bell, how long a time elapsed, about? A About ten minutes.

Q And then Mr. Troast rang the bell of the Sturm apartment? A Yes, sir.

Q What happened? A And Mrs. Sturm said, 'Who is there?' and Mr. Troast said, ' I want to see Mrs. Jacoby.' And there was no answer to that then, and he again rang the bell and there was no more answer to that. Mr. Sturm then rang the bell again, and he banged on the door, and he said, 'Frieda, Frieda, it is San; let me in'; and I could hear the man's voice inside say, 'Don't let him in.' And then I rang the bell of the apartment directly next to that apartment, to the right of this apartment; and a lady came out, and I said to her—

Q Never mind that; what did you do? A I had a conversation with her.

Q After the conversation what did you do then; did you make any effort to get into the Sturm apartment through her apartment? A Yes, sir.

Q Were you successful? A No, sir.

Q After you were unsucessful in doing that, what did you do? A A colored man came to the foot of them stairs, and he said, 'What is all this excitement about?' he was the janitor.

Q Is that the man that was on the witness stand, who was confronted with his affidavit? A Yes, sir.

Q The colored man? A Yes, sir.

Q What happened then? A We remained there for about twenty minutes, and we could not get into the apartment, although we continued to make efforts to do so.

Q Was anything heard from the man or from Mrs. Sturm during that twenty minutes? A No, sir.

Q Did Mrs. Sturm make any explanation or attempt to make any explanation to her husband? A No, sir, the door was not open.

Q During that twenty minutes did anyone else come there? A A number of people came there; the tenants from the apartment came there.

Q During the twenty minutes that you waited there, was there anything else heard

from Mrs. Sturm or any other person in that apartment? A No, sir.

Q Then what happened? A Mr. Sturm and I then went down to the park, where we found Mrs. Jacoby sitting on the same bench where Mrs. Sturm had talked to her; and I said to her, 'Are you Mrs. Jacoby?' and she said, 'Yes'; and I said, 'You know this man, this is Mr. Sturm'; and she said, 'Yes'; and I said, 'Do you know your niece is up in your apartment alone with a man'; she said, 'What of it? She has a right to be in the apartment with a man.' And I said, 'You know she is a married woman'; and she said, 'What of that?' and then we all left the park and walked up towards the house—Mrs. Jacoby, Mr. Sturm and myself. Mrs. Jacoby then went to the front entrance and I saw her standing there talking to the janitor and a couple of women; she remained outside there about five minutes, and then went into the house.

Q What did you do then? A We remained there about twenty minutes, and we then left.

Q Did you see anyone leave that apartment house? A We did not see anyone leave that apartment house.

Q Did you see Mrs. Jacoby go into the apartment? A No, sir, she went into the house.

Q After leaving did you ever see Mrs. Sturm again excepting in court? A No, sir, I did not."

The testimony of the sister, Norma Kopf, who testified on page 101, line 25, &c., as follows:

"Q Now, get down to June 20th. A On June 20th Mrs. Sturm left her home with her aunt, and her aunt left the bus, and she went up to the section where the streets meet, where she met this young man. She went with this young man on bus 73; she got out and stood by the Lincoln Hotel. After he had asked her to go to the hotel with her, she was afraid to go there.

Q What was her attitude toward each other? A He kissed her right by the street, by the Lincoln Hotel, and when they got on the bus they got off together and she went to this little park to her aunt. I followed the man with Mr. Troast and Mr. Sturm. This man waited outside at the apartment where Mrs. Sturm lived until Mrs. Sturm came.

Q What did Mr. Troast do before Mrs. Sturm came there? A He went into the apartment and tried to get into this apartment where Mrs. Sturm lived with Mrs. Jacoby; there was no one at home. He then came where I was; meantime, Mrs. Sturm came up and went into the apartment with this man. She unlocked the door and they entered. I remained in the hallway while I saw my sister and Mr. Sturm and Mr. Troast go into the rear part of the apartment.

Q What do you mean? A The rear yard; they had to go through to go to the back. When they returned—I never took my eyes off the apartment door of Mrs. Sturm's apartment. Finally, Mr. Sturm, my sister and Mr. Troast returned. Mr. Sturm asked Mr. Troast to ring the bell at the door; he rang it and knocked; he asked to see Mrs. Jacoby. When he rang no one answered. I heard voices on the inside. Mr. Sturm then commenced to rattle the door and knock on the door and rang the bell and said, 'Let me in, this is San; this is your husband.' In the meantime, the janitor came, and he said to Mr. Sturm, Mr. Schotland—

Q Never mind the conversation.

Q (By the Court.) What did you do in consequence of what he said to Mr. Sturm? A Mr. Sturm again knocked on the door and made every effort to enter this apartment; I heard a man's voice inside say, 'Don't open it.' My sister and Mr. Sturm then left to go down to the park. I saw them leave the apartment. When they came

back they came back with Mrs. Jacoby. In the meantime, I never left the inside of the apartment. Different women came out of the apartment.

Q Did Mrs. Sturm come to the door at all, or make any explanation through the door? A Absolutely not; from the time I saw her walk in with this man, she never showed herself again.

Q From the time you saw her go into this apartment with this man, up to the time Mr. Troast came around and rang the bell and knocked at the door, how long a time elapsed, about? A You mean from the time Mr. Troast rang the bell?

Q I mean from the time she and this man entered that apartment when she unlocked the door with her key and went in with him; from that time up to the time that Mr. Troast came back with Mr. Sturm from the back yard, how long a time elapsed? A It was at least twelve to fifteen minutes, if not longer."

The testimony introduced on behalf of the petitioner, which describes everything in detail connected with the actual charge on this occasion, June 20, is the testimony of Cornelius Troast, the chauffeur and assistant of the detectives, on cross examination, beginning with line 18 on page 110 to the top of page 117, and this testimony clearly shows that no act of adultery could have been committed, for the following reasons: because Troast testifies that as soon as he saw the defendant and the man open the door and walk into the apartment, he and the petitioner and one of the Kopf sisters went around to the back, into the yard, and while he contradicts the other witnesses as to the time, contradictions are to be expected where a story is false.

On page 112 this witness testifies that the defendant and the man were very close to the win-

dow, with the shade up and the light burning in the room; that there were also other houses from the adjoining street whose windows faced the window in which the defendant was; that there were two rooms facing the yard, one alongside of the other, and a light in each; that he could see the entire room; that he saw the defendant and the man "with their arms around each other, and he had his coat and vest off, right close to the window; she had a negligee of some kind."

He then came around to the front of the house with the petitioner and the other two Kopf sisters, and they knocked at the hall door to the apartment in question, and on page 115 he testifies as follows: (Lines 28, &c.)

> "Q When you knocked on the door a woman's voice answered and asked 'Who is there?' didn't she? A Yes, sir.
>
> Q And you said you wanted Mrs. Jacoby. What did she say? A That was the end of the conversation; there was nothing more said.
>
> Q Either by you or by her? A No, sir. Then Mr. Sturm tried to get in.
>
> Q What did he do? A Hammered on the door and said, 'This is San, Frieda; open the door.'
>
> Q And then the colored janitor came up? A After the hammering was all over the colored janitor came up, I believe.
>
> Q Wasn't it while Mr. Sturm was hammering on the door? A No, sir; I think he had already given it up for a bad job.
>
> Q How long did you stay there hammering on the door trying to get in? A Quite a while; five minutes, I guess.
>
> Q Did all of you stay there the whole five minutes? A Yes, sir.
>
> Q Then what happened? A All the people came out of the apartments there.

Q And what did you do after the five minutes which you stayed there? A We went on downstairs.

Q Who did? A The entire party; I remained in front of the building and they went down to the diamond-shaped park.

Q When they came back, did anyone come back with them? A Mrs. Jacoby came back with them, and she remained in front of the apartment.

Q How long? A Five or ten minutes.

Q Then what did she do? A She went on up into the apartment.

Q Did you see her go into the apartment? A I saw her go into the building.

Q Where was the rest of your party when you saw Mrs. Jacoby go into the building? A We walked all over to the car.

Q Where was your car parked? A Across the street.

Q All of you walked over to the car? A I believe we did.

Q And then you left? A Yes, sir.

Q Then after you saw Mrs. Jacoby go in you did not stay there any more? A No, sir.

Q And did you try to go in with her? A No, sir; it would not have done any good, anyhow; no one tried to go in with her."

From his testimony, if it is true, the defendant could not have committed adultery during the time that it took for him, the petitioner and the Kopf sisters to go from the yard into the hall, up one flight of stairs and knock at the door. The knock was immediately answered, and he heard voices as soon as he got to the door, and certainly the defendant would not have committed adultery while her husband and his detectives were out in the hall knocking and raising a rumpus.

The testimony of Samuel Stewart, the janitor of the apartment house in question, called by the petitioner on re-direct examination by the peti-

tioner's own counsel, on page 75, lines 15 to 22, as follows:

"Q Something has been called to my attention: Why did you go upstairs that night? A I was called up.

Q By whom? A By Mrs. Sturm.

Q What did she say to you when she called up? A She said, 'Mr. Stewart, come up quick; somebody is trying to break in.' That was from the call bell of the dumbwaiter."

This evidence further demonstrates the fact that the defendant was not and could not have been committing adultery at the time, or she would not call through the dumbwaiter to the janitor to come upstairs to the apartment.

The charge of adultery is positively denied, not only by the defendant herself, but also by the man in question, Harold Zimmel, who at the time was engaged to be married, and was married during the pendency of this case and had no interest whatsoever, other than a friendly interest, to assist the defendant in her affairs.

The fact that there was no adultery committed on that occasion is further clearly proven on the part of the defendant by an entirely disinterested witness, Miss Angela Poe, employed by the law firm of Vanderbilt & Hedden, in this city, who lived in the same apartment with the defendant, and who, as well as all the other members of the family, had a key to the apartment, and entered with her key, as she says, between 9:30 and 9:45 in the evening, and she testified regarding the apartment and appearances, on page 146 to the middle of page 148, as follows:

"Q What time did you get home? A I got in between 9:30 and 9:45.

Q At that time was there anyone around in the hallway? A No, sir, I did not see anyone in the hallway.

Q Did you enter the apartment? A Yes, sir.

Q How did you get in? A I had my own key.

Q How many have keys to that apartment? A We all have our own keys.

Q When you got in, who was there? A Mrs. Jacoby, Mrs. Sturm and I; that is all that were there.

Q You then learned that there had been some trouble there? A Yes, sir.

Q Where is your and your mother's bedroom in that apartment? A My bedroom is in the rear, facing the yard.

Q And what room is alongside of the bedroom? A A dining-room.

Q Is that a combination dining and living-room? A Yes, sir.

Q How many bedrooms are there in that apartment? A Two.

Q How many rooms all told? A We have four rooms and a bathroom.

Q Kitchen, dining-room and living-room combination, bathroom and two bedrooms? A Yes, sir.

Q Who occupies the other bedroom? A Mrs. Jacoby and Mrs. Sturm.

Q Where is that located in the apartment? A That is facing the court.

Q With relation to the dining and living-room combination, where is that bedroom located? A That is in the back, facing the court.

Q Does that face the yard at all? A No, sir, not at all.

Q Now, when you got in on that night, June 20th last, did you go into your bedroom? A Yes, sir.

Q In what condition did you find the bed? A Just as I left it—in a straight condition.

Q Did it show any evidence of having been disturbed or used? A No, sir, not at all.

Q What kind of light have you in your room? A Electric light.

Q And have you a dimmer in your bedroom? A No, sir.

Q Is it possible to have a dim light in your bedroom? A No, sir.

Mr. Ward: I object; this witness is incompetent to testify to that.

The Court: Objection overruled.

Q When you turn on the light in your bedroom, is there any attachment connected with it so that you can make it burn dimmer or brighter? A No, sir, we cannot make it any dimmer.

Q And that is right alongside of the living-room? A Yes, sir.

Q Now, had there been anything disturbed in your bedroom? A Not at all.

Q When had you gone out that day? A That must have been about 7:30; I don't remember the exact time, between 7:00 and 7:30; I had only been gone two hours; I was the first one of my immediate family to come home, and when I saw Frieda she was crying.

Q She told you about some excitement that had taken place there? A Yes, sir.

Q How was she dressed? A She was fully dressed.

Q Do you know the man that was there? A No, sir.

Q Had you ever seen him there before? A No, sir.

Q Did you ever see him there since? A No, sir.

Q Did you ever see Frieda go out with him? A No, sir.

Q Are you related or in any way connected with Frieda or her aunt? A No, sir; not at all.

Q Are you of the same religious faith that she is? A No, sir."

Taking into consideration the physical situation of the apartment and bearing in mind that the defendant's bedroom "is in the back, facing the court," and does not face the yard at all,

and that the bedroom described by the petitioner and his detectives is one used and occupied by the witness, Miss Poe, and her mother; that it is impossible to make a dim light in her room, because there is an electric light without a dimmer, how is it possible for the Court to believe that the defendant went into the apartment for the purpose of committing adultery, and then went not into her own room, from which she could not be seen, but into Miss Poe's room and close up to the window, and left the shade up, and made a light, so that she could be seen from the yard? Or that defendant made love and kissed on Broad street in the daylight?

Defendant submits that the very statement of the charge and surrounding circumstances refutes it. The solution is, of course, found in the fact that this evidence is given by the same detectives who manufactured the episode at William and Halsey streets.

If ever there was a case which justified the adoption of the rule referred to by Vice-Chancellor Bentley, in *Rupp* v. *Rupp,* 126 Atl. 862, that testimony of paid detectives, though not entirely disregarded, if inherently probable and capable of some corroboration, must be closely scrutinized, unless strongly corroborated, and when unsupported by other proof is insufficient to establish adultery as ground for divorce.

The facts of this case appear to be very much stronger in favor of the defendant than the facts in *Grundy* v. *Grundy,* 92 N. J. Eq. 687, where the Court of Errors and Appeals said:

> "A careful examination of the proofs submitted leads us to the conclusion that this decree cannot be supported. There was no direct evidence of an adulterous act committed by the defendant with either of the

alleged corespondents. We find nothing in the proofs which justifies the conclusion that prior to the commission of the alleged acts of infidelity the defendant had any affection for either one of these corespondents, or that her earlier association with either the one or the other was suggestive of impropriety. In this situation of the proofs, the most that can be said of her conduct upon the two occasions which are made the basis of the charges against her is that it was indiscreet and ill advised.

But, as was said by Chancellor Green in the frequently quoted case of Berckmans *v.* Berckmans, 16 N. J. Eq. 122, 140:

> 'Mere imprudence, indiscretion, or folly is not conclusive evidence of guilt. The mind of the court must be satisfied that there was an intimacy between the parties entirely inconsistent with the duty which a virtuous wife owes to herself and to her husband. The facts proven must be such as cannot be reconciled with the probability of the innocence of the parties. * * * In order to prove adultery by circumstantial evidence, two points are to be established: the opportunity for the crime and the will to commit it. Where both are established, the court will infer the guilt.'
>
> "In the present case, although the opportunity was shown to exist, there is, as we think, an entire failure of proof that the will to commit the adulterous acts existed."

Cases illustrating the proof necessary in order to convict the defendant of adultery, which are particularly pertinent to this case, are:

> Smith *v.* Smith, 91 Eq. 151, which was affirmed by the Court of Errors and Appeals on Vice-Chancellor Foster's opinion, and where the defendant charged with adultery did not appear to defend, and the evidence against her was not dependent on detectives' testimony, but consisted of testimony to the effect that

a. Frequent visits were made by the corespondent to her house.

b. The corespondent was treated at her home for a boil and found in bed, clothed in a bathrobe, on two occasions; and,

c. Evidence by neighbors, whom defendant told that she thought a great deal of the corespondent, and would marry him if she were not married.

No such incriminating evidence is found in the instant case, but, on the contrary, there is no evidence whatever of lewdness or immorality or criminal desire on the part of the defendant or of any of the men mentioned in the case.

Torrens v. *Torrens,* 94 N. J. Eq. 480.

Cartan v. *Cartan,* 93 Eq. 175; also, affirmed by the Court of Errors and Appeals, where Vice-Chancellor Foster says:

"To justify a decree for divorce on the ground of adultery, the evidence of the defendant's guilt must be clear and satisfactory. A full and explicit denial of the charge by the defendant and her alleged *particeps criminis* should be regarded as decisive in a case of doubt."

There is a lot of other testimony in the case not dealing with the two particular acts of adultery, which shows how closely the defendant was followed, and how impossible it was for the petitioner to be able to make a case against her. A reading of the evidence in the case will show that every person referred to has been produced as a witness on the part of the defendant and that the detectives contradict themselves in their descriptions of people and events.

A significant circumstance in this case is that if the petitioner believed that the act of adultery was committed, as testified to by the detectives, on May 28th, when they claimed to be eye-witnesses of a direct act, why did he not then dis-

charge the detectives and file his petition? What he in fact did was to continue the employment of the detectives until after the alleged act on June 20th, when all he had was circumstantial evidence, and then he discharged the detectives. And as to the act of June 20th, it has been clearly demonstrated that the man with whom the defendant went to her home on that occasion was Harold Zimmel, a person well known to the petitioner, but the petitioner did not charge that the defendant committed adultery with Zimmel; but, on the contrary, charged that she committed adultery with a person unknown to him; and in his own evidence, on page 46, lines 24 to 35, testified that he doesn't know the man; that he had never seen him before; had never seen him since; when, as a matter of fact, the man was well known to him as Harold Zimmel.

Neither the petitioner nor any of his witnesses, although they took the stand in rebuttal, ever denied that Zimmel was the man that they saw with the defendant on the night of June 20th.

For the reasons above given, and in accordance with the authorities quoted, defendant respectfully submits that the decree should be reversed and a decree directed to be entered dismissing the petition, with costs to the defendant.

PHILIP J. SCHOTLAND,
Solicitor for and of Counsel
with Defendant-Appellant.

New Jersey Court of Errors and Appeals

Between

SANFORD STURM,
Petitioner-Respondent,

and

FRIEDA STURM,
Defendant-Appellant.

On Petition for Divorce.

On Appeal from Decree Nisi Advised by Vice-Chancellor Lewis

BRIEF FOR PETITIONER-RESPONDENT.

Statement of Case.

The introductory part of defendant-appellant's brief contains misstatements in respect to matters of the first order of importance and incomplete and prejudicial statements in respect to subordinate facts.

It is true that the marriage between the parties was forced; that the petitioner started his suit for divorce three months after his marriage; that he never lived with his wife; that he contributed from the time of his marriage, $6.00 a week toward her support until ordered by a court to increase the sum to $7.00; that on May 20, 1924 (Case, page 77, lines 23-36) he employed professional investigators to follow her; that his petition for divorce is "very general" and that the unsworn answers to Interrogatories served by the defendant's solicitor on August 27, 1924 (answers made, not directly by the petitioner, but by his solicitors under their signature, not his) do not constitute a flawless or model paper.

But it is also true that the record raises the gravest doubt that the petitioner was rightly convicted of seduction upon the indictment procured by the woman he married; that she had previously sued him for breach of promise of marriage; that she had previously also caused his indictment for fornication; that he visited her, five days after his marriage and, protesting that he had been impoverished by the varied litigation of which she was the author, promised to dwell with her as soon as he became able to establish a home for her; that their common friends or acquaintances had warned him of her free conduct with other men; and that he cautioned her, both during his call upon her after his marriage and again subsequently by telephone, to be careful in her relations with other men.

It is further true that the whole record establishes her to be a woman, not madly enamored of one man, but indiscriminately amorous toward many, and fixes her guilt both by circumstantial and by direct evidence, abundant in quantity and persuasive in kind and powerfully corroborated by many uncontroverted circumstances and by the inadequacy of her explanation of her admitted conduct.

It is untrue that the direct proof of the acts of adultery "is based on the evidence of hired detectives and the petitioner"; *Paul Gattie was not a detective, nor was he employed to investigate, but he swears that he saw the defendant in the very act and course of adultery.*

The petition was sworn to on June 23, 1924, and citation issued on June 25, of that year (Case, pages 1-3). On August 27, following (Case, page 362, lines 11-15), Interrogatories were served. In the answers to the same, two places were designated as the scenes of the defendant's offenses, namely, (1) her aunt's home in Newark and (2)

"Newark, N. J., near Weequahic Park." The petition alleged the adultery to have been committed on May 24, 1924, and on other days of that month, at Newark, with a person unknown. The answers to the Interrogatories mention May 24 and 28, 1924, as the times. The proofs, as we shall presently show, established opportunity and inclination on May 24 (although not perhaps conclusively, if the incident stood alone); they show that after adultery was committed in Newark, on May 28, the defendant drove to Weequahic Park, where further fondling and embraces took place. At the threshold of the final hearing, leave was sought and granted to amend the petition by specifying an additional day, namely, June 20, 1924 (Case, pages 6-7). The first day of the final hearing was October 23, 1924, and the fifth and concluding day, May 18, 1925. There can be, accordingly, no valid claim of surprise or disadvantage springing either from the generality of the allegations of the petition or from the haste or inexactness of the answers to the Interrogatories.

We turn to the proofs.

ARGUMENT.

I.

Adultery was committed by defendant on Wednesday evening, May 28, 1924, in a private touring car parked on William Street, west of Halsey Street, in Newark, at about 9:30 o'clock.

Defendant admits that a car, in which she was riding was parked there on that evening (Case, page 238, line 11 to bottom and page 239, line 1, and page 239, lines 36-40).

She committed adultery there, or Constance Kopf, Norma C. Kopf [both professional investigators], Cornelius Troast, their chauffeur, and Paul Gattie, have boldly conspired to invent and relate a lying tale and, with all the world to choose from, to locate the scene and setting of it in this very spot. If, as counsel for defendant insistently argues, the place is an unlikely place by reason of its proximity to Broad Street and the chances of interruption, these witnesses were aware of its unfavorableness. Constance Kopf was thoroughly familiar with the locality; she had visited it on Sunday and week day evenings (Case, page 94, lines 20-30). From William Street, defendant rode that evening to Weequahic Park; and if these witnesses had shamelessly resolved to invent a story, why should they not have located it in some sequestered nook of the Weequahic pleasure grounds?

Now Halsey Street runs parallel with Broad Street and lies one block west of it (Case, page 93, lines 15-18). William Street, running west from Broad Street, crosses Halsey Street and runs thence to Washington Street (Case, page 93, last four lines, and page 96, lines 9-10). *William Street "is more or less wholesale houses; it is not a shopping district"* (Case, page 80, lines 21-23); *it is "a dark street"* (Case, page 126, lines 19-20).

A Mills Hotel stood "on the southwest corner of Halsey and William streets" (Case, page 304, lines 8-13), which had then lately been partly destroyed by fire. Policeman Shine says that he was on duty there on the evening of May 28; at nine o'clock he relieved another officer and remained until five the next morning (Case, page 304, lines 1-19). A fireman was there also (Case, page 307, lines 27-31), according to the police officer. Constance Kopf, testifying weeks before

the defense called the police officer, freely stated that she noticed the Mills lodging house and that an officer in Halsey Street about thirty feet from the William Street corner stopped the car in which the defendant was riding and also the car in which the Kopfs were following the defendant (Halsey Street being a one way street), and allowed both to proceed (Case, page 93, 25-32; page 96, lines 35 to bottom; page 97, line 1-9; and page 93, lines 1-14). The Mills Hotel covered very little space on William Street (Case, page 314, lines 10 to bottom and page 1-5).

The police officer said that "quite a few people" —"coming and going"—viewed the hotel building between nine in the evening and midnight (Case, page 304, lines 29-35). Constance Kopf said that there were some people upon the sidewalk of Halsey Street (Case, page 95, lines 9-12), but neither "a lot of traffic" nor "a lot of people" (Case, page 94, lines 28-35). Where they chiefly and sharply differ is on the question whether cars were parked on William Street, west of Halsey, on this evening of May 28.

What the witnesses for the petitioner said about the physical features of William Street—the sort of buildings and the enterprises housed there—was confirmed by defendant's witness, Sergeant Harvey Van Steenbergh (compare, for example, testimony of Paul Gattie on page 134, lines 4 to bottom and that of the sergeant, page 318, line 24 to bottom and page 319, lines 1-14).

It is significant that neither the sergeant nor the policeman deny that William Street, "is a dark street" at night.

On her own statement, the defendant was no virgin; she swore that she had had sexual intercourse with the petitioner before their marriage

so frequently that she could not hazard a guess at the number of times (Case, page 228, last four lines and page 229, lines 1-7). On May 28, 1924, and long theretofore, she dwelt with her aunt and a third woman in a Newark apartment house, all three being married women with living husbands from whom, for one reason or another, all were separated. She claims also to have been once pregnant (by the petitioner, she says) and to have evaded the embarrassment of motherhood (Case, page 230, lines 14-35). She is about 23 years of age (Case, page 222, lines 13-14).

Paul Gattie, forty years of age and a chauffeur for the Miriam Barnet Hospital of Paterson (Case, page 123, lines 8-11), is not a detective; and has no connection with the Kopf women except that he employed them at some time on a divorce case of his own (Case, page 130, lines 21-29 and also page 90, lines 32 to bottom and page 91, lines 1-10). The only occasion on which he accompanied the Kopfs was May 28, 1924 (Case, page 91, lines 7-9). His own children are in a Home in West Hoboken; Florette Kopf had made dresses for his girls; and the Kopfs drove him down to see his children and, upon learning that they were going thence on a case, he asked to go along and they made him welcome (Case, page 130, lines 30 to bottom and page 131, line 1-3). This explanation of his presence in William Street on May 28 is uncontroverted, and so is this account of his history. So far as the record suggests, his interest in this controversy must be impersonal and casual. What is his testimony?

He identifies the defendant in Chancery Chambers, and says that he first saw her when she was entering an apartment house on Belmont Avenue, Newark (the street number of which he does not

undertake to recall), with another young woman; that Constance Kopf pointed her out; that defendant presently came out with the same girl companion and went to a neighboring drug store; that at the suggestion of some one in his party, he followed them therein; that the other young woman went into the telephone booth; that the witness made some purchases, as requested by the Kopf woman; that defendant stood only five feet away from him; that "the girl came out of the telephone booth and said that he was going to call at the house"; that defendant and the other girl walked back to the apartment house, presently visited a fruit store and returned to the apartment; that about 7:00 o'clock they once again came out and by a route and with pauses which he describes arrive at a Studebaker salesroom on Broad Street; that *they meet a man on the sidewalk* in front of the store, *around whom the defendant threw her arms;* that that man put his arms around her waist; that *they were "fooling" and appeared to be on intimate terms;* that the man went in the salesrooms and came out with another man; that both couples got into a car, drove down Broad Street, turned off into a street the witness can not name, and turned into Halsey Street; that the witness, with his party following defendant's car, were stopped by an officer in Halsey Street, who asked if they did not know that it was a one way street; that he thinks defendant's car had also been so stopped; and that defendant's car turned around the corner of Halsey and William Streets into William Street and stopped 35 or 40 feet from the Halsey Street corner; that the witness' car passed on by the defendant's then standing car and came to a stop; that William Street was dark; that defendant occupied the rear seat on left hand side, her male companion sitting on the right, the

other pair, occupying the front seat; that both couples were kissing and embracing; that the witness left his car and watched them from an alley way not further than 15 or 20 feet from defendant's parked car (Case, pages 123-128). Defendant, he saw, finally "straddled the man", and committed adultery with him; the witness walked by them while the act was done; the car in which they were seated had a top but no curtains; defendant adjusted her clothes, arranged her hair, powdered herself and drove off to and through Weequahic Park, kissing in the park as they went along, stopped for refreshments, and then drove to Elizabeth where the man, kissing defendant goodby, got out and went into a house (Case, pages 128 and 129).

Upon cross-examination, he adds some details; says that when he first left his car (in William Street), he sat with Neil Troast on steps west of an alley 35 or 40 feet or more from defendant's car; they were in William Street "about 25 minutes"; no one walked through that block during that period, nor did any car pass through (Case, page 130, lines 20 to bottom and pages 131-135). In this particularized and detailed narrative, the skill of the cross-examiner leaves him unshaken, unconfused, consistent, firm and clear.

Troast, who seems to have stayed upon the steps near the alley way, says that from his vantage point he saw defendant and her male friend "just loving and kissing and her sitting on his lap" (Case, page 106, lines 13-25).

Norma C. Kopf testifies that she stood in the alley and then passed the car of the defendant while the sexual relations were had; that the pair were "very affectionate" while driving from the salesroom to William, and that they "embraced and kissed" when the man left her at Rankin Street, Elizabeth (Case, pages 100 and 101).

Constance Kopf testified that two couples got into a car in front of the Studebaker salesroom on Broad Street, defendant being one of the women (Case, page 79, lines 20-33). Defendant rode in the back seat with one of the two men (Case, page 79, last 2 lines and page 80, 1-5). Both defendant's and the Kopf car was stopped by an officer while bound north through Halsey Street but permitted to go on; after defendant's car had turned into William Street, it stopped. The Kopf party stayed in their car for "about five minutes", during which defendant and her male friend "loved and hugged one another, and so did the couple that was in front"; the Kopf party left their car; defendant "sat on this man's lap for the greater portion of the time, and she had her arms around him, and he was kissing and loving and hugging her, and they were both very much excited" (Case, page 80, lines 20-38); finally they had intercourse (last two lines of page 80 and page 81, lines 1-4); they remained in the street about half an hour and then drove to the Weequahic Park section; they stopped two or three times in the park "and just kissed and loved" and then drove out of the park, stopped for refreshments at a stand and then went to Rankin Street, Elizabeth; on their way to Elizabeth, the man had defendant "in his arms the greater portion of the time and at times she sat on his lap"; they kissed on parting (Case, page 81, lines 5 to bottom), and defendant returned to her home between 11 and 12 o'clock (Case, page 82, lines 4-5). Under cross-examination, she said that she (witness) has been an investigator about 6 or 7 years (Case, page 90, lines 28-31); she described what she saw when defendant and her companion were in sexual embrace (Case, page 96, lines 24-32), and says she observed them at the distance of 18 feet

(Case, page 96, lines 33-34). Asked by counsel for defendant whether, in following defendant, the witness always saw her with "a different man", she answers that on three different dates she saw her with a different man (Case, page 98, lines 5-11).

Four witnesses testify to adultery in William Street, and one of them does not bear the opprobrium of following the calling of a detective or of using his sight for pay.

Thomas A. Kenny testified for the defendant. He admits that he met the defendant in front of the Broad Street sales store and rode in the back seat of an automobile to William Street, near Halsey, with defendant, and says that that automobile was parked there, and that his party spent "fifteen or twenty-five minutes" looking at the hotel which had sometime been the scene of a then extinguished fire (Case, pages 204 and 205). While he denies guilt, he "cannot say" whether or no he addressed the defendant as 'Frieda' ", notwithstanding he claims never to have seen her except on May 28; and when asked whether he would have any compunctions about kissing her, he says "That would all have depended on how I felt at the time" (Case, page 211, lines 1-11). He is "twenty-six past" (Case, page 209, line 3). He rode all the way to Elizabeth on the rear seat with defendant (Case, page 213, last 5 lines), exactly as described by petitioner's witnesses.

There is strong evidence in the record that Kenny misrepresents the degree and duration of his acquaintance with defendant; and this evidence falls in an unguarded moment from the lips of the defendant herself. On cross-examination, she was asked and answered:

> "Q. I noticed this morning you mentioned Mr. Kenny as 'Tom'. A. Yes, sir.

Q. Is that what you called him on the night you were out with him? A. I don't remember what I called him.

Q. Then you may have called him 'Tom'? A. I don't remember what I called him.

Q. Do you remember whether or not he called you 'Frieda'? A. I don't know; we had very little to say to each other; I know they called him 'Tom', and I may have called him Tom because they did" (Case, page 273, last 2 lines, and page 274, lines 1-13).

In her direct examination (Case, page 238, line 36) she made the slip.

This couple were not children; each was an adult and married. If they met for the first and only time on May 28, ought they to be in doubt as to whether they then familiarly addressed each other by their Christian names?

If they had long known one another, why do they deny their friendship, if that friendship was innocent and unstained?

Helen Edelstein, defendant's female companion on the night of May 28, says that she is a first cousin of defendant, that Mr. Koplen (the fourth of their party) is her fiancee, that she had been engaged to him for a year and a half but, as she herself volunteers, "without an engagement ring"; that *she* has known Kenny "just as long as I knew Mr. Koplen; they were very good friends" (Case, pages 150 and 151 and page 155, lines 19-21). It is possible, of course, that Miss Edelstein might have this acquaintance with Kenny without her cousin, the defendant, sharing it; but is it likely?

Koplen said that he is engaged to Miss Edelstein "between the two of us", "but it has never been announced", and that he had known Kenny "all my life" (Case, page 169, lines 20-30).

Did Miss Edelstein and Mr. Koplen mean that an engagement which seemed embarrassing to them both—which Miss Edelstein, under the pressure of some secret urge, goes out of her way to inform the court is unevidenced by an engagement ring, which Koplen, without inquiry or prompting from court or counsel, describes as having an existence "between the two of us"—did they mean that that compact to marry was devised for the purposes only of this court room scene and of casting about the William Street incident a mantle of conventionality and respectability?

The Vice Chancellor who heard this cause and found the defendant guilty had the immeasurable advantage of looking into the living countenances of the witnesses as they talked, of witnessing their manner, their hesitations, their collected or impulsive utterances, of assessing their character as men and women,—in short, of determining their credibility. He is at home with human nature, and a highly skilled and experienced trier of facts.

Counsel for defendant argues that the William Street episode is inherently improbable and unbelievable; and that defendant, however bent upon illicit relations, would not have run the risks, whatever they were, of discovery and exposure. He argues also that if petitioner's witnesses actually saw there what they claim to have seen, petitioner would have deemed the task of the Kopf women to have been performed, dismissed them from his service and filed his petition for divorce. These arguments are inconsistent and repugnant. If it is true that the place, time and circumstances of the William Street adultery combine to make it hard of acceptance, would counsel for defendant be the only one to foresee or recognize the difficulty? Would not these Kopf women and the counsel for petitioner have also perceived the

prudence of continuing to follow the defendant until they found her, as they ultimately did, indoors in the embrace of a lover? In his first point here, counsel for defendant has hit upon no astute or original argument; any lawyer would have made the most that he could out of the fact that adultery was claimed to have been committed upon a public street. Is it asking too much to presume that petitioner's advisers would also have anticipated the argument?

It may be candidly admitted that prudent men will agree that a city street, although shadowy and deserted, is an ill-chosen place for adulterous acts. But if a married woman, upon meeting a young man at the Studebaker salesroom on Broad Street, flings her arms about his body; if while riding in a car with him to William Street, they manifest the signs of ardent physical attraction for each other, fondling, hugging, kissing; if, upon stopping in a dark spot on this business side street (in which business was suspended mainly, if not entirely, until the daylight of the morrow), she sits upon his lap, fervently embracing and kissing, until his blood and hers are in wild conflagration; if these things occur, is it beyond all reason and belief that they so conducted themselves as to find satiety at that very moment and in that very environment?

In the face of defendant's admitted deportment in her apartment on June 20, 1924, her denial of the William Street adultery is of no substantial value.

II.

Defendant again committed adultery, with another man, at her apartment in Newark, on June 20, 1924.

Defendant's brief claims no inherent improbability in the time, place and circumstances of this charge; but says, in effect, that the investigators pressed too impatiently on defendant and failed to give her time to have illicit connection, even if she desired and planned it.

Since the testimony of several of petitioner's witnesses is reproduced in large part in defendant's brief, we will confine ourselves to the essential factor of *time.*

After describing the state of undress of the defendant and her male companion (Case, page 83, lines 1-15) and the latter's "petting her hair and head" and their receding, as if sitting down (same reference to Case), Constance Kopf was asked:

> "Q. From the time you saw these people standing in this bedroom up to the time Cornelius Troast rang the bell (for admittance into the apartment), how long a time elapsed about? A. *About ten minutes*" (Case, page 83, lines 20-24).

Norma C. Kopf testified on this point as follows:

> "Q. From the time you saw her go into this apartment with this man, up to the time Mr. Troast came around and rang the bell and knocked at the door, how long a time elapsed, about? A. You mean from the time Mr. Troast rang the bell?

> Q. I mean from the time she and this man entered that apartment when she unlocked the door with her key and went in with him; from that time up to the time that Mr. Troast came back with Mr. Sturm from the back yard, how long a time elapsed? A. *It was at least twelve to fifteen minutes, if not longer''* (Case, page 103, lines 9-21).

Troast, the driver for the Kopfs, said that from the yard in the rear he saw the parties in a bedroom, the head of the bed showing plainly; their arms were around each other; the man had his coat and vest off; *''we waited there a few minutes''* (not moments); then they went back up into the apartment and he rang the bell of defendant's rooms; it took about as long to get up to her apartment out of the yard through the cellar as it did to go from her apartment to the yard, which was ''seven or eight minutes'' (Case, page 115, lines 1-5, page 111, lines 3-31 and page 108, lines 1-19).

The petitioner himself was on the scene, and he estimates that the time intervening between the moment when defendant and the man entered her apartment and the moment Troast tried to obtain admission into it, was ''a little more than half hour'' (Case, page 23, lines 23-32).

All show abundant opportunity in respect to the lapse of time; all prove inclination and desire; the defendant herself says that she was alone in the apartment with a man.

All show that when admission was sought, it was sought in vain. We submit this to be significant of guilt. Defendant testifies that she refused to open the door or respond to the bell or knock, although protected by a male companion. (Case, page 283, lines 17 to bottom and page 284, lines 1-40, and the whole of pages 285 and 286). The testimony to be found in this reference shows,

from her own lips, that she refused to go to the door both before she knew who stood there and after she learned that her husband was among them. It is inconsistent with virtue and innocence; but it is natural and reasonable conduct in one self-condemned of wrong-doing and with the tell-tale evidences of guilt upon her person and on the bed.

Her explanation argues guilt.

Witnesses for petitioner say that there was a dim light in the bedroom in which they saw defendant and the man; defendant called a witness (as is pointed out in her brief) who said that there is electric light there, but no "dimmer"; that is, if the light were on, it would be with full force. The defendant herself reconciles the two stories; *the light from the living room reflects into that bedroom,* in which petitioners' witnesses find her and her lover (Case, page 283, lines 13-15).

Finally, defendant says that when the usual occupant of that bedroom arrives home, the bed is found to show no marks of disturbance or use. No doubt this is so; but when it is recollected that, by the agreement of every witness on the one side or the other, the pursuing party lingered around the corridor of the apartment house or on the adjacent grounds for twenty minutes or half an hour after they had fruitlessly sought admission into defendant's apartment, and that the usual occupant of the bedroom in question did not return home until still later, defendant manifestly had time to spare for smoothing the bed as well as for putting her own person in order.

We have dealt with what seem to be defendant's only arguments against the petitioner's version of the night of June 20, and have found none of them to be substantial.

With the incidents of May 24, we have not dealt. If true, they show, at the least, that this young married woman does not resent caresses and familiarities from men who have no right to caress or be familiar with her; we think they point to something darker (Case, page 78, lines 1-13 and lines 21-40 and page 105, lines 20-38) (Also, page 106, lines 1-9).

With her walks upon the public streets with other men, arm in arm, we have no space to deal; but the record shows it.

Respectfully submitted,

FEDER & RINZLER,
Solicitors for Petitioner-Respondent.

FEDER & RINZLER,
Of Counsel.

(8841) Pandick Press, Inc., 22 Thames St., New York, U. S. A.

In Chancery of New Jersey

Between
SANFORD STURM,
Petitioner,
and
FRIEDA STURM,
Defendant.

On Petition for Divorce.

Memorandum Opinion.

Messrs. FEDER AND RINZLER, for Petitioner.
Mr. PHILIP J. SCHOTLAND, for Defendant.

LEWIS, V. C.:

This action for absolute divorce presents some unusual features. It is brought by the husband for adultery against the wife following the marriage which came about after criminal action by the wife against the husband. The wife first sued for breach of promise for Twenty-five Thousand Dollars ($25,000.00), in the second place had had him indicted for fornication and lastly seduction. They were married by the Judge before whom the petitioner was convicted of a last offense. After the marriage there was no consummation, although the husband contributed to the support of his wife and promised to establish a home for her

as soon as he was financially able to do so, giving as his reason for not doing so at once that he was impoverished by the various litigations in which she had involved him. This arrangement appeared from the evidence to be entirely satisfactory to her. He counseled her as to her conduct with other men and on various matters connected with their new relationship. The petitioner started his suit for divorce three months after the marriage. The petition charges adultery in the month of May, 1924, at Newark, about two months after her marriage to petitioner.

The facts developed by the evidence take this case out of those decisions in our State which put additional burdens on the husband as to protection and care of his wife, he having knowledge that she is frail. The conduct of the defendant was not that of a timid, modest, unsophisticated woman. Her various actions against the petitioner and the order of their initiation indicate that she was a designing, calculating woman, not disturbed at making known the story of her shame to the world. Her improper conduct with other men so soon after her marriage amply disclosed by the testimony puts her in a most unfavorable light. The evidence is not confined to one charge of misconduct, but I shall rest this case on the act of adultery in Newark, committed on May 28, 1924. This appears to have been conclusively shown. It is true that detectives, or investigators as they call themselves, were among the witnesses against the defendant and that their evidence must be scrutinized very carefully, but doing so I am impressed with the truthfulness of their story. They have appeared in many other cases of a similar nature before me and I feel convinced that they desire to adhere to the truth, but there is another witness, of whose veracity and disinterestedness I have

no doubt, who swears positively to having seen the defendant in the very act of adultery on the date and at the place above mentioned. The conduct of the defendant and the parties with her on this occasion, and all the circumstances surrounding the occurrence, establish her guilt to my mind beyond peradventure. The automobile was parked on William Street, west of Halsey Street, and it is urged that this is a most unlikely place to select to commit an act of this character. I am not in accord with this view as many cases have come to my notice—in fact, are heard daily in our courts—where offenses of the kind now under consideration occur frequently in automobiles along well travelled public highways. It is argued also that it is improbable that defendant would have committed adultery while she and her male companion were sharing the automobile with a couple who were then engaged to be married; but I am satisfied by the manner and behavior of that couple while on the witness stand that their engagement was feigned.

A careful examination of defendant's testimony reveals her character in its true light—her attitude toward her marriage—the thoughtfulness and attention of the petitioner prior to her varied legal actions against him. I think his conduct after the marriage was justified by the circumstances of the case.

The decree may be entered in behalf of the petitioner.

(9846)

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