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Notice of Appeal.

(Filed July 22, 1920).

In Chancery of New Jersey.

BETWEEN:

GEORGE HENRY GRUNDY,
Petitioner,
and
IDA MAY GRUNDY,
Defendant.

On Petition For Divorce.

IDA MAY GRUNDY, the above named defendant, hereby appeals from the decree filed in this cause and dated the sixteenth day of July, 1920, and from every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

Dated, July 16, 1920.

HEYMAN & HEYMAN,
Solicitors for and of
Counsel with Defendant.

I conceive there is a good cause for appeal in the above entitled case.

BENJAMIN HEYMAN.

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Petition of Appeal.

(Filed Sept. 9, 1920).

NEW JERSEY COURT OF ERRORS AND APPEALS.

BETWEEN:

GEORGE HENRY GRUNDY,
Petitioner-Respondent,
and
IDA MAY GRUNDY,
Defendant-Appellant.

On Appeal from the Court of Chancery.

TO THE HONORABLE COURT OF ERRORS AND APPEALS IN THE LAST RESORT IN ALL CAUSES:

The petition of IDA MAY GRUNDY, appellant, respectfully shows that your petitioner finds herself aggrieved made a decree made in the Court of Chancery by His Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, on the sixteenth day of July, 1920, in that the said decree recites and adjudges that the petitioner is guilty of adultery; and doth decree that the marriage existing between your petitioner and the respondent, George Henry Grundy, be dissolved for the cause aforesaid. And your petitioner appeals from the said decree and from every part thereof on the ground that the same is erroneous for that the said Chancellor should have decided and adjudged that your petitioner was not guilty of adultery and should have dismissed the petition of the respondent.

Your petitioner therefore prays that the said decree may be reversed, rescinded and for nothing holden, and that your petitioner may have such further relief as shall be meet.

HEYMAN & HEYMAN,
Solicitors for Appellant.

STATE OF NEW JERSEY, }
County of Hudson. } SS.:

IDA MAY GRUNDY, being duly sworn according to law on her oath, deposes and says:

That she is the petitioner named in the foregoing petition of appeal; that the matters and things therein set forth are true.

IDA MAY GRUNDY.

Sworn and subscribed to before me this 17th day of July, 1920.

HARRY COOPER,
Master in Chancery,
New Jersey.

Answer to Petition of Appeal.

(Filed Jan. 16, 1921.).

NEW JERSEY COURT OF ERRORS AND APPEALS.

GEORGE HENRY GRUNDY,
Petitioner-Respondent,
and
IDA MAY GRUNDY,
Defendant-Appellant.

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

This respondent, not acknowledging all or any of the matters which in said petition of appeal are contained, to be true, for answer thereto, nevertheless says and admits, that a decree was on the 26th day of July, 1920, last past, made and entered in the Court of Chancery, in the cause for that purpose mentioned in the said

petition, as is therein stated; but as to the substance and form thereof, this respondent prays to refer thereto when the same shall be produced. And this respondent is advised and believes, that the said decree is agreeable to equity, and he prays that the same may be affirmed, with costs to be adjudged to this respondent.

HARTSHORNE, INSLEY & VREELAND,
Solicitors for and of Counsel with
Respondent.

Petition For Divorce.

(Filed Sept. 19, 1919).

TO HIS HONOR, EDWIN ROBERT WALKER, CHANCELLOR OF THE STATE OF NEW JERSEY:

The petition of George Henry Grundy, of the City of Jersey City, in the County of Hudson and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Ida May Grundy, defendant in this suit, on the fourth day of October, 1899, by Reverend McDonald, a Minister of the Gospel, at Allegheny, now Greater Pittsburgh, in the State of Pennsylvania.

2. This defendant since her marriage to your petitioner and on the 24th day of August, 1919, and on other days in the months of June, July and August, 1919, committed adultery with persons unknown to your petitioner, at Jersey City, in the County of Hudson and State of New Jersey; this defendant since her marriage to your petitioner and on the 15th day of September, 1919, committed adultery with one Jack Evans, at Jersey City, in the County of Hudson and State of New Jersey;

3. Petitioner and defendant were bona fide residents of 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 No. 57 Clinton Avenue, Jersey City, in the County of Hudson;

4. One child was born of the marriage aforesaid, to wit: Park Alan Grundy, aged eighteen years, who is in the custody of your petitioner; that the welfare of said child requires that he should remain in your petitioner's custody;

5. Your petitioner prays that the marriage between your petitioner and defendant may be dissolved by the court aforesaid according to the statute in such case made and provided; that your petitioner may be awarded the custody of said child of the marriage; that he may have such further relief as may be just.

Your petition will ever pray, etc.

GEORGE H. GRUNDY,
Petitioner.

HARTSHORNE, INSLEY & VREELAND,
Solicitors.

STATE OF NEW JERSEY, }
County of Hudson. } ss.:

GEORGE HENRY GRUNDY, being duly sworn according to law on his oath, deposes and says: That he is the Petitioner named in the foregoing petition; that his petition is not made by any collusion between him and defendant but in truth and good faith for the causes set forth in the petition.

GEORGE H. GRUNDY,

Sworn and subscribed to before me }
this 18th day of September, 1919. }

JOHN O. MULLER,
Attorney at Law
of New Jersey.

Answer to Petition For Divorce.

(Filed Jan. 23, 1920).

IN CHANCERY OF NEW JERSEY.

BETWEEN: GEORGE HENRY GRUNDY, *Petitioner,* and IDA MAY GRUNDY, *Defendant.*	On Petition for Divorce.

The answer of Ida May Grundy, the defendant herein, to the petition of George Henry Grundy, the petitioner:

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

2. This defendant denies that since her said marriage and on the twenty-fourth day of August, 1919, and on other days in the months of June, July and August, 1919, she committed adultery with Jack Evans at Jersey City, as in said petition alleged, or with any other person at any time or place; but to the contrary, this defendant says that she has always been true to her marriage vows and has faithfully observed her obligations as the wife of the petitioner.

3. This defendant admits it to be true that the petitioner was a bona fide resident of this State when this supposed cause of action arose, as in the petition alleged. This defendant admits it to be true that she has been a bona fide resident of this State as alleged in said petition.

4. This defendant admits it to be true that one child was born of the aforesaid marriage, whose

name and age is stated in the said petition. She admits that the petitioner has the custody of said child. This defendant denies that she is unfit to have the care, custody and education of such child.

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

IDA MAY GRUNDY,
Defendant.
HEYMAN & HEYMAN,
Solicitor.

Petition For Intervention.

(Filed May 3, 1920).

IN CHANCERY OF NEW JERSEY.

BETWEEN:

GEORGE HENRY GRUNDY,
Petitioner,
and
IDA MAY GRUNDY,
Defendant.

On Petition for Divorce.

TO THE HONORABLE EDWIN ROBERT WALKER,
CHANCELLOR OF THE STATE OF NEW JERSEY:

The petition of John F. Evans, respectfully shows:

1. That he has been informed that a petition has been filed by George Henry Grundy against Ida May Grundy for absolute divorce.

2. That in paragraph 2 of said petition the said George H. Grundy does allege that the defendant, Ida May Grundy, since her marriage to

George H. Grundy and on the fifteenth day of September, 1919, committed adultery with one, Jack Evans in Jersey City, County of Hudson and State of New Jersey.

3. Your petitioner is of the opinion that this allegation refers to John F. Evans.

4. Your petitioner denies that he did on the 15th day of September, 1919, or on any other day either prior or subsequent thereto, commit adultery with Ida May Grundy at Jersey City or any other place.

5. Your petitioner is now in the military service of the United States and is stationed at Fort Porter, Buffalo, New York, and has endeavored to procure a furlough for the purpose of personally appearing so as to give evidence in said cause and specifically deny all of the charges referring to him, contained in said petition of divorce above referred to, but your petitioner has been unable to secure such a furlough and will be unable to do so until June 14, 1920.

6. WHEREFORE your petitioner being charged as a particeps criminis in the petition of divorce of George H. Grundy, filed in this Honorable Court, does hereby petition to be made a party to the said suit, subject to such terms and conditions as Your Honor may prescribe.

And your petitioner will ever pray.

JOHN EVANS,
By HERSCHENSTEIN & FINNERTY,
Solicitors.

Petition for Intervention.

STATE OF NEW JERSEY, }
County of Hudson. } SS.:

CHARLES HERSHENSTEIN, of full age, being duly sworn according to law on his oath, deposes and says: He is a member of the firm of Hershenstein & Finnerty, who have been retained by John F. Evans, the petitioner herein, to make application that he be admitted as a party defendant in the within entitled cause and to appear and defend the said action so far as his rights and interest are concerned. Deponent has read the foregoing petition and knows that the contents are true to the best of his knowledge and belief; that he is informed and verily believes that John F. Evans, the person named in the petition for divorce is now in the military service of the United States, stationed at Fort Porter, Buffalo, N. Y., and it is for that reason deponent makes an affidavit of verification on behalf of the said John F. Evans, who because of his absence from the City, is unable personally to make the verification.

CHARLES HERSHENSTEIN.

Sworn to and subscribed before }
me this 1st day of May, 1920. }

SAMUEL MILBERG,
Attorney at Law
of New Jersey.

Order.

(Entered May 3, 1920).

IN CHANCERY OF NEW JERSEY.

BETWEEN:

GEORGE HENRY GRUNDY,
Petitioner,

and

IDA MAY GRUNDY,
Defendant.

On Petition for Intervention.

Upon reading the petition of John F. Evans, duly verified, and good cause appearing therefor

IT IS on this 3rd day of May, 1920, ORDERED, that John F. Evans be and he hereby is made a party defendant in the suit of divorce brought by George H. Grundy against Ida May Grundy, his wife; and

IT IS FURTHER ORDERED, that the said John F. Evans file an answer to the petition in the said suit within 3 days from the date hereof; and

IT IS FURTHER ORDERED, that he serve a copy of his answer upon the solicitors for the petitioner and the defendant and upon all other persons who have appeared in said suit, within 3 days from the date hereof; and

IT IS FURTHER ORDERED, that the hearing of the said cause proceed on this day which was designated for that purpose on April 13, 1920.

Respectfully advised:

FRANK MCDERMOTT,
Advisory Master.

E. R. WALKER,
C.

Answer by Intervenor.

(Filed May 18, 1920).

IN CHANCERY OF NEW JERSEY.

BETWEEN:

GEORGE HENRY GRUNDY,
Petitioner,

and

IDA MAY GRUNDY,
Defendant.

On Petition for Divorce.

Defendant, John F. Evans, denies all the allegation contained in the petition for divorce filed in this matter and denies specifically the allegation that on September 15th, 1919, he committed adultery with the defendant, Ida May Grundy, and further denies that he committed adultery with Ida May Grundy at any other time.

HERSHENSTEIN & FINNERTY,
Solicitors for Defendant
John F. Evans.

Memorandum of Conclusion.

(Filed July 30, 1920).

IN CHANCERY OF NEW JERSEY.

BETWEEN:

GEORGE HENRY GRUNDY,
Petitioner,
and
IDA MAY GRUNDY,
Defendant.

47/132
On Petition
for
Divorce.

FRANK MCDERMOTT, A. M.:

The petition in this cause was verified September 18, 1919, and filed the next day. The citation and copy of petition were served September 25, 1919.

The petition sets forth the marriage of the parties on October 4, 1899, at Allegheny, Pennsylvania (which is admitted in the answer), and alleges that on August 24, 1919, and other days in the months of June, July and August, 1919, the defendant committed adultery with a person unknown to the petitioner, at Jersey City; and on the 15th day of September, 1919, committed adultery with one Jack Evans, at Jersey City. These allegations are denied and the charge of infidelity stubbornly contested.

Before his marriage to the defendant, the petitioner had been married to another, whom he divorced for adultery.

The parties have one son, Park Alan Grundy, about nineteen years of age, who has been away from home for several years and is now a student at a well-known university.

The petitioner is a man of intelligence, who has arisen from a clerical position to one of im-

portance with a well known corporation, and is apparently prosperous.

The defendant, who was employed before her marriage in a business house at Pittsburgh, has been addicted, for twelve years or more, to the use of intoxicants, frequently to excess. She has been confined at different times and for short periods in the Hospital at Morris Plains, the Oppenheimer Institute in New York, and similar institutions. During the long period of their married life, while the defendant was frequently intoxicated, the husband testified that he never had any suspicion of any act of infidelity on her part until the summer of 1919.

The father and son, Park Alan Grundy, were companions, spending together much of their leisure time when the boy was not at school or college. In the summer of 1919 it was their habit to go on Sundays and holidays to the Shackamaxon Country Club, and remain there all or a part of the day; the wife seldom—almost never—accompanied them.

On Sunday morning, August 24th, 1919, the son returned from the Country Club to the family apartment in Jersey City, and when he sought to gain access with his key found the door at the entrance to the apartment fastened by a chain bolt, which permitted a slight opening of the door, but not enough for the use of the hand to unfasten the bolt. After some minutes the door was opened by the defendant, and the boy, entering the apartment and going to the kitchen, found a man, later identified as Levine, in or by a closet in the kitchen. The son testified he was actually in the closet and Levine that he was by the door of the closet which was partly open. The son said, "This requires an ex-

planation" and the man said "No explanation is necessary", and walked out.

When called as a witness, Levine stated that he had gone to the apartment to deliver a dozen bottles of beer, which he carried into the kitchen; that he was there only a few minutes; and that nothing to occasion criticism occurred. He is corroborated to some extent by his wife and by the defendant.

The petitioner heard of this incident shortly after it occurred, called the defendant to account for it and made it clear that he intended, on the strength of it, to apply for a divorce. Shortly after, he ceased to live in the apartment, and there is no suggestion of condonation.

On September 15, 1919, the son, Park Alan Grundy, returned to the apartment in the morning and opened the entrance door with a key, the chain bolt having been removed after the incident of August 24. He found a young man, John Francis Evans, in his mother's bedroom. His mother, he says, was sitting on the edge of the bed, her hair disheveled, the shades on the windows of the bedroom down; Evans addressed him "Hello, Park", but the son, as he testified, did not answer.

Evans, who is in the army, came from Buffalo to be a witness, denied familiarity with the defendant and every act indicating guilt, and offered the explanation that he was in the apartment alone with defendant expecting to meet a young lady, a friend of his, with whom he had an appointment there that morning, and who had often been with him there on invitation. He waited an hour and a quarter, reading a magazine, then brought up some barrels from the store-room, went into defendant's bedroom, where defendant was lying on the bed, to place a key

on the chiffonier, and was standing there when the son came in.

The undisputed testimony as to the facts and circumstances surrounding these two incidents is sufficient to seriously compromise the defendant; this is not denied, but the defendant with the aid of the men implicated, and other witnesses, insists that the presence of the men alone with her in the apartment is fully explained and her innocence established.

I am constrained on a careful consideration of the whole testimony, and the arguments of counsel, which were exhaustive and helpful, to find otherwise and to conclude that the defendant is guilty of adultery on both occasions, August 24 and September 15, 1919.

Decree may be presented at my office Friday, July 16, at 2 P. M.

Decree Nisi.

(Filed July 26, 1920).

IN CHANCERY OF NEW JERSEY.

BETWEEN: GEORGE HENRY GRUNDY, *Petitioner,* *and* IDA MAY GRUNDY, *Defendant.*	On Petition for Divorce.

This cause coming on to be heard in the presence of Mark Townsend and Merritt Lane, of counsel with the petitioner; and Benjamin Heyman, of counsel with the defendant, Ida May Grundy, and Charles Hershenstein, of counsel with the intervening defendant, John F. Evans; on petition, answer and oral proofs taken in open

court; whereupon and upon duly considering the said pleadings, proofs and 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 4th day of October, 1899, and that both petitioner and defendant were bona fide residents of this state at the time the cause of action for divorce charged in the petition arose, and that both continued to reside in this state down to the time of the commencement of this action and still continue so to do, and that jurisdiction herein has been acquired by personal service of process upon the defendant, Ida May Grundy, within this state as well as by her appearance and answer in this cause, and that the defendant has been guilty of the adultery charged against her in the said petition, including the adultery charged to have been committed with the intervening defendant, John F. Evans, and that the petitioner is entitled to the custody of the child of the marriage, Park Allen Grundy;

It is thereupon on this 26th day of July, 1920, 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, George Henry Grundy, and the said defendant, Ida May Grundy, be divorced 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.

Decree Nisi

And it is further Ordered that the custody of Park Allen Grundy be committed to the petitioner, George Henry Grundy.

And it is further Ordered that the said petitioner, George Henry Grundy, do recover against the said intervening defendant, John F. Evans, costs to be taxed in which said costs shall be included a counsel fee of Fifty Dollars.

Further ordered that the petitioner pay the costs of the defendant, Ida May Grundy, to be taxed, including a counsel fee of three hundred dollars in addition to the counsel fee heretofore allowed.

Respectfully advised:

FRANK P. MCDERMOTT,
Advisory Master.

E. R. WALKER,
C.

IN CHANCERY OF NEW JERSEY.

BETWEEN:

GEORGE H. GRUNDY,
Petitioner,

and

IDA MAY GRUNDY,
Defendant.

On Petition for Divorce On Final Hearing.

Before HON. FRANK MCDERMOTT, Advisory Master, at Jersey City, N. J., on Monday, May 3, 1920.

APPEARANCES:

MERRITT LANE, ESQ., and MARK TOWSEND, JR., ESQ., for Petitioner.

BENJAMIN HEYMAN, ESQ. (Heyman & Heyman), for Defendant.

CHARLES HERSCHENSTEIN, ESQ. (Hirschenstein & Finnerty), for Intervenor, John Evans.

MR. HERSHENSTEIN: If your Honor please, I imagine this case is being moved now. I represent Mr. John F. Evans, who is mentioned in the petition as one of the co-respondents. Mr. Evans has retained me for the purpose of filing an answer in this action upon being admitted as a party defendant; and in order to do so we have this day prepared a petition asking that Mr. Evans be admitted as a party defendant. The petition, if your Honor pleases, reads that he is the Jack Evans who is referred to in the petition for divorce; Mr. Evans is now located at Fort Porter, Buffalo, and it is impossible for him to obtain a furlough until June, according to

this telegram to us, dated last Saturday. Under the circumstances we feel, if your Honor please that the matter should be adjourned, at least as far as Mr. Evans is concerned, until such date as he is able to appear personally in the matter.

MR. LANE: I object, if your Honor please, to any adjournment in this case.

THE COURT: You don't object to the intervention?

MR. LANE: I object to the intervention if it is going to result in an adjournment; otherwise I have no objection to the intervention. I object to the intervention at this time if it is going to result in an adjournment. The petition in this case was filed on the 19th of Spetember, 1919. The citation was duly issued and a copy served on September 25th, 1919. The defendant did not file an answer until the 23rd day of January, 1920, at which time the petitioner's solicitor consented to the filing of the answer as within time. The order of reference was not made until the 18th of March, 1920, and your Honor then, on the application of Mr. Townsend, and upon notice to the solicitors of the defendant, designated today as the time and place of hearing. The designation is dated April 13, 1920. Notice was duly served. Now, here the information is to the effect that the man Evans was here at the time that the petition and citation were served, and that he did not enlist in the military service until some time in December, 1919. We assume, of course, that at the time of the filing in this action of the petition and the service of the petition and citation the defendant

communicated with Mr. Evans. We must assume that, because there is nothing to the contrary. There is no affidavit or other evidence and no indication that he did not have knowledge in September, October or November, 1919, of the pendency of this suit. We had the date fixed for hearing; and on the day upon which your Honor fixed the date for hearing Mr. Townsend informs me that Mr. Heyman, representing the defendant, represented to your Honor at that time that Mr. Evans, one of the co-respondents, was in the military service of the United States, that he could not get a furlough, and could not come until the 14th of June, I think, whereupon Mr. Townsend consented to the taking of the testimony of Mr. Evans in Buffalo, or whatever place he might be, and consented to pay the expenses of the trip there to take that testimony. That offer never was accepted. Now we say, in this late attempt to inject Mr. Evans as a defendant in this suit, it is simply an attempt to obtain further delay. We have no doubt in our own minds but that Mr. Evans has been put up to making this application by the representatives of the wife, and we do not believe that this is a bona fide effort on the part of Evans to intervene, and that is the sole purpose. There is no evidence here, there is nothing here except a statement by counsel, based upon a telegram, which shows nothing except that he cannot get a furlough until June 14th.

MR. HERSHENSTEIN: I will be frank to tell your Honor exactly what our position is. We have not directed a letter to Mr. Evans. As solicitors our names have been suggested to him, I am frank to say, upon the advice of

Heyman & Heyman, and it was upon our suggestion that a telegram was sent by Mr. Heyman, stating to him in view of the fact that the case could not be adjourned they advised that he should be represented by counsel for the purpose of taking care of his rights, if he has any, and if he desired to be represented by counsel that he should wire us in the matter. On Saturday we received this telegram. That is all there is to it, your Honor. I don't know Mr. Evans; I don't know who the man is; but I do say this, he having applied to us to represent him, we must do for him whatever we would do for any client in this suit, especially in the defense of an action where he is mentioned as a particeps criminis. Perhaps he did not understand, he may have thought he could come and be a witness in the case and testify and his rights would have been protected.

THE COURT: He may become liable for costs.

MR. HERSHENSTEIN: Very true, sir; exactly. Now, being recommended to Evans, we examined the defendant and the solicitor for the defendant and we feel satisfied, if your Honor please, that Mr. Evans has a substantial defense, and that his denial is absolutely bona fide. Now Mr. Lane may say what he wants about intervention, but I have given my story as truthfully and frankly as I could here, and we say to your Honor, as far as Evans is concerned, he is entitled to his day in court. I cannot see what injury can be done to anybody in this case from an adjournment. There is no question that Evans is stationed at Fort Porter, Buffalo. I don't know whether he can obtain a furlough be-

fore June; I take his word for it. I do say this, if he is admitted as a party defendant, I say to the Court I will do everything I can to obtain from him an affidavit as to the facts in the case, and your Honor can act upon that affidavit as he sees fit. I am perfectly frank in saying that I cannot see how the case can proceed, and how evidence which is going to effect Evans can be taken without his being present.

MR. HEYMAN: If your Honor please, Mr. Lane stated that this suit was commenced in September and that no answer was filed by the defendant until January 23rd, and that that was upon the consent of the solicitor for the petitioner. I want to go back a little further into the history of the case. The petition was filed in September, 1919, and nothing was done by the solicitor for the petitioner, or by anybody else, although the defendant had an attorney at that time who was recommended to her by the solicitor for the petitioner; but for some reason or other nothing was done until January 21st, when the attorney who was recommended by Mr. Townsend wrote Mrs. Grundy, the defendant, a letter that something must be done. I have the letter here. (Reading letter).

"It is very important that you take action one way or the other in your husband's case. Unless you file an answer to this case he will undoubtedly secure his preliminary decree and order of reference at once and proceed to take his testimony. There will have to be determined on your part as to what course you are going to pursue immediately, otherwise I will not be able to be of service to you.

Please get in touch with me. Yours very truly." Upon receipt of this letter—

THE COURT: This is not from Mr. Townsend?

MR. LANE: No; that is the attorney whom Mr. Heyman now charges with fraud.

MR. HEYMAN: Does your Honor understand that I am trying to charge anybody with fraud? Does your Honor understand any intention on the part—

MR. LANE: I think it is, reading a letter from Judge Carey.

MR. HEYMAN: If you want me to get Judge Carey to show that he had been engaged by this defendant, I will bring him up here.

THE COURT: Go ahead; there is nothing now that necessitates that. Go ahead with your statement. I have read the letter.

MR. HEYMAN: It was in January—

THE COURT: What is the date of that?

MR. HEYMAN: December 27th. What happened between December 27th and January —I don't know whether it is January 21st or 20th—something like that—Mrs. Grundy came to me, I then took the matter up with Mr. Townsend immediately and I filed my answer with all due diligence, I consented to a reference to an Advisory Master for his accommodation, I did everything that I possibly could to expedite this case, at his request and because of my client's attitude also, a little difficulty arose between Mr. Townsend and myself as to the question of fees—the question of alimony pendente lite—and it was then that Mr. Townsend insisted that he have an early trial. Now, I felt that it was my duty—

Colloquy.

THE COURT: Is there an order for alimony?

MR. HEYMAN: No, sir; no application was made; no oral application was made.

MR. LANE: Alimony has been paid at the rate of $125. per month by consent.

MR. HEYMAN: Not by consent, Mr. Lane.

MR. LANE: We paid it voluntarily; they took it against their will, I suppose, but they took it.

MR. HEYMAN: She took it because she had to live. It was paid without an order; we made no formal application; we haven't had the time to make a formal application. We haven't had the time to go to Buffalo to take any testimony; we don't want to go to Buffalo to take testimony, because we can bring this man down here to appear personally before your Honor; and as I stated to your Honor at the time of fixing a date in this matter, I thought that was the most satisfactory manner of taking the testimony. For that reason we thought that it was incumbent upon us to inform this co-respondent, Mr. Evans, that he had at stake here a charge against him of a crime, and that it was his duty to see that he was represented at this time for the purpose of defending himself. I say to your Honor now, if my conduct in this matter is questionable, Mr. Lane, or Mr. Townsend, or this Court, or anybody else has a perfect right to inquire into it at the proper time; but not here. It would make no difference what my conduct in this case has been, whether it is a trick and device or anything else to procure any adjournment in the matter does not at this time interest the Court. The question is whether or not this defendant

shall have the right to bring this man Evans to testify for her, so that this Court may be apprised of all the facts, may see the witness, may see his conduct, and his attitude, his demeanor on the stand. If any harm could result to this petitioner by reason of a delay for a month, I would say that he would have a perfect right to force us on, and when no harm can come to anybody by one month's delay, I think we are entitled to that.

MR. LANE: Now, if your Honor please, Mr. Hershenstein offered to produce the telegram which was sent to Mr. Evans. I would like to see also the letter which Mr. Heyman has mentioned.

(Mr. Heyman produced copy of letter).

MR. LANE: Now, where is the letter which Mr. Heyman referred to, in which he advised Mr. Evans that he was charged with a crime and that he ought to defend himself?

MR. HEYMAN: I didn't say that I wrote a letter that he was charged with a crime.

MR. LANE: That is what I understood you to say.

THE COURT: He said that he was charged with a crime.

MR. HEYMAN: I didn't say that I wrote the letter.

MR. LANE: I understood counsel's statement to be that he had written the letter, in which he stated that he, Evans, ought to be represented by counsel.

MR. HEYMAN: Right.

MR. LANE: May I see that letter?

MR. HEYMAN: That is the distinction I want to make.

MR. LANE: Mr. Hershenstein speaks of a

telegram and Mr. Heyman speaks of a letter. There is some mistake.

THE COURT: Is the telegram here?

MR. HEYMAN: The telegram is here and reads as follows: Signed, Heyman. "We expected to have Grundy divorce trial postponed until you got your furlough so that you could appear personally and defend yourself. We now find it impossible. Case has been set down for trial May 3rd. We therefore suggest that you retain counsel to appear for you Monday and ask for postponement until you get your furlough. We recommend as your lawyers Hershenstein & Finnerty, 15 Exchange Place, Jersey City. Telegraph them collect so that they get it tomorrow to appear for you Monday."

MR. LANE: What I said, if it please the Court, with respect to the purpose of this adjournment, and the purpose of this application, and the purpose of the intervention of Mr. Evans, has been proven by the statements of counsel themselves. I stated, and I reiterate, that the attempt to get Mr. Evans here is for the sole purpose of getting this adjournment. Evans had no idea, nor did counsel have any idea—

THE COURT: What is the date of that telegram?

MR. LANE: April 30th. Evans himself had no idea, and counsel had no idea of intervention with Evans until the application made to your Honor on the 13th of April, at which time your Honor refused to accede to the request of Mrs. Grundy for a postponement because of the absence of Evans. As soon as counsel ascertained that they could

not get the adjournment for Mrs. Grundy upon that ground, steps were taken, not by Evans but by these gentlemen, by filing a petition for intervention, for the purpose of getting this adjournment and solely for that purpose. Now, I am not criticising counsel; but what counsel has done is proper to be considered because it has something to do with whether or not this adjournment should be granted. I have not criticized counsel, but I am indicating to your Honor that this intervention of Evans at this late date is not bona fide in Evans' behalf, or at Evans' request, but at the request of Mrs. Grundy or her representative, for the purpose of securing this particular adjournment. On the 13th of April their counsel knew that they could not get the adjournment; I am advised by Mr. Townsend—I am speaking now, of course, not of my own knowledge, I wasn't here—I am advised by Mr. Townsend, that counsel told him at that time that if your Honor did not grant the adjournment counsel would get out of the case, or words to that effect. Now, we haven't here any affidavit by Evans, we haven't any statement by Evans, we have nothing by Evans except a telegram, written at the request of counsel, with the fact that although Evans was in this territory up until the December after the petition was filed in September, and although he never makes a move himself until the 30th day of April, when it was certain that the case was going on on the 3rd of May, unless something desperate was done.

Now, I said that the charge of counsel, or Mr. Heyman, inferentially charges Mr. Carey with fraud; and I reiterate it. He went into

a long story to the effect that Mrs. Grundy was represented by counsel to whom Mr. Townsend had recommended her, and that counsel to whom Mr. Townsend had recommended her was responsible for this delay from September to December. What was the use of putting that in this case unless there was something questionable about the conduct of Mr. Townsend? What was the object of putting the delay, not upon Mr. Carey, as the counsel to whom Mrs. Grundy had been sent by Mr. Townsend, if it was not for the purpose of showing that something was wrong? Now, the fact is, as long as we are going outside of the record facts, when Mrs. Grundy was served with this citation, she did go to Mr. Townsend and she asked Mr. Townsend to suggest counsel to her. Mr. Townsend did not suggest counsel to her. Mr. Townsend did give her a list of several names, and she picked out Judge Carey. And that is the secret of that. Now, I submit it is not, at this late date Evans coming in here. He comes in by grace and not by right. Before your Honor there is nothing here; he said he cannot get a furlough, but he expects to get a furlough on June 14th. There is nothing to show what efforts had been made to get a furlough; nothing except the word of this man that he cannot get a furlough until June 14th. Now, it is remarkable that this man did not enter the military service before the service of the petition in this case. It is remarkable to me that a man who is as close to New York as Buffalo cannot get a furlough in order to come down to defend himself of a crime, as Mr. Heyman puts it. If he really wants to come in and defend him-

self, why in the world couldn't this testimony have been taken in Buffalo, as suggested by counsel? Now, we are ready to go forward with this case; we have suffered delay enough; we have our witnesses here, some of whom we may not be able to get again, at least not without considerable inconvenience. We respectfully submit that the case ought to proceed.

MR. HEYMAN: May I say a word, if your Honor please? When I said that Mr. Townsend had recommended Judge Carey I did not mean anything wrong. I meant that because of Judge Carey's delay and Mr. Townsend's negligence the matter had been dragged along. By saying that Mr. Townsend recommended Judge Carey I did not mean any harm; no more harm than by my recommending Mr. Evans to Hershenstein & Finnerty; absolutely no harm; nothing wrong. What I wanted to bring out by that point was that the matter was delayed without any objection either by the petitioner or by the defendant, from September until January, until I got into the case; and it was because of my conduct that the matter was expedited so that it came to an issue, so that it had a reference; it was by my expeditious conduct that it was referred as early as it was. Now, Mr. Lane says that there isn't anything to this telegram to show that this man cannot get a furlough until June 14th. Your Honor will remember that I showed this letter at the time that the date was fixed, from Mr. Evans, in which he stated that he could not get a furlough until June 14th, and that letter was in answer to my letter, in which I wrote that I

had practically arranged with Mr. Townsend.

MR. LANE: He also states in this letter, "I will testify before a commission in Buffalo any time if an adjournment cannot be had."

MR. HEYMAN: Yes; that letter was in answer to the letter to him, in which I had arranged to try the case on either May 12th or May 19th, two weeks later. There isn't any harm in having him come up here. Mr. Lane says there are several witnesses who cannot come except by great inconvenience. There is no evidence that there are any such witnesses in this case.

THE COURT: The section of this Divorce Act under which this application may be made has these words:

> "Anyone charged as a particeps criminis shall be made a party upon his or her due application to the court, subject to such terms and conditions as the court may prescribe."

This petition is not signed or verified by the man charged as a particeps criminis, but if counsel for Mr. Evans will stand responsible for this petition I will make an order admitting him as a party defendant, subject to this condition, however, which I understand the Court may impose,--that the case on the part of the petitioner may proceed now without further delay, and if at the close of the hearing today any further time is necessary, a reasonable opportunity will be given the co-respondent to be present and examined as a witness, and he may now, by his counsel, cross-examine the witnesses produced today.

MR. HERSHENSTEIN: If your Honor please,

the only objection I can make at this time, on behalf of Mr. Evans, is that it is eminently impossible for me to be able to cross examine the witness who will testify against him, without being in a position of knowing the facts upon which to base my cross examination, unless your Honor will reserve the right to me to examine them at the adjourned date, and all witnesses who testify against him. I will make this further proposition to the Court—

THE COURT: Have you prepared your answer?

MR. HERSHENSTEIN: No, I haven't. I will say this to the Court to show my sincerity in the matter, that either I or somebody from my firm will go to Buffalo to interview Mr. Evans personally. There has been some question raised as to the bona fides of Mr. Evans appearing in this case. I dare say, Mr. Lane, very few defendants know they have the right; they think that they are only witnesses in the case and can testify for the defendant. They don't know they have that privilege. I will say to your Honor that I will proceed personally, or have some one from our firm go to Buffalo promptly, so that we can procure from him an affidavit, and procure from him written authority to represent him and make a statement to the Court that he desires to have an answer filed in this case, and we shall proceed promptly, file an answer and serve it upon the solicitor for the petitioner, and also interview the officers of this man's camp, to see, perhaps, if he cannot get a furlough for the next week or ten days.

THE COURT: Now, I file this petition on the understanding that you take the responsibility of the petition.

MR. HERSHENSTEIN: Yes, exactly.

THE COURT: Which, unfortunately, is not signed or verified by him.

MR. HERSHENSTEIN: And the affidavit, or my verification, shows why it isn't.

THE COURT: It is on the strength of your assuming that responsibility I file it.

MR. HERSHENSTEIN: The only question I raise at this time, in view of your Honor's ruling as to the motion for an adjournment, and I think that we do represent Mr. Evans, it becomes eminently unfair for him, in view of our being here and listening to the testimony of the witnesses, and being unable to examine without the facts which he may have to contradict their testimony. If they bring these same witnesses back again and if they re-testify in Mr. Evans' presence so that I can again cross examine them, of course that means that you are trying the case twice. Here I have a counter proposition to show our bona fides in the matter; we do not want an adjournment until June; we would ask for an adjournment of perhaps a few days, to put off this hearing for three or four days, to let us go to Buffalo and let us see Mr. Evans, let us get his personal affidavit, and let us see if we cannot bring him down here.

MR. LANE: I object to that, if your Honor please. I cannot understand the position taken by counsel; this same application was made to your Honor on the 13th of April.

MR. HERSHENSTEIN: No.

MR. LANE: It was made by the defendant; by Mrs. Grundy. And the reasons urged were exactly the same; the only difference is that now the application is made, instead of by Mrs. Grundy, in the name of Evans, but at the instance of Mrs. Grundy.

MR. HERSHENSTEIN: I have never seen Mrs. Grundy.

MR. LANE: I say at the instigation of Mrs. Grundy.

MR. HERSHENSTEIN: I deny that absolutely; I never saw her; I don't know who she is.

MR. LANE: The telegram from counsel for Mrs. Grundy is that he should intervene and ask for a postponement. Whether his act is at the instigation of Mrs. Grundy I will leave it for the Court to determine. Just before your Honor permitted them to file this intervention petition, they urged with all the vigor that they could that there was no possibility of getting their client until the 14th of June. Then, as soon as your Honor rules upon the application and permits them to file their petition, for some reason or other they think that they may be able to go on in three or four days.

MR. HERSHENSTEIN: I say that.

MR. LANE: I know you said it; but you didn't say it before.

MR. HERSHENSTEIN: I told you what our purpose is today.

MR. LANE: We submit to your Honor that it ought not to be permitted in this posture of the case. We are ready to go forward with this case and it seems to me that we ought not to be put off, even for three or four days, until they do that. They had an opportunity to do that between the 13th of April and the present time; they had an opportunity to take their testimony at that time. Why didn't they do it? Why did they wait until today?

THE COURT: I will proceed with the case.

GEORGE H. GRUNDY, Sworn.

DIRECT EXAMINATION BY MR. LANE:

Q. Mr. Grundy, where do you live? A. Jersey City; on Crescent Avenue.

Q. When were you married, and what is your wife's name? A. Ida May Grundy; in Greater Pittsburgh; Allegheny, Pennsylvania.

Q. When were you married?

MR. HEYMAN: I object, if your Honor please, to the proof of marriage in this way, on the ground that that is not the best proof.

A. Mrs. Grundy has the marriage certificate.

THE COURT: I will take it.

MR. LANE: I would like to ask on the record, if your Honor please, whether counsel denies the marriage. We can dispose of this case very quickly if they do.

THE COURT: It is admitted in the answer.

Q. When were you married? A. 1899; October 4th.

Q. After you were married, where did you go to live? A. In Pittsburgh.

Q. How long did you reside in Pittsburgh? A. Until February, 1907.

Q. Then where did you go? A. We came East, to Newark, and Jersey City.

Q. Just tell us where you and your wife lived from the time you first came to New Jersey until the present time? A. When we first came here we stopped off in Newark; we lived in Newark for possibly the greater part of the year; then we moved to Jersey City. I was employed in Jersey City, and remained in Jersey City until July, 1912; then we moved to New York; and we lived in New York for two years.

MR. HEYMAN: I object to the witness reading from any paper he may have.

THE WITNESS: That is the only means I have of remembering dates, your Honor.

THE COURT: There is an objection to his reading.

A. I remained in New York until July, 1914—

THE COURT: Well, there is an objection to your reading from the paper.

THE WITNESS: I cannot recall the months and year.

Q. Then where did you go?

MR. HEYMAN: I want to say to your Honor at this time that Mrs. Grundy also is very hard of hearing, and we would like to have the witness talk a little bit louder.

Q. Now, from thence where did you go? A. We came back from New York to Jersey City, and remained living in Jersey City until the present time.

Q. When did you and your wife finally separate? When did you leave the house? A. September, 1919.

Q. Where were you living at that time? A. 57 Clinton Avenue, Jersey City.

Q. During the summer of 1919 were you at home all during the year 1919? A. No, I was abroad for four months, in the early part of 1919.

Q. From what month to what month? A. February until June.

Q. What was the first difficulty between you and your wife? A. The first difficulty was caused by alcoholism.

Q. When was that?

MR. HEYMAN: If Your Honor please, I want to object to this on the ground that it

has absolutely no bearing on this case, that there is nothing in the petition which speaks of anything except adultery in two specific instances, and the general clause covers the months of June, July and August. I don't think that the question of drink or any other trouble between these parties is at all relevant or material or competent in this suit.

THE COURT: How is it relevant, Mr. Lane?

MR. LANE: Well, it is relevant and counsel will introduce it later. I have some doubt as to whether it is necessary to introduce it at this time. I think at this time I will withdraw it and reserve my right to put it in later.

Q. When did you first believe that your wife had committed adultery?

MR. HEYMAN: I object to any belief on the part of this witness. We want the facts.

THE COURT: I will take the question.

A. In August, 1919.

Q. Have you, since you believed that she committed adultery, cohabited with her? A. I have not.

CROSS EXAMINATION BY MR. HEYMAN:

Q. What date in August did you first believe that your wife had committed adultery? A. I believe the 24th of August.

Q. Your belief is founded upon information that somebody gave you? A. Exactly.

Q. At that time where were you living? A. 57 Clinton Avenue, Jersey City.

Q. You continued to live with her after you believed that she committed adultery on August 24th? A. No.

Q. Did you leave the house immediately? A. No.

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

Q. You continued to live there, didn't you? A. In the house, yes.

Q. And you lived there until some time in September, didn't you? A. In the house, yes.

Q. When did you leave the house? A. In September.

Q. What date? A. The 9th or 10th.

By The Court:

Q. What is that period when you said you were absent from home for several months? A. From the early part of February until June.

Q. Of 1919? A. 1919.

Park Alan Grundy, Sworn:

Direct Examination By Mr. Lane:

Q. Where do you live, Mr. Grundy? A. 53 Crescent Avenue, Jersey City.

Q. How old are you? A. 19 years old.

Q. You are the son of George Henry Grundy and Ida May Grundy? A. Correct.

Q. On the 24th of August, 1919, where were you? A. In the morning I started out with my father to the Shackamaxon Country Club; it was in the morning, between eight and nine o'clock. Being a fine day, I decided——

Mr. Heyman: I object to any decision on the part of the witness.

The Court: I will take it.

A. To return; I decided—

Mr. Heyman: I object, if Your Honor please, to any decision on the part of this witness.

Mr. Lane: It is absolutely unimportant.

The Court: Tell what you did, Mr. Grundy.

A. I returned between 11 and 12 o'clock.

Q. Alone, or with your father? A. Alone.

Q. How did you go, and how did you return? A. By automobile.

Q. How long a trip is it? A. About a 16 mile trip.

Q. Then you returned about what time? A. About 11.45.

Q. What did you do? A. I went upstairs and tried, I inserted my key in the lock and turned the key; that opened the door about one inch; and there was—we had a swivel lock on the door and that lock was bolted; I rang the bell for about 15 minutes, just kept steadily ringing it, and this noise caused Mrs. Hansen, by the way, the janitress, who was in the opposite apartment, to come out and ask me what was the matter.

MR. HEYMA&: I object to any conversation between him and the janitress.

THE COURT: Don't give the conversation.

MR. LANE: I submit that this conversation is proper; it shows what this witness did and why he did it; it doesn't connect Mrs. Grundy at all.

MR. HEYMAN: I submit, if Your Honor please, that we don't want any histories here; we want the facts.

THE COURT: Well, I will strike out what was said.

A. I told her that I couldn't get in.

MR. HEYMAN: I object to that.

Q. Prior to this conversation with Mrs. Hansen had you heard anything from the interior of the house? A. I had heard very low talking, that is, the door being ajar about one inch.

Q. How many voices? A. I heard two voices.

Q. Could you tell whether they were male or female? A. One was male, one was female.

Q. Could you hear what had been said or what was said? A. I couldn't hear what was said; it was too low, a murmur.

Q. How many minutes did you stand there ringing the bell and knocking? A. A period of about 15 minutes.

Q. When Mrs. Hansen came out, how near to the door were you and she standing? A. To our own door?

Q. Yes. A. I say about two feet away.

Q. Was the door still ajar? A. The door was still ajar; yes, sir.

Q. Did you talk in a low voice to Mrs. Hansen, or in your ordinary voice? A. I talked in my ordinary voice.

Q. How did Mrs. Hansen talk? A. In the same ordinary voice.

Q. Could you tell whether the conversation that you were having on the outside could be heard on the inside? A. I am pretty sure it could be heard.

Q. What did you say? A. Because it was loud enough, and the stair case is made of stone, and naturally the sounds carry right up.

Q. Now, in accordance with some suggestion made by Mrs. Hansen—did Mrs. Hansen make any suggestion as to—

MR. HEYMAN: I object to that, if Your Honor please, as to the form of the question.

MR. LANE: The question isn't finished.

MR. HEYMAN: I think I can make this object, if Your Honor please, before he finishes the question, just for that purpose. This witness is not an unintelligent witness; he knows exactly what his story is; he does not have to be led. These questions are objectionable if they are really being put to

this witness so that he knows exactly what the answer should be. I think that is objectionable. I think the witness ought to be permitted to tell his story.

Q. Did Mrs. Hansen make any suggestions to you as to what you should do?

MR. HEYMAN: I object to that as leading. I think this witness can tell exactly what happened.

THE COURT: The witness may answer yes or no, but not state the conversation.

A. Yes.

Q. What did she say?

MR. HEYMAN: I object to that on the ground that it is without the presence of this defendant, especially in view of the fact that this defendant evidently is hard of hearing.

MR. LANE: There is no such evidence. Mr. Townsend brings my attention to the fact that there is a recent case in the Court of Errors which says that where the relationship of the parties is such that they possibly could have heard it, the conversation may be given and it is for the court to determine whether or not the parties heard it. I have given the relationship of the parties, I have given the condition of the door, and the fact that this witness heard whispering when he was within two or three feet of the door.

MR. HEYMAN: It is calling for a statement made by Mrs. Hansen.

THE COURT: I decline to take it. What was the day of the month?

THE WITNESS: August 24th.

Q. Then what happened? A. I again contin-

ually made loud noises on the door and also on the bell.

Q. Did you hear the bell ring? A. I could hear the bell ring; yes, sir.

Q. What happened then? A. Mrs. Grundy came to the door and asked me what was the matter.

Q. What words did she use, if you recollect them? A. The exact words?

Q. Yes; the exact words, if you can recollect them. A. "What the hell is the matter?"

Q. What did you do? A. I shoved right in the door, went through the apartment, directly—came to the kitchen door, I opened the kitchen door, which was between me and the closet, and standing there was a man with his hat in his hand. I said, "I think this requires some explanation", and he says, "No explanation is necessary", and he shoved past me, out through the door and went downstairs.

Q. Do you recognize the man in court? A. I do.

MR. LANE: Mr. Levine, will you please stand up?

Q. Is that the man? A. That is the man.

Q. How was your mother dressed? A. She was dressed in a night gown and kimona, her hair in a disheveled condition. hair very much disheveled.

Q. Where did she go when you went in the house? A. She went directly back to her room, in the bed.

Q. What was the condition of the bed? A. The bed showed that it had not been fixed in quite a while, and it was in a very poor appearance.

MR. HEYMAN: I object to that, if Your Honor please.

THE COURT: I will take it.

Q. What was the condition of the bed clothes; how did the bed look? A. They were all mussed up.

Q. After this man went out did you go back to your mother? A. I did not.

Q. Did you have any conversation with your mother before you went outside? A. I did not.

Q. Did you have an conversation with your mother at all while you were in the apartment that day? A. No, sir.

Q. What was the position of the shades? A. Both shades were down; we have a black shade and a white shade; they both were drawn down, on both windows.

Q. What did you do then? A. I went out after searching—I looked around the apartment and then I went downstairs and loafed around until my father returned that evening.

Q. What time did he return? A. He returned between seven and eight o'clock.

Q. Did you tell him of what you had found? A. I did.

Q. Then where did you and he go? A. Why, my father came up and went back in the apartments again, and I stayed around, just hung around the house.

Q. Did your father and mother have a conversation in your presence, so that you could overhear it, after he came in? A. Father and mother had a conversation, but I didn't hear what it was.

Q. Did you hear your father and mother have a conversation with respect to what had happened on the 24th, the next night? A. The following evening, August 25th?

Q. Yes, A. Yes; I did.

Q. Where? A. In the front room; I believe Mr. Townsend was present at the time.

Q. Mr. Mark Townsend? A. Mr. Mark Townsend.

Q. What did your father say to your mother with respect to what had happened? A. I wasn't present at the time.

Q. Were you present at any time when your father asked for an explanation of this thing from your moher? A. No, I was not.

Q. By the way, after that night did your father stay at the house—after the night of August 24th —the night of August 24th and thereafter did your father stay at the house? A. Yes, sir; we stayed there until a later date.

Q. In whose bed did he sleep? A. He slept with me.

Q. On the 14th of September, 1919, do you recollect something happening? A. Yes, sir.

Q. Tell us about that? A. I returned into the house in the morning to get some—well, to fix up some of my duds and my clothes.

MR. HEYMAN: What is that date?

THE COURT: September 14th.

MR. HEYMAN: I object to any evidence of anything which happened on September 14th, if the Court please, because there is no allegation in the petition of any acts on the part of the defendant on September 14th, or any other date, except September 15th.

MR. LANE: I will change that to on September 15th; now go ahead.

Q. On the 15th of September, 1919, do you recollect something happening? A. I do.

Q. What? A. I returned—I came into the house in the morning—

MR. HERNSHENSTEIN: I object to any testimony as to the date of September 15th alleged in the complaint in regard to any adultery committed with one Jack Evans, on the ground that Jack Evans is not present here personally to be confronted by the witness.

THE COURT: I will take it.

Q. Tell us what happened? A. I came in and walked through the apartment; the swivel lock on the door had, in the meantime, been taken off by my father; I walked into the apartment and in my mother's room I saw Mr. Evans standing by the window, with the shades down, buttoning up his pants. Evans said to me, "Hello, Park", but I didn't make any answer to that at all; I walked through the apartment and he went out. That is all there was to it.

Q. What time of day was this? A. This was in the morning.

Q. How early in the morning? A. About eleven o'clock.

Q. How was your mother dressed? A. The same dress that she had on on the previous time.

Q. What is that? A. Night gown and kimona.

Q. What was she doing when you walked in? A. She was sitting on the bed, the edge of the bed.

Q. What was the condition of the bed? A. Very mussed up, a disheleved position—appearance.

Q. What was the position of the shades? A. They were down, both the black and white shades were down.

Q. What was the condition of your mother's hair? A. Very disheveled.

Q. When you walked in and your mother was

sitting on the side of the bed in the bedroom, where was Evans? A. Standing near the foot of the bed, between the foot of the bed and the window, which was about two feet away.

Q. In the same room? A. In the same room.

Q. You said nothing to your mother, just walked in and walked out again? A. That is all I did.

Q. Did you ever speak to your mother about this episode? A. No, I did not.

Q. How long have you known Evans? A. I had known him for about four months prior to this meeting.

Q. That is when your father was in Europe? A. Yes, sir.

Q. When you first came in contact with him? A. In the latter part of March of the same year.

Q. How did you come in contact with him? A. I met him in the front room of our apartment.

Q. Who was with him? A. My mother.

Q. Anyone else? A. No one.

Q. What time was it? A. That was in the afternoon.

Q. How often after that did you see him? A. I should say I saw him in the apartments about five times.

Q. About what time of the day would that be? A. I have seen him there at different times of the day; I think mostly in the afternoon and evenings.

Q. How would you come to see him there? A. I would be home from—when I was attending school and I came home, I would see him there, then my dad was away in Europe, and I came home on my vacations.

Q. Did you ever stay in the room with your mother and Evans when they were together? A. Yes, I did.

Q. What explanation did your mother give, if any, with respect to his presence?

MR. HEYMAN: I object to that, if Your Honor please, on the ground that the witness said he never talked with his mother about that.

MR. LANE: He hasn't said a word about that. That was the Levine incident.

MR. HEYMAN: If Your Honor please, the question was, "Did you talk with your mother about this?" and he said, "Nothing at all"; that was my understanding of the testimony.

MR. LANE: That was about the Levine incident, as I recall it.

MR. HEYMAN: Well, I object to that.

Q. On any of the occasions, other than the one on which you have testified in detail to?

MR. HEYMAN: Now, I object, if Your Honor please on the ground that it has nothing at all to do with this charge; nothing at all to do with the charge of adultery.

THE COURT: I will take the question.

A. That he was a very good friend of Gertrude Halverson's and that he was in the apartment waiting for Gertrude.

Q. Did you ever see Evans and Gertrude—Miss—what is her name? A. Halverson.

Q. Together. A. I never saw them in the apartments together; no, sir.

Q. Did your mother and Evans talk together in your presence? A. Yes, sir; they did.

Q. What did they talk about? A. Very light subjects; I can't recollect what they were at the present time.

Q. When did you enroll as a student in Perkio-

men Seminary? A. One year ago to-day, May 3rd.

Q. Was there anything with respect to your baggage that had some connection with Evans? A. Yes, I heard about that at some later date, that was.

Q. You heard about that from whom? A. From Mrs. Grundy.

Q. When did you hear it? A. I should say about May 20th.

Q. What did your mother tell you? A. That Evans came to the house when some of my baggage—that is, I had a very large packing box come—and she told me that Evans had unpacked it all.

Q. Where? A. In the cellar; the box came into the cellar and he unpacked it there and sent most of the stuff up the dumb waiter

Q. What cellar; whose cellar? A. In the cellar of the apartment house we had been living in.

Q. The day you went to Shackamaxon, which was on August 24th, I think, had your going to Shackamaxon for that day been discussed the day before? A. Why, it was a known fact that every Sunday—

MR. HEYMAN: I object to that, if Your Honor please.

THE COURT: That is not the question, Mr. Grundy. Strike out the answer.

MR. LANE: I will withdraw the question.

Q. On Saturday afternoons about that time—was that on Saturday? A. On Sunday.

Q. On Sundays about that time what was your father's and your practice with respect to where you would spend Sundays?

MR. HEYMAN: I object to that.

THE COURT: I will take it.

A. Why, we had been in the habit of spending all our Sundays at the Shackamaxon Country Club there, to play golf, on Sunday.

Q. What time of the morning would you leave, and when would you usually return? A. We would leave about 8.30 in the morning and return about six or seven in the evening.

Q. Did your mother on any occasions go out there with you? A. I don't recall if she ever did go out with us.

CROSS EXAMINATION BY MR. HEYMAN:

Q. You had a little trouble up at Perkiomen before this, didn't you?

MR. LANE: I object to that as immaterial and irrelevant.

THE COURT: It seems to be immaterial, Mr. Heyman.

MR. HEYMAN: Why, if Your Honor please, I want to show that this witness had a lot of trouble and that his father made good for him; and now he wants to repay his father, and that it is for that reason he is biased against his mother.

THE COURT: I will take it.

A. I absolutely had no trouble at Perkiomen.

Q. Where did you have trouble; what school were you attending when you had this trouble? A. I don't recollect what trouble that was you are speaking of.

Q. You don't recollect that you ever had any trouble at all while you were at school away from home, while your father was in Europe?

MR. LANE: I object to that as immaterial and irrelevant.

THE COURT: It will take it under the statement counsel made about it.

A. Yes, I did have a little trouble.

Q. What school were you at when you had that trouble? A. Worcester Academy.

Q. And when he came home, your father made good for it, didn't he? A. He did not.

Q. He didn't make good for you? A. He did not; he had nothing to do with it; my dad was in Europe at the time, if you remember.

Q. You say he hasn't made good for you; is that right?

MR. LANE: He said so.

MR. HEYMAN: I am talking about that trouble that he had at this school; that is what I want to know; I want to know if his father made good for the trouble that he had at school.

THE COURT: I understood he answered

Q. Your father did not make good that trouble, did he? A. He had nothing to do with that trouble whatsoever.

Q. I am not asking whether he had anything to do with it.

MR. LANE: I object to that word "made good"; I don't know what he means; I object to the use of the words "made good" as unintelligible.

Q. Do you understand what is meant by "made good"? A. I do not.

Q. Tell us what the trouble was? Maybe we can get you to understand what "make good" means. What was the trouble that you had while you were away at school and while your father was in Europe?

THE COURT: I don't think I ought to take that. If there is something his father did for him in that connection which may, by any possibility, influence his testimony, I am inclined to take it.

MR. HEYMAN: That is what I am trying to find out, if the Court please. That is the purpose of my question. For that purpose I must first know whether he had any trouble, what the trouble was, and what his father did.

Q. What was the trouble that you had while you were in school?

MR. LANE: That is objected to.

THE COURT: I will permit you to ask what his father did in relation to it.

Q. What was the trouble that you had while your father was away?

MR. LANE: I object to that.

THE COURT: I don't think that is relevant. If his father did anything about it, I will permit that.

MR. HEYMAN: Now, if Your Honor please I want to prove that this boy had a little trouble while he was away at school, that he was put out of school, that a friend of his father's took care of him while the father was away in Europe, at the request of his mother, and when his father came back his father reimbursed him for what he had done. That is the purpose of my question, and I insist upon the question.

THE COURT: The only question is what his father did as showing his interest.

MR. HEYMAN: Has Your Honor ruled out this last question?

THE COURT: Yes.

Q. Now, on August 24th, between 11 and 12, you came to the house?

(Recess until 2.15 P.M.)

AFTER RECESS.

The witness resumes the stand for further examination.

CROSS EXAMINATION RESUMED BY MR. HEYMAN:

Q. Several years prior to August 24th, 1919 your father and mother were not on very friendly terms, were they? A. No.

Q. You were always very friendly with father, weren't you? A. I was as much friendly with my father as I was with my mother.

Q. But you were very friendly with your father, weren't you? A. I would say no more friendly with my father than with my mother.

Q. I am not asking you that; I am asking you, weren't you very friendly with your father? You understand your question don't you? A. Yes, sir.

THE COURT: You can answer that question directly.

A. Yes, I was.

Q. You are very fond of your father, aren't you? A. Yes, sir.

Q. And for several years prior to this incident on August 24th you and your father had been spending your week-ends up at the country club together, hadn't you? A. A good many years prior.

Q. Several years. A. Yes, sir.

MR. LANE: You were spending week-ends?

THE WITNESS: No, sir.

MR. LANE: Week-ends was the question.

Q. Saturdays and Sundays. A. Sundays, I would say.

Q. You didn't take your mother with you on these occasions, did you? A. No, sir.

Q. You could drive a car, couldn't you? A. Not at that time; no, sir.

Q. When did you first begin to drive a car? A. I began to drive a car in 1918.

Q. When you and father drove out to the club on Sunday morning you would come in with the car, wouldn't you? A. Was that according—may I ask, according to that former question, several years ago?

Q. Well, whenever it happened within the last years; you haven't been driving except since 1918, isn't that so? A. In the Summer.

Q. So that when your father drove you out you would drive in; you didn't keep the car at the club all day, did you? A. Drove the car back, you mean?

Q. Yes, drove the car back to Jersey City from the club? A. Very seldom.

Q. Well, how often did you do that during the year 1919? A. During the year 1919—let us see—I should say for six weeks, no more.

Q. Where did you go when you came into Jersey City from the club with the car? A. Go back home.

Q. Then what would you do? A. I used to hang around Jersey City, no place in particular.

Q. Now, on the 24th of August you came back from the club between 11 and 12 o'clock? A. Yes, sir.

Q. You went directly to the house; ran upstairs? A. Yes, sir.

Q. Put your key in the door? A. Yes, sir.

Q. Turned the lock? A. Yes, sir.

Q. And the door opened about one inch? A. Yes, sir.

Q. And the chain was on? A. Yes, sir.

Q. And you couldn't get in? A. No, sir.

Q. Then you started to ring the bell? A. Yes, sir.

Q. And you knocked on the door? A. Yes, sir.

Q. Did you call out? A. No, I didn't call out.

Q. Didn't you call for your mother? A. No, sir.

Q. Did you knock loudly? A. Very loudly.

Q. Made a lot of noise, didn't you? A. Yes, sir.

Q. So much noise that the janitress came out of the apartment next door? A. She did.

Q. This was on what day of the week? A. August 24th, on Sunday.

Q. On Sunday? A. In the morning.

Q. And the janitress was cleaning in there, did you say? A. Yes, sir.

Q. You saw her doing that? A. I didn't see her cleaning, but from her statement—

Q. Never mind what she said; you saw her?

MR. HEYMAN: I object to that and move to strike out everything of the answer but yes or no.

MR. LANE: You called for the conversation; you asked him if she was cleaning there and he said yes; and then you asked him if he saw her cleaning and he said he did not; but he judged from something she said.

MR. HEYMAN: I don't want what she said. I don't think that is in answer to my question.

Q. Did you see her cleaning in the apartment? A. I did not.

Q. She came out and you kept on knocking, did you? A. I naturally stopped when she came out and asked me a question.

Q. Never mind what she asked you. What did you do? A. I want to know what you did. A. I stopped my knocking and ringing the bell.

Q. Then did you continue knocking? A. At that time the door opened.

Q. Then the door was opened? A. Yes.

Q. Is that right? A. Yes.

Q. Who opened the door? A. My mother.

Q. You saw her at the time when you came in? A. Yes, I did.

Q. Did you say anything to her? A. No, sir.

Q. Didn't say a word to her? A. No, sir.

Q. Now, all this knocking and ringing had taken about 15 minutes; is that right? A. Yes.

Q. That is, you had been standing outside that door for about 15 minutes before you were admitted? A. Yes.

Q. And you didn't ask your mother why she kept you waiting for 15 minutes? A. No; I said—Do you want my conversation?

Q. Yes; I want you to tell us what you said to your mother. A. I said, "What was the matter?"

Q. You said "What was the matter", and what did she say? A. That is my mistake; I didn't say that; that was her statement; she asked me "What is the matter?"

Q. What did you say? A. I didn't say a word.

Q. You didn't say anything at all? A. No, sir.

Q. Not one word? A. No, sir.

Q. But you ran right through into the kitchen?

A. I didn't run; I walked.

Q. You walked right through into the kitchen?

A. Yes.

Q. What made you go into the kitchen? A. That is a round-about way, through the apartment into the kitchen.

Q. That is a roundabout way? A. Yes, sir.

Q. Just tell us where you went? A. I went to the hall, into where we had the library—

Q. Yes. A. Then into the dining room.

Q. Yes. A. Then into the kitchen.

Q. Why did you go that way? A. I can tell you why I did, I knew somebody was in the apartment, from the conversation.

Q. What? A. I knew somebody was in the apartment, from the conversation.

Q. And you were looking for them, is that right? A. Yes.

Q. Why didn't you ask your mother about somebody being in the apartment? A. I can't tell you that.

Q. You can't give us any reason whatsoever? A. No, sir.

Q. You simply went around looking for the person who was in that apartment; is that right? A. Yes.

Q. Now, your father's bedroom was closer to the entrance to that hall than the library was, wasn't it? A. Yes, sir.

Q. Why didn't you go into your father's bedroom? A. I can't tell you that; I started walking through, that is all.

Q. And your mother's room was right next to your father's room, nearer than the library, awsn't it? A. Yes, sir.

Q. You didn't go into that? A. No, sir.

Q. You didn't go into the living room? A. No, sir.

Q. You went direct to the library? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. And that was at the end of the hall, wasn't

it, as you came into the hall, at the end of the hall? A. That was at the end of the hall; yes.

Q. You went direct from that room, then, into the dining room and then into the kitchen; is that right? A. Yes.

Q. And you found this man there? A. Yes.

Q. Mr. Levine? A. Yes.

Q. He had his hat in his hand? A. Yes.

Q. Fully dressed? A. Yes.

Q. His overcoat on? A. I don't recollect; I don't believe so .

Q. You don't think so? A. No.

Q. But you are sure that he had his coat and vest on? A. Yes.

Q. And his trousers? A. Yes.

Q. And his shoes and stockings A. Yes.

MR. LANE: I object to all that, if your Honor please; he said he was fully dressed.

THE COURT: Well, he has detailed it to see if anything had been omitted. It seems to me unnecessary to ask him that.

Q. There wasn't anything in his appearance which would indicate that he was not dressed, to your mind? A. I just said he was fully dressed.

Q. Just so; what I am asking you now—

MR. LANE: I object to that.

Q. Not what I asked you before.

THE COURT: That doesn't seem to have any utility at all; he said he was fully dressed.

MR. HEYMAN: If Your Honor please, this is cross examination.

THE COURT: He said he had his shoes on.

MR. HEYMAN: Your Honor will note my objection.

Q. Did you catch hold of this man? A. No, sir.

Q. What did you say to him? A. "I believe this requires some explanation."

Q. What did he say? A. "No explanation is necessary."

Q. And that is all? A. That was all.

Q. This seems quite a joke to you now, does it? A. No, sir.

Q. What are you laughing at?

MR. LANE: I object to that, if Your Honor please. The witness was not laughing. He is attempting to get something in the record that doesn't belong there.

MR. HEYMAN: I submit, if your Honor please, that this witness was laughing and I want to know what he was laughing for.

THE COURT: I will let the witness answer.

Q. (Last question repeated). A. I wasn't laughing.

Q. This man said it required no explanation? A. Yes, sir.

Q. Is that right? A. Yes.

Q. And you said nothing further? A. Not to him; no, sir.

Q. Did you say anything to your mother? A. In my former examination I forgot to say what I did say to my mother after he went out.

Q. Do you want to correct your former statement now? A. Yes.

Q. You are sure you talked to your mother at that time? A. I didn't have any conversation in which she answered me.

Q. But you are sure that you talked to her? A. I said one little sentence.

Q. Where was she at the time you said this? A. In her room.

Q. Where was that man? A. This man had been in and gone out.

Q. Was your mother in bed at this time? A. She was sitting on the bed.

Q. You talked to her, did you? A. I didn't talk to her; I said one sentence.

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

Q. Why is it that you didn't remember that before? A. I couldn't tell you why; I recall saying it, it just occurred to me that I did say one thing to her.

Q. Well, how is it that you didn't remember before what you had said to her, if you had said anything to her? A. Nervousness, I believe.

Q. That is the only explanation you can give us? A. The only explanation; yes, sir.

Q. That you were nervous before when you were asked this question and when you told your story on direct examination; is that right? A. I was nervous all through it.

Q. Now, since recess was taken did you talk over this matter with anybody? A. No, sir.

Q. Didn't talk to anybody at all about this case? A. No, sir.

Q. During the noon recess? A. No, sir.

Q. Sure about that? A. Yes, sir.

Q. Didn't talk to your father? A. No, sir.

Q. Didn't talk to Mr. Townsend? A. No, sir.

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

Q. Absolutely certain of it? A. Yes, sir.

Q. Didn't talk to a soul about this case since recess? A. No, sir.

Q. But you remember that you did have a talk with your mother or that you did say something to your mother? A. Yes.

Q. Which you didn't say before? A. Yes.

Q. And the only reason why you forgot it was because you were nervous? A. Yes.

Q. What is it that reminded you that you said something to your mother? A. I was thinking over the case during the recess this morning, thinking over each particular, waiting for this cross examination; that was all.

Q. Well, did you tell anybody during the noon recess that you had forgotten something? A. No, sir.

Q. You didn't tell anybody. Now, you say that before you were so nervous that while you were telling this thing in the order in which it happened, you couldn't remember, although counsel asked you two or three times, whether you had said anything, if you had said anything to your mother; is that right? A. Yes.

Q. You remember Mr. Lane asking you two or three times "Did you say anything to your mother about this matter?" is that right? A. Yes.

Q. But you didn't remember it? A. I didn't recollect it.

Q. Although you were telling it in the order in which it happened, as you remembered it, you couldn't remember that? A. No, sir.

Q. Did you talk this matter over with anybody before you came here at all today? A. Today?

Q. Now; why does it take you so long to answer such a simple question?

MR. LANE: You mean before he was on the witness stand did he talk with anybody?

MR. HEYMAN: My question is very, very plain, if your Honor please. I think I asked him if he talked this matter over at all with anybody before he came here today. It is a very, very plain question. What does he take so long about in answering such a simple question.

A. I don't understand whether you mean this morning or previous to this time.

Q. Well, tell us whether you spoke with anybody at all at any time before coming here today? A. The lawyers heard this story; that was all.

Q. When? A. Previous date to this.

Q. Did you go over this same story with them at that time? A. I told exactly what I had seen; that was all.

Q. Exactly what you had seen and exactly what you had heard; is that right? A. Correct.

Q. How long ago was that? A. (No answer).

Q. Well, you won't find any answered over there.

MR. LANE: I object to that method of examination if your Honor please. When he asked him how many times the witness has told his story the witness is entitled to think and he is not entitled to criticism because he throws his eyes out of the window.

MR. HEYMAN: I don't object be cause he threw his eyes out of the window, but I criticized him because he threw his eyes towards counsel.

MR. LANE: He didn't throw his eyes at counsel.

MR. HEYMAN: I want to note on the record that it is perfectly clear that the witness was looking at counsel.

MR. LANE: And I say that the witness was not looking at counsel, but he was looking out of the window.

THE COURT: Comment is unnecessary; of course you are interrogating the witness; you

MR. HEYMAN: If your Honor please, I think I have a right to comment upon the need not comment on his testimony.

conduct of the witness all during the course of his examination; I think I have a right to comment on that; it is my duty to call the attention of this Court to the demeanor and conduct of the witness.

THE COURT: That is right; of course.

MR. HEYMAN: I say that inasmuch as your Honor is not sitting in front of the witness and is not looking at him directly while he is testifying, it is my duty to call your Honor's attention to his conduct.

THE COURT: I agree to that; that is quite so.

MR. HEYMAN: It may be that I am a little bit over-zealous in the manner of my criticism. If I am, I stand ready to be corrected by your Honor at any time.

THE COURT: I think there is a very clear distinction between calling the attention of something to the Court and commenting on the witness as you proceed.

Q. How long ago was it that you had this talk with your lawyers? A. In the past two weeks.

Q. In the past two weeks? A. Yes, sir.

Q. How long ago, within the past two weeks?

THE COURT: When was it, Mr. Grundy?

A. I returned from college on Thursday, April 21st, and I should say I had a talk with them about the following Monday.

Q. That would be about 27th, is that right, or the 28th?

THE COURT: We can calculate that.

Q. Is that right? A. No, sir.

Q. Well, when? A. It was around the 25th.

Q. About the 25th? A. About.

New Jersey State Library

Q. It is about nine or ten days ago, is that right; nine or ten days ago? A. Yes, sir; about that.

Q. Did you tell them at that time that you had said something to your mother? A. I gave the story just as you heard it this morning; that was all.

Q. You didn't tell him at that time that you had told your mother something, or said something to your mother? A. I did.

Q. You did? A. Yes, I did tell him at that time.

Q. You remembered it ten days ago? A. Yes, sir.

Q. But you didn't remember it this morning; is that right? A. Correct.

Q. Now, are you absolutely certain that you did talk to your mother at that time? A. I uttered a sentence; yes, sir.

Q. To your mother? A. Yes, sir.

Q. Where were you when you uttered that sentence? A. In the hallway.

Q. In the hall outside of her room? A. Yes, sir.

Q. She was in her room? A. Yes, sir.

Q. And the door was open? A. Yes, sir.

Q. Could you see her? A. Yes, sir.

Q. Yes. A. Yes, sir.

Q. Were the shades drawn or were they up? A. They were down.

Q. Both shades, the black and the white? A. Yes, sir.

Q. You are sure that you saw your mother at that time? A. Quite certain I did.

Q. Well, you would know whether you did or didn't, wouldn't you?

MR. LANE: I object to this method of

cross examination. It is interminable and serving no useful purpose.

MR. HEYMAN: Well, it is testing the witness' memory.

THE COURT: I think you have tested that pretty thoroughly, Mr. Heyman.

MR. HEYMAN: If your Honor please, it is very, very important, this part of the testimony, and I don't think I should be curtailed in any way whatsoever, in the cross examination on this particular point. That is very important; it is the crux of the whole case, the basis upon which this petition is founded, and I don't think that the Court ought to cut me off at all. There was nothing of that fact introduced by this witness on direct examination; this witness did not remember it at all; now I think I have a right to test this witness' memory.

THE COURT: I will let that question stand.

A. I am quite certain I did.

Q. You are quite certain you saw your mother at that time? A. Yes, sir.

Q. What did you say to your mother? A. "This looks fine."

Q. And that is all? A. Yes, sir.

Q. You never waited for any reply? A. No, sir; I was so disgusted, I looked around and went out; that was all.

Q. You were disgusted with what? A. At what I had seen.

Q. What had you seen? A. This man hiding behind the door.

Q. You were so disgusted at that time that you walked right out? A. Yes, sir.

Q. That disgusted you, did it? A. Yes, sir.

Q. The fact that you found this man in the

kitchen behind the door, fully dressed, his hat in his hand, it so disgusted you that you said that to your mother and walked out? A. Yes.

Q. That is the only thing that you can say now about the—

MR. LANE: I submit it is a perfectly proper answer and that the comment of counsel is improper.

Q. About remembering that sentence, or that—

MR. LANE: I don't think anybody can understand that question.

Q. Is that the only answer that you can give us now, why you remember it now, and you didn't remember it before? A. Yes.

Q. You were disgusted at finding this man, is that right? A. Most assuredly.

Q. You are not disgusted at coming here in court today to testify to those things, are you? A. (No answer.)

Q. (Last question repeated). A. Yes, sir; in a way, I am.

Q. You are; and that caused you to smile, did it?

MR. LANE: I object to that.

Q. Isn't that a fact? A. I wasn't smiling, sir.

Q. You are not smiling? A. No, sir.

Q. Well, weren't you smiling just a second ago when His Honor looked at you? A. I was not.

Q. You don't consider that a smile, do you? A. No, sir.

Q. Of course you feel that you are in duty bound to do whatever you can for your father? A. As all sons are; yes, sir.

Q. Pardon? A. As all sons are; yes, sir.

Q. You feel that you ought to help him as much as you can; isn't that so? A. Yes, sir.

Q. Now, how long were you outside of that door knocking when the janitress came out of the apartment? A. Approximately 12 minutes.

Q. Then the janitress came out of the door? A. Yes, sir.

Q. And you stopped knocking? A. Yes, sir.

Q. And the door was opened to you and you were admitted? A. Right; that was about, approximately between 12 and 15 minutes.

THE COURT: Altogether.

THE WITNESS: Altogether.

Q. So that the janitress was there approximately three minutes when you were admitted; is that right? A. I don't recall that I went right in.

Q. Well now, you were there; you remember distinctly what occurred and what she said; can't you remember how long the janitress was there before you were admitted? A. Not much more than two minutes, I don't think.

Q. And when you were admitted, where did the janitress go? A. Returned to her apartment, I believe.

Q. Did you see her turn around and go back? A. I did not.

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

Q. Did you hear the door close? A. I don't recollect at the time if I did.

Q. Did you close the door after you when you went inside, or did your mother close it, or did either one of you? A. I don't remember; I passed the door at the time.

Q. Do you remember whether it was closed when your mother went to her bed room? A. I don't believe it was; I believe it was—

Q. Was there any noise in the apartment after you went in there? A. No, sir.

Q. When you first saw your mother, the fact that she was in this condition of attire, there wasn't anything unusual to your mind, was there? A. No, sir.

Q. You had seen your mother often at that hour of the day in the same attire? A. No, sir.

Q. And that didn't surprise you in any way, did it? A. No, sir.

Q. Up to that time you hadn't as yet seen Mr. Levine? A. No, sir.

Q. Nor anyone else? A. With the exception of the janitress.

Q. I mean inside of the apartment. A. No, sir.

Q. Now, why didnt you ask your mother about somebody who was in that apartment, or had been in there? A. I couldn't tell you, as I said before, I don't know.

Q. You didn' come looking for anybody, did you? A. You mean before I came upstairs?

Q. Yes. A. No, sir; I didn't have any idea that anybody was in the apartment, with the exception of my mother.

Q. Then why didn't you ask your mother about somebody being in there? Why didn't you ask your mother, "Who were you talking to?" or "Who is in the apartment; who is here?" or something to that effect? A. Because I had heard this low murmur and the long wait outside, I didn't understand; I knew that somebody was in there; why shouldn't I go through and find out who it was.

Q. Why shouldn't you ask your mother first? A. I can't tell you that.

Q. You can't tell us? A. No, sir.

Q. You wanted to find somebody there and then talk to your mother, didn't you? A. Natural-

ly I wanted to find him when I heard him inside, I naturally wanted to find him.

Q. Then you wanted to talk to your mother about him; rather, you wanted to find him before you talked to your mother? A. It never entered my head at the time.

Q. You knew when you went into that apartment that there was somebody there beside your mother? A. Yes, sir.

Q. And you wanted to find that somebody, didn't you? A. Surely.

Q. You knew that you wanted to find him, and then talk to your mother about it; isn't that what you want us to believe? A. The first part of that I would say yes; the latter part, I don't know.

Q. What about the last part of that? A. No, sir; I wouldn't say that I wanted to talk to her about it, as I didn't know what I was going to find at the time I walked through and found a man; that was all there was to it.

Q. You didn't know what you were going to find? A. No; I knew there was one—

Q. Well, did you suspect what you were going to find? A. No, sir.

Q. Did you have any idea there was a man in the apartment then? A. Yes, I did.

Q. You could tell that from the outside? A. From the voices.

Q. That there was a man in that apartment? A. As any human being can that can understand a man's voice.

Q. Why didn't you say to your mother when you came into the apartment, "Who is the man in there?" A. I don't know.

Q. Well, wasn't it because you wanted to find the man and then tax her with it? A. Surely I wanted to find the man.

Q. And then tax her with it; isn't that so? A.

I don't know about that; it never entered my mind.

Q. It never entered your mind? A. No, sir.

Q. You did it, though, didn't you? A. Talked to her about it.

Q. Yes. A. No, sir.

Q. Didn't you tax her with it? A. No, sir; I didn't say a word to her about it.

Q. Well, you were rather surprised to find a man there, weren't you? A. More disgusted than I was surprised.

Q. You weren't surprised at all? A. I was more disgusted than surprised.

Q. You had been led to believe that this might occur; isn't that so? A. No, I hadn't been led to believe that.

Q. So that finding this man there didn't surprise you at all? A. Is that a question?

MR. LANE: The way that question is put indicates that the witness has testified that he was expecting to find him.

MR. HEYMAN: This is cross-examination; I have a right to put words in the witness' mouth.

MR. LANE: You have no right to misquote the witness' testimony.

THE COURT: He just said that he didn't expect to find him there. If you want to ask that question, Mr. Heyman, I think you should reframe it and ask the question, and not state it as a conclusion of something from the testimony of the witness which the witness has not said. You are stating something as if he had just said it and on appeal it might look as if the stenographer had left something out. I understood him to say that he did not expect to find anything of that kind there.

MR. HEYMAN: Now, my next question is if he did not expect to find him there wasn't he surprised. That is the purpose of the question; he did not expect to find any men there, and finding him there did not cause him any surprise. Now isn't that perfectly logical and reasonable?

THE COURT: I am not ready to say that. However, you might go ahead with your question.

Q. So that finding this man there did not surprise you at all?

THE COURT: I will overrule that question. I will permit you to ask him whether he did or did not become surprised; but not in that form.

MR. HEYMAN: Your Honor will note my objection.

Q. You were disgusted at finding this man there, weren't you?

MR. LANE: I object to that on the ground that it is cumulative and repetition.

THE COURT: I will take it.

A. Surely.

Q. You were interested in who was in that apartment, weren't you?

MR. LANE: I object to that as repetition.

THE COURT: I will take it.

Q. You were interested in whom you found in that apartment, weren't you? A. To a degree.

Q. Only to a degree? A. Yes.

Q. To what degree? A. Quite a great degree, finding a strange man in my own home in hiding.

Q. To report it to your father; is that right? A. Yes, sir.

Q. In other words, you and your father had talked about this prior to your visit on August 24th; hadn't you had a talk about it? A. Do I understand you to mean about that date specifically, finding somebody there, some man?

Q. Yes. A. No, sir.

Q. Never had alked about it? A. No, sir.

Q. Had you talked to your father about your mother at all up to August 24th? A. Yes, sir; on some drinking bouts.

Q. On some drinking bouts; you knew that your father was also disgusted with mother's conduct, didn't you? A. Surely.

Q. You knew that father was pretty well disgusted with mother altogether, didn't you? A. At times.

Q. Within the last two or three years? A. For quite a good many year.s

Q. You knew that he was anxious for a divorce, didn't you?

MR. LANE: I object to that as improper cross-examination.

MR. HEYMAN: I will withdraw the question.

Q. How did you know that your father was disgusted with your mother? A.From my imagination, coming home and not finding meals or anything like that, many times.

Q. That is the only way that you knew? A. Well, on such occasions; yes, sir.

Q. Well, you had talked it over with your father, hadn't you, especially on such occasions as you have just mentioned? A. May I ask you what you mean by the word "it"?

Q. About the question of divorce?

MR. LANE: That isn't the "it" at all.

Q. About the question of her conduct; did you ever talk over the question of her conduct, especially on these occasions? A. Yes, sir.

Q. And father had expressed his feelings toward your mother to you, hadn't he? A. Yes, sir.

Q. And on those occasions he would indicate to you that he was anxious to have a divorce; isn't that so. A. No, sir.

Q. He never said anything at all to you about a divorce? A. No, sir.

Q. At no time? A. No, sir.

Q. He never before had mentioned to you the question of divorce? A. No, sir.

Q. But you knew that father and mother were not happy together within the last few years of their life? A. Yes, sir.

Q. You knew that father had spoken to you about her conduct?

MR. LANE: I object to that as repetition; the witness has already said he did.

MR. HEYMAN: We will get along much quicker if you will let me repeat a few times. I am not trying to take up any more time than necessary. I don't want to lumber up the record.

MR. LANE: That is apparently what is being done.

A. Yes, sir.

Q. You say that father had not spoken to you about a divorce; you didn't know that he wanted to get a divorce; is that right? A. I didn't know that he wanted to get a divorce.

Q. You didn't know that he wanted a divorce at all? A. No.

Q. Now, knowing, or not knowing that he wanted a divorce, why did you report to him when

you found this man in the house? A. May I ask you why—

Q. No; you can't ask me anything. Is there anything about the question that you don't understand?

THE COURT: Let him finish and then I will decide whether his answer will stand.

MR. HEYMAN: If the court please, I object to any such thing on the record. If there is anything that this witness does not understand about my question I will be perfectly glad to explain it, but I object to anything going on the record except in answer to my questions.

THE COURT: I will let him finish his answer and then I will decide whether to let it stand or strike it out.

MR. HEYMAN: I will withdraw the question.

Q. You made sure you reported to your father that night, didn't you? A. Yes, sir.

Q. You thought it was very important, so that you should report it to him that very night, didn't you; isn't that so? A. Most assuredly.

Q. Of course you didn't know what effect it was going to have on father, did you? A. I couldn't tell the workings of his mind; no, sir.

Q. Did you know whether or not he would be happy to get the news? A. I knew nothing of the kind.

Q. You didn't know anything of the kind? A. No, sir.

Q. What did father say to you when you reported it to him? A. I don't recollect what he said.

Q. Who was present when you reported it to him? A. He and myself.

Q. Nobody else? A. No, sir.

Q. Where were you when you reported it to him? A. At the Jersey City Club.

Q. What time was it? A. That evening.

Q. What time was it? A. I guess about 8.30.

Q. Where was mother at that time? A. In the house, I imagine.

Q Had you left her there? A. Yes, sir.

Q. What were you doing at the club? A. What was I doing?

Q. Yes. A. I had just come in for supper, I believe.

Q. Why didn't you go home for supper? A. We never got any supper home on any of those occasions.

Q. You never got supper on any of these occasions when you returned from the club? A. When she was—I don't know why I didn't go home; I said that I was going to meet my father.

Q. What were you going to say a minute ago? A. I don't know what I was going to say.

Q. You don't know what you were going to say? A. No, sir; I mean that I didn't feel like going home after what I had seen.

Q. That was the only reason that you didn't go home? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. How did you come to meet father at the Club—the Jersey City Club? A. It was always arranged so.

Q. Always arranged that you should meet him after his golf at the Jersey City Club? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. Every Sunday evening? A. Yes, sir.

Q. Right? A. Yes, sir.

Q. Wont you please take your hand down from your face? So it wasn't because of any report

that you had to give to your father that you didn't go home to supper that night and that he did not go home to supper; is that right? A. Yes, sir.

Q. It was not because of what mother had done, or anything that she had said to you, that you went to the Jersey City Club with father, was it? A. She didn't say anything to me.

Q. So that when you started out to say because it wasn't any use in going home when she was, and then stopped, that wasn't correct, was it? A. No, sir; it was an error on my part.

Q. It was your usual custom after an afternoon's outing at the country Club to meet him at the Jersey City Club; is that right? A. Yes, sir.

Q. And on these occasions would mother be with you? A. No.

Q. Now then, having found this man in the place, you didn't think it worth while finding out who he was at all, did you? A. No, sir.

Q. You didn't think it was of interest enough to you to find out what he was doing, who he was, where he lived, or what he had come for; that wasn't of enough interest to you? A. I had no way of finding out.

Q. No way at all? A. No, sir.

Q. You couldn't have grabbed him and asked him who he was, what he was doing; you couldn't have done that, could you? A. Yes, I could, if I had lost my temper, I suppose.

Q. That is the only excuse that you can give us for not having done it, because you may have lost your temper? A. I wouldn't say that was the only excuse; I didn't think of it at the time.

Q. You didn't think of grabbing this man whom you found intruding in your home while your father was away? A. He pushed right out of

the kitchen, he said no explanation was necessary and the next I remember he was half way out of the house at that time.

Q. You didn't think of running after him and grabbing him? A. No, sir.

Q. You knew the door was locked? A. No, sir.

Q. You don't think it was locked? A. I had an idea it was ajar.

Q. You had an idea the door was left ajar? A. Yes, sir.

Q. Do you mean to say that you heard a man's voice in the house? A. Yes, sir.

Q. And that you stayed there knocking for 15 minutes before you were admitted, and that you came in there expecting to find a man, and that you left the door ajar so that he could run out? A. I went right through as soon as the door was opened, I went right in.

Q. Do you mean to tell us—

MR. LANE: Wait until he gets through. Go ahead and finish the answer.

Q. Anyhing further you want to say before I ask you my next question? A. No, sir.

Q. You mean to tell this Court that knowing that there was a man in there with your mother, and that your father was away from home, you couldn't get in there for fifteen minutes, you went in there and saw this man, and didn't make any attempt to grab him or to demand of him what he was doing in there; that is what you want us to believe? A. I do.

Q. You knew that your father would be interested in knowing that a man had been found in the apartment with your mother; isn't that so? A. Yes.

Q. You knew that your father would be interested in knowing who that man was, and what he was doing there; didn't you? A. Yes, sir.

Q. Yet you didn't make any attempt to find out who he was or what he was doing there. Right? A. Correct.

Q. The only thing that you had in your mind was to run back and tell it to your father; is that right? A. No, sir; I wouldn't say that it was the only thing I had in mind.

Q. That was foremost in your mind, though, wasn't it? A. After I found him in there, of course.

Q. Certainly; when you found this man you thought, "Well now I got something that I can give to father", isn't that right? A. No, sir; I didn't think that way.

Q. You didn't think that way? A. I don't think so.

Q. Did you think that probably this man— A. I will say I just told him, that was all.

Q. Did you think that probably this man had broken into the house and had done your mother any bodily harm? A. It didn't seem possible with the front door locked and the swivel lock on.

Q. You didn't think that this man might have put the lock on the door; you didn't think of that, did you? A. I didn't think that was possible; no, sir.

Q. You didn't think that this man might have gotten through a window and assaulted your mother and then locked the door; or perhaps locked the door and then assaulted your mother; you didn' think of that? A. No, sir; it would be pretty hard.

Q. You were only thinking about a man being in your apartments, your finding him there, and reporting it to your father; isn't that so? A. I naturally told him; yes, sir.

Q. I didn't ask you that. (Last question repeated). A. I told him that.

Q. I didn't ask you whether you told him; I asked you if it wasn't a fact that all you were interested in was to find somebody in the apartment and to tell it to your father; isn't that so? A. That would be quite natural, yes, for anybody.

Q. Just as soon as you heard from the outside of that door a man's voice within the apartments with your mother, you thought immediately that you had something which you could report to your father? A. It never entered my mind.

Q. Well, even if that did not enter your mind at that time your mind was absolutely barren to any such ideas, why, when you did get into the place and found this man, didn't you take some further interest in the matter? A. I can't tell you that.

Q. You can't tell us that? A. No, sir.

Q. What was it that made you suspect anything at all about this man and to report it to your father? A. The appearance of the room, mother's appearance, and finding him behind a closed door.

Q. But you didn't know that when you went into the door, did you?. You didn't know that you were going to find those things when you went into the door? A. No, sir.

Q. Then, when you went into the door and found those things, why didn't you question somebody? A. Who could I question?

Q. Why didn't you question the man; why didn't you question your mother? A. I started to question him; I said "This needs an explanation."

Q. What did you say? A. I said, "I think this requires some explanation."

Q. And he said it doesn't require an explanation? A. He pushed past me and said no explanation is necessary.

Q. Why didn't you grab him then. If you thought it required an explanation, why didn't you grab him and make him give it to you? A. He was too far away at the time.

Q. That was the only reason? A. Yes, sir.

Q. What floor did you live on; what floor in this apartment house did you live on? A. Third floor.

Q. You mean to say that from that time, from the time you asked him that question until he got down to the street, you could not have grabbed him and asked him all those questions? A. I don't know.

Q. You didn't try, did you? A. No, sir; I didn't run after him.

Q. You didn't have any interest in anything except to report it to your father; isn't that so? A. I said before that was the only natural thing to do.

Q. Did it occur to you at that time what would be the result of telling father? A. No, sir.

Q. It never occurred to you at that time what your father would do or say to your mother? A. No, sir.

Q. As a matter of fact, did he do anything at all? A. I believe he and Mr. Townsend had a talk with her; not in my presence.

Q. Your mother's welfare didn't occur to you at that time, did it? A. Not after that case.

Q. Not after that case. Well, that was the only case that you had known of up to that time, wasn't it? A. Yes, sir.

Q. You didn't think enough of your mother

to go in and ask her for an explanation or anything, did you? A. It didn't occur to me.

Q. As soon as you saw what the condition was inside, you took it upon yourself to assume that something wrong had taken place, and reported it to your father; is that right? A. Yes, sir.

Q. Without giving her a chance to explain to you what had taken place? A. She could have explained to him.

Q. She could have explained to him? A. Yes, sir.

Q. Your idea was to give it to him so that he could get an explanation from her personally? A. I quite naturally told him.

Q. Your idea was to go to him as quickly as you could, so that he might get the explanation from her; is that right? A. I wouldn't put that word "quickly" in there.

Q. Was the door locked, when you left the apartment,—closed or locked? A. Left it when?

Q. Immediately after this time; immediately after this occurred, when you left the house, was the door closed, or was it open? A. I should imagine I closed it.

Q. When? A. When I went out.

Q. I mean, was it closed when you went out or was it open, ajar, when you left the apartment? A. I couldn't tell you that.

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

Q. How long were you in the apartment altogether at that time? A. I should say a matter of 15 or 20 minutes.

Q. It took 15 or 20 minutes to go in there, walk around, find the man, and say what you did say to him, and say what you said to your mother, and walk out; it took 15 minutes for that? A. Surely.

Q. Is that right? A. Yes, sir.

Q. Now, prior to that time—prior to August 24th—you were at school were you? A. I was in school until July 24th.

Q. Until July 24tth. Now, from July 24h to August 24th you were at home, were you, at this home occupied by your mother; were you living with your mother at that time? A. I believe I was; yes, sir.

Q. Well, don't you know? A. I don't recollect whether I went away for any vacation or not; I believe I was home at the time for a month.

Q. You were home every night? A. Well, I wouldn't say every night; no, sir.

Q. Well, where would you go when you weren't home? A. Go down to Jersey City to shows, or something like that.

Q. You understand what I mean when I say home every night; I mean you slept at home every night in your mother's home, every night? A. Yes, sir.

Q. From July 24th to August 24th? A. Yes, sir.

Q. During that time did you see any strangers come into the house? A. No, sir; I don't recall any.

Q. Well, what was it that disgusted you with mother so much then? A. Her drinking?

Q. Had she been drinking during that time? A. Yes, sir.

Q. During July and August, of 1919? A. I believe she had; yes, sir.

Q. You believe? A. I wasn't there during July, except for the last six days of the month.

Q. Well, during the time that you were there did you see her drinking? A. I didn't see her drinking; I saw her appearance from drink.

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Q. When was this? A. During that time.

Q. During the day time or during the night time? A. Why, during the day time.

Q. Did you stay home during the day time? A. I can't remember that far back, what I did every day; I don't imagine I was around the house every day for a month.

Q. Did you ever speak to your mother about her drinking during that time? A. I imagine I had; yes, sir.

Q. You imagine; but you don't remember whether you did or not? A. No, sir.

Q. All of your testimony to-day is based on imagination; isn't that right? A. No, sir.

Q. You mean to say that you know some of the things that you testified about here today? A. Assuredly; why would I give my testimony without knowing?

Q. You do know? A. Yes, sir.

Q. You can remember these things distinctly just the same as on the day they occurred, on August 24th? A. Yes.

Q. You remember them distinctly? A. Yes.

Q. But you can't remember whether or not you saw your mother drinking during July and August of the same year? A. I know that she was under the influence of liquor.

Q. But you didn't see her drinking? A. I never saw her take a bottle in her hands and take a drink.

Q. All that you remember is that you were pretty much disgusted with your mother; is that right? A. Yes, sir.

Q. That was even before you came home from school; is that right? A. I didn't think anything, I didn't know anything about her while I was away to school.

Q. So that while you were away at school you weren't disgusted with mother, during the time that you were at school before July 24th, 1919, you weren't disgusted with your mother; is that right? A. Surely.

Q. Your disgust commenced on July 24th, when you returned from school; is that right? A. And at other times when I had seen her drunk.

Q. When; prior to that time? A. Yes, sir.

Q. For years back? A. Yes, sir.

Q. So that when you returned from school you had this feeling of disgust with you, on July 24th, 1919? A. No; I always had the spirit of forgiveness in my mind.

Q. You always tried to forgive her? A. Yes, sir.

Q. And you always talked to her about forgiveness? A. Yes, sir; and sometimes my father.

Q. And sometimes your father? A. Yes, sir.

Q. You would try to show her the error of her ways; is that right? A. Tried every way.

Q. Especially in July, 1919, when you returned from school? A. I don't remember whether she was under the influence at the time or not.

Q. Now, as a matter of fact, knowing your mother's habits, and being disgusted as you were before you went to school, you were only too happy to find this man in the house when you did find him; isn't that so? A. No, sir.

Q. You weren't happy at all? A. No, sir; I was not.

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

Q. You are sure that that wasn't exactly what you were looking for? A. No, sir.

Q. You are absolutely certain of that? A. Do you mean when I came in the house?

Q. Yes; when you came in the house and found

this man in the house, you weren't happy that you found him there, were you? A. No, I wasn't.

Q. You were very much put out, weren't you?

A. I was quite disgusted; yes, sir.

Q. That is the only expression that you can give, us, disgusted; is that right? A. And sorry too.

Q. Sorry? A. Yes, sir.

Q. What were you sorry for? A. Why, to find such a thing had happened, as I had come in and found a man in the house and the door bolted.

Q. Well, if you were sorry, you must have been sorry for your mother, weren't you? A. Yes, sir.

Q. Or were you sorry for yourself? You were sorry for your mother, weren't you? A. Yes, sir.

Q. And so, being sorry for your mother, you went back and told your father; is that right? A. I don't think that has anything to do with that, being sorry and telling father. I don't understand the connection.

Q. You don't understand the connection? A. No, sir.

Q. Maybe if I put it this way you will understand. Being sorry for her, you didn't think it worth your while, or her while, or anybody's while, of talking to her about it and getting an explanation from her and finding out the truth of the circumstances before you went and reported it to your father; is that right? A. Correct.

Q. That was the extent of your sorrow for your mother, eh? A. Yes, sir.

Q. You want this court to believe that, do you?

MR. LANE: I object to that. A witness

always wants the Court to believe what he testifies to.

THE COURT: That is no question.

Q. Now, as a matter of fact, as you felt toward your mother then, you were ready to believe anything bad about her, weren't you? A. I don't know about that.

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

Q. Well, you wouldn't have been surprised if you found your mother in bed with another man, would you, being disgusted as you were; it wouldn't have surprised you to find her in bed with a man, would it? A. Surely it would.

Q. It would? A. Yes, sir.

Q. It would have surprised you also to find a man embracing her in her own apartment when your father was absent; would that have surprised you? A. Yes, sir.

Q. Then why didn't it surprise you finding a man in the apartment?

MR. LANE: I object to that upon the ground that he has testified time and again that he was surprised, but that he was not surprised after he heard the man's voice outside the door. So far as finding the man there, he was surprised.

MR. HEYMAN: If Your Honor please, I want to object to the interruption of counsel and giving the witness the answer. I think this witness is intelligent enough to answer this question and I don't think it is fair for counsel to suggest the answer.

MR. LANE: I will interrupt every time counsel asks such questions.

MR. HEYMAN: I object to such interruptions. I think it is very vital that I should

be given every latitude because of the peculiar relation of the witness to the defendant and petitioner. I think it is absolutely improper to give the witness the answer which he hopes he will give. And I ask the Court to instruct counsel not to interrupt in that way.

THE COURT: If I find counsel interrupting for the purpose of advising the witness I will certainly do so.

MR. HEYMAN: It certainly seems to be, under the words of the objection and the interruptions are clearly for that purpose.

THE COURT: I am unable to find it so.

Q. (Last question repeated.)

MR. LANE: I object to that on the ground that it is a misquotation of the testimony, and the inference drawn of the question as to the testimony is incorrect.

THE COURT: I will let him answer the question.

A. I have already stated that I did.

Q. You did what? A. That I was quite surprised when I first heard the voice inside.

Q. That is just exactly what you expected to answer before Mr. Lane interrupted with his objection; is it?

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

THE COURT: I will strike out the question.

Q. Then your surprise turned to disgust when you went into the apartment; is that right? A. Correct.

Q. Your surprise left you entirely? Right?
A. I wouldn't say entirely; no, sir.

Q. Then you had some of the surprise left when you got inside and found this man? A. Yes, sir.

Q. And being so surprised you let him get away?

MR. LANE: I object to that.

Q. Without trying to intercept him?

MR. LANE: I object to that question as having been asked and answered at least three or four times.

THE COURT: That is clearly repetition, Mr. Heyman.

MR. HEYMAN: Certainly, if your Honor please; I have a right to repeat that question on this cross examination, and I insist upon my rights, your Honor.

THE COURT: There is a limit. The condition of the witness' mind is perhaps covered very thoroughly; in fact, I let you do it, because it's an unusual situation, although you have gone over that sufficiently.

MR. HEYMAN: I still insist, if the Court please, that I should be given greater latitude in cross examination of this witness than ordinarily.

THE COURT: I agree with that.

MR. HEYMAN: I think that your Honor should not curtail my examination in any way.

THE COURT: I don't agree in that; I should give you wide latitude in this case, that is my view of it, under the circumstances, but even to that there is a limit.

Q. Now, when you went to this closet door in the kitchen, this man shoved the door open,

shoved past you, and walked right past you out of the door; is that right? A. I had opened the door.

Q. And he shoved right by you and went out? A. I was between the wall and the door.

Q. Yes. A. And he had a clear passage out.

Q. I see. How far from the door was this, in feet, can you remember the distance? A. The front door?

Q. From the door leading to the hall, to the entrance to the apartment, how far was the entrance to the apartment from this door that you say he was behind? A. I should say about twenty feet.

Q. Twenty feet; and this man was in a hurry to get out, wasn't he? A. Yes, sir.

Q. Well, when did yo usay, "This requires an explanation"? A. Just as I pulled open the door and looked at him. I said "I think this requires "No explanation is necessary", and went out.

Q. You were behind the door at this time? A. I wasn't behind the door; I was between the door and the wall, the end of the corner of the door.

Q. That was between you? A. The door. the flat surface, was between the two of us.

Q. There wasn't any surface at all between you? A. Why. here was the door like that (indicating), the door was opened about like that (indicating), I was standing here (indicating) and he was in here (indicating), and he walked right past.

Q. Let us see; you opened the door by taking hold of the knob and pulling it open, didn't you? A. Yes, sir; I didn't have it open that way.

Q. Well, how far did you have it open, quarter way or half way? No matter how far you had it open, when he stepped out he had to step right out in front of you? A. No, he didn't.

Q. Where were you? A. I was on one side.

Q. Couldn't you have stepped over one step and intercepted his passage? A. I suppose so, yes.

Q. Why didn't you? A. I don't know.

Q. You were afraid of a licking, weren't you?

A. I wouldn't say that.

Q. Were you afraid? A. I don't know.

Q. Then why didn't you do it?

MR. LANE: I object to that; that has been asked and answered a number of times.

MR. HEYMAN: Well, if Your Honor please, I can't understand what harm it can do to ask it again.

MR. LANE: It doesn't do any harm to ask it a thousand times, except that it is taking time.

MR. HEYMAN: It seems to me the objection is taking a great deal more time than the answer.

Q. Now, what time did you get home from Jersey City Club that night? A. I didn't come in with my dad; I stayed downstairs.

Q. You didn't come in with him? A. I stayed downstairs with the fellows downstairs.

Q. You didn't go into your home, you mean? A. Not until later.

Q. Until what time? A. I couldn't say the exact time.

Q. Can't you give us any idea about what time it was when you went up in the house that night? A. Between nine and eleven I should judge; I don't know the exact time.

Q. Is that the best you can give us, between nine and eleven? A. Yes, sir.

Q. What time was it that you told your father at the club? A. Between 7.30 and 8.30.

Q. Then after you told it to your father, you

and he had dinner together at the club; is that right? A. Yes, sir.

Q. Did father say anything to you about going home then? A. I don't remember.

Q. Was there anybody else present at that dinner with you and father that night? A. I don't believe so.

Q. Just you and he alone. Did you talk this thing over after you had told him about what had happened? Did you and father talk it over? A. No, sir; I don't remember that we did talk it over; he may have asked one or two questions, that was all.

Q. Do you remember what he asked you? A. No, sir.

Q. Do you remember telling him anything except that you had found this man in the apartment? A. No, sir; I don't.

Q. Did he ask you who the man was? A. I had already told him; I said I would know the man when I would see him again but I didn't know his name.

Q Did you know his business? A. No, sir; I didn't know at that time.

Q. I beg your pardon. A. I didn't know at that time.

Q. When did you find out? A. On a later date.

Q. When? A. Why, I didn't find it out myself until a matter of about, oh, four days ago.

Q. How did you find it out? A. I verified my sight of him by seeing him on the street going—

Q. Where did you identify him? A. Going into his store.

Q. Four days ago? A. Within a week.

Q. Within a week? A. Within a week; yes, sir.

Q. Before that time you had no idea who this

man was? A. I didn't know; the lawyers knew but I didn't know his name.

Q. Pardon me? A. I believe the lawyers knew.

Q. You believe your lawyer knew; you mean Mr. Townsend? A. Yes, sir.

Q. Do you know when he first knew it? A. No, sir.

Q He told it to you when you came home from school last week? A. No, sir; I believe my dad told me.

Q. Well now, you had described this man to your father? A. Yes, sir.

Q. And from that description your father found out who he was; is that right? A. It was either that or the janitress had seen him going in the apartment many times, and she may have known; I don't know myself.

Q. She knew who he was? A. She more than likely knew who he was.

Q. When did you discover that the janitress knew about this man? A. I didn't discover it.

Q. Well, who told it to you? A. I left for college soon after.

Q. Yes; but how did you know that the janitress knew this man? A. I don't know.

Q. How did you know that the janitress knew this man had been in the apartments before? A. (No answer.)

Q. You just told us that you knew, or that the janitress knew, rather, that this man had been there before, didn't you? A. Yes, sir.

Q. Well, how did you know that? A. My dad.

Q. When? A. Within ten days; the past ten days.

Q. You mean to tell us that from last August, or from last September, up to 10 days ago, you and your father did not discuss this matter at all? A. I had been away to college since last September,

the 10th or 17th, and I was only home the week before Christmas; I didn't have time to talk it over with him.

Q. At that time when you were home for your vacation about Christmas, you didn't talk this matter over with your father at all? A. It may have been that I did talk it over with him.

Q. Now, don't you remember that you did? A. I believe I did.

Q. You believe you did? A. Yes, sir.

Q. When did you leave for college, did you say, in September, 1919?

THE COURT: You mean in the Fall.

Q. Last September, what date? A. I left on the 19th of September.

Q. From the 24th day of August to the 19th day of September you didn't know who this man was, or what his business was; is that right? A. I believe that is correct.

Q. You didn't talk the matter over with the janitress at all in that time? A. I did not.

Q. You had not spoken— A. I did not have much to do with this.

Q. Pardon me? A. I did not have very much to do with this outside of what I had seen.

Q. You had so much to do with it that you could describe the man, didn't you? A. Yes, sir.

Q. Whom did you describe him to? A. My father; I told him.

Q. You didn't talk it over with the janitress at all? A. And Mr. Townsend.

Q. You didn't talk with the janitress at all? A. I don't believe I did.

Q. You don't believe so? A. No, sir; I didn't.

Q. So that from the description which you gave to your father the janitress knew who the man was; is that what you want us to believe? A. That is more than likely it; but he more than likely found out in some way who he was.

Q. Evidently he had found out some way; you didn't tell him though? A. I didn't know; no.

Q. You didn't talk it over with the janitress and find out what she knew? A. I did not; no, sir.

Q. Did you talk with the janitress at all on the day when you found this man there, after you had found him in there; did you talk with the janitress that day? A. I believe I did.

Q. Did you describe this man to the janitress on that day? A. I don't remember; I don't recall it.

Q. Didn't she tell you that this man had called there several times before that? A. She didn't tell me; no, sir.

Q. Won't you please take your hands down from your face; I can't hear what you are saying. You never knew who the man was until ten days ago? A. I believe I did know about it before that time; I think.

Q. Now, why don't you please try to think so that we don't have to go over this so many times.

THE COURT: Finish your answer.

THE WITNESS: I think I didn't know who this man was until I had seen him on the street.

Q. Well, I thought you said a minute ago that you did know who the man was before ten days ago? A. I didn't say that.

Q. You didn't say a minute ago that you did know; you didn't know who he was? A. I saw him on the street quite recently.

Q. Within the last ten days? A. Yes, sir.

Q. Now I am asking you if you didn't know him prior to ten days ago. who the man was. that you hadn't heard or found who the man was before ten days ago? A. I don't know.

Q. You never knew him? A. I may have

known his name on that date; I wasn't certain myself.

Q. Well, I am not asking you that; I am asking you if you knew him; I don't care whether you knew his name or whether you knew the man, or whether you knew his business; whether you knew the man; whether you knew who he was, either by name, description or anything else.

THE COURT: What do you want to know about that. I confess you have been very generous in your statement there.

MR. HEYMAN: I will withdraw the question.

Q. You did know his name before ten days ago, didn't you; you had heard his name spoken before ten days ago, didn't you? A. Yes.

Q. That was last Christmas when you had been here, wasn't it? A. It might have been.

Q. And it might have been before you went to college, might it not? A. No, it wasn't.

Q What? A. No, it wasn't before I went to college, I don't think.

Q. How soon— A. I don't believe it was before I went to college.

Q. But it may have been before you went to college last September, may it not? A. It may have been.

Q. It may have been? A. But I doubt it.

Q. As a matter of fact, after this thing occurred, and within a very short space thereafter, you and your father left the home of your mother entirely and never returned; isn't that so? A. Correct.

Q. And you discussed this case frequently with your father, didn't you? A. Yes, sir.

Q. You knew that your father had instituted a suit for divorce, didn't you? A. When?

Q. In September, 1919; isn't that right; you knew that, didn't you? A. I don't recollect that; no, sir.

Q. You don't recollect? A. Not that part, when he instituted suit for divorce.

Q. Well, I don't mean that you recollect the date; I mean that you can recollect the time, about, when your father started suit for divorce; don't you? A. No, I don't recollect the time.

Q. Well, you knew your father had said he was going to start suit for divorce; you knew that, didn't you? A. I didn't—

Q. Do you mean to tell us that you didn't discuss with your father about starting suit for divorce until last Christmas? A. Surely, I knew some time around there; but you asked me before I went to college; I don't know that.

Q. How did you know your father had started suit for divorce? A. I imagine from his telling me, and Mr. Townsend.

Q. When, approximately? A. I don't recollect.

Q. I don't want the exact date; approximately when?

MR. LANE: I object to this as improper cross examination. What possible difference does it make when he knew that a suit for divorce was started.

MR. HEYMAN: It is absolutely relevant and material. If I tell why it would give the witness the answer, and I don't want to do that; I would rather have the question go unanswered than to tell.

THE COURT: It is certainly not proper cross examination.

Q. Now, you knew when the suit was started by your father against your mother, for divorce, and that it was based upon what you had told

your father had occurred in his apartment on August 24th, 1919, didn't you? A. Partly on that; yes.

Q. Also on the incident which you had reported to him on September 15th, 1919; is that right? A. Correct.

Q. You knew at that time that it would be necessary to identify the man whom you had found in the apartment on the 24th of August, didn't you? A. Yes.

Q. And you knew for that reason you would have to know who this man was, didn't you? A. I never looked at it in that light; no, sir.

Q. You never looked at it in that light? A. No, sir.

Q. You thought that by making these charges and filing it in the court was all that had to be done and your father would get a divorce; is that what you want us to believe? A. I haven't anything to say about that.

Q. Well, I want you to say something about that.

MR. LANE: I object to that; that is a statement of fact, isn't it?

MR. HEYMAN: I will withdraw the question.

Q. You knew that when you reported these things to your father it would be the grounds upon which he would file a petition for divorce, didn't you? A. I didn't know anything about law.

Q. You didn't know anything about law; you didn't know anything about that at all; you didn't know that when you told these things to your father, and your father would want proof of that, did you? A. I don't know about that.

Q. You know that your father simply took

your word for it and went right ahead and filed his petition, don't you? You do know that, don't you? A. I do not.

Q. You don't know that? A. I do not.

Q. Well, did your father tell you that there was anybody else who had been found in the apartment with your mother?

MR. LANE: I object to that as immaterial, irrelevant and improper cross-examination.

MR. HEYMAN: I will withdraw the question.

Q. Can you tell us when you first found out that the suit for divorce had been started?

MR. LANE: I object to that on the ground that it is immaterial, irrelevant and not proper cross-examination.

MR. HEYMAN: I will withdraw the question.

Q. Did you know who this man was before your father started his suit, or after it? A. I didn't know—

MR. LANE: I object to that on the ground that it has already been asked and answered at least on two occasions.

MR. HEYMAN: I wll withdraw the last part of the question.

Q. Did you know who this man was before your father started suit for divorce? A. I don't know that; I don't recall that.

Q. You don't recall what; whether—

MR. LANE: I have a witness here that I would like to examine before we close.

MR. HEYMAN: I object to any interruption of the examination of this witness, especially

in view of the fact that his testimony may assist the witness.

MR. LANE: This witness has nothing to do with the witness who is on the stand, and he cannot assist him.

THE COURT: Then you may suspend the examination for the time being.

FRANK THORLING, Sworn:

DIRECT EXAMINATION BY MR. LANE:

Q. Mr. Thorling where do you live? A. 762 Madison Avenue, New York City.

Q. Where are you going tomorrow or tonight, —you are going to Cincinnati or Cleveland, aren't you? A. I am.

Q. Do you know Mrs. Grundy? A. I do.

Q. How long have you known her? A. About four years.

Q. Do you know Mr. Grundy? A. I do.

Q. How long have you known him? A. About eleven years.

Q. In the Fall of 1915 do you remember meeting Mrs. Grundy in the Hotel Martinique, New York.

MR. HEYMAN: I object to that question and anything that pertains to the conduct of this witness prior to 1919, in the month of June, because there is absolutely nothing in these proceedings alleging misconduct prior to this time.

MR. LANE: Now, the purpose is not to show the commission of an offense; the purpose is to show the inclination.

THE COURT: Suppose it does, but wouldn't that seem a long time ago?

MR. LANE: No, because we keep following that down; we got to commence at some point.

MR. HEYMAN: How can any inclination of a party five years ago, affect the status of this case.

THE COURT: I may find it ultimately to be remote; but I will take it, under the circumstances.

A. I do.

Q. What time did you meet her there? A. I didn't meet her by appointment or at any specified time, but I dropped in the tea room at five o'clock in the afternoon, and she was there.

Q. Were you alone?

MR. HEYMAN: If Your Honor please, I want to get on the record that all this is over my objection. All this testimony relating to this incident in 1915 is taken over my objection the same effect as though made to each question.

THE COURT: It will be noted.

Q. Were you alone, or was someone else with you? A. I had a young man with me; yes.

Q. Was Mrs. Grundy alone, or was there someone else with her? A. There was a young lady with her.

Q. What part of the Hotel Martinique did you first meet the ladies? A. In the tea room.

Q. What did you do in the tea room? A. We had several drinks together.

Q. How did you come to have the drinks together?

MR. HEYMAN: I object to that.

THE COURT: I will take it.

A. I came in and took a table at another end of the tea room.

Q. Speak up louder. A. Mrs. Grundy sent a waiter to ask me to join them at her table, after which we had several drinks.

Q. How long did you stay at that table? A. Probably three-quarters of an hour.

Q. Then what happened? A. I left them to join some friends in another part of the room.

Q. Did the other man go with you? A. The other man was at another table all the while; he didn't join me at Mrs. Grundy's table.

Q. Only you? A. I was there alone with the two ladies.

Q. What is that? A. I was there alone with the two ladies.

Q. Now, before you left the table was there anything said by Mrs. Grundy?

MR. HEYMAN: If Your Honor please, I want to object at this time, before the question is finished, because I don't think it is fair for Mr. Lane to ask this witness whether a certain thing was said. I think the question should be asked, "What was said, if anything was said?" because by asking the question in the way he is asking it gives the witness the exact answer that is asked.

MR. LANE: I don't want this whole conversation covering three-quarters of an hour; I am just going to relate to a particular subject.

Q. Was anything said by Mrs. Grundy with respect to what should be done that night? A. Yes.

Q. What? A. She asked me if I was willing to join an all night party.

Q. Yes; what else did she say with respect to

this all night party? A. I objected to so doing, and in answer she told me that it was fair for anyone, any man or woman, to change pastures once in a while.

Q. Just tell me as nearly as you can recall exactly what she said on that subject, as to the party, how did it come about, and what did she say? A. After we had several drinks she asked me if I could get my friend to join me and her friend to go off for a party that night.

Q. Well, did she say "go off for a party" or did she use any other words? A. I can't exactly tell you the words now at this time; I don't remember.

Q. Well, what did you say? A. I told her that I knew she was a married party and I knew her husband, and I didn't believe I would care to join such a party; she answered that she had plenty of money and that I had better come along.

Q. Yes. A. I again told her that as I was a friend of her husband's, and knew that she had a husband, and he is not at home, I would not consider such a thing; then she said that it would not hurt anyone to change pastures once in a while.

Q. How long after this conversation did you stay there with her? A. Probably five or ten minutes, or fifteen minutes.

Q. Was anything more said with respect to this party? A. Nothing that I can remember at this time, no.

Q. Was anything said with respect to where you should go? A. There was not.

Q. Was anything said with respect to scruples? A. There was not.

Q. Was the word "scruples" used that you recall? A. Not that I recall at this time, no.

Q. How many drinks did Mrs. Grundy have on this occasion? A. I couldn't tell you that; there may have been three or four drinks while I was at the table.

Q. As I understand your testimony, they were there when you got there? A. They were.

Q. And did they stay there after you left? A. They did.

Q. Did you see any drinking after you left? A. Not after I left.

Q. At that time. A. Not after I left.

Q. Am I right in understanding you to testify that you went over and joined some other friends? A. I did.

Q. After 1915 did you ever meet Mrs. Grundy? A. I haven't seen her.

Q. You haven't seen her since that time? A. No.

Q. Had you ever met her before? A. I had not.

Q. Alone. A. Not alone or at any other time.

Q. So this was the first occasion that you had met Mrs. Grundy, is that right? A. Not the first occasion, no.

Q. Well, it was the first time that you had met her alone, is that right? .A Yes, sir.

Q. Were you introduced to Mrs. Grundy by her husband; did her husband introduce her to you, or how did you become acquainted with her; did you just know her as being Mrs. Grundy? A. Through Mrs. Mulock.

Q. When; how long ago was that? A. It might have been the month before that.

Q. Within the month? A. At least not over two months.

Q. Had you met Mr. Grundy personally before that? A. Yes, away back in 1909 or 1910.

By The Court:

Q. You had been introduced to Mrs. Grundy then some time before this occasion at the Hotel Martinisue? A. Yes.

Q. So that you knew one another at that time? A. Yes.

Q. She sent this message over to your table? A. Yes.

MR. HEYMAN: Now, if your Honor please, I move to strike out all this testimony on the ground that it does not in any way affect the issues in this case, because it does not come within the allegations in the petition, and because an inclination of four years ago, if it is admissable, could not affect this case at this time, especially in view of the fact that the husband and the wife were living together up to and including September 19th, 1919.

THE COURT: Mr. Heyman, I will not pass upon that motion now. I will reserve decision upon that motion and give you leave now to renew it unless some further testimony is introduced between 1915 and 1919.

MR. HEYMAN: *I see.*

CROSS EXAMINATION BY MR. HEYMAN:

Q. How often did you go to the Martinique in those days? A. In those days?

Q. Yes. Every week or every other week.

Q. And that was the only occasion on which you saw Mrs. Grundy in the Martinique? A. That was the only occasion. yes.

Q. You had never been out in any party with her? A. No, sir.

Q. You had been out with Mrs. Mulock. hadn't you? A. Right.

Q. Anything wrong in those parties that you

had been having? A. Nothing wrong whatsoever. „Q. Everything perfectly all right?,A. Everything allright.

Q. How often had you been out with Mrs. Mulock or in parties with her? A. Oh, since 1910, off and on.

Q. Regularly, hadn't you? A. Yes.

Q. She was a very good friend of yours? A. Very.

Q. All those parties wereabsolutely clean? A. There may have been a little drinking, certainly.

Q. But there wasn't anything wrong in any of those parties, was there? A. Nothing.

Q. Who was with Mrs. Grundy on that day when she called you over to that table? A. I don't know the lady's name; I had never seen her before.

Q. Is she in court to-day? A. I don't see her.

Q. She isn't in court, is she? A. Not that I can see.

Q. So you knew Mrs. Grundy when she called you over to this table? A. Certainly.

Q. You didn't think that there was anything wrong when she called you over? A. Nothing at all.

Q. You had gone over to other tables in the same way, hadn't you? A. Certainly.

Q. Everything was perfectly all right? A. Certainly.

Q. You reported this to her husband immediately, didn't you? A. I did not.

Q. You were a friend of his, weren't you? A. I was.

Q. Who did you report it to? A. I didn't report it to anyone.

Q. Sure about that? A. I didn't report it to anyone.

Q. Well, who did you tell it to? Excuse

me for using the word "report." A. I told it to Mrs. Mulock's husband a week or two after that.

Q. You knew Mr. Grundy well, didn't you? A. I did.

Q. You knew where his busines was? A. I did.

Q. You had done business with him, hadn't you? A. I had.

Q. You were very friendly with him? A. Certainly.

Q. Yet you ddn't think it worth while going to him and telling him? A. Men don't tell each other those things, not the kind of men that I know.

Q. You didn't think it worth while going to Mr. Grundy and telling him? A. That isn't the question at issue.

Q. You didn't think it was worth while telling him, did you? A. I refuse to answer.

MR. HEYMAN: If your Honor please, I insist that this witness be instructed to answer.

THE COURT: You must answer that question.

Q. You didn't think it was worth while telling Mr. Grundy that his wife was running around the Martinique calling strange men over to their table did you?

MR. LANE: I object to that.

MR. HEYMAN: I will withdraw the question.

Q. You didn't think it was worth while telling Mr. Grundy this, that his wife was over at the Martinique and called you over to the table to have a drink with her? A. There was no call to tell him.

Q. You didn't think there was anything wrong in it, did you? A. I did not so say.

Q. But if you did think there was something wrong, why didn't you tell Mr. Grundy? A. According to my code, I don't tell those things to any woman's husband.

Q. Your code is to keep everything on the "Qt." isn't it? A. Not at all.

Q. What is your code?

THE COURT: Only so far as it relates to this case. Is that what you mean?

Q. What is your code?

MR. LANE: I object to that.

THE WITNESS: Do I have to answer that?

THE COURT: It may cover a great many subjects; it is a broad term.

MR. HEYMAN: I don't know what his code is; he said "Not according to my code"; I don't know what his code is.

Q. Now, what is your code?

THE COURT: Well, the question is pretty broad; I will overrule that.

Q. You thought it was worth while telling it to your friend though, didn't you? A. In the course of a conversation with him, yes; he is a very intimate friend of mine.

Q. Why? A. Did you think that he might go there to meet Mrs. Grundy, that you told him? A. Not at all.

Q. You thought that you would like to tell him, just because you wanted Mr. Grundy to find it out; is that right? A. No; because I knew that he would not be very likely to tell Mr. Grundy.

Q. In other words you didn't want Mr. Grundy to know it, did you? A. Not necessarily that.

Q. How did you happen to come here to-day, Mr. Thorling? A. I was asked by Mr. Grundy to come.

Q. When did he ask you to come here? A. Last week.

Q. Did you have a talk with Mr. Grundy last week when he asked you to come to court? A. He simply asked me if I would come over.

Q. Did he ask you what you were going to testify to? A. Did he ask me what?

Q. What you were going to testify to? A. He didn't ask me, no. It was over the telephone.

Q. Did he ask you what you knew about that? A. He had evidently been told.

Q. At the time that you spoke with him over the telephone did he tell you that he knew about this incident in the Martinique? A. He did not.

Q. Did he tell you at any time that he knew about the incident at the Martinique? A. He did not.

Q. Did you at any time tell him about the incident at the Martinique? A. I did not.

Q. So that when you spoke to Mr. Grundy last week you did not know that he knew what you had told somebody else; did you? A. I did.

Q. You did know that? A. Yes.

Q. You didn't talk with him about that at that time? A. I did not.

Q. You came here as a friend of his? A. Yes, sir.

Q. To do him a good turn; is that right? A. Not necessarily.

Q. What did you come here for? A. I came here because I was asked to come, to give what testimony I could.

Q. You live in New York, don't you? A. I do.

Q. You know that you couldn't be subpoenaed

to come to Jersey City from New York, didn't you? A. I didn't know that.

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

Q. You thought that you could be subpoenaed from New York to come to Jersey City? A. Well, I had no thoughts on that matter at all.

Q. You say you came at his request, voluntarily? A. Right.

Q. Is that right? A. Yes.

Q. Because you were a friend of his and you wanted to help him out? A. Very likely.

Q. And that is your code, isn't it?

MR. LANE: I object to that.

Q. Is that your code? A. To help a friend out?

Q. Yes. A. What is that question?

Q. Your code is to help a friend out by testifying against his wife, four years after the incident occurred, of which you did not tell him and didn't want him to know at the time that it occurred, or at any time thereafter? A. Right.

THE COURT: Any questions?

MR. HERSHENSTEIN: I move to strike everything out testified to by this witness, on behalf of Mr. Evans, because he is not here.

MR. LANE: I want to say now that this witness will not be re-produced for any re-cross examination by Mr. Hershenstein. He can ask his questions as well now as at any other time, if he has any questions to ask.

MR. HERSHENSTEIN: If your Honor please, except for this. I am afraid that if I do I waive my right to any objections to any order you have made if I examine this witness or any other witness without the presence of Mr. Evans.

MR. LANE: I would like, if your Honor

please, for the purpose of the record, to ask the Court to suggest to counsel that counsel suggest what assistance the presence of Mr. Evans can be to counsel in the cross-examination of this particular witness.

MR. HERSHENSTEIN: If you are asking me, I would be frank to say it may not be any; I don't know; you have asked me the question and I have answered it.

PARK ALAN GRUNDY recalled:

BY THE COURT:

Q. When is your vacation over? A. It was over this morning at eight o'clock.

Q. You are due at college now? A. I was due last night.

CROSS EXAMINATION RESUMED BY MR. HEYMAN:

Q. When does your school close for the Summer? A. Why, about June.

Q. June 1st? A. No; it is in the middle of June.

MR. LANE: I suggest that we finish with this witness. His examination was directed to a very narrow point and I think his cross-examination ought to be finished.

THE COURT: I will go on now for the present without saying how long.

Q. Now, you said that you didn't tell your father until you got to the Jersey City Club that night, about this incident of August 21th? A. Yes, sir.

Q. What did you do after you left the house then at twelve o'clock?

THE COURT: Is that Sunday?

MR. HEYMAN: Yes, sir.

A. Just hung around downstairs; that is all.

Q Hung around the door all day? A. Hung around the block in that section.

Q. You didn't go back to get your father and bring him back to Jersey City? A. No, sir; I don't believe I did.

Q. You don't believe you did; do you know whether you did? You know what you did, don't you? A. It is pretty hazy in my mind, it is so far back.

Q. Everything is pretty hazy in your mind, isn't it? A. I wouldn't say that.

Q. Only about going back to your father? A. Yes, sir.

Q. What is hazy? A. Yes, sir.

Q. What makes that hazy?

MR. LANE: I object to that, if your Honor please, on the ground that it is inquiring into a witness' mental attitude; it is a fact and the witness states that his mind was hazy about that. How can any witness say what makes his mind hazy.

Q. What makes your mind hazy on that point? A. I suppose the events of the day took up most of the reasoning of that day.

Q. You were pretty much excited about that.

Q. You were excited about that even, weren't you?

THE COURT: He said so.

A. Yes, sir.

Q. And that is what made it hazy?

THE COURT: No, no; what he was hazy about was whether he went back to his father; wasn't it?

THE WITNESS: Yes.

Q. And that makes everything else hazy, the event and the excitement that you were in of finding this man in your house; that makes everything else hazy to you; doesn't it? A. On that point; yes.

Q. When you left the Jersey City Club after your supper you came around home, and you hung around the house again, didn't you? A. Yes, sir.

Q. Nothing hazy about that, is there? A. No, sir.

Q. You know exactly what you did after you had dinner with your father at the Jersey City Club, don't you? A. No, I don't remember exactly what I did.

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

Q. Everything else that you did that day, with the exception of finding this man in your house and what occurred at that time, is hazy to you?

MR. LANE: I object to that; he hasn't said any such thing.

MR. HEYMAN: Well, I am asking him. I don't think it is fair to interrupt me in that way, if the Court please.

MR. LANE: If your Honor please, that is merely repetition, time and time again. We will be here a month if he examines in that way.

THE COURT: I will let the question stand.

MR. HEYMAN: I might just as well withdraw the question now. There is no use of asking questions in this way and then being-interrupted every few minutes.

A. To a certain extent; yes, sir.

Q. To what extent; a great extent or a small extent? A. To an extent that I have an idea what I did after that but I haven't a clear and decided idea of it.

Q. But you had a clear and decided idea of what occurred in the house? A. I most assuredly have.

Q. After that night you continued to stay in the house wiht your father, and you lived there how long? A. Until September 9th.

Q. During the time from August 24th until September 9th you didn't say anything to your mother, did you? A. In what way do you mean; what did I say to her?

Q. In any way to your mother?

MR. LANE: I object to that, if your Honor please, on the ground that it is immaterial and irrelevant. For instance, he may have been talking to his mother about anything that has nothing in relation to this case.

MR. HEYMAN: I am not asking what he said. I am asking whether he talked to his mother at all.

MR. LANE: About anything.

THE COURT: It can be answered yes or no.

MR. LANE: I have no objection to that.

Q. You didn't talk to your mother from the 24th of August until the 9th of September, did you?

A. Yes, I did.

Q. You did; what did you talk about, do you know? A. How am I to know what I talked about pretty near a year ago.

Q. I don't know how you are to know; I am asking you what you talked about A. I don't know.

MR. LANE: I object to that as immaterial and irrelevant, unless it pertains to this particular case.

Q. You don't know anything of what you said to your mother in that time?

THE COURT: I will take that question.

Q. During the whole time, between August and September? A. Do I know what I talked about?

Q. Yes? A. No, I don't.

Q. You don't know the first thing about what you said? A. I do not.

Q. You don't know whether you talked about this incident or not? A. I do not.

Q. You don't know whether you talked to your father or to your mother or not; you don't know whether you asked her for your breakfast or not? A. I do not.

Q. You don't? A. No, sir.

Q. You don't know whether or not you spoke about a divorce to your mother or not, do you? A. No, sir.

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

Q. You may have spoken to her about a divorce, may you not? A. I am positive I did not.

Q. You are positive that you did not? A. I did not.

Q. Before you weren't sure, but now you are positive; is that right?

MR. LANE: I submit, if Your Honor please, I object to that question on the ground that the statement appears of itself. What is the use of constantly going over the question and then going right back to the first question. The witness has answered it and his answer appears on the record.

THE COURT: I know; it is cross-examination.

MR. HEYMAN: I quite understand that; if your Honor please.

MR. LANE: Of course you do. I don't mean that cross-examination of this character ought to be limited very strictly, but there is

a limit to it. I don't want counsel to understand—

MR. HEYMAN: When I get beyond the limit this Court will certainly know it, but I think that until the Court says that I have reached my limit, or over-stepped my limit, I don't think I should be interrupted in this way by these interruptions, if the Court please; they are made for the purpose of harassing me in my cross-examination of this witness and I don't think that it is fair.

THE COURT: I haven't any right to conclude that is so; counsel has a right to object; I am not going to restrict you, either.

Q. Your mind it not hazy about that point, is it, that you did not talk to your mother about a divorce? A. I don't recall ever having talked about a divorce at all.

Q. I want to know whether your mind is hazy; that is what I am getting at now; do you remember it or don't you remember? A. My mind on that point is not hazy.

Q. Not hazy at all; then you are absolutely certain that you did not talk to your mother about it? A. Correct.

Q. You never talked to your mother about a divorce, did you? A. You mean at any time?

Q. At any time. A. Yes, I believe I did; I did not do the talking; my mother did the talking at the time.

Q. You did not do any talking?

THE COURT: He did not do the talking.

MR. HEYMAN: I am asking if he did not do any talking about divorce.

Q. Did you talk to your mother at any time about a divorce; did you? A. I likely answered a couple of questions, but that was all.

Q. When was that? A. During Christmas vacation.

Q. Now, about August 27th, something else occurred in your house, didn't it? A. I don't recall the exact date; it might have been that Mr. Townsend and my dad had a talk with my mother; I wasn't present.

Q. I mean an occurrence without any talking; something else occurred, an incident in your house?

MR. LANE: I object to that as being immaterial and irrelevant, your Honor.

MR. HEYMAN: I want to test the witness' memory if the Court please.

THE COURT: The first thing, I don't know what it is about from anything that has gone before.

MR. HEYMAN: No, there is nothing at all in connection with what has gone before. I want to test the witness' recollection as to what occurred at that time; I want to see whether or not he recollects anything that occurred on August 27th.

MR. LANE: If your Honor please, something might have occurred entirely foreign to this action.

MR. HEYMAN: Yes, it might be; I want to test the witness' memory, to see whether he remembers.

THE COURT: Ask him if he recalls something that occurred on that day.

MR. HEYMAN: I want to see whether he recalls without my bringing it to his attention.

THE COURT: You can ask him if he recalls anything which did occur.

MR. HEYMAN: That is what I am asking.

I am asking if he remembers anything else that occurred on the 27th of August; I don't mean conversation; I mean if he remembers whether anything else happened in which his mother took part, on August 27th.

A. It doesn't seem to me quite a fair question.

Q. Never mind what it seems to you; tell us what you remember? A. How should I know what happened on August 27th any more than on July 4th or any other date?

Q. How should you remember what happened on August 24th any more than you should on any other date?

MR. LANE: I object to that on the ground that it is purely argumentative.

Q. How do you remember what occurred on August 24th, any more than you recollect what happened on August 27th? A. Owing to the fact that I have that down in my red note book.

Q. Where is that note book? A. At my home.

Q. Where is your home? A. 53 Crescent Avenue.

Q. Why didn't you bring that note book with you to-day? A. Owing to the fact that the date has been copied out of it.

Q. You knew your memory was going to be tested as to what occurred, didn't you? Didn't you know that? A. Yes, sir.

Q. Why didn't you bring that book with you today to refresh your recollection? A. I didn't think it necessary.

Q. Why did you think it necessary to be reminded of anything else that happened during that week? A. I don't understand that.

Q. You don't understand that at all? A. No.

Q. Why did you write it down in a note book?

A. Because it seemed to me the best place I could possibly keep it.

Q. Why did you want to keep it? A. Why did I want to keep it.

Q. Yes; you heard my question. Why did you want to keep it? A. Such occurred as that I wanted to keep it.

Q. Why did you want to? A. (No answer.)

Q. Now, why does it take you so long to think about an answer to that question? A. Surely it does.

MR. LANE: I object to that.

MR. HEYMAN: I object to any interruption of these questions; I will not tolerate it any longer; I think it is absolutely unfair advantage to take of me.

THE COURT: Counsel has a right to make objections.

MR. LANE: If your Honor please, my objection is that a question has been asked and before the witness has answered that question counsel has asked another question. The witness is entitled to a reasonable time to answer the questions.

Q. Why does it take you so long to think of an answer like that?

MR. LANE: The first question is, Why did you want to keep that record?

MR. HEYMAN: Now, he didn't answer my question I asked him why does it take him so long to think.

THE COURT: Let us stick to the question.

Q. Now, why did you want to keep it? That is the first question. A. Something seemed to tell me that it would be the best thing to do, to keep it.

BY MR. HEYMAN:

Q. What was it that seemed to tell you to keep it? A. I couldn't give you any reason for it.

Q. Wasn't the reason because your father wanted you to keep it, and you wanted to be certain of it? A. It seems possible.

Q. You knew your father wanted such evidence, and you wanted to be sure you would have it when the time came; isn't that so? A. Possibly.

Q. Why didn't you bring that book with you, if you thought that was the reason? A. I can't give any reason for that.

BY MR. TOWNSEND:

Q. You weren't asked to produce it, were you? A. No, sir.

BY MR. HEYMAN:

Q. You kept a record, I mean, of everything that you thought was disgusting of your mother, didn't you? A. I did not.

Q. Just this very important thing? A. This, and one other.

Q. One other, and that other was? A. September 15th.

Q. Those two things you made sure that you would write it down in this book so that you would always have them when you were called upon to produce them; isn't that right? A. Possibly; yes, sir.

Q. You knew that at some time your father would want to use that book and would want to have the dates that you had recorded in that book; isn't that so? A. I don't know about that.

Q. Pardon? A. I don't know about that.

Q. You don't know about that? A. No, sir.

Q. And you didn't know that at the time? A. I didn't know what he was going to do.

Q. Then why did you keep a record if you didn't know your father would want that? A. I can't tell you that.

Q. You can't tell me that? A. No, sir.

Q. Of course, your father didn't tell you to keep a record of anything that you should find like that, did he? A. It is barely possible he may have asked me if I had a record of it.

Q. But he didn't tell you, before you made the record, to do that thing, to make that record? A. I don't believe he did.

Q. He might have? A. He might have; it is possible.

Q. Now, you cannot tell us what occurred on the 27th of August in your house, can you?

MR. LANE: I object to that on the ground that the question has already been answered.

THE COURT: I permitted that question before in order to test his memory. Now, if there is anything that did occur on that occasion—he doesn't recall anything—but if there is anything that you want to call his attention to, why, go ahead; I suggest that you do it.

Q. Do you remember whether or not on August 28th or 29th there was a stranger in your house? A. I can't recall.

Q. You don't recall? A. No, sir.

Q. Do you remember whether or not your father spoke to your mother from the 27th day of August until the 9th of September? A. He did.

Q. Did he talk to her about this occurrence with Mr. Levine? A. I wasn't present.

Q. Do you know what the conversation was at any time? A. I wasn't present to hear any of it.

Q. But you know they did have a conversation? A. I know that Mr. Townsend had a conversation with her.

Q. Do you remember what day that was? A. I do not; it was after the first visit.

Q. After the first visit? A. Yes

Q. How shortly after the first visit was it; how soon after that first visit was it, a week, ten days, two weeks, three weeks? A. Within three or four or five days.

Q. Shortly after that you and father left the house, didn't you? A. September 9th.

Q. Well, how long before that time was the talk with Mr. Townsend? A. I should say the talk was either on the 25th, 26th, 27th or 28th.

Q. Then he didn't talk with her again until he left the house on September 9th? A. I don't know about that.

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

Q. You weren't present when they talked about that? A. No, sir; I wasn't there.

Q. When Mr. Townsend was at the house shortly after that visit did you explain to him what had happened? A. I think previously I explained to him.

Q. When? A. At the Jersey City Club.

Q. At the club you told Mr. Townsend what occurred on the 24th? A. Yes.

Q. Your father was present at that time? A. Yes, sir.

Q. Did you tell him who the man was at that time? A. I don't recall that I told him who he was; I don't really believe I knew who he was at the time.

Q. Did you give him a description of the man at that time? A. Yes, sir.

Q. Did you tell him that the janitress had seen that man down there before that time? A. I didn't know; another party found that out.

Q. Was any name mentioned at that time? A. Not to my knowledge.

Q. Did you say whether or not you had spoken

to your mother at that time? A. In regard to what?

Q. At that time, at the time that the incident occurred, the episode occurred, as you say, did you tell Mr. Townsend that at the time the episode occurred you had talked to your mother? A. What I said to her.

Q. What you said? A. That one or two or three or four words?

Q. Yes. A. Yes, sir.

Q. You told him that, too? A. Yes, sir.

Q. You remember that definitely? A. I imagine I told him the whole story.

Q. Do you remember whether or not you told him at that time whether you had said these things? Do you remember that? A. Yes, sir; I believe I did; I just remember reciting the whole story and that must have been in it.

Q. Now, on September 9th you left the house altogether, didn't you, you and father? A. Yes, sir.

Q. You didn't go back there again to live or sleep or to eat? A. I did not; I left for college soon after that.

Q. How soon after that did you leave for college? A. I left—just exactly the date I can't give you; it was about—I left on a Friday, about the 18th or 19th; I haven't got that exact date, you see, on account—I left the Friday after that.

Q. In September? A. September.

Q. From September 9th you didn't live with your mother, did you? A. What is that?

Q. From September 9th to September 19th you didn't live with your mother, did you? A. I did not; no, sir.

Q. Nor did your father, did he? A. No, sir.

Q. You and your father lived at Mrs. Corrigan's; is that right? A. Yes, sir.

Park Alan Grundy—Cross.

Q. You took your mother some money in that time, didn't you, that your father had given you for her? A. I don't remember that, either.

Q. You don't remember that? A. No, sir.

Q. Do you remember, about September 12th, that your father came to the house again with Mr. Townsend; about September 12th; do you remember that? A. That seems very possible that he did.

Q. Do you remember at that time that Miss Halverson was in the house? A. I don't recall.

Q. Do you remember that? A. No, I don't remember for sure.

Q. Don't you remember coming into the house and finding your mother, and father, and Mr. Townsend, in the living room, and Gertrude Halverson in the kitchen?

THE COURT: What place was it?

MR. HEYMAN: The home of Mrs. Grundy, at 57 Clinton Avenue.

Q. Do you remember that, Mr. Grundy? A. It seems possible; yes, sir.

Q. These things all seem possible to you, don't they; everything seems possible to you, doesn't it? A. I have given my answers.

Q. Everything seems possible to you, doesn't it?

MR. LANE: I object to that as being immaterial and irrelevant and a useless waste of time.

MR. HEYMAN: If the Court please, I submit that that is a fair question. This man is testifying to some very serious acts committed by this defendant, and I am now trying to test his memory. I think I have a right, for the purpose of testing his memory, to ask these questions, when a man answers

questions like that, it is possible, it is probable, he might have said, he might have, I think I have a right to test his credibility, and that is what I am doing by these questions.

MR. LANE: I submit that the question that everything is possible does not attack anyone's credibility.

THE COURT: Without going into the province of nature, I don't think that question is material at all. What he said the Court is going to take into consideration, and as he said it, Mr. Heyman.

Q. That is the best answer that you can give us, that it is possible; did you hear it in any conversation? A. No, sir; when I think that over, I don't think that Mr. Townsend and my father and mother and Gertrude were there; I don't think they were there.

Q. Do you remember who was there? A. No, sir; I don't remember seeing anybody.

Q. Do you remember being there about September 12th? A. I don't know.

Q. Now, you have testified on your direct examination about September 15th; you remember that distinctly, don't you? A. Yes, sir.

Q. What makes you so certain about the 15th? A. Yes sir.

Q. There isn't any question in your mind about the 15th of September, is there? A. No, sir.

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

Q. But you are not sure of what occurred on the 12th, the 13th or 14th, are you? A. No, sir.

Q. You don't know whether or not you were in the house on the 12th, the 13th, or the 14th, do you? A. I don't know off hand now; I don't know whether I was in the house or not.

Q. But you are absolutely certain about the 15th? A. Because of the person I found in there, on the 15th, when I came back.

Q. What makes you so certain that it was on the 15th, and not the 12th? A. Because that is the date on which it happened.

Q. I understand that. Now, I want to know why you are certain that that is the date on which it happened. A. Any sensible person can remember memorable dates.

Q. Pardon? A. Any sensible person can remember memorable dates.

Q. So that this was a memorable occasion in your life? A. Yes, sir.

Q. What makes it memorable in your life? A The thing I saw when I came in the house.

Q. Was that the only thing; is that the only thing? A. Yes.

Q. Well, that wasn't anything extraordinary, was it? A. In my opinion it was.

Q. You weren't surprised, were you? A. Surely.

Q. Oh, you were surprised. Well, you knew that your mother had been guilty of acts of misconduct prior to September 15th, didn't you? A. Yes, sir.

Q. Then what was the surprise about finding her committing another act on September 15th? A. For the person I found in there.

Q. That was the only thing that surprised you, was it? No, that wasn't the only thing.

Q. Well, what was it that surprised you? A. Why, isn't it enough to come in and find somebody in your home that you knew.

Q. Please don't ask me any questions.

MR. LANE: I submit that it is an answer.

MR. HEYMAN: I don't think it is an answer to the question.

Q. Are you through with your question? Is there anything else you want to ask me?

MR. LANE: I object to that.

THE COURT: You don't have to answer his question.

MR. HEYMAN: I am not going to answer it, if your Honor please.

THE COURT: Sometimes a witness may put the answer in the form of a question. It stands there for whatever it is worth.

Q. Are you finished asking me questions? A. Why, I just got a few words out.

MR. LANE: Finish the answer.

A. Wouldn't it surprise you—

MR. HEYMAN: I object, if your Honor please to questions asked by the witness.

THE COURT: Go ahead and finish it, Mr. Grundy .

A. Wouldn't it surprise you if you came in your own home and found a strange person in your own home in that act in which I saw him?

Q. You thought that was rather unusual, did you? A. I thought it was rather unusual.

Q. To find a strange person in your home and your mother alone, didn't you?

THE COURT: That is what he says.

A. I can't answer that.

Q. But you knew that it was unusual enough to fix it clearly in your mind; is that right? A. Yes, sir.

Q. And you wrote it down in this little book the same day that it happened, didn't you? A. I don't know about writing it down the same day.

Q. You wrote it down in the same book? A. Yes.

Q. Then you told your father about it, didn't you? A. Yes.

Q. It was unusual enough for that, wasn't it? A. Yes, sir.

Q. But it wasn't unusual enough for you to ask Mr. Evans to account for it, was it? A. I was too much disgusted when I came in to say or even think of asking questions; I came in and then went back again.

Q. That was your feeling, disgust? A. Yes, sir.

Q. You didn't think the young man might have taken your mother's honor, did you? A. No, sir.

Q. You didn't think about protecting your mother's honor from this young man, did you? A. I can't answer that.

Q. You can't answer; certainly you can't; I know you can't.

MR. LANE: I object to that.

Q. You didn't think enough about going over to this young man and asking him what he was doing with your mother in your house alone, did you? A. (No answer.)

Q. Can't you answer this question?

MR. LANE: I move to strike out everything counsel has asked, since the last question was not answered.

A. No.

Q. Were you afraid of Mr. Evans? A. I don't know about that he is about six feet four. It seems rather funny—

Q. It is very comical to you, isn't it?

MR. LANE: I object to that and move that that remark be stricken out.

MR. HEYMAN: Why, if the Court please; haven't I a right to ask this witness if it is comical to him?

THE COURT: You may ask him a question about it.

A. Relying on your last question it is; yes, sir.

Q. It is comical; this whole proceeding is rather comical to you, isn't it? A. No, sir.

Q. Just this last portion?

MR. LANE: I object to that commenting on the witness.

THE COURT: Strike out the comment.

Q. You say Evans is about six feet four? A. No, he wasn't, probably he was about six feet; over six feet.

Q. And built proportionately; a big man? A. Yes.

Q. Stout; heavy? A. Not stout; he had a very fine build.

Q. A big strong strapping fellow; in other words; is that right? A. It appeared that way to me.

Q. Well, you knew him, didn't you? A. Not any too well, no.

Q. Well, you knew him by sight, without any question? A. Yes.

MR. LANE: I object to that on the ground that it has been asked and answered many times.

Q. You would not be likely to mistake Evans if you saw him in the street, would you? A. I might, owing to the fact of not seeing him for ten months, I might make a mistake in seeing him.

Q. But you wouldn't at that time, would you? A. Not at that time.

Q. Certainly; you know the kind of man he was in build, didn't you, and in looks, without any question about that; did'nt you?

MR. LANE: I object to that on the ground that it has been asked and answered several times.

THE COURT: That has just been answered.

Q. You were afraid if you started anything Evans would give you a licking, weren't you? A. I don't know about that.

Q. What is there about that that you don't know?

MR. LANE: I object to that.

A. I will explain to you what part of the question I don't know.

Q. What is it that you don't know about; will you tell us?

MR. LANE: He said he doesn't know whether Evans would give him a licking or not; that is part of his testimony.

THE COURT: I will overrule that question.

Q. Well then, why didn't you go in there and have a talk with Evans? A. I can't say why I didn't.

Q. You can't tell us why you didn't? A. No, sir.

Q. There you saw a man in your mother's bedroom, buttoning up his pants, your mother sitting on the bed, and you didn't ask any questions at all; is that right? A. Correct.

Q. Did you see anything else in the apartment on that day? A. It seems to me that packing in the dining room was going on that day, if I am not mistaken.

Q. You saw that? A. I didn't see it going on; I saw a couple of barrels.

Q. Packed? A. Yes, sir.

Q. Do you know where those barrels were prior to that day? A. No, sir.

Q. Did you ever know where they were? A. You mean the storage room where they were?

Q. I don't know. A. That is where they were kept, I imagine in the storage room.

Q. Where was that storage room? A. Down in the cellar.

Q. How many barrels were there that you saw, do you remember,—three or four? A. Oh, one or two, I should say.

Q. What were they packed with, do you remember that? A. Paper, I believe, it was dishware packed up.

Q. China ware? A. Yes.

Q. Evans said to you, "Hello, Park", is that right? A. Yes.

Q. And you turned around and walked out? A. I didn't answer him.

Q. You turned around and walked out of the house, did you? A. I went as far as the library, that is the little room, in the library, and turned around and went out.

Q. How long did you stay there altogether? A. A very short time.

Q. How long? A. Oh, about only five minutes, I believe.

Q. During the time that you stayed there walking around the house did Evans come out of the bedroom? A. That is a mistake; I didn't walk around the house.

Q. Where did you walk to? A. I walked into the little room—yes, we will say the library.

Q. And then into the dining room? A. No, sir; on the way back straight out of the hall.

Q. Well, in all the time that you walked there and back did Evans come out of your mother's room? A. I don't recall that, whether he came out or not; I was there a very short time.

Q. Did you see him again that day? A. No, I didn't see him.

Q. Did you talk with Evans on that day? A. No, sir.

Q. Did you do anything in the apartment on that day? A. I don't believe I did.

Q. What did you go there for? A. I went there to get my duds, my stuff, packed up.

Q. Did you get it? A. I got it at a later date, I believe.

Q. Did you get it then? A. At a later date.

Q. Did you get it then?

MR. LANE: What do you mean by "then"?

MR. HEYMAN: Then, at that time; on the 15th.

A. No, sir.

Q. Why didn't you? A. I can't understand; I don't know why I didn't.

Q. Have you any reason to offer? A. No, sir.

Q. Why did you go in the library? A. I don't know why I went in the library; I walked right in and out again; that is all.

Q. Did you walk in the bedroom? A. No, sir.

Q. Just stood by the bedroom door? A. I didn't even stand; I walked by, turned my head and saw what was in there, I heard that "Hello, Park", I didn't answer it, I went to the library and turned around and went out again.

Q. So that you didn't do anything except opened the door, glanced in and saw what was going on in the bedroom; is that right? A. Yes, sir.

Q. Evans had all his clothes on except his coat, didn't he? A. Yes, sir.

Q. Your mother was sitting on the bed and he was standing near the window? A. Between the foot of the bed and the window.

Q. Is your mother's dresser at that place, or near that place where he was standing? A. It is up at the head of the bed.

Q. The dresser is at the head of the bed? A. Yes.

Q. This occurred at the foot of the bed, did it? A. Yes, sir.

MR LANE: I object to that question on the ground that it is incomprehensible, this occurred at the foot of the bed. This what?

MR. HEYMAN: What he saw; I don't know. I think the witness seems to understand, if your Honor please.

MR. LANE: I don't think he does.

THE COURT: Well, Mr. Lane's concern seems to be chiefly about the witness, not about himself.

Q. Tell us what you meant by—when you saw it occurred at the foot of the bed, what did you mean? A. I didn't say that.

Q. You didn't say that. So that nothing occurred at the foot of the bed, did it? A. I can't recall anything occurring at the foot of the bed.

Q. Nothing occurred at the head of the bed; is that right? A. I imagine so: yes, sir.

Q. What then did you see when you looked into the bedroom? A. I have already explained that.

Q. What occurred when you saw into that room? What did you see when you looked into the room? A. Evans standing between the foot of the bed and the window, and mother sitting on the edge of the bed, the shades down.

Q. Is that what you mean when you said it occurred at the foot of the bed?

MR. LANE: Well, did he say that?

A. I didn't say that.

Q. You didn't say that at all? A. I didn't say that at all.

Q. You didn't say that before, that it occurred at the foot of the bed? A. I did not.

Q. How long did you stand at the door looking in? A. I did not stand; it was a passing glimpse.

Q. You just turned your head and looked in and walked around? A. I turned my head like that (indicating.)

Q. Like what? A. Turned my head like that (indicating), looked in, saw everything, and kept going, and as I remarked, I turned around and walked out.

Q. In other words, you looked out of one eye? A. Yes.

Q. You turned your head and saw both of them? A Yes, sir.

Q. And all that occurred in the time it took you to walk by the door? A. (No answer).

Q. All the time that you spent in that room was the time it took you to come in through the door, walk by this room, turn your head, walk on into the library, turn around and walk back and out the door. That is all that you did; and that is all the time that you spent there on the 15th of September; is that right? A. I believe that is correct.

Q. How long did that take? A. About five minutes.

Q. That took five minutes? A. Yes, sir.

Q. What were you doing in that five minutes besides walking by the door? A. I didn't stop until the time I was fully out in the hall again.

Q. It took you five minutes? A. Five minutes from that time.

Q. How long did it take you to open the door? A. Well we will say a minute.

Q. How long did it take you to walk to your mother's bedroom? A. A minute and a half.

Q. A minute and a half? A. Yes, sir.

Q. How long did it take you to look in? A. I was including that.

Q. Including that? A. Including that from the time I entered until I got in the library.

Q. Until you got to the library, one minute and a half? A. Yes, sir.

Q. You didn't stay at the door looking in, did you? A. No.

Q. You kept on walking all the time, didn't you? A. Yes, sir.

Q. You turned around and walked back again? A Another minute and a half.

Q. When Evans shouted to you, "Hello, Park" what part of the house were you in, do you remember that? A. Just past the door.

Q. Did you turn around and walk back? A. After the minute and a half, yes.

Q. Why didn't you turn around and walk back to see what he wanted, or why didn't you greet him? A. It was too self-evident what was going on there.

Q. You thought it self-evident what was going on, did you? A. Yes, sir.

Q. Now, what was going on? A. Well, it was too self-evident what had been going on in there.

Q. What was so self-evident? A. Exactly what I had seen in there.

Q. You hadn't seen any more than someone standing up and buttoning his pants, had you? A. In a lady's room, and nobody else in the house.

Q. Yes. A. It sounds rather strange.

Q. Never mind what it sounds; I want you to tell us what you say was self-evident to your mind?

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

THE COURT: I will strike out the comment.

MR. HEYMAN: Then I move to strike out the answer, if the Court please.

THE COURT: I wont strike out the answer.

Q. What was so self-evident to your mind? A. That adultery had been going on, it seemed to me.

Q. That your mother had committed adultery with this man in that room at that time? A. It seemed so.

Q. That was self-evident to your mind at that time? A. Yes.

Q. You took no steps to find out whether it had been committed or whether it was about to happen, did you? A. How could I?

Q. You took no steps to find it out, did you, whether it was about to be committed or whether it had been committed? A. No possible way, no.

Q. You took no steps to find that out, did you? A. No, sir.

Q. You didn't walk into that room and ask Evans "What are you doing here?" did you? A. No, I had a little more respect for myself.

Q. You didn't do it did you? A. No, sir.

MR. LANE: I object to that; he has said time and time again that he didn't do it. Counsel can make his arguments upon the facts; but don't argue with the witness.

Q. You didn't take the trouble to ask your mother anything about the incident, did you?

MR. LANE: I object to that on the ground that it has been asked and answered.

THE COURT: That has been asked and answered.

Q. You didn't think it was worth your while to find out from your mother what she was doing there with that man, did you?

A. I don't know about that. How could I go up and ask her what she had been doing there. Would you do it?

Q. You didn't think it was worth your while to try, did you? A. No, I didn't.

Q. From your opinion of your mother, your state of mind and of your self-evident disgust toward her, you didn't care about her any more, did you; didn't care what she did, as a matter of fact, did you? A. That is rather a hard statement; I can't answer that yes or no.

Q. I am asking you did you? A. I don't know.

Q. There never was any question in your mind when you saw Evans there, that she had already committed adultery with him was there? A. No, sir.

Q. You were absolutely certain of it, weren't you? A. Yes.

Q. What made you so certain about it? A. What I had seen in there.

Q. What did you see? A. It looked quite—

THE COURT: Let him finish.

A. It looked very funny to me, coming in the house, especially after this first occurrence, finding a man in the house, coming in there again, and finding a man in the bedroom, his fly open,

the shades down, mother in a night dress and kimona. What was I to think?

Q. You thought it was very funny, didn't you? A. It was more than funny, I thought.

Q. You thought it was a funny thing for you to find him in the house at that time, didn't you? A. No, sir.

Q. You didn't think it was interesting enough to find out exactly what had occurred?

MR. LANE: I object to that on the ground that it has been asked and answered.

THE COURT: I will sustain the objection.

Q. You never thought of helping your mother, did you, at that time? A. I don't know in what way I could have helped her.

Q. You didn't think of helping her, though, did you? A I don't know about that.

Q. You don't know? A. I don't know how I could have helped her.

Q. All you thought about was that you had, for the second time, found a man with your mother in her bedroom, and that you would report it to your father immediately; isn't that so? A. I told him about it; yes, sir.

Q. I understand that; that was uppermost in your mind when you went into that apartment and found Evans there; isn't that a fact? A. No, it wasn't.

Q. It was not? A. No, sir.

Q. Well, what was in your mind; I had a collection of feelings there.

Q. Tell us what the collection of feelings are? A. I can't give the names of the feelings I experienced when I found that.

Q. You can't tell us what was in your mind? A. No, sir.

Q. You can't tell us what occurred in your mind at that time? A. No, sir.

Q. Can't you; eh? A. Except that I was going out of there, that was all.

Q. Except that you would get out of the house? A. Correct.

Q. The only thing that you had in your mind was to get out as quickly as you could; is that right? A. And much more disgustedness.

Q. I understand that. The thing that you wanted to do most of all was to get out as quickly as you could; to get away from your mother as quickly as you could; is that right? A. In a way; yes, sir.

Q. You didn't want to have anything more to do with your mother again; you didn't want to see her again; is that right? A. I can't answer that.

Q. Why can't you answer that? A. I can't give a deliberate answer on that.

Q. Why can't you answer that?

MR. LANE: He said he can't answer that; why he can't answer that is immaterial.

THE COURT: I will sustain the objection.

Q. You felt immediately after it happened, though, that you didn't want to see your mother again after that; isn't that so? A. I answered that question the same as the previous one.

Q. You can't answer that? A. No, sir.

Q. Of course your love for your mother was just as great at that time as it was for your father, wasn't it? A. I wouldn't put it that way; no, sir.

Q. Well, how would you put it? A. It doesn't seem to be a fair question, after finding those—seeing these two men—putting that question.

Q. Well, I want to know how you felt toward your mother at that time.

MR. LANE: I submit, if your Honor please, that the witness has answered the question.

Q. Can you tell us how you felt toward your mother at that time?

MR. LANE: You mean before or after, or since having seen this incident?

MR. HEYMAN: After having seen this.

Q. Did you still love her? A. No, I can't say that.

Q. But you loved your father at that time, didn't you? A. Yes.

Q. You knew that it would help your father if you told your father what you saw there, didn't you? A. I don't know.

Q. You don't know? A. I more than likely didn't think a thing of that at the time.

Q. I didn't ask you why you thought it; I asked you if you knew that you would help your father by telling him what had occurred? A. I answered that; I don't know whether it would or not.

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

Q. You know, though, since then, that you would help your father by telling him what had occurred at that time? A. No more than the other witnesses that are here.

Q. No more than the other witnesses. Then you knew that you would help, with other witnesses; is that right? A. Yes, sir.

Q. You knew it at that time, didn't you? A. Nothing that I knew about it at the time.

Q. Well, you knew that your father knowing about this thing, that you had seen, that he could bring this suit for divorce, didn't you? A. That thought never entered my mind.

Q. You knew, didn't you? A. I never knew.

Q. You knew that without your testimony your father would not be able to prevail in this case, didn't you? A. I couldn't say what he thinks or what he knows.

Q. Don't you know that you are the only one who actually saw this man in the house? Don't you know that? A. I don't know it; I think I am; I don't know.

Q. So that you ought to know that without your testimony your father can't win this case; don't you know that? Isn't that a fact? A. I don't thing it is a fact.

Q. You don't think that that is a fact? A. No.

Q. Now, after that occurrence did you come back to the house? A. That same day.

Q. After the occurrence?

THE COURT: Do you mean that day or some other day? I don't know what day you mean.

MR. HEYMAN: I mean after the thing happened; I don't care whether it is the same day or the next day. Any time after that thing occurred.

Q. Did you ever go back to this house on Clinton Avenue? A. Yes, sir.

Q. When? A. Between September 15th and the following Friday, I believe.

Q. Do you remember what day of the week September 15th was? A. Monday.

Q. Don't you know that you came back to the house the same night with Mr. Townsend and with Mr. Grundy? A. I don't know that.

Q. Well, did you come back the next night? A. I don't recall that.

Q. Did you come back the following night? A. I don't recall.

Q. Well, when did you come back, and who was there? A. I don't recall coming back.

Q. You don't remember ever having been in the house after that? A. I wasn't present at any conversation between Mr. Townsend—

Q. I am not asking about that; I am asking whether or not you ever returned to the house after September 15th? A. Yes, I believe I did; but announced, though.

Q. Who was in the house when you came there? A. I don't recall.

Q. How did you get into the house? A. By a key; I imagine I came for a trunk.

Q. Did you get the trunk? A. Yes, sir.

Q. Where was the trunk? A. Upon going down in the storage room, and I believe I brought it up to my room and packed it and sent it off to college.

Q. That was the last time that you ever went near the house, was it? A. I believe so.

Q. Pardon? A. I believe so.

Q. Did you ever see Mr. Evans after that? A. No, sir.

Q. Did you ever try to see him? A. No, sir.

Q. When did you tell your father about that incident? A. Within twenty-four hours after it happened.

Q. Where? A. In the Jersey City Club.

Q. Why; weren't you in the house talking with Gertrude Halverson when your father and Mr. Townsend came in, and didn't you go to your father, take him outside, and tell him all about that at that time? A. I can't recall that; it is too far back.

Q. You remember what you did at the house

at that time? A. No, I can't just think; it is too far back.

Q. You remember pretty clearly how you walked in and how you turned around and walked out again; don't you remember that same evening that you were in the house, in the kitchen, with Gertrude Halverson, and your father and Mr. Townsend came into the house; don't you remember that? A. No, I don't remember that.

Q. Don't you remember that you called your father out of the living room and told him about this thing right there in the house? A. I can't seem to remember it.

Q. You can't seem to remember it? A. No, sir.

Q. Do you remember having any talk with your father when Mr. Townsend was there, after September 15th, or on September 15th? A. I can't recall it; no, sir.

Q. Your memory is rather poor on those things? A. Yes, sir; it is quite a long time back.

Q. You can't remember what occurred after that on the same day? A. No, sir.

Q. Do you remember what you did that afternoon? A. No, sir; I do not.

Q. Do you remember whether or not you had your car downstairs when you came up in the house and found Evans with your mother in the bedroom? A. Yes, I believe I did.

Q. Do you remember where you went after you left the house? A. No, sir; I do not.

Q. Do you remember whether your father was at his place of business on that day? A. No, sir; I do not.

Q. You don't know where you went to? A. No, sir.

Q. You don't remember when you packed your trunk and shipped it? A. No, sir. That—I

didn't send it; it was sent at a later date after I went to college it was sent.

Q. But you don't remember when you packed it? A. No, sir.

Q. Now, you were living at home from August 24th until September 9th, weren't you? A. Yes.

Q. You knew that this man had been found--that you had found this man on this morning of the 24th; did you try by any means to protect your mother from the 24th of August until the 9th of September, from any further occurrences similar to that? A. There was no way possible for me to try to protect her.

MR. HEYMAN: Now, please don't; I move, if your Honor please, to strike out that answer.

THE COURT: I will strike out the answer.

Q. (Last question repeated). A. No, sir; I didn't use any means to protect her; she is capable—

Q. You didn't think of staying at home with her, did you? A. I stayed at home; surely; I was at home during that period.

Q. I am not saying staying at your home with your mother in the house with her and living there; I mean to stay there during the day time with her while she was in the house.

THE COURT: You mean continuously.

Q. Yes; continuously in and out, but staying around the house like a dutiful son would?

MR. LANE: I object to that question and move to strike out that "dutiful son" part.

THE COURT: I will strike that out.

Q. Did you? A. I was around that section all the time.

Q. You knew that your mother had done this with Mr. Levine; did you think for one minute of staying around the house to protect your mother from doing the same thing over again or preventing her from doing it over again? A. No, sir.

Q. Did you think for a minute that your mother might have made a mistake, and that you might help her? Did you? A. No, sir; I thought she would see her mistakes better than I could have if I called it to her attention.

Q. You didn't think, though, that it was your duty to stand there and help her, did you? A. No, sir.

Q. Of course you love your mother now, don't you?

THE COURT: I think you have gone over that pretty thoroughly, Mr. Heyman, as to his love for his mother and love for his father. You covered that.

MR. HEYMAN: I don't think I have covered that at all, if your Honor please. My question was different, whether he loved his mother as much as his father. Now I want to know whether he loves his mother.

THE COURT: You asked him whether he still loved his mother after this incident of September 15th.

MR. HEYMAN: I don't recall any such question.

THE COURT: I think that is already in; you went quite into detail on that.

MR. HEYMAN: I don't think, if the Court please that I did ask that. If it has been answered I would like to have the answer. I think it is very important. If it has been answered I would like the stenographer to refer to it.

THE COURT: Rather than look up the record—

MR. LANE: There is no rule that I know of that requires the stenographer to go back and read the answer.

MR. HEYMAN: I submit, if your Honor please, that the question has not been answered and I insist upon an answer.

THE COURT: I will let the question stand.

A. It is pretty hard after this occurrence.

Q. Do you love your mother or don't you love your mother? A. I can't answer that.

MR. HEYMAN: I insist upon an answer, if the Court please. I ask that the answer to that question be struck out and that the witness be instructed to answer the question.

THE COURT: I will let the answer stand.

MR. HEYMAN: I insist upon an answer, whether the witness still loves his mother.

THE COURT: He has answered it.

MR. HEYMAN: Is your Honor going to let the answer stand?

THE COURT: Yes.

MR. HEYMAN: I think I am entitled to an answer to the question; it is very important in this case whether or not this witness is biased, and that is the only way I can discover it. Now, I am entitled to an answer to that question.

THE COURT: I think you have an answer.

MR. HEYMAN: No; I insist that it can be answered yes or no.

THE COURT: Well, repeat the question and I will rule on it.

Q. Do you love your mother to-day.

MR. LANE: I object to that upon the ground that it has already been answered.

THE COURT: I overrule the question.

THE COURT: (To Mr. Hershenstein) Do you wish to ask any questions?

MR. HERSHENSTEIN: I would like to ask a great many questions; but I ask, in pursuance to your Honor's ruling, that I be given time to produce Mr. Evans so that I may cross-examine this witness, because I think his testimony directly involves Mr. Evans.

THE COURT: His testimony certainly does directly involve Mr. Evans.

MR. HERSHENSTEIN: Certainly I can't, in justice, examine this witness, because I haven't got Mr. Evan's testimony; there may be one or two facts which he may give me.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. Mr. Grundy, counsel asked you in one of the first questions whether there had not been trouble between your father and mother for three or four years, or several years, before August 24th, 1919, and your answer was that there had; I ask you now what that trouble was?

MR. HEYMAN: I don't know that that is competent, if your Honor please; I did not go into the trouble; I just simply asked him if there was trouble.

THE COURT: I will permit the question.

A. Why, there was trouble, principally involving the excessive drinking of mother.

Q. When did that trouble start, to your knowledge? A. To my knowledge that started in 1910, to my knowledge, but I heard since that it started—

Q. Never mind; I only want your knowledge. How old were you at that time? A. Just about ten years old.

Q. You say it started then to your knowledge; what do you recollect of a period back as far as 1910? A. Yes, sir.

Q. What do you recollect; tell us what you recollect? A. It was even prior to that, it was 1908, on the way from Pittsburg I can remember it.

Q. What do you recollect on the Pittsburgh incident? A. That mother had been taken off the train at Newark, New Jersey, taken to the hotel, and we were up there for quite a while and had this Doctor B. Broas come and attend her for quite a while; then we moved to a boarding house, where it still continued, and it has continued ever since, growing worse from that time on.

Q. Well, in the years 1910 and 1911, what was there in your mother's conduct, or what was done which indicated to your mind the excessive use of liquor; give us the details that you can remember? A. I can't give details about that, except that I was young at the time, but I knew it was liquor.

Q. You say that you knew it was liquor; what do you know; what do you remember? A. Her conduct at different times.

Q. Well, what was her conduct at different times which indicated to you, or which indicates to you now, that it was due to the excessive use of liquor? A. I can't give facts about that.

Q. Coming down the years, when is it that you remember anything specific that you can give us the details of? A. On 21 Madison Avenue, Jersey City.

Q. Yes; what year was that? A. I should say that was 1911.

Q. Well, what do you remember that happened at 21 Madison Avenue, Jersey City? A. Very

excessive drinking, followed by attempts at suicide.

Q. Well, coming down the years still, what is the next place that you were living at that you remember any details of? A. New York; uptown New York, 170th Street and Fort Washington Avenue.

Q. What do you remember as having taken place there? A. Why, about the finding bottles around the house, both filled and unfilled, doctor bills, and no meals cooked on different times of these drinking bouts.

Q. Well, coming down the years since, when is the next time? A. Why, it continually got so worse up in Fort Washington Avenue that we had to move; after that we moved back to Jersey Avenue.

Q. Where, in Jersey City? A. 57 Clinton again.

Q. What happened in Clinton Avenue with respect to drinking? A. Why, she bothered the neighbors very much for a good many years, during my father's absence in Europe she had very many parties there, of which we have witnesses to that effect.

Q. I don't care anything about the witnesses. I want your personal knowledge. Do you know anything about those parties of your own personal knowledge?

THE COURT: Did you see those?

A. No, sir.

Q. Now, during the last few years prior to 1919 did you and your mother go away for Summer vacations? A. Yes, sir.

Q. Where did you go? A. Blue Point, Long Island.

Q. How long did you stay there? A. About the month of August.

Q. Did your father go down with you? A. No, sir.

Q. Did he come down while you were there, or not? A. I believe he came down once; yes, sir.

Q. During the time that you were away with your mother on these Summer vacations, did you observe anything with respect to drinking during that period? A. Yes, sir.

MR. HEYMAN: Of course, if your Honor please. I don't want to raise formal objections to each question. This is all taken over my one general objection.

Q. What did you observe? A. Why, many parties, and that night out with this Mr. Clark.

Q. What do you mean, parties with Mr. Clark? A. Why, his housekeeper would come over to the hotel early in the morning and take mother out with her in the car, and they would go out all afternoon and night—well, not all night, but a good part of the night—with this Mr. Clark, the three of them would go out on a yacht, or something to that effect.

Q. Did you thing at the time this occurrence took place there was anything wrong? A. Why, it didn't strike me as right; one case, that was explained to me, where she stayed out all night.

Q. What was that case that she explained?

MR. HEYMAN: I object to anything that he does not know of his own personal knowledge.

MR. LANE: I am trying to get out only what he knows.

Q. Explained it to you? A. Why, it was that they were stuck down there at Blue Point.

Q. Who explained it to you? A. Mother, herself.

Q. All right; now tell us what the incident was, what was said? A. This Mr. Clark's housekeeper came for her in the afternoon in the car, they went out on a yacht and got stuck on the reef, I believe, when the tide went out, and they stayed there all night on board this yacht, and came back early the next morning.

Q. Now what explanation did your mother make with respect to that? How did you come to speak to your mother about that, or did she speak to you without you speaking to her? A. It seems that I asked her the next day where she was the following evening for supper.

Q. What did she say? A. That she was out on board of that yacht, and that they got stuck when the tide went out, and the life savers couldn't pull them off.

Q. Were there any occasions during that time, during the time that you were down there, that your mother was under the influence of liquor?

MR. HEYMAN: I object to that, if the Court please; I don't think it is material, the question of whether she was under the influence of liquor. I don't see how that can affect this case.

THE COURT: I will take it.

A. Yes, she was; she was under the influence quite a good many times down there.

Q. Now, were there any times when she was under the influence of liquor when Mr. Clark was there, that you saw yourself? A. No, sir.

Q. Did your father, of your own knowledge, take any steps to prevent this liquor drinking? A. Yes. sir. He took many steps; he tried these so-called antidotes for the liquor habit, concealing

them in coffee and edibles, and also tried harsh treatment, and, and then he tried cutting off her allowances so that she couldn't buy any, and life became so unbearable that way that she couldn't stand it and he had to give it to her again to run the house, and so forth, and it would be all turned into liquor, then he had her committed to Morris Plains; and while she was there she got along so well that she pleaded with Dad to take her out of Morris Plains, so he took her out against the physicians' advice.

MR. HEYMAN: I object to that.

THE COURT: I don't want anything except what you know yourself.

Q. Did he take any steps with respect to liquor around the house; did he take any steps with respect to liquor around the house? A. Yes, sir.

Q. What did he do with respect to liquor around the house? A. Usually whenever we found any we dumped it down the sink.

Q. I am trying to find out whether you did make any attempts to find out? A. Yes, sir; we did.

Q. How long a time did your course continue? A. From the time we lived in Madison Avenue, that was in 1911 or 1912, and we also searched around the house and dumped all the liquor we found down the sink.

Q. On this August 24th that you referred to, did you look for liquor in the house at that time? A. I did.

Q. Could you find any? A. No, I found none.

Q. On the 24th of August, when you first went into the house were the dining room doors closed or open?

MR. HEYMAN: If your Honor please, I

object to this on the ground that it is not re-direct examination. That is part of the petitioner's main case; he should have proved that on the direct case instead of on re-direct.

THE COURT: I will take it.

A. The first door I entered was very nearly closed, just required a slight shove to open it; and the other was open.

Q. Well, I don't know now what is meant. When you first go into your apartment, did you enter— A. I walked along the hall into the library, in the dining room.

Q. Well then, you went from the library into the dining room? A. Yes, sir.

Q. Now, was the door between the library and dining room closed or open? A. It was partially closed; it wasn't shut.

Q. Is it a folding door? A. No, a regular door like that (indicating).

Q. For how long a space of time before August 24th was it that you had not been able to get your meals at home?

MR. HEYMAN: I object to that, if the Court please; I don't think that is part of the re-direct examination; and I don't think it is competent, because it has nothing at all to do with the charge of adultery.

THE COURT: How is it material at all?

MR. LANE: Well, it is cross-examination, if your Honor please, on that portion of the testimony that counsel brought out.

THE COURT: I will take it.

MR. HEYMAN: If your Honor please, I submit that this has absolutely nothing to do with whether or not Mrs. Grundy took this witness to the club. I don't see where there is any connection at all.

THE COURT: I will take it.

A. Why, that question is hard to be answered; I took them off and on; sometimes I took my meals out; I didn't take them right along.

Q. When you didn't take them home why was it that you didn't? A. Owing to the relapses of mother under liquor.

Q. Were there any meals prepared? A. At this time?

Q. Yes. A. None.

Q. You were asked why you didn't, between the 24th day of August and the 15th day of September, endeavour to protect your mother; whether you did or not, I ask you whether you knew of any way by which you could protect her?

MR. HEYMAN: I object to that. I don't think that it is re-direct examination, in the first place; secondly, the witness has answered taht question so thoroughly and so fully that I don't think that it admits any further explanation. He has said that he was so disgusted that he didn't want to have anything further to do with his mother, he didn't want to be near her; that is the reason why he turned around and walked right out of the house. What further explanation can he possibly give at this time?

THE COURT: I will take the question. I think it is re-direct.

A. I knew of no way.

Q. On the 24th of August, at the time you went into the kitchen, where was Levine? A. Behind the door in the kitchen closet.

Q. That is, he was in the closet, and the door of the closet was closed, is that right? A. Yes.

Q. Now, on the 15th of September, irrespective now of the minutes, hours or seconds that it took

you, did you take sufficient time to see what you have testified to?

MR. HEYMAN: I object to that; that is a matter of conclusion pure and simple.

THE COURT: I will take it.

A. Yes.

Q. Are you testifying with respect to what occurred to you as a fleeting impression, or are you testifying as to what you saw?

MR. HEYMAN: I object to that on the same grounds.

THE COURT: I will take the question.

A. Testifying as to what I saw.

Q. When you went with your father to the country club, in the same way that you went on this August 24th, what was your practice generally; you left the house at what hour?

MR. HEYMAN: I object to any practice on the part of this witness. The question is what he did on this particular occasion and nothing else.

THE COURT: I will take it.

A. We were in the habit of leaving about 8.30 in the morning and returning about 8.30 the same evening.

Q. Well, I want a little more detail about that; you would leave the house with your father in the car about 8.30? A. Yes, sir.

Q. Then you would go up to the Shackamaxon County Club; what hour would you get there, about? A. Get there about 9.30 or 10.

Q. What would you do next? A. Why, I usually hung around the golf club.

Q. Until when? A. Most all the time.

Q. Until when? A. Well, the way that we got

there at ten, I would loaf around and read the papers until about 11.30 or 12, and then have dinner, and then I would go off for a little ride in the car and come back in about an hour.

Q. Yes; then what? A. I stayed around the house all the day.

Q. Had that been your usual practice during the month that you came home from school? A. Yes, sir.

Q. In 1919?A. It had been my usual practice for that month.

Q. Have you any bitter feeling toward your mother? A. I have no bitter feeling, no.

Q. In response to counsel's question with respect to some conference that you attended after the 24th of August, or the 15th of September, at your mother's house, at which Mr. Townsend was present, you stated, if I recollect correctly, that you did not recollect any such conference. A. I recollect; I don't recollect being present at any conference—such conference.

Q. Do you recollect being at the house when your father and your mother and Mr. Townsend were at your house, and then do you recollect being sent out by Mr Townsend? A. Yes, sir; I do.

Q. Do you recollect when that conference was? A. I think it was between that time.

Q. You mean between the 24th of August and the 15th of September, or after the 15th of September? A. No, it was before the 15th, I imagine.

Q. Between the 24th of August and the 15th of September? A Yes, sir.

Q. You didn't hear what was said by either your father, or your mother, or Mr. Townsend? A. No, sir.

Q. You were sent out by Mr. Townsend? A. Yes, sir.

MR. LANE: I am going to say for the record that I am going to repeat the question that your Honor has already ruled out, so as to bring it squarely on the record, because it may be necessary to recall this witness to prove it after the examination of Mrs. Grundy, because if the foundation has not been laid for it, the foundation will be laid for it on the cross-examination of Mrs. Grundy.

Q. At the time you and Mrs. Hansen were standing in front of the door, as I understand the testimony, at that time was the door ajar about an inch? A. Yes, sir.

Q. How long before Mrs. Hansen got to that door—got to within two feet of the door, as you testified to—was it that you had heard the whispering on the other side of the door, in which one male voice and one female voice participated? A. Why, two or three minutes.

Q. At the time she came up to the door was the whispering going on—at the time Mrs. Hansen came to the door was the whispering going on? A. I don't believe it was; no, sir.

Q. You then had a conversation, as I understand it, with Mrs. Hansen; is that right? A. Yes, sir.

Q. Did you and Mrs. Hansen—did you talk to Mrs. Hansen in your ordinary tone of voice? A. No, sir; in a regular tone of voice.

Q. In a regular tone of voice? A. Yes, sir.

Q. Was it, or was it not. immediately after the end of your conversation between Mrs. Hansen and yourself that your mother opened the door? A. Correct.

Q. To what general subject was that conversation directed?

MR. HEYMAN: I object to that question, what conversation he had with Mrs. Hansen, and I object to any question like that.

Q. To what general subject was the conversation that you had with Mrs. Hansen directed?

MR. HEYMAN: I object to any conversation with Mrs. Hansen, whether it be what she said or whether it be on the subject which was discussed, as not binding on this defendant, who was not present at that time.

THE COURT: I will take this question.

A. To the subject of going around the fire escape and getting into our apartment.

MR. HEYMAN: I object to that, if Your Honor please, and move to strike it out.

THE COURT: I will let it stand.

Q. I ask for so much of the conversation between you and Mrs. Hansen as was directed to that general subject during the time when Mrs. Hansen and you stood within a foot or two of this door, during which time the door was ajar and open for a space of approximately one inch?

MR. HEYMAN: I object to that on the ground that it cannot bind this defendant in any possible way unless it can be proved that she heard the conversation.

THE COURT: How do you vindicate that question?

MR. LANE: Because, if your Honor please, I have now placed these parties in such a positon that it is a question of fact for the trier of the fact, as to whether this conver-

sation between Mrs. Hansen and this witness was overheard. Now, it may be that your Honor will find, as a trier of the fact, that she did not overhear this conversation, but they were in such position that they could have heard it, according to the testimony. For instance, he heard whispering behind that door; he testified that the door was opened to the extent of an inch, he and Mrs. Hansen talked in their ordinary tone of voices, within a foot or two feet of this door, the conversation was with respect to entering, a way by which this man could get into the apartment; as soon as the conversation ended the door was opened; Mrs. Grundy opened it. Now, from that it may be argued to a trier of fact that Mrs. Grundy overheard that conversation. Mr. Townsend informs me that there is a case in the Court of Errors on that point, and I have a faint recollection myself that there is such a case reported in the Atlantic Reporter.

THE COURT: My present impression is that it is incompetent and ought not to be admitted. I am inclined, however, to admit it and reserve that motion to strike it out. If there is such a case I don't want to strike it out. I will take it now because the witness is here, and you may move to strike it out.

MR. HEYMAN: I want to move to strike it out, if the Court please. I object to the admission of that testimony.

THE COURT: All right; I will reserve your motion to strike it out.

MR. *HEYMAN*: But I object, if the Court please, on the ground that once it is in evidence, whether it is struck out or not, it has been brought to the attention of the Court; and that is the purpose of the question.

Q. (Last question repeated). A. Mrs. Hansen said, "Can't you get in?" I said—do you want the rest of it?

Q. Yes. A. I said, "No"; she said, "Well, come here through the fire escape, you can get in that way"; just then the door opened.

MR. HEYMAN: If your Honor please, it will take me at least an hour on my re-cross examination. I don't feel that I should be called upon to go into it at this time; I am absolutely exhausted now as it is, and I ask your Honor to give me an opportunity to cross-examine this witness at a later time.

THE COURT: It seems to me we can close it. Mr. Heyman.

MR. HEYMANS It would take me at least an hour, if your Honor please, because it will take a long time for me to go into all this testimony that has been offered, covering a period of nine years; it is going to take me a long time to go into all this, because a great many things have occurred in that period of time. Now, it has taken Mr. Lane almost forty-five minutes to bring it out on direct—

MR. LANE: What?

MR. HEYMAN: Forty-five minutes, if not more; it was a quarter of six when I finished my examination, and it is now half past six. Now, you may not think so, but it took you over forty-five minutes. It is absolutely impossible for me to go on.

THE COURT: I think we can.

MR. HEYMAN: I can't do it; I am exhausted thoroughly, and if your Honor insists I will have to close. I can't go on; it is a physical impossibility.

THE COURT: I think we ought to complete the testimony of this witness.

MR. HEYMAN: Well, I can't go on with it, if your Honor please; I can't do it; it is impossible. I am afraid to start my examination, which I know would take me over an hour.

THE COURT: I am willing to stay and finish with this witness.

MR. HERSHENSTEIN: May I at this time ask what disposition you are going to make in regard to Mr. Evans' appearance in this court?

MR. LANE: I desire to put on the record just this, that we will agree to accept short notice of the taking of the testimony—

MR. HERSHENTEIN: How many days?

MR. LANE: 48 hours notice of the taking of any testimony in Buffalo of Mr. Evans, and unless the testimony of Mr. Evans be taken in Buffalo between now and the 18th of May, that Mr. Evans will be produced on the 18th May, and we shall probably agree to a further continuance of that day for Mr. Evans' production or the taking of his testimony.

RE-CROSS EXAMINATION BY MR. HEYMAN:

Q. Now, when was this incident in Blue Point that you spoke about, when your mother went out and stayed out all night? A. 1918, the Summer of 1918, August.

Q. Did you tell your father about that? A. Mother told father about it.

Q. Were you there when she told him? A. No, sir.

Q. What did she tell him? A. Just what I said in my statement before.

Q. That she had been out all night? A. Not all night; she came in early in the morning, I believe.

Q. You didn't say that before; you said she was out all night. A. I said the greater part of the night.

Q. You said she was out all night. Now, was she out all night, or wasn't she out all night? A. She was out the greater part of the night.

Q. Was she out all night, or wasn't she out all night?

MR. LANE: I object to that; the witness answered and he said the greater part of the night.

MR. HEYMAN: I insist that I am entitled to an answer; either she was out all night or she was not out all night; he can qualify it later.

MR. LANE: Well, he has qualified it now.

MR. HEYMAN: I don't think he has a right to qualify it. If your Honor please. He has a right to say either all night or not all night.

Q. Is that the best answer you can give us, the greater part of the night?

THE COURT: Wait a minute. I will let him answer that.

A. Not all night.

Q. You knew that this boat was stranded and could not get in, didn't you, before she got home? A. I did not know anything of the kind.

Q. Didn't you get a message that they were stranded and could not get in? A. I got no message.

Q. Didn't a man come up to the hotel and tell you that they were out stranded and could

not get in, not to be worried about her? A. I don't recall any such statement.

Q. You may have received such a message? A. I doubt it.

Q. You might have A. It might have been possible, I imagine, yes.

Q. Your father had your mother taken to Morris Plains twice, didn't he? A. Yes, sir.

Q. Once in 1910 and once in 1914; isn't that right? A. I believe those are the dates.

Q. The second time she ran away from there, didn't she? A. Yes, sir.

Q. Because your father wouldn't take her out? A. Correct.

Q. Your father said at that time that he would keep her there. didn't he? A. Until she was thoroughly cured of the liquor habit; yes, sir.

Q. She was here about eight weeks at that time, wasn't she—four months at that time, wasn't she?

THE COURT: How long?

MR. HEYMAN: Four months.

A. I guess that is right, yes.

Q. Your father wanted to have her taken away again in 1918, didn't he? A. I don't recall that.

Q. Well, you knew your mother was making an awful lot of trouble and bother up there in Clinton Avenue, didn't you? A. Was this in the Summer time?

Q. I don't know when; in 1918. A. If it was any time in the Summer I was away at school.

Q. Tell us what you do know in 1918 about your mother making a lot of trouble around the house? A. I know nothing about nothing about it; I was away all the time.

Q. Were you away all of 1919? A. Yes, sir.

Q. Then you don't know anything that oc-

curred in 1919, do you? A. I was away at school; that is, except vacations.

Q. Well, nothing occurred in that time, did it, in that vacation time? A. Yes, I remember having my mother—well, that is a mistake; that was the wrong year.

Q. Can you answer that last question? A. I was thinking of 1918. When I came home in the Spring of 1919 mother was greatly under the influence of liquor at that time.

Q. Can you give us the date? A. April 25th, April 26th, and 27th.

Q. Now, you say you bear no bitter feeling toward your mother at this time; is that correct? A. That is correct.

Q. How do you know that?A. Why, I had no bitter feeling, I never had any bitter feeling against her.

Q. How do you know that, any more than you know whether you love her? A. How does anyone know? I can't understand how it is.

Q. I want to know; how do you know you have no bitter feeling toward her any more than you know whether or not you love her? A. I don't know.

MR. LAE: I object to that.

MR. HEYMAN: I object to the witness smiling.

MR. LANE: If he is laughing at counsel that is a different matter. I smiled but I have no apology to make if I smile.

MR. HEYMAN: The witness was smiling and so was Mr. Townsend.

MR. TOWNSEND: I have no apology to make.

Q. Do you think that this is so funny that you must laugh at it?

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

MR. HEYMAN: I think I am entitled to know why he is laughing.

THE COURT: My suggestion is that the original question be answered. I will take it.

MR. LANE: I object to that question on the ground that it is impossible to answer that without going into a discussion of mental operations, and it is impossible to go into that.

MR. HEYMAN: I will withdraw the question.

Q. You couldn't tell us before whether you loved your mother, could you? A. I did not attempt to answer the question.

Q. You couldn't answer it could you? A. No, sir.

Q. Bu you are absolutely certain now that you bear her no ill will? A. Correct.

Q. You are sure that you know your feelings on that question are you? A. Yes, sir.

Q. Now, can you tell us whether you love your mother?

MR. LANE: I object to that question on the ground that that question has been asked and answered.

MR. HEYMAN: This is re-cross examination on what was brought out by the petitioner.

MR. LANE: It is not re-cross examination; I did not mention a word about love in my re-direct.

THE COURT: I think that that has been answered; I will overrule the question.

Q. Your father knew all about this event that happened at Blue Point?

MR. LANE: I object to that on the ground that he has already answered the question.

Q. Did you discuss the matter with your father after that? A. I did not.

(Q. Did you discuss any question of drunkeness with your father at that time—your mother's drunkeness, I mean? A. At that time?

Q. Yes. A. I couldn't very well, I was in Blue Point and he was in New York.

Q. Did you see your father at that time? A. I couldn't very well, with a large space of miles between.

Q. Your father didn't come down to Blue Point? A. Not until the end of the season.

Q. The very last of the season; the last day that you were there, do you mean? A It was about a week past Labor Day.

Q. When did you return to the City from Blue Point? A. A week past Labor Day.

Q. And that was the time that your father came down? A. Yes.

Q. That is the same day that you returned to the City, is it? A. No, he came down one day and returned the next day; I believe we returned a couple of days later; I don't recall.

Q. So that all the time that you were down to Blue Point your father never came down until the day before you returned to Jersey City, is that correct? A. All the time? We were only there a matter of four weeks.

Q. Now, I didn't ask you how long you were there; I asked you, all the time that you were there your father did not come down until the day that you came to Jersey City?

MR. LANE: I submit it has been answered.

THE COURT: I will take the question.

A. Yes.

Q. Did you speak to your father over the telephone at all while you were at Blue Point? A. Yes, I did.

Q. Did you tell him anything about this incident? A. No, sir.

Q. When did your mother tell him about it? A. I don't know.

Q. When did you first discover that your father knew about it? A. I also don't know that.

Q. Why didn't you tell your father about it? A. I don't know that, why I didn't.

Q. Pardon? A. I don't know why I didn't.

Q. You did love your mother at that time, didn't you? A. Yes.

Q. You thought enough about her well being to take care of her, didn't you? A. Yes, sir.

Q. Why didn't you tell your father at that time about this incident? A I don't understand what you mean by that, at that time.

Q. You don't understand that? A. At that time?

Q. What is there about that that you don't understand?

MR. LANE: I object to that, if your Honor please; he says he does not understand at that time.

Q. You don't know what I mean by that "at that time?" A. I don't; I don't know what you mean at that time; does that mean at a later date? We have been talking about a number of times.

Q. I mean at the time it occurred or very shortly thereafter . Why didn't you tell your father? A. I couldn't very well tel him.

Q. You couldn't very well tell him? A. No, sir.

Q. Why didn't you write him? A. I don't

know as I would like to put such things down on paper.

Q. You did, however, think that it was perfectly proper to record the events of August 24tth and September 15th, 1919 on paper, didn't you?

MR. LANE: I object to that on the ground that this question does not mean anything, it is pure argument with the witness.

THE COURT: It is argument with the witness.

Q. You didn't think enough of your mother's welfare to write to your father about it, did you?

MR. LANE: I object to that on the ground that it has been answered.

THE COURT: I will permit it.

A. That question can't be answered yes or no.

Q. I am not asking you for an answer yes or no; I am asking for a nanswer to the question. A. That is an answer.

Q. Pardon? A. That was an answer.

Q. That is the only answer that you can give us? A. Yes, sir.

Q. You knew that this conduct on the part of your mother was improper, didn't you? A. I believe as much.

Q. You knew that you would not want your mother to be guilty of any improper conduct, didn't you, at that time? A. Yes, sir.

Q. Then why didn't you call your father's attention to it, if you knew that it was improper, and that you didn't want your mother to be guilty of such conduct? Why didn't you tell your father in some way, either personally or by writing? A. I don't know.

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

Q. Did you talk to your mother about it? A.

I don't recall that I had any words with her about it, no.

Q. Did you talk with her? I didn't ask you whether you had any words with her; did you talk with her about it? A. No.

Q. You did not think it was of sufficient importance to talk to her about it, did you? A. No, not at the time.

Q. Why didn't you think that at that time it wasn't important enough to talk to her about it? Why didn't you think so? A. I was too young at the time to realize anything about it.

Q. This happened in 1918? A. Yes, sir; about two years ago.

Q. Two years ago? A. I didn't think anything about it.

Q. You were too young at that time to appreciate what it meant is that what you want us to understand? A. Yes, sir.

Q. You remember distinctly, however, that it occurred? A. Surely.

Q. It is impressed upon your memory, isn't it? A. By later circumstances; yes, sir.

Q. You know that it is very important, don't you? A. It seems so.

Q. Otherwise you would not have remembered it, isn't that so? A. Correct.

MR. LANE: I object to that on the ground that it is pure argument, otherwise he would not have remembered it. He may have remembered it for a thousand different reasons.

Q. When did you first know that your father knew about it? A. I can't give any date to that.

Q. How did you know that your father knew about it; did you hear mother tell him? A. No, sir.

Q. Well, how did you know that he knew it? A. I don't know.

Q. But you do know that he did know it? A. Yes, sir.

Q. At that time; at the time that it occurred, or shortly thereafter? A. I don't know how shortly thereafter; he knew it after it occurred, that is all I know.

Q. Now, you were on the porch with your mother when Mr. Clark's automobile came over with the housekeeper to get your mother, weren't you, this Sunday morning that this incident occurred? You were here on the porch with your mother when they came over for her in the car, weren't you? A. I believe so.

Q. You knew that your mother didn't want to go along on this party, don't you? A. I do not.

Q. You do not? A. No, sir.

Q. You didn't hear your mother try to put them off, did you? A. No, sir.

Q. Didn't she try to refuse to go on that party? A. I don't have any idea.

Q. Do you know who was on that party? A. Mr. Clark, the housekeeper, the captain of the ship and mother; that is all I know.

Q. You know Mr. Clark had his daughter with him, don't you; don't you know that? A. No, I don't.

Q. Wasn't Carrol Clark on that party with her father? A. It seems to me that she was in Summer camp at that time.

Q. That is the best of your recollection, is it? A. Yes.

Q. Were you in town when your mother was in White Plains, in 1914? A. No, sir.

Q. Where were you? A. In Blair Academy, Blairstown, New Jersey, probably at school.

Q. All during the time that she was there? A.

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I don't recall the month she was there; I was there from September until June.

Q. Did you know that she was at Morris Plains in 1914, while she was there? Did you know while you were at school that she was at Morris Plains? A. Yes.

Q. How far from Morris Plains is Blair Academy, do you know? A. They are in two different states; one is up in the State of New York —it is over in the Western part of Pennsylvania.

Q. Where is Blair Academy? A. Blairstown, New Jersey, about two miles East of the Delaware Water Gap; six miles from Hackettstown.

Q. Where is Morris Plains, do you know? A. Morris Plains is some place in—no, I don't know where it is.

Q. Were you ever there? A. Yes, I was through there.

Q. When? A. It seems to me that is out near Morristown.

Q. When were you there? A. I don't recall; I was never to Morris Plains; I was just through that section; that is all.

Q. Do you remember when it was you were through that section? A. No, sir; many times.

Q. You never went there to see your mother, did you? A. No.

Q. Now, you say that you never got any meals at home when you were at the club, so that there wasn't any use of coming home; you always went to the Jersey City Club.

MR. LANE: That is not so.

Q. You say that you got no meals at home and that is the reason you went to the Jersey City Club for your meals; is that right? A. When she was drinking we always went away for our eats.

Q. During the months of January, February and March of this year you weren't at home, were you—of 1919, I mean, the year that this incident occurred—you weren't home in 1919, January, February and March, were you? A. No, sir.

Q. You came home on July 24th, I believe you stated, is that correct? A. I was home for a little vacation.

Q. When? A. April 23d.

Q. How long did you stay? A. Until May 3d.

Q. Did you live with your mother at that time? A. Yes, sir.

Q. Did you ever get any meals at home during that time? A. Yes, sir.

Q. Your mother wasn't under the influence of liquor most of the time, was she? A. Not most of the time; no, sir.

Q. Well, how often was she under the influence of liquor that you couldn't get your meals at home? A. Well, I should say about twice every month she would have one of these rounds.

Q. Was it the same in the months of July and August? A. I wasn't there during July.

Q. You were there the latter part of July, weren't you? A. Six days.

Q. Was it the same during the six days in the latter part of July that you were there? A. Yes, I believe it was.

Q. About two or three times a month? A. I couldn't give any ratio of the time.

Q. How many times during the month of August was she so under the influence of liquor that you couldn't get your meals at home?

THE COURT: That is last August, now?

Q. August, 1919. A. Quite a good many times.

Q. Well, how many times during that month? A. I can't give any number.

Q. You can't tell us about how many times, either? A. No, sir; I couldn't attempt to.

Q. You say that you knew of no way of protecting her on the two occasions when you found these men in the house; you knew of no way in which you could protect her from these men? A. Correct.

Q. You did not try to protect her from these men, did you? A. I had already stated previously that there was no way that I could.

Q. I am not asking you that; I am asking whether you tried to protect her.

MR. LANE: He says he didn't; he has answered that at least five times; if it is worth anything it is in the record.

Q. Is that right, you didn't try to protect her, did you?

MR. LANE: I object to that on the ground that it has been answered. He said he didn't.

Q. Your counsel has answered that question for you; do you think that his answer is correct?

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

THE COURT: I will strike that out. Put the original question.

Q. You didn't try to protect her, did you? A. No.

Q. Then how do you know that there was no way? Why did you say that you knew of no way, if you didn't try? A. It didn't occur to me; no way occurred to me at the time.

Q. You mean to say, in other words, that you had no idea of trying to protect your mother; isn't that what you mean? You had no idea of

trying to protect her, so that you did not know whether you could or not; is that what you mean? A. I mean exactly what I have said in the former answer.

Q. I'm asking you if that isn't what you mean; isn't that what you mean, that you didn't mean to try to protect your mother, whether you could or not, so that is the reason you didn't try; isn't that so?

MR. LANE: That question is objected to as unintelligible.

Q. You mean to have us believe that because you didn't want to protect your mother, you did not try; isn't that what you mean to have us believe? A. Nothing like that was said.

Q. I didn't say you said that; I say you mean to have us believe that you didn't want to protect your mother, therefore you didn't try and knew of no way? Is that right or is it wrong? A. I think it is wrong.

Q. Now, tell us what you mean to have us believe?

MR. LANE: I object to that upon the ground that what he wants us to believe is indicated by his testimony which he has given.

THE COURT: I will overrule that question.

Q. Is that what he said? A. Yes.

Q. You knew of no way in which you could protect your mother, yet you didn't try?

MR. LANE: I object to that as a statement; it is not a question; and if it is a question I object to that.

Q. Is that correct? A. The first part of it is right.

Q. And the second part? A. I don't think it is right, the second part of that.

Q. Then you did try to protect her, did you? A. I didn't try to any extent, no.

Q. But you did try to some extent? A. No.

Q. Then you didn't try at all? A. It is possible.

Q. What is that? A. It is possible.

Q. Now, did you, or did you not, try to help your mother out of that situation at that time, to protect her from these men? Now, you know whether you did or not, don't you? A. Yes, sir.

Q. Well, did you do anything, or didn't you do anything?

MR. LANE: I object to that upon the ground that it calls for a conclusion of the witness. The witness has already told us all that he did and I object to the assumption in counsel's question that there was any need of any protection from these men, as he puts it.

Q. Did you do anything at that time, or did you not do anything at that time? A. I did nothing.

Q. Then you didn't try to protect your mother, did you?

MR. LANE: I object to that.

THE COURT: That question is answered.

Q. When you said before that you might have tried, that isn't so? A. Correct.

Q. This man Levine was in the closet, wasn't he?

MR. LANE: I object to that.

Q. Isn't that the fact? A. Surely.

Q. You might have closed the closet door on him, might you not, when you saw him in there?

Park Alan Grundy—Re-Cross.

MR. LANE: I object to that on the ground that it is incompetent, irrelevant and not proper re-cross examination.

THE COURT: I will take it.

Q. You could have closed the door on him and kept him in the closet if you wanted to, couldn't you? A. I had had it open and was asking him that question and out he went.

Q. But you could have closed him in again, couldn't you? A. Not very well, when he passed the door.

Q. You didn't try to close him in, did you? A. I couldn't.

Q. You didn't try to intercept him from going out of the house in any way at all, did you?

MR. LANE: I object to that; it has already been answered.

THE COURT: I overrule the question.

Q. Now, you say that just as soon as Mrs. Hansen told you about the fire escape the door was opened, is that correct? A. Yes, sir.

Q. It didn't take any time at all, did it? A. No, sir.

Q. Did anybody speak to you from inside that room while you were outside the door? A. Speak to me, from that room?

Q. From the inside, while you were outside. A. I heard no one.

Q. What? A. I heard no question or anything like that come from there, except this low murmur.

Q. But you are sure the door was opened immediately after Mrs. Hansen said something about the fire escape? A. I wouldn't put that immediately; no, sir.

Q. Well, how soon after? A. Well, we will say a minute.

Q. It took all of a minute? A. About that.

Q. You could have walked in the room which Mrs. Hansen came out of and gotten onto this fire escape, could you not, before the door was opened? Couldn't you have gotten into this room through the fire escape which Mrs. Hansen spoke of? A. I could have gotten as far as the fire escape; I couldn't have gotten into the room.

Q. I am not asking you that; I am asking if you couldn't have gotten onto the fire escape that Mrs. Hansen spoke about by going into her room and walking out there? A. Yes, sir.

Q. The door was opened, was it? A. When she came out; yes.

Q. She left the door open when she came out; did she close it behind her? A. She left it open.

Q. You could have gone into that room without any trouble, couldn't you? A. Yes.

Q. Yet, after she had spoken to you about going on the fire escape, you waited a full minute— A. I didn't say a full minute; I said about a minute.

Q. I asked you if it was a full minute and you said yes; didn't you? Didn't you understand the question? A. About a minute was my first statement.

Q. I didn't ask you about your first statement; I asked you if you didn't say a minute ago that it was a full minute? A. Well, let it go at a full minute, then.

Q. You waited a full minute before doing anything, until the door was opened? A. Yes, sir.

Q. Did you ever see any drinking parties at your home? A. Solitary drinking parties.

Q. I mean parties; I don't mean by your mother alone; I don't mean any solitaire. Did you ever

see any parties, men and women there? A. I don't understand you, the word "parties."

Q. Well, tell us what you saw about drinking at your home, outside of the times when you saw your mother drinking all alone? A. That is all I have ever seen there.

Q. You never saw your father drinking in the house? A. He wasn't in the habit of drinking.

Q. I am not asking you that; won't you tell us whether you ever saw him drinking in the house; not whether he was in the habit of drinking?

THE COURT: Whether you ever saw him drinking in the house.

A. Yes, I have; beer only.

Q. Quite often, didn't you? A. Beer only.

Q. Quite often, didn't you? A. No, sir; not quite often.

Q. Do you know Mr. Joseph Perlmutter? A. Yes, sir.

Q. Do you know Mr. and Mrs. Van Cleve? A. Yes, sir.

Q. Do you know Mr. Townsend? A. Yes, sir.

Q. Do you know Mr. and Mrs. Cook, too? A. Yes, sir.

Q. Did you ever see them at your house? A. Yes, sir.

Q. Did you ever see small parties at the house while they were there?

MR. LANE: One moment on that; I don't quite know what you mean by that.

Q. Did you ever see any parties at that time, drinking parties? A. I didn't see any drinking parties; no, sir. I saw card parties; no drinking.

Q. There weren't any drinks served at all at any of them? A. There may have been beer or

something like that, but there was no drinking, not liquor.

Q. Then do you know what I mean. A. If I interpret it correctly; there were no drinking spells in the house.

Q. That is what your idea of parties is? A. Yes, sir.

Q. Now, you say that in any of these parties there was no drinking of liquor? A. I didn't say that.

Q. I thought you said they were drinking beer? A. Beer.

Q. Do you consider beer a liquor? A. Surely I do.

Q. Was there anything else besides beer drunk at these parties? A. I didn't know anything about liquor at the time to speak of; I don't know what kind they had there.

Q. Well, then, how do you know that there was liquor around the house in 1911? A. From the bottles found around the house.

Q. You did know it was liquor in 1911, didn't you? A. I would say that about 1918; any of those before I said I didn't know what kind of drinks they were.

Q. Do you realize that you are under oath here? A. Yes, sir.

MR. LANE: I object to that, if your Honor please. Every witness realizes he is under oath. It is a poor method of intimidating the witness.

THE COURT: I will overrule the question.

Q. But you do know they were drinking liquor in 1918, don't you? A. Yes, sir.

Q. You do know that? A. Yes, sir.

Q. Only you didn't know what kind of liquor

it was; you didn't know the specific kind of liquor it was that was being served? A. Correct.

Q. You knew they were drinking liquor at these parties? A. Yes.

Q. And that happened very often? A. Oh, not in excess.

Q. I didn't say in excess; that happened very often, didn't it?

THE COURT: What parties are you referring to?

MR. HEYMAN: The parties that were held at his house.

THE COURT: You mean with these ladies and gentlemen; is that what you mean?

MR. HEYMAN: Yes.

A. No, it didn't.

Q. How often did it happen? A. I don't know, but it didn't happen often.

Q. It didn't happen often? A. No, sir.

Q. Well, did it happen once a month? A. Possibly every six weeks or every two months.

Q. At these parties your mother would prepare things to eat for the people who came there? A. I believe so.

Q. You would be at home, too? A. Very seldom; I would usually be out; I wouldn't hang around.

Q. But you would come home that night, wouldn't you? A. Surely.

Q. And find your mother there? A. Yes, sir.

Q. And your father? A. Yes, sir.

Q. And talk with them? A. No, sir.

Q. Did you go right to your room? A. Yes, sir.

Q. Were the people at your home when you got there? A. Yes, sir. You mean visitors?

Q. Visitors. A. Were they there at the house?

Q. When you got home. A. Yes, sir.

Q. Did everything seem to be perfectly all right and harmonious? A. I haven't any idea; I always went to my room and went to bed.

Q. Did you hear any noises, any undue noises in the house at that time, on these occasions? A. I am a hard sleeper; I never hear anything.

Q. Before you went to sleep, while you were getting undressed? A. No, sir.

Q. It didn't seem as though there was any trouble between your father and mother or any of the other guests? A. No.

Q. Perfectly respectable parties, weren't they? A. Yes, sir.

Q. When the people left it was just as quiet as before they came; is that right? A. Yes, sir.

Q. Nobody ever mentioned to you that anything wrong had happened at night on these parties, had they? A. No, sir; I never paid any attention to the parties at all.

Q. But you never had any mention of anything to you that anything occurred at any of these parties? A. No, sir.

Q. Did your father ever tell you about any of these parties? A. No, sir.

Q. Did your mother ever tell you about them? A. No, sir.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. In talking about parties, what do you mean by that? A. If I interpreted what he meant, he meant card parties at the house with light lunches afterwards; that is what I make out.

Q. What you have been talking about was with respect to card parties? A. Yes, sir.

Q. With light lunches? A. Yes, sir.

Q. When would these gatherings be; what time of day? A. In the evening, about eight, until 11:30 or 12.

Q. And they would break up about when? A. About 12; 11:30 or 12.

Q. When did those gatherings commence, to your recollection, and when did they end? A. From 8 to 11:30.

Q. I don't mean with respect to that; I mean with respect to dates; what is the first year that you can remember anything of that kind taking place? A. About 1914.

Q. And how long did they last? A. You mean the length of years?

Q. Yes. A. About two years, I believe.

Q. About two years; that would be in 1914, 1915 and 1916? A. About that long; I am a little hazy about the dates.

Q. At any rate, they extended over a period of about two years? A. Yes.

Q. Then they were discontinued? A. Yes, sir.

Q. And there weren't any more? A. No, sir.

Q. It wasn't regularly about once or twice a month? A. It wasn't that many times a month, I don't think it was.

Q. It wasn't that many times a month? A. Maybe about every six weeks, I believe.

Q. Now, do you draw a distinction between the word "beer" and liquor? Do you call beer liquor? A. I call beer liquor.

Q. During any of these so-called parties did you see anything that was hard drinking to your recollection; at those parties, I mean? A. Yes, I may have, but I can't recall what it was.

Q. Well, did you see any excessive drinking at any of those parties? A. No, sir.

Q. When you say you may have seen some hard drinking, what do you mean? A. Why, drinking where the user was laid up for two or three days, something like that.

Q. I don't catch that. A. Where the user would be laid up for two or three days, something like that.

Q. Did you see, at these card parties, any excessive drinking? A. I did not.

Q. Now, what did you observe, with respect to these card parties, with respect to the use of liquor? A. Why, I imagine it wasn't taken excessively; I wasn't present at the parties, but I imagine—

THE COURT: If he wasn't present it can't be of any value.

Q. Do you know who was present at those parties? A. Yes, sir.

Q. Who were the people who made up that crowd? A. Mr. and Mrs. Cook, Mr. and Mrs. Van Cleve, Mr. and Mrs. Grundy.

Q. Who? A. My parents. Mr. and Mrs. Cook, Mr. and Mrs. Van Cleve, and mother and father.

Q. All of them? A. Yes, sir.

Q. That made up those parties? A. They may have had two more at different times; but that was the usual crowd.

Q. Now, there were other names used by Mr. Heyman, to which you answered yes; do you recollect whether any of those who were named actually were at any of these parties? A. May I answer that in a different way?

Q. Yes. A. His question is, "Do you know" and he mentioned certain names there, that is down on the record here, and I answered yes to those names.

Q. When you made that answer you meant that you knew those parties? A. That is the question according to the records here.

Q. Were all of those people that he referred to present at those parties? A. No, sir.

Colloquy.

Q. Was Mrs. Townsend, to your knowledge, ever present at any of these parties? A. No, sir; never.

Hearing adjourned until May 18th, 1920, at 10:30 A. M.

Chancery Chambers, Jersey City, N. J.

Hearing resumed on May 18th, 1920, at 10:30 A. M.

MR. HERSHENSTEIN: If your Honor please, pursuant to the order your Honor made on the first hearing, Mr. Evans is here, he came here from Fort Porter, Buffalo; his furlough expires Friday morning, so he has to return before Friday morning. We want to know if your Honor will hear this man to-morrow or Thursday, under the circumstances. I ask your Honor, in view of the special circumstances, so far as he is concerned, his testimony be taken now, although it is out of place as part of his defense.

MR. HEYMAN: I don't know that I have any objection to that, but I want to place myself in the position that I can object later on, if I have any objection to make. I don't want this to be considered as part of the defense.

THE COURT: Mr. Hershenstein, I understand, wishes to put Mr. Evans on as his witness—witness for the co-respondent, and you have an opportunity to cross-examine him.

MR. HEYMAN: Yes, but I don't want it to be considered as part of the defense of the defendant, Mrs. Grundy; that is the only objection that I care to make.

THE COURT: Do you object to having him sworn out of order?

MR. HEYMAN: No.

THE COURT: Does counsel for the petitioner object?

MR. LANE: I don't object. Do I understand now that counsel for the defendant objects to Mr. Evans being sworn in the defendant's case?

MR. HEYMAN: At this time in the defendant's case. We can produce him at the proper time. It is only at our instance that he is here. The defendant, Mrs. Grundy, produces at this time the defendant Evans. I want that understood, that the defendant, Mrs. Grundy, produces the defendant-co-respondent Evans.

MR. LANE: I understood that the solicitor of the co-respondent Evans produced the co-respondent.

MR. HEYMAN: I want it understood that the defendant, Mrs. Grundy, produced him here.

MR. LANE: Well, the defendant co-respondent Evans is in court?

MR. HEYMAN: Yes.

MR. LANE: Produced at least by the defendant, Mrs. Grundy. The attorney or representative of the defendant Evans, who represents him under the circumstances that is already in evidence in this case, now moves to introduce his testimony out of turn. The defendant objects to the witness Evans being called out of turn, I assume, in order to lay the foundation after the testimony has been in, if he so elects, to ask for a further continuance to again produce the defendant

Evans. Now, I am concerned, not with the co-respondent Evans at all; I am concerned with the defendant, Mrs. Grundy. If Mrs. Grundy now objects to the calling of Mr. Evans out of turn, having produced him here, I think that her objection should be sustained, and she should take her chances of being able to produce him when the time comes.

MR. HEYMAN: Now, if the Court please, I want to make myself perfectly clear. In the first place, I did not make any objection —I make no objection to the introduction of Mr. Evans' testimony at this time, or at any time because he is produced here by the defendant, Mrs. Grundy. I don't want this Court to think that I am trying to take any unfair advantage. I am not blowing hot and blowing cold. I don't want Mr. Evans to be sworn at this time and go away, and then have an argument about calling him again on behalf of Mrs. Grundy. That is as far from my mind as the heavens; I don't like to have anybody say that on the record. What I want to bring out to this Court is this: It may be, after the petitioner has finished his case, if the defendant deems in his opinion that he has not made out a sufficient case, he may decide not to put in any defense. I do not want to have or desire that the testimony of Evans taken at this time as part of the defense, on behalf of Mrs. Grundy; that is all I want to be understood. I don't want this Court to take it that I am at this time entering into my defense. That is the only thing I want understood. I am not making any objections at this time outside of that.

THE COURT: If there is no objection, Mr. Hershenstein may call Mr. Evans.

MR. LANE: In order to make the record straight again, so that our position may be clear, I object to the calling of Mr. Evans at all times, unless it be considered that his testimony is in the case upon behalf of the defendant and upon behalf of the co-respondent, so that the defendant may not hereafter again seek to put his testimony in.

MR. HEYMAN: I decline to consent to such objection.

THE COURT: Proceed with the petitioner's case.

CECILE V. MULACK, sworn:

DIRECT EXAMINATION BY MR. LANE:

Q. Mrs. Mulack, where do you live? A. Elmhurst, Long Island.

Q. Do you know Mrs. Grundy? A. I do.

Q. How long have you known her? A. About six or seven years.

Q. How did you become acquainted with her? A. I was introduced to Mrs. Grundy and Mr. Grundy by a mutual friend.

Q. Where were they living at that time. A. In New York City.

Q. Do you remember where? A. Yes, it was in the Azalia, 170th Street and Broadway—not Broadway; at 170th Street and that block west of Broadway.

Q. West End Avenue? A. No, up there on the heights; 170th Street and Fort Washington Avenue.

Q. How well did you become acquainted with

Mrs. Grundy between then and now? A. Between then and now?

Q. Yes. A. Very well indeed.

Q. When did you first become well acquainted with her? A. About 1915.

Q. How did you become well acquainted with her at that time; what happened? A. Well, at that time I visited them and spent a week-end with them when they were moving to Jersey, in 1915 or 1916; just around that time they moved to Jersey, and I spent a week-end with them; that was the first.

Q. Then did your acquaintance increase? A. It did.

Q. How did it increase; what happened? A. Well—

Q. Generally, now. A. Generally, I spent quite a little time with them, several week-ends; my husband traveled and was away a lot, so I was in a position to be with them and visit them quite a while, and after a while she called upon me to help her, she was ill, and when I came I found the illness consisted of—

MR. HEYMAN: I object, if your Honor please, to any testimony of what occurred in 1915.

THE WITNESS: In 1916 and 1917.

MR. HEYMAN: Or 1916 or 1917; on the ground that there is nothing in the petition alleging any acts of misconduct on the part of this defendant in 1915, 1916, or 1917.

THE COURT: I don't know what this is at all.

MR. LANE: We intend to show a continuous course of conduct, which indicates the

condition in which the petitioner lived, showing her general character.

THE COURT: What she has testified to was the condition she found her in and what was the cause of the condition, of the illness.

MR. LANE: It is to show a course of conduct on the part of the defendant that indicates a condition on her part under which she would be likely to commit the offenses charged. As I understand this case we are entitled to show the whole family life; we are entitled to show the thing from beginning to end.

MR. HEYMAN: If your Honor please, I think it must be shown that the relationship, or that the conduct which was sought to be brought out must bear such relationship to the defendant as to be relevant.

THE COURT: Mr. Heyman, there is nothing in the question and there is nothing in the answer so far which indicates what it is. I will take it and let you reserve your right to move to strike it out. I don't know what it is yet.

MR. HEYMAN: Your Honor, I want to say this: I don't think that any conduct except adultery can be shown in this case. I don't think that the condition of drunkenness is such a condition as will entitle this petitioner to a divorce.

MR. LANE: We are not insisting on that. If your Honor please, it is perfectly apparent that a woman who is an ordinary woman, living happily with her husband, without having any relations with other men, and found in such a situation where another man is present, the inference is quite differ-

ent than if the woman is someone who has had relations with other men, who has been going out continuously and persistently and who is indulging in a course of conduct which indicates that she is not a woman to be trusted. In one case the inference is one way and in the other case the inference is the other.

THE COURT: There is nothing in the question which indicates what it is to be; I want to have Mr. Heyman reserve his right to strike it out when I find out what it is. I don't know now. Proceed with your testimony.

Q. (Last question repeated.) A. Yes, it was; she was in a terrible state of drunkenness.

MR. HEYMAN: I can't hear what she says.

A. She was in bed, drunk.

MR. HEYMAN: Now, if your Honor please, I move to strike that out.

THE COURT: I will reserve that motion, reserve decision on it. You shall have your right; I want to preserve your rights.

Q. When was it that you first observed any addiction of Mrs. Grundy to drink?

MR. HEYMAN: Now, if the Court please, I submit that this is not a proper line of testimony. I offer this objection at this time that any testimony about the offense of drunkenness is absolutely not relevant, not material and not competent in this case; that this petition is founded upon adultery; two specific acts, and the general allegations during the months of June, July and August,

in the year 1919; and I submit that any testimony regarding drunkenness on the part of this defendant at any time prior to that is absolutely irrelevant, immaterial and incompetent.

THE COURT: I will take it for the present.

Q. Do you know just exactly what date? A. I know. I have the specific date, that was around July 4th, 1916, and I spent all of July with Mrs. Grundy after that, however.

Q. Where? A. Two weeks in her home, taking care of her during this spell, and two weeks subsequently when Mr. Grundy sent her to Blue Point to recover; that was all the month of July I spent with Mrs. Grundy, of 1916.

Q. Now, was that the first time that you had observed any addiction on her part to drink? A. Excessively?

Q. Yes. A. Yes, sir.

Q. What did you observe? A. How she drank, you mean?

Q. Yes; just describe what you found there, what was her condition? A. She was just drinking and drinking and drinking continuously; she was dead to anything else.

Q. Well, how much would she drink? A. Oh, I have seen her drink a whole quart of whiskey in a day.

Q. What condition would that put her in? A. Oh, most horrible.

Q. The word "horrible" doesn't mean much on paper. A. It was loathsome to me. Put it that way.

Q. What is that? A. A loathsome condition.

Q. Well, how? A. Well, she wouldn't be dressed, she wouldn't wash, she wouldn't comb,

and she would show it; she would drink, she would be in a—well, impossible state; I would get her a broth to feed her and she would not eat it at all.

Q. How long did that keep up? A. That time, I think about a week, or just a little over, perhaps ten days.

Q. Now, did you take her down with you after that to Blue Point, Long Island? A. I did.

Q. At your home? A. No, no; that was at the hotel there at the seashore.

Q. How long did you stay there with her? A. I stayed with her two weeks and I left her there.

Q. What did she do there? A. Well, do you mean her appearance? I have found when she was through with that spell that was all, she would not drink at all for some time.

Q. You found— A. If she was through with this spell she would not touch drink for another period, I don't just know how long she wouldn't touch it.

Q. What was her course of conduct at Blue Point during those two weeks?

THE COURT: Before you go into that; Mr. Heyman, do you wish to move to strike this out, all that has followed?

MR. HEYMAN: Yes, sir; I understand, if your Honor please, this is all over my objection, if this is the proper time to move to strike out all of this testimony as having absolutely no bearing on the case at all.

THE COURT: I will take your motion so that you may have whatever benefit there is in it.

Q. What was her course of conduct; what did she do when she was at BluePoint? A. Well, nothing; we would go out to the seashore, we sat on the beach and we would bathe and we would take motor trips.

Q. Did she at this time meet a man named Clark, or was that afterwards? A. No, sir; not at that time.

Q. Then she went home, did she? A. Only I went home.

Q. When did you next come in contact with Mrs. Grundy? A. It was, I couldn't tell the date, any special time, but I know it was December, 1918.

Q. Now, did you see her off and on between 1916 and 1918? A. I did.

Q. During the time between 1916 and 1918 when you saw her off and on, did you at any time observe any indication of addiction to drink? A. Of course.

Q. What is that? A. Yes, I did.

Q. What did you observe?

MR. HEYMAN: If your Honor please, this is all over my objection. It is understood that I raise the same objection, if your Honor please.

THE COURT: All over your objection.

A. Pardon me, your Honor, may I look up a date that I have in my diary?

THE COURT: What is it in?

A. In a diary; I keep a little diary, I have the date, when I spent Christmas—

Q. You want to refresh your recollection as to the date by some written paper? A. I do.

Q. Did you make it? A. Yes, I did.

Q. About what time? A. It was around Christmas, I think, in 1917.

Q. Did you make your diary entry about the time of its happening? A. Oh, yes; indeed.

Q. You may look at it. A. (Referring to diary.) It was 1917, not 1918.

Q. That was the next time you know anything specific? A. Exactly.

Q. Between 1916 and 1917 did you visit back and forth? A. Every once in a while.

Q. She would come to your house in New York? A. Very seldom; in fact, she never did, except with Mr. Grundy.

Q. But you went to her house in Jersey? A. Yes.

Q. What did you observe at that time with respect to anything indicating addiction to drink?

MR. HEYMAN: I object to that, if the Court please, on the same grounds.

THE COURT: I will take it.

A. That was just the same thing; every once in a while she was in that same state, the same state she was in in July, 1916, in the drinking state; she had that periodically.

Q. Now, in December, 1917, what, if anything, happened? A. At that time, it was before the Christmas holidays, she called me up that I must come over to see her, she was ill and she wanted me to take care of her, which I did, and I spent Christmas with her. I wanted her son to have Christmas dinner at home—

MR. HEYMAN: I object to that, if the Court please.

THE COURT: That goes out.

Q. Did you tell Mrs. Grundy that you wanted to have her son take Christmas dinner at home? A. I did.

Q. Tell us what happened? A. So I came and cooked their dinner for Christmas, she was in the same state of drunkenness, in bed, undressed, not washed, not fed.

Q. How do you know she had been drinking? A. Because I could see her drinking?

Q. What? A. She would hide it from me.

Q. You didn't see her take it? A. I did.

Q. Where did she keep it, do you know? A. Yes, she would have a hat box underneath the bed and she would keep the bottle in that and a little glass.

Q. How often have you seen that hat box underneath the bed with the bottle in it? A. The hat box was, I think it was always underneath the bed.

Q. Did she keep her liquor anywhere else, do you know?

MR. HEYMAN: If the Court please, I object to all this testimony. I want it understood that this is all over my objection.

THE COURT: I am not taking this under that objection now. If you make an objection now I will rule on it.

MR. HEYMAN: I have an objection to every question, I thought possibly I could eliminate that.

THE COURT: I will take it.

MR. HEYMAN: I object to the question on the same grounds as before.

THE COURT: I will take it.

A. Yes, she would keep the beer in the wash tubs.

Q. What kind of liquor was it under the bed?

MR. HEYMAN: I object to that, if the Court please, on the same grounds.

THE COURT: I will take it.

A. Different kinds at different times.

Q. Well, what kinds have you seen there?

MR. HEYMAN: I object to that, if the Court please, on the same grounds.

THE COURT: I will take it.

A. Sometimes it was whiskey; sometimes it was gin.

Q. Hard liquor? A. Sometimes rum.

Q. Well, hard liquor? A. Yes, hard.

Q. Well, how long did you stay there that Christmas holiday?

MR. HEYMAN: I object to that, if the Court please, on the ground that it is too remote.

THE COURT: Do the questions that follow all relate to the same subject matter?

MR. LANE: All relating to the same subject matter.

THE COURT: Then I will take a general objection from Mr. Heyman to all of this line of testimony to have the same effect as though made to each question and answer.

MR. HEYMAN: May I ask your Honor to note that my objection shall relate to all the testimony regarding liquor and drunkenness prior to this particular question; because it was my understanding that you were taking this subject to my objection?

MR. LANE: With the Court's approval, if your Honor please, I am perfectly willing to stipulate that it should be considered as a

general objection to every question asked of this witness.

THE COURT: That is entirely agreeable. I was going to entertain a motion to strike out; you should have the benefit of it; I will take it then. I want to have you make that motion later.

A. I went home that night, Christmas night.

Q. Now, when was the next time that you recollect anything of importance? A. Of importance; there was in September, 1919, when she called me up to come and take care of her, that she was ill, and "ill" meant the same condition.

Q. That was after the divorce petition was filed? That is when she went to live with you, is it? A. Just before, just before she moved out of the place she kept.

Q. Between December, 1917, and September, 1919, did she go down to Blue Point, Long Island? A. Not with me; but she did go, I know.

Q. How do you know? A. Because I received postals from her, cards telling me she was there spending the Summer.

Q. When was that? A. The following year, that is 1916, 1917 and 1918.

Q. Do you know a man named Clark? A. Clark, I have heard of that.

Q. From whom? A. From the people at Blue Point; they pointed him out to me.

Q. Well, do you know anything about that, from any information that you received from Mrs. Grundy? A. Only that she told me that she met him after I left her that summer and that she went out and had a very good time with him, they went around together quite a lot.

Q. That is all she said with respect to him?

A. Well, that she was on his boat, and she was out there stranded and was out a good part of the night, that they were out together quite a lot; I couldn't say anything specific; that is what I understood, they were good friends, they were chummy friends, he gave her a very good time during that Summer.

Q. When did she say that to you? A. When did she tell me that—

MR. HEYMAN: I don't know whether your Honor is considering this under my objection.

THE COURT: This is a different line, rather.

MR. HEYMAN: I want to object, if your Honor please, to any testimony relating to anything which happened in 1918.

THE COURT: This testimony, I understood, was in September, 1919, and the statement that she is making, as I understand it, is a recital of what Mrs. Grundy told her.

MR. HEYMAN: That occurred in September, 1919.

THE COURT: Yes.

MR. HEYMAN: I will withdraw my objection.

MR. LANE: The Court is mistaken.

Q. When did Mrs. Grundy tell you this about this man Clark? A. In that December, 1918, she told me about this man Clark.

Q. In that December, 1918? A. Exactly.

Q. That was something which had occurred during the holidays in 1918, during the Summer of 1918? A. And 1917.

Q. And 1917? A. Yes.

BY THE COURT:

Q. Not 1919, then? A. No.

Q. I thought you meant something which you said occurred in September, 1919. A. I did mention something.

THE COURT: That is what I understood the testimony to relate to.

MR. LANE: I want to get the earliest date. I will withdraw the question that affects 1919.

Q. Is that all she told you with respect to Clark?

MR. HEYMAN: If the Court please, I ask that all this be stricken out because it relates to 1917 and 1918, and there is absolutely nothing in the petition alleging any misconduct on that time.

THE COURT: I think I shall entertain your motion, in view of what has taken place. I will deny it.

Q. Have you told us now everything she said with respect to Clark? A. I told you all I remember.

Q. Now, you remember an occasion shortly before Christmas of 1917 or 1918, do you not, having reference to a telephone? A. Yes, sir.

Q. Did you have a telephone conversation with somebody just before Christmas? A. I did.

Q. Did you afterwards report that conversation to Mrs. Grundy? A. I did, yes.

Q. During the Christmas holidays when you were there? A. Yes.

Q. What did you tell Mrs. Grundy and what did Mrs. Grundy say to you?

MR. HEYMAN: I object to that, unless it is established that this witness knew from whom

that telephone conversation came.

THE COURT: I will take it.

A. Shall I tell you what I said to Mrs. Grundy, or the occurrence?

Q. Yes. A. I came over to Mrs. Grundy, she was in that state of drunkenness, and I told her, I said, "A man called Charley called me up and asked me wouldn't I use my good offices with you in his favor, he said he was in love with you and wanted to marry you if you would only consent to it," and she said, "Oh, Charley said that," that is all; she wasn't in a state to tell me anything, nor could I discuss anything with her.

Q. Now, a couple of days after that did you have a conversation with her about that subject, or some time afterwards? A. I will tell you what led up to it; during the day she would receive flowers, she said, "That is from Charley," then she showed me a wide envelope, and that was that same day.

Q. That same day? A. Just about the same day. The same period.

MR. HEYMAN: I make the same objection.

Q. During the Christmas holidays? A. I believe it was two or three days before Christmas when all this happened; she said, "This is Liberty bonds that Charley had given me, two hundred dollar Liberty bonds," she said, "You know he must love me to do that for me." Then the night of Christmas Eve I spent with them, over at Mrs. Grundy's, there was a message delivered about two or three o'clock in the morning; she said, "That is from Charley"; I don't know whether it was a telephone, telegram or a letter, it was something that she said was from Charley.

Q. During the time that you were there dur-

ing the Christmas holidays, or at other times during that period, generally, did the telephone ring very often? A. It did.

Q. Would you go to it and answer it? A. Sometimes, when she was unable to.

Q. How many times have you answered it yourself? A. I couldn't say how many times.

Q. Well, a number of times? A. Well, yes, several times.

Q. Now, when you answered it would there be a man's voice or a woman's voice on the telephone? A. Sometimes a woman, sometimes a man.

Q. Were there occasions when there were men's voices on the wire? A. A great many occasions.

Q. Who would they ask for? A. Mrs. Grundy.

Q. Then what would you do? A. I would tell her to go to the telephone.

Q. And would she go to the phone? A. She would.

Q. And talk with them? A. She did.

Q. Did you hear any of these conversations? A. Yes, I overheard, I could hear the man's voice, because the phone would be in such a way that you could hear a man on the other side and I could hear her part of the conversation, of course.

Q. Do you recollect now what was this conversation, or any of them, about? A. Well, yes, they nearly all related to going out somewhere, going to dinner, some date or some engagement, some such thing.

Q. Can you recollect any one of them specifically so that you can tell us about what was said? A. I am afraid not.

Q. After one of these telephone messages did she ever leave the house and go out?

MR. HEYMAN: Will you fix the time?

MR. LANE: Fixing the time, as nearly as you can recollect it.

A. I couldn't tell the date, but I remember on one occasion when I visited her, she did go out after a telephone conversation.

Q. How long after the telephone conversation? A. I could not say.

Q. What did she say when she went out? A. That she would be back in time for dinner.

Q. How long did she stay out on those occasions? A. She was, I think, out practically all of the afternoon.

Q. Do you know, from anything that was said in the conversation over the telephone, or by Mrs. Grundy after the telephone conversation, whether it was as a result of that conversation that she went out? A. Well, I couldn't say exactly that from what she said, but I know she would go out.

Q. How did you know that? A. I couldn't say —well, she said she had an engagement with a gentleman.

THE COURT: What?

A. She said she had an engagement with a gentleman that she wanted to keep.

Q. Did that happen more than once? A. Well, in that way, it was just that once that I recall she left me there in her home and she went out to keep an engagement.

Q. Did you hear, over the telephone, any appointments made between Mrs. Grundy and any man? A. That one; I couldn't specifically say, no.

Q. Did Mrs. Grundy tell you, or did you gather from the telephone conversation, who that man was?

MR. HEYMAN: I object to any inferences or any conclusions.

A. I did not.

MR. HEYMAN: I object to any such line of questions.

THE COURT: I will take that question.

Q. Did you, at the time when Mrs. Grundy had the conversation over the phone under these circumstances, hear from anything that Mrs. Grundy said, who the man was?

MR. HEYMAN: I object to that, if the Court please, on the ground that it is leading.

THE COURT: I will take it.

A. I did not.

MR. HEYMAN: I will withdraw my objection.

Q. Did you know what Charley's last name was? A. No, sir.

Q. Did you know where he lived? A. No, sir; only that he would go to Washington very often.

Q. How did you know that he went to Washington very often? A. From what Mrs. Grundy told me.

Q. What did Mrs. Grundy tell you about this Charley? A. That he thought an awful lot of her and he was very kind to her, and that he loved her, he gave her those presents, and that he was going to Washington, back and forth for week-ends, or every week, he was connected in Washington, I don't know how.

Q. Did she say he was connected with one of the Government departments? A. She did not.

Q. Did she tell you anything about his making presents to her, other than these Liberty bonds?

MR. HEYMAN: I object to that on the ground that it is leading. I think the witness should be permitted to state what the conversation was and nothing else.

A. No, sir.

THE COURT: I will take the question.

Q. (Last question repeated.) A. No, sir; I can't recollect.

Q. You don't recollect anything about that? A. No, sir.

Q. Do you know anything about a silk sweater? A. No, sir.

Q. Now, do you remember whether Mrs. Grundy said anything the following Summer after you had this telephone call to your house which you reported to her on Christmas, with respect to this man who had telephoned? A. Yes, after December, 1917; that was 1918.

Q. Yes. A. In the Summer?

Q. Yes. A. Her son drove us down to Blue Point for a day's outing and I said, "Well, what became of Charley?" and she said, "I wouldn't consider marrying a man with children."

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

Q. In 1917 do you know anything with respect to Mrs. Grundy's association with him? A. I do.

Q. What? A. That she became very friendly with Clyde.

Q. How do you know that? A. From something she told me, from what she said herself, and then what people said that knew her.

Q. Well, now, did you meet them out together, or see them out together? A. I did not.

Q. Did you ever meet Clyde? A. Yes, I did.

Q. How did you come to meet him?

MR. HEYMAN: I object to that, if the Court please.

THE COURT: I will take it.

A. Why, we used to dine at a little French restaurant, and Clyde and Mrs. Clyde were the patrons, we always used to dine together for several years.

Q. What was the name of that restaurant?

BY THE COURT:

Q. Who dined together? A. Mr. Mulack, myself and the Clydes.

BY MR. LANE:

Q. What was the name of that restaurant? A. It was called the Petit Pourri.

Q. On what street? A. 29th Street; West 29th Street.

Q. New York? A. Yes.

Q. Mr. Clyde was married? A. He was.

Q. Now, what did Mrs. Grundy tell you about Clyde? A. That he called her up continuously, that he invited her out to lunches and dinners, that one day he came to the house and she was frightened to death.

Q. She was frightened to death? A. For fear that Mr. Grundy would see him.

Q. What did she say about that; just tell us as nearly as you can what she said about this? A. She said Clyde wouldn't leave her alone, that he would call up and want her to go out with him, and she said one day he even came to the house—

Q. Came to the house? A. Came to her house in Jersey City.

Q. What did she say about Mr. Grundy? A. That she was afraid that Mr. Grundy would see him.

Q. Do you know of any occasions when Mrs. Grundy called up Clyde at the restaurant? A. Well, I can't answer that directly.

Q. Well, answer it the best you can. A. Well, I came to dine there one time after Mrs. Grundy and he would go there several times, two or three, and I determined—

MR. HEYMAN: I object to that, if the Court please.

THE COURT: I can't take that.

Q. I don't want anything, Mrs. Mulack, with respect to what anyone else told you. A. That is how I know.

Q. Did you ever talk about that to Mrs. Grundy afterwards? A. About this incident?

Q. Yes. A. Yes; I told her that the people believed that she was calling him up at that restaurant.

Q. What did Mrs. Grundy say? A. Oh, she said, "Don't you believe it."

Q. She said what? A. "Don't you believe it."

Q. Did Mrs. Grundy ever call up Clyde at the restaurant while you were there? A. No, sir.

Q. Did Mrs. Grundy ever tell you about calling him up at the restaurant? A. No, she never told me a thing about it.

Q. Did she ever tell you what she thought of Clyde? A. No, we didn't discuss it.

Q. Did I understand you to say that you have never seen Mrs. Grundy in company with Clyde? A. I did not; I never saw them together.

Q. Now, did you have any conversation with Mrs. Grundy—or rather communication with

Mrs. Grundy—before the separation of the Grundys in September, 1919? A. In September?

Q. Yes. A. About the middle of September she called me up to come to see her, that she was ill again; shall I tell you the whole details?

Q. Yes.

THE COURT: September, 1919, this is?

A. Yes, sir; and I came there, I couldn't get in, I couldn't get in the house, so I went downstairs and saw the janitress and I said, "Why, Mrs. Grundy called me up"—

MR. HEYMAN: I object to that.

THE COURT: Never mind that.

A. And that she must be still here; she said—

THE COURT: Not what the janitress said.

A. I said I wanted to get in the apartment, Mrs. Grundy called me up, I wonder if she is ill—

Q. I know; not what you said to the janitress or what the janitress said to you. Did you finally get in? A. That is how I got in.

Q. How did you get in? A. Because the janitress opened the door with a passkey for me.

Q. Had you been knocking at the door? A. I did; I rang downstairs, I had to ring some bell to get in the hall, and I came upstairs and rang and rang, I couldn't get in, and I went downstairs.

Q. You finally got in with the passkey? A. Yes, sir.

Q. What did you find? A. Mrs. Grundy in bed.

Q. What did you find? A. Mrs. Grundy in bed.

Q. What was she doing in bed? A. Drunk, of course.

Q. What took place when you got in there; what did she say and what did you say? A. I shook her and finally woke her up, and I said, "How are you feeling?" She says, "Not well." I said, "Have you eaten anything?" She said, "No." "Well," I said, "dont you want something to drink, some clam broth?" She said, "Yes." So I went and gave her—she gave me a dollar bill and I went out and bought some clams, came back, and made the broth; she was asleep, she wouldn't take the broth, and I stayed there as long as I could, because I had to go home, so I left her.

By The Court:

Q. Was this in the apartment in Jersey City? A. In the apartment, yes.

Q. Was there a maid there? A. Not while I was there.

Q. Didn't Mrs. Grundy have a maid? A. It seems she had a maid up until then, but she was recovering, I believe, and the maid wasn't there; the maid had gone.

Q. The maid had gone? A. Yes, sir.

Q. Had you been there at the time when there was a maid? A. No, never.

Q. You were never there when there was a maid there? A. No.

By Mr. Lane:

Q. Was there a cook or anybody? A. She used to call up her friends, and they would come; some of her friends would come.

Q. I mean in the kitchen? A. No, sir.

Q. I mean in the kitchen or dining room? A. No, sir.

Q. No cook or maid of any sort? A. No, sir.

By The Court:

Q. You mean she was entirely alone in the apartment? A. She was alone, yes.

Q. Not anybody in any part of the apartment? A. Well, ordinarily—

Q. The apartment was occupied, I mean? A. She would have a woman come in and clean every once in a while.

Q. Who got the meals? A. When she was in that state?

Q. No, when she was in any state living in that apartment? A. She got the meals, of course, herself.

Q. She and her husband were living there, and she got the meals? A. She did.

Q. Without a cook and without a maid? A. Yes.

By Mr. Heyman:

Q. Do I understand you to say she got the meals? A. Yes, sir; she did, but not when she was drinking.

The Court: I wanted to get something about the household conditions. I didn't know about that.

By Mr. Lane:

Q. How long did you stay there that day? A. I was there, I think, until about 5:30.

Q. Then after that did you have any further communications with her, in September? A. Yes, sir; then she called up again that she was packing and going to move, couldn't I come to help her, which I did; I spent a whole day there packing and helping her to pack.

Q. Where did she move to? A. Well, it seems

they had no place to move to, they had given up the apartment.

Q. Where did she finally move to? A. She went to my home.

Q. How long did she stay in your home? A. Three weeks.

Q. During the time that she was in your home what did she do with respect to drink? A. After a week or so she would go away to Jersey or New York, visiting, and she came back several times under the influence of drink.

Q. Did you have liquor in your house? A. I did.

Q. Did you observe anything with respect to that liquor? A. Yes, sir.

Q. What? A. Well, the day before she left, it was the 18th of September—or October—

Q. October? A. October; yes, sir; why we were —shall I go into details?

Q. Yes. A. We spent the morning very happily together, she was perfectly all right; I went out to the library to get a book and when I came back she was drunk; I couldn't understand where she had gotten anything, unless she went to my sideboard, which was locked, and helped herself, which I found that she had done.

Q. How did you find out that she had done that? A. Because my husband had charge of this whole thing, and he saw that she had taken this bottle, which was gin, at the time she drank the gin she filled the rest of the bottle up with water.

Q. How did she come to leave your house?

THE COURT: One moment; did she see anything about this, or is this what some body else told her, about this taking the gin?

THE WITNESS: My husband knew it; he said it.

Q. He told you? A. He said why she drank up the gin and filled up the bottle with water.

THE COURT: I will strike that out.

Q. Did you see the water? A. I did; I saw the gin mixed with the water.

Q. Did you look at it sufficiently to know that it wasn't pure gin that was left in the bottle? A. Well, she had poured some in another bottle, that she had taken.

THE COURT: I will strike that out.

Q. How did you know that? A. Because I saw it there.

Q. Saw what? A. What the trouble was.

Q. You didn't see her do it? A. No, I didn't see her do it; it was among her effects.

THE COURT: I will strike that out.

MR. LANE: Over my objection.

Q. Where was the bottle? A. Which bottle, the one she had taken it from, or the one she had taken.

Q. The one that you found? A. In her dress suit case, in her bag.

Q. In her dress suit case? A. Yes.

Q. A bottle of gin? A. It was a small gill bottle that she filled up with gin and water.

Q. How did you get to find it in her dress suit case? A. Well, I will have to tell all about that, if you want.

Q. What? A. I mean I can't answer that directly, how I came to open her bag and unpack her things.

Q. How was the bag packed; when was the bag packed? A. Well, I am afraid I will have to go into details about that.

Q. Is this what resulted in her leaving, indirectly or directly?

MR. HEYMAN: If the Court please, I want to object to all this testimony. I don't see how it is at all relevant to this issue. In the first place this occurred long after the adultery charge in this matter; secondly, it has nothing whatsoever to do with the adultery; I don't see how it is material or relevant or competent or anything else.

THE COURT: It seems to me that it has very slight materiality; this incident, I mean.

MR. LANE: I cannot, if your Honor please, ask everything in one question. I know what the result of this is going to be, and the Court and counsel know what the result of this is going to be. Of course every question must be linked up with something else.

THE COURT: What is the question?

Q. Tell us what happened with respect to this incident on Sunday? A. On Sunday morning, the day she left—

MR. HEYMAN: I object to this, if the Court please, on the ground that it has nothing to do with the charge of adultery, and that it is without the time charged in the petition.

THE COURT: I will take it and give you leave to make a motion to strike out after I have heard the answer.

A. Sunday morning, coming from church, after I left her she promised that she was going to lie down and take a nap, and coming back across the way I saw walking down the street, she was walking from side to side going towards the subway; I came over and I said, "Ida, what are

you doing? Where are you going?" She said, "I am going to New York." I said, "Why do you leave me in that way?" She said, "I am going to New York." She said, "I want to go to New York." I said, "Come back and I will get a taxi for you so that you can go in, you can't carry that bag, you will be arrested before you get to New York; you look as though you are drunk."

By The Court:

Q. Where was this? A. In my home, in Elmhurst.

Q. Where is that, Long Island? A. Long Island.

By Mr. Lane:

Q. Go ahead. A. At my persuasion she came back with me and waited; I had some trouble carrying her bag, it was so heavy that we couldn't lift the bag; I went upstairs and I said, "Please stay, you are not fit to go into town, you are not fit to leave my house today." I unpacked her things, and in unpacking her things I found this bottle among the things; she said, she must go in town, she must go; then there was telephoning; a man called up and wanted to speak to her and I heard her say, "I was stopped, I couldn't go, I was stopped"; and she said, "Yes, all right, I will be there." I said, "Well, must you go into town?" and she said, "Yes, I must go into town, I am going in"; then I had to telephone for a taxicab and we packed her things again and she left my home, and the next day was Monday, she called up and she said she couldn't find a place to go, she couldn't find any room, would I not take her back; I said I was sorry you outraged our hospitality, I have done everything I could for you, I am quite through,

I could do no more, you can't come back in my home any more; I said, "The man who took care of you last night can do it for you now," that was the last I saw of her.

Q. What did she say when you said that? A. "All right," and she hung up the receiver.

Q. What time was it when she telephoned? A. I couldn't tell you the time, I don't know, it must have been before noon.

Q. In the forenoon? A. I think so.

Q. Do you know what time it was that she made the appointment or where it was that this appointment to meet this man was made? A. She told me to tell the taxi driver that she wanted to go to the Grand Central.

Q. Did she tell you what time it was? A. At six o'clock.

Q. Did she say who this man was? A. No, sir.

Q. Did he say who he was when he called up over the telephone? A. Yes, he said—I said, "Who is it?" and he said, "Well, this is her lawyer."

Q. Do you know anything about Mrs. Grundy's carrying on correspondence with anybody connected with the War Department? A. No, I do not.

Q. Did you ever hear Mrs. Grundy make any threats toward her husband? A. I did.

Q. When? A. Oh, frequently.

Q. Covering what space of time? A. About five years, I should judge.

Q. What threats would she make?

MR. HEYMAN: I object to that, if the Court please.

THE COURT: I will take it.

A. That she would get him.

Q. What else did she say to you; that she would get him how? A. Well, to the effect that no woman would ever—

MR. HEYMAN: I object to anything to the effect.

THE COURT: That is right; what was said.

A. That no woman would ever get him away from her, that she would get him.

Q. Did she ever say anything about shooting?

MR. HEYMAN: I object to that on the ground that it is leading. I don't think it is fair; I think this witness is intelligent enough to testify for herself without being assisted by counsel.

Q. Have you testified now to everything that you can recollect as to what she said, Mrs. Mulack? A. Yes; you are right; she did say that she would get him, that she would shoot him; that was the expression she used.

Q. How many times did she say that? A. I couldn't tell you.

Q. More than once? A. Oh, yes.

Q. Did she say anything about her son Park? A. Why, with reference to what?

Q. Did she include Park in those threats? A. Only this, she would not leave Park a cent of her money if she died.

Q. When she died? A. That she would never leave a cent to Park, that Park would never get a cent of her money.

Q. Do you know a man named Keller, or Heller? A. No, except that man Charley, I understood his name was Keller; I never knew him as Keller, but I understand that was his name.

Q. Did you get that understanding from Mrs. Grundy or not?

MR. HEYMAN: I object to that, if your Honor please, what understanding she got.

THE COURT: I will take it for the present.

Q. Did you get that understanding from Mrs. Grundy, or not?

MR. HEYMAN: I object to that understanding or any conclusions, if your Honor please, that this witness might have drawn from any conversations.

THE COURT: She ought to tell what Mrs. Grundy said.

A. If I found out aside from any conversation; no, I did not.

MR. LANE: I consent to striking it out.

THE COURT: That and the two previous answers will go out.

MR. LANE: With respect to Charley being Heller or Keller.

THE COURT: That will go out.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Were you here on May 3d, 1919? A. Was I here at the last hearing; yes, I was.

Q. Do you know Harry Thorling? A. I do.

Q. Or Frank Thorling? A. Frank, I do.

Q. The gentleman who testified here; you know that gentleman? A. I do; indeed.

Q. Do you know a Mr. and Mrs. Harry Owen, or Owens, that had a divorce case, the Owens? A. I don't know a thing about that; I heard about them.

Q. You know that they had a divorce case, don't you? A. Yes, I know.

Q. You know that Thorling was in that case, too?

MR. LANE: I object to that on the ground, first it is not proper cross-examination; second, it is immaterial, irrelevant and incompetent.

MR. HEYMAN: If your Honor please, I think I can show the connection between these parties and Mr. Thorling. I think—if I am permitted to show it—that it is perfectly proper cross-examination, as to this woman's credibility.

THE COURT: It does not seem to me to be proper cross-examination at this time, Mr. Heyman. You will connect it up?

MR. HEYMAN: I hope to be able to connect it up.

THE COURT: I think I will strike it out for the time being.

Q. Now, you say that Mrs. Grundy threatened her husband during the last five years, that she would get him, she would shoot him, that no other woman would ever get him away from her; is that right? A. I said that.

Q. They had frequent quarrels together, didn't they? A. I never saw them quarrel once; not once.

Q. Oh, I see; she would simply walk in to him and say, "I will get you, I will shoot you"?

MR. LANE: I object to that on the ground that it is a misconception of the testimony and putting words into the witness' mouth.

MR. HEYMAN: I think I should be permitted to cross-examine this witness in my own way without any interruption. I think the

objection is being made to harrass me in my cross-examination.

MR. LANE: Every time counsel puts a misconception upon the testimony I am going to object. This witness has not testified that she ever heard Mrs. Grundy threaten her husband to his face.

MR. HEYMAN: I will withdraw the question.

Q. Did you tell this Court that you heard Mrs. Grundy threaten Mr. Grundy? A. I didn't say to his face; to me personally.

Q. Oh.

MR. LANE: I object to the manner in which counsel is criticizing the witness. That is what her testimony is, and his manner is entirely uncalled for.

THE COURT: There wasn't anything in his language.

MR. HEYMAN: If your Honor please, I will ask this Court, Did your Honor understand this witness to testify that the defendant threatened her husband?

THE COURT: She undoubtedly said she made threats against Mr. Grundy; that is her testimony.

MR. HEYMAN: I ask your Honor, Is my question out of place? If it is, I don't want to ask it.

THE COURT: I don't understand the objection to be to your question at all, but to the comment which you made after the answer came in.

Q. You never heard Mrs. Grundy threaten Mr. Grundy, did you? A. He, personally, to his face?

Q. You never heard Mrs. Grundy threaten Mr. Grundy? A. You mean to him?

Q. Can't you answer that question?

MR. LANE: No, she can't.

A. I don't understand your question.

THE COURT: I will take her answer.

Q. Did you ever hear Mrs. Grundy threaten Mr. Grundy? A. I did not.

Q. She told you that she would not permit any other woman to get him, is that what you mean to say? A. I do.

Q. And that is what you call a threat, is it? A. No.

Q. Well, what do you call a threat? A. What I said; she said that she would shoot him.

Q. She told you that she would shoot Mr. Grundy? A. She did say that.

Q. Did she tell you why? A. Why, yes; just because if they ever came to the consideration of a separation, if she ever left, or he left her, she would not be without him, that is what I understood.

Q. That was within the last five years? A. Yes.

Q. So there was some talk about separation five years ago, wasn't there? A. Not that I know of.

Q. Only from what Mrs. Grundy told you? A. Exactly.

Q. And that was five years ago? A. It wasn't five years ago. I say within the five years time.

Q. Now, won't you please tell us when you first heard Mrs. Grundy threaten Mr. Grundy? A. I can't tell you that.

Q. You can't? A. No.

Q. Was it within the last four years? A. I

can't say any specified time, but I say during that period.

Q. You can't tell us whether it was five years ago, or whether it was two years ago? A. No, I can't.

Q. You couldn't? A. No.

Q. You remember in 1917, when you came over to take care of Mrs. Grundy on one of these drunks, as you call them, you had a talk with Mr. Grundy, about separation or divorce, don't you? A. Well, not exactly.

Q. Didn't you? A. We spoke on the subject.

Q. Mrs. Grundy had asked you to see if you couldn't fix things up between her and her husband? A. She did not.

Q. Did she tell you she was having trouble with her husband at that time? A. She did not.

Q. You knew it? A. I knew he was leading a miserable life.

Q. He was miserable? A. Yes, of course.

Q. And you tried to fix things up between them, didn't you? A. There was nothing for me to do but to help her pull herself together.

Q. And you did help? A. I did; I tried to help her.

Q. You tried to fix matters up between them? A. Pardon me?

Q. You tried to bring them together again, to make them make up again, didn't you?

MR. LANE: Let her answer.

Q. Didn't you? A. How could you, when she was in that state?

Q. Then you didn't try to fix her up, did you; you didn't try to make them make up again? A. I tried to make them make up in that I tried to make her right.

Q. I am talking about things between them. A. How could you?

Q. Did you try to bring Mr. and Mrs. Grundy together and make them happy? A. Do you understand the circumstances?

Q. I am not understanding anything except that I want an answer to my question.

MR. LANE: I object to that.

Q. You understand that question? A. I can't answer that question.

Q. That is plain English, isn't it?

THE COURT: The witness must have time to answer.

MR. HEYMAN: I am giving her plenty of time, if your Honor please. I will withdraw the question.

Q. Did you at that time talk with Mr. Grundy and Mrs. Grundy about their relations, and about bringing them together and making them happy together? Did you? A. I will answer the first part of your question; I did talk to them about their relations; in fact Mr. Grundy spoke to me; I told him that I thought he ought to know about this man Charley calling her up, that he loved her, and I thought, was there no way of getting this couple straightened out?

Q. You told him about Charley in 1917? A. Yes, sir.

Q. In 1917 you told him about Charley? A. That was that Christmas.

Q. Christmas of 1917? A. A day or two before, when I was there.

Q. What did he say? A. He said, "What is the use?"

Q. He said, "What is the use"? A. Yes.

Q. All right; what else? A. He said that even

if such a thing came about, she would be back in my hands again.

Q. Was anything else said? A. No.

Q. Then he knew about Charley, didn't he, in 1917? A. How do you mean?

Q. Well, you told him all that you knew, didn't you? A. I told him what he told me, that he said he loved her.

Q. Who told you? A. What Charley told me.

Q. Was Mrs. Grundy there when you told him? A. No, she was in bed, drunk.

Q. Did she hear you say that? A. No.

Q. She didn't hear you; she couldn't understand? A. How could she?

Q. Now, did Mr. Grundy say that he would find out about Charley? A. No.

Q. Did he say that he would do anything to Charley? A. No.

Q. Now, when you first started coming over to Jersey in 1916, was it, July 4th, 1916? A. I think it was along there.

Q. Pardon? A. Just about that time.

Q. You came here quite frequently, did you? A. Yes.

Q. Who was in the house when you came over? A. Mrs. Grundy.

Q. Who else? A. Sometimes Mrs. Corrigan.

Q. Was Mr. Grundy there? A. Sometimes.

Q. How often was Mr. Grundy home when you got there? A. I don't understand that question.

Q. Well, about how often was he home? A. He was home as much as—you might say he was home nearly every night.

Q. Nearly every night? A. Yes.

Q. Was his house taken care of? A. No.

Q. Never? A. Not during this time.

Q. I am not talking about during those spells;

I mean during the usual course of relations with Mrs. Grundy, did she take care of her house? A. Would you allow me to answer that question in my way?

Q. Can't you answer it my way? A. I can't answer your way, no.

Q. You can't tell whether she took care of her home? A. Not that way.

Q. Well, you would find it all clean and tidy when you came there? A. As a rule.

Q. You found Mrs. Grundy clean and tidy as a rule when she wasn't drinking? A. Exactly.

Q. Bathed; washed; did you find her bathed and washed, or did she always appear dirty? A. She didn't appear dirty.

Q. She was a pretty cleanly woman, wasn't she? A. She was, yes.

Q. Her son was always pretty clean and well taken care for, wasn't he, Park? A. Well, I did—

Q. As much as you saw of him; I don't want anything that you don't know of your own knowledge; so far as you saw, was Park well cared for? A. Yes.

Q. Well fed? A. Indeed.

Q. Attended school regularly? A He used to go to boarding school.

Q. And were Mr. Grundy's personal effects taken care of at the house; his clothing? A. As far as I know.

Q. His stockings, and things like that? A. Oh, I wouldn't know that.

Q. You saw her doing some of that work sometimes, didn't you? A. I can't say I did.

Q. You never saw it? A. I never saw her darning stockings.

Q. Well, did you ever hear Mr. Grundy com-

plain about anything in the house when she wasn't drinking? A. When she wasn't drinking?

Q. Yes. A. I did not, because I was seldom there when she wasn't drinking; seldom there.

Q. But you were there at times? A. Very seldom; my first visits—

Q. You did visit her when she wasn't drinking? A. At first, when I first knew her.

Q. We are talking about that time. A. Of course he never complained to me.

Q. There wasn't anything to complain about when she wasn't drinking, was there? A. I don't know.

Q. Well, you coudn't see anything to complain about around there? A. I don't know; I didn't know their life at all.

Q. I am not asking what you knew; I am asking what you saw when you came there into the house; you found it well ordered, didn't you? A. I did.

Q. You saw everything nice and clean and in its proper place, didn't you? A. Yes, sir.

Q. And Mrs. Grundy nice and clean; is that right? A. Of course.

Q. It was only on those drunken spells that she was in this condition, and her home was in this condition; isn't that so? A. Yes, sir.

Q. Now, you were very intimate with Mrs. Grundy at that time, weren't you? A. Intimate?

Q. Yes. A. Yes.

Q. She used to visit your house? A. Yes, occasionally.

Q. She spent two or three or four days with you at a time, wouldn't she? A. No, I would generally be with her.

Q. That was only when she was drunk, though? A. Yes.

Q. But she visited your home with her husband, didn't she? A. Yes.

Q. She visited you alone at your home, didn't she? A. I don't recall a single time when she visited me alone.

Q. Not once? A. No, barring when her husband went away.

Q. She did visit you alone at one time? A. When he came later.

Q. You were very friendly with her? A. Yes.

Q. You accepted her hospitality when she offered it and she did yours? A. Yes.

Q. Were you ever sick at Mrs. Grundy's, or did she come out there to stay with you? A. Never.

Q. Mrs. Grundy never stayed with you at your home, except in September, 1919? A. Exactly.

Q. You often went with Mrs. Grundy to dinner, to a restaurant, didn't you? A. I did.

Q. Very often, wouldn't you? A. Not very often.

Q. How often would you say? A. I could almost tell you exactly how often; I think about five times.

Q. During those times did you notice anything wrong with Mrs. Grundy? A. Just let me see; when was that? Once, on one occasion.

Q. What did you notice? When was that? A. It was one time we had dinner at a little place on Forty-some-odd Street—43d Street—and I had to take her home; she was unable to go home alone.

Q. You mean she got drunk there? A. Yes.

Q. What I mean to say, is, did you notice that she carried on in that restaurant with men, or with anybody? A. No.

Q. Or anything? A. Never with me.

Q. Anything that you considered improper? A. No, sir.

Q. Did you ever, at any time, at any place, see her have any improper relations with any man? A. At any time, at any place?

Q. Yes. A. No; not I.

Q. You used to drink yourself, Mrs. Mulack, didn't you, at these times; didn't you; you would have a drink or two? A. I did.

Q. You would sit down in your house when she was there and have a drink, wouldn't you? A. You mean she and I?

Q. Whenever she was there? A. I told you that she was only with me one afternoon, that time when her husband came later.

Q. All right; now, on that one occasion? A. We didn't drink.

Q. You didn't have any drink at all. In the evening when her husband and other friends came, you always had something? A. Not always.

Q. Not always? A. Not always.

Q. Not on every occasion? A. Would you call beer drink?

Q. Yes. A. Then I would say always.

Q. You always had something to drink, whether it was beer, whiskey or gin; you always had something to drink whenever she came to your house, either alone or with someone else; is that right? A. That is about right.

Q. You had little parties, card parties, at the house? A. Yes.

Q. And the people who came to the house used to take a drink once in a while, wouldn't they? A. Surely.

Q. There wasn't any harm in that? A. No, sir.

Q. Every one of the parties was perfectly respectable? A. Certainly.

Q. There wasn't anything improper on the part of Mrs. Grundy? A. No, sir.

Q. Nothing at all? A. No, indeed.

Q. During all this time, in spite of those drunken spells, you were still friendly with Mrs. Grundy, weren't you? A. Yes.

Q. And you are friendly with her today? A. I am.

Q. You bear her no ill will? A. None whatever.

Q. As a matter of fact, you would be very glad to have her go out to dinner with you some other time now, wouldn't you? A. Not a dinner, not outside.

Q. You wouldn't go out with her today? A. No.

Q. Why? A. Because I wouldn't care to.

Q. Can't you tell us why? A. I say I bear her no ill will, but I couldn't go out with her any more.

Q. That is the only reason you can give us? A. (No answer.)

Q. Now, you couldn't offer any other complaint against Mrs. Grundy than her drunkenness, could you; isn't that the fact? A. Her drunkenness.

Q. That is the only thing that you know against Mrs. Grundy, isn't that the fact? A. (No answer.)

MR. HEYMAN: I will withdraw the question.

Q. That is the only thing that you know against her now, is it, her drunkenness? A. Is that the question?

Q. Yes. A. You know I know more than that.

Q. Do you know more than that? A. Of course I do.

Q. What do you know? A. What about all this

relationship with all these men that we have here?

Q. Tell us about that; that is what we want to know. Tell us about the relationship with all those men; that is what we want to know. A. You know about the Clark incident in Blue Point.

Q. I don't know about it; tell us about it. A. Well, I haven't been there, but I heard about it, so—

Q. So you don't know anything about it, do you? A. Not that.

Q. Then don't tell us what you don't know. A. I know about this man Charley.

Q. What do you know about Charley; did you ever see them together? A. No, I did not.

Q. Do you know Charley? A. I don't know Charley.

Q. Did you ever see him? A. No.

Q. Do you know his last name? A. I know his name.

Q. What is it? A. Keller.

Q. Are you sure about that? A. That is what I heard.

Q. Are you sure about that? A. I am not sure about that.

Q. Where did you hear it? A. I don't recall where I heard it.

Q. You don't remember who told you about that? A. No.

Q. Where did you first hear it? A. I told you I don't know where I heard it.

Q. Well, you must know where you heard it, or when you heard it. Mr. Grundy told you about it, didn't he? A. Yes, he did.

Q. When? A. He said it last week; he said that is the man.

Q. When did he tell you? A. Last—at this trial here, at the last meeting.

Q. Yes; on May 3d? A. That man Charley's name is Keller, he said.

Q. That was the first time you ever heard the name Keller mentioned; is that right? A. Exactly.

Q. But you knew Charley for the last three years by name, didn't you, since 1917? A. Yes.

Q. You knew the name Charley, and you knew that he was very intimate with Mrs. Grundy? A. From what she told me, that is all I know.

Q. From what Charley told you? A. Charley told me nothing only over the phone.

Q. That is what I mean, from what you heard and from her conversations, you knew they were very intimate? A. I did.

Q. You didn't think it was worth while to find out who Charley was? A. Through whom?

Q. I didn't ask you that? A. Certainly not.

Q. You didn't think it was necessary for you at that time to make a note of it in your diary, did you? A. About Charley?

Q. Yes. A. No.

Q. You haven't any note in your diary about Charley, have you? A. No.

Q. You have a very distinct recollection, and a note, about her being drunk, haven't you? A. I made no note of the fact.

Q. What sort of note did you refer to? A. These notes concern my own personal affairs.

Q. Refer to that and just let us see what you refer to. Let us see what you referred to at that time?

THE COURT: She referred to one entry.

A. There (indicating), Christ, Mrs. Grundy.

THE COURT: Witness points to a page marked 1917, December, and alongside of the figures 25 is X-mas, Mrs. Grundy.

Q. That is the note? A. That is the note.

Q. That is what you referred to? A. Yes.

Q. When you were asked by Mr. Lane before? A. Yes.

Q. Is there anything in that book about Mrs. Grundy being drunk? A. No, sir.

Q. Is there anything in that book about Mrs. Grundy going out with men? A. No, sir.

Q. So that that thing that you have just shown us is the only reference that you have to Mrs. Grundy in your book; is that right? A. No, I don't say that.

Q. Well, can you show us any other reference to Mrs. Grundy? A. You asked me to show you that one; I will show you others (indicating).

MR. LANE: I don't know, if the Court please, whether the witness has any objection to showing this memorandum or not; if she has, then I ask that the Court instruct her that she is not obliged to shown any memorandum except the one to which she referred. If she hasn't any objection, I have no objection, of course.

A. Yes; 1916, I jotted down visited Mrs. Grundy; visited Mrs. Grundy.

Q. Will you show us that? A. I don't know that I want to show that especially; I made that Ida, Jersey, that was Grundy.

THE COURT: Witness shows in the same book March, 1916, alongside Sat. 11, Ida Jersey and says that meant Grundy.

Q. What kind of book is that, Mrs. Mulack? A. Oh, that is my little diary, I put down my household expenses and my own little diary of little things that pertain to me.

Q. That is all that you can show us in that book about Mrs. Grundy, is that right? A. Oh, yes; I haven't got much.

Q. Was Mrs. Grundy drunk on April 11th? A. Here is Blue Point in July, Grundys, two weeks in Blue Point.

Q. Anything else there relating to Mrs. Grundy? A. Well, that is about that month.

Q. What is this? A. Grundys, two weeks, Blue Point.

Q. What else? A. Nothing about Grundy.

Q. Nothing at all about Grundy or your visits? A. No.

Q. Will you show this Court that book? Are you willing to let us see that book and what is in it? A. No, I would rather not; that is my personal book.

Q. Is there anything there that you don't want us to see? A. I don't know; I don't see why my personal affairs can have anything to do with this case.

Q. Is there anything that you don't want us to see? A. I haven't looked carefully to see.

Q. Will you please look through it carefully and see if there is anything?

THE COURT: Why do that?

MR. HEYMAN: I think this witness ought to be directed to permit us to examine that book. I think we have a right to see that whole book, every item, every entry in that book.

THE COURT: I think you have a right to see this entry and anything connected with that in the book; that I am quite willing that you should. As to the whole book, as to her own personal affairs in it, I think she has some right.

MR. HEYMAN: This witness has produced a book, if your Honor please, and from that book she has refreshed her memory as to a certain occasion; now I say, if your Honor please, that we should have a right to examine into that book, to see whether or not that book contains bona fide, honest entries, and I think that we ought to have a righ to examine every entry in that book. That is my offer, if your Honor please.

THE COURT: What is your motion?

MR. HEYMAN: I think I ought to have the right to examine every item in that book.

THE WITNESS: The whole book?

THE COURT: Your motion is denied. I will instruct the witness to show the item to which reference has been made, and the context, if necessary.

MR. HEYMAN: Well, I think we should be permitted to examine every entry in that book, whether it relates to this defendant or not.

THE COURT: I decline to go further than that.

Q. Now, is there anything in that book, Mrs. Mulack, that you have written there which will show that Mrs. Grundy was drunk? A. I told you that before, that book was my personal book; I made no references only what concerned me, not about Mrs. Grundy whatever.

Q. I am asking if you have any entry in your book, or memorandum in that book which you have produced here, which you have used to refresh your recollection of the incident which occurred on July 4th, 1916, which will show that

Mrs. Grundy was drunk? A. Not one entry.

Q. Nothing at all? A. No, sir.

Q. You didn't write down in your little book when she was drunk? A. I never made that entry.

Q. So that it is not necessary for you to have that book in order to know if she was drunk?

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

THE COURT: I will take it.

A. Oh, no; not for that.

Q. Now, getting back to where we were before, outside of the fact that she became drunk, and outside of the fact that you heard about Charley, there isn't anything else that you think of which you have against her, is there? A. I have nothing against her.

Q. Well, that you might feel would contaminate you if you associated with her? A. She will not contaminate me.

Q. You feel she is a perfectly good woman? A. I don't say that I am above contamination, if that is what you mean.

Q. Well, is there anything that you can think of, Mrs. Mulack, outside of the drunkenness, outside of the affair with Charley, which would change your opinion of her in any way? A. The Clyde incident.

Q. The Clyde incident also; tell us what you know about Mr. Clyde. You never saw them together, did you? A. No.

Q. Only from what she told you, is that right; only from what she told you, that Clyde bothered her on the telephone and pestered her to make appointments with her? A. Exactly.

Q. You never saw her out with him? A. No.

Q. And he did come over one day? A. He did.

Q. And she would not have anything to do with him? A. I didn't say that.

Q. Didn't she tell you that? A. No, indeed she didn't.

Q. You never saw them together? A. No.

Q. Do you know if they went out together? A. Only from what she told me.

Q. Nothing else? A. Exactly.

Q. You know Mrs. Clyde, don't you? A. I do.

Q. At that time did you know her very well? A. Yes, I knew her pretty well.

Q. You knew her well enough to call her on the telephone, didn't you? A. Mrs. Clyde?

Q. Yes. A. Yes.

Q. You knew her well enough to talk with her? A. Yes.

Q. Your knew her well enough to go to dinner with her? A. I never went to dinner with them.

Q. Did you ever tell Mrs. Clyde what Mrs. Grundy told you about Mr. Clyde? A. No.

Q. Did you ever tell anybody? A. No, indeed.

Q. Never at all? A. I never told.

Q. You never told Mr. Grundy at that time in 1917—was it—when you were going around with Clyde? A. No.

Q. When did you tell Mr. Grundy? A. I am trying to think.

Q. When did you tell Mr. Grundy? A. It was after this proceeding had started.

Q After the proceeding started you told Mr. Grundy about Clyde? A. Yes.

Q. You were very good friends with Mrs. Grundy at that time, weren't you? A. I am still a friend of Mrs. Grundy's.

Q. I am not asking you that. I say you were a very good friend of Mrs. Grundy's in 1917? A. Yes, indeed.

Q. You wanted to help Mrs. Grundy? A. Yes.

Q. You wanted to see her happy with her husband, didn't you?

MR. LANE: I object to that on the ground that it has been asked at least four times and answered.

THE COURT: I will take the question.

Q. Well, now, why didn't you tell her husband in 1917 about this man Clyde? A. Why I didn't?

Q. Yes. A. Because he had enough to bear without that.

Q. Then your concern was entirely for Mr. Grundy? A. No, indeed; I wasn't breaking up their home.

Q. You didn't feel as though you ought to break up their home? A. Certainly not.

Q. You thought that would break up their home? A. I thought that would cause some more trouble.

Q. More trouble? A. Yes.

Q. Had they had any trouble? A. Was this no trouble?

Q. What? A. To have his wife drinking that way.

Q. You thought that that was so much trouble that Mr. Grundy could not possibly bear any more? A. I thought so.

Q. You knew at that time, didn't you, that there wasn't any use of trying to be happy with her; Mr. Grundy told you at that time, in 1917, that there wasn't any use of trying to be happy with her? A. He never told me that.

Q. What did he say to you when you told him

about that? A. He said, "What is the use, what is the use," he said.

Q. What was the use of that? A. If there was a separation or divorce she would be back on his hands.

Q. That was what he said? A. Yes.

Q. That was the reason he didn't obtain a divorce? A. I understood it to be.

Q. He told you that? A. Yes.

Q. You didn't tell him about Clyde? A. No.

Q. Until May 3d, or after? A. Until this proceeding started.

Q. Until this proceeding started? A. Yes.

Q. Now, while you were at Blue Point in 1916, did she conduct herself in a proper manner? A. Yes.

Q. Now, you saw her occasionally between July, 1916, and December, 1917, at your house, with her husband; did she conduct herself then in a proper manner? A. Now, just a minute; I don't think she ever called at my house after that, after the Blue Point incident, with her husband; I can't recall it.

Q. Well, now, it is a fact, isn't it, that Mrs. Grundy, so far as you know of your own knowledge, always conducted herself in a perfectly proper manner? A. Why do you say always?

Q. I say, so far as you know; in your presence? A. In my presence, when she wasn't drunk, she did, yes.

Q. She was only drunk in her own home? A. In my home only once.

Q. She was drunk? A. That one time.

Q. The other times were in her own home; isn't that right? A. Or that time at the restaurant.

Q. Now, when did you last see her at your home? A. On Sunday, In October, 1919.

Q. You knew at that time that she had had these affairs with Clark, or with Clyde, and Keller? A. Yes.

Q. Still you made no objection to taking her into your home at that time, did you? A. No.

Q. Of course, you wouldn't take her now, would you? A. I don't think I would.

Q. You told her you wouldn't, didn't you? A. I told her so?

Q. Didn't you? A. I wouldn't, because there is a limit.

Q. You don't think she is a perfectly fit and proper person to have in your home, do you? You don't think so, do you? A. I can't say I do.

Q. You didn't in September, 1919, either, did you? A. Oh, yes, I did then; I thought I could still help her.

Q. Didn't you take her into your home upon the solicitation of Mr. Grundy? A. Yes; I thought I could still help her.

Q. Surely; he asked you to take her in, didn't he? A. Mr. Grundy said he could find no rooms—

Q. I didn't ask you why you took her in. A. Just a moment—

Q. Don't wait for me. A. He never asked me to take her; he said he tried everywhere to get rooms for her and he couldn't find any, he had offered to take her to a New York hotel, but because of the temptation being too great I said, "Well, I have a spare room, I suppose I could take her into my home"; my husband said no, he didn't want—

Q. Never mind what your husband said; tell us what you did. A. I said, "Well, I think I

ought to return her and her husband's hospitality, that she has entertained me in her home, I will take her into my home and try to help her," and I did, against everybody, against my own family's desires.

Q. Well, who made the arrangements for her to come down there to your house? A. Mr. Grundy did.

Q. When? A. With the help of Mrs. Corrigan.

Q. With Mrs. Corrigan's assistance? A. Yes.

Q. Did they come to see you out there? A. Mrs. Corrigan brought Mrs. Grundy to me.

Q. I am talking about the arrangements. A. Over the phone, as I told you before.

Q. Who spoke to you over the phone? A. Mr. Grundy.

Q. And Mrs. Corrigan, too? A. Yes.

Q. Now, you came over on Christmas, 1917, and you found her drunk again? A. Yes.

Q. Was Mr. Grundy around? A. Yes.

Q. What did he do? A. What did he do?

Q. Yes. A. What do you mean, what he did?

Q. Don't you understand what I mean? A. I don't understand what he did; he could do lots of things.

Q. I want to know what he did; what was he doing around there? A. He read the paper, he walked around the apartments, he spoke to me, he gave me the money to get the Christmas dinner, he did several things.

Q. He stayed in the house, did he? A. Yes.

Q. Mrs. Grundy was in bed? A. She was.

Q. You stayed there that day and went home that night? A. Which day?

Q. Christmas day. A. Yes, Christmas day; I came there that morning, about one o'clock, I think it was, after dinner; we all had dinner;

Mrs. Grundy's dinner was brought to her in bed, and we went home that night; that was Christmas day.

Q. Who was there in the morning preparing the turkey, do you know? A. She, Mrs. Grundy, was there.

Q. She had it prepared, didn't she? A. Well, she dressed it, yes.

Q. All the vegetables were prepared, too, by somebody else, weren't they? A. No, they weren't.

Q. Did you do it? A. I did most of the vegetables.

Q. Some of them were prepared? A. I don't recall some; I had everything that I could do; she was afraid that I wouldn't be there on time.

Q. She wanted you to come over and you would all have your Christmas dinner there? A. I suppose so.

Q. Didn't she tell you that? A. Why—

Q. Didn't she tell you that? A. She said she wanted to make sure they would have it.

Q. That was the reason? A. No, she didn't tell me that; she wanted to be sure they would have their dinner on time.

Q. Did you ever talk to Mr. Clark? A. Never.

Q. Do you know Mr. Clark? A. No.

Q. Did you ever see Mr. Clark? A. Yes.

Q. Where? A. At Blue Point.

Q. But you never spoke to him? A. No, never.

Q. All you knew about him is what Mrs. Grundy told you? A. What people told me about him.

Q. You don't know anything at all of your own knowledge, do you? A. No.

Q. Did you think that there was anything wrong from what people had told you? A. They told me he was a drunkard.

Q. And that is all? A. That Mr. Clark was a drunkard.

Q. And that is all they told you? A. That was all they told me.

Q. You didn't think there was anything wrong in that? A. In being a drunkard?

Q. Yes. A. Why not?

Q. Did you? A. I certainly do.

Q. You thought it was a very grave offense? A. I thought it was grave enough for me to not associate with him at all.

Q. You didn't think Mrs. Grundy was terrible, because she was drinking? A. What would you think of a woman, then?

Q. You didn't think she was so terrible, did you? A. I didn't think she was so wonderful.

Q. You didn't think she was terrible, did you; she wasn't so bad that you couldn't go out with her at that time, was she? A. No.

Q. She wasn't so bad that you wouldn't go out with her afterwards, was she? A. Not that way, no.

Q. When you came over on Christmas, 1917, she was so drunk that she couldn't understand what you were talking about, was she? A. Oh, no.

Q. She wasn't? A. I don't say that.

Q. Did you ever see Mrs. Grundy out with any man? A. Never.

Q. Did you ever see any man at the house when her husband was not there? A. I saw one man there one time.

Q. Who was he? A. Now, I don't recall his name.

Q. When was it? A. Oh, it was in September there, in 1919, when I came there to help her pack.

Q. Is the man in court now? A. There was a man there.

Q. Is he in court now? A. I wouldn't know him.

Q. What was he doing, do you know? A. He was sitting there, she said this is Gertrude's beau.

Q. You don't recognize the man? A. No.

Q. Was he a young man or an old man? A. A young man.

Q. Did you see anything wrong going on? A. At that time?

Q. Yes. A. Oh, no.

Q. Was the man dressed? A. Oh, yes.

Q. Was Mrs. Grundy dressed? A. Yes, at that time she was, yes; she was dressed; we were packing, don't you know.

Q. You helped to pack, did you? A. Yes.

Q. Shortly after that she came to live with you? A. Yes.

Q. That is the only time that you know of anybody being in her house while her husband was away? A. Yes, the only time.

Q. Do you know why she said that she would not leave Park one cent of her money when she died? A. No; she was angry at him.

Q. She just simply told you that; no story connected with it at all? A. No.

Q. Now, to sum the whole thing up, during the period that you know of, within the last four or five or six years, you have never seen anything improper on her part, except these drunken spells that you have spoken of; you have never seen anything else yourself? A. I have never seen anything; no, sir.

Q. All you know is what you have heard, what others have told you and what she has told you, that is all you know? A. Yes.

Q. You are sure that you told Mr. Grundy about Mr. Charley in 1917? A. I did.

Q. Are you here under subpoena today? A. No, sir.

Q. You came here voluntarily? A. Voluntarily.

Q. At Mr. Grundy's request? A. I did.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. (After Mr. Evans stands up at request of counsel.) Can you identify that man as the man who was there that you saw in September, or not? A. I can not.

Q. You cannot? A. No.

Q. What was he doing when you came into the house? A. He was just standing there in the kitchen.

Q. In the kitchen? A. Yes.

Q. Well, did he have his hat and coat on? A. He had his hat off.

Q. But otherwise he was clothed, just sitting down? A. Yes.

Q. Was Mrs. Grundy there? A. She was there, yes.

Q. In the kitchen also? A. Not when she went to open the door for me.

Q. Anybody else in the house? A. No.

THE COURT: Nobody else that you saw?

THE WITNESS: No.

THE WITNESS: No.

Q. What did you say to this man, if anything? A. Nothing; I never spoke to him.

Q. Mrs. Grundy said, "This is Gertrude's beau," I understand? A. Yes, Gertrude's beau.

Q. Didn't he make any reply to that? A. No.

Q. How long did he stay there after you came? A. A little while.

Q. Then what did he do? A. Now, wait; then he went, he went away.

Q. Did he say anything when he went away? A. No, I don't recall now; I wouldn't say positively.

Q. Did he say anything which indicated why he was there? A. No.

Q. How old a man was he, do you know? A. I should judge he was a man about, oh, about 25 or 26.

Q. Do you know how tall he was? A. Yes, he was about the size of this gentleman that is here.

Q. Was he smooth faced? A. Yes.

Q. In civilian clothes? A. Civilian clothes; smooth faced.

Q. He made no explanation of why he was there? A. No.

Q. He didn't take any part in the conversation? A. No.

Q. What did he do, just stay there in the kitchen? A. He stood there, then after a little while he went away; Mrs. Grundy spoke to him but I don't know what she said, and he went away.

Q. How many minutes after you got there did he go away, about, now? A. Perhaps about ten minutes.

Q. In response to counsel's question you said that at the time you told Mr. Grundy about Charley, in Christmas, 1917, Mr. Grundy was wretched; what did you mean by that?

MR. HEYMAN: I object to that, if the Court please.

THE COURT: What did she observe.

Q. You say he was wretched? A. Yes, he was wretched, miserable.

Q. What did you observe that would cause his wretchedness? A. Domestic relations, this condition.

Q. What about his domestic relations? A. To have a home like that, to have no home, no friends, no stability, no nothing that you can call your own. When your wife goes back on you I think it is a pretty wretched state of affairs.

Q. Caused by what?

MR. HEYMAN: I object to that; I don't think that is fair, if the Court please.

Q. To your knowledge.

MR. HEYMAN: I object to that, if the Court please, on the ground that it calls for a conclusion on the part of the witness; and I move to strike out all this testimony on the same grounds.

THE COURT: I will take the question.

A. To my knowledge by the drunken state and these other men coming into the case.

Q. Did you suggest anything that ought to be done? A. I did not suggest, no; we discussed it.

Q. What was the subject of the discussion?

MR. HEYMAN: I object to that, if the Court please, on the ground that the witness has testified that the defendant was in such a condition that she could neither hear nor understand anything that was going on at that time.

MR. LANE: She has not testified to any such thing, if your Honor please. My attention is directed to a conversation between

Mr. Grundy and this witness, outside of the

MR. HEYMAN: I object to anything said presence of Mrs. Grundy.

outside of the presence of Mrs. Grundy.

THE COURT: I will take the question.

A. The subject was how we could save his entire life's work he had worked hard and saved all his life and if she persisted and worried him she would wreck his life as well as her own, and what could be done toward saving him and his son.

Q. What was the upshot of this?

MR. HEYMAN: I object to any upshots.

THg COURT: I will take it.

Q. The upshot was that he refused to do anything, he was helpless, that she would only come back to him even if he were free, she would come back to him.

Q. Did he say anything to you at that time with respect to what he had already done?

MR. HEYMAN: I object to that.

THE COURT: I will take it.

A. He did.

Q. What did he say? A. He said he has tried everything a human being could do to help her, to heal her, to cure her, but it was useless.

Q. Did he go into particulars as to what he had done? A. Yes.

Q. What did he say? A. Different institutions he had sent her to, he sent her to different institutions, that he has tried to hide drink from her, that he has tried kindness with her, that he has tried everything under the sun. I said, "Well, I am going to try to see what I can do to help her," and I did, but I failed.

Q. After this conversation—how long did this conversation between you and Mr. Grundy take place? A. About an hour.

Q. After the conversation was there anything that you could suggest? A. No, sir.

MR. HEYMAN: I object to that; if there is anything that she could suggest.

MR. LANE: The only purpose, if your Honor please, is that counsel's cross-examination tended to show bad faith or indifference on the part of Mr. Grundy. Now, I am entitled to show what Mr. Grundy had done, what he tried to do and what he said he had done, to show his good faith.

MR. HEYMAN: He can testify to that; he is here.

THE COURT: I will overrule that question.

Q. I don't think I asked you; did Mr. Grundy tell you in detail what he had done? A. I did tell you, yes.

RE-CROSS EXAMINATION BY MR. HEYMAN:

Q. Just one question, please: Who was it that suggested saving his life and the life of his son, you? A. There was no suggestion; we talked about the subject.

Q. Who talked about it? A. Mr. Grundy and myself.

Q. About saving his life and the life of his son? A. No, I didn't say that.

Q. You didn't say that? A. Speaking about his life and his son's life.

Q. Who first said that, you or he? A. I couldn't recall that.

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

Q. You remember all the rest of the conver-

sation pretty distinctly, don't you? A. Not all the rest, no.

Q. You don't remember all the rest? A. No.

Q. So that what you told us here may not be correct? A. I don't say that; I told you all I can remember.

Q. What you have told us here you remember very distinctly; there is no question in your mind but what this happened, and what took place; is that right? A. Yes, I told you the truth.

Q. You don't remember who it was first suggested saving his life and the life of his son? A. No, I cannot remember, because we talked about the subject generally.

Q. You were very anxious that Mr. Grundy's life be saved, weren't you; you were very anxious about it, weren't you?

MR. HEYMAN: I will withdraw the question.

Q. You were very anxious that his life be saved, weren't you? A. Anxious is a peculiar expression; I would have been very happy to see both their lives saved, yes.

Q. I am not asking you that; I am asking if you were not anxious that his life be saved?

MR. LANE: She answered that; she said yes.

A. Well, anxious, I mean I was desirous that his life should be saved.

Q. And you have been desirous ever since Christmas of 1917 that his life should be saved and that he should be made happy? A. Yes.

Q. And that is the reason that you are here today, to try to make him happy? A. Exactly.

MR. HERSHENSTEIN: Now, if your Honor please, I make my application to have Mr. Evans put on the stand after recess. I am not very much concerned with Mr. Heyman's objection that the testimony should not be considered as part of his defense as with Mr. Lane's objection, because the defendant, Mr. Evans, is now a party defendant. He is putting his case in, and that is all I am concerned with. I don't think Mr. Heyman can object.

MR. HEYMAN: If your Honor please, I simply want it understood that it is not part of the defendant's case.

THE COURT: It is not part of your case.

MR. HEYMAN: That is, I may decide, when the petitioner's case is in, not to put in any defense at all.

THE COURT: Let me see if I understand this. Unless some further testimony is put in by the petitioner in relation to Mr. Evans, I understand that you are in a position to cross-examine him now thoroughly?

MR. HEYMAN: Absolutely.

THE COURT: If, in fact, some testimony is put in by the petitioner relating to Mr. Evans, it raises a new situation, or something which requires some further answering from him, you want to have the right to bring him back for that purpose?

MR. HEYMAN: No, that is not the purpose of my statement. I say this: It may be, when the petitioner has finished his case and has rested, that the defendant will not put in any defense, but simply rely upon the petitioner's case. I don't want the petitioner to say that I have started my case

by permitting Mr. Evans to come here and testify. That is what I have in mind.

MR. LANE: What difference does it make whether you have started your defense or not? There is no such thing as a non-suit in this Court.

MR. HEYMAN: I don't want this Court to say that I have started my defense at the conclusion of the petitioner's case. When they have rested their case I may not want to put in any defense.

MR. LANE: You have the privilege of resting your case whether the testimony is in or not.

MR. HEYMAN: I don't want Evans' testimony to be taken as part of the defendant's case.

MR. LANE: I see no point in that and so long as I see no point in it I object to the examination, inasmuch as the relationship between Mr. Heyman, who has produced this witness, and Mr. Hershenstein, who represents this witness, is the relationship that has been shown, I shall object to Mr. Evans going on the stand until Mr. Evans is produced by both the defendant and the co-respondent.

MR. HEYMAN: It means this, if the Court please, that if this witness is not reached today, we don't know when we will be able to have him down here again.

MR. LANE: That is your fault.

MR. HEYMAN: It is not my fault, and I don't want you to say it is my fault.

THE COURT: One moment.

MR. HERSHENSTEIN: Now, if your Honor please, I make this proffer. I want to produce his testimony.

MR. HEYMAN: I want to say this further, if your Honor please, for the record, that I could have produced the witness Evans on June 14th without any trouble whatsoever; I was told he could not be down before that time; and I don't know when I will be able to bring him down again.

THE COURT: Unless some objection is made that he is called out of order I will take his testimony at half-past two.

MR. LANE: I am not objecting to his being called out of order.

THE COURT: Unless that objection is made—

MR. LANE: But I do object, and I want it on the record, to his being called at all in this case, unless the defendant, as well as the co-respondent, takes his testimony at this time.

THE COURT: In this condition of the objections I will take his evidence at half-past two.

(Recess until 2:30 o'clock P. M.)

AFTER RECESS.

May 18, 1920.

JOHN FRANCIS EVANS, Sworn.

DIRECT EXAMINATION BY MR. HIRSCHENSTEIN:

Q. Mr Evans, you are now connected with the United States Army? A. Yes, sir.

Q. Connected with what department? A. With the Quartermaster Corps.

Q. What station? A. Fort Porter, Buffalo.

Q. You are now on furlough? A. On a furlough; yes, sir.

Q. Do you know the defendant, Mrs. Grundy? A. Yes, sir, I do.

Q. Do you know Mr. Grundy, her husband? A. I had the pleasure of meeting him once.

Q. How long have you known Mrs. Grundy? A. Since February, 1919.

Q. How did you happen to meet her? A. Introduced by Miss Gertrude Halverson on my first visit.

Q. She was a friend of yours? A. A friend of mine.

Q. And also a friend of Mrs. Grundy's? A. Yes sir.

Q. Were you introduced to her at Mrs. Grundy's home? A. At Mrs. Grundy's home.

Q. Subsequent to this occasion in February, 1919, have you had occasion to visit Mrs. Grundy's home? A. Subsequent to February, 1919?

Q. Yes. A. Yes, sir.

Q. Whom did you go there with? A. Miss Gertrude Halverson.

Q. Did you go there often? A. I should say two or three times a week.

Q. With Miss Halverson? A. With Miss Halverson.

Q. Were Miss Gertrude Halverson and Mrs. Grundy very good friends? A. So I understand.

Q. Where was Mrs. Grundy living at that time? A. 57 Clinton Avenue.

Q. Jersey City? A. Jersey City.

Q. You were living in Jersey City at that time? A. Living in Jersey City.

Q. Was Miss Halverson also living at Jersey City at that time? A. She was.

Q. Upon any of the occasions at the home of Mrs. Grundy did you meet her son, Park? A. Yes, on one occasion.

Q. Do you recall approximately the time? A. Approximately the Easter vacation, 1919.

Q. You knew that Park was going to school or college? A. Yes, but where I didn't know.

Q. He was home on his vacation? A. Home on his vacation.

Q. Do you know for about how long a period of time he was home during that vacation? A. About ten days.

Q. During those ten days did you see Park Grundy at the house? A. Only the one day he was introduced to me I saw him at his own home.

Q. Had you seen him at the house after that introduction during that Easter vacation? A. Yes, I did.

Q. Who was there at the time? A. His mother.

Q. Whom else? A. Gertrude Halverson.

Q. So that Park Grundy was at the house during the Easter vacation while you and Miss Halverson were visiting Mrs. Grundy? A. The time I was introduced to Park Grundy Gertrude was not present; I accompanied Gertrude to Mrs. Grundy's home in the forenoon, but in the meantime Mrs. Grundy had sent Gertie to the store, and Park walked in, and Mrs. Grundy introduced me to Park.

Q. How long did Park stay? A. That I don't know, because I left shortly.

Q. Did he leave before Gertrude came back? A. I left before she returned.

Q. So you don't know whether Miss Halverson came back or not? A. I don't know.

Q. On the second occasion that you say that Park was there during that Easter vacation, was Miss Halverson with you? A. She was, if it was the Easter vacation; I don't recall now; I know Gertrude—Miss Halverson—this evening in par-

ticular, played the piano and I was sitting in the parlor.

Q. Did Park come in at that time?A. Yes; Park was in.

Q. So that while he was on his Easter vacation you were there with Miss Halverson, and Park came in and saw you there with Miss Halverson? A. Yes.

Q. You are sure about that? A. Yes.

Q. Had you seen Park Grundy after this Easter vacation? A. Yes, I did.

Q. About how many times approximately? A. When I did see him it was on the street, I was passing by but never got in speaking touch with him.

Q. Would you greet him if you saw him? A. I did greet him two times that I recollect.

Q. And he would greet you? A. Oh, yes.

Q. What did he call you, I mean as regards names? A. By my first name, commonly called Jack.

Q. And how would you greet him? A. By his first name, calling him "Hello, Park".

Q. During the month of May, 1919, had you occasion to go to Mrs. Grundy's home? A. Yes, I did, I should say approximately between May 1st—or between March 25th and May 3rd.

Q. Did you go alone or with Miss Halverson? A. With Miss Halverson.

Q. Do you recollect what time of day it was, or approximately what time of day it was? A. In the forenoon, I do not know that,—that was in the evening, about 5.30.

Q. About 5.30.? A. Yes.

Q. Do you recall what occurred at the house on that day? A. Why, yes.

MR. LANE: On what day?

THE WITNESS: On May 3rd, 1919.

A. Mrs. Grundy had received a box of school supplies from the school her son attended.

Q. Was it a wooden box or a crate? A. It was both a wooden box and a crate.

Q. A wooden box and a crate? A. The wooden box was in the basement of the premises known as 57 Clinton Avenue, and the crate was in the bedroom. I had been requested by Gertie to help unpack and send the school supplies up the dumb waiter, which I accepted—I did.

Q. What did you do? A. I went down the cellar, accompanied by Miss Halverson, who pointed out the box, and I unpacked the box and Miss Halverson went up to Mrs. Grundy's home to remove the school supplies from the dumb waiter.

Q. What did you do with the crate? A. With the crate?

Q. Yes, that was upstairs. A. I got them out and then I went up and removed the desk from it.

Q. Where did you put that? A. The desk I left right in the room; I don't know.

Q. You were down the cellar at that time? A. Yes.

Q. You assisted in unpacking the crate? A. Yes, I did, alone.

Q. And Miss Halverson was there the entire time? A. Yes.

Q. Do you remember on that occasion seeing Mrs. Mulack, the lady who testified here this morning? A. No, sir ; I never saw her.

Q. Did you ever see her before? A. No, sir; I never did see her.

Q. Subsequent to May 3rd, or thereabouts, the occasion you have just testified to, did you have occasion to go to Mrs. Grundy's house again? A. You mean unaccompanied?

Q. Well, either accompanied or unaccompanied? A. Yes, I did, with Miss Halverson the same evening.

Q. You went there how often? A. Well, twice a week in the evening.

Q. Regularly? A. Regularly.

Q. Until about what period of time? A. Well, until the warm weather set in, which was around July.

Q. Until September when this trouble arose did you visited there? A. In July I would only visit Mrs. Grundy's on a Sunday evening.

Q. When you came to the house with Miss Halverson, would Mrs. Grundy entertain you? A. Yes, she would.

Q. And you would spend the evening there with Miss Halverson? A. Yes.

Q. Until about what time? A. Eleven P. M. as a rule.

Q. On this occasion between February and September, 1919, did you see Mr. Grundy at the apartment? A. Pardon me, what dates?

Q. Did you see Mr. Grundy at the apartment upon any of those occasions in between February and September, 1919? A. Yes, I did.

Q. He would talk to you and you would talk to him? A. Mr. Grundy?

Q. Yes. A. No, just the one evening I was introduced.

Q. Just—A. Just a few words exchanged.

Q. Now, coming down to September 15th, 1919, do you recall that day? A. I do.

Q. Do you recall whether or not you went to Mrs. Grundy's apartment on the morning of September 15th, 1919? A. I did go.

Q. Will you please tell the Court under what circumstances you used to go to the apartment on

that morning? A. The evening previous to that Miss Gertrude Halverson called me on the 'phone—she had my 'phone number—and asked me if I would come up to Mrs. Grundy's home the following morning, to assist her in moving, and I said I would; and I understood her to say that she would be up there—we,early in the morning—which I supposed would be eight or nine o'clock at the latest, so I went at ten, and I found that Gertie wasn't there.

Q. Prior to this morning had it been your custom, or had you ever, prior to that time, met Gertrude Halverson at the apartments—Mrs. Grundy's apartments; would you come to meet Miss Halverson at the apartments? A. Yes, I did, in the evening.

Q. On prior occasions in the evening? A. Yes, in the evening; never in the forenoon.

Q. Upon this occasion on September 15th you went to Mrs. Grundy's expecting to find Gertrude Halverson there? A. Expecting to find Gertrude Halverson there?

Q. At what time? A. Ten o'clock.

Q. In the morning? A. Yes.

Q. How did you gain entrance to the apartment? A. By ringing the door bell.

Q. Who opened the door, Gertrude? A. No, I walked up to the top floor and Mrs. Grundy would open the door.

Q. On the morning of September 15th after you entere the front vestibule door and went up to the apartment, who opened the apartment door? A. Mrs. Grundy this particular morning, the 15th, for Gertrude wasn't there.

Q. How was Mrs. Grundy dressed? A. Well, in a house dress.

Q. Did she have her shoes and stockings on? A. Yes.

Q. What do you consider a house dress; describe it? A. Well, a plain ordinary dress, the best description I can give.

Q. It wasn't a kimona? A. It was not.

Q. How long were you in the apartment that morning? A. From ten until, it might exceed noon maybe, I wouldn't say for sure.

Q. How was Mrs. Grundy's hair arranged when she opened the door for you at ten o'clock that morning? A. She had sort of a cloth around her head.

Q. What did you do after you got in the apartment? A. I asked, the first question was if Gertrude arrived; she told me no, so she asked me to have a seat, so I went in the parlor and sat down there.

Q. In what room? A. In the parlor.

Q. What was Mrs. Grundy doing? A. She was in her dining room fixing the china ware, taking the plates from the wall.

Q. How long a time was she doing that? A. I don't know how long she was doing that, I should say an hour and a quarter.

Q. During all that time what were you doing? A. Reading a magazine.

Q. Then what happened? A. Then it got rather late and I suggested going down to the wood shed as she requested to bring up the empty wooden barrels.

Q. What were you doing there at that hour or so? A. Waiting for Gertrude to arrive.

Q. Did she arrive? A. No, she did not.

Q. Then do I understand that you suggested that you go down to get the barrels? A. I did, yes.

Q. Did she request you to get some barrels? A. Yes.

Q. Where did you say the barrels were in? A. The wood bin in the basement.

Q. That was in the cellar? A. Yes.

Q. You were familiar with the cellar, I take it, because you were there in May? A. Once before.

MR. HIRSCHENSTEIN: I will withdraw that question.

Q. You were familiar with the cellar and its location? A. Yes.

Q. How did you become familiar with it? A. On my first visit at the time I was unpacking boxes.

Q. After your suggestion that you had better start to get the barrels up, it was getting late, what did you do? A. I asked Mrs. Grundy for the key to the wood bin.

Q. What did Mrs. Grundy do? A. She gave it to me.

Q. Then what did you do; tell your story? A. I went down the wood bin, unlocked the door, lifted off a few boxes that were on top of the barrels, found the barrels and carried them out.

Q. How many barrels were there? A. Two.

Q. You carried them up at the same time, or two different times? A. Oh, no, one at a time.

Q. What kind of barrels were they? A. Round, ordinary wooden barrels, large sized.

Q. Just prior to your going down the cellar to take the barrels, did you do anything with regard to your clothing? A. Yes, previous to going to the cellar I removed my coat and laid it on the table in the kitchen.

Q. With the exception of your coat were you fully clothed? A. Fully clothed.

Q. Have your vest on? A. Yes.

Q. Shoes and stockings? A. Yes, and hat.

Q. Even had your hat on? A. Yes, I did.

Q. How do you recall having your hat on? A. Just that I was going to the basement, I thought it best to wear it.

Q. So you put your hat on? A. Yes, I did, put it on outside the door.

Q. When you came up the first time with the first barrel, did you immediately proceed down for the second barrel? A. Yes.

Q. Was your clothing still the same? A. I removed my hat as I was going through the home.

Q. So when you went down the second time did you put it on again? A. Yes.

BY THE COURT:

Q. How did you get from the upper apartment to the basement? A. By means of the stairs.

Q. The back stairs or the front stairs? A. The main stairs, the stairs running down in front.

Q. Then you took the barrels up that stairway? A. Yes.

THE COURT: I didn't know whether there was back way or not.

BY MR. HIRSCHENSTEIN:

Q. Was that the way you took them? A. Yes.

Q. Was there any other way? A. No; they wouldn't fit in the dumbwaiter.

Q. When you came up with the barrels what did you do with them? A. Put them in the dining room as requested by Mrs. Grundy.

Q. Where did you put the first barrel? A. In the dining room.

Q. So that both barrels were in the dining room? A. Yes.

Q. Then what occurred? A. Then I made the

second visit and came up with the second barrel; Mrs. Grundy was lying on her bed the second time I walked in, I walked right by and put it in the dining room and came back and walked into Mrs. Grundy's room and asked her where my coat was; she says "On the rack," pointing to the rack which was in her bedroom.

Q. The rack was where? A. In her bedroom; so I asked her where would I leave the key; she told me to leave it on the chiffonier, which I did which was to my left, and I asked her—I told her I had a few minutes to spare and I would gladly assist her in packing the china; she was explaining to me how it should be done, and I told her that I didn't feel as though I was able to do it, never having done it before; so that was the extent of the conversation; in the meantime Park—

Q. What? A. Park, Mrs. Grundy's son, walked in.

Q. Where were you at the time Park walked in? A. I was about two feet from the door in Mrs. Grundy's room.

Q. Two feet from the door of Mrs. Grundy's room, inside the room? A. Inside the room.

Q. Were you near the head or foot of the bed? A. The bed was—I was at the foot of the bed.

Q. Where was Mrs. Grundy? A. Lying on her bed at the foot, facing out to the window.

Q. Facing out to the window? A. Yes.

Q. Where were you standing with regard to Mrs. Grundy, and the dor of her room? A. Standing two feet from the door, right almost that I could put my hands on the chiffonier.

Q. Were you in back of Mrs. Grundy or ahead of Mrs. Grundy? A. In back.

Q. What was the layout of Mrs. Grundy's apartment, so far as the room is concerned? A. Two windows—

Q. Windows in the room? A. Windows in the room.

Q. Where were you facing this time? A. Facing the window.

Q. Where was Mrs. Grundy? A. Facing the windows.

Q. Did you hear Park enter the hall of the apartment? A. I heard the door knob turn.

Q. What did you do? A. I stood right where I was.

Q. Were you standing at the time that you heard the door knob turn? A. Yes, I was standing.

Q. Did you leave your position? A. I don't recollect.

Q. What was your position? A. I will have to show you.

Q. Explain it; show us? A. We were like that facing towards the window (indicating).

Q. You were facing towards the wall? A. The window.

Q. You are assuming that this is the bedroom? A. Yes.

Q. Where are the windows of the room? A. Over here (indicating).

Q. Where is the entrance to the room itself? A. Almost parallel with the window.

Q. Somewhere over here, we will say (indicating)? A. Yes.

Q. There is the rack (indicating)? A. Yes.

Q. Where was the bed? A. The bed was on my right hand side.

Q. Where was the chiffonier? A. The chiffonier was in the left hand side.

Q. Now, as the door knob turned, what did you do? A. I stood in my position.

Q. Did anything occur to you when the door

knob turned, as to who it might be? A. With the exception of that it might be Miss Halverson.

Q. Did you turn around to see who was coming? A. I did when he had about reached the entrance to the door I turned my head.

Q. What did you do? A. I almost stood in the same position but I turned my head completely around to greet the person, who was Park Grundy.

Q. What did you say? A. I said, "Hello Park."

Q. Who did you see? A. Park Grundy.

Q. What did you do? A. I said, "Hello, Park."

Q. What did Park say? A. "Hello," that is all.

Q. Now, did you have any further conversation with him? A. No, sir.

Q. Now, what did Park do—he came to the entrance door, you say—when did he say "Hello" to you, how soon after he reached the threshold of the door to the bedroom? A. About a second later.

Q. As you turned around you say you saw Park? A. Yes.

Q. When did you say "Helo, Park" to him? A. As soon as I recognized him.

Q. Just as soon as you recognized him, was it? A. Yes.

Q. When did he say "Hello" to you? A. Immediately after.

Q. What did Park do? A. He walked along; whether he walked to the dining room or parlor I don't know, because I didn't step out to see where he went.

Q. What did you do there? A. I stood there waiting so that if he came back to demand an explanation I was ready to give him an explanation.

Q. Did he say anything to you about anything at that time? A. No, he did not.

Q. Did he walk back again? A. Yes, he walked back.

Q. Did he address you, or talk to you? A. No, he did not.

Q. What did he do? A. He walked right straight ahead; I turned my head looking towards him.

Q. Now, you said a minute ago that you stood there waiting and that perhaps he wanted an explanation? A. Yes; that is right.

Q. Why did you think he might want an explanation? A. Well, I was in his own mother's room and I thought he might certainly ask why I was there; that is the reason why I was ready to give him an explanation, which was proper and right.

Q. Did he say anything at all to you on that occasion? A. Nothing at all.

Q. Did he ask you for any explanation? A. No, sir.

Q. Did he ask any reason why you were there? A. No, sir; not to my knowledge.

Q. Then he walked right on past the door and out, so far as you know? A. Out, so far as I know; yes, sir.

Q. How long a time did he remain at the entrance to your mother's room? A. Approximately five seconds.

Q. That is all? A. Yes, sir.

Q. Any doubt about that in your mind? A. No, sir.

Q. During all that period of time, all that was said by you was "Hello, Park", and he said "Hello"? A. Just the greeting.

Q. And he walked on and you wanted for him

to come back, and he walked out without saying a word; is that correct? A. Yes, sir.

Q. Now, did you have occasion to take note of the condition of that room—of that bedroom—on that morning? A. Well, the room was in uniform shape.

Q. What is that? A. The room was in uniform shape.

Q. Do you know whether or not the shades were up? A. Everything was laid properly.

Q. Did you notice the condition of the shades? A. Yes, seven inches from the bottom.

Q. Why do you say seven inches from the bottom? A. That is approximately seven inches; I saw the shades were down, it was customary.

Q. Do you recollect looking out of the window at all? A. I don't recollect.

Q. Could you see out on the other side of Clinton Avenue? A. Yes, when I walked clear over to the window.

Q. This room fronts the street? A. Clinton Avenue.

Q. Do you recollect looking at the shades on the window that morning? A. I sure do.

Q. You remember distinctly that those shades were up from the bottom? A. Yes, sir; no more than six or seven inches.

Q. When you say six or seven inches, that is approximately? A. Approximately; I couldn't really be accurate.

Q. Do you recall the condition of the bed upon which Mrs. Grundy was lying? A. Well, directly behind her it was the least little bit mussed up, which stands to reason, because she was lying there, I suppose.

Q. Was there a bed cover or bed spread on the bed? A. A bed spread, as near as I can remember.

Q. It was covered? A. Yes; it wasn't customary for me to examine that.

Q. But as you recall it now? A. As I recall it now.

Q. Was the entire bed covered? A. Yes, sir.

Q. You were not here on the first day, Mr. Evans. Mr. Park Grundy, in his testimony, testified that on the occasion that he passed the door of his mother's room on that morning his mother was lying on the bed with a night gown and kimona; is that true or untrue? A. Untrue; I say a house dress.

Q. Did she have a house dress on when you came up from the cellar? A. Yes, sir.

Q. Was that the same house dress she wore when you first came to the apartment that morning? A. I suppose so.

Q. Well, would you say it wasn't? A. I wouldn't say it wasn't, no; she might have changed it to one of the same kind; that I don't know.

Q. Park testified that her hair was very much mussed up while she was on the bed; did you have occasion to notice the condition of her hair on the bed? A. I wouldn't call it mussed up, where the cloth was around her head could easily be seen.

Q. Was that cloth around her head? A. Not when I returned, no, the second time.

Q. It was not? A. No.

Q. Park Grundy testified that the sheets on the bed were down; were the sheets of the bed down or mussed up in any way? A. No, sir.

Q. Park Grundy testified that both shades were down at the time? A. Six or seven inches from the bottom.

Q. Park Grundy testified that his mother's hair

was disheveled; was his mother's hair disheveled? A. No, sir.

Q. After Park Grundy left the apartment what did you do? A. Well, I left a few minutes later.

Q. Now, when Park Grundy came in, what was your condition of clothes; did you have a coat on? A. I had my—no, I didn't have my coat on; I had my vest and shoes and stockings and hat on; I didn't have my coat on.

Q. And trousers? A. Trousers, certainly.

Q. Then your condition of dress was similar to the condition of dress when you first went down to the cellar? A. Yes.

Q. Was your hat still on? A. Yes, my hat was still on; I was ready to go at that time because being that Mrs. Grundy said that she didn't care to have me pack the china I thought it was time to go, it was near lunch time and I wanted to go and get lunch.

Q. Had Miss Halverson arrived at that time? A. No, she did not.

Q. Now, Mr. Evans, did you on the morning of September 15th, have any intercourse or commit adultery with Mrs. Grundy? A. No, I did not. Had I, I would never come here to testify.

Q. Did you at any other time, either prior to September 15th or subsequently? A. At no time was I ever intimate in any manner, shape or form with Mrs. Grundy, for the simple reason that I was only what you might say a boy, and I was a friend of Miss Halverson's and a friend of Mrs. Grundy's.

Q. How old are you? A. 21—I will be on the 30th of this month.

Q. Were you subject to the draft? A. No, I was not.

Q. Were you subject to the second draft? A. No, not the second draft.

Q. You registered for the second draft, between 18 and 45? A. Pardon me, I did for this, I became 21 since the first draft, between those dates.

Q. You were not eligible for those? A. Between 18 and 45.

Q. And you registered for that? A. Yes.

Q. Did you ever get called? A. No, sir.

Q. As a matter of fact, Evans, had you made an attempt to get in the Army before your enlistment? A. Yes, I did previously.

Q. In what service? A. In the Marines; the United States Marines.

Q. Where did you try? A. In Newark.

Q. When? A. In May, 1918.

Q. That was before your registration for that draft? A. Yes, it was before.

Q. Were you accepted or rejected? A. No; I can't say that was before my registration; I don't recall the date of the registration for the draft.

Q. At any rate, this was long before your present enlistment? A. Oh, yes.

Q. What happened with your application? A. Well, I don't know; I don't think they regarded applications where the applicant is not eligible.

Q. Why? A. I did not fulfill the requirements.

Q. Why were you denied admission into the Marine Service? A. I was rejected.

Q. On what ground? A. On the ground of not having the weight in comparison with my height.

Q. You made another application subsequent to that? A. It wasn't really an application, my second time; I attempted, yes, but I didn't have the required weight.

Q. Were you accepted? A. No.

Q. What was the reason? A. I didn't have the required weight.

Q. Now, you enlisted when? A. October 6th, 1919.

Q. Why did you enlist in the army at that time? A. Why, merely for the experience.

Q. Were you working then, or out of employment about that time? A. I was out of employment at the time.

Q. And you were rather desirous and eager to get in the Army, or some branch of the service? A. Desirous of getting in the Army.

Q. You are still in the service now? A. Still in the service.

Q. Are you in the service for a limited length of time? A. Yes, October 5th, 1920.

Q. Now, when you came up from the cellar the second time, what was the condition of the door, the door to the apartment; how did you gain admission the second time you came to the door with the second barrel? A. I left the door open about two inches.

Q. So that you could get in again? A. Yes, when Mrs. Grundy was going to her room, I recall that.

Q. Do you recall how you left the door when you brought the second barrel up? A. Yes,, about two or three inches.

Q. After you brought the second barrel up? A. Oh, I closed it.

Q. You closed it after you brought the second barrel up? A. At least I pushed it.

Q. Do you know whether the latch was on? A. I didn't notice the condition of the door.

Q. How long had you been in Mrs. Grundy's bedroom before Park Grundy entered the apartment? A. About a minute.

Q. About a minute? A. That is just time enough to say those few words.

Q. Were you in her bedroom at any other time? A. No, no other time.

Q. Was that the first time that morning that you went to her bedroom? A. Yes.

Q. As a matter of fact, you knew the layout of the rooms in that apartment? A. I knew the layout?

Q. You knew the layout of the rooms? A. Yes.

Q. You were familiar with the layout of the rooms? A. Yes.

Q. What bedroom is this, the first, second or third? A. The second, on the left side.

Q. You have been in that bedroom before on occasions? A. No, never in that bedroom.

Q. Never in that bedroom? A. No more than to stand in the hallway and look into the bedroom.

Q. Was there any intimacy of any kind existing between you and Mrs. Grundy? A. None whatsoever.

Q. Either prior or subsequent to September 15th, 1919? A. No, sir; never so; as I went there as a friend.

Q. I think you answered my question before I put the entire question to you. Did you at any time have intercourse or commit adultery with Mrs. Grundy? A. No, sir; never.

Q. Gertrude Halverson is a good friend of yours? A. Yes, sir.

Q. Were you keeping steady company with her? A. Well, I saw her two or three times a week.

Q. She was a friend of yours; you went out with her very often? A. Very good friends; yes, sir; on some occasions we would take a walk to the movies or something of that sort.

Q. Why did you accept the offer to come and help Mrs. Grundy pack, and assist her in pack-

ing the household furniture? A. Merely for the means of showing my appreciation for the way she has shown hospitality.

Q. Do you mean during the months that you had known Mrs. Grundy and Gertrude Halverson? A. Yes, during the times, I was treated, as I say, very good.

Q. Did you upon any occasion that you met Mrs. Grundy see her or say or do anything which to your mind was improper? A. Never did; no, sir.

Q. Why did you come here to testify today, Mr. Evans? A. Well, Mr. Heyman telegraphed me that I was connected—there was charges placed against me in this case, and it was imperative that I should appear in my behalf. I immediately wired to Mr. Finnerty to appear for me on that day, as I could not obtain a furlough, and try to obtain an adjournment until some later date at which I would be able to appear here.

Q. Were you at all times eager and desirous of appearing and defending yourself in this case? A. I was. Well, I was not so much until I saw the papers, until I read about it in the papers.

Q. Where did you read it, in what paper? A. I read about it in the Buffalo papers.

Q. You read it in Buffalo? A. Yes, I did; so I thought I would come here and vindicate myself of this affair.

Q. You appreciated how serious it was when you first began to be involved in the papers? A. I did. I appreciated it when I saw the publicity.

CROSS EXAMINATION BY MR. LANE:

Q. You knew that this suit had been started when you enlisted, did you not? A. No, sir; I did not.

Q. When did you first know that it had been started? A. Well, March—about March.

Q. Of this year? A. Yes, sir.

Q. How did you find out? A. Mrs. Grundy wrote to me.

Q. Have you the letter which she wrote? A. No, sir; I have not.

Q. What happened to it? A. Well, I didn't think it worth while keeping correspondence, as a rule, and ordinarily I destroyed them.

Q. Did you destroy it? A. Yes.

Q. What did it say? A. Well, I don't know as I could relate the contents of the letter; she only wrote the once, which was concerning the affair, that I do know; to give you the exact words, I can't give you that.

Q. I didn't ask you for the exact words; what was the substance of it? A. In connection with the case, this divorce case.

Q. What was the substance of what she imparted to you in that letter? A. Well, that he was trying to get a divorce.

Q. What? A. Seeking a divorce.

Q. Who was? A. Mr. Grundy

Q. What did she say in the letter about it? A. Well, told me about the affair.

Q. What did she tell you about the affair? A. She told me that Mr. Grundy was seeking a divorce and I might be called on some time to testify, if anyone should testify against me as to why I was in her home on the day of September 15th, and would I be willing to testify in my own behalf; that was the contents as near as I can remember.

Q. Was that all she said? A. Yes, sir.

Q. Did you answer it? A. I answered back.

Q. By letter? A. By letter; a typewritten letter.

Q. What did you say? A. I told her that I didn't think or how anyone could conceive the idea of any wrongful act that I would do that they would call me into the affair.

Q. Where did you send that letter to her? A. To her home.

Q. Where? A. Enos Place, Jersey City.

Q. Didn't you understand from that letter, the first letter which she sent to you, that you had been named as co-respondent in the suit? A. No; I don't recall that, that I was named.

Q. When did you first understand that you had been named as co-respondent in this suit? A. At a later date, say three weeks or so later.

Q. From whom? A. From Mrs. Grundy.

Q. By another letter? A. From a letter.

Q. Have you that letter? A. No, sir.

Q. What did she say in that letter? A. Well, how she thought that it would be imperative that I should appear.

Q. Why? A. To testify in my own behalf.

Q. Did you know by that letter that you had been named as co-respondent? A. No, I didn't know specifically.

Q. I am not asking you that; I am asking if you knew in your own mind that you had been named as co-respondent? A. No; I never did know that.

Q. Do you know now? A. Now I do know.

Q. When did you first find out? A. When I received word from Mr. Heyman.

Q. By telegram or letter? A. By telegram.

Q. That is the first indication that you had that you had been named as co-respondent? A. That is the first indication I had.

Q. When did you see these Buffalo papers? A. May 4th or May 3rd, the date of the trial.

Q. Up until that time you did not consider it

important that you should come here? A. No, sir; I did not consider it important.

Q. But after you saw it in the newspapers you did consider it important? A. Yes, sir.

Q. Why, did the newspaper articles make any difference? A. Why did they?

Q. Yes. A. Well, I really didn't know that I would be named or that there would be any charges placed against me until I read about it.

Q. You were living here on the 6th of October? A. Yes, sir.

Q. That is when you left? A. Yes, sir.

Q. Yet you had no idea in your mind up until the 3rd of May that you were going to be named as co-respondent; is that right? A. No, sir;

Q. I never did think any more of the matter.

Q. You never did think any more of the matter? A. No, sir.

Q. You never thought there was a possibility of your being named as co-respondent? A. Yes, I will admit there might be a possibility.

Q. Why might there be a possibility? A. Because I was in Mrs. Grundy's home at the time when Park walked in, and, as I previously stated, Gertrude was not there at the time.

Q. Why did you think that that would lead to a possibility of your being named as co-respondent? A. Well, I don' think it looked right to see me in Mrs. Grundy's home unaccompanied, as I was only a friend of a friend of Mrs. Grundy's.

Q. You considered that it didn't look right at the time that Park came in there? A. Because I didn't have a chance to give my explanation of the facts.

Q. You considered that it didn't look right at the time that Park Grundy walked in there? A. I myself considered it; yes, sir.

Q. You knew that Mrs. Grundy and Mr. Grundy were not living happily together, didn't you? A. No, sir; I did not; I never did inquire into their personal affairs. She told me, of course, in the morning, that she felt ill; I naturaly asked her what seemed to be the trouble and she said over some personal matters which she did not care to discuss with me.

Q. You had no knowledge then that Mr. and Mrs. Grundy were not living together as happily married people until that time? A. I never did know.

Q. So that the relationship existing between Mrs. and Mr. Grundy, so far as you knew on this day, was that of the ordinary relationship of husband and wife; is that so? A. Yes, sir.

Q. So far as you knew there were no charges being made by Mrs. Grundy against Mr. Grundy or by Mr. Grundy against Mrs. Grundy? A. I didn't know; no, sir.

Q. Well, you had no idea that there were? A. No, I didn't have any idea.

Q. There weren't any charges being made by Mrs. Grundy against Mr. Grundy, so far as you knew? A. No, sir; I don't think there would be.

Q. I am not asking you that; I am trying to get your attitude of mind on this September 15th. So far as you knew there was no difficulty between the parties? A. No, sir.

Q. Neither one was making charges against the other? A. No, sir.

Q. It was a happy household, so far as you knew? A. I thought so.

Q. You thought it was? A. Yes, sir.

Q. You didn't consider that Mr. Grundy had anything against you, did you, at that time? A. I never considered it; no, sir.

Q. You didn't consider up to that time that Park had anything against you? A. No, sir; I never did.

Q. You considered the fact that you were there under those circumstances and that you were perfectly innocent? A. Innocent; yes, sir.

Q. Nevertheless you thought at that time that it required some kind of explanation? A. I did, sir.

Q. And Park didn't ask you for that explanation? A. He didn't ask for it.

Q. What did you think of the attitude which Park took? A. Well, I thought, really, that it was his place to ask me for an explanation, I thought, but he didn't, and of course it wasn't my place to approach him with the question. I was ever ready to answer had he asked me for an explanation.

Q. You waited; you knew in your own mind that you were perfectly innocent of anything; but that the position in which you were called for an explanation; that is right, is it? A. Yes, sir.

Q. And you waited for Park to come back from the kitchen in order that you should give him that explanation? A. Yes.

Q. You realized, didn't you, that if that explanation was not given, there might be trouble injected into this happy household that you thought existed; that is true? A. That is possible; yes, sir.

Q. Why didn't you give Mr. Grundy that explanation? A. I didn't think it was my place to approach Mr. Grundy.

Q. Why not? A. I didn't think so.

Q. You knew that the parties were happy together up to that time, to your knowledge? A.

I thought Mrs. Grundy or Miss Halverson should go to Mr. Grundy to give Mr. Grundy the explanation; I had no right to give such explanation because I was there to assist Mrs. Grundy packing, and it wasn't my place, at least I considered it so, sir.

Q. You knew the situation in which you were demanded an explanation in order to save the situation, didn't you? A. I myself thought so.

Q. Nevertheless, with the knowledge that the situation in which you had been found called for an explanation, you took no steps whatever to give the explanation to the person who was entitled to it, did you? A. I thought it was his place to ask.

Q. Whose place to ask? A. Park's.

Q. How about Mr. Grundy? A. Had he asked me I was ever ready to give the explanation.

Q. Did you talk to Mrs. Grundy after Park left, with respect to the situation in which you both had been found? A. No, not with respect to that.

Q. Well, did you talk to her at all with respect to the attitude that Park had taken? A. No, sir.

Q. You thought there was something peculiar in Park's attitude, didn't you? A. Yes; I said that he might have asked for an explanation; that is about all.

Q. You waited there in that bedroom for Park to come back in order that you should give him the explanation? A. That is the way I figured.

Q. Park then came back and walked past the door and walked out without saying anything? A. Yes, sir.

Q. You thought that was peculiar? A. Yes, sir.

Q. What did you think? A. I thought he should have asked for an explanation.

Q. What did you think of Park's attitude? What did you think the thoughts were in Park's mind when he walked past? A. I didn't think anything only a little peeved.

Q. A little peeved at what? A. At me there unaccompanied, of course, with Mrs. Grundy.

Q. Didn't you say a word to Mrs. Grundy after Park left, with respect to the way in which Park acted? A. I said that I hoped Gertie—"I am sorry that Gertrude wasn't here at the time," that is all in connection with that.

Q. Now, is that all, "I am sorry Gertrude wasn't here"? A. Yes, at the time Park walked in here.

Q. While Park was in the room? A. No, after Park had left.

Q. Is that all you said after Park had left, with respect to the situation in which you were? A. Yes, sir.

Q. Simply "I am sorry that Gertrude wasn't here"? A. At the time; yes, sir.

Q. What do you mean at the time? A. At the time Park walked in, or previous to Park's arrival.

Q. Well, just— A. So she would explain.

Q. What did you say to Mrs. Grundy? A. I just said, "Mrs Grundy, I am sorry Gertrude wasn't on hand at the time Park walked in."

Q. What did Mrs. Grundy say? A. She might have said yes, or something to that effect; she met her later.

Q. Is that all that was said between you? A. That is all; I asked her if I could assist in packing the china; she told me just how it had to be done; and I thought I wasn't capable of doing it so I went home.

Q. That is all that was said between you with respect to the situation in which you were and the attitude that Park had taken; is that right? A. That is all.

Q. You didn't say to her, "I am sorry that we were in this position, you had better explain to Mr. Grundy," did you? A. No, sir; I didn't say that.

Q. And she didn't say to you, "I am sorry that we are in this position, we had better explain to Mr. Grundy", did she? A. No, sir.

Q. You never mentioned Mr. Grundy's name, did you? A. No, sir; it wasn't my place.

Q. You assumed that Park thought funny of it didn't you? A. I assume that he felt peeved, yes.

Q. What do you mean by feeling peeved? A. Well, in other words, mad at seeing me there without Gertrude, seeing me there with his mother.

Q. You knew that, or thought that the report as to what had happened would be taken back to Mr. Grundy, didn't you? A. I thought, of course I naturally would think that, yes.

Q. Of course you naturally would think that? A. Yes, sir.

Q. Nevertheless, knowing the situation that you were in, knowing that it called for an explanation, and knowing what Park thought about that, and realizing that Park would take it back to his father, you never said anything to Mrs. Grundy with respect to what had happened, did you? A. No, sir.

Q. Still at the same time you thought that this was a happy household, is that right? A. Yes, sir.

Q. How long did it take you to go downstairs

to get this barrel, the first time? A. First, just to get the first barrel?

Q. Yes. A. About 15 minutes; because I had to lift and move different boxes that were lying on top of them.

Q. When you went down to get the first barrel where was Mrs. Grundy? A. In the dining room.

Q. Doing what? A. Gathering china and taking plates from the wall.

Q. Where was she when you came up with the barrel? A. The first barrel, she was in here.

Q. How long did it take you to go down for the second barrel? A. Oh, about five minutes; within five minutes.

Q. How many flights of stairs are there? A. Three, and the one leading down to the basement.

Q. Was the second barrel lying where you could get it when you get down there? A. Yes, sir; lying inside the wood bin door.

Q. So you went, after you delivered the first barrel, you started immediately upon your trip for the second barrel; you picked up the second barrel and walked upstairs? A. I lifted up the boxes a little bit and piled them up neatly again.

Q. That took a second or a little more than that; probably two seconds? A. Probably piled them up in a second.

Q. The second time? A. When I finished I wanted to leave the wood bin in the same condition I found it.

Q. It took you 15 minutes to get the first barrel out, is that right? A. Yes, sir; about that time; I was delayed a little bit—

Q. What? A. I delayed a little bit looking around.

Q. What did you do during the 15 minutes? A. Opened the wood bin, looked around to see and figure which was the easiest way to get hold of these barrels, and after figuring why I lifted off the boxes and pulled out one barrel, laid it down outside, then went back locked up the wood bin—lifting the boxes took a little time—then carried it upstairs.

Q. When you had to come down the second time, what did you have to do? A. Come down, take the second one, and repile the boxes I had knocked down.

Q. And that took you five minutes to do that? A. Down and up stairs; yes, sir; probably two minutes carrying the barrel upstairs.

Q. Now, when you walked in the room,—when you left the floor the second time Mrs. Grundy, as I understand it, was doing exactly what she had been doing before, cleaning up and around the kitchen, is that right? A. No, sir.

Q. What was she doing? A. She was at the same work.

Q. When you came up the second time where was she? A. Lying on the bed in the bedroom.

Q. How did you find out that she was in bed? A. I walked straight in the dining room, left the second barrel in the dining room, and returning I didn't see her there, on my way to close the door, because I couldn't close it when I had the barrel in my hands I noticed she was in her bedroom, after I closed the door.

Q. What did you notice with respect to the bedroom? A. I noticed that she was sitting on the edge of her bed. the foot of her bed.

Q. What did she do then? A. Sat on the foot of the bed; nothing at all.

Q. Were you surprised to find her in the bedroom? A. Not at all surprised; no, sir.

Q. Why not? A. Well, being that she complained of feeling ill, I thought probably after working a little bit around she got a severe headache, her headache was a little bit too much for her; that is the way I looked at it.

Q. Then you were not surprised at all when you came back the second time, to find her in the bedroom? A. No, sir.

Q. Hadn't she told you she was going in the bedroom? A. She didn't tell me; no, sir

Q What did she say with respect to feeling ill? A. When I first entered I noticed a cloth around her head and I asked her if she felt ill, and she said yes, she was upset over some personal matters or affairs she didn't care to discuss; that was all there was to it. It wasn't my place to ask why. I always held my place in Mrs. Grundy's company because I am a boy compared with Mrs. Grundy, so I never spoke any more about it in any manner, shape or form, in connection with Mrs. Grundy.

Q. What did she say, if she said anything, more than what you have already stated, with respect to her feeling ill? A. That is the extent of it, sir, just that she felt ill.

Q. Had she been drinking? A. I don't know, sir.

Q. Why not? A. How can I tell; of course I didn't see her only there for a short time.

Q. Do you recall seeing a person drunk before; you can tell whether they had been drinking or not? A. It all depends on the extent; if she took one or two drinks, for all I know and seen, it wouldn't have no effect, one or two drinks.

Q. Do you use liquor yourself? A. No, sir; never.

Q. Had you ever used it? A. No, sir; never.

Q. You have seen people under the influence of liquor? A. I have, sir.

Q. You know the smell of liquor? A. Oh, yes.

Q. Will you say that Mrs. Grundy on this occasion had not been drinking? A. I would say that; yes, sir; that she was not drunk; of course, I didn't see her drink, but she didn't appear to be intoxicated.

Q. Did you go close enough to her to smell her breath? A. No, sir, I did not.

Q. You didn't? A. No, sir; I did not.

Q. There was nothing about her that indicated to you that she had had any drinks? A. Nothing whatsoever; no, sir.

Q. Had you ever seen her drink before? A. I never say her take whiskey; I will admit seeing her take a glass of beer.

Q. Had you even seen her take hard liquor before? A. I never did.

Q. During all that time you had never seen her take hard liquor? A. Never hard liquor.

Q. Did you ever see her in bed before? A. In bed?

Q. Yes. A. No, sir.

Q. Did you ever see her intoxicated before? A. No, sir.

MR. LANE: I will withdraw that.

Q. Did you ever see her under the influence of liquor at all? A. No, sir.

Q. Did you know, or had been told, anything about her addiction to liquor? A. No, sir; I never had been told; I didn't know her as such.

Q. I didn't ask you that; had you ever been told? A. No, sir.

Q. Had you heard it? A. No, sir.

Q. What time of day was it that Gertrude telephoned the day before? A. In the evening.

Q. Well, what time in the evening? A. Between the hours of eight and nine.

Q. What did she say? A. She asked me was I busy the following day and I said no; I wasn't; I said, why; she said, Mrs. Grundy intends to move; would you mind assisting her and myself; and I consented, saying yes, I would.

Q. What did you say? A. I asked her if she was going to be there; she said in the forenoon, and I said I would be there early in the morning.

Q. Why did you ask if she was going to be there? A. Because I didn't want to go up there alone; I always wanted to be in her company.

Q. Why didn't you want to go up there alone? A. Because I didn't think it right to enter a married woman's apartments alone.

Q. Why not? A. Because I didn't think it was proper; that was my own mind.

Q. Why? A. Because.

Q. Why in your own mind was it improper for you to go there? A. Because I am a friend of Gertrude Halverson's and I thought if I went there I should be in her company.

Q. So that what arrangements did you make with respect to the time that you were going to be there the next day? A. When she told me early in the morning I said I would be there and I waited until ten o'clock because I considered early meant eight or nine.

Q. Then when you went up there Mrs. Grundy opened the door? A. Yes, sir.

Q. What did you say? A. No more than to ask if Gertrude had arrived as yet, and she said no.

Q. What else did she say? A. I said, I understand you have a little job for me to do.

Q. Yes. A. She said, Yes, I have a couple of

barrels in the wood bin and I would appreciate it if you would bring them upstairs.

Q. Yes. A. And I said I surely would; so I said I would go in the parlor and wait for a few minutes and probably in that time Gertrude would arrive, because I would rather have her come down and show me where they were. I sat in the parlor reading some magazine, I don't recall which one, Mrs. Grundy was in the dining room gathering china ware and taking pictures from the wall; I sat there for quite some time until I thought it was growing late and getting near lunch hour, and I then suggested that I get started so that I would be home in time for lunch, which I did, so I got home in time for lunch.

Q. During the time that you were there, from ten o'clock in the morning, until twelve o'clock, what conversation took place between you and Mrs. Grundy? A. That was all; then she was fixing china ware and I was in the parlor reading.

Q. Did she tell you what she was going to use the barrels for? A. Packing China ware.

Q. During those two hours she was engaged in getting together the stuff which was to go in the barrels? A. She may have done something else that I didn't know about.

Q. So far as you know, that was all she was doing? A. So far as I know that was all.

Q. She was preparing to move? A. Preparing to move.

Q. You saw her taking down these pictures? A. Yes, I saw her taking the pictures from the wall as I passed by.

Q. How did she take the pictures from the wall? A. She could reach them.

Q. Well, reach them by standing on the floor?

A. She could reach them standing on the floor, yes.

Q. Well, how did she take the pictures, did she take them up this way (indicating)? A. They were saucers like.

Q. On the wall? A. Well, on the ledge.

Q. Did you see her do anything else except collecting this china; did you see her wrap anything? A. I didn't take notice, sir.

Q. You went there on Gertrude's invitation— A. On Gertrude's invitation.

Q. To help Mrs. Grundy in this packing; that is true, isn't it? A. That is true, sir.

Q. That was your sole purpose? A. That was my sole purpose.

Q. For which you went there? A. Yes, sir.

Q. You didn't go there this time to meet Miss Halverson, did you? A. I didn't go there with the intention of meeting her, but to help Mrs. Grundy pack up.

Q. You went there to help her pack, because you felt grateful to her for the hospitality which she had extended to you in time past, that is right? A. Yes, sir.

Q. So that it was to pay a duty of hospitality wasn't it? A. Yes, sir.

Q. One of the things that you had to do, to your knowledge, was to bring up these barrels from downstairs? A. Yes, sir.

Q. And yet, for two hours, from ten until pretty nearly twelve, you sat there in the front parlor and didn't move your finger to do the thing that you went there for; is that true? A. From ten until eleven, about.

Q. Well, you didn't say that in your direct examination; you said until nearly noon, or half past eleven; now do you want to change it? A. No, sir; I don't; I thought I said until about

quarter after eleven when I started to go down to the wood bin.

Q. Well, you stayed there then reading a magazine? A. Yes.

Q. Watching this woman work? A. No, sir; not watching her.

Q. But knowing that she was working? A. Knowing it; yes, sir.

Q. Without moving a finger to do the very thing that you went there to do? A. Yes, sir, waiting for Gertrude.

Q. Was Gertrude going to help you carry the thing that you went there to do? A. Yes, sir: barrels? A. No, but I wanted her to be there.

Q. Well, why did you want her to be there when you carried the barrels from the basement to the floor? A. Why, I had to go downstairs to the basement and I wanted her with me.

Q. Are you afraid to go down in the dark? A. Not necessarily afraid; no, sir.

Q. Then why did you want her to go down the basement with you? A. Well, I just wanted her to go down when I was taking them barrels because I was going into a stranger's wood bin and thought it best to have some company down there.

Q. Was there anything to hurt you down there? A. Nothing at all.

Q. Then why did you want Gertrude to help you; did you want her to hold you by the hand down to that basement? A. Just because I was going in a stranger's wood bin, and I thought it best to have company.

Q Is it any worse in going to a stranger's wood bin than going into a stranger's parlor? A. I had been in the parlor before.

Q. So because you had been in the parlor once

you thought it was proper for you to stay there and wait for Gertrude. A. (No answer.)

Q. Do you think it proper for you to go down that basement to-day? A. First Mrs. Gundy had to gather the china ware before she shipped it in the barrels.

Q. Now I suppose the reason is that you didn't do so because Mrs. Grundy wasn't ready with the china? A. That isn't my reason; no, sir.

Q. Did you think it was a genteel thing toward this woman to whom you owed a debt with respect to hospitality, to sit yourself down in the parlor and read a magazine, while that woman was working in the kitchen gathering together this china ware, taking off these pictcres, etc. when you were down there especially to help her? A. I didn't feel myself capable of handling china ware.

Q. Did you think yourself capable of helping pack at all? A. No, only to go to the wood bin.

Q. Then I understand the only thing that you went there to do was to bring up these barrels; is that right? A. That is all that I know; yes, sir; I was ready——

Q. It wasn't her——

THE COURT: He was going to finish his answer. Just finish your answer.

A. I was ready to do anything that was asked of me if I could assist her in any way.

Q. Did you tell Mrs. Grundy when you went there what you had come for? A. I said "I understand you have a little job", and she said, "Yes, I got some barrels."

Q. Is that all she said? A. Yes, sir; she told me that there were some barrels for me to bring up from the basement to the apartment.

Q. Why didn't you say to Mrs. Grundy, "Where are they; let me go and get them?" A. She hand-

ed me the key when she said, "This is the key to the wood bin."

Q. Did she hand you the key when you first came in? A. No, nor until I decided to go down.

Q. As I understand it, when you first went into the apartment you said to Mrs. Grundy, "Mrs. Grundy, I understand you have a little job for me", and she said, "There are some barrels that have got to come up from downstairs"; what did you say to her then, "Let me go down and get them right away?" A. No, sir; I asked her had Gertrude arrived as yet.

Q. Well, did you say, "I don't think I will get them until Gertrude comes?" A. I didn't say that to her, not then.

Q. Well, did you ever say it? A. I said I would stay here a while and wait, maybe Gertrude would probably walk in.

Q. So that when that woman told you that she had a job for you to do, to wit, to get the barrels from downstairs, the very purpose for which you came there, you said, "Well, I guess I will wait until Gertrude comes"; is that right? A. I said I would wait; yes, sir; that is what I said.

Q. Why didn't you ask her why Park didn't bring up the barrels? A. That was none of my affairs.

Q. Why didn't you ask her why it was that you, a total stranger almost, should be called upon to help her pack up? A. I didn't know if Park was home or out of town.

Q. You knew that Park was living home, didn't you? A. No, sir; I did not.

Q. You thought Park was away at school? A. I never inquired as to the family affairs.

Q. You knew Mr. Grundy was home, didn't you? A. Well, yes; not at that time.

Q. Well, you knew he was generally home? A. Generally home; yes, sir.

Q. Then why didn' you say to Gertrude, when she talked to you on the wire the night before, "Why doesn't Mr. Grundy do these things?" A. Well, I consented to do it.

Q. I know you consented to do it. A. She said she didn't have anybody to help her.

Q. Didn't you think it strange? A. She said she didn't have anybody to help.

Q. Who said that? A. Gertrude said Mrs. Grundy didn't have anybody to assist her in packing.

Q. Didn't you think it strange with a husband living happily with her that she didn't have anybody to help her? A. Well, I did think it strange, nevertheless——

Q. What? A. I assume it is the husband's place to do such work, nevertheless I consented to do it.

Q. Didn't you think it strange that you, an outsider, should be called upon to help in this unpacking? A. Yes, I did.

Q. Why didn't you make some inquiry as to why you were called upon? A. I didn't because I didn't mind it, because I was unemployed at the time, I didn't mind doing that little job.

Q. You were anxious to do it? A. I considered it as a favor.

Q. You considered that you were doing a favor? A. As a favor.

Q. When you went there you let an hour and a quarter at least go by without doing the thing that you went there for? A. Yes, I did.

Q. When did you start to go to Mrs. Grundy's house? A. In February, 1919.

Q. What time of day did you go there usually? A. Mostly in the evenings.

Q. Did you go there any time other than

evenings? A. On one occasion other than September 15th I was there at noon hour, I think.

Q. What days of the week did you go there during the month of February? A. What days?

Q. Yes. A. It is very hard to remember that, the days, I couldn't remember the days.

Q. I am not talking of the days of the month; the days of the week like Sunday, Monday, Tuesday, Wednesday, Thursday, Friday or Saturday. A. The first time was Sunday evening, my first visit.

Q. What days would you generally stop in there? A. As I recollect, on Sunday or Wednesday, maybe Saturday night; and Sunday night.

Q. Ou direct examination, if I recollect your testimony, it was to the effect that you went there between February and June, including the month of May, on an average of two or three times a week? A. Two or three.

Q. Now, what evenings or days was it during that period of time that you went there? A. Sundays and Wednesdays, probably Saturday.

Q. Usually in the evenings? A. Yes, sir.

Q. Sometimes during the day time? A. Only twice to my knowledge, sir.

Q. Twice that you recollect? A. Yes.

Q. You never saw Mr. Grundy there? A. Yes, I had the pleasure of meeting Mr. Grundy one evening.

Q. Not February; not March; not April; not May? A. No, sir.

Q. Not June, did you? A. It might have been the latter part of June.

Q. Although you were going there almost every Sunday night; that is right, isn't it? A. As a rule.

Q. Almost every Wednesday night; that is right, isn't it? A. Yes, sir.

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Q. Every week at least once a week, and one other day, almost always during the week? A. I beg your pardon.

Q. About three times a week, wasn't it? A. I went up twice sometimes, I will admit twice.

Q. It was generally on Wednesdays and Sundays, and sometimes another night in the week? A. Yes, sir.

Q. Which would be what night? A. Oh, almost any night, no night in particular.

Q. You never met Mr. Grundy there? A. I did

Q. Not during February, March, April and May —I am confining myself to that now? A. Not during those months; no, sir.

Q. Did you ever ask where he was? A. No I didn't ask.

Q. Did you know? A. Yes, sir.

Q. Where? A. Gertrude had told me the first night when she asked me if I would go to her friend's home and I said yes; the first time I visited with her I asked her where it was and when she gave the name as Mrs., "Well", I said, "wouldn't Mr. have any objections?" She said, "No", and so she said "He is abroad", that was the extent of it; I never inquired any more.

Q. So you knew he was abroad? A. Yes, sir.

Q. Now, what was the night that you met him there? A. The latter part of June as near as I can remember.,

Q. How did you come to meet him? A. Gertrude introduced me.

Q. What was it, Sunday evening? A. It was on a Sunday evening.

Q. What time was it? A. About ten o'clock or 10.30, as near as I can remember.

Q. Was he there when you got there? A. No, I was there before Mr. Grundy arrived, with Gertrude.

Q. Were Gertrude and you there when Mr. Grundy came in? A. Yes, sir.

Q. What took place? A. As soon as Mr. Grundy walked through the hallway Gertrude introduced me to Mr. Grundy as her friend.

Q. Yes; what else took place; anything else? How late did you stay there after that? A. I stayed for about fifteen minutes or so; maybe half an hour after that.

Q. Did you know that Mr. Grundy was going to be there that night? A. No, I did not.

Q. Did you know that he had returned from Europe? A. No—well, he must have, when he came back, yes.

Q. You knew that? I am asking whether you knew he had returned before that, before he came in that night? A. No, sir; I didn't know; I never inquired.

Q. Had you been there the preceding Wednesday? A. The preceding Wednesday?

Q. Yes. A. I don't remember, sir.

Q. If you had not been there the preceding Wednesday, you had been there up until the week before, the preceding Wednesday, anyhow, hadn't you? A. Yes, sir.

Q. Well, you never went there after that on any other day than Sunday, did you? A. Any other day than Sunday?

Q. Yes. A. Yes, sir; I went on Tuesday probably, maybe Wednesday; it is hard to remember just the nights.

Q. Didn't you testify on your direct examination that after the month of June you never was in that house except on Sunday night? A. There might be one night that I would go there; I can't recollect.

Q. You changed your course of conduct with respect to calling two or three times a week,

which you had persisted in from February until June, to calling only one night a week in July and August; that is true, isn't it? A. No, I went there, maybe some weeks I went there twice, maybe.

Q. I am not asking for maybes; didn't you so testify? A. I am trying to think; there are some weeks that I visited there twice.

Q. Didn't you testify on your direct examination that during the month of July you did not go there except on Sunday nights? A. Not as often as three times a week, I said.

Q. Didn't you say you didn't go there except on Sunday? A. I said Sunday and maybe one other night.

Q. Didn't you say that you didn't go there except Sunday night? A. I am giving my answer to that answer; I didn't go there as often in July and August as I did in February and March.

Q. At any rate, you didn't go there as often in July and August as you did from February to March, that is true, isn't it? A. That is true; yes, sir.

Q. You knew when you went there on Sunday nights that Mr. Grundy would not be home, didn't you? A. In July and August?

Q. Yes. A. No , sir; I didn't know that.

Q. He wasn't home, was he any night? A. No, not when I arrived, as I remember.

Q. He wasn't home; you didn't meet him? A. It might be possible that he was in his room asleep; I never inquired.

Q. You never met him again, did you? A. No.

Q. Why did you change from calling twice or three times a week to only calling about once a week? A. Well, in the summer time, the weather, it was much warmer, and I thought it best to take a walk, which was more enjoyable than it was sitting in the house, in the Summer time.

John Francis Evans—Cross.

Q. Didn't you change to Sunday nights, and only Sunday nights in July, because you knew that Mr. Gundy and Park went away and didn't come back until late Sunday nights? A. No sir.

Q. Didn't you know, as a matter of fact, that Mr. Grundy and Park went to the Shackamaxon Country Club and stayed there until late Sunday night? A. No, sir.

Q. You never inquired about that? A. I never did.

Q. And you never knew what they were doing, alhough you never met him? A. Met who?

Q. Mr. Gundy? A. I met him once after that.

Q. I say you never inquired? A. Never made any inquiry, no.

Q. You never thought about it? A. I never thought a single bit about it.

Q. You never thought it singular that this man, whose wife's house you were using at least, was not home one Sunday night that you were there? A. I thought it what——

MR. LANE: I will withdraw it.

Q. You did not think it singular and made no inquiry with respect to it, that Mr. Grundy was not home any Sunday night that you were there? A. That thought never came into my mind.

Q. Did you ever ask for him? A. No, I never did; I asked how Mr. Grundy was; that is what I did do.

Q. Do you mean to say now that before Mr. Grundy went to Europe in February you never met him? A. Before he went to Europe?

Q. Yes. A. No, I never did.

Q. You had never been there in the house when he was there? A. No, sir; not prior to February.

Q. Were you ever in the house in February when he was there, whether you met him or did not meet him? A. No, sir; I was in the house but never met Mr. Grundy.

Q. Before he went to Europe? A. No, after.

Q. But never before he went to Europe? A. Never before.

Q. You were never without Gertrude Halverson before he went to Europe? A. No, sir.

Q. Do you recollect that before he went to Europe you were in the house, and he walked in, and you said that you were waiting for Gertrude, and he stayed there, then a few moments later you said Gertrude wasn't coming and then went away? A. Before he went to Europe?

Q. Yes. A. No.

Q. Did it ever happen after he came back from Europe? A. One day I remember in particular, in July I entered Mrs. Grundy's home, unaccompanied and returned a little package which contained a waist, to Mrs. Grundy on that day, and that day I think Park, and maybe Mr. Grundy, was there; Park was there on that day; I just conveyed that little waist.

Q. What date was that? A. As near as I can remember it was in July; the date I can't recall.

Q. Sunday, or another day? A. I can't say.

Q. What time of day was it? A. At noon.

Q. What were you returning? A. A waist in a little package.

Q. Whose waist, and what about it? A. It belonged to Mrs. Grundy; Gertrude called me over here one day as I was going along Monticello Avenue, and asked me if I would be so kind as to stop off at Mrs. Grundy's and return this waist for Mrs. Grundy, and I said yes, it was on my way down as I went down Clinton Avenue I stopped there in time enough to say Gertrude asked me to deliver that waist.

Q. Did you say to Gertrude, "Yes, that is on my way home, I would like to do it?" A. I said I would do it, gladly do it.

Q. Was there any occasion that you recollect— A. I met Mr. Grundy or Park on that occasion; I was pretty sure Park was there on that day.

Q. What was said between you and Park? A. I do remember something about that now; as I recollect it I returned the waist to Mrs. Grundy and I asked him how he felt or something similar, and he returned the answer; that is all about it; it wasn't any conversation at all that would last any time.

Q. Do you remember any occasion on which you said to Mr. Grundy or Park that you had waited for Gertrude after and a few moments expired you said, "Gertrude, I think, is not coming" and then you went away? A. Well, on one occasion the time I was introduced to Park that day Gertrude was not there as—she was there, of course, early in the morning, but I mean when Park entered Gertrude was not there.

Q. Now, that brings my mind back to that episode. When was that? A. I was introduced to Park around Easter time.

Q. You and Gertrude went to the Grundy house what time? A. Eleven o'clock, as near as I can remember.

Q. In the morning? A. In the morning.

Q. It wasn't Easter Sunday, was it? A. No, it wasn't Easter Sunday.

Q. A week day? A. I suppose a week day.

Q. What did you go there for? A. For nothing that I know of.

Q. What? A. For no reason.

Q. Well, people don't usually do things for no reason; how was it that you came to go there at

eleven o'clock? A. She asked me if I would take a walk and I said yes.

Q. Who asked you? A. Gertrude.

Q. Where were you when she asked you? A. I met her on Monticello Avenue.

Q. Just accidentally met her? A. Yes, that was the circumstances.

Q. What did she say? A. I asked her if she was going over there to take a walk with me.

Q. What were you doing? A. I wasn't doing anything.

Q. You weren't working at all? A. No, sir.

Q. You had no appointments that day? A. I had no appointments, no.

Q. The day was over, so far as work was concerned? A. Yes.

Q. You could do whatever you chose? A. No, I couldn't say so, because in the afternoon I might go out to seek employment; ordinarily I would.

Q. Ordinarily you would not go out to seek employment in the morning? A. Some days I do. It happened I had a little job to do that day.

Q. Did you do it? A. Early in the morning.

Q. You thought a good deal of Gertrude, didn't you? A. I did yes, I will admit that.

Q. Gertrude wanted you to go with her this day to Mrs. Grundy's; that is right, isn't it? A. Yes.

Q. You just accidentally met her on the street, or did you go to her house or she call you up? A. I accidentally met her here.

Q. Then you went to Grundy's and got there about eleven o'clock? A. Eleven, I should say, yes.

Q. What was Mrs. Grundy doing? A. Well she wasn't doing anything that I really took notice any more than sitting in the reading room.

Q. How was she dressed? A. The same blue

silk waist, etc. I never took particular notice of a woman's clothes; that is a question I couldn't answer.

Q. Is that the kind of dress that she was usually dressed in when you were there, the blue dress and silk waist? A. As I say, I never noticed; I don't know very much about woman's clothes.

Q. Do you know the difference between a house dress—— A. I certainly do; this happened to be a blue dress.

Q. You say you know the difference between a house dress and a kimona? A. I surely do.

Q. On this occasion she was dressed in a blue skirt? A. A blue skirt.

Q. And a silk waist; is that right? A. I don't know the material.

Q. Is that the way she usually was dressed? A. Mostly always in a blue skirt and waist; I will not say silk.

Q. Did you ever see her in a house dress except on this one occasion in September? A. The evening that I was introduced to Mr. Grundy I believe the gown that Mrs. Gundy wore that evening was something like a house dress, a plain dress—I call it a plain house dress—that evening.

Q. Well now, we will go back again to the time of Easter time; you got to Mrs. Grundy's house about eleven o'clock and she was dressed in this blue skirt and silk waist; you walked in the house; what took place; what happened? A. I sat down in the reading room and Gertrude and I sat down for a while.

Q. Then what happened? A. I was there a short time when Mrs. Grundy asked Gertrude to go to the store; what she wanted I don't know; I over-heard her ask her if she would go to the store and she said she would; she said, "Will you wait?" and I said, "Yes, I will wait; don't be

long". It was getting near lunch hour and I went out——

Q. By the way, what time did all this happen in? A. Half an hour after I arrived.

Q. Yes; go on. A. Park walked in and Mrs. Grundy introduced me to her son. "Park," she says, "this is a friend of Gertrude Halverson's."

Q. Yes. A. So I stood in conversation, Mrs. Grundy, Park and I; we conversed for a period of maybe 15 or 20 minutes.

Q. What did you talk about? A. About sports, etc., swimming, and athletics.

Q. Generally? A. Generally an all around conversation.

Q. In a very nice way? A. In a very nice way.

Q. How long was that? A. Sir?

Q. How long did you converse? A. About 15 or 20 minutes.

Q. Then what happened? A. I asked Mrs. Grundy where she sent Miss Halverson and she told me she sent her down the avenue. My reason for asking was because she was so long, so I decided to go home. I lived only a short distance from Mrs. Grundy's home; it took me a few minutes; I decided to go home. I shook hands with Park Grundy, was pleased to make acquaintance with him, and went home.

Q. You got there about eleven o'clock, Miss Halverson was sent out to the store about half an hour after, that would make it about half-past eleven? A. About that.

Q. About that time Park came in—what time did Park come in? A. Why, he came in about fifteen minutes, or ten, say, later, after Gertrude had gone to the store.

Q. That would be about quarter to twelve; you stood there talking to Mrs. Grundy about 15 or

20 minutes; that would make it about 12 o'clock; is that right? A. That is about right, as near as I can remember the time.

Q. When you asked Mrs. Grundy where she had sent Miss Halverson, she said that she sent her down the Avenue? A. Yes.

Q. Down the avenue meaning Monticello Avenue? A. Monticello or Jackson.

Q. A few blocks away from this Clinton Avenue place—either one is only a few blocks away? A. Either one; of course it might happen that you would have to go to a store on the extreme end.

Q. You made no inquiry as to where Miss Halverson was going or anything of that kind? A. I heard Mrs. Grundy say to the store; it was needless for me to inquire.

Q. But you didn't inquire? A. No.

Q. You didn't make any inquiry as to how long she would be gone? A. No, I did not; I suspected—

Q. You suspected she would be gone how long? A. About 15 minutes at the most.

Q. It takes at least that time to get to Jackson Avenue or Monticello Avenue corner; I am talking about where the shops are? A. Yes; I say it takes about 15 minutes to make that trip.

Q. A nice day, wasn't it? A. Yes, it was a pretty nice day.

Q. A sunny day? A. It was nice out, yes.

Q. Nice walking weather, is that right? A. Yes, it was nice.

Q. Not bad under foot? A. Not very bad.

Q. You had been asked by Miss Halverson to take a walk, hadn't you? A. Yes, sir.

Q. You had taken a walk from Monticello Avenue as far as Mrs. Grundy's? A. Yes, sir.

Q. Then the girl of whom you thought so much

had been sent to the store; that is right, isn't it? A. That is right.

Q. She was going to take fifteen minutes at least before she got back; that is right, isn't it? A. That is right.

Q. Was there anything that prevented you from accompanying her on that walk? A. No, there was nothing to prevent me.

Q. Why didn't you do so, when you started to walk out with your girl? A. Well, when she was leaving she said, "Jack, you can wait until I return." So I says, "All right, I will wait; you won't be long," so I thought I would wait.

Q. But you were out for a walk, weren't you? A. Yes.

Q. That is what you started for? A. Yes.

Q. You weren't out to make a visit to Mrs. Grundy, were you? A. No, first we thought we would take a walk.

Q. That was the understanding, wasn't it? A. That was.

Q. That you would walk? A. Yes.

Q. That was merely an incident of the walk? A. An incident.

Q. Yet you would rather stay in this house with this woman whom you say was old enough to be your mother, than to accompany your girl on this walk, is that right? A. I was in her company all day and for fifteen minutes I didn't think it worth while to go to the store, being that she would return.

Q. You didn't think it was worth while? A. No, not when she suggested staying around there.

Q. You didn't think it was worth while to accompany this girl on the walk, although it was a bright, sunshiny day? A. Not when she was going to go around.

Q. Not when she was going to go around? A. She said she would not be long and to wait until she came back.

Q. You would rather stay home, or stay in the house alone with this woman old enough to be your mother? A. I would rather do that—no, sir.

Q. Then why did you do that, when you would not rather? There was nothing to prevent you from accompanying her. A. Mrs. Grundy sent her to the store.

Q. And because Mrs. Grundy didn't send you to the store you didn't go, is that the reason? A. Well, sure it is, because if she wanted to send me I would go.

Q. You knew at that time that it was not a proper thing for you to be in the house alone with Mrs. Grundy, didn't you? A. No, I didn't know that.

Q. When did you discover that? A. I never did discover that, that it was not a proper thing for me to do.

Q. When did you think that your being alone with Mrs. Grundy might call for an explanation? A. Why, I thought at the time Park entered; that incident happened on September 15th.

Q. You never knew about it before then? A. No, I was only alone twice.

Q. I know you were only alone twice. Didn't you testify on your direct examination that the reason why you waited for Miss Halverson at the September 15th incident was because you thought it wasn't right for you to do anything unless she was there? A. I wanted her to accompany me down to the wood bin; that is the reason for waiting.

Q. Didn't you testify on your direct examina-

tion that you did not think it was proper that you should be alone with Mrs. Grundy? A. I did not think so myself, yes; I testified to myself, I did not think—

Q. You did not think it was proper? A. I did not see how anyone could conceive the idea that there would be anything done out of the way.

Q. You did not think it was proper, at least, did you? A. No, not in that case, being in the bedroom. Sitting in the parlor makes considerable difference I always thought.

Q. Will you tell me what the difference is between Easter time and September, with respect to whether it is proper to be alone with a woman? A. Position in the house counts a great deal. At this time I was in the parlor; this other time I was in the bedroom. So I think it makes a great deal of difference, particularly in the living room.

Q. When Park came in you suddenly discovered that because of the pangs of hunger and what-not, you were not going to wait for Miss Halverson? A. It would not be by reason of hunger; that isn't the point. Our lunch hour is at twelve o'clock and I thought I would go home at twelve; that is the point.

Q. Do you mean to tell the Court that Park's coming in at the time he did had nothing to do with your sudden departure? A. It was time for my departure after I had finished my job, regardless of whether Park came in or not.

Q. I am not talking about the job; I am talking about this Easter episode.

THE COURT: Mr. Lane is talking about Easter time.

A. Easter, I did stay there; we had nothing to do, any more than I wondered why Gertie hadn't returned; she had gone for that length of time,

she was liable to return every hour, and being that she hadn't returned I thought I would walk down Monticello Avenue and if I did see her I would tell her I was going.

Q. Did you see her? A. No, I did not.

Q. You didn't meet her? A. No.

Q. Where did you walk; which way did you walk after you left the Clinton Avenue house? A. Which way did I walk?

Q. Yes. A. I walked—

Q. When you go to Monticello Avenue you have to walk North? A. I had to walk around the yard to go to Jackson and Clinton Avenue.

Q. And then you had to walk North to get to Monticello? A. Yes, sir.

Q. You didn't walk to Monticello? A. I didn't walk to Monticello; I walked up Jackson, as I recall it—down Jackson, to Communipaw, and over Communipaw.

Q. And up Communipaw— A. Just a matter of a short block.

Q. And up Communipaw to Monticello? A. Yes.

Q. At any rate you went to hunt for her? A. To tell her that I was going and that I wanted to make an appointment for the evening; we were going to some show.

Q. Your house was four blocks the other way? A. Yes, sir.

Q. So that when you left the Grundy house, although you left because it was lunch hour— A. Not lunch hour; no, sir.

Q. Why did you leave? A. I left because Gertrude didn't arrive; she was too long on that errand, so I decided to go; I didn't have any intention of going to dinner on this particular day. I had a little errand in the afternoon.

Q. Then your lunch had nothing to do with your going? A. Not at Easter time, no.

Q. At Easter time the lunch had nothing to do with it? A. No.

Q. You just left because Miss Halverson did not return as quickly as you thought she ought to? A. As quick as I thought ample time; I gave her 15 minutes to go both ways on the errand.

Q. Notwithstanding the fact that you did not offer to accompany her—you did not offer to accompany her, did you? A. You mean on the errand?

Q. Yes. A. Before I had a chance she said, "I will be right back, Jack"; she said, "You wait here." So I really didn't have any chance to offer.

Q. Then you did not accompany her because she got out too quickly for you to offer it? A. That was the reason.

Q. That is a reasonable reason; is that the reason? A. She was gone before I could even catch her and I thought she would only take five minutes.

Q. So that now you testify, do you, that the reason why you did not accompany her on this walk was because she happened to get out too quickly for you? A. Not necessarily because she got out too quick; she told me that she would be right back, to stay there until she arrived; so I did.

Q. So that is the reason? A. She volunteered to go alone.

Q. That she volunteered to go alone; you didn't say that formerly, that she volunteered; is that right? A. Yes.

Q. You waited at the house alone until Park

came in and then you left because you thought she had taken too long on this errand? A. Yes, sir.

Q. This, notwithstanding that you had started on the expedition at her invitation for the purpose of having a walk; that is right, isn't it? A. I started out for that purpose.

Q. And Park's coming in was a mere coincidence with respect to the time of your leaving; that is right, isn't it? A. A mere coincidence, yes; it didn't figure in it at all.

Q. Just as Park's coming in on September 15th was a mere coincidence; that is right, too? A. It never figureed in it; I never gave it a thought whether he would come in or not.

Q. Did you find out what Miss Halverson did that afternoon that she did not come back to the Clinton Avenue house on Easter time? A. On Easter time?

Q. Yes. A. She went home.

Q. You did find out? A. Yes.

Q. When did you find it out? A. I saw Gertrude the following evening as I was going down and I asked her why she didn't return, and she told me she went home; whether she went up in the afternoon or not I don't know.

Q. What did she say? A. I asked her what took her so long on that errand.

Q. Yes. A. And she said she went home.

Q. What else did she say about that? A. That is all I can say; I told her that I left shortly after and I walked down Monticello Avenue thinking I would see her.

Q. All she said is I went home immediately without going back to Mrs. Grundy's? A. She said, "I went home."

Q. Is that right? A. Yes, sir.

Q. And that is all you asked her about it? A. Yes, sir.

Q. Well, did you say, "What do you mean by going home after you said you would be only gone a few moments? I was waiting there, you know"? A. I told her I was waiting for her quite a long while.

Q. Why, this girl had left with a promise on her lips that she would be back in a few moments, hadn't she? A. She left saying that when she completed her errand she would return.

Q. To do an errand? A. Yes.

Q. And after she didn't come back you left, and the next day you overlooked the incident, in spite of the fact that she said she would be back there in a few moments, and in spite of the fact that she had left there on an errand and she went right home; do you want me to believe that? A. Well, I am telling you the absolute truth.

Q. Well, didn't you say, "What do you mean, after you promised me to come back in a few moments"—I don't mean to say that in the cross way in which I put it; I mean didn't you try to find out why it was, in a nice, gentle way, or in any other way? A. I asked her what took her so long on her errand and she told me that she went home; I thought that was sufficient.

Q. Didn't you think it was funny? A. After I asked her where she went I didn't think it necessary.

Q. Don't you think it funny? A. Yes, sir; going on an errand and not returning.

Q. Don't you think it funny that this girl should have been sent on an errand and instead of going back to the place from which she was sent, to go home? A. Yes, sir; I did.

Q. Don't you think it also funny, or extraordi-

nary, that after she had started out on a walk with you, and after she had left you at this Mrs. Grundy's house with a promise that she would be back in a few moments, having been sent for an errand, that she did not come back? From your standpoint wasn't it extraordinary? A. Yes, when you stop to consider that you are going out for a walk, yes.

Q. When you stop to consider whether you are going out for a walk or whether you are not going out for a walk; she didn't do what she said she would do, did she? A. She did not.

Q. And for all she knew you might have stayed there until five o'clock that night; that is true, isn't it? A. Certainly; but I wouldn't stay there that long.

Q. Yes; if you stayed there that long. A. But I wouldn't.

Q. She thought considerably of you, didn't she? A. I assumed so, I don't know.

Q. She evinced it, didn't she? A. Yes; if she didn't she would never be in my company.

Q. Has she never told you, never explained to you why it was that on this afternoon she took the extraordinary course that she did? A. No.

Q. And you never inquired? A. I made an appointment the following night, I met her to go to some coffee house and I said, "I would die waiting for you to return from that errand," or something of that sort.

Q. She never told you why it was? A. No.

Q. Did she ever tell you what the errand was? A. No, she never told me.

Q. Did you see Mrs. Grundy give her any money? A. No, I didn't see that.

Q. Were you in the room when Mrs. Grundy told her about this errand? A. I was in the par-

lor, or the living room, rather, or the reading room as I call it.

Q. Where was Mrs. Grundy and Miss Halverson? A. Gertrude went in the reading room with me, Mrs. Grundy was coming in from the kitchen, she called her and asked her, of course they walked around, so I don't know what they said.

Q. Were they out of your hearing when they were talking? A. They both took a walk into Mrs. Grundy's bedroom.

Q. And had a secret confab? A. I suppose so; she probably told her what she wanted from the store.

Q. You gathered the impression that it was from the store? A. Yes.

Q. For foodstuffs, or something of that kind? A. It was around midday; they could get almost anything.

Q. They could get almost anything; what did you think it was? A. I thought it was the store; my reason for thinking so was because it was getting near noon hour.

Q. You thought it was something for the dinner? A. Yes, sir; that is just what I thought it was.

Q. Did Mrs. Grundy, while you were there, and before you left, say, "I wonder where Miss Halverson is with that errand I sent her on"? A. When I was about to leave she said, "It will take her a long time," or something to that effect.

Q. Well, did she say anything about the errand? A. No, sir.

Q. Did she seem to be put out at all? A. No, sir; not that I took notice of. I didn't take notice.

Q. Or that she was expecting her? A. She didn't say that; no, sir; not that I recall; I don't remember her saying that.

Q. So that although she was taking a long time, you were both talking about her taking a long time, Mrs. Grundy never indicated to you what it was she had been sent to get; that is right? A. No, sir; that is, she didn't indicate to me.

Q. When was the next time that you saw Mrs. Grundy or Miss Halverson after Easter? A. I don't know the exact date that Easter was in 1919.

Q. It was in March, I think. A. It was a week later.

Q. A week later? A. Yes.

Q. You mean by that week later, you don't mean a whole week of seven days; you mean in the next week? A. In the next week; probably five days from that date, probably four days from date; I don't remember exactly.

Q. Was that the first time that you had seen Mrs. Grundy after this episode of the errand? A. Yes, sir.

Q. Miss Halverson was with you? A. Yes, sir; in the evening.

Q. Now, was there anything said— A. That might have been as much as five or six days; I can't say.

Q. At least a comparatively short space of time; because you were going there two or three times a week in March? A. In March.

Q. Was anything said, or did you observe or gather from the conversation between Mrs. Grundy and Miss Halverson, whether Miss Halverson had seen Mrs. Grundy in the meantime? A. No. In the space between Easter and the next visit?

Q. Yes. A. Whether Miss Halverson saw Mrs. Grundy?

Q. Yes. A. No, I didn't observe anything.

Q. Nothing was said? A. Nothing was said.

Q. How long did you stay there that next occasion, about? A. Oh, it was in the evening, about eleven o'clock; it never exceeded eleven.

Q. What time did you go there? A. Usually eight o'clock or so, quarter after, maybe quarter to eight.

Q. During the time that you were there on that occasion was anything said about this extraordinary occurrence of Miss Halverson leaving the time before, going out on an errand and never coming back? A. There might have been something said but I didn't observe it.

Q. You don't recollect anything that was said? A. Not in connection with that; no, sir.

Q. It would be a natural thing if something was said? A. It would be natural, yes, I will admit.

Q. And it would be rather natural for you to recollect it, wouldn't it? A. Yes, if I happened to be in hearing when it was said.

Q. And so far as you know nothing was said, is that right? A. So far as I know.

Q. At least, if anything was said you didn't take any part in it? A. I didn't take any part in it.

Q. So that you don't know to this day whether that errand was ever performed, do you? A. I don't know.

Q. You don't know to this day why it was that Miss Halverson treated you in the extraordinary and discourteous way in which she did? A. Well, I don't know the reason for it.

Q. What? A. I don't know the reason for it.

Q. You don't know what strong impulse it was that caused her on this occasion to go directly home, do you? A. No, I do not.

Q. Do you know why it was that Miss Halverson did not show up on the 15th of September? A. Why she didn't show up?

Q. Yes. A. No, I really don't know that, because I would have to inquire into her personal affairs if I asked her; I asked her if she would be up early and I asked Mrs. Grundy if she would be there in the afternoon, and she did arrive early in the afternoon, I learned that at a later date that she was there that afteernoon.

Q. How long after the 15th did you see Miss Halverson? A. How long after the 15th?

Q. September 15th. A. Well, I should say three or four days later.

Q. Where did you see her? A. At her home.

Q. You called on her? A. Called on her, yes.

Q. Did you ask her why it was she didn't show up on the 15th? A. She didn't tell me; she was there in the afternoon, she told me.

Q. Did you ask her why she wasn't there in the morning? A. In the morning?

Q. Yes. A. Yes, I said, "I waited an hour for you in the morning."

Q. Yes. A. She said, oh, she was busy, so that was sufficient, I thought.

Q. Did you testify just two or three minutes ago that you didn't know why she wasn't there in the morning? A. Not September 15th. Easter time I didn't know.

Q. I am talking about September 15th; we are talking about September 15th. A. Why I didn't know she was there?

Q. Yes. A. I testified to that, that I really don't know.

Q. You really don't know? A. No, no more than I went up there three or four days later, I met her, and I just simply asked her why it was; I

might have said something to this effect, "It is a nice way you left me; it is a nice way to keep your appointment," or something to that effect.

Q. Did you say it? I am not asking what the reasonable thing for you to have said was; I am asking what you did? A. I asked her what happened to her on that morning, and she said she arrived in the afternoon.

Q. Did she say what time in the afternoon? A. No, she didn't specify what time.

Q. And you didn't inquire? A. I didn't inquire.

Q. Did you ask her why she wasn't there in the morning? A. Pardon me a minute now; I don't recall here, but it would be natural if I should ask her the exact time.

Q. I am asking whether you did ask her that? A. Well, I wanted to know, yes, I think—I am sure I asked her why she didn't keep her appointment that morning.

Q. Now you are sure. What did you say to her and what did she say to you? A. I asked her what detained her.

Q. Yes. A. That morning; she says, oh, something, I can't really remember her answer; there is no use of my trying to remember.

Q. I am not asking you to remember the exact words. A. I will admit I said—

Q. What was the substance of it, what she said that detained her? A. As much as to say that it was almost impossible for her to keep her appointment, as she was busy; that is as much as I remember; I don't know exactly the words.

Q. Well, did you let it drop at that? A. I went and told her that I brought the barrels up.

Q. What else did you tell her? A. I told her I brought the barrels up from downstairs.

Q. What else did you tell her? A. That was about all; I told her I got along all right; she asked me how Mrs. Grundy was feeling and I said she looked ill, felt ill, didn't look her best.

Q. Search your recollection now. Is there anything else that you told her about this episode? A. (No answer.)

Q. Do you recollect anything more that she said? A. No, I don't sir.

Q. Did you tell her that Park came in there when you were in Mrs. Grundy's bedroom? A. No, I didn't tell Gertrude that; no, sir.

Q. Did you tell her that you were caught under such circumstances that you thought there was an explanation demanded? A. No, I didn't tell Gertrude that.

Q. Did you tell her that she put ou in an awful fix? A. No, sir.

Q. You simply contented yourself? A. Contented myself.

Q. With asking her why she didn't come and with her answer that she was busy; is that right? A. I beg pardon.

Q. You simply contented yourself with her answer to you that she was too busy? A. I contented myself with that answer.

Q. Did you say to her that it was unfair for her to let you go there when she wasn't coming; to make an appointment with you and not to come? A. I called her attention to that in some way, that I thought it as much as unfair to make an appointment and not to keep it—not to fulfill it.

Q. What did she say to that? A. She said she was going to go there but it was impossible to get there at that time any earlier than she did.

Q. Did she know how to get you on the tele-

phone? A. Yes, I gave her a telephone number, but it is a rather difficult thing to call me.

Q. Where was that number? A. Corner Vroom and Bergen.

Q. She has called you up on the telephone before hasn't she? A. Yes, sir; she called me, well, I should say twice or three times; I know one time in particular, September 15th, that incident of September 15th.

Q. She telephoned the evening before and got you? A. Yes.

Q. Making an appointment for about eight o'clock? A. Yes.

Q. Did she say she tried to get you on the telephone the next morning? A. The next morning?

Q. Yes. A. No, she didn't say she tried to get me.

Q. She didn't say she tried to reach you on the telephone in order to tell you she wasn't going around there to the house? A. No, I don't ever remember her saying that.

Q. How far away does she live from Mrs. Grundy's house on Clinton Avenue? A. Nearly down to the end, one block this side of Fairmount Avenue.

Q. Yes. A. One block his side of Fairmount.

Q. That is in walking distance? A. In other words, about 10 or 12 blocks.

Q. Short blocks? A. They are short, all about the same size.

Q. A walk of about ten minutes, isn't it? A. You can make it in ten if you walk real fast; ten or fifteen.

Q. The minimum is ten and the maximum is fifteen? A. Yes.

Q. Did she tell you why it was that she hadn't sent some word to you or Mrs. Grundy that she

was unable to come there that morning? A. No, she did not.

Q. Did she tell you that she had made a mistake in the hours that she didn't intend to be there at all that morning? A. She didn't tell me that, although I remember disinctly her saying she would be there early; of course this was a telephone conversation.

Q. Did she say to you when you drew attention to the fact that she thought you were mistaken in the time fixed, that she didn't mean to say that she would be there in the morning? A. I don't remember her saying that.

Q. You didn't remember her offering that excuse? A. No.

Q. Did she offer any excuse for not sending word to you or Mrs. Grundy? A. No, sir.

Q. Did she tell you that the appointment with Mrs. Grundy had been made between her and Mrs.—

MR. LANE: I will withdraw that question.

Q. Did she tell you when Mrs. Grundy asked you to do this work? A. No, she didn't tell me that; I took it for granted.

Q. Did Mrs. Grundy have a telephone? A. At her home?

Q. Yes. A. Yes, sir.

Q. Has Miss Halverson any telephone? A. No, sir.

Q. Was there any way by which you could get Miss Halverson on the telephone? A. No, sir; no way that I know of.

Q. She was home in her house usually? A. Usually, yes.

Q. She didn't go to work? A. I don't think she worked; I am not sure of that.

Q. Well, you didn't know anything about whether she worked or not, is that right? A. At

the time she might have had jobs, you know, positions.

Q. At that particular time? A. At that particular time of this incident I don't think she was employed.

Q. You met her in the day time? A. Yes, but very seldom.

Q. Did she tell you she had overlooked the matter that she told you she was going to meet you at Mrs. Grundy's house early in the morning? A. No, sir.

Q. Did she give ny reason why she didn't communicate with Mrs. Grundy or with you, to indicate that she wasn't going as she had promised? A. She didn't give me any reason.

Q. Did she give any reason why she didn't comknowledge? A. Not to my knowledge.

Q. She might have telephoned, might she not? A. She might have.

Q. Miss Halverson? A. She might have.

By Mr. Heyman:

Q. You mean she could? A. She could; that is true.

By Mr. Lane:

Q. There are a great many pay stations within two minutes' walk of the place where she lives, around there? A. There are about five minutes' walk.

Q. She had used the telephone before, is that right? A. Yes.

Q. Did you say, "Why in the world didn't you telephone me that you were not coming until the afternoon"? A. Well, she couldn't get me in the morning; that is true; she couldn't get me in the morning; that night it was about eight o'clock.

Q. I am not talking about the night. A. She couldn't get me any later than she did and it was

impossible to get me in the morning; I had no telephone at my residence.

Q. Did she say she tried to get you? A. She didn't say.

Q. Before ten o'clock she might have reached you through this number that you gave her? A. You mean in the morning?

Q. Yes. A. No, sir.

Q. Where were you? A. In the morning I was home.

Q. What? A. Home, in the morning.

Q. Where is this number? A. Down at Vroom and Bergen.

Q. What kind of a place is it? A. A cafe, I call it.

Q. So that in the evenings you can be found there but in the mornings no? A. Oh, no.

Q. How did she reach you through that 'phone? A. That is where I often stop, to use the slang word, hang out, where I spend my evenings, that would be on that corner, so I was well known around there.

Q. And they would get you? A. I don't know of any place other than that one corner where she could get me.

Q. She went to that trouble to get you. She knew that was a cafe, didn't she? A. No, she only knew the number.

Q. She only knew the number? A. Yes.

Q. She knew they had to send after you to get you? A. They had to send for me?

Q. Yes. A. If I was standing near the window they could at least holler out.

Q. Did she know they had to send out for you? A. I don't suppose so; she didn't know what kind of place it was.

Q. Well, when she called up somebody answered the wire and then they would say "Wait

a minute, I will send for him" or words to that effect? A. Yes, something like that.

Q. She went to all the trouble of telephoning in that way the night before to get you to do this errand, that is right, isn't it? A. Yes, sir.

Q. But she never took the trouble the next morning to telephone to Mrs. Grundy the next morning that she would not be there, although she knew you were going? A. That is right.

Q. Can you tell me why? A. No, I can not.

Q. She knew it would be apt to put you in an embarrassing position to be in Mrs. Grundy's house alone? A. I think she should know it; I should think she should, yes.

Q. It would be apt to put you in an embarrassing position, wouldn't it? A. I wouldn't say so.

Q. Why do you say that? A. I don't see how it could put me being that I was there—if it was putting me in an embarrassing position being at Mrs. Grundy's unaccompanied, is that the assertion?

Q. I asked you whether Miss Halverson know that it would put you in an embarrassing position, her failure to telephone to Mrs. Grundy's house that she was not coming there. You said she should have known it. A. I don't know whether she knew it.

Q. But you said she should have known it? A. She should; at least I myself think that she should have.

Q. So you think that she should have known it? A. I considered Mrs. Grundy, the case of a married woman, and my case, I was just a friend of Gertrude's, and there at the home of Mr. Grundy.

Q. What do you mean by considering Mrs. Grundy's case? A. Being married, and I there assisting her, that is all.

Q. That would put you in an embarrassing position, wouldn't it? You thought so, at least? A. I thought that Miss Halverson would have thought that, you asked me.

Q. You thought Miss Halverson would have thought that? A. I thought she would.

Q. And you thought that she would because you thought that? A. Yes.

Q. Now I ask you again, what was it that occurred between Easter of 1919 and September 15th, 1919, which made it embarrassing for you to be in Mrs. Grundy's apartment alone with her in September, 1919, and which didn't make it embarrassing for you to be alone with her in Easter week of 1919? A. Well, I was introduced to Park that particular day and Mrs. Grundy had explained to Park how it was that I happened to be there, explained it, I thought, with a full understanding of the situation, and I took it for granted that that was all there was to it; I was a friend of Gertrude's so I thought she had gone to the store instead of home, and I thought he would look at it in that light for that reason; I never thought and I do not think I was embarrassed at all.

Q. You thought then in March as you did in September, that to be found there alone with Mrs. Grundy, that that demanded an explanation, didn't you? A. In March?

Q. Yes; any time. A. Well, I was situated, in March, some distance—in fact a greater distance from Mrs. Grundy in March, when I was introduced, I was sitting in the reading room when Park walked in and when he came and he was introduced to me, so I was introduced to him and I was sitting there alone; of course it is an entirely different situation between Easter vacation and the September 15th incident.

Q. Well, will you tell me— A. That is why I didn't feel embarrassed on that occasion.

Q. I know you didn't feel embarrassed; you didn't feel embarrassed because an explanation had been given; that is true, isn't it? A. Yes, I thought that the point was made clear to Park.

Q. But the point needed to be made clear, didn't it? A. It did; yes, sir.

Q. So that being found alone there in the Easter vacation had the same influence upon your mind as it did in September, didn't it; in other words, on both occasions an explanation was called for; that is right, isn't it? A. An explanation was given in the Easter vacation.

Q. An explanation—

THE COURT: Let him answer the question.

Q. Go ahead. A. An explanation was given Park during the Easter period.

Q. An explanation was called for, I asked you? A. It was called for.

Q. Was it called for? I don't mean asked for. Did the situation demand an explanation? A. In Easter it did, yes, demand it, and Mrs. Grundy gave the explanation that day.

Q. But the explanation was demanded by the situation? A. By the situation, yes; that is the first time I had met him.

Q. So that your feeling, that an explanation was needed if you were found alone with Mrs. Grundy, did not change between March and September, did it? A. Didn't change between March and September?

Q. Yes. A. I am afraid I can't answer that because I don't clearly understand.

Q. (Question repeated). A. My feeling didn't change?

Q. Yes. A. No, it didn't change.

Q. Now, upon this second occasion in September of last year, did you tell Miss Halverson that this was the second time she had gotten you into a pickle? A. No, I didn't consider it a pickle.

Q. Well, did you consider that it was the second time she had gotten you in a situation which required an explanation? A. Well, that is rather difficult to remember, an assertion made six or seven months ago, or six or eight months ago.

Q. Now, Mr. Evans, just think for a minute. You had been found under circumstances which indicated to your mind that an explanation was required; you had seen the son of the house go through the house and leave in a condition of mind you called a bit peeved, or angry? A. Angry, or peeved.

Q. Refusing to ask for an explanation; you considered that the story in all probability would be carried to Mr. Grundy; you assumed that under the circumstances there would be trouble, the whole thing occurred from your standpoint because Miss Halverson had not kept an appointment which she herself had made with you the night before; and you had been placed in that position because of that? A. Yes, sir.

Q. And the only thing that you said to Miss Halverson when you met her the next day was, "Why didn't you come?" and she said, "I was busy", and that is all you said; is that true? A. Why, I said, "You made an appointment for early in the morning, I thought you would be there when I went there", and I told her "I waited for an hour for you but you did not return," then I told her I went down to get the barrels as requested and brought them up, and that was the extent of my story.

Q. And that was all that was said? A. That is all I said.

Q. You never made any effort to try to straighten the situation out, did you? A. No, sir; I didn't make any effort.

Q. You didn't say a word? A. To no one.

Q. But Miss Halverson; as to what had happened? A. To no one.

Q. Did you tell her that you waited for an hour and a quarter or an hour and a half, before you went down and got these barrels? A. No, I don't think I specified; I said I waited an hour for her, and I do remember saying I went down and got the barrels and brought them upstairs.

Q. Your testimony a few moments ago was to the effect that you waited for her and finally got the boxes? A. The exact words I don't say, inasmuch as I told her—I couldn't repeat the exact words.

Q. I am not asking you that. Did you tell her that you waited for a considerable space of time and then went down and got the boxes? A. Yes, I told her that I waited an hour; as I said, I don't know exactly.

Q. Did she say what did you do in the meantime? A. No, I don't think she asked me that question.

Q. She never inquired? A. No, I don't think she inquired.

Q. She didn't say, "Why didn't you go and get the boxes right away"? A. No, sir.

Q. Why; what did you wait an hour for? A. Thinking that she would come.

Q. But what did you wait an hour for? A. She didn't ask me that.

Q. Did she say, "Why didn't you telephone me and try to reach me"? A. I didn't know where to telephone to her; I had no place that I could telephone to her.

Q. That is the only explanation. Up to this

time had you ever seen Miss Halverson? A. I have.

Q. Did you see her last night? A. Yes.

Q. When did you come down? A. Yesterday.

Q. Did you see her last night? A. Yesterday was Monday; I arrived Sunday night.

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

Q. Did you see her Sunday? A. No, sir; I didn't see her.

Q. You hadn't seen her today? A. Yes, sir.

Q. You talked with her today? A. I talked with her yesterday.

Q. And up to this minute you have no other explanation and haven't heard any explanation as to why, first, she didn't come back at the Easter time after performing this errand or after having been sent on this errand; and second, why it was that she did not appear when she made an appointment on September 15th, except as you have testified here upon the stand; is that right? A. That is right, I haven't asked her.

Q. And you haven't discussed it in preparation for this case; is that right? A. No, sir; I haven't discussed it; I have been away all the time; I haven't been on the ground here.

Q. You knew this morning and last night that you had been named as co-respondent, didn't you? A. Yes, sir.

Q. You knew generally the kind of testimony that was against you, didn't you? A. Yes, sir.

Q. You knew what Park had said, didn't you? A. I had the testimony read.

Q. Had the testimony read to you? A. Part of it.

Q. So, knowing all that, you talked over this case with Miss Halverson last night or this morning? A. Yesterday.

Q. And after you went over it with her, afterwards you realized when you were talking with her yesterday that she had put you in an embarrassing position, to say the least, with respect to this episode of September 15th? A. I do realize that; yes, sir.

Q. You do realize that? A. Yes, sir.

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

Q. Did you tell her forcibly? A. I didn't emphasize it in any way; I told her it surely had brought me in this case just because she didn't appear that morning.

Q. And she realized that she had put you in an embarrassing position? A. I can't answer for her.

Q. Can't you tell from talking with her last night if she realized the situation? A. I figure that she does.

Q. She realizes it and you realize it, too? A. I do.

Q. That the important thing to save you was that telephone message of the night before? A. Important thing to save me?

Q. Yes; from the consequences of the embarrassing situation; was the telephone message of the night before; didn't you? A. Pardon me; may I please hear that again?

Q. You realize, didn't you, that the important thing, a very important element in saving you from the consequences of the situation, was the fact that she telephoned making this appointment the night before you went; you realized that, didn't you? A. Yes.

Q. Did you realize that it was equally important that she should have some good excuse for not appearing on that day? A. Yes, I suppose she should have some excuse.

Q. Some good excuse? A. Yes; she said she would be there early in the morning.

Q. You realized that, both of you realized that, didn't you? A. Yes, sir.

Q. Yet, after all this conversation, with all the facts in your mind, the only excuse that you could offer here was she could not be there because she was too busy, or words to that effect; is that right? A. That is right.

Q. Did you ask her last night what the business was? A. I did not; no, sir.

Q. Why not? A. Well, I just didn't ask her.

Q. You realize its importance, didn't you? A. Yes, I do realize it.

Q. You came all the way down from Buffalo? A. I realize it.

Q. You came all the way down from Buffalo because of the reports in the Buffalo newspaper? A. Yes, sir.

Q. Of this case? A. Yes, sir.

Q. You were called upon here to help us get the truth? A. Yes, sir.

Q. And you are doing everything in your power to try to clear yourself? A. Yes, sir.

Q. Yet you never asked her yesterday what in thunder was it that made her break that appointment that she had made the night before; did you? A. No, sir; I didn't ask her.

Q. Realizing its importance; is that true? A. That is true.

Q. And you knew that if she had an appointment which would have kept her from this appointment, that it might be under such circumstances that her story could be corroborated by somebody else, didn't you? A. It could be corroborated by somebody else?

Q. (Last question repeated.) A. If she did

have the appointment, yes, it could by somebody else.

Q. It might have been that she was called away to a sick mother, a sick aunt, or somebody else; I am only saying it might have been? A. I know it might.

Q. Or any number of such possibilities that you can imagine; that is true, isn't it? A. There are.

Q. She might have had to go to New York to see somebody on important business? A. That is true.

Q. Or any number of others? A. Yes, sir.

Q. You realize, of course, for something like that, the important thing was the corroboration of that story by someone other than herself, didn't you? A. Yes, sir.

Q. You realized that fully? A. Yes, sir.

Q. You knew that the story, corroborated by an outsider, someone not connected with this case at all, would be much more powerful than anything either you or she could say, didn't you? A. Would be more powerful than she or I could say?

Q. Yes. Because it would be from an outsider. You knew that, didn't you? A. No, I wont say I did.

Q. Would you think that the evidence of a party to a cause is entitled to the same weight as the evidence of someone who is not at all connected with the case? A. No, I wouldn't think so.

Q. You knew that, didn't you? A. Yes, sir.

Q. Yet in the preparation of this case yesterday you did not lift your hand or speak a word to find out what really it was that prevented her from carrying out her engagement with you, did you? A. None other than I have previously stated; no, sir.

Q. Will you tell me why you didn't? A. No, I can't answer why. Last night I only was here for a little while and I didn't discuss the affair last night.

Q. You didn't discuss it last night with her? A. I didn't ask her that; I discussed it, that was all, but I didn't ask her why she didn't appear that day.

Q. Have you discussed it with your counsel? A. Yes, I have.

Q. Mr. Hirschenstein? A. Yes, sir.

Q. Have you discussed it with Mr. Heyman also? A. Yes.

Q. Where did you discuss it with them? A. Down in their office.

Q. When? A. Yesterday.

Q. What hour? A. I was there at ten o'clock in the morning and saw Mr. Hirschenstein and Mr. Finnerty around eleven and came back at three-thirty and went down to Mr. Heyman's office.

Q. Was Miss Halverson there? A. No, she wasn't.

Q. Was she there on any occasion? A. Not while I was there.

Q. Was Mrs. Grundy there? A. Yes, sir.

Q. You went over this case with Mrs. Grundy? A. Yes, sir.

Q. All the details of it? A. Well, I wouldn't say——well, yes.

Q. All the testimony was read? A. It was.

Q. In Mrs. Grundy's presence and in the presence of counsel? A. Yes, Mrs. Grundy was present at the time.

MR. HEYMAN: Are you sure you know what the question is?

Q. You were asked was this testimony read

over yesterday in Mrs. Grundy's presence. A. No, I was there alone.

Q. But Mrs. Grundy was there when you discussed the case, however? A. Yes.

Q. You discussed it for how long a time? A. About three-quarters of an hour.

Q. With Mrs. Grundy? A. With Mrs. Grundy.

Q. And the episode of the Easter vacation was brought to your attention then, wasn't it? A. The most important was the September 15th; I don't recall.

Q. Was the episode of the Easter vacation made mention of? A. Yes, only the most important was the episode of September 15th.

Q. Was the spisode of the Easter vacation talked about at that time? A. Yes, we did speak about it.

Q. Did you tell the story exactly the same as the one that you told on the stand here? A. Yes, sir.

Q. And did Mrs. Grundy say that is correct? A. Yes, sir.

Q. Did Mr. Heyman or Mr. Hirschenstein, or anybody else, ask you how it was that Miss Halverson seemingly forgot entirely this errand that she was going to do in March at Easter time? A. They didn't ask me how she forgot it.

Q. Didn't Mrs. Grundy offer at that time any explanation as to how it was that this errand went up in the air? A. No, sir.

Q. Did Mr. Hirschenstein, or Mr. Heyman, or anyone else, ask what it was that kept Miss Halverson from keeping this appointment on September 15th? A. I related my story and told them how she failed—I told them I went there with the expectation that she would arrive early in

the morning, as I had previously stated, then they questioned me.

Q. Did they say why she didn't show up? A. No, sir.

Q. Did they ask you to find out from her why it was? A. No, sir.

Q. You don't know why? A. No. I don't know; I am telling the truth.

Q. Notwithstanding the fact that you realize the importance of the thing? A. I realize it.

Q. And you realized it then, too, didn't you? A. When,—at the time?

Q. Yesterday? A. Yes, sir; I realized the importance; I sure do.

Q. You realize the importance of accounting for the reason that made this break in the appointment, don't you? A. Yes, sir.

Q. You realized this, didn't you, that if it appeared that you went there to Mrs. Grundy's house without having an appointment with Miss Halverson, a different situation would be created than if you went there with an appointment with Miss Halverson, didn't you? A. It would be a different situation.

Q. Quite different, in your mind? A. Quite different.

Q. So that whether you had that appointment or whether you did not was of the utmost importance, wasn't it? A. I beg pardon.

Q. Whether you had that appointment or whether you had that telephone communication, or whether you didn't, was of the utmost importance, wasn't it? A. What is it?

Q. Whether you had or did not have this telephone conversation, it was of the utmost importance for you to try to find out whether there was anybody at this cafe who remembers the telephone conversation having been sent for you? A. No, sir; it is in the hallway.

Q. But somebody came and got you, didn't they? A. Yes.

Q. Have you tried to find out, or asked Miss Halverson to tell you where it was that she had telephoned that night? A. No.

Q. Or from where it was that she telephoned that night? A. It was up at Mrs. Grundy's home.

Q. She had telephoned from Mrs. Grundy's home? A. Yes, sir.

Q. How do you know that? A. Why, I surmised that she was with Mrs. Grundy; she said she was going up there previous in the evening and she went up, so I was under the assumption that she called from there.

Q. You thought that she called from there? A. I can't swear to it; I think it was a call from Mrs. Grundy's home.

Q. You surmised that she was calling from Mrs. Grundy's home is that right? A. Yes, sir.

Q. What lead you to that surmise? A. Any more than she was with Mrs. Grundy and she would naturally call me from her home.

Q. What led you to the belief that she was with Mrs. Grundy? A. The conversation.

Q. What did she say that indicated that she was with Mrs. Grundy? A. The conversation, that she had been asked to ask me to assist in that work.

Q. Did she say anything with respect to Mrs. Grundy being there with her? A. No, I don't recall her saying anything over the telephonic communication.

Q. Well, did she telephone or say so; what was it that lead you to think that Mrs. Grundy was there, and that she was telephoning from Mrs. Grundy's home? A. I thought if she was down here she would go around that section and she

would not bother telephoning to me for a few blocks.

Q. When you met her at this conference yesterday did you try to find out from where it was she telephoned? A. No, sir.

Q. Did you ask her anything about that?A. No, sir.

Q. And you don't know A. I don't know.

Q. Except as you could surmise, that is all? A. That is all, sir.

Q. When did you see Mrs. Grundy next after the 15th of September? A. After the 15th of September?

Q. Yes. A. Never at her own home after the 15th of September that I recall.

Q. Did you see her anywhere else? A. I saw her at her bedroom windows when I walked down Monticello Avenue; by chance I made a turn and I saw her at her own window.

Q. Did you see her any place where you could talk to her? A. Where I could talk to her?

Q. Yes. A. No, sir; not since September 15th.

Q. Why not? A. Why not?

Q. Yes; why not? A. Well, I was never asked to assist any further in helping her move or anything like that, so surely I wasn't going to ask that I be permitted to help her, so I let it go at that.

Q. Is that the only reason? A. That is about the only reason that I know of.

Q. Why, right up to the 15th of September you had been calling with Miss Halverson once a week, at least, hadn't you? A. I was out with Miss Halverson but not in Mrs. Grundy's house.

Q. You hadn't called, right before September 15th, at Mr. and Mrs. Grundy's house, with Miss Halverson, at least once a week? A. Once a week, yes.

Q. Up until the 15th of September? A. Yes.

Q. Why did you cease? A. Well, she was about to move and I took it for granted she would be moved in a few days; I didn't know just the day when she was to move.

Q. Didn't you make any inquiry to find out when she was moving? A. No.

Q. Didn't you ask Miss Halverson when she was going? A. No, I don't know as I did ask her.

Q. Did you know that Miss Halverson was staying with her? A. She was staying with her?

Q. Yes. A. She might have told me that she was up there a couple of days.

Q. With her mother, too? A. I don't recall her saying, but I do recall she was there.

Q. Where? A. At Mrs. Grundy's.

Q. So you knew Mrs. Grundy was still at home? A. Yes, that is a day or two later.

Q. At the Clinton Avenue place? A. At the Clinton Avenue place.

Q. You knew Miss Halverson was there on occasions? A. She didn't tell me.

Q. She didn't tell you she was going there? A. No, I didn't know she was going there still; she said she was there to visit her, she told me that after she had made two visits; she didn't say that she was still going there.

Q. No, but you knew she had gone there at any rate after the 15th? A. After the 15th.

Q. You knew Mrs. Grundy hadn't moved from there then, didn't you? A. Yes.

Q. You had been in the habit of going at least once a week to see Miss Halverson, hadn't you? A. Yes sir.

Q. Ever since February of 1919? A. Yes, sir.

Q. Yet, on the 15th of September, you absolutely ceased going there, although the lady or girl

that you before that time went to see, was still there or still visited there. Why did you stop on the 15th of September? A. Well, for no reason that I know of; I made a few appointments with Gertrude and the appointments I made I had some some place for instance the movies, etc. so I would always go there; it was only a matter of place in particular to go to, we had prearranged months or weeks and then I left here.

Q. This was a woman whose hospitality you had been using for months, wasn't it? A. Yes.

Q. With whom you are on at least friendly terms? A. Yes.

Q. You went there always to see Miss Halverson? A. Always to see Miss Halverson; yes, sir.

Q. Miss Halverson was still going there; that is true, isn't it? A. After September 15th; yes, sir; she told me.

(Q. She told you she was going; had you asked her why it was you didn't continue in the same way you did before? A. Well, she didn't make any appointments to meet me here.

Q. Why not; what suddenly changed the conditions of your going there? A. Well, there was nothing that changed my mind.

Q. Well, your method did change, didn't it? A. No, sir; it changed, I just didn't go there; I wasn't asked and I never go to any places unless I am invited; I wasn't the one to suggest it.

Q. You knew, didn't you, that Mrs. Grundy stayed there at that house until the 28th of September? A. No, I didn't.

Q. You didn't take any interest as to where she went or what happened to her? A. I can't say that I didn't take any interest.

Q. Well, did you? A. But I didn't make any inquiries.

Q. You didn't inquire what happened to her?

A. No, I didn't; I would maybe ask Miss Halverson how Mrs. Grundy was and she would say quite well; that was the extent of our conversation.

Q. You were then employed by the Public Service, weren't you? A. The Public Service?

Q. Yes? A. In September?

Q. Yes. A. I was only in that position a very short time owing to the fact that there was a strike.

Q. You were employed at the Public Service on the 15th of September, weren't you? A. No, sir; not the 15th of September; a little bit before.

Q. Well, on the 15th you were employed there, weren't you? A. I was only with the firm four days when the strike took place; I don't just recall the day I obtained the job, or the position.

Q. You left on the 25th, didn't you? A. I never marked it down; it was around that time; I don't know exactly.

Q. Why did you leave? A. Why did I leave?

Q. Yes. A. Why, I was there, as I previously stated, four or five days, when the plant closed down owing to the fact that there was a strike, and naturally I turned out; and then when I went back for my position they said I wasn't needed.

Q. Who told you that? A. The man that was the head of the department.

Q. Who was it, do you know? A. Oh, I don't recall.

Q. Denehy; a man named Denehy? A. Not Denehy; he has a rather common name.

Q. You were there at the Marion station? A. Marion station.

Q. From September 14th to September 25th, weren't you? A. Is that the extent? I never marked the dates down.

Q. You left of your own volition, didn't you? A. I left what?

Q. Of your own volition ; voluntarily? A. Well, there was a strike in the firm and I thought it was compulsory that I should go out.

Q. And you never went back? A. Yes, I did, when I thought the strike was over.

Q. Who did you meet when you went back? A. The boss on the floor, or of that department.

Q. The 6th of October you enlisted? A. The 6th, yes, sir.

Q. Now, between the 26th of September and the 6th of October it is only 11 days? A. Yes, sir.

Q. How many days was it after the 25th that you went back? A. Went back to look for my position?

Q. Yes. A. It was on a Monday; I believe the strike was settled on a Saturday and I went back on a Monday morning and was refused.

Q. You don't remember who it was that you saw? A. I know the man but I can't think of his name.

Q. What is that? A. I know the name but I can't think of his name.

Q. When you left on the 6th of October you hadn't any knowledge that you were named, or going to be named in this petition of Mr. Grundy's for divorce? A. No, I did not.

Q. You never had any discussion with Miss Halverson about your conduct? A. No, sir.

Q. Sure of that? A. About my conduct?

Q. With respect to Mrs. Grundy? A. Yes, I am positive of it.

Q. You are sure you didn't? A. Positive.

Q. Miss Halverson never told you when Mr. Grundy told her about this and she found out, did she? A. I beg your pardon.

Q. (Last question repeated.) A. Miss Halverson, I recall, did say something about being told about the affair; whether it was by Mr. Grundy or not I don't know; it might be Mr. Park; I really don't know.

Q. Did she ask you for an explanation? A. Did she ask me?

Q. Yes. A. No, sir; she didn't ask me for any explanation.

Q. She didn't seem to care very much about what she had been told? A. Intimately I did think of it.

Q. Did you go to her? A. Well, I don't know what her thoughts were.

Q. Is that what she said? A. I don't know whether she did care or not.

Q. What did she say about it? A. She simply said that she had been told, she either mentioned Mr. Grundy's name—I am not sure.

Q. What did she say she had been told? A. I don't remember that either, but it is in connection with this case; the exact words I can't think of.

Q. What was the purport of what she said? A. In connection with the affair, I suppose, of September 15th.

Q. What did she say; what attitude did she take toward you? A. Well, sympathetic of me, sorry that it happened.

Q. How sympathetic; how far did she go? A. As much as to say she was sorry to see such a thing happened; that is all the extent of it I know of.

Q. Did she continue to go out with you? A. Yes.

Q. No trouble between you and she with respect to that? A. Never had any trouble.

Q. Did she tell you she was present on the 15th of September in the evening when Mr. Grundy told about this? A. In the afternoon I understood she was in the house.

Q. You understood she was in the house? A. I knew she was there.

Q. Did she tell you about it? A. She told me she was there.

Q. The one day that Mr. Grundy told her the full story? A. Yes, sir.

Q. Did she tell you how it affected her? A. Yes, she did tell me.

Q. Did she tell you she fainted? A. I don't know if she told me about that, about fainting.

Q. But she told you she was very much affected? A. She told me she was.

Q. And she was very much affected; up in the air, wasn't she? A. Yes.

Q. And she indicated that to you in what way? A. Sort of a sympathetic way.

Q. I am not talking about sympathy; she was very much up in the air; you know what I mean? A. I understand.

Q. She was agitated? A. Not raving.

Q. She had been going with you for months, hadn't she? A. Yes.

Q. She called upon you for an explanation, didn't she? A. She didn't ask me for no explanation.

Q. She didn't ask you what your side of it was? A. No, sir.

Q. Well, what did she say? A. She simply said, she either mentioned Mr. Grundy's name or Park Grundy, that they had told her about what had happened, so how they related the story I don't know.

Q. I am not talking about how they related the story; I am talking about how she related it to you. A. She said Mr. Grundy—

Q. You told us she was very much up in the air? A. She was.

Q. What did she do or say which indicated she was up in the air? A. By the different expressions she made.

Q. What did she say? A. Very sorry to hear any such thing, never thought anything like that would occur, etc.

Q. She went on at considerable length, didn't she? A. Yes, she spoke about it.

Q. Well, complained about it? A. She didn't do any complaining; no, sir.

Q. Well, that it wasn't a good thing, and if the thing happened as she said it did it was not fair to her? A. Yes.

Q. That it was very unfair to her, didn't she say that? A. She did.

Q. She told you that, didn't she? A. Yes, as much as told me that; she was sorry that I undertook this.

Q. Not once she told you that, but she told you several times, didn't she? A. No, sir.

Q. I am not talking about more than one occasion; she told you that several times on this one occasion; she went over and over it as a woman will, didn't she? A. Well, she possibly mentioned it three times.

Q. How long did the conversation take place in which she told you about it? A. How long?

Q. Yes. A. About half an hour or so.

Q. On the night of the 16th, was that, or on the morning of the 16th? A. No, I think it was the 17th.

Q. The day after? A. Yes, the day after, or two days after.

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Q. Did she tell you what Mr. Grundy had threatened to do? A. No, she didn't tell me that.

Q. She didn't tell you that Mr. Grundy had threatened to sue for a divorce? A. No, sir.

Q. What did she say would be the effect of this? A. I don't know; I don't think she knew.

Q. Why was she so much upset about it then? A. She could be upset and not knowing what they would do in the matter, I think.

Q. Didn't she tell you that Mr. Grundy had told her that Park had found you in the bedroom buttoning up your trousers? A. Buttoning up—no, sir.

Q. I didn't ask you if that is true or not; I asked you whether she didn't tell you that Mr. Grundy had told her that Park had said he had found you in the bedroom buttoning up your trousers? A. She didn't say anything about the latter, about buttoning up; she didn't mention that.

Q. What did she say Park Grundy had said with respect to your participation in this unfortunate situation? A. Well, as much as to say that I was there at the time Park entered and she was very sorry that it happened; very sorry.

Q. Sorry for what? A. To think that Park found me alone, I suppose, and that she wasn't there to explain.

Q. Did she say she wasn't there to explain? A. Yes; she would have if she was there.

Q. And did she say that Mr. Grundy, or Park, one of them, had suggested a few words which practically meant that you had been guilty of adultery? A. Well, I myself think that they spoke of it, yes.

Q. Didn't she say that they said that? A. No, she didn't give me any words that would lead to such a thing.

Q. So far as you know, she didn't think there had been such a charge made that you were guilty of adultery? A. No, she didn't say so.

Q. Now, what did she say, I ask you again? A. She told me about the affair and said, "I am sorry that Park found you up there with Mrs. Grundy," sorry that she wasn't there to give an explanation, that is all.

Q. Didn't she say that you were unfair to her? A. Unfair to her?

Q. Yes. A. No, sir.

Q. Didn't she say that they thought you were unfair to her? A. Yes.

Q. What was it of her business, then? A. Why wasn't it her business?

Q. Why was it her business; it was not her doing? A. Because I was supposed to be a friend of hers. What would you think of it?

Q. You have already testified, and it is a fact, that she was up in the air, and she complained about the way that you abused her company? A. She didn't complain; it impressed me that she really didn't think anything of it, no more than she was sorry that this thing did happen in this particular room.

Q. Didn't she talk to you for half an hour, and didn't she during the course of that conversation show that she was up in the air, as you say? A. No, sir; I wouldn't say she was up in the air.

Q. You really said that. A. I didn't say up in the air; you mean raging; she wasn't as bad as that.

Q. Not raging, no; but she said that it was unfair to her, didn't she? A. No, sir.

Q. What did she say was the reason she gave for her intervention? A. Sorry that she wasn't there at the time.

Q. Sorry for what? A. That she wasn't there when Park walked through, and if Park demanded an explanation she was ready to give it and this thing might not be brought about.

Q. What thing might not be brought about? A. The present case.

Q. What was said about it? A. That they accused me.

Q. What was said then at that time? A. They accused me because I was in the room.

Q. Accused you of what? A. With Mrs. Grundy.

Q. Accused you for what? A. If she had been there she would have explained to Park why I was there.

Q. What I am trying to get at it— A. In Park's testimony, where he accuses me.

Q. Did she say that is what she had been told? A. She didn't say that, no.

Q. Now, I am asking you this question: When she was talking to you on that night of the 17th, within 48 hours after this thing happened, as you testified in your examination a few moments ago, she was up in the air, she was telling about it, telling what Park had said and what Mr. Grundy had said, I ask you now why it was at that time, when the thing was fresh in your mind, you didn't ask her why in the world it was that she wasn't there as she agreed to be? A. No more than I already stated.

Q. Why didn't you put the blame on her right there? A. That was the answer she gave me; that was all I said.

Q. Will you say to this Court that between the 15th of September, 1919, down to the present time, you have never seen Mrs. Grundy—I am excluding the time you got here, yesterday and the day before—and the time you have seen Mrs. Grundy only from the window? A. That is all; I seen her going on the street once, going to the store.

Q. But never to speak to? A. I tipped my hat, I was quite a distance away, and walked right on.

BY THE COURT:

Q. Mr. Evans, if I understand you correctly, you had been alone with Mrs. Grundy only on the two occasions? A. On two occasions; yes, sir.

Q. The two occasions, about Easter time and September 15th? A. Yes, sir.

Q. Those are the only times, are they? A. Yes, sir.

Q. Have you been out anywhere at any entertainments with her? A. No, sir; never.

Q. In company with Miss Halverson? A. No, sir.

Q. You were never out anywhere with her? A. No, sir.

Q. Out riding in an automobile with her? A. No, sir.

Q. Any railroad trips of any kind? A. Yes, sir.

Q. With her alone, or with Miss Halverson? A. No, sir; never.

Q. Speaking of this episode on September 15th, the expression has been used "in the bed" and "on the bed" both. Where was Mrs. Grundy? A. Sitting on the end of the bed.

Q. On that occasion when Park Grundy came in he said that you were buttoning up your trousers; what have you to say as to that? A. No, sir; I was not.

BY MR. LANE:

Q. I suppose if you had been you would swear that you had been? A. If I had been I would, yes; I would swear I did.

Q. Notwithstanding the consequences? A. Yes, sir; I would swear that I had done it.

Q. You are not a believer in the theory that it is justifiable to perjure yourself for the sake of a woman's reputation, are you? A. I believe it would be perjury if I did so testify.

Q. I say you are not a believer in that theory that it is proper to perjure yourself to save a woman's reputation; are you. A. No, I don't believe it is.

Q. No matter whom it hits, you would testify to the truth? A. I would testify to the truth; yes, sir.

Q. You don't remember the occasion that you were at the house after Mr. Grundy came back from Europe, in which you were there with Mrs. Grundy alone, and you said you were waiting for Miss Halverson? A. No, sir.

Q. You don't remember such occasion? A. No, sir; I do not.

Q. Nor do you remember an occasion when you were there when Park came in and you said you were waiting for Miss Halverson? A. None other than those two times.

Q. You never met, as I understand it, and never saw, Mr. Grundy before he went to Europe? A. No, sir; I never did.

Q. Do you know Thomas Anderson? A. No, sir; I do not.

Q. Was Thomas Anderson a man whom you were employed by? A. No, sir.

Q. Who were you employed by? A. You mean in the Public Service?

Q. No, before the Public Service. A. I worked in the Hyne Harrison Plush Company.

Q. Did you know an Anderson? A. No, sir; I never saw the name Anderson.

Q. You don't remember such a man? A. No, sir; I do not.

Q. Who was your immediate superior in the place in which you worked in the Summer of 1919? A. The Summer of 1919, in the Hyne Harrison Plush House, I don't recall my employer's name.

Q. Did you know him very well? A. No, sir; I did not.

Q. Did you ever go out with him? A. No, sir.

Q. Were you in the fur business? A. Plush; it is similar to fur.

Q. You don't remember the name of the man who was your boss there? A. No, sir; I don't recall his name.

Q. Well, do you remember an occasion—whatever the name of that man may be—in which you and this man, who was your boss, Mrs. Grundy and Miss Halverson were at the Grundy house, and you stayed there until something like three o'clock in the morning? A. No, sir; I never did.

Q. Do you remember an occasion on which you sent out or went out for liquor? A. No, sir; I never did.

Q. Did you ever buy liquor for Mrs. Grundy, or have anyone else do it in the Grundy house at the time you were there? A. No, sir; I never did buy liquor.

Q. Do you know the janitor of that house? A. Well, the man.

Q. Mr. Hansen? A. I didn't know his name, just by seeing him that day I put the lumber

down the woodshed and asked where I would put it; that is all, just seeing him.

Q. Is that the only knowledge you have of him? A. Of the janitor, yes; that is the only knowledge I have.

Q. What did you say to him at that time, just simply how do you do? A. I just said would it be all right if I left the lumber in that place, leave it here, or something to that effect; I don't remember the exact words.

Q. And that was on September 15th? A. That was, no, that was when Park's books was sent from school.

Q. That wasn't on September 15th? A. Not on September 15th, no.

Q. That is the only talk you ever had, and the only communication you ever had with Hansen, is that right? A. That is the only time; I never saw Mr. Hansen.

Q. That is the extent of your conversation at that time? A. That was the extent, where should I put the lumber.

Q. You knew Hansen well enough to talk to him five or ten minutes in the hall here this morning? A. Yes, I find out who he was.

Q. How did you find out? A. I just went over and bid him the time of day and I recognized his face when I saw it; I had to look at him.

Q. Didn't you talk with that man out here in the corridor for ten or fifteeen minutes this morning? A. I wouldn't say ten or fifteen.

Q. Well, for a long space of time—for a considerable space of time, alone by yourself? A. Yes, I did.

Q. And the only communication which you had with him before was what you testified to, is that right? A. Only communication?

Q. Talk, or knowledge of him. A. Yes, I understand what you mean.

Q. (Last question repeated.) A. Yes, sir.

Q. Do you know Mrs. Hansen? A. No, sir; I do not.

Q. Have you ever seen her? A. No, sir; other than today; I just surmised that was his wife; I don't know.

Q. You have never seen her at all? A. No, sir; never did.

Q. Never talked with her? A. No, sir; never talked with her.

Q. Do you remember going to the Grundy house some time in the Summer of 1919 and going to the dumb waiter and calling up the dumb waiter, "Is it all right?" A. Coming from the basement, down in the basement, at the time I unpacked the boxes, I hollered "Is it all off"; that is the only time I hollered.

Q. When was that? A. That was the time when I unpacked the box of school supplies.

Q. When was it? A. That was May 3d, about a week or so after the Easter vacation.

Q. A week or so after the Easter vacation? A. After the Easter vacation.

Q. Do you remember the day of week it was? A. No, sir; I don't remember the day of the week.

Q. Did you have a straw hat on that day, do you remember? A. I think I wore a cap, sort of a light cap, a checkered cap.

Q. You don't remember any occasion that you went to the Grundy house and before going upstairs hollered up through the dumb waiter, "Is it all right" and the word coming down, "Yes, come up"? A. No, sir; I never went to the dumb waiter.

Q. On a Sunday? A. No, sir; I never went to the dumb waiter.

Q. You never went to the dumb waiter? A. Only from the bottom.

Q. What? A. Only from the bottom, as I have previously stated.

Q. Never to find out whether it was all right for you to come upstairs? A. No, sir; never.

Q. How is it that you came to unpack these crates on or about May 3d? A. I met Miss Halverson, she asked me if I would unpack the crate as she was unable to, Park wasn't home at the time, at least so Gertie said, he had been going to school, and I said yes, I would gladly do it, so, as I stated, I unpacked them, one in the basement and also one in the room.

Q. When did Hiss Halverson ask you to do this?

THE COURT: Was that the occasion that has been spoken of before or is this another occasion?

MR. LANE: This is another occasion so far as my cross-examination is concerned. It has been spoken about on the direct, it is the occasion in May.

THE COURT: Not the Easter occasion?

MR. LANE: No.

Q. When was it that Miss Halverson asked you to do this? A. The night previous to my going there, which was in the evening about 5.30.

Q. How did she ask you this, face to face or over the telephone? A. Face to face.

Q. Where? A. At her own home.

Q. At Miss Halverson's home? A. Miss Halverson's home.

Q. What did she tell you? A. She told me

she had been in communication with Mrs. Grundy and that she received a box containing school supplies for her son, it was rather a heavy box, and asked me if I would help her, as much as to say I was going to help Gertie send the school supplies up the dumb waiter, which I consented.

Q. The box, she said, was in the basement? A. The box in the basement, the crate was upstairs.

Q. When was this unpacking to be done? A. I said that I would do it tomorrow evening; I got there about six o'clock or quarter to six, nearby that time.

Q. Yes. A. And I unpacked it.

Q. Where was Miss Halverson? A. She was upstairs with Mrs. Grundy.

Q. When you got there at six o'clock, or in between those hours, what did you do? A. Gertrude—let me see, I don't remember that now—I met Gertrude at the door of Mrs. Grundy's home, she accompanied me to the basement and showed me where this box was lying; then as she showed it to me she went upstairs to assist Mrs. Grundy in taking the school supplies from the dumb waiter as I pulled them up, gradually, I put them on the dumb waiter and pulled it up and they would take them off until I completed the job.

Q. What time was your appointment at Mrs. Grundy's house? A. In the afternoon, it was six o'clock nearly when I got there—arrived there.

Q. What time was the appointment to be? A. It wasn't specified; it was by my own statement, I said I would be there in the afternoon.

Q. You could have gotten there any time during the afternoon? A. Well, no, I was working that time—let me see, May 3rd—yes, I was working with the Hyne, Harrison Plush house, and

it was understood I never would be home much before six, and if I got there at quarter of six I thought it would be making very good time.

Q. A few moments ago you testified that there wasn't any understanding with respect to time; you said you would be there some time during the afternoon. A. Towards evening; she knew.

Q. Now you say that everybody assumed that you would be there about quarter of six; which is true? A. That is the best time I could make it from work.

Q. You didn't say that at the time you made the appointment, did you? A. No; I would be over as soon as I got back from work.

Q. Now, where did you meet Miss Halverson? A. I met her at Mrs. Grundy's door.

Q. Which door? A. She was standing at the front door.

Q. Downstairs? A. Yes, sir.

Q. Have her hat and coat on? A. Yes, sir.

Q. She had just gotten there? A. That I don't know, whether she just arrived; I met her down there; she took me down the basement and showed me the boxes.

Q. Did she say she had been waiting for you any length of time? A. Yes, sir; "I waited for you for a few minutes."

Q. She said, "I waited for you for a few minutes"? A. Yes.

Q. Did you make an appointment to meet her in this downstairs place or at the door? A. Yes, I told her to wait for me better than an hour and if I didn't come to go upstairs until I arrived, because I didn't want to go up to call her, and she said yes.

Q. What did you say to her with respect to not going upstairs? A. I said that I will get here anywheres from 5.30 until 6 and if you are

down at the door at that time all well and good, we will do the job then.

Q. Now, do you realize you have told three stories with respect to the time when you were to meet her. A. I said afternoon.

Q. Just a minute until I get through. A. All right.

Q. First that there was no appointment with respect to the time, that you would be there in the afternoon some time; next you said that you both assumed that it would be about a quarter of six because that is the earliest time that you could get there; thirdly, you told me that you made an appointment and told her that you would be there between 5.30 and 6; which is true? A. I would be there between 5.30 and 6.

Q. That is the last story? A. Yes, sir.

Q. The others are not true? A. This was understood.

Q. Was it understood or was that the appointment? A. The appointment; I told her in the vening and also told her that I would be there between 5.30 and 6 o'clock, if she was there at the door at that time I would willingly assist her, which I did.

Q. You told her both, that you would be there as soon as you could and you would be there between 5.30 and 6? A. Yes, sir.

Q. And you told her that she was to wait downstairs and she should not go upstairs, because— A. I didn't say that; I beg your pardon; I did not say you should not go upstairs; I said be downstairs when I come along.

Q. Do you realize that a few moments ago you told us that she should not go upstairs? A. I don't remember making the assertion that she should not go up; I said if she was downstairs, I mean.

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Q. I am asking where she was; I am not asking why you told her; where did you tell her? A. Downstairs; I told her I would meet her at the door.

Q. Why? A. Well, just as I wanted her to bring me to—to accompany me up to Mrs. Grundy's home.

Q. Did you tell her that? A. Yes, sir.

Q. Did you tell her, "I don't want you to go upstairs. Don't go upstairs. Meet me at the door"? A. I didn't tell her; I told her I would see her at the door.

Q. Did you tell her "I will see you at the door"—A. At the door.

Q. "I will see you at the door, because I want you to accompany me to point out these things"? A. Yes, sir; I wanted her to do that.

Q. And after you unpacked this crate where did you go? A. Unpack the crate—the box first; I unpacked the box down in the basement, then I unpacked the crate; then I went home immediately after.

Q. What? A. Immediately after I went home, just as soon as I finished unpacking.

Q. Didn't you go upstairs? A. Yes, sir; to unpack the crate.

Q. Then didn't you stay there for any length of time? A. No, sir; I didn't stay for any length of time.

Q. How long did you stay? A. Five or ten minutes or so.

Q. With Miss Halverson? A. Yes, sir.

Q. Did she stay there? A. She remained there after I left; I don't know how long.

Q. She remained after you left? A. Yes, sir; I went home.

Q. About six o'clock? A. That was about six or quarter after.

Q. On what night? A. It was a week or ten days after Park returned from his Easter vacation, returned to school from his Easter vacation.

Q. Well, do you remember the day of week it was? A. No, sir; I don't remember the day.

Q. Was it one of the days that you usually called with Miss Halverson to spend the evening at Mrs. Grundy's house? A. No, sir.

Q. It wasn't one of those days? A. I don't remember; I can't answer that.

Q. Why was it, when you were both there at Mrs. Grundy's house that you didn't spend the evening there as you usually did? A. I wanted to go home for dinner.

Q. Well, you wanted to go home for dinner; you were home for dinner. A. Well, I usually returned from work and I returned home for my eats.

Q. At the time you went to Mrs. Grundy's house to spend the evening, what time did you go there? A. To spend the evening?

Q. Yes. A. Eight o'clock; maybe 8.30.

Q. Why didn't you return there that night to spend the evening? A. I had another appointment.

Q. You had another appointment? A. Yes, sir.

Q. Did you not return that night because it was during the Easter vacation and Park was home? A. No, sir; I had another appointment.

Q. Was there any night that you went there during the Easter vacation and Park was home, except the ones that you testified to? A. Only that one night.

Q. That is the only night? A. Yes, sir.

Q. Did you go there three times a week during the time of the Easter vacation? A. No, as near as I can remember it was only once I went there.

Q. During the Easter vacation? A. Yes, sir.

Q. The Easter vacation, the school vacation, extended for 14 days, didn't it, from 10 to 14 days? A. Easter vacation I should say was 10 days; I don't know exactly the length of them.

Q. At any rate it was ten days? A. Yes, sir.

Q. That is more than a week, isn't it? A. That is; yes, sir.

Q. It had been your custom to go there two or three times a week, hadn't it? A. Yes, sir; provided I was invited.

Q. Provided what? A. Provided I was invited.

Q. By whom? A. By Gertrude.

Q. You never went there without an invitation by Gertrude, is that right? A. Never without Gertrude's invitation; that is why I went.

Q. This time you went there to unpack the crate, box, etc. was about ten days after Easter vacation started, wasn't it? A. Ten days after?

Q. Yes. A. No, a week after the completion of it, about, after it was over about a week, after the Easter vacation was over, as near as I can make it.

Q. Will you tell me why it was that you and Miss Halverson did not go around to Mrs. Grundy's house during the Easter vacation more than once? A. Well, Miss Halverson didn't invite me.

Q. Didn't she ever tell you why she didn't invite you? A. No, she never did; she had, as I recall, we went out by ourselves two or three times by ourselves to different places.

Q. But you didn't go to the Grundy house? A. No.

Q. Immediately after the close of the Easter vacation you started to go to the Grundy house again, didn't you? A. On Gertrude's invitation, yes.

Q. But you did immediately begin again after the Easter vacation, didn't you? A. The first time was when I was called upon to unpack these boxes.

Q. Yes; then you continued your regular course of two or three times a week, didn't you? A. Provided I was invited, yes, but it wasn't over twice a week.

Q. You testified distinctly in your direct examination that you went two or three times a week? A. Three at the most.

Q. And two at the least; you kept this two or three times a week up, up to the time Mr. Grundy came home from Europe, then you went only about once a week? A. Yes, sir.

Q. In July and August; that is true, isn't it? A. Yes, sir.

Q. Now, can you give me any reasonable explanation of the coincidence of your cessation of visits with Park's coming home during the Easter vacation, and your cessation of the numerous visits during July and August, coinciding with Mr. Grundy's coming home from Europe? Could you give me an explanation? A. In the Summer time we had warm nights and we preferred to take a walk, which we did.

Q. We got the explanation that it was Summer time and it was warm nights.

THE COURT: Finish your answer.

Q. (Last question repeated.) A. During the Easter vacation Gertie, as I remember, hadn't extended any invitation, and I wasn't the one to suggest it.

Q. Well now, can you give me any reasonable explanation as to why Gertrude did not invite you during this period of ten days? A. That I cannot answer.

Q. You haven't any idea? A. No, sir; I haven't any whatsoever.

Q. Did you think at the time that the coincidence of the return of Park from his Easter vacation, and the cessation of the invitations, at least, to visit Mrs. Grundy's house, was rather peculiar? A. No, sir; I did not.

Q. You never gave any thought to that? A. No, sir; I never did.

Q. Do you think there is anything remarkable about it now? A. No, sir.

Q. You don't; you don't think it is remarkable that for a period beginning in February and extending down until September you managed to visit the house of Mrs. Grundy two or three times a week, down to the Easter vacation, not at all during the Easter vacation; then two or three times a week down to July; then more seldom in July and August; and during all that space of time you never met Mr. Grundy but once, and you came in contact with Park but the number of times that you testified to on the stand here? A. Yes, sir.

Q. There is nothing remarkable about that in your mind? A. No, sir; there is not.

Q. There is nothing remarkable in the fact that when Park was home you didn't go there? A. No, sir.

Q. And there is nothing remarkable about the fact that immediately after Mr. Grundy came home, and immediately after you met him at the house, you ceased going there upon days that Mr. Grundy was home? There is nothing remarkable about that, is there? A. I don't know anything, because I was not extended an invitation.

Q. Did you at any time receive any invitations from Gertrude to go to the Grundy house and

there wait for her until she came? A. For me to go there?

Q. Yes. A. No, always she would be there.

Q. She would always be there first, except on those occasions? A. On those occasions.

Q. Was she always there first? A. That invitation was just about the three times, that was the days I went there and didn't find her there; once I did go there and found her.

Q. How did you come to go there the other times, two or three times a week, was that on invitation? A. On invitation, yes; I would make an appointment to meet her down at her home.

Q. Then you would go from her home and go to Mrs. Grundy's? A. Probably walk for quite some time, then we dropped in down that way.

Q. What was the attraction at Mrs. Grundy's? A. Well, in the Winter time we felt it was quite nice to go up there and enjoy good music etc. Gertrude generally as a rule played the piano, we always had the Victrola going, etc. like that; that was the whole procedure in the evenings, our evenings there, then once in a while we would have cream or something like that; that was the extent of it.

Q. You never had beer there? A. Yes, sir; I did.

Q. You drank beer? A. I have taken it; I haven't taken it recently, not for a long time.

Q. You know enough about liquor to know beer anyway? A. Well, I didn't consider beer liquor.

Q. You didn't consider beer liquor? A. I did not; no, sir; I thought there was a difference between liquor and beer; liquor I considered as whiskey.

Q. And, as I understand you to say, you never

saw Mrs. Grundy drink any hard liquor? A. No, sir; I never saw her drink hard liquor.

Q. Did you ever attend a party at the Grundy house at any time at which there was another man present which lasted late in the evening or early in the morning, other than yourself? A. No, sir; there was only one evening that I did stay what you might say later than eleven, and that was because there was a terrible rain storm.

Q. When was that? A. I don't recall that at all; it was during—I don't just remember, that was about 12:30 or so.

Q. Was there any occasion when there was any other man there at the same time as you? A. No, sir; I never met any one there other than myself.

Q. Nor any occasion? A. No other man; no, sir.

Q. Was there anybody there during the time that you were there, besides yourself, any other man? A. No, sir; no other man.

By The Court:

Q. You mean other than Park and his father, of course? A. Yes, sir.

By Mr. Lane:

Q. What was the name of your employer in the first concern during that period? A. Hyne Harrison?

Q. Where are they located? A. 19th Street and 4th Avenue, New York City.

Q. Now, Mr. Evans, you said that after the Easter vacation you several times passed Park on the street; you said that he greeted you two times, he called you Jack and you called him Park; what did he do the other times? A. I was quite some distance from him, when I walked I

would see him down probably at his door with his car, or probably walking, and I would be coming along on the opposite block, and that was too large a distance away to greet him.

Q. There never was a time when he met you that he refused to recognize you? A. No, not that I recall; no, never.

Q. Now, Mr. Evans, going back to this incident of September 15th, at what stage of the proceedings did you take your coat off? A. Previous to my going to the basement.

Q. The first time? A. Yes, sir; the first time.

Q. Where did you put your coat? A. On the table in the kitchen; just laid it there.

Q. Where was Mrs. Grundy at the time you took your coat off and laid it down? A. She was standing a few feet from me holding the key.

Q. Did she say anything when you took your coat off and laid it down on the table? A. No, sir; she didn't say anything.

Q. She didn't say, "Hang it on the rack" or something of that kind? A. No, sir.

Q. Or no words to that effect? A. No, sir.

Q. You put your hat on? A. I went down the cellar with my hat on, of course I had it off when I was in the home.

Q. I asked you did you have your hat on? A. I had my hat on; I had a slight cold.

Q. Just why did you do that? A. I had a slight cold and at the time I was going down to the basement.

Q. You put your hat on to protect yourself against the effects of that slight cold, going down the cellar, is that right? A. Naturally I would.

Q. When you came up the first time where was the coat, do you remember? A. I didn't take notice of my coat the first time.

Q. The first time you didn't take notice of your coat? A. No, sir; I didn't go in the kitchen.

Q. And Mrs. Grundy was right there then, wasn't she? A. In the dining room, the first time.

Q. And the second time you came up you didn't find your coat, or you didn't see your coat? A. After I had laid the barrel in there I asked for my coat.

Q. Didn't you look around? A. Yes, sir.

Q. Where did you think your coat was? A. It wasn't there and I inquired.

Q. Mrs. Grundy had disappeared? A. She wasn't in the dining room.

Q. She disappeared from your sight? A. Yes, sir.

Q. You hadn't the least idea where she was? A. No, sir.

Q. She might have been in the bedroom, the dining room or the parlor? A. She wasn't in the dining room; I know that.

Q. She might have been in the bedroom, the parlor, or front room? A. Yes, sir.

Q. She might have been in the bath room for all you knew? A. Yes, sir.

Q. What did you do? A. Walked back to the table where my coat was lying; I didn't find it; walked back calling to Mrs. Grundy where she put my coat, then I heard her and she told me it is on the rack, pointing to it.

Q. Wait a minute; you are going a little too fast. After you found your coat wasn't there what was your next step? A. I called Mrs. Grundy's name.

Q. What did you do, stand by— A. I didn't see it, I say.

Q. Did you stand by this table on which it had been reposing and say "Mrs. Grundy" in a

loud voice, above your natural voice, or at any rate above your conversational voice, for the purpose of calling her? A. In a conversational tone.

Q. You didn't simply say "Mrs. Grundy," did you? You didn't know where she was; you were alone in this kitchen? A. Yes.

Q. You didn't know where she disappeared to; she might have been in the parlor, in the bath room or in the bed room, so far as you knew; that is true, isn't it? A. Yes, sir.

Q. Then you used your voice for the purpose of finding her somewhere, didn't you? A. Yes, sir.

Q. What did you say? A. I called Mrs. Grundy, I exaggerated it a little bit.

Q. You raised your voice and said "Mrs. Grundy," but not so terrible loud? A. Not so terrible loud.

Q. Not so loud, but loud enough as to carry through all that apartment? A. To carry through the house, through the floor.

Q. You did that as soon as— A. As I discovered she wasn't there.

Q. Did you look at the bath room door to see if it was closed? A. No, sir.

Q. You didn't assume she was in there? A. No, sir.

Q. What was her reply? A. "In here on the rack."

Q. "In here on the rack"; what did you do, call for Mrs. Grundy? A. Called for Mrs. Grundy; then she said "In here on the rack."

Q. What was on the rack? A. My coat; she said "Your coat is on the rack."

Q. I am asking what you did; did you call for Mrs. Grundy or did you refer to your coat? A. I called for Mrs. Grundy.

Q. Did you refer to your coat at all? A. I called for Mrs. Grundy.

Q. Did you refer to your coat at all? A. Yes, when she answered.

Q. What did she answer? A. "Where is my coat?"

Q. When you called what did she answer? A. She said, "What is it?"

Q. Where did the voice come from? A. From her bedroom; I could detect it because the kitchen is right parallel with the door.

Q. You knew it came from the bed room? A. Yes, sir.

Q. Then what did you say? A. I asked where my coat was, she said, "In here on the rack; come in and get it."

Q. "Come in and get it"? A. Yes.

Q. Where was the rack? A. The rack was right next to the chiffonier, more to the window, on the far side, the left hand side.

Q. I want to get as near as I can how this house runs; when you go into this house the parlor or living room is the farthest away from the entrance, isn't it? A. Yes, sir.

Q. You enter at this point called "A," do you not (indicating on sketch)? A. Yes, sir.

Q. Then to the right is the kitchen; is that right? A. Yes, sir.

Q. The first room you hit is the bath room? A. On the left hand side; yes, sir.

Q. The next room is the kitchen? A. Yes, sir.

Q. Where is the door to the kitchen, this end or this end? A. There is the door right here, over here is a door and over here is a door (indicating).

Q. That is the door toward the bath room, nearest the bath room? A. Nearest to that, opposite Mrs. Grundy's room.

Q. Now, there is a door here, is there not, leading into the dining room (indicating)? A. Leading into the dining room.

Q. Yes; and along there is a little space from the kitchen to the dining room (indicating). A. Yes, sir.

Q. This dining room faces on the street? A. Yes, it faces Monticello Avenue.

Q. The dining room faces Monticello Avenue? A. Yes, sir.

Q. Then is the parlor or living room alongside the dining room, both facing on Monticello Avenue? A. The parlor does face on Monticello Avenue.

Q. Does the dining room face on Monticello Avenue, too? A. Yes, sir.

Q. Then they are opposite each other? A. Extend all the way along.

Q. Now, Mrs. Grundy's bedroom— A. The second to the left.

Q. First there is another bedroom? A. Yes.

Q. Opposite the bath room? A. Opposite, yes, sir.

Q. Opposite the kitchen is Mrs. Grundy's bedroom, that is right, isn't it? A. Yes, sir.

Q. The door into Mrs. Grundy's bedroom is on the end nearest the living room, isn't it? A. No, sir; it is parallel with the door in the kitchen.

Q. Then it is opposite the door in the kitchen? A. Yes, sir.

Q. That means it is there (indicating)? A. Yes, sir.

Q. Now, when you walked in the bedroom the bed is up here, isn't it, the head of the bed (indicating)? A. Yes, sir; it is up here.

Q. That is the bed; the hat rack is here in this corner, isn't it (indicating)? A. No, sir; in this corner (indicating).

Q. Down in this corner over here (indicating)? A. Yes, sir.

Q. And the chiffonier is here (indicating)? A. Here (indicating), next to the door.

Q. What is this little jig-jag over there (indicating)? A. Dressing case, or dressing table.

Q. Now, when you walk in this door, when you heard Mrs. Grundy answer, you said, "Where is my coat?" A. Yes, sir.

Q. And she said what? A. She said, "In here on the rack here; come on in and get it."

Q. That is the first intimation you had that Mrs. Grundy was in the bedroom? A. Yes, sir; that was the first.

Q. Then what did you do? A. So I walked over, I asked her if she wanted me to assist her with packing the chinaware, she explained to me—

Q. You walked over first; when you walked over what position was Mrs. Grundy in when you first saw her? A. Sitting on the bed, on the end of the bed, with her face towards the shade.

Q. The shades are over here, aren't they (indicating)? A. Yes, sir; right there, two windows.

Q. She sat on the bed; which side of the bed was she sitting on? A. On this side (indicating), sitting right there on the end.

Q. On the end of the bed? A. Yes, sir. About right there (indicating).

Q. On the end of the bed? A. Yes, sir.

Q. Isn't there a footboard to this bed? A. No, sir; it is up; it has a back to it; she was sitting on this side of the bed (indicating), leaning to the back.

Q. Did she sit on the side of the bed or on the foot of the bed? A. On the side at the foot.

Q. At the foot on the side? A. Yes.

Q. On the side towards the windows? A. Yes, sir.

Q. What was she doing? A. Nothing particular, no more than looking in the direction of the shades.

Q. Had you seen that bedroom before that day? A. Yes, I had.

Q. Had you looked in when you passed by? A. Yes, sir; I did, I looked in that way.

Q. Did you see the position of the shades when you passed by the first time? A. When I passed the first time?

Q. Yes. A. No, sir; I didn't notice the position then of the shades.

Q. How did you come to particularly observe the position of the shades when you went in the second time? A. I was looking directly at them.

Q. So that you were looking directly at them when you passed the first time? A. No, I didn't observe the shades the first time.

Q. How did you come to observe the position of the shades particularly at that time? A. I was standing there at that time when I asked if I could assist in packing the china.

Q. How far into the bedroom did you go? A. About two feet this side of the door.

Q. About two feet towards the bed? A. No, I was two feet the other side of the door, with the door closed back on the wall; in other words, I could reach my hand on the chiffonier, my left hand.

Q. How far away was the bed? A. The bed was about—to the back of the bed was two steps further.

Q. About two steps further; you were about two steps from the foot of the bed? A. Yes, sir.

Q. Well, what were the first words that you

said to Mrs. Grundy when you walked in there? A. I said, well, I asked her if she had all her chinaware gathered, and if she didn't want to start on a little bit of packing; she explained to me how it was done and I finally said that I would not be capable of doing it, for I didn't know how to pack.

Q. What did she explain? A. She told me how it is packed with excelsior on top.

Q. How did you come to talk to her about packing chinaware at that time? A. She wanted the barrels for the china.

Q. Yes. A. To pack them in.

Q. Well, were you there to help her pack the china, too? A. Well, if she wanted to start off I surely would, but I didn't think it would take so long.

Q. When you originally came there did you intend to help with the packing of the china? A. No, I didn't have that intention, no.

Q. You had no intention? A. I had no intention, except—

Q. Except to go down and bring up the barrels? A. That is all, I thought.

Q. How did you come to ask her then after you accomplished your task of bringing up the barrels, and after Miss Halverson wasn't there, how did you come to ask whether you could help with the china or not? A. I just asked her, being that she gathered the china, and I was through up there, I thought it wouldn't take long, that was all, but when she started to tell how it had to be done I thought I wasn't capable of doing it.

Q. But if you thought yourself capable of doing it, I suppose you would have done it? A. But she herself did not think so.

Q. But if you did and she did, I suppose you would have done it? A. Yes.

Q. You were sincerely desirous— A. Of helping.

Q. Yes, you were sincerely desirous of helping pack this chinaware if you were capable? A. Yes, sir.

Q. It was simply your incapability of doing it that induced you to refrain from doing it; that is right, isn't it? A. Yes.

Q. That is the only reason in the world you had for not assisting in packing the china; that is right; isn't it? A. Yes, sir; I wouldn't undertake a job like that.

Q. That is the only reason, because you didn't think yourself capable of it; it wasn't because you wanted to get out of the house because Miss Halverson hadn't come there, was it? A. No, sir.

Q. Notwithstanding that you realized at the time when you were in the bedroom with this woman alone, in her bedroom, at least in a position where she might suddenly lay down and that you were in rather an embarrassing position? A. No, sir.

Q. That didn't make a particle of difference to you at that time; you would have continued on to pack the china, which would have taken some time, wouldn't it? A. I considered it would take some time.

Q. If it had not been for the fact that you and Mrs. Grundy came to the conclusion that you were not capable of doing it; that is right, isn't it? A. Yes.

Q. What? A. Had she requested I would have tried to do it.

Q. Notwithstanding the fact that you realized

that Miss Halverson was not there; that is the truth, is it? A. I realized that.

Q. Notwithstanding that you realized that you were in an embarrassing position with this woman in her bedroom, that is true, isn't it? A. That is true.

Q. She didn't give any intimation that she was going to go out of the bedroom shortly, did she? A. No, sir.

Q. She said that she wasn't well, didn't she? A. Yes, sir; on my first visit.

Q. And you assumed when she was in that bedroom that she would be there for some time? A. Yes, sir.

Q. You saw that she was ill? A. Yes, sir.

Q. At that time you assumed she would continue to be there in that bedroom? A. Yes, sir.

Q. And you knew that the position in which you were might be found very embarrassing? A. Yes, sir.

Q. Would you be embarrassed if anybody happened to find you? A. Yes, sir; I understand that.

Q. Notwithstanding that, if you and she had concluded you were capable of packing this china, you would have taken the time to pack it? A. I would not say that I would do it; probably.

Q. Oh, I see; then you didn't intend, if you and she agreed that you could pack this chinaware, you did not pack it at that time? A. Well, she wasn't feeling very well, still she might have—

Q. I don't want any stills; I want to know what you had in your mind at the time you asked this question, whether you intended, if she agreed that you were capable of packing chinaware, whether you would have continued to pack that day or some other day? A. If she so desired, that day.

Q. If she desired that day; we have at last fixed that; if you and she had agreed that you were capable of doing it, the mere fact of you being subject to embarrassment would not have prevented you from continuing there and packing the chinaware; that is true, isn't it? A. Yes, sir.

Q. Nor would the fact that it was about noon time and that dinner time was coming along, have altered the situation, would it? A. Well, I would go home to lunch, to get my lunch, and —whether you said in your examination, which one of these occasions it was when noon time caused you to leave? A. On this here September 15th.

Q. Now we have it, that if Mrs. Grundy and you had agreed that you were capable of doing the packing, the pangs of hunger would not have interefered with the performance of the work of packing, would it? A. I assumed it would only take a short time to do that work.

Q. Didn't you tell me just a few moments ago that it would take considerable time to do it? A. No, sir.

Q. You didn't? A. I didn't have any idea how long it would take me to do that because I didn't know anything about it.

Q. You know what china is, don't you? A. Yes, sir.

Q. You know what dishes are? A. Yes, sir.

Q. And you know there are large and small dishes? A. Yes, sir.

Q. You know the barrel was quite a large one? A. Yes, sir.

Q. And you know that it takes quite a number of dishes to fill a barrel? A. Yes, sir.

Q. And you know that china has got to be

packed very carefully, otherwise there is no use of packing it? A. Yes; the excelsior takes a little space, too.

Q. In order to pack it carefully some time is required, isn't it? A. Yes.

Q. And you knew that packing these two barrels with china would take a considerable space of time, isn't that true? A. Judging by the way they are.

Q. Notwithstanding that, and notwithstanding the fact that Miss Halverson had not appeared and had put you in this embarrassing position with this woman in bed, likely to lie down at any time if she was not lying down already? A. Yes.

Q. Notwitshtanding the noon time episode, you were still willing to continue there and do the packing of the china if Mrs. Grundy and yourself had come to the conclusion that you were capable of doing it? A. Yes, sir; I was willing.

Q. Why were you willing to do that thing, if during the time you were doing it you were being placed in this embarrassing position? A. I didn't think the position would hinder me in continuing with the work.

Q. Why not? A. Why, because I was innocent of anything, I was going right about my work, and why should I really not stay on the job there and complete the job, if she asked me to stay I would go ahead and do it.

Q. Why did you worry when you went there at ten o'clock in the morning, to the extent that instead of doing the thing that you were sent to do and went to do, and you sat in the parlor waiting for Miss Halverson for an hour and a quarter? A. (No answer.)

Q. I say, why then did you worry when you

went there at ten o'clock in the morning, to the extent that you didn't go at the job, or on the job that you went there for, but on the other hand you went into the parlor and waited for an hour and a quarter for Miss Halverson to come? A. I didn't worry over her absence.

Q. You didn't worry? A. No, sir; I did not.

Q. You didn't care whether she was there or not? A. I did care, but I didn't worry.

Q. Notwithstanding the embarrassing position that you were in? A. Notwithstanding that.

Q. Do you want to change the testimony that you gave before we had recess and now state that you did not consider at that time that you were in an embarrassing position? A. I wasn't in an embarrassing position, because I was innocent of anything. Why should I worry over such?

Q. Don't you remember, not only once but three or four times, prior to the recess, you testified that you realized at the time you were there that you were in an embarrassing position, because you were in this married woman's house alone—in this married woman's bedroom?

MR. HIRSCHENSTEIN: If your Honor please, I object to that; he was in an embarrassing position when he saw Park coming; he wasn't in an embarrassing position until then.

THE COURT: I will let the question stand.

A. In the bedroom, then I did realize I was rather embarrassed, but not in the parlor.

Q. But while you were in the kitchen, with the woman in the bedroom, and you were packing china? A. How about that?

Q. Would that be embarrassing? A. I don't quite understand your assertion.

Q. You are not quite as acute as you were before recess, are you?

THE COURT: Now, strike that out.

MR. HEYMAN: I wish your Honor would let it stand.

THE COURT: It is comment on the witness which I won't let stand.

A. No, I don't consider it embarrassing.

Q. You would not consider that to be embarrassing? A. In the kitchen, if she was packing; no, sir.

Q. The embarrassing feature of this situation then, from your standpoint, was the fact that Park happened to come in when you happened to be in the bedroom? A. Yes, sir.

Q. That was the embarrassing position? A. Yes, sir.

Q. So that from your standpoint the absence of Miss Halverson and her not being there in accordance with her appointment did not place you in an embarrassing position at all? A. Yes, the absence of her—Miss Halverson placed me in the embarrassing position.

Q. Why? A. To be there in Mrs. Grundy's room; had she been there she could have explained.

Q. But your feet took you into Mrs. Grundy's room and not Miss Halverson; isn't that so? A. My feet did, yes.

Q. Well, there was nothing embarrassing about it if you had not been in Mrs. Grundy's room, that is true, isn't it? A. Yes.

Q. So that Miss Halverson had nothing to do with that, did she? A. No more than if she was there probably she would have gone in and delivered the key, had she been there.

Q. Did you get the coat? A. After Park had gone; yes, sir.

Q. You hadn't gotten it at the time Park left? A. At the time he left?

Q. Yes. A. After he left I did get it; not before.

Q. The coat at that time was hanging on this hat rack? A. Yes.

Q. Which was in the corner of the bedroom? A. Yes.

Q. Did Mrs. Grundy tell you why it was she carried it in there? A. No, sir; I didn't ask her and she didn't tell me.

Q. It was in a perfectly safe place on the kitchen table, wasn't it? A. I thought so.

Q. No reason for removing it from the place where you put it and hanging it on the rack? A. No, sir.

Q. Now, after she told you she did not think you were capable of packing china, and you did not think you were capable of it, what next happened in the course of events? A. I decided to go home.

Q. Yes; then what next happened? A. I don't know; after I departed I don't know.

Q. You didn't depart before you had something to do about a key, did you? A. No, I asked her, I said that I had the key; she says, "Lay it on the chiffonier," which I did.

Q. Yes; then you laid the key on the chiffonier? A. On the chiffonier; yes, sir.

Q. All that time were you standing toward the foot of the bed, within about two feet of the foot of the bed? A. I laid the key down as I entered the room and asked for my coat; it was pointed out to me; I asked where I should lay the key, and she said on the chiffonier.

Q. Was that conversation with respect to the key, laying the key down, before you had the

conversation with respect to your ability to pack china? A. Yes, sir.

Q. Then after you laid the key down you stood about two feet back of Mrs. Grundy and talked with respect to china packing? A. With respect to china packing; yes, sir.

Q. Then you were facing Mrs. Grundy? A. Side view, side face.

Q. Back to the door? A. I had my back to the door, yes; of course I suppose the door was closed, pushed up against the wall; open but pushed against the wall.

Q. You had your back to that? A. My back to that.

Q. You were looking toward these windows with the shades down? A. Toward the windows; the shades were seven inches from the bottom.

Q. Did you measure them? A. No, sir; that is approximately.

Q. The shades were what you would call down, weren't they? A. Not absolutely down; they were that much from the bottom.

Q. Well, when a shade is within six or seven inches you said in your testimony it might be six or seven—within six inches of the bottom, you would call that shade drawn, wouldn't you? A. Drawn; yes, sir; that is it exactly.

Q. Just about that? A. Yes, sir.

Q. Nobody can see very much from the outside in through that, can they?

MR. HIRSCHENSTEIN: I object to that, whether anybody can see from the outside.

A. I don't know.

THE COURT: I will take it.

A. I never stood on the other side of the place.

Q. You don't know, with the shade drawn in that way, whether a person can see very much

from the outside into the room? A. You can't from the street; not from the street you can't.

Q. That is the only place you can look from into those windows, isn't it? A. Yes, I guess so; unless from the houses opposite.

Q. Did you observe when you first went there that it darkened the room, didn't it? A. A little bit; yes, sir; the sun was shining.

Q. There are two curtains there, double curtains? A. Two.

Q. Were both curtains drawn? A. I don't remember; I didn't pay particular attention.

Q. Were those dark curtains that were down? A. The shades were the only things I took notice of.

Q. Are there not two shades there? A. There were two shades.

Q. One white and one dark like this (indicating)? A. One dark.

Q. Were the dark ones drawn? A. No, they were even; I took them to be even.

Q. Both down the same length? A. Yes.

Q. They did darken the room considerably, didn't they? A. Yes; of course, you could see.

Q. Oh, yes, you could see, but it darkened the room to a considerable extent, didn't it? A. Yes, sir.

Q. As if somebody was getting ready to go to sleep there? A. As if.

Q. No other reason for darkening a room that you can imagine at that time of the day? A. That is the only reason, no more than to prevent the sun from shining in; if the sun was shining particularly bright the shades would be put down for that reason.

Q. Now, do you mean to say that you don't know, when you first passed that bedroom,

whether those shades were drawn in the same way? A. No, I didn't observe on my first visit.

Q. At what point was it that Park came along through the hall? A. In the midst of our conversation relative to packing the china.

Q. In the midst of it, before you had finished it? A. Before we had finished it, yes, just about started when he walked in.

Q. Did you continue when Park passed you, to discuss this chinaware episode? A. I said a word or two; that is about all I did.

Q. Were you talking in whispers? A. Oh, no; the tone I am speaking in now.

Q. That tone could be— A. Perhaps a little lower than that.

Q. Lower than you are talking now? A. Perhaps so.

Q. It was the ordinary tone of voice, wasn't it? A. Yes, the ordinary conversational voice.

Q. Your ordinary conversational tone of voice could be heard out in the hall with the door open? A. It might be heard if you were standing at the door.

Q. As you walked along the hall you could hear this conversation through this open door? A. If you were standing by the door, I should say right opposite the door, not if you were down the other end of the hall.

Q. I am not talking if you were down the other end; as you walk by the hall you could hear this conversation? A. Yes, opposite the door.

THE COURT: Do you mean the hall outside?

MR. LANE: No, I mean the hall inside.

Q. As I understand you, in the midst of this conversation you heard this door open in the

entrance? A. Yes, I heard the knob turn; that was the first I observed.

Q. What else did you hear with respect to that knob turning? A. Nothing more; that is all.

Q. Well, did you hear the knob turn as the door was opening? A. Yes.

Q. Did you hear the key going in the door? A. No.

Q. You heard the knob of the door turn as you would open the door? A. As you would.

Q. You are certain about that? A. Yes.

Q. That is the first thing that drew your attention to his coming in, is that right? A. I thought it was Gertrude at the time; that was my thought.

Q. Did you hear the click as he turned the knob? A. The click, yes, just what it is.

Q. That is that click you heard as he opened the door? A. Yes.

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

Q. Didn't you testify on your direct examination that when you came in the second time you left the door ajar two inches? A. No, sir.

Q. What? A. No, sir.

Q. You now swear— A. I say that, if you permit me to explain my statement, I said that after I brought the first barrel, coming down for the second barrel I left the door open two inches, because I didn't want to trouble Mrs. Grundy to open the door; when I returned with the second barrel I put it inside and I closed the door and it locked.

Q. You now say that your testimony was that when you went down there the first time you left the door open a couple of inches when you were going down? A. For the second barrel.

Q. But you didn't leave it open when you came in after the second barrel? A. I did not leave it open.

Q. And that was closed? A. I closed it; shut it myself.

Q. Are you sure of that? A. Yes, I am sure.

Q. And that is what you testified to a few moments ago? A. I shut the door after me.

Q. You testified a few moments ago, or rather earlier in the afternoon, that you shut the door the second time after you? A. After I had delivered the two barrels, brought them up; yes, sir.

Q. Can you tell me why it was that you testified that you left the door open two inches when you went down after the second barrel? A. After the first barrel.

Q. After the first barrel, I mean. A. Yes, so I would not trouble Mrs. Grundy to open the door.

Q. Did you testify that way, too, a short time ago? A. Yes, sir; I think I did.

Q. Did you testify to that? A. I did; yes, sir.

Q. You remember that distinctly? A. Yes, sir; I remember it.

Q. You thought then when you heard this click of the door that it was Miss Halverson? A. Miss Halverson; yes, sir.

Q. Did Miss Halverson have a key? A. No, sir; not that I know of.

Q. Then how did you think she got in? A. Well, that I didn't know; I just thought; I didn't know how she would get in.

Q. You had it firmly in your mind that it was Miss Halverson, is that right? A. Yes.

Q. You didn't hear any talking? A. No, I did not.

Q. You didn't hear any key turning in the lock? A. No, I didn't hear no key.

Q. You knew the door was locked? A. Well, I shut it after me; I knew the door was shut.

Q. You knew there was a spring lock on that? A. I couldn't answer about the spring lock; I could answer to the door being shut; I really don't know about the spring lock.

Q. Then you don't know whether the door had a spring lock to close it or not? A. That I can't answer.

Q. You don't know whether, if you shut the door, that it would close and you couldn't open it except with a key? A. No, sir.

Q. You don't know anything about that? A. Just that I shut it.

Q. And you didn't know anything about it at that time, did you? A. No, I did not.

Q. Why did you leave the door open two inches when you went down the second time? A. I didn't want to bother Mrs. Grundy. There might have been a little snap to go in the lock, and those little things with the door would snap when you shut it; there was no such thing as a big regular lock to the door.

Q. I asked you whether there was a spring lock on that door, or a catch which caught that door? A. There might have been a catch, but there was no lock on that door; there might be a catch, the same as when you shut a door it locks and requires a key.

Q. Didn't you know that that door could be only opened by a key? A. I know it would require a key if the door was closed; I don't know whether Park put a key through the keyhole.

Q. Then you did know if you closed the door a key was necessary to open it? A. Yes, sir; not to put it in the lock.

Q. Well, to open the door? A. To open the door; yes, sir.

Q. And that, notwithstanding the fact that you said only three or four moments ago you didn't know? A. A lock would lock.

Q. It was a lock that we were talking about then. A. I didn't know how large.

Q. Now, knowing that you would have to have a key to open it, whether it was a little lock or a big lock, or no lock at all, how did you think Miss Halverson came in? A. She was the only one I did think of, because she told me she would be there in the morning.

Q. You didn't expect Park there anyhow, did you? A. No, sir.

Q. You had no idea that he was coming, did you? A. No, sir; I had no idea.

Q. Why didn't you expect him? A. Well, I don't know; I don't see no good reason why I should expect him; I didn't know if he was out of town or where he was that day.

Q. It was noon time? A. Yes, it was.

Q. Dinner time? A. Yes.

Q. Park was home, you knew that? A. Yes.

Q. And his father was home? A. I can't say.

Q. You knew he came from Europe? A. Yes.

Q. Park and Mrs. Grundy were home? A. Yes.

Q. It was about noon time? A. Yes.

Q. You didn't expect when that door clicked that it was Park, did you? A. No, sir.

Q. Sunday afternoon, wasn't it? A. No, sir; except Gertrude.

Q. It was Sunday afternoon, wasn't it? A. That was September 15th, that wasn't Sunday at all.

Q. If it wasn't Sunday, what day was it? A. I think it was on a Monday.

Q. Monday? A. Yes, sir.

Q. Why was it that you didn't expect Park?

A. Why, because I was expecting Gertrude, as much as the reason why I thought when the door knob turned that it was she; no other reason.

Q. Didn't you know that Park and Mr. Grundy had moved before that? A. Had moved before that?

Q. Yes; had left Mrs. Grundy? A. No, I didn't know anything about that.

Q. You didn't know anything about that? A. No, she didn't tell me.

Q. But you never thought that it was one of the Grundy family? A. No, sir; I didn't think of that.

Q. You did think in your mind that it was Miss Halverson? A. Miss Halverson.

Q. What did you do? A. I turned directly around to greet her; I turned my head around.

Q. In the meantime whoever came in had walked from the distance of the door to the— A. Opposite room.

Q. Before you got out; before you moved? A. I didn't move in my position; just my head; I turned my head completely around.

Q. Just turned your head around? A. Just turned my head around.

Q. That interrupted your conversation, I suppose? A. Yes, sir.

Q. When you interrupted your conversation and saw it was Park, what did you say to him? A. I said, Hello, Park.

Q. What did he say? A. He says hello.

Q. And he went right on? A. He went right on.

Q. Did you go on with your conversation? A. Yes; I said a couple of words relative to the—

Q. Relative to that packing? A. Yes.

Q. While Park was going back into the dining room? A. Where he went I don't know.

Q. Well, he passed the door? A. He passed the door.

Q. And you continued that conversation uninterruptedly with respect to packing? A. Yes.

Q. How many words did you speak between the time Park passed for the first time and the time he passed the second time? A. About six or so.

Q. Quick as that, was it? A. About five or six words.

Q. All the time that you were having this conversation with Mrs. Grundy, all that time you waited for Park to come back and demand an explanation, didn't you? A. I beg pardon.

Q. (Last question repeated.) A. Is that after Park had departed from the house?

Q. No. A. During the space of walking through the hall, you mean?

Q. Yes. A. Yes, I turned around and faced him; I didn't say anything to him, no.

Q. You continued your conversation with Mrs. Grundy? A. As he was passing we didn't talk, as he was passing I stopped to look towards him.

Q. Then you kept right on talking? A. Yes, to her.

Q. While he was walking towards the rear and before he returned the second time you still continued? A. I stopped as he came through, as he passed by the door; then I—

Q. Then you continued your conversation? A. Yes, sir.

Q. And left? A. Yes, sir.

Q. Did you have suspenders or a belt on? A. A belt.

By The Court:

Q. Did you say you had a vest on that day? A. Yes, sir.

By Mr. Lane:

Q. Who were you employed by before you went to the plush company? A. Before I went to the plush company?

Q. Yes. A. P. R. R. railroad.

Q. How long were you employed by them? A. Six months; I just remember those dates when I started.

Q. By whom were you employed before that? A. I worked for McArthur Brothers, contractors.

Q. Where are they? A. Washington Park, New Jersey.

Q. Whom were you employed by before that? A. Great Atlantic & Pacific Tea Company.

Q. Where? A. Jersey City.

Q. Where in Jersey City? A. 150 Bay Street.

Q. And that takes you back to what year? A. That takes me back, I started there; I had some jobs between the Atlantic & Pacific and the Pennsylvania Railroad. I had two in there.

Q. Had some jobs? A. Two postions in there; William Schimper—

Q. Why did you enlist in the army? A. For the experience.

Q. Is that all? A. Yes, sir; that is all.

Q. For the year's experience? A. For the year's experience.

Q. With what special corps are you? A. In the Quartermasters.

Q. What Buffalo paper did you see the report of this case in? A. I can't tell; I don't remember the paper it was in; I know the names of very few papers up there.

Q. Where did you read it? A. I read it down in Buffalo.

Q. But you don't remember the name of the paper? A. No; I know there are three papers in that place, I don't remember the name of that paper.

Q. Do you remember the date? A. Was it May 3d, or May 4th, I am not positive.

Q. Did you keep a clipping of it? A. No, sir.

Q. But you say it was a Buffalo paper? A. Yes, sir; a Buffalo paper.

Q. You are sure it wasn't a clipping from a Jersey City paper? A. It might have been a clipping put in the Buffalo paper, I won't deny that.

Q. I mean a clipping, clipped from a Jersey City paper and sent to Buffalo by mail? A. No, sir; it was taken out of the Buffalo paper.

Q. It was in a Buffalo paper? A. Yes, sir.

Q. But you can't recall the name of the Buffalo paper? A. There are three papers at Buffalo, the Courier, the Express, and I can't—

Q. What is the other? A. Express, Courier, and the News.

Q. Did you try to get a furlough to come down here on the 3d of May? A. Did I try?

Q. Yes. A. I spoke about it to a party up there, he said it would be almost impossible for me to get a furlough at this time.

Q. To whom did you speak? A. I spoke to one of the fellows up there; I didn't go direct in to the Major and ask for it.

Q. Well, you didn't ask the constituted authorities for it, did you? A. No, I did not.

Q. Who was the person to whom you spoke with respect to your ability to get a furlough? A. I spoke to an intimate friend of mine.

Q. Just a friend of yours in the Army? A. Yes; if there was a possible chance of my getting a furlough on that day.

Q. So that the information you got was the basis of your telegram here, that you could not get a furlough? A. That day I thought it was

impossible, because I know five per cent. of the corps were allowed furloughs and five per cent. was on furlough.

Q. Did you have any difficulty in getting a furlough for today? A. I had to present the telegram.

Q. Then you had no difficulty, did you? A. Not then, no; I did have a little difficulty at that; I had to go around to the different heads and see the Adjutant and refer the telegram to him for his consent before I could get the furlough.

Q. How did you come to engage Mr. Hirshenstein? A. Mr. Heyman sent a telegram to me that it was absolutely necessary that I should appear here in my own behalf and I immediately wired Mr. Hirshenstein and Mr. Finnerty to appear for me on that day.

Q. Did he give you their names? A. No, sir.

Q. Or Hirshenstein & Finnerty? A. No, sir.

Q. Who did? A. I knew of them a long time ago.

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

Q. Sure of that? A. I heard about them.

Q. Mr. Hirshenstein or Mr. Finnerty, neither of them was suggested by Mr. Heyman, is that right? A. That is right.

Q. They suggested what in respect to the employment of counsel? A. They suggested that I appear.

Q. Did they suggest the name of counsel? A. No, sir.

Q. You telegraphed Mr. Hirshenstein and Mr. Finnerty without any suggestion from Mr. Heyman? A. Without any suggestion.

Q. Solely on your own volition? A. Yes, sir.

Q. So far as you know, Mr. Hirshenstein and

Mr. Finnerty did not know that they were going to be telegraphed to or that they were going to be retained by you at all until the telegraph went? A. Yes, sir.

Q. Have you paid counsel? A. No, sir.

Q. Have you agreed to pay them? A. I haven't made any agreement.

Q. One way or the other? A. No, sir.

Q. Did you hear Mr. Heyman in Court this morning say that he had produced you here? A. I heard that word "Produced me."

Q. That is not true that he produced you? A. No.

Q. You produced yourself, didn't you? A. Well, I haven't produced myself.

Q. Are you here to help out Mrs. Grundy? A. To testify in my own behalf.

Q. Are you here in your own behalf? Mr. Heyman hasn't had anything to do with getting you here, so far as your production is concerned. You have done that of your own volition? A. He as much as intimated that it would be necessary for me to hire—to have an attorney for myself.

Q. In that sense he produced you? A. Yes, sir.

Q. Do you remember the telegram that was sent to you by Mr. Heyman just before you sent your telegram to Hirshenstein & Finnerty? A. Do I remember the words of the telegram?

Q. Yes; do you remember the telegram? A. No, I just read the words, saw the contents, that was about all.

MR. LANE: I call for the production of that telegram.

MR. HEYMAN: I have a copy and would be glad to give it to you.

Q. This telegram was sent by Mr. Heyman on

April 30th, 1920, reading as follows, was it not:—
A. Yes, sir.

Q. (Reading) We expected to have the Grundy case postponed until you could get your furlough so that you could get a furlough and personally defend yourself. We now find it is impossible. The case has been set down for May 3d. We therefore recommend that you engage counsel to appear for you on Monday and we recommend as your lawyers Hirshenstein & Finnerty, 15 Exchange Place, Jersey City. Telegraph them collect at once so that they get it tomorrow to appear for you on Monday. Is that the telegram that was sent you? A. Yes, sir; that was the telegram sent to me.

Q. How does that jibe with your testimony that Heyman & Heyman never suggested Messrs. Finnerty & Hirshenstein? A. They did suggest Mr. Hirshenstein and Mr. Finnerty.

Q. So you were mistaken? A. I am mistaken; but I say I knew of them; I thought your question was before I left would I have engaged counsel for myself had I known this; but referring to the contents of the telegram I will admit that that is the identical contents.

Q. Didn't you understand my question when I asked you whether Mr. Heyman had suggested, or anyone else had suggested to you, Finnerty & Hirshenstein as your lawyers? Didn't you understand my question? A. No, I didn't understand that.

Q. You didn't understand my question? A. No, sir.

Q. Didn't I repeat it to you two or three times? A. You did, I guess.

Q. And ask you whether they had suggested your employment of Finnerty & Hirshenstein,

and didn't you tell me— A. No doubt you did repeat it; I don't doubt it.

Q. And didn't you tell me that they did not? A. I thought you used the word "intimate" in there.

Q. Well, "intimate"; what do you understand to be the meaning of the word "intimate"? A. That is what I mean.

Q. Do you know what the word "recommend" means? A. Yes, sir; I sure do.

Q. Well, you told me that Heyman & Heyman had not recommended them? A. I didn't know that "suggestion" could get the significance of that.

Q. You didn't get the significance of the word "suggest"? A. No, sir.

Q. You know the meaning of the word "recommend," but you don't know the exact meaning of "suggest"; is that the way you explain your testimony? A. I do, but not in your statement.

Q. You generally know what "suggest" means, but in this instance you didn't know what it meant? A. In this instance.

Q. Why did you go so far as to say then of your own volition without my questioning you, that the reason why you employed Finnerty & Hirshenstein was because you knew them all your life, or words to that effect? A. I didn't say all my life.

Q. Well, for many years. A. I said I knew of them.

MR. HIRSHENSTEIN: He said of his own volition, he wasn't made to do it.

Q. Why was it then that you went outside, and on your own volition said, that the reason why you employed them was because you had

known them for a considerable space of time. A. I didn't say a considerable space of time.

Q. A long time? A. I knew of them for a time, and immediately after receiving this telegram I wired down to Hirshenstein & Finnerty.

Q. Why? A. To ask them if they could secure a postponement.

Q. I didn't ask you what you did; I asked you why? A. The contents of the telegram, because that suggestion was in the telegram.

Q. Because of the suggestion in the telegram, that is right, isn't it? A. Yes, sir.

Q. Didn't you realize when I was asking you questions a few moments ago that your answers conveyed the impression— A. Now I do.

Q. Then why did you testify in the way you did, then? A. I didn't quite clearly understand your questions.

Q. Didn't you testify in the way you did because you thought that if you told the truth it would hurt you in some way or other? A. No, sir.

Q. That is not the reason? A. The truth would not hurt me.

Q. I am not talking about the truth with respect to this particular subject matter, but with respect to the case, that Heyman & Heyman suggested Hirshenstein & Finnerty, because you thought that it would hurt you? A. I didn't think, I didn't have any idea.

Q. Do you wear a straw hat during the Summer time? A. In the evening, sometimes I wear a checked cap.

Q. Well, during the year 1919 did you wear a straw hat in the Summer time? A. Yes, I wore a straw hat.

Q. In the daytime as well as at night? A. If I was going anywhere, yes.

Q. If you were going out anywhere? A. Yes; sometimes I would wear a hat and sometimes I would wear a cap.

RE-DIRECT EXAMINATION BY MR. HIRSHENSTEIN:

Q. Mr. Evans, you did receive the telegram which I show you on April 30th, 1920? A. Yes, sir.

Q. And that is a copy of it? A. Yes, sir.

Q. And in that telegram Mr. Heyman did use the words "recommend Hirshenstein & Finnerty as your attorneys"? A. Yes, sir.

Q. When you said you knew them, you meant that you knew of them? A. I said I knew of them; that is my assertion.

Q. When that firm of lawyers was recommended to you you knew who they were in Jersey City? A. Yes, I knew of them.

Q. Did you have any intention to lie about that fact when you were asked by counsel? A. No intention to lie; merely I didn't comprehend the meaning of suggesting an attorney to me.

Q. Did you take any precautions when you came into that apartment on September 15th, either the parlor or bedroom, to lock the doors or secure or fasten any doors or windows of that room? A. I didn't take any precaution.

Q. Did you do anything with respect to either darkening the bedroom— A. No, sir.

Q. Or fastening the doors or latch or anything like that? A. No, sir.

Q. Did you take any precautions at all so that you would not be disturbed in anything that you might do in that apartment while you were there? A. No, sir; I didn't take any precautions; it was not necessary, I thought.

Q. Now, Mr. Lane asked you what was the attraction in going to that apartment; would

there have been any attraction to you if Miss Gertrude Halverson was not there?

MR. LANE: I object to that as leading.
THE COURT: I will take it.

A. No.

Q. Would you go to that apartment if Miss Halverson was not there? A. I would not.

Q. You went to that apartment at whose invitation? A. Miss Halverson's invitation.

Q. When you went there you were asked to go there and you went? A. Always.

MR. LANE: I object to that, not only on the ground that it is leading, but it is not redirect.

THE COURT: I will take it.

Q. Now, something was said by Mr. Lane in describing Miss Halverson's condition or state of mind on the evening of September 16th or 17th, after the occurrence of September 15th, that she was up in the air, and you once or twice used the same expression; now will you just tell us what that condition of Miss Halverson was? A. She was up in the air because she knew she disappointed me and that Park had seen me when this particular thing happened.

Q. Now, when you say "up in the air" do you mean she was excited over what had happened? Or was she perturbed? A. Perturbed, I mean.

Q. Would you use that as a true description of what her condition was at that time? A. I would use the word "perturbed."

Q. Now, as a matter of fact, a year ago, or nine months ago, your state of mind was that when you were alone in the apartment with Mrs. Grundy, it occurred to you that that was an

embarrassing position; is that correct, or is it not? A. It occurred to me that I was in the room, yes.

Q. On September 15th, when did it occur to you, at what particular time did it occur to you that it was an embarrassing position to be alone with Mrs. Grundy? A. Not alone when Park walked in, but at all times.

Q. What was the embarrassing position that you thought occurred? A. Well, I knew I was innocent of anything, any more than I might surmise if anyone did walk in they would assume that something was going on.

Q. Something was peculiar? A. That something was peculiar.

Q. Was that your own personal idea as to what others might think? A. It isn't what I thought, but what others might think.

Q. Was that your state of mind on September 15th? A. Yes, sir.

Q. Mr. Lane questioned you as regards a strange coincidence in the cessation of your visits during the Easter vacation, which he attributed, or thought was attributed to the fact that Park Grundy was home on his vacation; what was the reason during the April or Easter vacation that you did not visit the Grundy home very often as previously? A. Because Miss Halverson did not extend any invitations.

Q. Did you only go to Mrs. Grundy's house upon her invitation? A. Only on her invitation.

Q. During the Easter vacation or at any other time? A. At any time.

Q. Were you ever alone with Mrs. Grundy on any Sunday evening or any other day with the exception of those occasions that you have given us? A. Not one, with the exception of those.

Q. You have no telephone at your residence? A. No, sir.

Q. You are how old now? A. 22 the end of this month.

Q. When is your birthday? A. May 30th.

Q. You were 21 a year ago? A. A year ago.

Q. A little over 21 when this incident happened? A. Yes.

Q. Now, did it occur to you, Mr. Evans, after this episode of September 15th, that a divorce action would be begun predicated upon the situation in which Park found you and his mother? Did it occur to you at that time? A. It did not occur to me.

Q. When was the first time it did occur to you that the circumstances were of such a serious nature that you might be mentioned as co-respondent? A. When I received word from Mrs. Grundy.

Q. And that was not until when? A. That was in March.

Q. Some time in March, 1920? A. In March, 1920.

Q. Did you at any time prior to that think that the circumstances in which you were found by Park were of such a character that an action for divorce could be predicated upon that state of facts and charge you with being the co-respondent in the case? A. As a matter of fact, I never thought of the incident; I never did.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Why didn't you? A. I don't know of any real reason why I should; I was innocent at the time; I went there merely, as I have stated, at her request to show my appreciation for the way she has displayed hospitality; that is the reason why; then I never thought of it.

Q. That is the reason you did not think of it? A. That is the main reason; it never came into my mind.

Q. Now, there has been something said about Miss Halverson told you that Mr. Grundy had told her that you had been found with Mrs. Grundy alone in the apartment; do you remember that? A. Yes, that was two or three nights later.

Q. At that time did Miss Halverson tell you that you had been found there buttoning up your pants, or your trousers, or anything like that? A. She didn't mention buttoning my pants; no, she didn't mention that.

Q. After that conversation with Miss Halverson were your relations with Miss Halverson changed? A. No, not at all.

Q. They continued the same? A. They continued just the same as they were previously.

Q. Why didn't you go to the Grundy house after that? A. I hadn't been invited; I only went on invitations.

Q. That is the only reason? A. That is the reason.

Q. Wasn't there another reason, that you had been found there alone with Mrs. Grundy? A. No, that is not my reason; because I was not extended any invitation; that would not keep me from going.

Q. Why not? A. If I had been invited.

Q. Why wouldn't that keep you from going; you knew the embarrassing situation you were found in; why wouldn't that keep you? A. I thought if Gertrude had been there with me she would probably explain the matter, that it would be explained at a later date subsequent to that coincidence, so I never thought about that, to tell the truth.

Q. Did you ever call up the dumb waiter or on the telephone or do anything through the dumb waiter? A. I never did call up through the dumb waiter other than I have said about the box.

Q. Wait until I finish the question: Did you ever call up the dumb waiter, on the telephone, or any other way, to find out if it was all right for you to call on Mrs. Grundy? A. No, sir; I never did.

Q. Did anybody ever tell you that there was nobody home and that Mrs. Grundy was alone and that you might call without fear or detection? A. No, sir.

Q. Was there ever any thought in your mind that you might be detected in that house alone? A. No, sir; I never had the least little bit of fear of that, I never did.

Q. Did you ever do anything there that you would be afraid of detection? A. No, sir; never did anything that I was afraid of.

Q. Did you ever kiss Mrs. Grundy? A. No, sir.

Q. Did you ever speak in tones of love to Mrs. Grundy? A. No, sir; never did.

Q. Did you ever embrace Mrs. Grundy? A. No, sir.

Q. Put your arms around her waist? A. No, sir; never did.

Q. Did you ever speak in endearing terms to her? A. No, sir.

Q. Or give any indication to her whatsoever that you did have any love for her at all? A. No, sir; never did.

Q. Did Mrs. Grundy ever do any of those things to you? A. No, sir.

Q. Did Mrs. Grundy ever kiss you? A. No, sir.

Q. Or embrace you? A. No, sir.

Q. Or speak in endearing terms to you? A. No, sir.

Q. Or express any feeling of love toward you? A. No, sir.

Q. At any time? A. No, sir.

Q. Did you ever write her any letters prior to the time that you went to Buffalo? A. Not prior; no, sir.

Q. Did you ever write her any letters while you were at Buffalo containing terms of endearment? A. No, sir.

Q. Or showing in any way that you had any love for her? A. No, sir.

Q. Did she ever write to you prior to your going to Buffalo? A. Never did; no, sir.

Q. While you were at Buffalo, or since you have been in Buffalo, have you ever received any letters from her containing any terms of endearment? A. Not containing those terms; no, sir.

Q. Your letters from her have been purely on this case, have they? A. Yes, sir.

Q. Those are the only letters that you received or have written? A. Letters concerning this particular case.

Q. About your part in that affair? A. About my part.

Q. The Judge has asked you whether you have ever taken Mrs. Grundy, or accompanied Mrs. Grundy, either alone or with Miss Halverson, or with anyone else, to any places of amusement, restaurants, cafes, or any places of that kind. A. No, sir; I have not.

Q. Now I ask you, did you ever meet Mrs. Grundy at any restaurant, theatre or place of amusement or any other place outside of her home? A. No, sir; I never did.

Q. Either by appointment or accidentally? A. No, sir.

Q. Except passing her in the street. Did you ever make any appointment with Mrs. Grundy to meet her either at her home or outside of her home? A. No, sir.

Q. Did you ever meet Mrs. Grundy outside of her home? A. I never did; no, sir.

Q. You were asked—I don't remember whether you were asked this question or not—I would like to ask it and if it has been asked I will withdraw it—when you unpacked the two boxes, or the box and the crate, whatever you call them, which had come from Park's school, containing his supplies, was Gertrude Halverson in the house with Mrs. Grundy at that time? A. Yes, she was at that time, at the time I unpacked the box and the crate; yes, sir.

Q. Was she there all the time? A. Upstairs; yes, sir.

Q. Were you with Mrs. Grundy alone at all on that day? A. No, sir; I was down there in the cellar; Mrs. Grundy was with Miss Halverson in the house upstairs removing the things.

Q. Now, you have testified here that you heard the testimony of Park Grundy read to you. Where was it read? A. In your office.

Q. The testimony of Park Grundy, which was taken on May 3d was read to you in my office? A. The testimony of Park Grundy?

Q. Yes. A. Why, I had it read yesterday; I heard it read yesterday.

Q. Where? A. In that building; I don't know whether it is your office or where.

Q. Don't you recall where it was? A. Yes, I think it is right here.

Q. Was that in my building? A. It wasn't in your building, no; it was in some building.

Q. Where was it? A. I don't know the number of the building.

Q. Don't tell me the number of the building; where was it, do you remember? A. Opposite—I should say opposite this building.

Q. Do you remember who was in the office at the time? A. This gentleman here (indicating), Mr. Hirshenstein and myself.

Q. Did Mr. Schirmer, the stenographer, read it to you? A. Yes, he read it from his notes.

Q. Then you came down to my office and we discussed it? A. Discussed the matter down there.

Q. Did you go through an examination at my office, or did you just tell us your story? A. Just told the story, that story.

Q. Did we cross-examine you? A. You cross-examined me, asked me a few questions.

Q. Asked a few questions? A. Quite a few concerning the story I related.

Q. How long were you at my office altogether? A. All day, three-quarters of an hour.

Q. Were any of these questions discussed there at that time about the reasons for Miss Halverson telephoning to you? A. Yes, you had asked me.

Q. I asked you; did you discuss them with me? A. The reason for the telephone?

Q. Yes. A. When I was going through the cross-examination you asked me why it was that she called me on the phone.

Q. Did I ask you the reason for it? A. You didn't ask the reason for it; you asked me who was it when I related about going to assist in packing the boxes.

Q. Yes. A. Of course you asked me why she called me on the phone.

Q. Yes. A. Naturally I told you the complete story, why it was.

Q. I am asking you now if there was any question asked you yesterday by anybody about your conversation when Gertrude Halverson called you on the telephone to go to Mrs. Grundy's? A. Yes, you asked me why she did call me and I related the whole facts, why she called me, no more than to assist her in packing.

By The Court:

Q. Mr. Evans, on this occasion on September 15th, did you or did you not know that you were locked in alone with Mrs. Grundy? A. I did know I was locked in; yes, sir.

Re-Cross Examination by Mr. Lane:

Q. You say that you are on the same terms with Miss Halverson as you were before, is that right? A. I figure myself so.

Q. I am not asking whether you figure yourself to be. You left the State of New Jersey on the 6th of October, 1919, didn't you? A. Yes, sir.

Q. And you have been in the City of Buffalo since? A. Yes, sir.

Q. You haven't seen Miss Halverson, have you? A. No, I haven't seen her since.

Q. You haven't communicated with her, have you? A. She has not.

Q. She has not and you have not? A. No, sir.

Q. You haven't written to her? A. No, sir.

Q. One to the other since the 6th of October, 1919? A. No, sir.

Q. Prior to the 6th of October, 1919, you met Miss Halverson day after day? A. Not day after day.

Q. Well, two or three times a week, going out with her as you testified on the stand here? A. Yes, sir.

Q. Since the 6th of October you have neither seen her nor written to her, is that right? A. I have not.

Q. Yet you on the stand there will testify with a straight face that the terms of friendship since the 6th of October, with Miss Halverson, are the same in your mind as they were prior to the 6th of October? A. Yes, sir; in my estimation I think they are; I am sure they are; she hasn't said anything that would show otherwise. What makes you think that they are not in that same state?

Q. With no communication of any kind, nature or description for over six months? A. No, sir.

Q. And you are on the same terms as you were at the time you were meeting her two or three times a week? A. Yes, sir; I figure it so.

Q. Didn't you introduce Miss Halverson to a man named Anderson as your employer? A. No, sir; I never did.

Q. Didn't you introduce some man to Miss Halverson as your employer, and meet him, or have him present at a party at Mrs. Grundy's house with Miss Halverson? A. I never had any person at Mrs. Grundy's house; no, sir.

Q. Did you ever introduce anybody to Miss Halverson? A. I might have introduced some fellow and in fooling say it is my employer, but never had him at Mrs. Grundy's home.

Q. Don't you recollect that you did introduce a particular person to Miss Halverson as your employer? A. Yes, I remember.

Q. Who was the person? A. It was customary to do that.

Q. Who was that person? A. Anderson, but he wasn't my employer.

Q. He wasn't your employer? A. No, sir; he was—

Q. Yet you introduced him as your employer, didn't you? A. Yes, sir.

Q. To Miss Halverson? A. Yes; he asked me for that introduction.

Q. Yet you never have told her to this minute that he was not your employer, have you? A. No, I haven't told her.

Q. And the first time—A. I haven't seen her since.

Q. And the first time she knew that that man who was introduced as your employer six or seven months ago was not is now, when she hears you tell it on the stand; isn't that true? A. Yes, sir.

Q. Do you know other people that you introduced as your employers when in fact they were not? A. Not any, sir.

Q. That is the only one? A. Yes, sir.

Q. Didn't you know when I was questioning you with respect to a man named Anderson that this man was the man I referred to? A. He isn't my employer.

Q. I didn't ask you that; I asked you whether you didn't know when I was questioning you, that I was referring to this particular man whom you introduced as your employer? A. You asked me if he was my employer and I said Anderson was not.

Q. Didn't you know that I was referring to this man Anderson? A. Yes, I thought about that name.

Q. Yet you answered in the way you did? A. I knew the name Anderson.

Q. You knew that you were telling about half the truth? A. I was telling the truth; he isn't my employer.

Q. Didn't you say that you didn't know a man named Anderson? A. As my employer.

Q. Didn't yo usay that you didn't know a man named Anderson without qualification? A. You always referred to him as my employer.

Q. But you knew I was referring to this man Anderson all the time? A. I thought about the name Anderson but I thought you qualified him as my employer.

Q. Did you talk to this man Anderson after you introduced him to Miss Halverson, and go around with Miss Halverson and Anderson to Mrs. Grundy's house? A. No, sir; I never did.

Q. Never once? A. No, sir.

Q. To any place? A. No, sir.

Q. Did Miss Halverson only see him once? A. That is all I know of, in my presence.

Q. When was that? A. At the time I introduced him.

Q. When? A. I introduced him—I don't know the exact date of that introduction, but I should say, I know it is prior to June—say May, April or May.

Q. Where? A. On the street.

Q. How did you come to introduce him? A. Well, I was walking down Bergen Avenue and I happened to bunk into him and introduced him.

Q. How did you come to introduce him as your employer? A. Just introduced him, that is all, a matter of joking way.

Q. Well—A. That is the national pastime, it is done often.

Q. Introducing a girl to a man, a girl whom you thought something of, that is a joke? A. It don't sound so, but I took it that way; yes, sir.

Q. You took it to be a joke? A. Yes, sir.

Q. You did it in all seriousness so far as Miss Halverson was concerned? A. Yes, sir.

Q. Why did you do it in that way; what was the reason for lying; why didn't you introduce him as what he was? A. I just introduced him.

Q. Why didn't you introduce him—who was he; where did he come from? A. Came from Jersey City; where I don't know.

Q. What is his first name? A. I don't really know.

Q. You knew it was Tom, didn't you? A. No.

Q. Thomas Anderson? A. No, sir.

Q. What first name did you know him by? A. I called him Anderson.

Q. How long had you known him? A. About a year or so

Q. What? A. A year or so.

Q. Where did you meet him? A. I was introduced to him myself.

Q. By whom? A. By a friend; a particular friend of mine.

Q. Where did you meet him? A. On Bergen Avenue.

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

Q. Where did he live? A. I don't know where he lived.

Q. What did he do for a living? A. I don't know.

Q. How often had you seen him before you introduced him to Miss Halverson? A. How often I saw him?

Q. Yes. A. Occasionally, maybe once or twice a month.

Q. Where did you meet him once or twice a month ? A. Just running across him.

Q. Where? A. Oh, I would meet him on Bergen Avenue.

Q. What would you do with him? A. Nothing, just stand and talk.

Q. What was there in common between you and he? A. Just stand and talk, that is all.

Q. What did you talk about? A. Almost any conversation.

Q. Was there anything in common between you? A. No, sir.

Q. How old was he? A. I should judge—I am a poor judge of ages—I should say 30; I don't know; I can't judge ages.

Q. Did you keep meeting him after you introduced him to Miss Halverson? A. No, sir; I introduced him, happened to walk into him.

Q. Did you keep meeting him after? A. No, sir.

Q. Have you met him since? A. No, sir; because I was away; I haven't met him since I returned.

Q. Did you meet him between the time you introduced him and the time you went away, a period of two or three months? A. Yes, I believe I did see him a couple of times after that.

Q. Several times? A. Oh, I won't say several; I would say two or three.

Q. You introduced this man, whom you didn't know anything about him, whether he was a fit party to introduce, what he did for a living, or where he came from, or where he lived, as your employer? A. Yes, sir.

Q. To a woman whom you thought something about? A. Yes, sir.

Q. And that was a joke? A. Well, I did it in a joking way.

Q. Did you introduce him to Mrs. Grundy? A. No, sir.

Q. You are sure that he was never in Mrs. Grundy's house? A. I am positive.

Q. You are sure that he wasn't with you and Mrs. Grundy and Miss Halverson anywhere else, this man Anderson? A. I am sure he wasn't; not in my presence.

Q. You say that Miss Halverson, in answer to your counsel's questions, was up in the air, and that she was perturbed, I think the expression now is that she was perturbed? A. Perturbed; yes, sir.

Q. Because she disappointed you; that is what you say now? A. Yes, sir.

Q. That is the reason for her perturbation, because she disappointed you? A. She said "I am sorry the thing happened, that you were found there alone with Mrs. Grundy"; making that assertion I figured she was perturbed, I wouldn't say up in the air; I said that is the way she felt.

Q. That is the extent of the expression of her feeling, perturbation, is it? A. Yes, sir.

Q. Of her being perturbed? A. Perturbed.

Q. That is the extent of the sorrow that she expressed with respect to the disappointment? A. Yes, sir.

Q. What is the name of the man who introduced Anderson to you? A. That I don't remember.

Q. You have forgotten that? A. Yes, sir.

Q. Do you know his address? A. No, sir; I do not.

THE COURT: Whose address?

Q. The man that introduced you to Anderson. A. No, sir.

Q. Do you know where we can find Anderson? A. No, sir; because I haven't been around myself lately.

Q. So if you wanted to try to find Anderson

you wouldn't know where to start? A. I might start.

Q. Where would you start? A. Maybe I can start merely by walking around through the street.

Q. That is the only way you could find him, by walking around? A. That is the only way.

Q. You can't suggest any way that we could find Mr. Anderson? A. No, sir; I could not.

Hearing continued until May 27th, 1920, at two o'clock in the afternoon.

Chancery Chambers, Jersey City, N. J.,
May 27, 1920.

Hearing resumed at two o'clock in the afternoon.

MILDRED KRUGER, Sworn:

DIRECT EXAMINATION BY MR. LANE:

Q. Mrs. Kruger, where do you live? A. Crescent Avenue, Jersey City.

Q. Do you know Mrs. rundy? A. Yes, sir.

Q. How long have you known her? A. About seven or eight years.

Q. Do you know Mrs. Grundy? A. Yes, sir.

Q. How long have you known him? A. About the same time.

Q. How did you become acquainted with them? A. Why, I met the Grundys at a summer resort in New Jersey; Tenafly, New Jersey.

Q. How well did you become acquainted with Mrs. Grundy? A. Not well enough to be intimately acquainted with them.

Q. Did you live at one time in New York? A. Yes.

Q. At what time? A. I don't know; I just can't say what time; about two years ago.

Q. Did Mrs. Grundy come over there to visit you? A. To my home in New York?

Q. Yes. Did you go out at any time with Mrs. Grundy? A. Yes.

Q. About how often?

MR. HEYMAN: I object to that, if your Honor please. I object to all this line of examination on the ground that there is no allegation of anything that happened two years ago.

THE COURT: I will take it.

A. About five or six times; probably seven.

Q. Did you observe anything with respect to Mrs. Grundy's use of liquor?

MR. HEYMAN: I object to that, if your Honor please, on the ground that there is nothing in this petition founded on the use of liquor and it does not in any way tend to show adultery on the part of the defendant.

THE COURT: I will take it.

A. Why, Mrs. Grundy and I have been out to dinner and taken a drink, yes.

Q. Did Mrs. Grundy ever stay at your house over night in New York? A. No.

Q. Did Mrs. Grundy at any time ever call you up and say anything to you with respect to staying at your house over night?

MR. HEYMAN: I object to that, if your Honor please, on the ground that it is leading; and further on the ground that it does not in any way tend to show adultery; and on the further ground that there isn't any-

thing in the petition upon which this question could be founded.

THE COURT: I will take it.

A. Mrs. Grundy stayed at my home in Jersey City.

Q. After September 15th, 1919, did Mrs. Grundy ever call you up and have some conversation with respect to her staying at your house?

MR. HEYMANS I object to that, if your Honor please, on the ground that there is nothing in this petition concerning any conduct on the part of this defendant after September 15th, 1919.

THE COURT: I will take it.

A. Yes, Mrs. Grundy stayed in my house in October several days; she went away and came back, and the last time she called me up I told her I could not take her in because I was going out.

Q. I don't catch that. A. She stayed in my house three or four days, then she went away; she called me up later and wanted to know if she couldn't stay, but I said I was afraid I couldn't take her in.

Q. When was that that she stayed? A. Some time in October; I really couldn't specify any time.

THE COURT: 1919?

THE WITNESS: Yes.

Q. How long after that was it that she called up and endeavored to get you to take her back? A. Why, it was during the period of two weeks, probably the first two weeks in October.

Q. Did Mrs. Grundy, in September, 1919, call you up—in September or October, 1919,—call

you up and have a conversation in which she asked you to make a certain statement with respect to her having been at your house? A. She did, she asked me if anybody called, to say that she stayed—

Q. When was that?

MR. HEYMAN: I object to that on the same grounds.

A. I couldn't specify any time; it was some time while she was at my house; she said to say if anybody calls asking for me would I state that she stayed there.

Q. Did she refer to the night before?

MR. HEYMAN: I object to that as leading.

THE COURT: I will take it.

A. I asked her why she didn't go back to Long Island, because I was not prepared to take her in, and that was the only thing she remarked, just simply said, that she couldn't tell me then but she would tell me when she saw me.

Q. Was this on a Monday, do you remember? A. I couldn't say; I really don't know.

Q. Did she ask you to say if you were asked that she had stayed at your house the night before?

MR. HEYMAN: I object to that, if your Honor please, to the leading questions. I think this witness is intelligent enough to tell us what the conversation was without any suggestions on the part of counsel.

THE COURT: I will take it.

A. She just simply said, "If anybody asks will you say that I stayed at your house?"

Q. Had she, in fact, been at your house that night before? A. No.

Q. Did she give you any reason why you should say that she had been at your house? A. No.

Q. What else did she say with respect to that subject matter that you can recall? A. That is all she said with respect to that.

Q. Did she say anything with respect to telling you about it when she saw you? A. Yes, she said she would tell me when she saw me.

Q. Did you afterwards see her? A. No, I didn't.

Q. Did you know at that time, from anything that she said that she had been staying at the Mulack house? A. I think she was staying there, yes.

Q. How did you gather that?

MR. HEYMAN: I object to that.

THE COURT: I will take it.

A. She said she was staying there a few days before.

BY THE COURT:

Q. Did you know that from anything she said, or what? A. I know; I knew she was stopping there.

BY MR. LANE:

Q. Did you go during the Summer to Blue Point at any time that Mrs. Grundy was there? A. Mr. Grundy?

Q. Mrs. Grundy. A. Yes.

Q. Do you know a man named Clark? A. I did meet a man named Clark, yes.

Q. What was his first name, do you know? A. I only knew him by the name of Clark.

Q. How old a man was he? A. Well, I wouldn't say he was a young man; I would say he was a man possibly 50.

Q. Do you know whether Mrs. Grundy was well acquainted with him, or not? A. No; in fact we met him with Mrs. Grundy once.

Q. When was that?

MR. HEYMAN: I object to that, if your Honor please, on the same grounds, that it is not contained in the petition for divorce; there is not anything in the petition alleging any improper conduct with Mr. Clark or with any other person prior to June, 1919.

THE COURT: I will take it.

A. Why, I think it was two Summers ago.

Q. What happened? A. Nothing happened; Mr. Clark took us for an automobile ride.

Q. Did you continue on riding through its entire course? A. Why, no; I stopped back at the hotel at six o'clock and had my dinner, and Mrs. Grundy continued her ride with Mr. Clark.

Q. Do you know a man named Charles Keller or Heller? A. No.

Q. Did you ever hear Mrs. Grundy speak of such a man? A. No, I did not.

Q. Was your name in May, 1918, Gertrude B. Smith? A. Yes.

Q. Did you at that time live at 57 Clinton Avenue, Jersey City? A. In 1918—no, I did not.

Q. You did not? A. No.

CROSS EXAMINATION BY MR. HEYMAN:

Q. When you went out with Mrs. Grundy to these dinners that you speak of, was there anything wrong? A. No, absolutely nothing wrong.

Q. Mrs. Grundy conducted herself like a lady? A. As far as I could see, yes.

Q. You would see, if she didn't, wouldn't you? A. While she was with me, yes.

Q. You were present there? A. Certainly, I was present.

Q. Well, you didn't conduct yourelf improperly, did you? A. I don't think so.

Q. Do you think Mrs. Grundy did? A. I said I did not.

Q. You took a drink with her? A. Certainly.

Q. You didn't get intoxicated? A. I did not.

Q. Did she? A. No.

Q. Well, now, during the seven or eight or nine years that you have known Mrs. Grundy, do you know anything that she has ever done which was improper? A. To my estimation, Mr. Heyman, no.

Q. Are you here under subpoena? A. No, I am not.

Q. You came here at Mr. Grundy's request? A. Yes.

ALMA HANSEN, Sworn:

DIRECT EXAMINATION BY MR. LANE:

Q. Where do you live, Mrs. Hansen: A. 57 Clinton Avenue.

Q. Where did you live all during the Spring and Summer of 1919? A. At the same place.

Q. Do you take care of that house? A. I do.

Q. Did you at that time? A. I did.

Q. Do you know Mrs. Grundy? A. I do.

Q. Do you know Mr. Grundy? A. Yes, sir.

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

Q. You live there at the house all the time? A. Yes, sir.

Q. Do you know a Mr. Levine? A. Well, I know he is a liquor dealer.

Q. Did you see him in court here the first time, on May 3d? A. The first day I did.

New Jersey State Library

Q. Did you ever see Levine come to that house? A. I did.

Q. How often have you seen him coming there? A. Well, he used to generally deliver beer every week.

Q. Yes; have you seen him go in the house? Did you see him go in Mrs. Grundy's apartments? A. I did.

Q. Did you see him more than once? A. I did A. Well, I know once in the Summer I did.

Q. During the months of July and August? another time; I was cleaning upstairs and I saw him go in.

Q. How long did he stay there? A. I couldn't tell exactly, I was down cleaning, I believe, he must have been in there about 20 minutes—well, I was at least twenty minutes in the vestibule, he didn't come out then; I don't know, I can't say when he left when I wasn't there.

Q. You were there at least twenty minutes, and he didn't come out? A. At least twenty minutes.

Q. What time of day was this? A. In the forenoon, it might be between nine and ten.

Q. Did he have anything in his hands when he went in? A. Nothing that I saw.

Q. You didn't see him come out? A. I didn't see him come out.

Q. Did he come in an automobile? A. He did.

Q. Where was the car standing while he was inside? A. Right in front of the apartments.

By The Court:

Q. What day of the week was it? A. I couldn't tell.

BY MR. LANE:

Q. Was it on Clinton Avenue or Monticello Avenue? A. On Clinton Avenue.

Q. The other time that he was there, do you recollect how long were you there when he was in there, do you know? A. Well, it is around twenty minutes or half an hour, it takes me that time to clean down the stairs.

Q. And he didn't come out? A He didn't come out then.

Q. At that time did he have anything in his hands when he went in? A. No, sir; not that I could see.

Q. Where was his automobile? A. In front of the house.

Q. Do you remember in the Summer a man coming to the basement of the house and communicating with Mrs. Grundy through the dumb waiter? A. Yes, sir.

Q. When was that; do you remember?

MR. HEYMAN: I object to that, unless it is shown that this was either Mrs. Grundy or someone was in that apartment. There ought to be something to show that Mrs. Grundy was on the other end.

MR. LANE: I will connect it.

THE COURT: On your promise to connect it I will take it.

Q. When was that? A. On a week day; I couldn't tell what day.

Q. What did you see?

MR. HEYMAN: I object to that, unless—

THE COURT: I will take it on the same promise of counsel to connect it up.

A. I saw nothing; I just heard talking.

MR. HEYMAN: I object to what she heard.

Q. You saw what? A. I saw nothing; I just heard him speak and I heard Mrs. Grundy say "It is all right," then I saw he went out from the basement and up the front stairs; that is all.

Q. Well, now, did you recognize Mrs. Grundy's voice? A. I did.

Q. Now, tell us, did you see the person who did the calling up the dumb waiter? A. I did, I looked out the window and saw him coming out, and I saw him going up; I came down the stairs and he went up.

Q. How was he dressed? A. Well, he had a dark suit and wore a straw hat.

Q. How old a man was he? A. A very young man.

Q. Was he tall? A. Not very tall.

Q. Well set up? A. I couldn't just tell you.

Q. Well, I mean, was he strong looking? A. Well, no, he didn't look it.

Q. What did he do? A. What did he do?

Q. Yes. What did he do? A. I don't know; I only saw him going up.

Q. Well, did you hear what he was saying through the dumb waiter? A. No, I couldn't hear what he said.

Q. You couldn't hear what he said? A. No.

Q. What did you hear Mrs. Grundy say? A. All I heard her say was, "It is all right."

Q. During the Spring and Summer of 1919 do you know of any parties being held up at Mrs. Grundy's apartments? A. Well, I know there was people coming there, little parties going on.

Q. How late would they keep up? A. Well, I couldn't tell; I couldn't hear them from my place.

Q. You couldn't hear what? A. I couldn't

Q. Do you know anything about Mrs. Grundy sending for liquor? A. If she sent?
hear from my apartments.

Q. Yes. A. If she sent out for liquor?

Q. Yes. A. Yes, sir.

Q. How do you know? A. She sent my husband.

Q. How do you know? A. Well, she sent word down to him to come up and go for some liquor.

Q. How often would he do that? A. Not very often; I think it happened three or four times during the length of time we have been there.

BY THE COURT:

Q. Well, would you see him go after that? A. He said he was going.

Q. Is that all you know about it? A. That is all I know.

THE COURT: That ought to go out.

BY MR. LANE:

Q. Now, before Mr. Grundy went to Europe in the Spring of 1919, what was the general habit of Mrs. Grundy with respect to staying home?

MR. HEYMAN: I object to that, if your Honor please, on the ground, first, that this witness is not competent to testify as to what her habits were; secondly, on the ground that it does not make any difference what her habits were; there is nothing in her habits which would in any way prove adultery, and there isn't anything in this petition of anything which occurred in the Spring of 1919.

THE COURT: I will take the question.

A. I didn't get the question.

Q. (Last question repeated.) A. I don't know.

Q. Did she go out?

MR. HEYMAN: I object to that, if your Honor please. The witness has said that she does not know anything at all about her habits of staying home.

MR. LANE: I am refreshing the witness' recollection.

MR. HEYMAN: I think it is very unfair.

Q. Did she stay home, usually, or did she go out?

MR. HEYMAN: I object to that on the ground, first, that the witness has already answered by saying she doesn't know; secondly, on the ground that it is leading.

THE COURT: Does this relate to the same period?

MR. LANE: Yes.

MR. HEYMAN: She says she doesn't know.

MR. LANE: I know, but when a witness says she doesn't know, I submit I have a right to examine the witness on leading questions for the purpose of refreshing her recollection.

THE COURT: I will take the question.

MR. HEYMAN: That would be eminently unfair. This witness has already testified as to what her knowledge is. Now counsel is trying to impeach his own witness.

THE COURT: I will take the question.

A. She stayed at home very much.

Q. Was that while Mr. Grundy was in Europe or before he went to Europe? A. Yes, sir; when he was in Europe.

Q. Now, was there any difference before he went to Europe? A. Not very much; she used

to stay most at home; she also used to be out.

Q. Were you ever present when Mrs. Grundy sent your husband for liquor? A. No, sir.

Q. Were you ever in your apartment when she sent down? A. Well, whenever she came down to ask my husband to go to the store, of course, he went upstairs to get the money for it; I don't know, of course; he told me he went for liquor, but I don't know.

MR. HEYMAN: I object to that.

Q. What time of day was that? A. That was on a Sunday.

Q. Do you know what time it was? A. Yes, it was about the middle of June.

Q. The time of day; the hour by the clock? A. Around, between twelve and one o'clock, because we were just ready for our dinner.

Q. Were you present at the time when Park Grundy came home and was trying to get in the house? A. Yes, sir.

Q. Do you remember when that was? A. Yes, sir.

Q. Well, when was it? A. It must have been about the last of August or the first of September.

Q. What do you know about it? A. I was upstairs cleaning in the apartments opposite, because the people were coming home and I was in there cleaning up for them to come in; I couldn't go in there during the week and I had to finish on Sunday; that is the reason I was in there.

Q. Well, what happened? A. Well, I heard this noise going on for quite some time and I went out to find out who was doing that, and I saw Park was locked out, and I offered Park to

go through my window and through the fire escape to get in.

MR. HEYMAN: I object to anything she said to Park Grundy, unless the defendant was present.

THE COURT: Don't give the conversation.

Q. What kind of noise did you hear, and how long did you hear it? A. Oh, at least ten minutes.

Q. What kind of noise was it? A. Well, he was hammering on the door calling his mother.

Q. Then what did you do? A. I opened the door and I asked if Park was locked out.

Q. When you opened the door where was Park? A. Standing in the hall.

Q. How close to his door? A. Just right by his door.

Q. How far away from him were you? A. I could be only a few feet, next door.

Q. What was he doing at the time you first saw him? A. Well, he just stopped knocking and he stood there when I spoke and he said, "Mother's in—".

MR. HEYMAN: I object to that.

THE COURT: Not what he said.

Q. What was said between you and Park at that time?

MR. HEYMAN: I object to that unless it is shown that the defendant was present and heard the conversation, or that she was in a position to hear.

THE COURT: Before you put that, I would like to ask a question for my own information.

BY THE COURT:

Q. Where was this noise you heard first? Was that at the street door or at the apartment door? A. At the apartment door up in the hall.

Q. What floor was this on? A. Third floor.

Q. There is a street door, of course? A. Yes, of course; in the vestibule.

Q. But this was up on the floor? A. On the floor.

Q. Where you heard this noise? A. Yes, sir.

BY MR. LANE:

Q. Now, was the door of the Grundy apartment open or closed? A. Well, it was closed at the present when I spoke to Park Grundy.

Q. Do you know whether it was tight closed or whether there was a space, and whether it was held by a catch? A. Well, the time when they opened the door, it seems that the chain was on.

Q. The chain was on? A. Yes; this little chain that they can put on the door.

Q. That is when the door was opened? A. When the door was opened, when Mrs. Grundy came and opened the door.

Q. She opened it, and it appeared as if the chain was on? A. It seemed to me it was.

Q. Well, during the time that you were standing there could you see that the door was closed, or was it held by the chair? A. I think it was held by the chain.

MR. HEYMAN: I object to any conclusions which she might make or any opinions she might have, and I ask that the answer be stricken out.

THE COURT: I will take it.

Q. Did you hear any talking inside that door

at that time? A. After Park Grundy entered?

Q. Did you hear any talking while Park was standing there talking to you? A. No, sir.

Q. What was said between you and Park Grundy?

MR. HEYMAN: I object to that, if your Honor please; it has not been shown that the defendant was present or could have heard it.

THE COURT: I will have to ask you to vindicate that question.

MR. LANE: I have the foundation laid, may it please your Honor, by the testimony of Park Grundy, who swears that—

MR. HEYMAN: If your Honor please, I want to raise another objection at this time. Mr. Lane is going to make a statement which this witness can hear, and this is going to give the witness the information that he wants her to testify about.

THE COURT: She has already testified to what she heard.

MR. HEYMAN: I will withdraw my objection.

MR. LANE: Park Grundy testified that the door was open about an inch, and on a catch; and this witness says that she thinks the door was on a catch.

MR. HEYMAN: Now, if your Honor please—

MR. LANE: Wait until I get through.

THE COURT: One at a time.

MR. LANE: Park Grundy testified that he knew that there was someone on the inside because he heard talking, whispering which he could hear from where he stood on the outside of the door, prior to the

time that this conversation took place—this conversation took place between Mrs. Hansen and Park Grundy; and immediately following the conversation with Park Grundy, the testimony is, the door opened and the statement is made by Mrs. Grundy, "Who the hell is there," or "What the hell is the matter." Now, the case is, I think, clearly within the case of The State *v.* Morris, reported in 108 Atlantic at page 768—

THE COURT: I looked at that; I think it was Marsh; this is a recent case, isn't it?

MR. LANE: A recent case. And that case holds where the parties are so situated that they can hear, that testimony with respect to what was said is admissible, and, as I read the case, it is a question of fact as to whether they were in such a position where they could hear.

THE COURT: I will sustain the objection.

Q. Now, did the door finally open? A. The door opened; Mrs. Grundy opened the door.

Q. How long after you stopped talking, if it was after you stopped talking? A. Oh, a couple of minutes longer.

Q. And what was Park Grundy doing when the door opened? A. He walked in and I closed my door.

Q. Where was he standing when the door opened? A. Right in front of his door.

Q. Did you see Mrs. Grundy? A. I just saw her; of course I couldn't, well, just say I saw it was Mrs. Grundy opened the door.

Q. Did you hear what she said? A. I couldn't hear what she said.

Q. Did you hear her say anything? A. I heard them speaking but I closed my door.

BY THE COURT:

Q. Did you hear her say anything before he got in? A. No, sir.

Q. While the door was being opened, or at about the time it was opened, did you hear Mrs. Grundy say anything? A. Well, they spoke, but I couldn't repeat the words; I didn't hear them.

Q. Who spoke? A. Mrs. Grundy and Park Grundy.

Q. You say you couldn't hear? A. I couldn't repeat.

Q. What either one said? A. No.

BY MR. LANE:

Q. Well, do you mean that you didn't hear, or can't you remember what was said? A. Well, I can't remember; I didn't hear the words, I didn't pay attention to it.

BY THE COURT:

Q. You say you heard them speaking? A. I heard them speaking, and I closed my door and went back to my work.

Q. You didn't catch the words, is that it? A. No, sir.

BY MR. LANE:

Q. Do you remember another occasion than the one that you testified to, when Mrs. Grundy sent down for your husband about eight o'clock at night? A. Yes, sir; she sent word with my little girl to ask her father to come up.

MR. HEYMAN: I object to that, if your Honor please, to any conversation unless the defendant was present.

Q. What is that? A. She sent word with my little girl to tell her father—

BY THE COURT:

Q. Did you hear her speak to your little girl? A. No, sir; my little girl used to come up to her in her apartments—

Q. All you heard was what was reported to you by your little girl? A. That is all.

THE COURT: I will strike that out.

BY MR. LANE:

Q. As a result of what your little girl said did your husband go anywhere? A. He went upstairs.

Q. Where? A. Up to the apartment.

Q. Whose apartment? A. Mrs. Grundy's apartment.

Q. How long was he there? A. That I don't know, if she sent him to the store and took some time before he came back.

Q. I don't want any "ifs"; that same night did he go up there again? A. He did, around—

Q. What time? A. Around ten o'clock.

Q. As a result of what? A. To go to the store again.

Q. Well, as a result of some communication from your little girl? A. Not at that time.

Q. Through whom? A. She rang the bell.

Q. Who rang the bell? A. Mrs. Grundy must have rang the bell.

CROSS-EXAMINATION BY MR. HEYMAN:

Q. Now, you say that there was a number of parties at Mrs. Grundy's apartment; is that right? A. So I heard.

Q. What do you mean, you heard? A. From the tenants.

Q. Oh; you don't know this of your own knowledge, do you? A. Well, I saw a couple going

up there, I saw this young girl, Miss Halverson.

Q. Anybody else? A. And this young man.

Q. What young man? A. Well, I don't know who that was; I didn't ask them who they were.

Q. This young man that you testified to before? A. Yes.

Q. The one who was at the dumb waiter? A. Yes.

Q. Well, were there any parties? You know what a party is, don't you? A. Well, I wasn't in to see the party, only from what I heard from the tenants.

Q. But did you hear anything yourself? A. No, sir; I can't hear down in my place.

MR. HEYMAN: If your Honor please, I ask that the testimony about the parties be stricken out.

THE COURT: I will consider it all together.

Q. Now, where was this young man when Mrs. Grundy said it is all right? A. Down in the cellar, speaking up the dumb waiter shaft.

Q. When was that, do you remember?

THE COURT: What was he doing with the dumb waiter shaft?

THE WITNESS: He spoke up through the dumb waiter shaft.

Q. When was that, do you remember? A. A week day, I could not tell the date.

Q. Do you remember the month? A. Well, I am not sure that it was September or August.

Q. Well, wasn't it early in May? A. No, sir.

Q. What? A. No, sir.

Q. It might not have been? A. No, sir.

Q. Were there any boxes in the cellar belonging to Mrs. Grundy? A. It was.

Q. Now, before Mr. Grundy went to Europe, Mrs. Grundy used to stay at home quite a bit and go out quite a bit? A. Yes.

Q. She did the same thing while he was in Europe? A. She was more at home.

Q. She was more at home while he was in Europe? A. Yes, sir.

Q. Is your husband here today? A. No, sir.

Q. He knows all about those things, doesn't he?

MR. LANE: I object to that.

THE COURT: I will overrule that question.

Q. He was here before, wasn't he? A. He was here the last time.

Q. And the time before last, wasn't he? A. No, sir.

Q. Only been here once? A. Only once.

Q. Your daughter used to spend quite a little time with Mrs. Grundy? A. Yes, sir.

Q. Used to sleep with her during the night? A. Yes, sir.

Q. Very often, didn't she? A. Yes.

Q. How many times a week would you say your daughter slept with Mrs. Grundy? A. Well, I can't say; she slept probably once in a while, but she was up there almost every day.

Q. You didn't see anything going on that you thought was improper, did you, Mrs. Hansen? A. No, not that I call anything wrong, outside of the drinking.

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

Q. You saw her yourself drinking? A. Yes, sir

Q. You were in the apartment when she was drinking? A. Yes, sir.

Q. Beer? A. Both.

Q. Both beer and whiskey? A. Yes.

Q. Did she ask you to take a glass of beer, too? A. I took a glass of beer.

By The Court:

Q. Mrs. Hansen, on this occasion in August that you have spoken about, when Park Grundy came to the apartment; had you seen anybody go in the apartment before he came? A. No, sir.

Q. You spoke of a man named Levine? A. Yes.

Q. You say he came there to the apartment? A. Sometimes.

Q. Day time or night time? A. Day times.

Q. You didn't see him on this occasion? A. Not on this day.

Q. Not on this day? A. No, sir.

Q. Did you see anybody come out of the apartment? A. No, sir; I closed my door and went about my business.

Q. How long do you say Park was outside of the apartment? A. Well, from the time I commenced to hear the noise until he was let into the apartment, it could have been about ten or fifteen minutes.

Q. About ten or fifteen minutes? A. I couldn't tell to the minute.

Q. You came out? A. I came out when I heard it for a while.

Q. After you heard it a while you came out? A. Yes.

Q. And you found Park there at the door? A. I did.

Q. Did he have a key? A. No, I don't think so.

Q. What was the condition of the door when you first came there and found Park there? A. To me it looked as if it was on the chain, be-

cause then it opened just about that much (indicating).

Q. About an inch? A. About a inch.

Q. Could he get his hand through it or not? A. No, sir.

Q. It was too small an opening; he couldn't get his hand through it? A. No, sir.

Q. After you came out did he keep up the noise? A. Well, no, sir; he spoke to me.

Q. You spoke to him? A. I didn't talk to him, I just asked him if he was locked out.

Q. I wanted to know if he kept up the noise. A. No, sir.

Q. Was there any noise after you came out at all? A. Not at all.

Q. Did you see him do anything to the door? A. Park Grundy didn't do anything.

Q. What sort of noise was he making? A. Just hammering at the door with his hand.

Q. Hammering on the door with his hand? A. With his hand.

Q. That is the kind of a noise he was making? A. Yes, sir; quite hard; I wasn't near him and I heard it.

Q. You heard it, anyhow? A. I heard it.

Q. After you came out you say he didn't keep up the noise? A. No, sir.

Q. I think you said he kept up the nammering for something like ten or fifteen minutes? A. He did.

By Mr. Heyman:

Q. How long has Mrs. Grundy lived in that apartment? A. Mrs. Grundy was in the apartment when I moved in in 1916.

By The Court:

Q. Did you stay there until Park went in? A.

Well, when the door opened, Park went in and I walked into my place.

By Mr. Heyman:

Q. You saw Mrs. Grundy there? A. I saw Mrs. Grundy open the door.

Q. You used to do some work for Mrs. Grundy? A. Yes, sir.

Q. Housework? A. Yes, sir.

Q. Was Mrs. Grundy a good hausekeeper? A. As far as I understood.

Q. You saw her, and you saw the place was nice and clean? A. Yes, sir.

Petitioner rests.

Resumed Hearing.

Jersey City, May 27th, 1920.

Ida May Grundy, Sworn:

Direct Examination By Mr. Heyman:

Q. Mrs. Grundy, where do you live? A. Enos Place, Jersey City.

Q. Do you hear well? A. Not so well; that is one of my defects.

Q. Where do you live? A. Enos Place.

Q. What is the number? A. 18.

Q. How long have you lived there? A. Well, almost eight months; over seven.

Q. You lived there ever since you left Mrs. Mulack's? A. Yes, sir.

Q. You were married October 4th, 1899, I believe, is that right? A. Yes, sir.

Q. In Pittsburg? A. Yes.

Q. How long did you live in Pittsburg? A. Until 1908, when we came to Newark.

Q. You came where? A. To Newark, in 1908.

Q. Your son Park was born when? A. 1900; December, 1900.

Q. So that when you came to Newark Park was eight years old? A. He was in his eighth year; he was just a little over seven; seven years and three months.

Q. While you lived in Pittsburg your husband lived with you all the time? A. Yes, sir.

Q. During the time that you lived together in Pittsburg did you have any parties at the house? A. A great number, after a couple of years.

Q. Who composed these parties? A. Well, mostly friends of Mr. Grundy's, neighbors; we lived in Thornberg, Pennsylvania.

Q. What took place at those parties? A. Most anything in the way of eating, drinking and card playing.

Q. How old were you when you were married? A. I was 25.

Q. Before that time had you ever been drunk? A. Never in my life.

Q. Had you ever drunk until then? A. Why, my first cocktail I ever drank in my life I drank with my husband, a Manhattan cocktail. He took me out three months before we were married, and he ordered appetizers, as he called it, and we had two and I couldn't see.

Q. About how often after you were married were these parties at the house? A. Frequently.

Q. How frequently would you say? A. Every week; every Saturday night, we played cards, drank and had refreshments.

Q. Everybody at these parties drank? A. Everybody.

Q. Now, that continued until you came to Newark, did it? A. It did.

Q. Regularly? A. Every week as long as we lived in Thornberg, Pennsylvania.

Q. At that time your husband was connected with the Crucible Steel Company? A. In Pittsburg.

Q. Then he was transferred to the local office? A. West Side Avenue first, at the plant; then about a year later to the Canal Street office.

Q. In New York City? A. New York; as manager of the branch.

Q. Now, when you came from Pittsburg you alighted at Newark? A. Yes, sir.

Q. Were you taken off the train drunk? A. I was not; absolutely not.

THE COURT: Is this the first occasion when they moved?

MR. HEYMAN: The very first occasion.

Q. You were sick at that time? A. I was sick for several weeks before we moved from Pittsburg; Mr. Grundy knew I was sick and had been doctoring; my friends insisted upon my remaining in Pittsburg because they thought if I came here amongst strangers that I would be in a very bad way. I said we will have it easy for I will not have to go housekeeping and I might as well.

Q. Now then, you come to Newark and got off at Newark, and what happened? A. We went to Newark with Mr. Grundy, Mr. Grundy's youngest daughter and my son Park.

Q. Mr. Grundy's daughter? A. Yes, Mr. Grundy had two daughters.

Q. By a prior marriage? A. By a prior marriage.

Q. The youngest daughter was there? A. The

youngest daughter, we brought her with us from Pittsburg.

Q. When you got off at Newark what happened? A. The children and he and I went to a little restaurant I think on Bank Street in Newark; I didn't feel well, but we left the hotel there and went out to look for a boarding place; Mr. Grundy, previous to coming to Pittsburg for me had put an advertisement in a Newark paper asking for board for the family, and of course he went and collected a few answers, then we started out to find these different places. We had seen several and I became very ill; I said "I can't go any further, you must take me into a doctor's office," I was suffering intense pain; he happened to know a place called Koch's Hotel on Broad Street—then it was new—we went in there, and Mr. Grundy asked the proprietor if he knew of a physician, a very good physician in Newark, so he recommended Doctor Maas, who had been treating somebody at the hotel; he 'phoned for this doctor and this doctor came immediately; that was around, I should say, ten o'clock in the morning. He said I had a temperature of 104, that I was in a very bad condition, and he was afraid of peritonitis, that he would return later on that evening. He left his instructions what they were to do, he left instructions, what medicines to give, very hot baths, hot water bandages, etc. He returned about five o'clock and said that my temperature had not been reduced and it would mean an operation. When he came back that same day the temperature had gone down and he thought that I would get along all right. He visited me twice a day for about ten days—I think perhaps a week or ten days, I would better say.

Q. Had you been drinking? A. Not at all. Mr. Grundy knew I had not been. I was with Mr. Grundy all the time and the week previous.

Q. I don't want to know what Mr. Grundy knew; we want to know what you know; we have what Mr. Grundy knew. Had you been drinking on that trip from Pittsburg? A. I had not.

Q. Were you under the influence of liquor when you arrived at Newark?

A. I certainly was not.

BY THE COURT:

Q. Was that a night trip? A. We came down, and took the night train from Pittsburg and we reached Newark in the morning, I should judge, between seven and eight o'clock.

BY MR. HEYMAN:

Q. Did you occupy the same compartment with Mr. Grundy at that time? A. On the train?

Q. Yes. A. The same berth; the children had another berth.

Q. Now, how long did you stay in Newark; how long did you live in Newark? A. We lived in Newark until the following August.

Q. August? A. August, 1908.

Q. You were boarding then; you weren't keeping house? A. No, after the hotel, we were there, I should judge, probably two weeks.

Q. At the hotel? A. Yes; I was convalescent then and was able to move, and we found a boarding place on Orchard Street.

Q. Yes. A. And we stayed there until the following August.

Q. Now, while you were at that boarding place did these parties continue? A. Well, I wouldn't call them parties; Mr. Jamison and his wife came over.

Q. Yes. A. That was about the only folks we knew; they came over and took dinner with us several times.

Q. While you were at dinner would you have anything to drink? A. Always.

Q. All right; now when you left Newark then, in 1908, did you? A. 1908, yes, we left.

Q. Where did you go to from Newark? A. To Union Street, in a two family house; we took an apartment in Jersey City.

Q. On Union Street, in Jersey City? A. Yes.

Q. How long did you live there? A. About a year; just a year, I think.

Q. While you were at Union Street did you meet any folks; did you meet any people? A. Yes, I met this Mr. Jamison and his wife, they came down frequently, and Mr. and Mrs. Dillon. This Mr. Dillon was with the Crucible Steel Company at the time.

Q. Was Mr. Jamison also with the Crucible Steel Company? A. Yes.

Q. You would entertain them at your house? A. Very often.

Q. What would these parties consist of? A. Just the same as always; at the parties we always had something to eat, something to drink—

Q. And played cards? A. Not so much at Union Street, no; we were new, you see, in the East. We went to New York a great deal to dinners and slumming.

Q. But everybody took a drink? A. Everybody drank.

Q. Did anybody get boisterous or unruly? A. No.

Q. Or beyond control of their natural selves? A. No.

Q. Then you lived here until 1909 in Union Street? A. Until 1909.

Q. Where did you go from Union Street? A. We moved to Mrs. Corrigan's; we went boarding at Mrs. Corrigan's, 57 Clinton Avenue, Jersey City.

Q. How long did you live there? A. We stayed there three months; my husband objected to her housekeeping, her meals and her unkempt house, it was very filthy.

Q. Then you moved where? A. He told me to hunt another boarding house, he wouldn't stay.

Q. Where did you go from there? A. To Mrs. Low's, on Madison Avenue, Jersey City.

Q. How long did you stay at Low's? A. We stayed there until 1912, July.

Q. Almost two years? A. Yes.

Q. How many rooms did you have at Mrs. Low's? A. One room, and the boy slept in the room with us.

Q. The little girl was not with you any more? A. No, at that time the little girl had gone back to her grandmother, Mr. Grundy's mother.

Q. While you were at Mrs. Low's did these parties continue? A. Not at the house.

Q. Not at the house? A. Very seldom; we had company occasionally, we would have a little refreshments, but not parties.

Q. Well, did you have any parties at all while you were at Mrs. Low's—I don't mean in the house? A. Oh, outside, we would go out to dinners, oh, yes.

Q. Where would you go? A. To restaurants and friends' houses.

Q. Who would go? A. Mr. Grundy and Mr. and Mrs. Dillon, while they remained in Jersey City.

Q. Yes. A. Mr. Jamison was with us very often.

Q. Anybody else? A. That was about all, while we were living at Mrs. Low's, I think.

Q. When you went out with Mr. and Mrs. Dillon, Mr. Jamison and the others, or anybody who did go with you, everybody had something to drink? A. Always.

Q. After 1912 where did you live? A. In New York.

Q. How long did you live in New York? A. Two years.

Q. Up to 1914? A. 1914; in August, 1914.

Q. While you were at New York were you keeping house or did you board? A. We kept house.

Q. At your own apartments? A. Yes, sir.

Q. Did you have any parties there? A. Yes, sir.

Q. Who was present at those parties? A. Mr. and Mrs. Mulack; Mr. and Mrs. Statz; Mr. and Mrs. Jack Smith where over one night to a party; Mr. and Mrs.——

Q. Were those friends of yours? A. They were all friends of Mr. Grundy's and mine.

Q. What took place at those parties? A. Always card playing, refreshments, drinking and eating; we always had plenty.

Q. You lived in New York for two years? A. Two years.

Q. Why did you leave New York? A. There were several reasons why we left New York.

Q. Tell us them? A. Mr. Grundy's father visited us in the early part of 1912, the Summer, early Summer, his behavior was such as to cause talk in the apartment house; I was telephoned one night in particular, they wanted to know if it was Mr. George Grundy's residence; I said yes; they said to please send for his father——

THE COURT: Never mind what anybody said to you.

Q. After that trouble with Mr. Grundy's father you left New York, did you? A. We left New York.

Q. Were you put out of the house? A. We weren't put out of the house.

Q. Did the landlord of the house object to your conduct? A. He did not.

Q. Or your behavior? A. He did not.

Q. Your moving out of the house was purely voluntary, was it? A. Our lease expired on the first of October that year, 1912.

Q. Where was Mr. Grundy's business at that time? A. The Crucible Steel Company, 520 Canal Street.

Q. In New York City? A. Yes.

Q. After you left New York in 1914 you came back to Jersey City, did you? A. Yes.

Q. And took up your residence at 57 Clinton Avenue? A. Not immediately; we went to board at Mrs. Corrigan's.

Q. How long did you stay there? A. Three months.

Q. Then you went— A. Back to the 57 Clinton Avenue apartments.

Q. And you remained there until when? A. Until the last of September, the 30th.

Q. While you were living in New York, in 1914, you had some trouble with your husband, didn't you? He sent you to Morris Plains Sanitarium? A. Oh, yes.

Q. When was that, first? A. That was in August.

Q. What year? A. August, 1914.

Q. Shortly before you left New York? A. Oh, yes; the same year.

Q. When did you move from New York; what month? A. Well, he moved the goods out after he placed me up there.

Q. Well, now, while you were in New York he took you to the Morris Plains Sanitarium, did he? A. Yes.

Q. You were at that time drinking, were you? A. Yes, I had something to drink.

Q. You had had? A. That was following a party, he arranged to come over to go to Mrs. Corrigan's on Sunday afternoon and had our meals; he said he was tired of that very long Subway trip, he didn't intend to live up there, and we were going back to Jersey City. Mr. Jamison had told him that Mrs. Corrigan had this unemployed room, because he lived there and he knew, and we should come over. We drove over in the car and we stayed there and had drinks on the way over and when we got to Mrs. Corrigan's we had another drink.

Q. Now, who was with you? A. Mr. Jamison, Mr. Grundy, Mrs. Corrigan and myself.

Q. Yes. A. Then we took a ride and when we came back Mrs. Corrigan and I said we would prepare lunch. Mr. Grundy and Mr. Jamison went to the club, the Jersey City Club, and brought back a bottle of whiskey; we all had drinks before lunch and during the lunch; it was suggested that I remain there over night or stay a few days; Mr. Grundy said I wasn't feeling well, and it would be nice for me to stay for the night; the next day I was whisked to Morris Plains and was given dope all the time I was being taken.

Q. Who was there? A. Mrs. Jamison, Mr. Grundy, Mrs. Corrigan and myself.

Q. You mean all those people went with you?

A. They did; we had our own car; Mr. Grundy drove the car; whenever I came to I heard them say, "Give her some more of that," whatever it was, the dope in the bottle, and they gave it to me.

Q. Then you found yourself in Morris Plains? A. Yes, I found myself in Morris Plains.

Q. How long did you stay there? A. I stayed there until December 23d.

Q. 1914? A. 1914.

Q. The same year? A. The same year; four months.

Q. Then you came out, did you? A. Yes; I took French leave.

Q. Was that the first time, or the second time? A. That was the second time I had been there.

Q. When had you been there before? A. In 1912, I think.

Q. Let us go back to the first time. Where were you living? A. Mrs. Low's, on Madison Avenue.

Q. The first time? A. Yes.

Q. Mr. Grundy sent you to Morris Plains at that time?

MR. LANE: I object to that as a leading question; let her tell her story.

THE COURT: The objection is well taken.

Q. Well, tell us about the incident? A. About this?

Q. About taking you to Morris Plains? A. The first time, from Madison Avenue?

Q. Yes; from Mrs. Low's. A. Well, Mrs. Low's doctor went out with us that time—I don't remember all—and another lady.

Q. Well, how long were you there altogether? A. I was there eight weeks.

Q. Then? A. Mr. Grundy visited me then.

Q. Yes. A. And he seen what a pitiable state I was in, he knew I was very much upset over it, and he brought me home; then we immediately went to New York.

Q. To live? A. To live; he took this apartment, he had friends who lived over in this new apartment and he said we would go over and look at that apartment, so we moved over there.

Q. Then in 1914 he had you taken there again, or he took you there again the second time? A. Yes.

Q. And you stayed four months? A. Yes.

Q. How did you get out? A. I just walked away; Mr. Grundy never came to see me, he sent Mrs. Corrigan always and I had refused to see her down there; I wouldn't see her.

Q. Never mind that. A. I wouldn't see her; I wanted to see Mr. Grundy.

Q. During the four months do you say that your husband did not visit you once? A. He wrote a couple of letters, which were carefully prepared; I think his counsel have them now, because they were stolen out of my dresser drawer.

Q. When you left the institution where did you go? A. I went to come back to Mrs. Corrigan's; he was living at Mrs. Corrigan's at that time; he put the goods in storage and had gone to live with Mrs. Corrigan at 53 Crescent Avenue.

Q. You came directly back to Mrs. Corrigan's? A. Yes.

By The Court:

Q. You were living in New York when you were taken to Morris Plains the second time? A. Yes.

Q. And Mr. Grundy, too? A. And Mr. Grundy, too; he put the goods in storage and went to Mrs. Corrigan's, 53 Crescent Avenue.

Q. Where was Park? A. Park was away to Blair Academy.

BY MR. HEYMAN:

Q. After that you went to housekeeping again, did you? A. This is when we went to Clinton Avenue, from Mrs. Corrigan's, at 53 Crescent Avenue?

Q. You went from 53 Crescent Avenue? A. From Crescent Avenue over to 57 Clinton Avenue.

Q. 57? A. 57.

Q. Now, while you were living with Mr. Grundy at 57 Clinton Avenue in 1914 down to 1920, did you have any parties at the house? A. Yes, sir.

Q. Did Mr. Grundy's friends come to those parties? A. Yes, sir.

Q. Was Mr. Grundy present at all of those parties? A. Always present.

Q. Talk a little bit louder. A. Always.

Q. You always had drinks at those parties? A. Always.

Q. Who bought them? A. He would buy and I would buy sometimes;; sometimes he brought it up; he would always say, "Be sure you have plenty." Well, I wasn't paying for those out of my money, he said, "you pay for it and I will reimburse you."

Q. And did he? A. He always did.

Q. And everybody that came to the house would have a drink or two? A. Always.

Q. Were there ever any complaints about those parties? A. I never heard of any.

Q. Did your husband ever complain about those parties? A. He never complained of them, no.

Q. Did any of your neighbors ever complain about those parties? A. Never to my knowledge.

Q. Did the landlord ever complain? A. Never.

Q. Did the janitress ever complain? A. Never.

Q. Did you ever hear anybody complain? A. Never did.

Q. About those parties? A. No.

Q. During the time that you had been living at 57 Clinton Avenue did you ever have any strange men come to your house? A. There were no strange men, except people to collect a bill, or sometimes delivery people, who would deliver things upstairs if the dumb waiter would be out of order, which it sometimes was.

Q. Did you ever entertain any strange men at your house while your husband was— A. No strange men.

Q. While your husband was there or while he was away? A. No.

By The Court:

Q. How were the goods from the merchants delivered to this apartment usually? A. Usually they came on the dumb waiter.

Q. Down— A. Down in the basement; I was on the third floor.

Q. And they were drawn up on the dumb waiter? A. Sometimes if the dumb waiter was out of working order it would necessitate them coming around the front way, which was the only stairway.

Q. Was there an elevator there? A. Oh, no.

Q. No elevator? A. You would have to come up the front stairs.

Q. And the groceries were delivered in that way? A. Sometimes I would have to get the things.

Q. How about the butcher, the goods from him? A. Not so much from the butcher; it would be the grocer; the butcher sometimes came up that way.

Q. I mean by the dumb waiter. A. Yes, if the dumb waiter was all right it would come up the dumb waiter.

Q. So that usually, then, the men from the stores, the grocery and butcher shops, did not come to the door of the apartment? A. Oh, no; very rarely; just as I say, if the dumb waiter was out of working order, which it sometimes was.

BY MR. HEYMAN:

Q. Now, did your husband live with you as husband and wife while you were living at 57 Clinton Avenue? A. Yes, sir; up until about 1918.

Q. Until about what time in 1918? A. Well, the Summer.

Q. Did you have marital relations with your husband during that time? A. Occasionally up until 1918, in the Summer.

Q. Did your husband ever have any complaints —make any complaints, against you up to 1918, the Summer of 1918? A. Complaints, what of?

Q. Any kind of complaints? A. Well, I don't understand just what you mean by complaints?

Q. Well, did he complain about your conduct with other men? A. Oh, no; never.

THE COURT: Up to 1918; the Summer of 1918.

THE WITNESS: No.

Q. He did complain about your drinking? A. Sometimes he would say don't take any of this,

don't take any of that; I wish you wouldn't do it.

Q. But up to that time you never had any idea, or he never made any accusation against you about your going around with other men? A. Oh, absolutely not.

MR. LANE: I object to that on the ground that it is leading. I am not going to object to any more leading questions. Furthermore I will ask the Court on my argument to disregard all questions and answers that are leading. If counsel wants to continue this leading the witness he can do it and suffer the consequences. Almost every question he has asked has put the words in the witness' mouth.

THE COURT: I will take the question.

Q. Did your husband make any accusations against you whatsoever? A. Not in regard to any men.

Q. Well, what accusations, if any? A. He made none whatever, no accusations of any sort.

Q. Well, you did have some words with him in 1918, didn't you? A. About men?

Q. Some unpleasant words; I don't care about what; about anything. You did have unpleasant words, didn't you? A. We would have unpleasant words often.

Q. Well, about what? A. Well, it would be just about his going out, staying out and his not coming home.

Q. Well, when was that? A. Oh, that has continued for about three years.

Q. Prior to 1918? A. Yes.

Q. Well, what was the occasion of it; tell us about it; I don't know? A. I would ask him why he remained away from home at night, and he

said, none of my damned business, he would have no woman can tell me to come home; he would have me distinctly understand that.

Q. How often would you say that was? A. The last two years he would be away twice a week all night, as a rule, Wednesday and Saturday night.

Q. And that was the cause of your trouble? A. Yes; he—I asked him and there would be a little words over that.

Q. Well, did you have any words about your conduct? A. No, never.

Q. Did he ever question your conduct at any time before 1918? A. Never.

Hearing continued until May 28th, 1920, at two o'clock P. M.

Jersey City, May 28th, 1920.

IDA MAY GRUNDY, recalled (May 28, 1920).

DIRECT EXAMINATION (resumed) BY MR. HEYMAN:

Q. Now, in 1918, you went to Blue Point, didn't you? A. In the summer, yes.

Q. What time did you go? A. Around probably the latter part of July or the first of August, I don't just exactly remerber the date.

Q. With whom did you go to Blue Point? A. I went alone in 1918; Park followed two days later.

Q. Did Park stay with you at Blue Point? A. Yes.

Q. How long did you stay at Blue Point? A. Probably five or six weeks.

Q. Was Park with you all that time? A. All the time.

Q. Did Mr. Grundy visit you while you were at Blue Point? A. Mr. Grundy came down one week-end.

Q. I can't hear you? A. One week-end during August.

Q. Did he stay with you; stay over night with you? A. He stayed over night; yes sir.

Q. Did Mr. Grundy occupy the same room with you that night? A. The same room; the same bed.

Q. And did you have intercourse with Mr. Grundy that night? A. Mr. Grundy woke me up in the night a very unusual proceeding and tried to, I objected, he went on in the usual way; in the morning I asked him——

Q. I don't understand what you mean; you will have to talk plain Mrs. Grundy. We have got to know what those facts are. A. Mr. Grundy attempted to have me use my mouth for his private parts, and I objected; in the morning I asked him the reason for such actions and he said he knew people who did it that way, there was no feeling to it the other way, it was no good, and if I was like other people he knew I could get along.

Q. What did you say to him? A. I simply said that is perhaps where you have been spending your evenings, your nights, when you have been away from home; he made no answer to me at all.

Q. Now—— A. There were no further relations after that.

Q. You mean you had no further marital relations? A. No further marital relations after that.

Q. Did you at any time after that ask him to have any relations with you? A. The night he

arrived from Europe he came home, he arrived in the morning ,and that same evening I asked him if he was going to come in my room; he said no; I said, "If you don't come in my room I will come in your room, in the bed with you." I attempted to be affectionate with him, put my arm around him, but he wouldn't have it, he turned his back.

BY MR. LANE:

Q. What date was this? A. That was around in June, I should say the 12th, as nearly as I remember, it was a Tuesday or Thursday of that week.

Q. What year? A. June, of 1919.

BY THE COURT:

Q. He came back from Europe? A. It was a Tuesday or Thursday; I am not positive about the date.

BY MR. HEYMAN:

Q. Now, getting back to Blue Point in 1918; after that night did Mr. Grundy stay there? A. At Blue Point?

Q. Yes. A. No, he came down with the car and on Monday he drove in.

Q. You mean—— A. He stayed two nights at Blue Point, and he drove in on Monday in the car.

Q. Did you see him at Blue Point after that? A. Not until he came down to bring us home, and Mrs. Van Cleve was with him; I was greatly surprised to see he had company when he arrived.

Q. Who was with him? A. Mrs. Ruth Van Cleve.

Q. Who is Mrs. Van Cleve? A. She is the wife of A. E. Van Cleve of the Crucible Steel Company, manager of the Harrison plant, or assistant manager.

Ida May Grundy—Direct.

Q. When Mr. Grundy came to Blue Point with Mrs. Van Cleve to take you home, did you have any talk with Mr. Grundy? A. Yes, we talked; we took a walk along—we drove down to the beach and walked out on the small pier; then I related the incident, how it happened, that Mr. Clark—about being struck over to Smith's Point in the Sound, and treated it just as a coincidence, it was unusual for him to go so near to the shore, that they did not think the boat would take so much water as that, and then the Coast Guards came to help us loose and they said we were there for several hours, we could not get loose until the tide came in to lift us out of the sand.

Q. You told that to Mr. Grundy? A. I told that to Mr. Grundy and Mrs. Van Cleve, and my son Park was there at the time, standing on the end of the pier down at Blue Point.

By the Court:

Q. What time of day was this? A. This was afternoon, they arrived at Blue Point around about lunch time.

Q. I mean the time that you were out, when you were out in the boat? A. That was a Sunday afternoon; we started out at two o'clock Sunday afternon and we returned—it was about two o'clock in the morning before we could get back. We were afloat, I should say, by twelve, but it was so dark going through the Great South Bay, there is no light there, and I should say it took us about two hours to go from Smith's Point, down to Blue Point.

By Mr. Heyman:

Q. Now, who was there on that trip? A. Mr. Clark; Mr. Clark's daughter; a Miss Manning;

the captain, and several other friends of Mr. Clark's.

Q. What kind of a boat was this? A. A sail boat; a large sail boat.

Q. Did it have any private cabins in it? A. No private cabins whatever; all open.

Q. Were all you folks there together ? A. Yes; we sat up on the roof, you know, of the boat, most of the time, with the sails, you know.

Q. Now, when you returned to Jersey City after the Blue Point vacation in 1918, from that time on what was your husband's conduct toward you, with reference to affection? A. Oh, very cold and indifferent; there was no affection.

Q. Well, did he embrace you? A. Never.

Q. Did he show any affection, by kissing you? A. None at all. He told me he was sick and tired of me. He didn't know what I was hanging around there for, he wished I would go out, he loathed the sight of me, didn't I have any backbone, why didn't I get out.

Q. What did you say to him in reply to this outburst of his? A. I said I thought it was very inconsiderate treatment, I was trying to do the best I could.

Q. What was his conduct with reference to coming home at night? A. He would never come home for dinner; I asked him every morning, "Will you come home for dinner?" and he said, "No, absolutely not", he said, "I don't care to have your meals, I can't eat your cooking at all, you don't need to trouble yourself about me at all, I can pay for what I want."

Q. And did he come home every night? A. He did not; he didn't come home any night.

Q. How often would he stay out; I mean all night?

THE COURT: He is talking about staying out all night.

A. As a rule, twice a week, Wednesdays and Saturdays.

Q. Did you ever ask him where he was on these occasions? A. I did.

Q. What was his answer? A. Sometimes he would say he was out golfing, to the golf club; sometimes he would tell me it was none of my business.

Q. Did he ever take you out from the summer of 1918 until you parted? A. Occasionally he would come—he would be out Saturday night and he sometimes would phone me Sunday afternoon and say he would come in the car and take me out for a ride.

Q. Yes. A. That would be perhaps once in a month.

BY THE COURT:

Q. Up to what time did that continue? A. Up until before he sailed for Europe, that was in 1918, the latter part, in the fall, as long as the good weather continued that one could ride.

Q. Were you and he alone on those occasions? A. 1918?

Q. Yes; and how about 1919? A. Mr. Grundy went to Europe in February, 1919, and didn't return until June.

Q. And after that? A. We went out, I presume, probably twice or three times, not more than that, until this final trouble. From June I went—I may have been out to the club once, to the Shackamaxon Club, once; that is about all.

BY MR. HEYMAN:

Q. Now, when you and Mr. Grundy went out

in this way were you and he alone? A. In the car we would be alone.

Q. Would you be alone at dinner? A. Sometimes Mr. Grundy would ask me to come over in Newark when he played golf, he would tell me to come over and meet him, and I usually went over and found him with Mrs. Van Cleve at the Robert Treat Hotel, much to my surprise. I would ask where Mr. A. E. Van Cleve was; he was out of town, I was told.

Q. Did you talk to Mr. Van Cleve about this? A. I did say it was strange, all the time he was away in Europe that the Van Cleves never called me up to take me out and Mr. Van Cleve never invited me to dinner when he was away.

Q. What did he say? A. He made no reply.

Q. Now, I want to get back to 1908 again, when you first came to Newark. If I understand you correctly, you went to board in Newark on Orchard Street, and you boarded there for five months; is that correct? A. Yes.

Q. Now, did anything peculiar or extraordinary occur while you were boarding in Newark?

THE COURT: This is in 1908?

MR. HEYMAN: When they first came from Pittsburg.

A. In 1908, about two months after that, after we were at the Arch Street house, my husband, I noticed he was taking care of himself privately, and I asked him——

Q. You will tave to talk a little louder, because nobody can hear you. These things may be unpleasant, but it is absolutely essential that you speak plainly. A. I noticed that Mr. Grundy was taking care of his self unusually, and I asked him what was the trouble.

Q. What do you see that was unusual? A. That he was taking care of his private parts.

Q. Now, what did you do; what happened after that? A. He said he would have to see a physician, it annoyed him greatly, and I went to the physician with him.

Q. Yes. A. On different evenings; I asked him what was the trouble and he said he had gonorrhea.

Q. Yes.

MR. LANE: Do I understand that this was said in the presence of Mr. Grundy?

MR. HEYMAN: That is what he told her.

MR. LANE: Who?

MR. HEYMAN: Mr. Grundy told her.

MR. LANE: That isn't her testimony.

MR. HEYMAN: That is what she said.

MR. LANE: I want to know whom she asked, the doctor, or whom.

A. I asked Mr. Grundy.

Q. When? A. When we returned after the first visit to the doctor's.

Q. Well, did you talk with him about that? A. Why, I said, "How did you ever get anything like that?"

Q. Yes. A. He said most likely in a toilet; he knew he had not been near anybody.

Q. That is what he said to you? A. That is what he said to me.

Q. What did you say to him? A. Well, I said, "It seems strange to me". Of course, I didn't know anything about such things, I was perfectly innocent of such diseases.

Q. Now we get back to 1919. Shortly before Mr. Grundy went to Europe, did you have any conversation with him? A. Mr. Grundy came in

one evening, Miss Halverson was with me, Mr. Grundy came in and said he had given up the apartment, he was sailing for Europe the first of the year, that he had stopped in and told the landlord that he would give up the apartment.

Q. Yes. A. So, I said, well, that was sort of—that was a great surprise to me, what was I to do; he said I could go boarding, to get a room somewhere, he didn't intend to keep up that apartment, he may be gone six months, nine months, or a year.

Q. Yes. A. I said, why not keep the apartment until you see definitely how long you will be abroad.

Q. Yes. A. If you will be gone more than six months it will be time enough then towards spring to give up the apartment and make the change.

Q. Yes. A. If you find you are going to remain in Europe any length of time. He said I could think it over that the landlord would probably come up and talk to me about it.

Q. Yes. A. And the landlord did come up a few days later and asked me what I intended to do; he said Mr. Grundy had given up the apartment. I said I had decided to stay until Spring, anyway.

Q. Yes. A. He said it would leave them in a very bad way if we moved at that time, and he would like very well if we did stay until Spring.

BY THE COURT:

Q. This is the apartment on Clinton Avenue? A. 57 Clinton Avenue.

BY MR. HEYMAN:

Q Did you talk with Mr. Grundy about it after that? A. I told Mr. Grundy that Mr. Limbach

had been to see me and I told him I was going to remain in the apartment.

Q. What did he say? A. He said then he would make arrangements to have the rent paid while he was abroad.

Q. While he was abroad was your rent paid? A. Yes

Q. Did you receive an allowance while he was abroad? A. I received $100 a month.

Q. Regularly? A. Regularly.

Q. From whom? A. From the Guaranty Trust Company.

Q. By check? A. By check.

Q. Now, while Mr. Grundy was in Europe, did you ever hear from him? A. He sent post cards, yes.

Q. Did you ever write to him? A. I wrote several letters, but he didn't answer them.

Q. He never wrote you a letter at all while he was away? A. No letters; post cards.

Q. And you have those postal cards with you? A. I have.

Q. Just produce those. A. (Witness produces post cards as requested.)

Q. Are those the cards? A. Those are the cards.

MR. HEYMAN: I offer those cards in evidence.

(Without objection the cars were admitted and marked Exhibits D-1 to D-7, inclusive.)

Q. Now, when did Mr. Grundy return from Europe? A. In June, around the 10th or 12th.

Q. I mean when did he return to your apartment on Clinton Avenue? A. From Europe?

Q. From Europe. A. You mean the time of day?

Q. Was that—— A. I said June 10th or 12th; I am not certain; it was a Tuesday or Thursday.

Q. Yes; at what time? A. He came in, I should judge about ten or half past ten o'clock in the morning.

Q. Did you talk with him? A. I had no message from him whatever when he would arrive.

Q. Now, did he embrace you when he came in? A. He simply kissed me on the cheek; that was all.

Q. Did you attempt to embrace him? A. I attempted to, but he was busy taking his things out of his trunk, and he walked off.

Q. What did you say to him? A. I was very pleased to see him; but I said, "How did you come to arrive at this time in the morning, I didn't think the boats were in until noon?" He said, "I came in last night." I said, "Why, I thought you would be anxious to come home to see me." He said, no, he went to a stag party in New York.

Q. Did he at any time notify you that he was about to arrive? A. I hadn't the least idea when he would arrive.

Q. Did he at any time ask you to meet him? A. No.

Q. So that you didn't know when he was about to arrive? A. He came in unexpectedly, I didn't know.

Q. Now, after Mr. Grundy came home, did he continue to live at your apartment? A. Yes.

Q. And lived with you regularly down to the time that you separated? A. Yes, until he left.

Q. Now, what was his conduct toward you? A. Very cold and indifferent.

Q. Was that continually? A. Cold and indifferent, fault finding at nothing at all.

Q. What kind of fault did he find with you? A. Well, this wouldn't be right, that wouldn't be right, this didn't suit, that didn't suit, there wasn't anything that pleased him.

Q. Did he stay out? A. He stayed out every night.

Q. Did he stay out all night? A. On Wednesday and Saturday nights; Saturday nights regularly.

Q. Did you at any time after that have any dinners with him out? A. The night he arrived from Europe I did.

Q. Yes. A. We had dinner in New York.

Q. Were you alone at that dinner? A. He and I were alone, yes.

Q. Did he have dinner with you at any other time after that? A. Once I met Mrs. Van Cleve with him at the Robert Treat after that.

Q. You mean—— A. One Sunday evening, Mrs. Van Cleve and he were sitting together at the time, and I heard Mrs. Van Cleve thanking him for the present that he had brought, which I had never seen.

Q. Did he ever tell you—— A. He said Mr. Van Cleve asked——

Q. Wait a minute. Did he ever tell you about any presents he brought for Mrs. Van Cleve? A. No, he didn't tell me.

Q. Did you ask him? A. I asked him if he brought anything back with him; and he said he brought some for some of his friends.

Q. Did you ask him particularly about Mrs. Van Cleve? A. No.

Q. Now, in 1916 you had a spell of intoxication, didn't you, some time around July, 1916? A. 1916?

Q. Yes; July 4th, 1916, when Mrs. Mulack came to your house? A. I wouldn't call that a

spell of intoxication; I may have had a few drinks.

Q. Well, you were sick, were you not? A. I was not feeling well, but it wasn't necessarily a case of intoxication.

Q. Well, Mrs. Mulack came over to your house, did she? A. Mrs. Mulack had been with me, I think all told, six to eight weeks; her husband was down South, she visited me and she lived at the house with me.

Q. Now, in December, 1917, you became ill again, didn't you? A. I wasn't well in December, 1917.

Q. And Mrs. Mulack came over to the house? A. She came over a couple of days before Christmas.

Q. Did she prepare the Christmas dinner? A. She did not prepare it all.

Q. Who was at that dinner, Mrs. Grundy? A. Mrs. Mulack, her husband, Park, my son, and Mr. Grundy.

Q. They all had dinner there? A. They all had dinner.

Q. Were you continuously drunk at that time? A. I was not.

Q. Did Mrs. Mulack at that time say to you that a man by the name of Charley had called her up? A. I never recall——

Q. And asked her to use her good offices with you to enable him to marry you, because he loved you. Did Miss Mulack tell you that? A. I don't recall any such conversation.

Q. Did you about that time show Mrs. Mulack any Liberty Bonds and flowers and say that Charley had sent them to you? A. I did not.

Q. Did you ever receive any Liberty Bonds from any man by the name of Cherley? A. I did not.

Q. Or from any other man? A. No; my husband was with me when I bought the Liberty Bonds.

Q. Did you at that time, or about that time, receive a telephone message at two o'colck in the morning from Charley? A. I never did.

Q. Did you at that time, or amout that time, while Mrs. Mulack was at your house, receive a telephone message and leave the house to keep an appointment with a gentelman? A. I don't recall any such affair.

Q. Well would you recall if you had? A. I certainly would.

Q. Did you know a man by the name of Clyde? A. I knew a Mr. and Mrs. Clyde, whom we met at Mrs. Mulack's home; Mr. Grundy was with me on the occasion when we met them; we were invited to a card party.

Q. Did you tell Mrs. Mulack that Clyde was calling you up? A. I did not.

Q. On the telephone; and that he had come to your house one day, and that you were frightened about that, because you were afraid that Mr. Grundy would see him there? A. I never told Mrs. Mulack any such thing.

Q. Did Clyde ever come to your house? A. No, sir.

Q. Did you ever call up Clyde at a restaurant in New York? A. No.

Q. When you were at dinner with Mr. Clyde was anybody else present? A. There were several friends of Mr. and Mrs. Clyde.

Q. Was Mrs. Clyde always with Mr. Clyde? A. Always with Mr. Clyde.

Q. Now, do you know Mr Frank Thorling? A. I met Mr. Thorling at the Mulack home, I don't recall when, several years ago.

Q. Do you remember having met Mr. Thorling at the Hotel Martinique in 1915? A. I do.

Q. Who was with you at that time? A. Mrs. Mildred Smith, the witness that was here yesterday.

Q. That is Mrs. Kruger? A. Mrs. Kruger.

Q. At that time she was Mrs. Smith? A. At that time she was Mrs. Jack Smith.

Q. Did you have a talk with Mr. Thorling at that time? A. Yes.

Q. Was Mrs. Smith there at the time? A. Mrs. Smith was there.

Q. Did you ever say to Mr. Thorling or did you ever ask Mr. Thorling to make up a party to stay out all night with Mrs. Smith? A. I certainly never did such a thing.

Q. Did you at that time say to Mr. Thorling "any man can change his pasture once in a while" or words to that effect? A. I never in my life made such a remark; never.

Q. Mrs. Hansen testified here yesterday that she heard a conversation through the dumb waiter of your apartment, when you said to somebody, "All right"; do you remember that incident? A. I do not.

Q. Do you remember who it was, to whom you spoke at that time? A. I have no recollection of any such answer as that.

Q. Well, did you ever have a conversation down the dumb waiter? A. No.

Q. Well, do you remember when Mr. Evans unpacked the boxes or trunks down in the cellar? A. Distinctly.

Q. Do you remember what happened on that occasion? A. He unpacked the case downstairs and sent them up the dumb waiter; Miss Halverson was with me and would say "All right" and

he would draw the dumb waiter down again, refill it and draw it up again, and we would unload it and say "All right".

Q. Did Mrs. Hansen ever make any complaint to you about the parties which you held in your home? A. Never.

Q. Did any of the neighbors in the house complain to you? A. Never.

Q. Did the landlord ever complain to you? A. Never.

Q. How long did you live in that house? A. Five years; almost five years.

Q. During the whole time there never was one complaint against you? A. None at all.

By the Court:

Q. Was Mr. Hansen the janitor during that whole five years? A. No; he came there a year after we were in the apartment.

Q. He was there then for something like four years? A. Yes.

By Mr. Heyman:

Q. During the time that you lived there Mrs. Hansen's daughter spent a great deal of time with you, didn't she? A. Yes.

Q. When? A. Beatrice; I would have her come, she would come up after school, she would go my errands, she stayed with me a great deal in the evenings, stayed all night with me; I seen her most every day, she would be up in my apartment; I was very fond of her.

Q. Mrs. Hansen did some work for you? A. Occasionally, she would do work by the day.

Q. In your apartment? A. In my apartment.

Q. During all this time you would give her something to eat and something to drink? A. Yes, always.

Q. Now, on August 24th, 1919, Mr. Levine came to your apartment, didn't he? A. Yes.

Q. Now, will you tell us why he came there? A. The day before, Saturday, I had phoned for some beer to be delivered; I don't think I was home when the delivery was made; I 'phoned down Sunday morning to ask him about it, saying that we would need the beer, could they possibly send some down, a few bottles; he said he would see what he could do, that perhaps he would bring some, they were going to New York; he came, the bell rang, I opened the door, Mr. Levine came in with a dozen bottles of beer, a package in either arm; I said "Step in", he went to the kitchen, I told him to put it on the table; I immediately started to put the beer away when I heard the knock at the door; I said "Wait a minute" until I finished putting the bottles in the tub where I always kept the bottles of beer, in the stationary tub; I said to Mr. Levine, "Step to the dining room, I will get the money." I went to the door, opened the door, and I said "What is the meaning of all this noise?" Park came in, brushed by me and walked right in to the kitchen.

Q. Where did you go? A. I came back and went to my bedroom to get my pocketbook to get the money for the man; I came back and went to the dining room and saw no man; I said to Park "Where is the man, where is the beer man?" He said, "This is a pretty thing." I said, "What do you mean, this is a pretty thing? How dare you talk to me like that" but he went right along no further word was said and I said nothing more.

Q. How were you dressed at that time? A. In a house dress.

Q. What did you have on in addition to the house dress if anything? A. Why, all my clothing, and the house dress.

Q. Tell us what you had on underneath the house dress? A. Shoes, stockings, underwear, corset, under-skirt and house dress.

Q. So that you had on all your clothing except you had a house dress on instead of a regular street dress? A. I always wore a house dress when I was home doing my work, always in a house dress.

Q. No matter who was in the house? A. Always in a house dress, until afternoon, until late in the afternoon, when I would dress for the evening.

Q. Then what would you do to change your dress; would you take—— A. Sometimes I wore a shirt waist and skirt, sometimes——

Q. I mean you just simply took off your house dress and put on another dress? A. Oh, yes.

Q. And then be fully dressed to go out on the street? A. Surely, yes.

Q. At that time, what was the condition of your head? A. My hair, just the same as always.

Q. Well, was your hair disheveled? A. No.

Q. Were you in a night gown and kimona? A. I certainly was not in a night gown and kimona.

Q. What was the condition of your bed at that time? A. Fully made up.

Q. Had you been lying in it before? A. I had not.

Q. Were the bed-clothes all mussed up? A. They were not.

Q. Was the bed upset? A. Not at all.

Q. Did you see what happened to Levine? A. No, I did not; he disappeared.

Q. Did you hear any talk between Levine and Park? A. There was some talk I couldn't hear what they said.

Q. Now, how long would you say that Mr. Le-

vine was in your house altogether? A. I don't think five minutes.

Q. How long would you say that Park was knocking at the door before you admitted him? A. It couldn't have been more than two minutes.

Q. Did you see Mrs. Hansen there when you opened the door? A. No, I did not.

Q. Did you hear any conversation out in the hall between any parties? A. I did not.

Q. Do you remember at that time whether or not the door was open or closed? A. The door?

Q. Whether it was open or closed? A. The door was closed.

Q. It was locked with this chain lock that you had on the door? A. The chain, yes.

Q. What did you have this chain lock on the door for? How long had you had it on the door? A. I always put that lock on.

Q. How long had you had the chain lock on that door? A. You mean on that day?

Q. No. A. Oh, the chain lock was on when we went in the apartment; Mr. Grundy took it off some time, I couldn't remember exactly when, but he came home and found himself locked out at night, I unconsciously locked it, I would always lock the door; he rang and rang, he was very angry, and he took the lock off; and he only put that lock back on the door before he went to Europe; I insisted upon it, I said "If I am to be here alone I must have that lock on the door", and it remained on there until after this affair.

BY THE COURT:

Q. You mean a lock with a little chain? A. A little chain.

By Mr. Heyman:

Q. That was an ordinary lock? A. Just a catch; it wasn't very strong.

Q. I mean, you couldn't open it by turning the handle from the outside? A. Oh, no.

Q. After Park left the house, what happened that day, August 24th? A. I didn't see Mr. Grundy or Park until late that evening, I should judge 11 or half past eleven, and I heard them talking in the hall facing on the side from my room.

Q. Which hall? A. In my hall, my private hall in the apartment.

Q. Inside the apartment? A. Inside the apartment.

Q. Yes. A. I stepped into the hall, and Park and Mr. Grundy were at the door; I said, "What are you doing?" They made no answer; but I seen they were talking; generally they were talking.

Q. Anything further said that night? A. He didn't talk to me; they wouldn't speak to me, but they talked together; then I heard them talking in their room but I couldn't hear what they said.

Q. Did you object to its removal? A. Yes; I said, I will put another lock on that door. No answer was made to that.

Q. Did you put another lock on that door? A. No, I did not.

Q. Now, what followed, the next day? A. Nothing unusual.

Q. Did you talk with Mr. Grundy? A. Mr. Grundy didn't talk to me.

Q. How about the following day? A. The following day I had tripped on the step and hurt my back; that was——

Q. I don't hear you. A. I fell on the step that day.

Q. Where? A. That was the 26th, going downstairs in the hall.

Q. Yes. A. My heel caught in my skirt and threw me; and I hurt my back severely, I was laid up for about two weeks; ten days at least.

Q. Now, did you have a doctor? A. Mr. Grundy 'phoned the doctor; he sent the doctor to me.

Q. Did you talk with Mr. Grundy at that time? A. I didn't talk to Mr. Grundy about it at all.

Q. What did the doctor do for you? A. He said my back was in very bad——

MR. LANE: I object and move to strike that out.

Q. Never mind what the doctor said I asked what did he do for you? A. I had better have a nurse, so that I could be massaged, my back was hurt severely.

Q. Did you get a nurse? A. Yes, the doctor arranged for a nurse.

Q. Who was the nurse? A. Miss Cummings.

Q. How long did she stay ? A. One week.

Q. Now, during the time that Miss Cummings was there, did Mr. Grundy come home? A. He was away over Labor Day; Miss Cummings on the 28th.

Q. Of what? A. Of September—of August.

Q. Yes. A. 1919.

Q. Yes. A. Mr Grundy and Park were away over Labor Day.

Q. Did Mr. Grundy come home then? A. Mr. Grundy came home, I think, Sunday night.

Q. Did you have any talk with Mr. Grundy? A. No.

Q. When did the nurse leave? A. Mr. Grundy —Monday was Labor Day—I am mistaken, Mr.

Grundy did not come home Sunday night; he was away over Labor Day; he came home Monday night after Labor Day, because he was out Labor Day playing golf.

Q. Well, when did the nurse leave? A. She left the 4th of September.

Q. What happened after the 4th of September? Mr. Grundy came home? A. Yes, he came home.

Q. Almost every night? A. Late.

Q. Every night? A. No, he wasn't there Saturday night.

Q. Well now, did he come Sunday night? A. Sunday night, yes.

Q. Did you have a talk with Mr. Grundy Sunday night? A. No, no talk.

Q. Neither talked with you? A. No.

Q. Did you see him Monday night again, the following Monday night? A. Monday morning.

Q. Did you have a talk with him Monday morning? A. A very short talk; he said he was going to divorce me; I said, "For what?" he said "Park has told me enough." I said, "What do you mean, Park has told you enough?" He said, "There is just enough; I am through; I told you before I was through; now I mean it; I am going to divorce you." I said, "On what grounds?" He said, just from what Park had told him.

Q. What did you say? A. I said, "What did Park tell you?" and he wouldn't tell me what Park had told him. I said, "If you refer to that beer man incident, I wish you would come with me to that beer man and allow me to prove my innocence." He said he was through, he would have nothing further to do with me.

Q. Then what happened? A. He wouldn't go.

Q. Did he stay there? A. He stayed there in the house until the 8th.

Q. I am talking about this morning when you had this talk with him. A. Oh, no; he went to business; he went out and slammed the door.

Q. Did he come home that night? A. No, not Monday night.

Q. When did you next see him? A. Tuesday night.

Q. Did you have a talk with him at that time? A. No, I decided to wait; I felt very badly because of his actions and I attempted—I turned on the gas—September 9th.

Q. What happened? A. When I came to, Mr. Grundy was in the room with several other people, he didn't talk to me; I think he remained in the house that night and the next morning he told me again he was going to divorce me and he was through, he left and that was the last I saw of Mr. Grundy until he came on the 15th, the night of the 15th of September, with Mr. Townsend.

Q. Now, before Mr. Grundy came that night, Evans was in the house during the day? A. He came in the morning.

Q. He came in the morning? A. Yes, on the 15th.

Q. What did Evans do when he came in the house? A. He asked if Miss Halverson was there; I said no, she hadn't arrived as yet, and he said she had told him I thought of moving, wanted him to bring up some barrels for me, to assist me, I said "Yes, that is what I told Gertrude" so he said, well, he would wait a few minutes because most likely Gertrude would come in in a minute; I was busy and he said he would sit down in the living room a while and wait, so he did; I went on and did the work I was doing in the dining room, taking my plates down, wrap-

ping up my linen in papers, taking all of it out of the buffet drawers, etc.; then about 11 or 11.30 he said "It is getting onto lunch time, if you want me to get the barrels I guess I had better do it." I said, "All right", I gave him the key, and I said, "Be sure to return that key to me" and he went down and brought one barrel up; I was still in the dining room; he went down for another; in the meantime I went—I had had a severe headache in the morning, I had my head tied up—and I went in the bath room and bathed my head off; I was very tired, I went in and sat at the foot of my bed to rest, with a pillow over the footboard—

Q. What. A. I put a pillow over the foot of my bed, I sat at the foot of the bed with my head over the pillow.

Q. Just show us on that rail there? A. (Illustrating) This is the foot of the bed, I sat here, I had my head on the pillow, I sat facing the window.

Q. With your back toward the door? A. With my back toward the hall door. Mr. Evans brought the barrel up, put it in the dining room, I heard him say "Mrs. Grundy," I said, "Yes". He said, "Where is my coat?" I said, "It is here on the rack". He came in and got his coat and he said, "Here are your keys," he laid them on the chiffonier, the chiffonier that is near the door, just then the door opened.

Q. Which door? A. The hall door.

Q. Was the bedroom door closed? A. No, the bedroom door was wide open.

Q. Go ahead? A. Mr. Evans said, "Hello, Park", and Park said, "Hello, Jack." Park seen me and he backed away, it didn't seem he was there two minutes and he went out again; there was no conversation.

Q. How did Evans get into your bedroom? A. Why, he walked in for his coat.

Q. How did his coat get into your bedroom? A. I took the coat off of my kitchen table.

Q. Where did you put it? A. I put in on the rack; we only had one rack in the house and I hung it on this rack.

Q. That rack was in your bedroom? A. In my bedroom.

Q. Now, Mr. Grundy came home that night, did he? A. No.

MR. HEYMAN: I will withdraw that.

Q. How were you dressed at this time? A. In a house dress.

Q. That doesn't mean anything to me; tell me. A. Fully dressed; shoes, stockings, underwear; corset under skirt; corest cover and house dress.

Q. Practically the same as you were dressed— A. On the other occasion.

Q. On the occasion that Levine was in the house? A. In my usual attire.

Q. Were you dressed in a kimona—did you have on a nightgown and kimona? A. I didn't own a kimona at the time.

Q. I beg your pardon. A. In fact, I didn't own a kimona at the time.

Q. Now, when did Mr. Grundy come home after that accident? A. Mr. Grundy didn't come home after that. Mr. Grundy left on the morning of the 10th.

Q. When? A. September 10th, 1919; he didn't come to stay after that.

Q. Well, did Mr. Grundy come to your house at all after that accident? A. Yes.

Q. When? A. He came occasionally to take a few things out, all his wearing apparel.

Q. Did Park come back again? A. Park came in almost every day.

Q. Did Park come into the house every day after August 24th? A. Yes.

Q. Did Park have a key? A. Oh, yes.

Q. And he could come in and go out without— A. Yes.

Q. Without any hindrance on your part? A. Surely.

Q. Well, now, when did you see Mr. Grundy after Evans had been in the house? A. I saw him that same night.

Q. Where? A. At my home.

Q. What was he doing there? A. He came with Mr. Townsend.

Q. Did you have any conversation with him? A. Yes.

Q. What was the conversation? A. We talked; he said that he was through and that he had Mr. Townsend to draw up a paper and that paper was given to me to look over; I said I would look it over and sign it later; in that paper Mr. Grundy offered to give me $100. I said $100 was not enough for me to live on; he said he would give me $125 a month provided I would lead a clean and respectable life, and in case— that he was going to divorce me, and if any court should grant him a decree of divorce I should not ask for alimony and counsel fees.

Q. Did you sign that paper? A. I did not.

Q. Well, at that time did you have any talk with him about the Levine incident, or about any other incident? A. Not at that time; he didn't mention anything about—

Q. Did Mr. Grundy at any time charge you with adultery? A. Never.

Q. With Levine or with Evans? A. Never.

Q. Or with any other man? A. Never.

Q. Did he ever complain about your conduct with other men at that time or at any other time? A. Never.

Q. Did you speak with him about the Levine incident then? A. I asked him to go with me to Mr. Levine to discredit anything that he might suppose would be wrong, because I was entirely innocent of any such thing as he might suppose, but he refused absolutely to do it, he wouldn't go, he said he wasn't interested, he was through, Park had told him enough.

Q. Was Park in the house at that time? A. You mean September 15th?

Q. Well, when your husband was there with Mr. Townsend, was Park there? A. Park came in and went in his room and went out again; he didn't come in the living room.

Q. Did you talk with Park that night? A. I didn't see Park that night; Miss Halverson was there; she sat in the kitchen.

Q. Where were you? A. In the living room with Mr. Grundy and Mr. Townsend.

Q. Did you see Park at all? A. No; I knew it was Park, because I heard the door open.

Q. That is the only way you knew it was Park? A. Yes; of course, Mr. Grundy went out to his room and talked with Park.

Q. Well, now, did Mr. Grundy come back in the room after he talked with Park? A. Mr. Grundy came back into the living room again where Mr. Townsend and I sat.

Q. Did he say anything to you at that time? A. He didn't say a word.

Q. Then did they stay there? A. They stayed there a few minutes and decided it was bowling night at the Jersey City Club, they were late then, and over they went.

Q. When did you see him next, if at all? A. (No answer).

Q. I will withdraw that. What did you do the following day, September 16th? A. The 16th?

Q. Yes. A. I don't know anything special, except—

Q. Did you go anywhere with this paper, or did you do anything with it? A. Oh, I did, yes.

Q. Where? A. I saw Mr. Van Winkle.

Q. Mr. Marshall Van Winkle? A. Marshall Van Winkle.

Q. Do you know what happened after that? A. Mr. Van Winkle read the paper over—

MR. LANE: I object to what Mr. Van Winkle did.

THE COURT: Not what Mr. Van Winkle said.

Q. Not what he said; what happened? A. From there I went to Mr. Townsend's office that day.

Q. Yes. A. Yes; then it was about, I think—no, I didn't go that day—yes, I did—I can't recall now—just a minute.

Q. Well, did you sign this paper? A. No.

Q. Did you meet your husband after that? A. I met my husband in Mr. Townsend's office; I just can't recall the exact date.

Q. Was it after you had been to Mr. Van Winkle's office? A. Yes, it was after that.

Q. All right now; what happened while you were there? A. Mr. Grundy—

Q. Did you talk with your husband? A. Yes.

Q. What was the conversation? A. That conversation was about going to Reno.

Q. What was said about that? A. Well, to go to Reno and everything would be done quietly

about the divorce. I said, "Well, we could have the divorce here just as well as going to Reno."

BY THE COURT:

Q. Who said that? A. I. Mr. Townsend said that he—

BY MR. HEYMAN:

Q. Never mind what Mr. Townsend said; let us hear what your husband said? A. Mr. Grundy then asked me if I had the paper that they had served; I said, yes, so I took the paper from my hand bag and laid it on the table; Mr. Grundy told Mr. Townsend to destroy it.

Q. And Mr. Townsend destroyed it? A. Yes.

MR. LANE: Does she know?

Q. Did he? Did you see him destroy it? A. I didn't see him, but he was told to destroy it.

Q. Now, what happened after that, Mrs. Grundy? A. About the 25th I was served with the second paper; then I was accused of adultery.

THE COURT: Who served the first paper?

THE WITNESS: He served that one.

Q. You were served with— A. With the paper from the Sheriff's office.

Q. Now, just explain what you mean by the second paper? A. I had already received one paper.

Q. From whom? A. From Mr. Townsend.

Q. That is what you call the first paper? A. That is what I call the first paper.

Q. That is what they wanted you to sign? A. Yes.

Q. And by the second paper you mean this petition and citation? A. Yes.

Q. What did you do when you got this petition from the Sheriff's office? A. Why, I was frantic.

I immediately called Mr. Van Winkle up and asked if I could see him at once, that I didn't know what to do; he said to come down, and I went, and he said, "You need a lawyer."

Q. Now, what did you do? A. Then, well, I had to look—he said this was a public paper so I went to Mr. Townsend's office and said, "What do you mean by having a charge like this —entering up a charge like this against me?"

Q. Yes. A. And he made no reply.

Q. Well, did you see your husband at Mr. Townsend's office that day? A. I think I did, yes; Mr. Townsend phoned for Mr. Grundy.

Q. Now, after that did you talk with your husband that day at Mr. Townsend's office? A. Yes, in Mr. Townsend's office.

Q. What was said? A. Well, we talked of the household goods that had to be taken out of the house, Mr. Grundy said, if I didn't have them removed that day that I would have to continue to pay the rent there myself, for he was through, he wouldn't pay any more rent, and that Mr. Evertsen, the storage man, would have to take those goods out that day, otherwise he couldn't do it until the middle of November, which would mean I would have to pay the rent, so he said the men will probably be at the house now; I said, "I have left Mrs. Halverson to mind the home and I told her not to allow anyone in the house to take the furniture out," but Mr. Grundy phoned them to take them, and I said, if the goods go in storage in my name then that will be done; well then, all right, he said, you go home and the men will be there, and he phoned Mr. Evertson that the goods should be put in storage in my name, and they should proceed to take the goods out that day; that was the 26th of September.

Q. The goods were taken out on the 26th? A. The 26th of September, 1919.

Q. Where did you live after that? A. I lived four days in that empty apartment, sleeping on a cot.

Q. At the same apartment? A. At the same apartment.

Q. Did you see Mr. Grundy after that? A. No, sir.

Q. How did you get to Mrs. Mulack's? A. Mr. Townsend came and said that Mr. Grundy and he had talked with Mrs. Mulack and found that arrangements had been made to send me out there, he gave me a diagram of how to get there, Mr. Grundy was going to send the car with the chauffeur and Mrs. Corrigan was going to accompany me to Mrs. Mulack's.

Q. Did that happen? A. That happened; we went.

Q. In Mr. Grundy's car? A. In Mr. Grundy's car.

Q. Now, has Mr. Grundy been to see you since you have separated? A. Yes, he has been down to my room twice or three times.

Q. Did he talk with you there? A. We talked on affairs, he said he would not live with me, he was through, he would not live with me again, he was through.

Q. Now, how long did you stay at Mrs. Mulack's house? A. About three weeks.

Q. Do you remember a telephone call which came there the day you left? A. Yes.

Q. Do you know from whom that call was? A. Yes.

Q. Well, tell us who it was from? A. Only a few days before I had been in to see a lawyer and then I had looked around for a room, I had

to live, and I found this apartment where I am now, and they had no rooms; I asked this lady—

Q. Which lady? A. Mrs. Altai when she had a room would she let me know, and she said she would try, but she would have to have references.

Q. Yes. A. And I gave her the names of several people whom she could get references off; so immediately after she had that room she had someone to phone to me and said that if I wanted the room to come in at once and take it, because otherwise she would let it, she couldn't hold it because she had a number of calls for rooms.

Q. Did you come in? A. I did.

Q. Did you go to Mrs. Altai's house? A. Yes.

Q. Did you take that room? A. I did; and I have been there since.

Q. You have been there since? A. Ever since.

Q. Did you at that time say to somebody over the phone "I was stopped"? A. I don't remember any such thing.

Q. Did you meet anybody at the Grand Central Station in New York City at six o'clock that night? A. I did not.

Q. And did you telephone Mrs. Mulack the following day— A. No.

Q. And ask her to take you back? A. I did not; why should I?

Q. And did Mrs. Mulack tell you that the man should take care of you last night will have to take care of you now? A. I never heard of such a thing; I didn't talk to Mrs. Mulack.

Q. Since that time you have been living with Mrs. Altai? A. Yes.

Q. Now, did you at any time ever say to Mrs. Mulack that you would shoot your husband? A. I never recall such assertion.

Q. Well, would you recall it if you had said it? A. I certainly would.

Q. Then will you say that you never said it? A. I never said that.

Q. Did you ever tell Mrs. Mulack anything about your husband? A. Never, except one trip we took to Blue Point in August, on that trip she asked me—she was always solicitous about my domestic affairs—she said "How are things going?" I said, "The same as usual," I said, "I can't understand why my husband stays out so much at night," and I said, "I have gotten accustomed to it and I don't mind it so much"; that was practically all that was said about my private affairs.

Q. Did you ever tell Mrs. Mulack that you would never leave Park one cent of your money when you died? A. No; that is ridiculous.

Q. Did you ever have any money to leave? A. I wish I did have some money to leave.

Q. Well, did you have? A. No; all the money I have Mr. Grundy has provided me with.

Q. That is all you have? A. That is all I have.

Q. You have no private income of your own? A. Absolutely not.

Q. Have you any moneys in bank? A. No moneys at all.

Q. Now, Mrs. Grundy, did you commit adultery with Mr. Levine on August 24th, 1919? A. I did not.

Q. Did you commit adultery with Mr. Levine at any time prior to August 24th, or after August 24th, 1919? A. No.

Q. Did you ever commit adultery with Jack Evans on September 15th, 1919? A. No.

Q. Did you ever commit adultery with Jack Evans prior to that time or subsequent to that time? A. No.

Ida May Grundy—Direct.

Q. Did you ever commit adultery with any man in your life? A. No.

Q. At any time? A. No.

Q. Did you at any time write Evans or Levine any letters of endearment? A. Never.

Q. Did you ever receive any letters from either Levine or Evans? A. Never.

Q. Containing any terms of endearment? A. No.

Q. Did you ever receive any sort of present from either Levine or Evans or from any other man? A. No.

Q. Did you ever permit any other man but your husband to embrace you? A. No.

Q. Or show any affection toward you in anyway whatsoever? A. No.

Q. Did you ever at any time meet Levine or Evans by appointment at any place of amusement? A. No.

Q. At any hotel, restaurant. theatre or other public place? A. No.

Q. Or at any private house? A. No.

Q. Did you at any time meet any strange men by appointment at any public place such as I have mentioned heretofore? A. No.

Q. Now, how did you come to know Evans? A. Through Miss Halverson.

Q. How long have you known Miss Halverson? A. About four years.

Q. She has been quite friendly with you? A. Yes.

Q. She came to your house often? A. Yes.

Q. And spent a great deal of time with you? A. Yes.

Q. And slept with you during the night? A. Yes.

Q. On many occasions? A. Yes.

Q. Did you ever invite Evans to your house? A. No.

Q. At any time? A. No.

Q. How would Evans get to your house? A. Through Miss Halverson's invitation.

Q. How often was Evans in your house alone? A. Alone?

Q. Yes. A. I don't think more than twice or three times, alone.

Q. Did you on any of those occasions have any intimate relations with Mr. Evans? A. Never.

Q. Was there any affection shown between you and Mr. Evans at all, by either of you? A. Absolutely none.

Q. Did he ever make any improper advances toward you? A. He never did.

Q. Did he ever request you to have any improper relations with him? A. Never.

Q. Mrs. Grundy, where is Mr. Clark? A. Where?

Q. Where is Mr. Clark? A. New York.

Q. Where? A. You mean the address.

Q. Yes. A. 43 Leonard Street.

Q. Have you seen Mr. Clark recently? A. Yes.

Q. When? A. About two or three days ago.

Q. What did you go there for? A. To ask him to come over here to testify.

Q. What did he say to you? A. He would be very glad to testify, but his lawyer—

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

MR. HEYMAN: If your Honor please, I must show that we attempted in every possible way to bring the witness here.

THE COURT: You have shown that, that you attempted to get him.

MR. HEYMAN: I want to show what the result was.

THE COURT: The result was he isn't here.

MR. HEYMAN: If your Honor will take judicial notice of that I am satisfied.

THE COURT: Mr. Clark is not here.

Q. What is his first name? A. Harry; Harry T. Clark.

Q. I think you stated his age, didn't you? A. No, Mrs. Smith did.

Q. Somebody did. A. The witness yesterday.

Q. Mr. Kruger said he was about 50 years old. A. Yes; I have no idea what age man he is.

Q. Now, Mrs. Kruger testified yesterday that you telephoned to her and asked her if you could stay at her house; do you remember that? A. I don't remember; I did stay at Mrs. Smith's, I remember, different evenings, two or three days, I think, and we phoned from Mr. Townsend's office, Mr. Townsend got her on the wire, then I spoke to her, because I was in to see Mr. Carey and he made me wait so long, then he said I should see him the next day, and Mr. Townsend said, "You don't want to go away out to Long Island and back; why don't you stay with Mrs. Smith?" so he got her on the wire for me and I did come and stay with Mrs. Smith, I stayed for a couple of days.

Q. Now— A. Mr. Townsend got Mrs. Smith on the wire; I was in Mr. Townsend's office and he got Mrs. Smith on the wire, when I made the arrangements to go up.

THE COURT: I thought you said Mr. Townsend; I didn't quite hear you.

THE WITNESS: Yes.

Q. Now, did you telephone to Mrs. Smith (as we will call her, and your Honor will understand that Mrs. Smith and Mrs. Kruger are identical),

and ask her to say that you were staying with her if anybody phoned her and asked you? A. I don't remember; I may have; I don't remember.

Q. Well, did you at that time have any purpose in asking that? A. None at all.

Q. Now, what has been the conduct of your son Park toward you within the last few years? A. Well, when I would be alone with Park he was very affectionate.

Q. Yes. A. Very.

Q. Now, you haven't been alone with him since the Summer of 1918, have you; have you been alone with Park since that time? A. Yes.

Q. When? A. When Park came from Worcester, he was home during his Easter vacation in 1919, and then after the Easter vacation he went back to school and returned a week later with some little trouble.

Q. Now, on these occasions when he was alone with you what was his conduct toward you? A. Very loving, very affectionate.

Q. What was his conduct toward you when Mr. Grundy was home? A. Very indifferent.

Q. What do you mean by indifferent? A. Well, a cooling, he would go over to his father then.

Q. Well, did he take you out? A. No.

Q. Did he spend his evenings with you while his father was away? A. No, he would usually be out with some of the young folks around the place.

Q. Did he take you out at all? A. Well—

Q. To the theatre— A. Twice.

Q. To dinner, or anything like that? A. No, no; twice we went out in the car, he had a friend, Mrs. Mulack and myself, drove down to Blue Point in the Summer of 1919, that was in August, for the day; then one evening Park took

me out for a ride; that was the only times we were out alone.

Q. Well, did he stay home with you on other nights? A. Well, he would be in early, probably, he would go to the movies alone, or he would take a walk.

Q. Did he ever take you to the movies? A. Very rarely.

Q. Can you remember how often? A. No, it wouldn't be—it was so occasional that I couldn't remember it.

Q. You can't remember? A. Seldom.

Q. Well, did he ever take you out on any pleasure expeditions at all? A. No.

Q. Did he act like a son toward you? A. Well, of course, at times Park would be a little disagreeable and stubborn, I would ask him to do errands, to go to the store for me, he wasn't very willing to do that, so I had to go and get Beatrice, that was Mrs. Hansen's little girl.

Q. Well, I am not talking about his stubbornness; I am talking about whether he was giving any mother love to you while Mr. Grundy was at home? A. Park always appeared to love me, except when his father was about, sometimes, and he would be busy talking with him.

Q. They wouldn't take you into their conversations? A. No.

Q. Well, Park went out with his father a great deal when he was home, didn't he? A. Yes.

Q. Did they take you out with them? A. Very rarely; if they did they didn't talk to me.

Q. How often would you say they took you out together? A. I would say about once a month, when Park would be home.

Q. Where would you go on these occasions? A. Probably drive out to the Shackamaxon Golf Club.

Q. What would you do out there? A. I would sit in the club house most of the afternon, probably have a little walk, and they would—Mr. Grundy would play golf and Park would sometimes sit around with me.

Q. Did Park ever come into the house and see Miss Halverson and Mr. Evans there together? A. Yes.

Q. How often, do you know? A. Several times.

Q. What were they doing at that time? A. Sometimes playing the piano together.

Q. Who? A. Park and Miss Halverson.

Q. Were you drunk continuously from April 25th, through April 26th and 27th, 1919? A. April?

Q. Yes. A. Drunk continuously?

Q. Yes; during the time that Park was home? A. I certainly was not.

Q. During the time Park was home from school? A. I certainly was not.

Q. Did you always take care of your home? A. I always did.

Q. Did you prepare the meals? A. Yes.

Q. Were you always prepared to give Park and Mr. Grundy his regular meals? A. If he came home.

Q. Did you always take care of Park and see that he had his meals regularly? A. Yes.

Q. Did you ever have any complaint from anybody, Mr. Grundy or Park, as to your failure to prepare and provide meals for them? A. No.

Q. At any time? A. No.

Q. You say that Park drove you to Blue Point with Mrs. Mulack in 1918? A. Yes—1919, in would not marry any man with a family"? A. I never did.

Q. Did you say to Mrs. Mulack on that trip "I August.

Q. Did you discuss the question of marriage at that time with her? A. Certainly not. How could I, a married woman; it is ridiculous.

Q. Did you have any undue relations with Mr. Clyde? A. Mr. Clyde?

Q. Yes. A. Certainly not.

Q. Mrs. Mulack has testified that when she came over here to your house in September, 1919, to help you pack, she saw some man in the apartment; do you know who that was she saw? A. In the kitchen?

Q. Yes. A. Yes.

Q. Who was that? A. Mrs. Halverson's youngest son, Joseph Halverson.

Q. Mrs. Halverson? A. Mrs. Halverson.

Q That is Gertrude's brother? A. Gertrude's brother.

Q. What was he doing there? A. He was there assisting me; he did a great deal of work for me when I was moving, for I had no one to assist me.

Q. Was Gertrude there, too? A. Gertrude wasn't there that day.

Q. How old is he? A. 17 or 18; about 18. Just a slip of a boy, a high school boy.

Q. Since July, 1919, have you had anything to drink? A. Since July?

Q. Yes. A. No.

Q. You haven't had anything at all to drink? A. No.

Q. Have you ever been drunk since that time? A. No.

Q. Have you ever in your life, while under the influence of liquor, raised any sort of disturbance around your house? A. No.

Q. Have you ever been seen walking in the street under the influence of liquor? A. Never.

Q. Have you ever been in the street while under the influence of liqour? A. No.

Q. Have you ever been brought to your house by neighbors under the influence of liqour? A. No, never.

CROSS EXAMINATION BY MR. LANE:

Q. Did I understand you to say that you had had nothing to drink since the month of July, 1919? A. Yes.

Q. Nothing at all? A. No liquor, no.

Q. What? A. No liquor.

Q. Or anything that is intoxicating? A. No.

Q. Have you had beer since that time? A. No.

Q. No? A. Since July?

Q. July, 1919? A. Oh, we had beer in the house up until we moved.

Q. I didn't ask you whether you had it at the house or not; did you drink it? A. Yes, I had beer since July.

Q. How much beer have you had since July 1st, 1919? A. I couldn't say how much; not very much.

Q. You draw a distinction between intoxicating liquor and beer? A. I don't call beer intoxicating.

Q. Even before beer was made under the 1.75 per cent. rule you never called beer intoxicating? A. I would not.

Q. What was this beer which Mr. Levine brought on this day, on this Sunday; what was it to be used for? A. What was it to be used for?

Q. Yes. A. Why, to drink.

Q. Why was it needed on that particular Sun-

day? A. Well, we always drank beer and I drank beer.

Q. You called up and he agreed to send you the beer on Saturday, as I understood your testimony? A. Yes.

Q. Why wasn't it delivered on Saturday? A. I wasn't home when it was delivered.

Q. Well, how do you know it was delivered on Saturday? A. I didn't know, of course—

Q. But it wasn't there? A. It wasn't there; it couldn't be delivered; they couldn't leave it in the basement.

Q. When did you call up? A. Sunday morning.

Q. What time? A. Probably about eleven o'clock.

Q. What is his telephone number? A. I don't just remember now.

Q. Where is his place of business? A. It was on Jackson Avenue.

Q. Do you know the number? A. I don't know the number.

Q. What is the name of the store? A. United Wine.

Q. What? A. United Wine.

Q. What kind of beer was this? A. What kind of beer?

Q. Yes. A. Ordinary beer.

Q. Well— A. I don't remember the brand, or the name.

Q. Don't you know the kind of beer you were drinking all time? A. There was no special brand we took.

Q. You simply asked for beer? A. Yes, bottled beer; it might have been Schaeffer's, or it might have been, I don't know, any other; Schaeffer's we got a good deal.

Q. Was he the man who usually supplied you with beer? A. Yes.

Q. Now, what was the specific purpose that you needed the dozen bottles of beer on Sunday morning? A. Because I wanted the beer in the house.

Q. To use yourself? A. Yes.

Q. There wasn't any party there or anything of that kind, was there? A. No.

Q. Nobody drank beer except you? A. I would drink, and if anyone came in I always offered it to them.

Q. Did you expect anybody there that Sunday? A. No.

Q. What did you say to Levine when you called up that Sunday? A. I said, "What happened to the beer that it wasn't delivered?" and he said they had been down there but I had been out very early in the afternoon; they said, well it was delivered there but there was nobody there to take it.

Q. What did you say? A. I said I would have to get half a dozen bottles; and he said he would see what he could do; in about half an hour or so he came with the dozen bottles of beer.

Q. You attribute Park's attitude in this case wholly to the influence of his father, do you not? A. I think it had something to do with his attitude.

Q. Do you attribute his attitude wholly to the influence of his father? A. A great deal.

Q. What? A. A great deal.

Q. Well, is there anything that you can tell us which you think would contribute to his attitude other than that? A. No.

Q. So far as the ordinary relations between you and Park are concerned, there is nothing in

those relations which would induce him to take the position that he has, was there? A. Not that I know of.

Q. There is nothing to your knowledge? A. Not that I know of.

Q. Nothing, so far as your personal relations with him are concerned, which would induce him to take that attitude? A. No.

Q. And he has, up until he took the attitude that he did in this case, always treated you the same as a loving son would treat his mother, hasn't he? A. I thought so.

Q. You always treated him as a mother would treat a son? A. I always tried to.

Q. When was it that you first began to notice the influence of his father over Park? A. Well, when they were always together, of course, he was for his father, he paid no attention to me.

Q. When did you first observe that? A. I couldn't say that, when I first noticed it.

Q. He never before took his father's side in any disputes between you and his father, did he? A. He never took any sides with anyone that I know of.

Q. He never took sides? A. I didn't know it if he did.

Q. And the influence of his father that you speak of was evidenced, so far as you saw it, merely by the fact that when his father was there he talked more with his father than he did with you? A. Yes, they talked together.

Q. Did you think that unusual? A. Well, at times I did.

Q. Well, what particular time was it that anything was done that indicated to you that it was unusual? A. We would go out riding or be out and Park simply ignored me, that they wouldn't talk, they just sat and talked to them-

selves and didn't know that I was with them.

Q. Park was growing up, wasn't he? A. Growing up?

Q. Growing up? A. Yes, surely.

Q. It would be more natural in the ordinary course of events for him to go with his father, wouldn't it? A. I wouldn't think so.

Q. Looking back over your life, looking back over your relations with Park, down to the present, is there any specific thing that Park ever did that indicated that he favored his father more than he did you, except when he went out and talking more with his father than he did with you, and when they were in the house, talking more with his father than with you? A. No, except his always siding with his father.

Q. Always what? A. When I would talk to Park, when we were at Blue Point, I talked to Park about his father staying out, I can't imagine there must be somebody else, but Park would never comment, he seemed to think his father was just right, even if he didn't.

Q. When did you first begin to complain to Park about it? A. That was over three years ago.

THE COURT: About how long?

A. Three years ago.

Q. You began to complain? A. I commented to Park, I talked it over with him.

Q. What did you tell Park? A. I thought it was strange that his father would not spend Summers with him, he wouldn't come down week ends and I know he didn't write me, something was the matter, there was somebody else, I knew it, and Park would just be evasive, he wouldn't answer me in one way or the other.

Q. Did he answer one way or the other, or did he answer evasively? A. He said perhaps, "You are foolish" sometimes.

Q. Did he say anything else other than "You are foolish"? A. That is all, just passed it off.

Q. He passed it off? A. Yes.

Q. Tried to be neutral, did he? A. Yes.

Q. And the only reason why he is not neutral now, so far as you can think of, is because his father has influenced him in some way, is that right? A. Perhaps.

Q. You think that when Park testified that he was outside of the door at the time of the Levine incident for some 15 or 20 minutes, that he falsified because of the influence of his father, is that right? A. I couldn't say that.

Q. Well, what was it caused him to falsify then, according to your views; he did falsify, didn't he? A. He wasn't standing there 10 or 15 minutes.

Q. Then he didn't tell the truth, did he? A. He wasn't standing there 10 or 15 minutes.

Q. Then he didn't tell the truth, did he? A. I don't think so.

Q. And he didn't tell the truth, because of the influence of his father, and because of that influence alone, so far as you know; that is true, isn't it? A. It may be.

Q. And he didn't tell the truth when he said with respect to the Levine incident that when he walked into the house he found Levine in the kitchen closet; that wasn't true either? A. Levine in the kitchen closet?

Q. Yes. A. That I don't know; I told Mr. Levine to step to the dining room.

Q. You don't know where Levine was when Park came in? A. No, I thought he stepped to

the dining room; I suppose he would go where I told him to.

Q. Where were you? A. I was going out to let Park in, I said, "Step to the dining room and I will get the money for you," but I went to leave Park in and after I let Park in I went back to my room.

Q. Just before you heard Park at the door where were you? A. In the kitchen putting the beer in the tubs.

Q. Where was Levine? A. Standing in the kitchen over by the ice box.

Q. In what part of the kitchen? A. By the ice box.

Q. How far from the door leading into the dining room? A. Oh, just probably six or seven steps.

Q. Now, what were you doing there in the kitchen? A. I was putting the beer in the tubs, off the table into the stationary tubs, we always kept it there.

Q. And Levine was watching you do that? A. He stayed there, I said, "Wait a minute and I will get you the money."

Q. Before you got the money you heard the noise at the door? A. Park was at the door.

Q. You walked towards the door to open it, saying to Levine—what did you say to Levine? A. I said, "Step into the dining room until I get you the money."

Q. With that you walked out? A. Then I went to let Park in, intending to come back to the bedroom to get my money and the pocket book.

Q. Then Park came in? A. Park came in.

Q. What did he say to you? A. Nothing.

Q. Just walked past you? A. He came right in and went to the kitchen.

Q. What did you do? A. I went into my bedroom to get the money.

Q. You didn't follow him into the kitchen? A. No.

Q. Did you think it unusual the way he walked in? A. No, except when he didn't say anything.

Q. Did you think that unusual, the way Park walked in? A. It looked strange to me, yes.

Q. You didn't expect Park at that time, did you? A. I wouldn't say I expected him or didn't expect him; I hadn't thought of Park.

Q. Didn't you know Park had gone away, and in the ordinary course of events would not come back until evening? A. Park was liable to come back at noon times; he did several times before.

Q. So that it was nothing unusual to have Park come back at that time? A. No.

Q. What was unusual about the way Park came in? A. The way he brushed by me at the door.

Q. That was unusual? A. Unusual, yes.

Q. You said nothing to him? A. No.

Q. He said nothing to you at all, simply brushed right in? A. Went right in, into the kitchen.

Q. How unusual did you think it was? A. I didn't think it was unusual at all, except his brushing by me and not speaking.

Q. Well, that was unusual, wasn't it? A. It was unusual for him to do that; I couldn't understand it.

Q. You couldn't understand what? A. Why he was in such a hurry.

Q. It struck you at the time it was unusual, didn't it? A. I just thought it was unusual for him to do that without greeting me.

Q. Nevertheless, you didn't say anything to Park; you didn't follow him, but you went into

the bedroom still intent upon getting your money? A. Yes.

MR. HEYMAN: I object to that question, if your Honor please, on the ground that it asks for five or six different answers, and that contains an unwarranted assumption of fact.

MR. LANE: And I object to the interruption.

MR. HEYMAN: I don't want to object, but I think that his question is—

MR. LANE: In the first place, it was answered and the witness is privileged if she does not understand the question, to ask to have it explained.

MR. HEYMAN: If your Honor please, I have a right to make an objection when the objection is well founded. I think that that question asks for six or seven different answers and I have a perfect right to object, if I do it in a proper, legal and ordinary manner. I am not trying to hinder anybody in cross-examination I am not trying to put any obstacles in his way, he can cross-examine to his heart's content and I don't think that my objection calls for remarks of that kind. I submit that that question is objectionable, on the ground—

THE COURT: I will take the question.

MR. HEYMAN: On the ground that it calls for several answers.

THE COURT: I will take the question now and you have the benefit of the objection as if it had been made in time.

Q. When you came out of the bedroom, how long did it take you to get the money from the bedroom? A. It took me, didn't take me two seconds, it didn't seem to me.

Q. About two seconds? A. I should say.

Q. When you came out of the bedroom where was Park? A. I think in the hall.

Q. Outside of the apartment? A. No, in my own hall.

Q. In your private apartment? A. In my private apartment.

Q. What was he doing? A. Standing there.

Q. Doing what, just standing looking which way? A. As if he was going to his room.

Q. Where was Levine? A. I went into the kitchen through the dining room, I didn't see him, I came to Park and I said, "Where is the beer man?" He said, "This is a nice thing." I said. "What do you mean is a nice thing? What do you mean by talking to me like that? How dare you", and he went out, he made no reply.

Q. Well, Levine was in the dining room? A. He wasn't then.

Q. Levine was in the dining room, or you had sent him to the dining room when you went to open the door; that is true isn't it?

MR. HEYMAN: I object to that because it asks for five or six different kinds of answers.

MR. LANE: I object to the interruption.

MR. HEYMAN: I object to that question further on the ground that it contains an unwarranted assumption of fact, when he says Levine was in the dining room. There is no such fact on record by us.

THE COURT: I will take the question.

MR. HEYMAN: Now, if your Honor please, I submit that an answer to that question yes or no would mean that he was in the dining room—

MR. LANE: I want all the remarks of counsel recorded.

MR. HEYMAN: I object to any such remark on the part of counsel; I don't think that is fair.

MR. LANE: My remark was perfectly fair.

MR. HEYMAN: I don't think it is fair that Mr. Lane should call the attention of the stenographer to that. I think the stenographer should take these remarks, we haven't any objection to their being taken, but I don't think counsel should direct the stenographer's attention to that. I haven't anything to hide; I am not afraid to have my remarks put on the record, but I don't think counsel's remarks are fair.

THE COURT: Having your remarks recorded, I am going to take the last question.

A. I said, "Step to the dining room and I will get the money."

Q. You weren't absent more than two seconds? A. I don't think so.

Q. In order to pass out of the house, Levine had to pass your bedroom, did he not? A. Yes.

Q. But in some way or other he got out of the apartment without your knowing where he got out, is that right? A. I was over to the—near by my dresser, my back was to the door.

Q. You didn't hear him pass the door? A. No.

Q. You didn't hear anything said between Levine and your son? A. No.

Q. You haven't the least idea where Levine was— A. No.

Q. When your son found him? A. No.

Q. You haven't the least idea as to how he got out of the apartment, is that right? A. He went out of the door.

Q. So far as you know; you didn't see him go out, did you? A. No.

Q. This door was so locked, wasn't it, that if anyone with a key—

MR. HEYMAN: Which door?

Q. The front door—that if anyone with a key could open the door, then the chain would hold it about an inch? A. Yes, would hold it further open than an inch.

Q. About an inch, wouldn't it? A. More than an inch.

Q. Well, two inches? A. Easily, if not more.

Q. Park had a key, hadn't he? A. Yes.

Q. Why do you say then that the door was closed when you went there? A. When he came to the door?

Q. Yes. A. It always was closed.

Q. By "closed" you mean closed shut, or do you mean held on the chain? A. Yes, on the chain, catched.

Q. Then it was about an inch to an inch and a half or two inches open from the jamb, wasn't it? A. Yes.

Q. When the door was open that way could you hear anybody that was talking out in the hall? A. I couldn't hear.

Q. I am not talking about this specific time; it was possible wasn't it, to hear a person talking on the other side of the door from your apartment, if the door was open an inch or an inch and a half, wasn't it? A. I couldn't hear myself.

Q. I am not talking about whether you could hear at that particular time Park and anyone were talking; I am asking you whether it wasn't possible for a person standing on your side of the door to hear a person talking on the other side of the door, with the door on the chain and open

an inch or an inch and a half? A. It was possible; it isn't an assured fact that you could hear.

Q. You had never had any difficulty with Mrs. Mulach, had you? A. No.

Q. There has been no trouble between you and she, is that so? A. No, no trouble.

Q. You have always been friendly with her? A. Friendly, yes.

Q. And she, so far as you know, has always been friendly with you? A. I thought so; I was mistaken.

Q. Was there in her attitude toward you, or is there anything in your relations with her that you know of, that would induce her to deliberately lie and say that you had made these remarks which you now say you did not make to her? A. Well, she, I think, wished to assist Mr. Grundy in this affair.

Q. Then it is the influence of Mr. Grundy on Mrs. Mulack that is making her testify that way? A. I understand as much.

Q. There is nothing in your personal relations, there is no other reason for her taking that attitude; that is true; isn't it? A. I don't know of any.

Q. What are your relations with Mrs. Hansen? A. The same as any tenant would have to a janitress.

Q. There is nothing in your personal relations that you know of what would induce Mrs. Hansen to testify the way she did? A. Yes, I do.

Q. What? A. Mrs. Hansen felt very much put out because I discontinued giving her gifts and having her work for me.

Q. When? A. After she lost a very valuable dog, I sent for Mrs. Hansen and she never—

Q. When was that? A. That was about 1917.

Q. So that Mrs.— A. The latter part of December, 1917.

Q. So far as Mrs. Hansen is concerned, you think that her attitude may be due to this personal difference which you had in 1917, is that right? A. I don't know what other object she would have otherwise.

Q. No other object? A. No.

Q. How about Mrs. Smith; are your relations with Smith, Smith—have they always been cordial? A. Very.

Q. There is nothing that you know of in your relations that would induce her to deviate from the truth? A. I don't know of any.

Q. Except only with respect to some influence exercised by Mr. Grundy, is that right? A. Yes, possibly it may be.

Q. How many times was it that Evans was in your house when Miss Halverson was not there? A. I should not say more than three times.

Q. Well, one incident Park told us about, that is the one that Park came home? A. Yes.

Q. You were there? A. Yes.

Q. And he was there? A. Yes.

Q. Another incident happened in May, or April, of 1919, Easter time, of 1919, did it not? A. Easter time, when Park came in, yes.

Q. How did that occur; you haven't told us about that yet? A. He stopped in with some message, I don't remember now, at the time, but there was some message, when Park came in, and I went to Park's room and asked him to come and meet a friend of Miss Halverson's, and he did, they sat and chatted quite some time; when he left—Mr. Evans left—Park said, "Where did Miss Halverson ever meet that nice young man?" I said, "I don't know." He said, "He is a very

nice young chap, isn't he?" I said, "Yes, he seems to be." They talked about athletic sports, school and the colleges.

Q. What time of day was it? A. Early afternoon.

Q. Do you recall what hour? A. Oh, probably noon time; it may have been noon time.

Q. Was it before or after luncheon? A. I couldn't tell you if it was before or after.

Q. How did Mr. Evans happen to be there? A. I said he came with a message of some sort from Miss Halverson, because he used to pass my door and he stopped up sometimes to bring messages from her to me, Miss Halverson would have him deliver them.

Q. Was Park there when Evans came, or not? A. I don't remember whether he was in the house or not, but he went to his room later; I don't remember whether he came in or whether he was in his room now, that is a long time ago.

Q. Now, let me have it again; what did Evans come there for? A. I think he came with a message of some kind from Miss Halverson.

Q. Well, do you remember what the message was? A. I don't remember now; perhaps about her coming up, or perhaps she disappointed me in not coming up or something; that didn't amount to very much.

Q. You remember distinctly it was a message that he came there with? A. I don't remember the message.

Q. You don't remember the message, but you remember distinctly that he came there with such? A. If he stopped, yes.

Q. He stopped there alone? A. Yes.

Q. And that he came with a message from Miss Halverson of some kind? A. Yes.

Q. What you cannot recollect of the incident is that you cannot recollect what the message was; is that right? A. I don't remember now.

Q. But the incident itself is clearly in your mind, is it not? A. Yes, because Park and he sat and talked for some time.

Q. What was the other time now; you told us of two occasions that he was there; what was the other time when he was there alone? A. I don't remember the other time.

Q. You don't remember the other time? A. No.

Q. Well, do you remember if there was any other time? A. There may have been.

Q. You heard Mr. Evans testify, did you not? A. Yes.

Q. You heard him say, did you not, that the only two occasions that he was at your house alone were those particular occasions which you now told us about? A. Yes.

Q. Do you think he is mistaken with respect to that?

MR. HEYMAN: I object to that, if your Honor please, to the characterization of another witness' testimony by this witness.

MR. LANE: This is the defendant, if your Honor please, and I am entitled to ask this question.

MR. HEYMAN: I don't think it is fair to characterize any testimony by this witness.

MR. LANE: I am not interested in the other witness. I am in this defendant.

MR. HEYMAN: On the further ground that it calls for a conclusion.

THE COURT: I will overrule the question.

Q. You are refreshed in your recolletion that Mr. Evans testified that he upon only two occa

sions was at your house alone and what happened? A. I can't even remember Mr. Evans's testimony.

Q. Then why did you tell me a few moments ago that you did? A. I didn't say I remembered his testimony.

Q. It only took place here a few days ago, didn't it? A. I know it; I don't know whether he said he was there three times, four times, or ten times.

Q. You don't? A. I want to remember myself how often he was there.

Q. Well, do you remember any other occasions that he was there except these two times that you have testified to? A. Now, I can't say.

Q. You do recollect these two occasions distinctly, don't you? A. Yes, distinctly.

Q. Why do you recollect these two occasions so distinctly when you can't recollect the other? A. Because of Park sitting and talking to him, sitting down here, why it was impressed on my mind.

Q. And that is the only reason why you remember these two occasions distinctly? A. Yes, because they had met that day and Park's remark to me that he was such a nice young man.

Q. You haven't any recollection of any other occasion? A. Now, I don't remember Mr. Evans being there alone—yes I do, one Sunday afternoon when Mr. Grundy came in, Mr. Evans had stopped there and he talked with Mr. Grundy.

Q. When was that? A. I can't tell you, but it was about three o'clock in the afternoon; Mr. Grundy had been out all night, I went later to the bath room where Mr. Grundy began shaving and washing up and asked him if we were going for a ride; he said, "With whom?" I said, "With me, of course," so he said, "All right." I

went out and said to Mr. Evans, "we are going out for a ride," and he said he would be going; and he came around by the bath room door and he stopped and talked with Mr. Grundy.

Q. Do you recollect when that was? A. I don't remember, no.

Q. Was it in the Summer? A. It was in 1919, after Mr. Grundy came from Europe, in the Summer, July or August.

Q. How did Evans happen to be there on that occasion alone? A. I don't remember that occasion; he may have said Gertrude was coming up that night, or he may not; I couldn't remember what it was; I thought nothing of it.

Q. Now is there any other occasion than those? A. Those are the only occasions that I remember.

Q. Then upon each one of the occasions Evans was there alone either Mr. Grundy or Park Grundy was there, is that right? A. They each saw Mr. Evans there and talked with him.

Q. Those were the only occasions to your recollection that he was ever there alone, is that right? A. Yes.

Q. Doesn't it strike you as somewhat remarkable, Mrs. Grundy, that on the three occasions that he happened to be there alone, Mr. Grundy or Park Grundy found him there?

MR. HEYMAN: I object to that on the ground that it calls for a conclusion or an opinion.

THE COURT: I will take it.

MR. LANE: I say further for the record, if I am interrupted with such an objection I will discontinue my cross-examination. I think I am entitled to pursue my examination without any such baseless objections on the part of counsel.

MR. HEYMAN: If that is a threat, if your Honor please, I want to say right now that it is my intention to make any legal objections that I know of until the Court tells me that I am out of order.

MR. LANE: Each time when this witness has been in trouble counsel has always sprung to the defense of the witness and interrupted my examination.

MR. HEYMAN: If your Honor please, I take exception to such a remark—

THE COURT: Gentlemen—

MR. HEYMAN: I won't have anybody say anything like that to me.

MR. LANE: I have said it.

MR. HEYMAN: You have no right to say it.

THE COURT: Go on with your examination. Make your objections and I will rule on them.

Q. (Last question repeated). A. I formed no conclusion in my mind.

Q. That is the best answer you can make now? A. Yes.

Q. Did you hear Evans testify that upon these occasions that Mr. Park Grundy found him there in the house alone, he had come to the house with Miss Halverson?

MR. HEYMAN: Which occasion he had come to the house with Miss Halverson?

MR. LANE: In Easter time of 1919.

A. Did I hear that in the testimony?

Q. Yes. A. I don't recall hearing that.

Q. Is it a fact that at Easter time, 1919, Mr. Evans came to the house with Miss Halverson, then Miss Halverson left the house, being sent on

some errand by you, and that then Park Grundy came in and found Mr. Evans there? A. I think so.

Q. You think so? A. Yes.

Q. Why do you think so? A. I am positive of it.

Q. You are positive of it? A. Why, yes.

Q. Why are you positive of it now? A. Because I know that Miss Halverson and Mr. Evans did stop in and for some reason she went home, she was to return and she did later, and Mr. Evans did not wait until she returned.

Q. Then did Park come in? A. Park came in then.

Q. Then is that another occasion? A. No, I think that was one of the times that Park came in, one of the days that Park came in and found Mr. Evans there; it wasn't another occasion.

Q. That isn't what you told me a few moments ago, is it? A. I think he came in, it was noon time, or afternoon, early afternoon, Mr. Evans was there, Gertrude had left; that was one of the occasions that Mr. Evans was there alone.

Q. Why didn't you tell me that before, instead of waiting until I had drawn your attention to the fact that Mr. Evans testified to it? A. You didn't ask me if Miss Halverson was there?

Q. I asked you how it came that Mr. Evans was in the apartment when Mr. Park Grundy came in in Easter time, 1919, and you told me that Evans had come with some message from Miss Halverson, and that Park Grundy had come in and that after he stood talking for a while Mr. Evans left; now, which is true? A. Those dates are so hazy to me, I can't remember which day it was that Mr. Evans was in the house; he may have been there another day; I am not sure,

because I thought nothing of that; it was nothing to make such notes of; he came regularly with Miss Halverson; I thought nothing, no more than though it was Park coming in the house.

Q. Is it fact that When Mr. Park Grundy found Mr. Evans in the house at the time that he came in, at Easter time of 1919, that Mr. Evans had come there with a message from Miss Halverson? A. He came one day.

Q. Wait until I am through; Or it is a fact that on that occasion he came there with Miss Halverson and you sent Miss Halverson out for an errand? A. He came in one day, Park came in one day and found Mr. Evans there, the day he had brought a message; he came in another day and Gertrude had gone on an errand and returned later, as I told you; that was one extra occasion, I suppose, Mr. Evans was there, that is all; I don't remember other than the fact that he was there.

Q. Now it is a fact then, that there was an occasion at which Mr. Park Grundy was introduced to Mr. Evans and had that conversation with Mr. Evans, and that was in the Easter vacation of 1919, wasn't it? A. I don't know whether that was the time he was introduced or not, but it was Easter time, I presume it was Easter time, yes, because I met Mr. Evans when Miss Halverson brought him up, which was in February; it must have been Easter, because Park was home.

Q. But you have already told us that was the day upon which you introduced Evans to Park? A. Yes.

Q. The first time he had seen him; that is right, isn't it? A. Yes.

Q. Now, on that day Evans came there with

a message from Miss Halverson, is that right? A. That day, yes.

Q. There is no question about that? A. No question about that, no.

Q. There wasn't any question on that occasion with respect to Miss Halverson and Evans coming there, then you sending Miss Halverson away; that is right, isn't it? A. That is right.

Q. Then there was another occasion referred to by Evans that Park found Evans there alone; is that right? A. What occasion?

Q. Another occasion than these two that you have told us about? A. When he came to help with the barrels.

Q. No; the occasion when Evans says he came there with Miss Halverson. A. That was only once he came with Miss Halverson, she went out later, it was only one occasion.

Q. And that occasion, when was that? A. I don't remember when that was.

Q. Was Park there? A. Park came in.

Q. What happened? A. Nothing happened.

Q. Well, nothing happened at all? A. No, they spoke and talked.

Q. How long after Evans was there, or after Evans came, was it that Park came in? A. I didn't recall that.

Q. What time did Evans and Miss Halverson get there? A. What time?

Q. Yes. A. I don't even recall that.

Q. How long did they stay? A. Probably half an hour, something like that.

Q. Then what happened? A. I don't remember anything happening.

Q. Well, did you send Miss Halverson for an errand? A. I may have sent her out on some errand to the store.

Q. What? A. I may have sent her to the store.

Q. Do you recollect whether you did or did not? A. Yes, she went home and Mr. Evans waited until he was tired and said he would not wait any longer; I said she would be in most any minute, I expected her; she did come back later.

Q. Do you recollect whether you sent her for an errand? A. I sent her for something, probably to the grocery, I think, I don't remember what it was.

Q. Do you recollect what you sent her for? A. I do not.

Q. Do you recollect where you sent her? A. No.

Q. Do you recollect how long she was away? A. No.

Q. Do you recollect whether she came back at all after that to your house? A. Yes, she came back.

Q. Do you recall what time it was that she came back? A. She came back in the afternoon, probably three or four o'clock, I should think.

Q. That wasn't the occasion at which Mr. Evans was introduced to Park, wasit? A. No.

Q. That was another occasion, separate and distinct? A. Yes, later.

Q. How much later, do you know? A. I couldn't tell, I don't remember.

Q. Well, why didn't you remember that occasion specifically when I asked you a few moments ago how many times Park—how many times you could remember that Evans was there at the house alone and you said only the two? A. There was nothing special to remember, I made no note of it, there was no impression in my mind about him stopping in the house; it was nothing to make me remember.

Q. And that is the reason why you didn't remember that occasion? A. Certainly.

Q. You don't recollect sitting here in this court room and hearing Mr. Evans testify in great detail about that occasion, do you? A. Yes, I remember he talked about that.

Q. Do you recollect that he said that that was the occasion at which he was introduced to Park? A. I don't remember that he said that that was the occasion he met Park.

Q. It is not a fact that he was introduced to Park on that occasion? A. I wouldn't say that it was a fact or I wouldn't say it was not a fact; I don't remember.

Q. How often did Miss Halverson and Evans come to your house? A. Very frequently.

Q. Wait a minute until I get through. Before or after Mr. Grundy went to Europe and before the Easter vacation? A. They came frequently.

Q. How frequently—that doesn't mean anything—once or twice a week, or might it be three or four times a week? A. Usually there on Saturdays and Sunday and sometimes the middle of the week.

Q. How many times were they there during the Easter vacation when Park was home? A. I don't remember the Easter vacation, whether they were there off and on or not, I presume they were, when Park and Miss Halverson played together.

Q. Do you recollect hearing Evans testify that they were there but once? A. During the Easter vacation?

Q. Yes. A. I think so.

Q. Is that right, or isn't it? A. I think so.

Q. Then they were there but once? A. Once.

Q. During the Easter vacation? A. Yes.

Q. Well, when did the other occasion take place

at which Park caught them there, caught Evans there when he and Miss Halverson had come together?

MR. HEYMAN: I object to the term, if your Honor please, to the term "caught."

MR. LANE: I will change it to "found."

Q. When was it? A. I don't remember when.

Q. Well, it wasn't during the Easter vacation, was it? A. I think perhaps it was when Park was home for ten days when he came back from Worcester.

Q. When was that? A. I think it was in April, the latter part of April.

Q. The latter part of April? A. After the Easter vacation.

Q. Well, after the Easter vacation—how long did the Easter vacation last, by the way? A. Perhaps a week or ten days.

Q. After the Easter vacation how many times a week before that did Mr. Evans and Miss Halverson come? A. They usually visited us—

Q. Two or three times a week? A. Yes.

Q. After Mr. Grundy returned from Europe how often did Mr. Evans and Miss Halverson come? A. Not often.

Q. What? A. Not often; Miss Halverson came up, Mr. Evans didn't come much; in fact we were moving soon after, preparing to move.

Q. Well, he came home, Mr. Grundy— A. In the latter part of August.

Q. Mr. Grundy came home in June, did he not? A. In June.

Q. And you didn't move— A. Until the last of August.

Q. You didn't have a quarrel— A. About the middle of September I began packing.

Q. Now, Mrs. Grundy, you have been very unhappy, haven't you? A. At times.

Q. Covering how much of a space of time? A. Several years.

Q. How many years? A. Well, three or four.

Q. Well, from when do you date any acute unhappiness,—from what date? A. What date?

Q. If you date it from any date. A. No, I couldn't set any certain date.

Q. Your happiness has provoked you to commit—or your unhappiness did provoke you to attempt to commit suicide? A. Certainly.

Q. In September of this last year—was it in September? A. Yes.

Q. It drove you to attempt that before, didn't it? A. Yes.

Q. On at least three or four occasions, didn't it? A. Possibly.

Q. More than that? A. Twice.

Q. Twice before? A. I think so.

Q. When was the first time? A. I think it was at Low's in 1912.

Q. In 1911 or 1912? A. Yes.

Q. Where were you living then? A. On Madison Avenue.

Q. What did you do then? A. Turned the gas on.

Q. What time of day was it? A. What kind of a day?

Q. Yes. A. I don't recall the day, what sort of a day it was.

Q. What time of day? A. Probably late in the afternoon.

Q. What happened? A. Toward evening.

Q. Tell us what happened? A. Well, they found me, they came in, of course; of course they found me, opened the windows and proceeded to revive me.

Q. What happened at or about that time that caused you to do it? A. I don't remember now; I suppose I was despondent.

Q. What? A. Troubled somewhat.

Q. Who was there; who was at the house? A. Who was at the house?

Q. Yes. A. Mrs. Low.

Q. What happened; what did you do; tell us about it? A. What did I do?

Q. Yes. A. I didn't do anything.

Q. Well, you turned the gas on? A. I turned the gas on, yes.

Q. What preparations did you make before you turned the gas on; did you shut the window? A. I don't remember that; I suppose I did have the window down.

Q. Did you tell anybody you were going to do it? A. I don't think so; I don't remember.

Q. So far as you know, you don't know whether anybody knew you were going to do it? A. I don't remember.

Q. How was it that they came to rescue you, do you know? A. I don't remember that.

Q. Did you hear? A. No.

Q. Did you here how it happened that they came to rescue you? A. No.

Q. You didn't know at the time that there was any chance of that, did you? A. I don't remember.

Q. You don't know or didn't hear how it was that you were prevented from doing this thing? A. No.

Q. When was the next time that you did it? A. I guess at Mrs. Corrigans.

Q. What is that? A. At Corrigan's.

Q. When was that? A. I suppose in 19—let us see—1914.

Q. In 1914? A. Yes.

Q. What had happened then that caused you to do it? A. Turned the gas on again.

Q. Yes, you turned the gas on; what had happened to cause you to turn the gas on? A. What happened; I suppose I was prevented again.

Q. What is that? A. I was prevented again.

Q. Yes, I know; but tell us what was it that caused you to do it; what was it that incited you; what caused you to do these things, trying to take your own life? A. Because of Mr. Grundy's indifference, his cold and indifferent feeling toward me.

Q. Back in 1914? A. Back in 1914.

Q. Well, had you had a quarrel at that particular moment? A. Perhaps, yes.

Q. What was it; what happened? A. I don't remember now.

Q. Entirely blotted out of your recollection? A. I don't remember now what the quarrel was about.

Q. What time of day was this? A. I couldn't say.

Q. Have you any idea? A. No.

Q. What preparation did you make before you turned the gas on at that time? A. I don't remember of any except closing the door.

Q. Well, how was it prevented that time, from consummating that act? A. I suppose someone came in and opened the door.

Q. Well, don't you know? Didn't these attempts at suicide make any impression upon your mind? A. Of course they did.

Q. All right then; don't you recollect what took place when you tried to take your own life in 1914? A. I think Mrs. Corrigan and her son opened the door.

Q. Do you know how they knew you were going to do this thing? A. No.

Q. Did you find out? Did you ever find out how they knew it? A. No.

Q. So that, so far as you know, both with respect to the first incident and with respect to the second incident, if you did not commit suicide it was entirely an act of Providence; is that right?

MR. HEYMAN: I object to that as calling for a conclusion, if your Honor please.

THE COURT: Is this germane to the issue at all?

MR. LANE: I think, may it please your Honor, that it is germane to the issue. Counsel has introduced it in his direct examination and I am cross examining now. He must have had a purpose in introducing it.

MR. HEYMAN: Introducing what?

MR. LANE: Attempts to commit suicide in September of this year.

MR. HEYMAN: I did not introduce anything relative to any prior attempts. I did not even attempt to introduce the time in September, 1919; I didn't know about it; it came out without any solicitation on my part.

MR. LANE: It is in the record.

MR. HEYMAN: It came out on your examination.

MR. HEYMAN: Not with any attempt to introduce it. But I submit, if your Honor please, anything that happened in 1912 or 1914, if it is in, it is not essential.

MR. LANE: I think it is very essential. They made a great deal of this; I had no desire to examine this witness any further, but I think this witness has made charges of

the grossest kind against this man; she has put herself in the position of being the wronged party to such an extent that she has been obliged to attempt her own life. When a woman puts herself in that position I am entitled to go into the details as to show that these attempts to take her own life were not bona fide.

THE COURT: I don't think it is necessary.

Q. (Question repeated.) A. That is something I can't answer.

Q. Did you, in September of 1919, when you attempted to commit suicide as you testified on your cross examination—what time of day was it? A. Evening.

Q. What did you do? A. Turned the gas on again.

Q. Who was it saved you that time? A. Miss Halverson.

Q. Was Park and Mr. Grundy there? A. Why, they had left for good.

Q. What? A. They had left for good.

Q. Miss Halverson was still in the apartment? A. Miss Halverson was still in the apartment, she stayed with me.

Q. There was another occasion, was there not, when you were stopping in Mrs. Low's house, when you attempted to take carbolic acid? A. No.

Q. You don't recollect any such occasion as that? A. No.

Q. Wasn't there an occasion when you took carbolic acid, or attempted to take carbolic acid, or said you had taken carbolic acid, and the doctor was sent for, and the doctor came, and you then afterwards confessed, or said that you had not taken carbolic acid at all? A. No.

Q. Do you remember an occasion in 57 Clinton Avenue when you said that you had taken carbolic acid and that Doctor L. A. Opdyke was sent for, he came and examined you, and thereafter you said you had not taken it at all? A. Yes, I remember that.

Q. Now, you said you had taken carbolic acid, didn't you? A. I did not.

Q. You did not? A. I did not say I took carbolic acid.

Q. How did Doctor Opdyke come to your house? A. I don't know.

Q. Was your mouth burned? A. Yes.

Q. With what? A. It wasn't carbolic acid.

Q. What was it? A. It was Lysol.

Q. What did you do it for?

MR. HEYMAN: I object to that, if your Honor please; I don't think that that is fair; I don't think this has anything to do with the issue as to whether or not this defendant has committed adultery.

THE COURT: I will take it.

A. I don't remember now, but I was despondent.

Q. Well, your mouth was simply burned on the outside, wasn't it? A. Yes, and it was burned inside.

Q. You hadn't taken any actually internally? A. None of it got down, no.

Q. You didn't tell anybody that you had taken it internally? A. I don't remember.

Q. At any rate, they sent for Doctor Opdyke? A. I don't know who sent for him.

Q. The first time that you testified to, at Low's Park Grundy was in bed asleep, was he not? A. Was he asleep?

Q. He was asleep in bed, wasn't he? A. No.

Q. The last time, in September, 1919, you did it in the bath, didn't you? A. Yes.

Q. Miss Halverson was right outside, wasn't she, in the apartment? A. She was in the apartment.

Q. When was it that you began drinking to excess? A. I don't remember.

Q. Well, have you any idea? A. No.

Q. Was it in 1910, 1911, or 1912, or when? A. We always drank from the time I was married I drank.

Q. I am talking about drinking to excess; when was it that you started, if you ever did, to drink to excess? A. Probably 1912.

Q. What? A. Probably 1912, or 1914.

Q. Well, there is two years difference between 1912 and 1914. A. 1914.

Q. Do you recollect when it was that you first began to drink to excess? A. Probably 1914.

Q. In 1913 you were in the Audubon Sanitarium, on St. Nicholas Place, New York, weren't you? A. In 1913?

Q. November, 1913, from the 23rd of November to the 25th? A. I remember being there; I don't remember the time, what year.

Q. Well, when you were at the Audubon Sanitarium what were you taken there for? A. I suppose because I was in a very weakened condition.

Q. Weakened condition from what? A. Because, perhaps, I had drank some.

Q. It was a weakened condition from the use of alcohol, wasn't it? A. I wouldn't say that.

Q. Well, do you know the Oppenheimer Institute in New York? A. Yes.

Q. You know its purpose, don't you? A. Yes;

my husband brought me in there a couple of times.

Q. In December, 1913, you were in the Oppenheimer Institute, weren't you? A. Yes, he found out that place and naturally he took me there.

Q. Why naturally did he take you to that place? A. The same old affliction.

Q. You were drinking to excess, weren't you? A. No, I wasn't drinking to excess.

Q. Then why did you go there? A. That was a mutual understanding between he and I, that I should go.

Q. Why? A. Because I didn't want to take anything to drink, I said I would try it, after he suggested it I said "I will go there" after we talked it over.

Q. Didn't you take what is commonly known was the Keely cure at the Oppenheimer Institute? A. No, they didn't call it any such case.

Q. Didn't you take the cure? A. I don't remember what they give you to get into a normal condition.

Q. You were in an abnormal condition, weren't you? A. I wasn't eating.

Q. You were in an abnormal condition, due to the use of alcohol, weren't you? A. I don't say I was in an abnormal condition.

Q. What was it due to? A. Worrying; not eating.

Q. Worry, in 1913? A. Sometimes, yes; things came up.

Q. How long were you at the Oppenheimer Institute? A. Probably ten days or two weeks; I don't remember now.

Q. That was in December, 1913, wasn't it? A. I don't remember what year.

Q. Well, within a short time, or a few months after that you went back to the Oppenheimer Institute, didn't you, in July, 1914? A. Yes.

Q. There were but two occasions, about six months apart? A. Practically.

Q. What did you go there for then? A. The same thing then, run down, worry, and Mr. Grundy said I would get built up, it would do me good.

Q. Did you know at that time that the Oppenheimer Institute was for the purpose of treating chronic alcoholics? A. No.

Q. You did not? A. No.

Q. You never knew that? A. That was supposed to be a private sanitarium.

Q. You never knew and you never had heard of the Oppenheimer Institute? A. I never heard.

Q. You didn't know what its purpose was? A. No.

Q. You didn't know its purpose when you got there? A. No.

Q. When you stayed there you didn't know the purpose of it? A. No.

Q. And you went there voluntarily, is that right? A. I did.

Q. By agreement with your husband? A. Yes.

Q. For what purpose? A. To be treated and to be fed.

Q. To be treated for what? A. To get built up, because I was in a rundown condition; I didn't need to go out to any sanitarium except it was in the City.

Q. It had nothing to do with alcohol, is that right? A. I didn't go there for that purpose that I know of.

Q. You were at that time drinking to excess; is that right? A. I don't remember that I was.

Q. When were you first taken to Morris Plains? A. 1912.

Q. In 1912? A. Yes.

Q. Committed there, weren't you? A. Yes.

Q. What for? A. I suppose I was admitted in there for drinking.

Q. In 1912? A. Yes.

Q. Had you been drinking to excess, now? A. Perhaps; I had been drinking more than I could stand.

Q. Oh, only a little more than you could stand? A. I am not—

Q. What was the second time you were taken to Morris Plains? A. In 1914.

Q. You were committed there then, weren't you? A. I was taken there on the pretense of going out for dinner.

Q. What caused you to be taken there? A. Mrs. Corrigan, Mr. Jamieson, Mr. Grundy and myself, decided we were going to dinner—

Q. You told us about that. Why did you go? A. They told me they were going to dinner, and I told them—

Q. What was your trouble; was there any trouble with you? A. None at all; I was at Mrs. Corrigan's for a few days, we were living in New York and we were to meet there to spend a few days, there were some drinks Sunday night, when Mr. Grundy and Mr. Jamieson there got a bottle of whiskey, and they insisted on me staying with Mrs. Corrigan for a few days, and we had some drinks during the next few days, and I became affected, in fact, the doctor came in the following two days, later, on Sunday, I think, I am not sure whether it was Sunday, they said we were going out to dinner, and we motored out to Morris Plains.

Q. You were not drinking to excess? A. No.

Q. How long did they keep you at Morris Plains? A. In 1914, four months.

Q. Four months? A. Yes.

Q. How did you get out; you weren't discharged, were you? A. I walked away.

Q. Then you went to New York, did you? A. I did.

Q. Then you telephoned to your husband? A. Yes.

Q. Then you told your husband over the telephone, did you not, that you had just landed in New York? A. Yes.

Q. And that you used your last fifty cents to buy a drink? A. I don't remember telling him any such thing.

Q. Well, did you tell him any such thing or not? A. I don't remember that.

Q. May you have told him any such thing as that? A. I don't remember telling him any such thing.

Q. I say, is it possible that you might have told him that thing? A. No, I don't think so.

Q. Do you remember how long it was after you left the Morris Plains Asylum that last time before you did take another drink? A. No, I don't remember.

Q. You started in to drink again in the same way as you had been before, didn't you? A. I don't thing so, no, because we took that apartment on Clinton Avenue.

Q. Didn't you drink? A. I did not.

Q. Didn't you drink in the apartment on Clinton Avenue? A. Yes, after we lived there.

Q. Of course, while you were living there. A. Yes, I didn't start to drink to excess.

Q. Then, from the time you left Morris Plains down to September, 1919, you never drank to excess? A. From 1914?

Q. Yes? A. We took the apartment in 1915.

Q. Well, from 1915 down to 1919 you never drank to excess? A. I wouldn't say to excess.

Q. Well, would you say that you drank to excess, or did you not? A. I did not.

Q. Did you ever, during that space of time, become intoxicated? A. I would say no.

Q. You would say no, you did not? A. No.

Q. You never then, between 1915 and 1919, became intoxicated? A. No.

Q. Now— A. I would be sick, but I wasn't intoxicated.

Q. Sick from what? A. From not eating, taking a few drinks and not eating.

A. They told me they were going to dinner, and

Q. Sick from the effects— A. Not eating.

Q. —of using alcohol and not eating, is that right? A. Not eating.

Q. Then you had what is commonly called alcohol poisoning, did you? Is that right? A. I don't know that.

Q. It was always brought on by the use of liquor; is that right? A. I couldn't tell you.

Q. You and your husband lived together as husband and wife until August, 1918, as I understand you? A. Yes.

Q. Since that time there has been no sexual intercourse between you, is that right? A. No. Oh, yes; there has not been. You said there has not been.

Q. There has not been? A. There has not been.

Q. In the first place, you refused to have it, did you not? A. I?

Q. Yes; in the first place? A. No, sir; I did not refuse.

Q. You never did? A. No, sir.

Q. You never refused to have sexual intercourse? A. No; I refused the unusual method.

Q. But you never refused to have sexual intercourse? A. No.

Q. You asked your husband, as I understand it, several times since 1918, to have sexual intercourse, and he has refused? A. Yes, he has refused.

Q. How soon after this occurrence in 1918 was it that you suggested having sexual intercourse with your husband? A. When he came from Europe.

Q. Not between the date of August, 1918— A. Not since the Blue Point affair.

Q. Until he came from Europe? A. From Europe.

Q. Then, during that space of time you did refuse, didn't you? A. No, I never refused.

Q. Well, did he ask you? A. No.

Q. You mean that neither side requested or evinced a desire for it from August until he returned from Europe? A. (No answer.)

Q. Now, do you think, Mrs. Grundy, that the attitude of your husband changed towards you, because of the attitude you took in August, 1919, with respect to his request for unnatural sexual intercourse? A. In 1918 I think that had a great deal to do with it; I think that he did not care, he told me as much, he did not care for any other way, there was no feeling.

Q. Then in your own mind you attributed the attitude of your husband toward you to the reception that you gave to him or his proposal for unnatural intercourse in August, 1918; is that right? A. I think so.

Q. Do you attribute it to anything else? A. I think Mr. Grundy stayed away from home so much he certainly spent his time elsewhere, at somebody else's, which I know not.

Q. You think that there was somebody else somewhere? A. I know nothing definite about it.

Q. Had he ever before that, before August, 1918, made any proposition of that kind to you? A. Oh, before?

Q. Yes. A. About unusual?

Q. Yes. A. That was the unusual intercourse?

Q. That was the unusual intercourse. A. Yes, several years ago.

Q. How many years ago? A. Since we lived in Thornburg.

Q. In Pennsylvania? A. Yes.

Q. What happened then? A. He desired that same method.

Q. And that is all? A. Yes.

Q. What did you do? A. Why, certainly, I would not have such thing.

Q. But it caused no trouble between you? A. No.

Q. That was the only occasion; then the next was in August, 1918, is that right? A. Yes.

Q. You think that in August, 1918, because you took the position that you did with respect to that, that that did cause your husband to turn against you to a certain extent, is that right? A. Mr. Grundy was different afterward.

Q. After that? A. Before that he was very distant.

Q. You thought that was why he felt that way in August? A. Yes.

Q. Did anybody hear this proposition made to you? A. How would they?

Q. I didn't ask you that; I asked you whether they did or not? A. No.

Q. Did you ever tell anybody about it? A. I don't remember.

Q. Think now; did you ever tell anybody? A. I think perhaps I have told someone.

Q. Who? A. Perhaps I told Mrs. Corrigan.

Q. Who? A. Mrs. Corrigan.

Q. At the time it took place, or afterwards? A. Not at the time; afterwards.

Q. How long afterwards? A. I couldn't tell that.

Q. Anybody else? A. Not that I remember of.

Q. You said nothing about it to anyone else? A. I think not.

Q. So that only you and your husband are the only two people that know anything about it? A. Except that I told Mrs. Corrigan.

Q. Mrs. Corrigan, what did you tell her? A. That there was something strange about my husband, I did not know, simply he didn't come home; she thought it was very foolish to have such thoughts; I said I would like to find out; she said, "You are very foolish to bother your head aobut it to try to find out, because if you look for trouble you will find it."

Q. Is that all that you said to Mrs. Corrigan? A. Yes.

Q. That is all you said to her about this trouble? A. That is all I remember stating to her.

Q. Can you recollect having said anything to anybody with respect to this proposition on his part to have unnatural sexual intercourse with you? A. I don't remember of saying it to anybody.

Q. I want you now to your best recollection, and think, now, whether you ever told a soul? A. Yes, I told Doctor Opdyke.

Q. Doctor L. A. Opdyke? A. Yes.

Q. Anyone else? When did you tell him, by the way? A. I told Doctor Opdyke a great many of my secrets.

Q. I didn't ask you that; when did you? A. I don't remember when I told him; perhaps when it first occurred several years ago; Doctor Opdyke has been my physician for several years and I told him when it first happened.

Q. Anybody else? A. I don't remember when I did.

Q. Just think; you thought of Doctor Opdyke; see if you can think of somebody else. A. I don't think so now.

Q. Then, so far as you know, there isn't anyone that can support your word that that thing took place; is that right?

MR. HEYMAN: I think, if your Honor please, that that calls for a conclusion.

A. To tell these facts, I don't remember of telling anyone else.

Q. Then there isn't anyone, so far as you know, who knew anything about that? A. I think I told Mr. Maas, in Newark.

Q. Doctor Maas, of Newark; anybody else? A. I may have told somebody else; I can't just remember now.

Q. Well, think. A. I don't remember.

Q. Your husband never said anything to you about it in the presence of anybody, did he? A. No.

Q. And you never said anything to your husband about it in the presence of anybody, did you? A. I don't remember that.

Q. Well, do you remember any occasion when your husband ever said anything about that, to your knowledge, in the presence of anybody else? A. I don't remember.

Q. Before you went on the stand here, did you tell your counsel about this occurrence in August, 1918? A. I certainly told my counsel.

Q. Did you tell him all about it?

MR. HEYMAN: Now, I object to that, if your Honor please; that is a confidential communication; I don't think it is proper for counsel to inquire into that.

MR. LANE: It is the witness' privilege, not the privilege of the lawyer.

MR. HEYMAN: Then I ask, if the Court please, that you instruct the witness that this is a confidential communication which she does not have to divulge.

THE COURT: Well, if this is a question, I will instruct her.

A. I told him a great deal of it.

Q. Well, is there anything that you told here on the stand that you did not tell your counsel? A. I think not.

Q. Is there anything with respect to this incident that you have not told on the stand? A. I think not.

Q. Do I understand that this incident that occurred with respect to the gonorrhea, when was it? A. In 1908, the year we came here.

Q. After you came to Newark? A. After we came to Newark.

Q. Your husband took you to the doctor, or you went to the doctor with him? A. He took me.

Q. Both of you went? A. I went with him.

Q. Did you accompany your husband to the doctor's? A. I did.

Q. How did you come to do that? A. Well, just walked up to the doctor's with him.

Q. Well, how did he come to ask you to the doctor's with him on a thing of that kind? A. I don't know; I didn't consider that unusual, to go up to the doctor's with him.

Q. Did he tell you that he was going to try to find out what was the matter with him? A. Yes.

Q. Did he know what was the matter with him, or did he apparently know? A. That I don't know, what he knew.

Q. What did he say? A. He said there was something wrong, and he knew that I knew that because I saw him tending to himself.

Q. Did you suggest that you go to the doctor's or did he invite you along? A. I don't know how that occurred; I just went with him.

Q. When he came back—were you present at the time the doctor talked with him or at any of the time? A. No, I was in an outer room.

Q. When you came out, what did he say to you? A. He said he had gonorrhea.

Q. What? A. He said he had gonorrhea.

Q. Did he use that term, that he had gonorrhea? A. I think so.

Q. Did you know what it was? A. No, I didn't know.

Q. You didn't know what it was at that time? A. No, not at that time, I didn't know.

Q. Did you ask him what it was? A. No.

Q. Did you ever find out what it was? A. I know now.

Q. Did you find out? A. Yes, I found out later.

Q. At that time? A. Soon after that I knew it was something that should not be.

Q. Whom did you find out from? A. Perhaps I asked the doctor.

Q. I don't want any perhaps. A. Most likely I asked the doctor.

Q. Isn't that the only way you found out about that? A. I think so.

Q. Did you ever tell anybody about that? A. No.

Q. From that time down to the present you never told anybody about that thing? A. No, it was no subject to talk about.

Q. I am not asking you that; I am asking whether you did, in fact, ever tell anybody about that? A. No.

Q. Did you ever have any talk with your husband about it? A. Not after that, no.

Q. After that one time that he went to the doctor's? A. He went several times to the doctor.

Q. I mean after that one occasion? A. No.

Q. You never had any further talk about it? A. No.

Q. How long after this episode in which Levine figured was it that you saw Levine? A. How long after?

Q. Yes; how long a time elapsed between the time that Park Grundy found Levine in your house and the time that you next saw Levine? A. I don't remember; I might have been in his store to order some wine or beer, I don't remember.

Q. Just try. A. I don't remember; it might have been a few weeks later.

Q. Get that as nearly as you can now. A. I don't remember.

Q. That was August 24th; now, do you recollect how many days after that it was that you saw Le-

Q. Was it the next day? A. I don't think so.

vine? A. I really don't remember now.

Q. Was it the next day, two days? A. I couldn't say that.

Q. Was it within a week? A. It may have been in a week that I went in the store.

Q. When you saw him, did you talk to him about this thing? A. No.

Q. Didn't say a word to him about it? A. Not that I remember of now.

Q. Well, again think if you can; did you and he mention it, or either he or you mention it at all? A. I don't recall now if we talked of it, but I think someone was in the store.

Q. Did you ever mention it to him; did you ever talk to him about it at all after this suit was started? A. I talked to him up at his house after I found him I did not know where he lived but then I went round to his home and found him.

Q. Between the time of August 26th—between the time the thing happened, on August 24th, the time the thing happened, and the time that this suit was started, on September 25th, did you see Levine, or did you talk to Levine, rather, with respect to this matter, and discuss it with him in talking? A. I don't remember that I did.

Q. You remember the first occasion talking with him about it? A. I don't recall that.

Q. You don't recall any occasion before the starting of this suit that you discussed this thing with Levine? A. No, I don't recall now.

Q. Had he come to the house again after that visit on the 24th? A. I think not.

Q. Did you go up to the store after that and order wine? A. I went up and got a bottle or two of sherry wine.

Q. Is that the only occasion that you went up there to the store? A. I might have been in the store a few times; I don't remember now how many times.

Q. And ordered what? A. Wine, sherry wine.

Q. After the 24th of August? A. Yes, because I had no 'phone.

Q. What? A. My telephone was out, and I went to the store to order it.

Q. What did you do with the sherry wine that you ordered? A. Why, I drank it, of course.

Q. Well, that sherry wine isn't intoxicating, is it? A. I suppose if you drink enough of it.

Q. But you don't consider it is an intoxicating liquor? A. I am not saying what I consider it.

Q. Well, you told us you did not drink intoxicating liquor from the first of July on? A. Well, that means liquor, whiskey.

Q. You mean by intoxicating just whiskey, and what else do you include within the classification of liquor? A. Why, hard liquor.

Q. Whiskey? A. I don't consider light wine, sherry wine, hard liquor.

Q. Is there any kind of liquor that you drank after the first of August, outside of beer and sherry wine? A. After the first of August?

Q. Yes; after the first of July? A. I have had sherry wine and I have had several drinks of gin.

Q. You had sherry wine and you had several drinks of gin? A. Yes, several drinks.

Q. Of gin? A. Yes.

Q. What else did you have? A. For medicinal purposes.

Q. What else? A. That is all I remember now.

Q. Just gin and sherry wine and beer? A. Yes.

Hearing continued until June 3, 1920, at 10:30 o'clock in the forenoon.

June 3, 1920.

IDA MAY GRUNDY, recalled.

CROSS EXAMINATION (resumed) BY MR. LANE:

Q. Mrs. Grundy, when was the first trouble that you had with your husband? A. Well, we have had trouble off and on ever since we were married.

Q. What? A. We have had trouble off and on ever since we were married, at times.

Q. What was the cause of it? A. There was trouble about Mr. Grundy's children at different times.

Q. Yes, was that all? A. Mr. Grundy would be very disagreeable at times.

Q. Was that all? A. Sometimes abusive.

Q. When did he start that? A. When I was pregnant with my second child he attempted to hit me.

Q. When was that? A. On account of not cooking something special for one of his daughters.

Q. When was that? A. That was before my second child was born.

Q. When was that? A. That was in 1903.

Q. 1903? A. Yes.

Q. Well, what other troubles? A. On another time he pulled the combs out of my hair, he pulled my hair with it, and threw the comb across the room, he was very ugly, I threatened to go out of the house and go to the neighbors but he persuaded me not to do it, so very soon he apologized and asked for forgiveness.

Q. When was that? A. That was probably in 1906 or 1907.

Q. What other trouble? A. Well, until we went to 57 Clinton Avenue, and he was very disagree-

able and abusive at times, I have tried, I have attempted to be affectionate and he would grab me and throw me out of his room; my arms were black and blue for weeks afterwards; he threw me out of the hall into my room.

Q. When was that? A. That was in about 1917, during the most of that year when he would stay out, I would coax him to come home and I would beg of him to be affectionate, I would go in his room, I would even go down on my knees to him and beg him to be affectionate, but he told me to get out of the room and if I didn't he would throw me out, which he did many times.

MR. HEYMAN: You say which he did?

A. Which he did, yes, dragged me through the hall and knocked me on the floor a couple of times.

Q. That was in 1917? A. Yes.

Q. Was there any trouble between 1906 and this last time you told about, in 1917? A. Pardon?

Q. Was there any trouble between 1906 and 1917? A. One time on Union Street he choked me, because he was angry for me having an accident in serving coffee at breakfast, his daughter was present and my son.

Q. Park Grundy? A. Yes, and his youngest daughter lived with me at the time, her name was Dora, she was present, and I accidentally bunked into him serving coffee, and he pulled me into the bedroom and choked me and threw me on the bed, and his daughter after he left immediately afterwards came in and said "Don't mind him, mother."

Q. Any other incident that you can remember

between 1906 and 1917? A. It covers such a period that it is hard to remember.

Q. But it was a continuous course of harsh and cruel treatment, is that right? A. I wouldn't say continuous.

Q. Well it was spasmodic? A. It was occasional, spasmodic times, Mr. Grundy could be agreeable at other times, then in the last three years he was more disagreeable than ever.

Q. When you prepared this case, talked to your counsel about this case, did you tell about these specific instances that you have recited now on the stand? A. I told counsel some of them, I think I related as much as I could remember.

Q. You told him all you could remember? A. I think so.

Q. These specific instances? A. Yes.

Q. When did you tell him first about them? A. I don't remember exactly.

Q. Before this case opened, before May 3rd? A. Certainly, before May 3rd.

Q. Now, during all this time from 1903 down to 1917, was there any trouble which was caused by your fault? A. Well, I didn't consider it my fault.

Q. So that there was no trouble that you know of that you can remember now, that was due to any fault on your part? A. Mr. Grundy's disagreeable manner at times—

Q. Won't you answer that: Was there any trouble that you can remember now that was due to your fault? A. No.

Q. No? A. No.

Q. It was all due to his fault, every one of the troubles that you had between those two dates is that right? A. As much as I can remember.

Q. You don't remember any incident where it was your fault? A. No.

Q. Where were you in the Summer of 1911? A. I don't remember.

Q. Well, refreshing your recollection, weren't you in New Haven? A. I don't remember where I was in 1911.

Q. Well, I show you a letter and ask you whether it is in your handwriting, that letter and the envelope in which it is enclosed? A. Savin Rock.

Q. That is near New Haven, isn't it? A. Yes.

Q. About four miles out of New Haven, isn't it? A. Yes.

Q. That envelope and that letter are in your handwriting, are they not? A. It looks so.

Q. Now, don't you know? A. Yes.

(Letter and envelope marked Exhibits P-1 and P-2 for identification.)

Q. Do you remember anything occurring when you were at Savin Rock in 1911, that caused trouble between yourself and your husband? A. He came up—

MR. HEYMAN: I want to object to this line of testimony on the same grounds as before, that it is not within the purview of the petition, that there is no allegation of any misconduct on the part of this defendant of which the petitioner has complained.

THE COURT: Mr. Heyman, by this witness you put in practically the whole history, or at least a great part of the period of their whole married life.

MR. HEYMAN: But I did not cover any—

THE COURT: You covered the conduct of the petitioner—this witness covered the con-

duct of the petitioner almost from the marriage down to the separation.

MR. HEYMAN: Why, I don't see that, if your Honor please. I remember only bringing her down to the various places that she had lived and what occurred on specific instances.

THE COURT: Yes, instances of his conduct.

MR. HEYMAN: Yes, but I covered only one or two instances in 1908, one in 1912, one in 1914, one in 1918 and the conduct in 1919, but there were specific instances. I think this is not proper cross examination.

THE COURT: My thought is that you covered, or that you introduced enough of that to open up a very wide field for cross examination.

A. Mr. Grundy came—

THE COURT: I will take it.

A. Mr. Grundy came to Savin Rock, as much as I remember, I can't remember the day or the date or anything, but I was in the hotel with friends of Mr. Grundy's and mine, a lady from Pittsburg who came down to visit her daughter-in-law; they invited me up to luncheon, we had a few drinks, and I was phoned from my hotel that Mr. Grundy was down there; I did not expect him; I came down, Mr. Grundy concluded I had had a couple of drinks, he immediately left and said nothing but he was much provoked; I told him the party I was with, to come up, and I was greatly surprised when this lady from Pittsburg arrived, was well pleased to see her, we had had dinner and I told him we had dinner and had a couple of drinks, to come up and meet her, but no, he wouldn't do it, and these people were very, very

intimate friends of Mr. Grundy's, in fact they ran a cafe and a big place, eating, restaurant and cafe, in Pittsburg on Fifth Avenue, they were friends of Mr. Grundy's, they were the people Mr. Grundy first introduced me to, they were the folks —a young lady and her husband—were the people that Mr. Grundy had told me that did this unusual metod of intercourse, yet they were his friends, they weren't my friends, except through knowing Mr. Grundy.

Q. Is that all that occurred? A. Mr. Grundy left and I immediately wrote that letter, because I felt sorry that he had had trouble and didn't wait for any further explanation, he wouldn't wait.

Q. It wasn't your fault, was it? A. I didn't consider there was anyone to blame; I thought, wasn't I entitled to go out with friends that I had known for several years, friends of Mr. Grundy's?

Q. Don't ask me.

MR. HEYMAN: I submit that counsel has asked for an opinion and she is giving it.

THE COURT: I will take it.

MR. LANE: I asked her whether it was her fault.

MR. HEYMAN: And she is giving you her opinion.

MR. LANE: I am not asking for her opinion.

THE COURT: I said I will take it.

MR. LANE: I object to the answer and move to strike it out as not responsive and I ask that the witness be instructed to answer yes or no.

MR. HEYMAN: I ask, if your Honor please,

that the witness be permitted to finish her answer.

THE COURT: I will let it stand. Proceed.

Q. You did not consider that Mr. Grundy was justified in doing what he did, did you? A. No.

Q. You were rather provoked at him for the stand that he took, weren't you? A. Yes.

Q. You thought that it was another example of his unfair treatment, is that right? A. I thought he at least might go and meet his friends.

Q. You thought it was another example of his unfair treatment? A. I don't know what I thought at the time.

Q. At any rate, you did not attribute any fault to yourself? A. I did not consider I was at any fault at all as long as I was with his friends.

Q. And he had no business to act as he did? A. I did not think it the part of a gentleman; he should have met his friends.

Q. That is the way you thought at the time? A. Certainly.

Q. That is the way you parted? A. Yes.

Q. And that is the feeling with which you wrote this letter? A. Yes.

Q. What did you mean in your letter when you said, "So sorry you were so cut up about me but can't blame you"?

THE COURT: Has she read the letter?

MR. LANE: She has not.

THE COURT: I will let her read it.

Q. I can't recall now; I think—

Q. You think what? A. Coming unexpectedly and not finding me at the hotel—

Q. Well, but he was cut up, you can't blame him; what did you mean by that expression? A. By not finding me there heady to meet him, to go to the station to meet him.

Q. So that you thought his being cut up was due to the fact that he didn't meet you? A. That I didn't meet him.

Q. That you didn't meet him and that you couldn't blame him for being cut up over that; is that right? A. Yes, sir.

Q. Is that what you meant by that expression? A. Yes.

MR. HEYMAN: Suppose you read the letter.

MR. LANE: I haven't offered the letter in evidence yet, Mr. Heyman.

Q. What did you mean by the expression in the letter, "I can say nothing more, only that I am mighty sorry the whole thing occurred and will do my best hereafter". Did you refer there to the fact that you hadn't met him at the train? A. I beg pardon.

Q. Did you refer there to the fact that you hadn't met him at the train? A. Yes.

Q. That is all you referred to? A. Yes.

Q. Just the fact that you hadn't met him at the train? A. Yes, because he 'phoned to the hotel and I wasn't there.

Q. "I know you won't believe me so no use writing further on the subject"; what did you mean by that? A. I really don't recall now what was in my mind then, at the time.

Q. Well, you won't now, will you— A. About that—

THE COURT: Let her finish the answer. Go ahead.

A. I don't recall what I had in my mind at the time I wrote that.

Q. You won't say that you referred, by that

expression, to the mere fact that you had not happened to meet him at the train, will you? A. He was greatly upset over that.

Q. "Until I hear from you will be greatly nervous"; what did you mean by that—why nervous? A. Because he left in very bad humor.

Q. Merely because you didn't meet him at the train? A. I thought so, because I had been up to these folks and had a couple of drinks; he knew these people.

THE COURT: What was that last, again.

A. He knew these people, very well.

MR. LANE: I move to strike that out.

THE COURT: Strike it out as not responsive.

Q. "Hope you are not worried because will come back (if you want me sooner)"; what did you mean by that? A. Why, if he wanted me to come sooner naturally I would come back; if he didn't want me sooner, I would stay longer, it was Summer season.

Q. That is your explanation with respect to that? A. Yes.

Q. "Loads of love and kisses from your darling boy and your loving wife. Ida." That does not indicate any sense or any feeling on your part that you had been ill-treated? A. No; I was just what I said there, a loving wife; it did not make any difference how he treated me, I still acted the same as I always did.

Q. What did you mean when you opened your letter by this expression: "I scarcely have the heart or nerve to write"? A. No doubt, I was greatly worried because he left in such a temper, and I was—

Q. Well, why wouldn't you have the nerve to

write; your husband had come up there and had treated you in a way that you thought he oughtn't to have treated you, hadn't he? A. He certainly did.

Q. And he had become all cut up over the mere fact that you hadn't met him at the train; that is true? A. Yes.

Q. And he had gone away in a huff; that is true? A. Yes.

Q. And you considered yourself ill-treated, too; that is true, isn't it? A. Yes.

Q. Now, will you tell me, if your mind was in that attitude, why you did not have the nerve to write? A. I didn't think he wanted to hear from me when he was so provoked.

Q. Well, did you blame him for being cut up over the fact that you hadn't met him at the train? A. Yes.

Q. You did blame him? A. Certainly.

Q. It was not justified? A. No; I didn't know exactly when he would arrive; had he told me I would have been there on time.

Q. So that it was his fault? A. Of course it was his fault.

Q. Then why did you say in your letter "I can't blame you"? A. I don't recall why.

Q. What? A. I don't recall why it was put in the letter.

Q. Now, isn't it a fact that when he got there he found you in an intoxicated condition? A. No.

Q. This letter was written merely because he was cut up because you did not meet him at the train? A. Yes.

Q. Do you remember coming home from Savin Rock? A. Do I remember coming home from Savin Rock?

Q. Yes. A. Yes.

Q. Do you remember your coming into the Grand Central Station? Do you remember the incident?

THE COURT: Is that this same year?

MR. LANE: Yes.

A. I think so.

Q. You do? A. Yes.

Q. Do you remember Mr. Grundy meeting you there at the Grand Central? A. I don't remember that.

Q. Do you remember any of the incidents with respect to you rcoming home? A. From Savin Rock?

Q. Yes. A. I only came home once; I went once and came home once.

Q. Well, do you remember that Park— A. Park was with me when I came home.

Q. Are you sure of that? A. Certainly.

Q. Don't you remember that Park left you in Savin Rock a couple of days before you came home? A. He never did; that boy was always with me; he never left me.

Q. Are you swearing because he was always with you, or are you swearing because he was with you at this particular time? A. He was with me at Savin Rock.

Q. But did he leave before you? A. No. He never did.

Q. Do you remember when you came home from Savin Rock you were ill? A. I had had malaria the week before I came back, but my Park was with me when I came home, he was with me all the time.

Q. Do you remember you were ill over at the Grand Central Station? A. No.

Q. And do you remember your husband coming over there for you? A. He may have met Park and I.

Q. Don't you remember that when he got over there he found you in an intoxicated condition, with your face all cut up? A. No.

Q. Did that ever occur? A. (No answer.)

Q. Do you remember an incident of that kind ever happening? A. That wasn't coming from Savin Rock.

Q. Where was it coming from? A. That was coming from visiting this same friend, a friend of Mr. Grundy's and mine.

Q. When was it? A. I don't know the year.

Q. Well, what was that incident; what happened? A. I had stumbled on a rug in a friend's house in coming from one room to the other, on a curled-up rug.

Q. Where did your husband meet you? A. At the station.

Q. What station? A. Grand Central.

Q Was it at the Central or was it at the Pennsylvania? A. Grand Central.

Q. Where were you when you got to the Grand Central, when your husband arrived? A. Where was I at the Grand Central? At the Grand Central.

Q. The Grand Central is a big place; you were in the hospital, weren't you? A. No.

Q. Weren't you in the Emergency Hospital in charge of a nurse? A. No, in the ladies' room.

Q. In charge of a nurse? A. No.

Q. What was the matter with you? A. I felt faint when I arrived in there.

Q. Faint? A. Yes, and I went to the ladies' room.

Q. How long had you been waiting for your

husband? A. I don't remember.

Q. Did you telephone for your husband? A. I think so.

Q. Are you sure? A. I am not sure; I think I did.

Q. Where did you come from? A. New Haven; West Haven.

Q. When had you cut your face? A. Several days before.

Q. Several days before; what caused you to faint when you got to the Grand Central?

MR. HEYMAN: She didn't say she fainted.

THE COURT: She said she felt faint.

Q. What caused you to feel faint? A. The car ride always sickens me, always.

Q. It had nothing to do with the cut on the face? A. That possibly may have added to the sickness.

Q. But the cut on the face took place two or three days before, hadn't it? A. Yes.

Q. Do you say this fainting spell had anything to do with the cut on the face? A. It may have upset me I was greatly upset over it; it was very sore.

Q. You rode all the way from West Haven to New York, then you felt faint when you got to New York? A. I was sick on the train; I was always getting car-sick when I ride on the train.

Q. You telephoned to your husband, is that right? A. Yes.

Q. Then he came over? A. Yes.

Q. There was no trouble on that occasion? A. Trouble?

Q. Yes, trouble; didn't he say that you were intoxicated? A. He did not.

Q. Has he ever said you were intoxicated? A. Oh, yes; he said it many times.

Q. Didn't he say it on this occasion? A. He may have; I don't remember; it was said to me so much I don't remember.

Q. He said it to you so much; when did he start to say it to you? A. Years ago.

Q. And has continued it up until this time? A. Yes.

Q. In 1917, or rather in the Summer of 1918, he told you that he would not have anything further to do with you in a sexual way unless you stopped your drinking, didn't he? A. He did not.

Q. He never said that? A. He never told me that.

Q. Never told you that? A. Never.

Q. He did tell you that he would not have anything to do with you in a sexual way? A. He did not.

Q. He never did? A. He never told me that.

Q. He did not? A. No.

Q. Why, I thought you told us the last time you were on the stand— A. I didn't tell that on the stand.

Q. I thought you told us the last time you were on the stand that you had endeavored to get him to have sexual intercourse with you and that he persistently refused? A. In 1918.

Q. I said in 1918. A. You said 1917.

Q. He did refuse, didn't he? A. Not up until July, 1918.

Q. He did refuse in 1918, didn't he? A. Yes.

Q. And he told you he would not have anything to do with you in a sexual way, didn't he? A. No, he didn't tell me that.

Q. What did he tell you? A. He never said he would not do anything of the sort.

Q. What did he tell you? A. He said he was

through with me, he loathed the sight of me, to not bother him, to get out of his room; but he did not say anything about sexual intercourse.

Q. Well, didn't you assume that it had reference to sexual intercourse?

MR. HEYMAN: I object to that, if your Honor please, to any assumptions or any conclusions on the part of the witness.

THE COURT: I will take the question.

A. I couldn't say.

Q. What did you think he meant?

MR. HEYMAN: I object to that, if your Honor please, on the same grounds.

THE COURT: I will take it.

A. I don't know what I thought he meant at the time.

Q. What do you think he meant now?

MR. HEYMAN: I object to that, if your Honor please, on the same grounds.

THE COURT: I will take it.

A. I couldn't say.

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

Q. You don't know what he meant, haven't any idea, at the time, as to what he meant when he said he was through with you and loathed the sight of you; is that right? A. He ceased to love me, perhaps, I may have assumed he meant that.

Q. Did he give any reason for it? A. No.

Q. Had he ever told you that unless you stopped your drinking that thing would happen? A. I don't remember.

Q. You don't remember whether he ever did or not? A. No.

Q. May he have told you that? A. I can't say.

Q. Then you won't deny but that he did tell you? A. I can't deny or affirm.

Q. Didn't he tell you that in letters written to you? A. He prepared his letters very carefully.

MR. LANE: I move to strike that out.

THE COURT: Strike it out.

Q. (Last question repeated). A. He may have.

Q. What was your reply? A. I can't remember.

Q. What? A. I don't remember.

Q. I show you a letter and ask you whether it is in your handwritting? Is it? A. It looks like it.

(Letter marked Exhibit P-3 for identification).

Q. What did you mean in this letter when you said, "I sincerely regret the past few years have been so unhappy"?

MR. HEYMAN: If your Honor please, I object to that.

MR. LANE: Wait until I get through.

Q. "—but trust that the remaining years your cup of bliss and happiness will be filled to overflowing with one perhaps more worthy"?

MR. HEYMAN: I object to that, if your Honor please, on the ground that if he wants to use any part of the letter he should use the whole thing.

THE COURT: I will overrule that objection. I think the witness ought to see the letter.

MR. LANE: I submit that the witness is

not entitled to see it unless the witness says she can't tell without looking at the letter.

THE COURT: She is entitled to see what you read from.

MR. LANE: Oh, certainly.

THE COURT: That is what I mean.

Q. Now, Mrs. Grundy, I hand you that letter in that way? A. Why not read it all?

Q. Can't you read that part of it first? A. Do you wish me to answer this?

Q. Just read it. A. (Witness examines letter as directed).

Q. (Question repeated, as follows): What did you mean in this letter when you said,, "I sincerely regret the past few years have been so unhappy, but trust that the remaining years your cup of bliss and happiness will be filled to overflowing with one perhaps more worthy"? A. His unhappiness was caused probably by Mr. Grundy's children being—our entire married life being so terribly upset, his continued cold treatment of me, I perhaps thought I was not worthy he considered I was not worthy of his love, I was putting myself in such a low position, I thought he could have somebody else that was more worthy of him.

Q. But, as a matter of fact, when you wrote that letter, you considered yourself worthy, didn't you? A. I considered myself so.

Q. Yes, and nothing had been done which would put you in an attitude of mind that you actually considered yourself unworthy? A. I didn't consider myself unworthy, but I considered he thought so, he thought I was unworthy.

Q. That is what you mean by this expression in the letter? A. Yes.

Q. It was not intended to convey the idea that you considered yourself unworthy was it? A. Not at all.

THE COURT: Is that letter dated?
MR. LANE: Dated July 9, 1914.

Q. In your letter that expression was not considered by you to imply that there was any fault attributable to you? A. No, I never considered myself unworthy of Mr. Grundy.

Q. No more than the letter you wrote before in 1911, that was not intended to imply that you were guilty of any fault, was it? A. No more than to imply that he was guilty with me.

Q. In May, 1918, did you live at 57 Clinton Avenue? A. I think so.

Q. Mrs. Mildred B. Smith did not live at that address, did she? A. I don't remember.

Q. You don't know? A. I don't remember when she moved.

Q. What? A. I don't remember when she moved.

Q. Well, was Mrs. Smith in the habit of receiving her mail at your house?

MR. HEYMAN: I object to that, if your Honor please, on the ground that it has not been shown that this witness knows whether Mrs. Mildred Smith ever received any mail at all.

THE COURT: I will take the question.

A. There may have been some letters came there for her; I don't remember.

Q. Did you ever have an agreement with her, by which you were to receive letters addressed to her, and then hand them over to her?

MR. HEYMAN: Now, if your Honor please, I want to object to this, on the ground that it hasn't any bearing whatsoever on the question of whether or not this defendant committed adultery I don't see how any questions to her as to whether or not this defendant received mail for somebody else has got to do with the issue here. What difference would it make on the question whether this defendant was guilty of adultery?

THE COURT: At this moment I don't see the bearing on this at all.

MR. HEYMAN: I don't understand how a question of this kind—

THE COURT: I assume counsel has some purpose in asking the question, and if it has no relation you may move to strike it out and I will strike it out. At present I don't think it has any bearing.

A. I can't recall; I may have and I may not have.

Q. Do you remember now, whether in 1918, which is only a period of a year ago, you ever received any letters—

MR. HEYMAN: Two years ago.

Q. Two years ago. I beg pardon; time flies—you ever received any letter at your house for Mrs. Smith and handed it over to her?

MR. HEYMAN: If your Honor please, I submit the same objection.

THE COURT: I will take it the same way.

A. I can't remember.

Q. You can't remember? A. No.

Q. You remember no specific instance, now, do you? A. No.

Q. You do not? A. No.

Q. I show you an envelope and ask you whether you recognize the handwriting on the envelope? A. No.

Q. Now I show you a letter and ask you whether you recognize that handwriting? A. No.

Q. You do not? A. No.

Q. You have never seen it before or anything that looks like that? A. No.

Q. Do you know any person in Washington whose initial is C.? A. No.

Q. Never knew anybody in Washington whose initial is C.? A. Never knew anybody in Washington.

Q. Now I show you this envelope again, which I will have marked P-4 for Identification, and ask you whether you ever saw that envelope before? A. I don't remember.

Q. Well, look at it? A. I don't remember.

Q. Think again; take your mind back.

MR. HEYMAN: I submit the witness has answered that question three times.

Q. Refresh your recollection if you can; the letter is postmarked as having gone through the United States Mail in May of 1918, and it is addressed to Mrs. Mildred B. Smith, 57 Clinton Avenue, and it is care of Mrs. G. H. Grundy, and I ask you under those circumstances to think whether or not you ever saw that envelope before? A. I don't remember of having seen it.

Q. Would you say that you did not see it before? A. I simply say I don't remember.

Q. You may have seen it before then? A. I said I don't remember.

Q. You may have seen it before? A. I couldn't say.

New Jersey State Library

Q. Do you know why it was addressed that way, that Mrs. Smith's mail in May, or what purported to be Mrs. Smith's mail in May, 1918, was addressed to your house in care of you? A. I can't answer that question.

Q. You have no recollection of a coincidence of that kind at this time? A. No, I have not.

Q. It would be an unusual thing, wouldn't it? A. Unusual.

Q. Yes. A. What would be an unusual thing?

Q. To have Mrs. Smith's mail addressed to your house in care of you? A. Not necessarily.

Q. Why shouldn't it be addressed to her own house? A. Mrs. Smith could best answer that question herself.

Q. I am asking you, not Mrs. Smith. A. I can't answer for Mrs. Smith.

MR. HEYMAN: I object to that, if your Honor please, on the ground that the witness has answered the question, and it calls for a conclusion.

Q. Well, it was addressed to her in care of you and it was delivered, according to the postmark; it is not care of Mr. Grundy, it is care of Mrs. Grundy, so that your name is in it; now I ask you how or why that should have happened, if you know?

MR. HEYMAN: I submit, if your Honor please, that that question has been answered three times.

THE COURT: I think not; I will take the question.

A. I can say nothing except I can't answer for Mrs. Smith.

Q. Well, but you can answer for yourself; it

was addressed care of you? A. That letter was liable to have been put in Mrs. Smith's box though formally it should have been put in my mail.

Q. It was addressed care of you? A. That doesn't make any difference; I didn't receive the letter that I can recall now.

Q. So that you know no reason at this time why Mrs. Smith's mail should be addressed in care of you at that time? A. I can only give you the same answer, I can't answer for Mrs. Smith.

THE COURT: The question is, do you know any reason yourself why it should have been addressed in this way.

A. Mrs. Smith and I were friends, there were probably little understandings we had, there were people who would call her on the telephone even after she moved, and she would tell me not to say anything about it and I don't propose to tell Mrs. Smith's affairs.

Q. You are going to tell Mrs. Smith's affairs so far as they are relevant to this case. Is there any reason that you now have, whether it involves Mrs. Smith or whether it does not involve Mrs. Smith, I want the reason why this letter was sent to you, if you know it? A. I don't know.

Q. Now, what was the little understandings that you might have had, if there were any? A. Mrs. Smith has asked me to receive mail, she has asked me to take telephone messages to her, and she has asked me to promise not to tell whether she was at my house.

Q. Yes; any more? A. I can't remember.

Q. Did she ask you to receive mail addressed care of you? A. I don't remember; she may have.

Q. I show you two pieces of paper which I have marked P-5 and P-6 for Identification, and I ask you whether you recognize the handwritting? A. No.

Q. I ask you whether you ever saw them before? A. I don't remember.

Q. Do you remember tearing them up? A. No, how could I, if I didn't have them?

Q. Is there any reason that you can now recollect, why mail of Mrs. Smith's should be in your bureau? A. That could be done very easily

Q. How could it be accounted for? A. It could have been placed there.

Q. By whom? A. I have no idea who.

Q. Would you place it there? A. I don't rememeber whether I ever did.

Q. Would you place mail addressed to Mrs. Smith in care of you in your bureau? A. I may have.

Q. And leaving it there without delivering it? A. No, she may have received her letter or I may have kept it for her.

Q. She may have received it or you may have kept it for her? A. I don't remember.

Q. Well, do you remember ever having kept a letter for her that she had received and then keeping it in your bureau? A. I said I may have.

Q. Do you remember any incident in which you did; I am not asking for may-haves? A. I don't remember now.

Q. Do you know of any reason why any mail addressed to her in May of 1918, should be kept by you until September of 1919? A. It may have been left there and forgotten; she may have forgotten; I may have forgotten; I don't remember anything about it.

Q. Do you know of any reason why these two papers that I have had marked for identification P-5 and P-6 should be in your bureau? A. I don't remember anything about those papers.

Q. Do you know, or can you tell us now, any reason why they should be in your bureau? A. I don't remember that they were ever in my bureau.

Q. I am not asking you if they were; I am not saying they were; I say, is there any reason why they should be, if in fact they were? A. Only for the reason I stated before.

Q. That is the only explanation you can give? A. Yes.

Q. You have no recollection of this particular letter? A. I have not.

Q. You have no recollection of P-4 for Identification or of these two torn pieces of paper, P-5 and P-6? A. No.

Q. You don't know anybody in the City of Washington? A. I do not.

Q. You don't know anybody in the City of Washington? A. No, sir.

Q. You don't know anybody whose initial is C.? A. No.

Q. In the City of Washington or elsewhere? A. Yes.

Q. You say you know Clark? A. Yes.

Q. Now, don't speak too quickly; you know Clyde? A. Mr. Grundy knows Mr. Clyde.

Q. I didn't ask you that; I am asking you to be careful about your testimony; I am asking you whether you knew anyone and you said you did not; you say you know Clark; you do know Clyde; you do know Charley, don't you? A. I can't go over the list of people I know and tell you now right off.

Q. I am asking you whether you know any man whose initial either sur-name or Christian name, is C.? A. I may have and I may not.

Q. Do you know what Clark's first initial is,—his first name? A. Yes.

Q. What is it? A. Harry.

Q. Do you know what Clyde's first name is? A. Yes.

Q. What is it? A. Robert M., because I know Mrs. Clyde, I have talked to her many times.

Q. Did you testify that you knew a man named Charley? A. No.

Q. Do you know a man named Charley? A. I don't recall now that I do.

Q. You don't know, or didn't know in May, 1918, of anyone in the City of Washington? A. Not that I remember; no, I did not.

Q. At least none in the City of Washington with whom you had correspondence? A. No.

Q. Do you know a man by the name of Heller? A. No.

Q. Do you know a man by the name of Keller? A. No.

Q. Do you know any man by the name of Hartman? A. No, I do not.

Q. Louis Hartman? A. No.

Q. A doctor connected with the City Hospital? A. No, I do not.

Q. I show you a photograph and ask you whether you recognize it, not the photograph but the original of the photograph, whether you recognize that as the photograph of a person whom you have seen? A. I don't know that gentleman at all.

(Photograph marked Exhibit P-7 for Identification).

Q. So far as you know you never saw that

gentleman, is that right? A. I don't know that gentleman.

Q. You never went out to dinner over in New York— A. Certainly not.

Q. With that gentleman? A. Certainly not.

Q. That gentleman, so far as you know, is not Mr. Hartman, is it? A. What is it?

Q. I say, that gentleman is not, so far as you know, Mr. Hartman, is it? A. I couldn't tell you.

Q. Did you, during the years 1916 or 1917, ever go out in parties with an interne of the Jersey City Hospital? A. I never did.

Q. Or a man whom you knew as an interne in the Jersey City Hospital? A. I never did.

Q. Mrs. Grundy, after this affair in September 15th—

THE COURT: You mean last year?

Q. Of 1919; you had a conference with Mr. Grundy and Mr. Townsend, didn't you? A. I beg your pardon; when after September 15th?

Q. (Last question repeated). A. That same night, September 15th.

Q. Now, do you remember what was said? A. Mr. Townsend had a paper already prepared which he gave me to sign; in that paper—that is not necessary—but I look the paper over, I said, before I sign it I wanted to study it carefully, and that was the paper I went to Mr. Van Winkle with, and he said—

THE COURT: Never mind what he said

A. So I didn't sign the paper. Mr. Townsend came up later with Mr. Grundy's signature on the paper that he carried, I said "I am not ready to sign it" but he, Mr. Townsend, brought a check from Mr. Grundy at the same time, but I didn't sign the paper.

Q. Well, during that conference were the facts discussed? A. What facts?

Q. As to what it was charged you had done? A. No, there was no accusations of any kind.

Q. Nothing was said? A. Nothing was said.

Q. As to what had happened? A. Not one word.

THE COURT: Don't answer too quickly, Mrs. Grundy; you are entitled to hear the whole question before you answer it.

Q. Nothing was said with respect to what had happened? A. Not a word.

Q. Did they charge that you had done anything? A. Not a word.

Q. No explanations were made by you with respect to that? A. No.

Q. There wasn't any discussion of your guilt or innocence? A. Nothing, only an expression—

Q. There wasn't anything said with respect to your guilt or innocence, is that right? A. No.

Q. At no conference that you had with Mr. Townsend, was there anything said about your guilt or innocence, is that right? A. There was nothing said of being guilty of any offense.

Q. I am not asking you whether there was anything said about your guilt; was the question discussed as to the facts, whatever they might be? A. No.

Q. Never? A. Not with me.

Q. Neither in your house nor in Mr. Townsend's office, is that right? A. No, except Mr. Grundy was going to get a divorce, which he had told me earlier in September, he was going to divorce me.

Q. But there was nothing said at any talk between Mr. Grundy and you, at which Mr. Town

send was present, with respect to what Mr. Grundy charged you, is that right? A. No, there was nothing said.

Q. Never? A. The only time—that wasn't in Mr. Townsend's presence— the only time Mr. Grundy came to my room when we talked this matter over, he said, "Do you want me to bring Park down here to your room for him to tell you what he saw?" I said, "Yes, I wish you would", but he never brought him.

Q. Now, was there any talk—I repeat it—was there any talk at any time between you and Mr. Grundy, at which Mr. Townsend was present, at which this matter was discussed? A. The affair was discussed, but I was not accused.

Q. I mean in which the question as to whether you were guilty or whether you were innocent was discussed? A. It was not discussed.

Q. You never gave any explanation to either Mr. Townsend or Mr. Grundy, that is right, is it? A. What explanation was I to give?

Q. You never gave any explanation? A. About what?

Q. About either the Evans incident or the Levine incident? A. I talked with Mr. Grundy before, when he said—

Q. When Mr. Townsend was present?

MR. HEYMAN: If your Honor please, I think the witness should be permitted to testify.

THE COURT: She should be. The witness should have time to answer.

MR. HEYMAN: I submit the witness should be permitted to answer that question without interruption.

MR. LANE: She undoubtedly should be

permitted to answer it, but the question is whether she was answering it.

THE COURT: This has reference to the time Mr. Townsend was present.

Q. (Last question repeated). A. No.

Q. So it was never discussed with Mr. Townsend? A. That affair was not discussed.

Q. It was not discussed? A. Accusing me.

Q. In any talk? A. Of being guilty.

Q. Was anything said in which the name of Evans or Levine was used? A. No.

Q. As I understand it then, you said when Mr. Townsend was present, on no occasion was the name of Evans or Levine used, is that right? A. The first I knew of it was when I received the second paper on the 25th of September, that I was accused of anything.

Q. Well now, Mrs. Grundy, your own husband, according to your own testimony, had told you before you had your talk with Mr. Townsend, that he was going to get a divorce? A. He didn't say on what grounds; when I asked him upon what ground he said, "Do you want me to bring Park up to you"? and I said, "Yes, bring him up."

Q. That didn't tell you what grounds? A. Certainly not.

Q. You were absolutely unsuspicious that you were charged with adultery? A. Certainly.

Q. Until you received this paper? A. Certainly.

Q. Nothwithstanding what your husband had told you and notwithstanding what had happened with respect to the Evans or the Levine incident? A. Mr. Grundy didn't accuse me.

Q. You had no suspicions that he was accus

ing you of adultery when he said that he was going to get a divorce against you? A. I heard that so many times that it didn't surprise me when he even uttered it then, it was no surprise at all.

Q. You didn't have any such suspicion when he left you? A. He didn't leave until the 10th.

Q. Yes. A. Then I supposed it was an expression, because he wanted to move and break up that home for some time, and I thought well, it is the man's expression, but nothing was said of divorce except what he said, as he always had, "I am going to divorce you", nothing about filing, as I said before.

THE COURT: That was the 10th of September.

MR. LANE: The 10th of September Mr. Grundy left.

Q. Again I ask you, there was nothing said between you and Mr. Grundy in Mr. Townsend's presence, or between you and Mr. Townsend, with respect to the Evans incident? A. Not until I received that second paper on September 25th.

Q. Now, don't you remember that on the occasion that Mr. Townsend and Mr. Grundy came up to your apartment, that there was this talk about this divorce, or this expression that you call it, that you said to Mr. Townsend or to Mr. Grundy, that Park lied and that Evans and Levine were never there? A. I never said that; I never did.

Q. Didn't you deny at the very first conference that you had with Mr. Townsend and Mr. Grundy, that there was no man there at all at the time Levine was there? A. I never denied that they were in the house; I never did.

Q. And didn't you say that Park lied? A. I didn't say Park lied; I never denied that the men were there, for they were there.

Q. Did you tell Mr. Grundy and Mr. Townsend the man's name? A. I don't remember.

Q. Didn't you say that you didn't know the man's name? A. I don't remember; I may have said the beerman; I don't remember whether I mentioned names or not.

Q. Now, didn't you say the beer man? A. I may have said the beer man, yes.

Q. What did you say with respect to the beer man? A. About the bringing up of—

Q. When did you say it? A. I don't remember.

THE COURT: Let the witness finish.

Q. What did you say about the beer man now? A. To whom?

Q. To Mr. Townsend? A. I don't remember now.

Q. Well, did you say anything to him about it? A. I don't remember whether I did or not.

Q. When did you say it? A. I don't remember, I said.

Q. Do you remember a few moments ago saying that you never said anything, that there was nothing said between you with respect to your innocence or guilt? A. That wasn't the occasion of their visit; I said I was not accused of any offense when these men were up there, they never accused me at all; the first I knew I was accused was when I received that paper, the second one.

Q. I didn't ask you that.

MR. HEYMAN: If your Honor please, she has answered that. He said was there any question of your guilt discussed at the time

Mr. Townsend was there and the witness answered; that is her answer. I submit that was an answer.

Q. I asked you before whether there wasn't any discussion between you and Mr. Townsend and Mr. Grundy, when those facts were discussed? A. They were not.

Q. Now, they were, according to the testimony that you now give, because you say that you talked to Mr. Townsend about the beer man. What did you say about the beer man? A. I didn't talk to Mr. Townsend about it.

Q. A moment ago you said you did not remember. Do you remember, or not? A. I said I don't remember having spoken at any time. You told me about the beer man; you said I denied that he was there; I didn't deny it.

Q. Did you discuss it at all? A. There was no discussion as to my being guilty.

Q. Did you talk about it? A. No, not that I remember of.

Q. Now, is it that you don't remember that you talked about it, or do you remember that you didn't talk about it? A. I don't remember that I talked of anything else except that he was there; I never denied that the two men were there. I never did.

Q. Did you say that the two men were there at a talk which you had with Mr. Grundy and Mr. Townsend? A. I may have; I don't remember of talking to Mr. Townsend or Mr. Grundy about either of those gentlemen, except they were in the house; there was nothing further, no further discussion, to my best recollection.

Q. What conference was it, the first or second conference, or in the conferences in Mr. Town-

send's office, that you said that? A. Said what?

Q. That you said that the men were in the house. You did say that there was one occasion? A. I don't remember having denied it.

Q. I am asking whether you said it, not whether you denied it. A. I don't even remember the discussion.

Q. Well, will you say there was no discussion? A. I won't say whether there was one or wasn't.

Q. But a few moments ago you said the facts in the case were not mentioned at all, at any time when Mr. Townsend was present? A. To my knowledge it wasn't.

Q. They may have been? A. I can't say.

Q. Isn't it a fact that you told Mr. Townsend that those two men were in that apartment? A. I never denied it; I don't know that he asked me.

Q. Did you tell him that they were there? A. I don't remember that; if he asked me I did not deny it.

Q. You remember what you said, or whom you said Evans was? A. To whom?

Q. To Mr. Townsend? A. No.

Q. Did you tell Mr. Townsend whom Evans was in Mr. Grundy's presence? A. Who he was?

Q. Who he was; what his business was? A. No, I don't think so.

Q. May you have? A. I don't think I ever mentioned it.

Q. Don't you remember that on the second occasion that Mr. Townsend and Mr. Grundy were there that you told Mr. Townsend that Evans was a real estate man, and that he was— A. I never did.

Q. Just a minute until I finish.

THE COURT: Don't answer so quickly.

Q. —that he was a real estate man and that he was looking for an apartment for you? A. I never recall, because I knew Mr. Evans was never in the real estate business.

Q. Yes; did you say that to Mr. Townsend, whatever you may have known? A. I never told anyone Mr. Evans was in the real estate business, because he wasn't.

Q. Is that the only reason why you know you didn't tell it, or do you recollect? A. That is the only.

Q. Do you recollect discussing Mr. Evans with Mr. Townsend? A. I haven't much recollection of it.

Q. On the second occasion that Mr. Townsend and Mr. Grundy were there in your front parlor; now, do you recall the occasion, first off? A. The second occasion?

Q. Yes. A. (No answer).

Q. Now, let me get these things in sequence if I can. The first time you saw Mr. Townsend and Mr. Grundy together was a few days after the Levine incident, was it not? A. Yes.

Q. It was before the Evans incident? A. Yes. Mr. Townsend came up with Mr. Grundy and I would not speak to him; he came in my bedroom, I said I don't care to talk to you; I had talked to Doctor Opdyke before that; I said, "Mr. Grundy wants me to talk to Mark." He said, "You don't want to see a lawyer, do you?" I said, "No."

Q. Are you trying to tell the conversation between you and Doctor Opdyke? A. I told Doctor Opdyke of my—

Q. Is that what you refer to, the conversation between Doctor Opdyke and you? A. Yes, on the 17th.

MR. LANE: I move to strike that out.

Q. Go ahead; what did you tell Doctor Opdyke?

MR. HEYMAN: I object to any conversation held between Doctor Opdyke and the witness.

Q. What did you say to Doctor Opdyke? A. That Mr. Grundy had brought Mr. Townsend—Mr. Mark Townsend to see me and he said, "You don't want to see a lawyer" Doctor Opdyke knew my family affairs, because I felt toward Doctor Opdyke as I would to my own father, I have nobody here, I am absolutely alone, I have no brothers or sisters, I have no relatives here, and I talked and confided in Doctor Opdyke, he is a wonderful man.

Q. What did he tell you? A. He said, "You don't want to see any lawyer" and he said "Did you talk?" I said, "No, I had no conversation with Mr. Townsend at all," and neither I did.

Q. What elese did he say? A. They left the room.

Q. What else did Doctor Opdyke say? A. I don't remember.

Q. He advised you not to talk with Mr. Townsend?A. He advised me not to talk to any lawyer.

Q. He advised you not to talk to Mr. Townsend? A. He said to any lawyer.

Q. Did he advise you not to talk to Mr. Townsend? A. He said I didn't want a lawyer.

Q. What? A. He said "You don't want to talk to any lawyer."

Q. He didn't refer particularly to Mark Townsend? A. I mentioned Mr. Townsend's name.

Q. To him? A. Yes.

Q. You knew that Doctor Opdyke was Mark Townsend's father-in-law, didn't you? A. Yes;

Doctor Opdyke was my physician long before Mr. Townsend was his son-in-law.

Q. Then you knew Mr. Townsend pretty well, didn't you? A. Yes.

Q. Didn't you, as a matter of fact, tell your husband before that first interview, that you would talk with Mr. Townsend? A. No, I did not.

Q. You were utterly surprised when they walked up there? A. I was, because it was in the morning early.

Q. What time of day was it when they came in? A. It was before I was up.

Q. What time? A. I couldn't tell you; it was early in the morning.

Q. Half past nine or ten, wasn't it? A. I couldn't tell you.

Q. They came together? A. They did not; Mr. Grundy was in the house.

Q. Mr. Townsend came alone? A. Mr. Townsend came alone.

Q. Isn't it a fact that you were too much under the influence of liquor to talk to anybody at that time? A. How could I be, in the morning.

Q. Were you? A. I was not.

Q. Isn't it a fact that you were under the influence of liquor to such an extent that you could not talk at that time? A. Absolutely no.

Q. And didn't Mr. Townsend go in and find you in that condition? A. He did not.

Q. When was the second? A. September 16th.

Q Was that before the Evans incident? A. That was after, the same evening.

Q. The same evening it happened? A. That Mr. Evans brought the barrels up.

Q. You talked to him then, didn't you? A. Mr. Grundy and Mr. Townsend came up then.

Q. You talked to him then, didn't you? A. Yes.

Q. What had changed your mind with respect to talking?

MR. HEYMAN: I object to that, if your Honor please. I don't think it is fair to ask this witness what changed her mind about talking to a lawyer. I object to that.

THE COURT: I will take the question.

A. Mr. Grundy left the house entirely.

Q. Yes; well, you talked to him on that occasion? A. I talked to him on September 15th.

Q. That conversation took place in the front parlor, didn't it? A. Yes.

Q. There were present Mr. Grundy, yourself, Mr. Townsend? A. Yes.

Q. And that was rather an important conversation from your point of view, wasn't it? A. It was very serious.

Q. What? A. It was very serious.

Q. So that you remember what took place at that conversation, don't you? A. I think so.

Q. Park was there in the first place, wasn't he? A. Not in the room.

Q. In the house? A. He came in and went right out again; I didn't see him.

Q. Didn't you know he was there? A. I heard him come in.

Q. Didn't you say something when he come in? A. I didn't see Park.

Q. I didn't ask you whether you saw him; didn't you say something when you heard him come in? A. I don't recall that I did.

Q. Didn't you refer to him, when he came in, when you heard him? A. That he came in, I said "That is Park."

Q. What? A. That is Park.

Q. Didn't you say when he came in, that he was a liar? A. I did not.

Q. And when you said that wasn't he ordered out? A. No such thing ever happened.

Q. Nothing of that kind ever happened? A. No.

Q. And what did you discuss then? A. We discussed nothing but this paper that Mr. Townsend had.

Q. Do you remember Mr. Townsend ordering Park out? A. No.

Q. How did Park happen to come there; did he come in and walk out again? A. Mr. Townsend never left the front room.

Q. I didn't ask you that. A. He didn't see Park, unless they met at the club.

Q. I didn't ask you that. How did Park come in; did he just walk in and walk out again? A. He had done that on numerous occasions from the time he left the house, he was in and out again.

Q. How long was he in the house this night? A. I couldn't say how long; not long.

Q. You heard him come in? A. Yes.

Q. Did you hear him go out? A. Yes; his father got up and went over from the living room to the bedroom where Park was, in their bedroom, their former bedroom; Miss Halverson was sitting in the kitchen; Mr. Grundy evidently came out after talking to Park and he stood in the kitchen and spoke to Miss Halverson as I mentioned, and later he came out into the living room and Mr. Townsend and he talked again; they said nothing to me; then they said, "We will be late, this is bowling night at the club, we will go over and bowl, we are late now" and they

both left the house; Park had already gone; I didn't see Park that night they left the house.

Q. You didn't hear Mr. Townsend tell Park to go? A. Mr. Townsend did not see Park that night.

Q. Did you hear him tell Park to go, whether he saw him or not? A. Mr. Townsend could not talk with Park because Mr. Townsend never left the living room; Park was at the other end of the apartment.

Q. How long were Mr. Townsend and Mr. Grundy there together? A. I couldn't say definitely; perhaps half an hour.

Q. Or more? A. It may be; maybe less; I couldn't say.

Q. Evan's name wasn't mentioned? A. No.

Q. The beer man was not mentioned? A. No names were mentioned.

Q. No names were mentioned? A. No, no names were mentioned.

Q. Nothing was said? A. Nothing except what Mr. Grundy would allow me; I said I couldn't live on that amount of money.

Q. This was the date that the Evans incident happened, wasn't it? A. The day Mr. Evans was up to my house helping me, assisting me to get ready to move, yes, on the 15th of September.

Q. It was the evening of that day? A. Yes.

Q. Park had told his father, had he not? A. I don't know what he told his father.

Q. So far as you know at that conference, his father did not know about the Evans incident, is that right? A. So far as I know, I don't know whether he knew or didn't know it; the boy came in, he spoke with the boy and the boy went out again, Mr. Grundy came back in the living room, he said nothing about Park at all.

Q. So that from what you gathered from the conversations you could not tell whether Mr. Townsend or Mr. Grundy had ever heard of the incident that happened a few hours before, is that right? A. I don't know; they came in the house that evening together, I thought evidently Park had been with his father.

Q. So far as anything was said in your presence, you could not tell whether Mr. Grundy and Mr. Townsend had ever heard of the incident that happened a few hours before; is that right? A. I don't know.

Q. Well, then, you couldn't tell, could you? A. How could I tell?

Q. Answer my question yes or no; could you or couldn't you? A. I could not.

Q. Nothing was said in any respect bearing upon that incident? A. Not while I talked with Mr. Townsend and Mr. Grundy in the living room.

Q. So far as you know, or so far as you could tell rather, from what was said at that time, you couldn't tell whether Park had told his father about the Levine incident, is that right? A. I don't know anything about what they talked of.

Q. So far as anything was said in your presence on that evening, you couldn't tell from what was said, that Park had ever told his father about the Levine incident, is that right? A. I don't think so.

Q. Well, what was said which might indicate that Park had told him about the Levine incident—that you remember, anything at all? A. There was nothing said that I can remember.

Q. So that the entire conversation, although it had to do with the drawing up of the separation papers which would result in separating you and

your husband, nothing was said between any of the parties as to the reason for it? A. No, except Mr. Grundy was going to get a divorce.

Q. But nothing was said at all upon what grounds? A. I don't know.

Q. So far as you know it might be any grounds? A. Anything.

Q. So far as you could tell from the conversation, it had no reference or might have no reference whatever to the Levine and the Evans incidents, is that right? A. He didn't say to me—

Q. I didn't ask you what he said to you; I am asking whether you could tell from the conversation or anything at all that was said by anybody at that conference, whether his course of conduct had anything to do with the Levine or the Evans incident? A. I couldn't say.

Q. You couldn't tell then from anything that was said? A. No.

Q. When was the third conference? A Mr. Townsend's office.

BY THE COURT:

Q. Mrs. Grundy, before we leave this part of the case I would like to have you tell us just what took place, just the conversation that took place on this night of September 15th, 1919; take your time and tell us what Mr. Grundy or Mr. Townsend said to you from the time they came in until they left. Take your time and state it carefully so that we may get the whole of the conversation. A. I don't know that I can remember.

Q. Tell all that you can remember, as well as you can remember. A. They came in—

Q. Who opened the conversation? A. I just can't remember now.

Q. Well, you said it was a serious occasion? A. Yes, it was serious.

Q. I would like you to tell us all that occurred. A. Oh, I think Mr. Townsend began—

Q. Yes. A. And said, George was talking to him about this separation and he had had him to draw up some paper and that—I can't recall now what he wanted with the paper—then he submitted this paper to me to read it over; I said, "Why this is strange," then I said, "I don't want to sign this paper until I study it more." Well, all right, they would give me a few days, but Mr. Grundy said—I said, "Oh, this thing must not happen, this is real tragedy, this separation." "Well," he said, "you know I have told you before I am going to divorce you." I said, "On what grounds?" I said, "Who told you that? I will go up with you to that beer man to prove that I am not guilty of anything at all," and he said, "I told you before, I am through", he would have nothing to do with it.

Q. That was Mr. Grundy? A. Yes.

Q. Go ahead. A. I am going to have this divorce. There were no accusations made.

Q. Not what was not said; what was said between you; give the words as nearly as you can give it, of the three of you. A. Why, he said he would make arrangements to give me one hundred dollars a month; I said I couldn't live on one hundred dollars a month myself. Well, Mr. Townsend said that was small enough, Mr. Grundy said, "Well, make it $125." Well, I said even that was small enough to pay rent and to maintain myself on, and Mr. Grundy said to Mr. Townsend, "I hate like hell to give her $125 to help support another man." I said, "Well, that is a very unkind remark for you to make, you know such a thing is not possible."

Q. Go ahead; take your time; in your own words tell as nearly as you can what took place. A. He said to Mr. Townsend it was time he had some happiness. Let me think now—

Q. Take your time and think. A. Naturally I was very upset, it is hard to remember in detail.

Q. Yes; I would like to get it as much as you can possibly remember about this conversation. A. However, he agreed, he said to Mr. Townsend to put down $125 but that was only pending, in case he was going to divorce me, in case any court awarded a decree of divorce I would not ask him for alimony or counsel fees, he would have that divorce, he intended to get it and he would get it, but he did not say or accuse me of anything; I thought of course that it would be a simple separation, that he was just in a temper and would eventually come in his right humor and we would come together again.

Q. Is that all that you can remember? A. That is as much as I can remember.

Q. Did you keep that paper? A. No, that is the paper when I went down to Mr. Townsend's office they asked me to give back, they said have you that paper with you, I said yes, so I took it from my bag and gave it up and Mr. Grundy told Mr. Townsend to destroy it.

By Mr. Lane:

Q. Now, when Mr.—let us see if I can't refresh your recollection; the beer man was then mentioned at that conference? A. By me, as I mentioned it before, when Mr. Grundy and I brought it up together, I said, "I wish you would please come with me to that beer man if that is what you refer to about getting a divorce."

Q. Now, don't you remember— A. But he refused absolutely.

Q. Don't you remember when Mr. Townsend came in that he told you that he represented Mr. Grundy? A. No, I don't remember.

Q. Do you remember that he said that he was in a position of representing Mr. Grundy and the position was a delicate one, or words to that effect? A. I don't think that he did.

Q. Well, may he have said something like that? A. He may have; I don't recall.

Q. Do you remember that he said that Mr. Grundy had come to the conclusion that he was going to get a divorce? A. I don't recall Mr. Townsend making that remark.

Q. And do you remember that you then said that the story of Park with respect to Evans was untrue? A. May I have that again?

Q. (Last question repeated). A. I never remember of saying any such thing.

Q. I am talking now about the conference after the Evans incident; do you remember that you said that Park was not telling the truth with respect to Evans? A. Mr. Evans being in the house?

Q. Yes. A. I never denied Mr. Evans was in the house; I never said that the boy was lying.

Q. Do you remember that Mr. Townsend said to you, "Now, no court—that is what you said with respect to the beer man and no court in the world is going to believe you," do you remember his using words to that effect? A. He said—I don't understand.

Q. Strike out that question. Do you remember Mr. Townsend then said, "That is what you said before, and no court in the world is going to believe you", or words to that effect? A. Mr. Townsend tell me that?

Q. Yes. A. Mr. Grundy told me that; Mr. Townsend never told me that.

Q. Mr. Grundy told you that? A. Mr. Grundy said no court will believe your word, he said, they will not take your word, for circumstantial—wait until I get that right—wait until I remember the word—compromising situations, that was the word he used, he said, no court will believe you, he said, it is against you; I said I can prove everything that you wish to accuse me of in this affair.

Q. Now you say that Mr. Grundy said that? A. Mr. Grundy said that to me.

Q. You are certain about that? A. I am positive about that.

Q. Are you certain that Mr. Townsend did not say that the circumstances were such as that no court would believe you? A. Mr. Townsend never told me that.

Q. He never told you that? A. He never did.

Q. Which was in reply to what you already said, as a result of that Mr. Grundy said that the circumstances were such as that no court would believe you? A. Because Park had seen the beer man there and because he later had seen Mr. Evans in the house.

Q. What had been said which led to that remark? A. I presume I was talking to Mr. Grundy about going down to see these people.

Q. Seeing what people? A. The beer man, when I asked him to go with me, I presume that is how the conversation began.

Q. Well, do you recall what took place, what you said just before one of these gentlemen said that no one would believe you? A. No, I don't recall now.

Q. Didn't Mr. Grundy say that that was what you had said before, or words to that effect? A. I don't remember that.

Q. May he have said that thing? A. I don't think so.

Q. Didn't Mr. Grundy say to Mr. Townsend that that was what you had said before, and that the circumstances were such as that no court would believe you, after you had said that Park hadn't told the truth about Evans? A. I never said that Park didn't tell the truth.

Q. Well, after you had said that Evans wasn't there then? A. I never said that Mr. Evans wasn't there.

Q. But after you said that a man wasn't there? A. That I said—

Q. That any man wasn't there? A. I never said there was no man there; I never did. Why should I?

Q. I didn't ask you that. What was it, if you can recall, what remark of yours was it that drew forth the remark of Mr. Grundy's that no one would believe you, the circumstances were such as that no one would believe you? A. Because Park found the beer man in the house and he found Mr. Evans there, he said that was evidence enough, that no court would believe me.

Q. Didn't you then say after that Mr. Evans was there but that he was a real estate agent looking for an apartment for you? A. I never did tell anybody that Mr. Evans was a real estate agent.

Q. Didn't Mr. Townsend then say to you, "Now, Ida, you can see for yourself what this means, no one is going to believe that? A. Mr. Townsend never said that to me.

Q. He calls you Ida, doesn't he? A. He probably did; but he never said that remark to me.

Q. And didn't you then say, "Well, what do you expect when a woman's husband won't have

anything to do with her"? A. I never talked of such a thing to Mr. Townsend.

Q. I didn't say you said that to Mr. Townsend; didn't you make that remark not once, but more than once? A. To whom?

Q. Either to Mr. Grundy or Mr. Townsend? A. I never did.

Q. Did you ever make that remark? A. No.

Q. Didn't Mr. Townsend say that he would not permit either you or Mr. Grundy to sign that paper? A. He did not.

Q. Wait a minute; because he wanted to see one of the Vice Chancellors before he did it? A. He never said such a thing.

Q. Was the word "Vice Chancellor" used? A. Never mentioned.

Q. Did he say he wanted to see somebody with respect to it? A. He did not.

Q. How many times after September 15th did you go to Mr. Townsend's office? A. I don't remember.

Q. Several times? A. Several.

Q. Didn't you discuss with Mr. Townsend several times in his office the facts in this matter? A. Mr. Grundy was present, Mr. Townsend phoned for Mr. Grundy.

Q. Weren't the facts discussed? A. Not in detail; what was discussed was about going to Reno, being sent to Reno; Mr. Townsend said he could make the arrangements for me to go to Reno.

Q. Your husband said that he was willing to support you so long as you lived, didn't he? A. Mr. Grundy has always said he would support me if I would put up no fight, if I did not fight him at all that he would support me, and he offered me $500 if I would lay down on the case, come down and say there was no defense.

Q. When did he tell you that? A. In my room.

Q. When? A. In about December.

Q. Where? A. In my room on Enos Place.

Q. What year? A. 1919.

Q. Last year? A. Last December, just before Christmas.

Q. Who was there? A. No one but Mr Grundy and myself.

Q. Didn't Mr. Grundy say that he would support you so long as you lived, provided you lived separate— A. Provided I lead a clean and respectable life.

Q. Provided you lived a clean and respectable life? A. I never led anything else.

Q. When did he say that? A. That was about in September, when they had made the affair in the paper that Mr. Townsend served on me.

Q. And Mr. Townsend was there when he said that, wasn't he? A. Mr. Townsend was present.

Q. Didn't he say that he didn't intend to have his money go to keep saloonkeepers? A. They would have had a fine living if they depended upon my money to keep them.

THE COURT: Strike out that answer.

Q. (Last question repeated). A. I don't recollect.

Q. Well, what did you think he meant when he said he would support you, provided you led a respectable life? A. I had no idea what he referred to.

Q. You didn't get indignant, did you? A. What was there to become indignant about?

Q. You didn't think there was anything to become indignant about, if a woman has led a clean and respectable life, to have her husband say to her "I will support you so long as you live a clean

and respectable life"? A. Mr. Grundy perhaps had made that remark before, I was accustomed to it, I paid no attention to it.

Q. So you were so accustomed to it that you paid no attention to it? A. No.

Q. When had he been telling you he would do these things if you led a clean and respectable life; when did he start to tell you that? A. I don't remember.

Q. You said it was a customary thing? A. Naturally I couldn't remember the number of times.

Q. When he started, what caused him to start to tell you that he would do that for you if you lived a clean and respectable life? A. I don't remember.

Q. A period of several years? A. I don't remember.

Q. Do you know what caused him to say that? A. No.

Q. What had you been doing which would cause him to say that he would do something for you if you led a clean and respectable life? A. Nothing that I know of.

Q. Did you ever get indignant when he made that remark? A. I never did much quarrelling with Mr. Grundy.

Q. What? A. I never did much quarrelling with Mr. Grundy; I would take it out crying by myself; I never allowed Mr. Grundy to see me weep; I would wait until he got out of sight and then I would perhaps cry all that day.

Q. It was in that paper, wasn't it, covenanted on your part that you would conduct yourself so that you would lead a clean and respectable life; that language was in the paper that you were asked to sign, wasn't it? A. In offering this $125 a month?

Q. Yes. A. Provided I would lead a clean and respectable life or until remarried.

Q. Yes, that was in the paper, wasn't it? A. That was in that paper.

Q. Did you get indignant about that being in the paper? A. Indignant?

Q. Yes. A. No, because I knew although the law,—I suppose, it was generally assumed it was in that paper.

Q. You know what a clean and respectable life means, don't you? A. It could mean a number of things, to live in a bath tub, if you please to be clean.

Q. That is what you think it means? A. Certainly, to be clean.

Q. That is the idea that you had when you read this paper? A. Eactly; that wasn't my idea, no.

Q. What was your idea of what he was asking? A. I said that sentence could be interpreted in a number of ways.

Q. I don't want any quibbling; I want your idea. A. I couldn't lead a different life than what I had been living, clean and respectable.

Q. You know then what clean and respectable life meant? A. Certainly.

Q. You know what a passage of that kind means in there? A. I presume I do.

Q. You know there was an implied statement in there that you had not been leading a clean and respectable life, don't you? A. Certainly not.

MR. HEYMAN: I object to that question; the paper speaks for itself.

THE COURT: I will take it.

A. It didn't imply that to my way of thinking it was simply a phrase that he used.

Q. Of no importance? A. I couldn't live any different than what I had been living.

Q. It was of no importance so far as you thought? A. No more than I have explained.

Q. When was it that Mr. Grundy first charged you with not having any back bone? A. Oh, that is frequently.

Q. When first? A. I don't remember now, but it was frequently done, he said to me I had no back bone or I would go long ago, what the H— was I sticking around there for, surely he had money enough to buy everything he wanted, he didn't need me.

Q. He was swearing, wasn't he? A. Yes, when he was provoked, he never was in good humor in the morning, his mother told me that when I cried right after we were married, she saw me crying, she said, Oh, don't mind that, he never was in decent humor all the time he was home. he never was in decent humor in the morning, so I grew to know what to expect, it was nothing unusual to take all sorts of insults.

Q. What did you think he meant when he said that you didn't have any back bone? A. Just what he said.

Q. Well, what did it have reference to? A. Well, I suppose because I wouldn't pack up and move, I didn't have back bone to go out and do for myself, that is what he wanted me to do.

Q. Had nothing to do with your drinking? A. Certainly not.

Q. The drink that you indulged in never caused any trouble between you and your husband, is that right? A. Never.

Q. The drink that you indulged in never caused any trouble, is that right? A. No.

Q. Although you were sent to sanitariums

on one or two occasions, and was to Morris Plains on two occasions, drink never caused any trouble between you and your husband, is that right? A. No, because when I came from this place the parties continued just the same, these booze parties as they were termed.

Q. Your husband never attempted to stop you from drinking? A. He would perhaps say occasionally, "Don't take this," or "Don't take that."

MR. LANE: I call for a letter of December 18, 1914.

MR. HEYMAN: We have no such letter.

MR. LANE: Written by Mr. Grundy to Mrs. Grundy.

MR. HEYMAN: We have no such letter.

MR. LANE: I call for letter dated November 20th, 1914, by Mr. Grundy to Mrs. Grundy.

MR. HEYMAN: We have no such letter.

Q. Have you any letters sent to you by your husband? A. Have I?

Q. Yes. A. If I did have, Mr. Grundy took them; that was his habit, going through all my effects and destroying and taking anything he was after.

THE COURT: That isn't the question. The question was, have you any letters?

A. I may have letters, I don't remember all these years; I may have them among some old effects but they are in storage in the trunk.

Q. You haven't them now? A. I have not.

Q. You have no letters from your husband to yourself? A. I have, yes.

Q. Where? A. I said in the trunks in storage.

Q. Then you have some letters? A. Certainly;

I don't remember what particular letters you refer to.

Q. Have you looked for the three letters? A. I looked among my effects that I have with me.

Q. Have you looked in the storehouse? A. No.

Q. They may be in the storehouse? A. I couldn't say that; maybe.

Q. Were you told to look wherever you had letters? A. I was asked to find two letters written in 1914.

Q. Where did you look? A. I couldn't find them.

Q. You didn't look in the place where they might be, did you? A. I didn't look in the storage.

Q. They may be there, may they not? A. They may and may not.

Q. Why didn't you look there? A. I can't answer that.

Q. Were you told by counsel to look wherever they might be? A. Mr. Heyman asked me to find them and I told him I could not find them.

Q. But you hadn't looked in the place where you knew they may be, had you? A. I didn't go to the storage.

Q. And they may be there then? A. They may and may not; Mr. Grundy may have them himself.

Q. Did you tell your counsel that you hadn't looked in the store room? A. I didn't tell him I didn't look in the storage, I told him I looked for the letters but I couldn't find them.

Q. Between now and the next hearing will you look in the store room and produce any, if you can find any letter that you have there? A. (No answer).

Q. Will you?

MR. HEYMAN: Certainly she will. I will instruct her to.

MR. LANE: I am asking her, not you.

Q. Will you? A. If I can.

Q. If you can; why can't you? A. That means a great deal of expense and work.

Q. What expense does it mean? A. For the storage people to take off the boxes of household goods and find that certain trunk.

Q. How old is this trunk? A. I don't know how old it is.

Q. I mean, how long has it been in storage? A. Last September.

Q. What storage warehouse? A. Evertsen's.

Q. Isn't Mr. Grundy paying the storage? A. Yes.

Q. You are not paying it? A. Mr. Grundy volunteered to pay it.

THE COURT: This expense is for somebody to move the furniture so that she can reach it.

Recess until 1:30 o'clock P. M.

AFTER RECESS.

(The witness resumed the stand for further examination).

BY MR. LANE:

Q. Do you know Doctor Maas? A. Yes.

Q. Do you remember that after this occasion when you came home from West Haven, at which your husband met you, that you went directly to a sanitarium advised by Doctor Maas, or to an institution of some kind advised by him in New York,—in Irvington? A. Yes.

Q. Irvington, New Jersey? A. A convalescent home; it wasn't a sanitarium.

Q. As soon as you came to New York you went directly there, did you not? A. Yes, because the cut on my face was painful.

Q. You stayed there for ten days? A. I did not.

Q. How long? A. I stayed there no more than three days.

Q. How many times had you been in that institution? A. Once before.

Q. What? A. Once before.

Q. When was that? A. I don't remember.

Q. How long did you stay there then? A. I don't remember now.

Q. A week or ten days? A. Possibly.

Q. Sent there by Doctor Maas? A. Doctor Maas; Mr. Grundy took me out.

Q. Do you know what for? A. I don't remember now.

Q. It had nothing to do with drink? A. Probably had.

Q. Probably it did? A. Yes.

Q. Did it have to do with drink? A. Yes, I had been run down from not eating and worrying.

Q. Due to what? A. Due to worry and not eating.

Q. Due to the use of liquor? A. Probably some to drinking.

Q. Wasn't that the same reason that you were taken to Irvington after you returned from West Haven? A. No.

Q. Now, do you mean to say that you were taken to Irvington to that place merely because of the cut that you had on your nose?

MR. HEYMAN: She didn't say that, Mr. Lane.

MR. LANE: I am asking whether she does.

MR. HEYMAN: I object to that on the ground that it contains an unwarranted assumption of fact. The witness specifically said different.

THE COURT: I will take it.

A. No.

Q. What? A. I said no.

Q. Well, what were you taken there for? A. I said the cut on my nose was sore and painful.

Q. Well, was it because— A. I was in a run down condition again.

Q. Was it because of the cut on your nose that you were taken to Irvington, that is what I asked you? A. Probably.

Q. That is what you said a few moments ago, wasn't it? A. Yes.

Q. You had just returned from a Summer vacation, hadn't you? A. No.

Q. How long had you been up to West Haven? A. It wasn't Summer time.

Q. Well, a vacation? A. It wasn't a vacation.

Q. What was it? A. I went up there to New Haven with Mr. Grundy; Mr. Grundy was on a business trip and he left and went home, I was on a visit.

Q. How long had you been on this visit? A. I can't recall now.

Q. About how long? A. I can't remember.

Q. This visit tired you out to such an extent that you had to go— A. There were several parties given by my friends.

Q. Did that run you down so that you had to go to Irvington? A. I was kept very busy.

Q. Now, do you say that that time you went up there you went with Mr. Grundy on a business trip? A. That time when I returned and I had a cut on my nose?

Q. Yes. A. I did.

Q. Was there any other occasion that you went there? A. Not to New Haven, no.

Q. To Savin Rock? A. I went to Savin Rock one Summer.

Q. When was that? A. That was the Summer previous.

Q. What year? A. I don't remember now

Q. Do you remember an occasion when Mr. Grundy met you at the Pennsylvania station, having been sent for? A. Yes.

Q. Where had you been then? A. Home to his mother's, the funeral of his mother in Pittsburg.

Q. Who sent for him then? A. Nobody sent for him.

Q. Did you have an arrangement to meet you at the station? A. Yes.

Q. What year was it? A. In 1914.

Q. Were you ill when you— A. I did considerable work at Mr. Grundy's home and I was very—

Q. Were you ill? A. —much run down and very ill then, yes, because it was very, very cold weather, I had gone all through Mr. Grundy's home and effects, it was quite an awful lot of work for me to do, his daughter was there but I did all the work.

Q. What condition were you in when you got home? A. I was very sick when I arrived.

Q. Had you had liquor? A. Not liquor; I may have had some drinks.

Q. What? A. Before I came from Pittsburg, yes.

Q. The sickness was due to liquor, wasn't it?

A. Again I say I was in a run down condition from overwork.

Q. Yes. A. I had a cold and high fever.

Q. Yes, but the condition was due to liquor, wasn't it? A. I couldn't say that it was due entirely to liquor.

Q. Well, you had been drinking, hadn't you? A. I don't deny, we always had drink and I always took a drink.

Q. On that particular occasion you had been drinking coming in from Pittsburg, had you not? A. I had a couple of drinks over in Pittsburg the night before.

Q. You had several drinks on the way in, didn't you? A. Not a drop.

Q. Not a drop? A. No.

Q. You think the drinks that you had the night before affected you after you had ridden from Pittsburg? A. Yes.

Q. Weren't you intoxicated in the station? A. I was not.

Q. Or under the influence of liquor? A. No.

Q. Now, after this episode on September 15th while you were still in the Clinton Avenue house, do you remember an occasion at which you went up to Mr. Soper's house in order to communicate with the doctor? A. Yes.

Q. In the apartment above? A. Yes.

Q. What time of night was that? A. It was quite late, because I had been away, I knew the doctor wasn't in, I was waiting for the doctor, my phone had been taken out, I went upstairs and asked them if I could phone, if they would please phone for Doctor Opdyke to come right over, that I was very ill.

Q. What time of night was it? A. It may have been half past ten or eleven o'clock.

Q. How were you dressed? A. I had a blue house dress or breakfast coat, three-quarter length.

Q. Whom did you see? A. I saw Mr. Soper, he came to the door.

Q. Anyone else? A. Nobody else.

Q. You telephoned for— A. I didn't telephone; I asked Mr. Soper to.

Q. Mr. Soper telephoned for Doctor Opdyke? A. Yes.

Q. What time did Doctor Opdyke get there? A. He came immediately.

Q. And you remained in the Soper apartment, didn't you? A. I did not.

Q. Where did you go? A. I stood in the hall.

Q. In the hall outside the Soper apartment? A. Yes.

Q. With Mr. Soper? A. I didn't stay with Mr. Soper.

Q. I am not trying, Mrs. Grundy to insinuate anything against Mr. Soper; you stood there and Mr. Soper was there while you were waiting? A. Yes, his wife was in the apartment, too.

Q. Yes, I know his wife was there; Mr. Soper and you stood there until Doctor Opdyke came? A. No, Mr. Soper didn't stay there until Doctor Opdyke came.

Q. Mr. Soper was there during all the time you were there? A. He was in the apartment with his wife and I was out in the hall.

Q. You stayed in the hall outside of the apartment? A. Yes.

Q. Until Doctor Opdyke came? A. Yes.

Q. Then Mr. Soper and Doctor Opdyke carried you downstairs, didn't they? A. Yes, when I had fainted.

Q. Well, they did, in fact, carry you downstairs, didn't they? A. Yes.

Q. They carried you downstairs because you were under the influence of liquor, didn't they? A. No.

Q. Had you been drinking? A. No, I don't remember; I had been very sick.

Q. Do you remember whether you were under the influence of liquor or not? A. I don't think so.

Q. Well, don't you know whether you were or whether you were not? A. I don't think so.

Q. Is that the best you can say, that you don't think so? A. (No answer).

Q. That is the best you can say? A. Yes.

Q. How long were you ill? A. I can't recall; it may have been just after the time I had the fall on the stairs, I don't remember, it may have been because of the same subject matter, I can't recall it exactly now.

Q. Was that the occasion on which you had the nurse? A. I had the nurse in August.

Q. Was that the occasion on which you had the nurse? A. I can't remember, I say, whether it was just before—I think it was before.

Q. Before you had the nurse? A. It may have been after.

Q. How long did the nurse stay? A. One week.

Q. What was the matter with you then? A. My heel caught in the stairs and threw me, I was going out—

Q. Yes. A. And I fell and hurt my back severely, and that was the occasion I couldn't get around.

Q. Was the fall due to too much liquor? A. No.

Q. Was the condition that required the nurse due to the use of liquor? A. No.

Q. Did you have Doctor Opdyke at that time? A. Yes.

Q. You can't say anything more than you think the calling of Doctor Opdyke at the Soper incident was due to the use of liquor, is that right? A. I can't say, no.

Q. Well, if it was due to the use of liquor, then how does that square up with your testimony that you haven't had any liquor since July 1st, 1919?

MR. HEYMAN: Now, if your Honor please, I object to that question on the ground that it calls for a conclusion, an opinion or a comparison on the part of the witness, and it contains an unwarranted assumption of fact.

THE COURT: I will take it.

A. I don't remember stating that I hadn't had liquor since July 1st; I don't remember whether I have or not; I can't state.

Q. Well, do you think that you had had any liquor since July 1st, 1919? A. Liquor?

Q. Liquor? A. I possibly had.

Q. Don't you remember that you said in your direct examination that you had had no liquor since the first of July, 1919, and that you reiterated that several times on cross examination? A. Hard liquor, I said.

Q. Liquor. A. Hard liquor; I didn't deny I had beer and light wine.

Q. So that you didn't call that liquor when you testified you didn't call that liquor? A. No.

Q. Then you did not have any liquor since the first of July, 1919, is that right? A. I think so.

Q. Then how is it possible that the episode of the Soper and Opdyke incident could be due to

the use of liquor? A. I didn't say that I was under the influence of liquor.

Q. And that was the best you could say? A. I said I wasn't to my knowledge under the influence of liquor.

Q. That is the first time you said you didn't know that your condition was due to the use of liquor o: not. I asked you whether that was the best answer you could give and you said it was the best answer you could give. Now, what is the best answer you can give? A. I don't understand that; will you please make it more clear.

Q. (Last question repeated). A. The same answer; I can't give any better answer than what I have, that it was not due to liquor.

Q. That is not what I said. You said before you didn't know; now is your answer that it was not due to liquor? A. It was not due to liquor; my fall on the stairs.

Q. The condition you were in; I am not talking about the fall on the stairs; the condition you were in the evening or night that you sent for Doctor Opdyke through the Soper house was not due to the use of liquor? A. To the best of my knowledge, no.

Q. Well, don't you know? A. I can't remember.

Q. But it is impossible that it should be, isn't it, if your testimony is true that you haven't had any liquor since the first of July? A. Certainly.

Q. Then why can't you say that it was not due to the use of liquor? A. I can't say that it was; that is all I can say.

Q. Nor can you say it was not? A. I can't say it was.

Q. Nor can you say that it was not? A. I can't say that it was or was not; I can't say.

Q. Then if you can't say that it was, how could it be if you didn't have any liquor since the first of July, 1919? A. It couldn't be.

Q. It couldn't be; then will you tell me again why for the last ten or fifteen minutes, or seven or eight minutes, you have refused to say that it was not? What is in your mind? A. There is nothing in my mind, except I can't remember.

Q. Isn't it in your mind that you know that Mr. Soper and Doctor Opdyke know it was due to the use of liquor? A. No, it is not.

Q. Very recently during the week of May 17th, you were at the house of Mr. Grundy, weren't you? A. I don't remember; I was over at the house where he lives; I don't remember the date.

Q. Well, wasn't it within the last few weeks? A. In May?

Q. Yes. A. (No answer).

Q. What? A. This last May?

Q. This last May. A. 1920?

Q. 1920. A. I haven't been in the house where Mr. Grundy lives in months.

Q. I didn't ask you whether you had been in the house; I asked you whether you had not been up to the house? A. No.

Q. What did you mean when you said that you had been at the house of Mr. Grundy? A. When was that?

Q. A few moments ago. A. I didn't say I was at the house where Mr. Grundy lives.

Q. Well, didn't you say a few moments ago that you couldn't recall the date, but that on some occasion you had been at the house where Mr. Grundy lived? A. You just asked me that question if I was there a few weeks ago and I say no.

Q. Do you know where Mr. Grundy lives? A. Certainly.

Q. Where is it? A. 53 Crescent Avenue.

Q. Now, don't you remember being at that house within the last few weeks? A. It is several weeks ago that I was there.

Q. What? A. Several weeks ago, not in May.

Q. Several weeks ago; when was the last time? A. I can't tell you the date.

Q. How many weeks ago? A. I couldn't tell you; I don't remember.

Q. Was it as long as a month ago? A. More than that.

Q. Was it as long as two months ago? A. I think so.

Q. Was it as long as three months ago? A. It may be.

Q. Was it as long as four months ago? A. I can't recall exactly what date I was there.

Q. What time was it? A. Early afternoon.

Q. What did you go there for? A. To speak to Mrs. Corrigan about taking mail for me and holding it and having Mr. Grundy re-address it to me; also to ask her why she didn't send the pictures when I sent for them which I had loaned her and she refused to give them to Miss Halverson when I sent for them, and I asked her why she did that; I had only loaned her the pictures; she said, well, there was no hurry, they might be wanted, some of those pictures, there was no hurry, I could get them when she moved.

Q. Was that the occasion when Mrs. Corrigan threatened to call the police? A. No.

Q. Was there an occasion at which you were there and Mrs. Corrigan threatened to call the police? A. Yes, at my husband's suggestion.

Q. When was that? A. Immediately after he had all his goods taken out of my apartment, I was in

the apartment all alone, I slept on a cot, all the furniture had been removed at his suggestion, Mr. Townsend was present when Mr. Grundy 'phoned from his office to the storage man that he must take the goods out that day, that was the 26th of September, and I lived in the house from the 26th of September to the 30th, when they sent me to Mrs. Mulack's, that was the occasion, during this time that I was there in this empty place, I couldn't go from there, I was so uncomfortable that I went over to speak to Mr. Grundy about this awful inconvenience and this uncomfortable manner of my being left alone.

Q. Yes. And he would not open the door; I went to ask him to have a talk with me but he wouldn't talk to me and he called to Mrs. Corrigan and told her to call the police and have me taken out of the house; I said, go and ring for the police and if the police take me I will relate my story.

Q. What time was it that you got there? A. It was very late, I don't recall the time.

Q. Between twelve and half past twelve? A. It may have been.

Q. How did you get in the house? A. The key always hung on the side, on the inside vestibule.

Q. You opened the door and walked in? A. I did, because I knew my husband and my son were there.

Q. Everybody in the house was in bed, weren't they? A. That is all right; I didn't make any noise.

Q. Everybody in the house was in bed, weren't they? A. Perhaps they might.

Q. Did you start to wake the people up? A. I didn't wake the people up.

Q. Did you walk in? A. I just walked to the

room I knew my husband had, and I tapped lightly on the door to wake him, so he answered me but he wouldn't open the door; I said, I want to speak to you a few minutes.

Q. Then what happened? A. I walked down the hall, Mrs. Corrigan came and he called Mrs. Corrigan through the closed door to call the police and have me taken out.

Q. Didn't you pound on the door? A. No.

Q. Wait a minute. Didn't you pound on the dood in order to wake everybody in the house up? A. I did not pound on the door.

Q. Who woke Mrs. Corrigan up, do you know? A. Mrs. Corrigan was awake.

Q. How did she know you were there, if you know that? A. She heard me going upstairs, the light was burning in her room and her hall door was open.

Q. I suppose you weren't under the influence of liquor at that time? A. I was not.

Q. You had not been drinking at that time? A. I had not.

Q. You thought the appropriate thing to do was to go in a person't house, use the key, walk into that house where your husband was, at 12:30 o'clock at night? A. Mrs. Corrigan always told me to walk in.

Q. When you were requested to leave, did you leave? A. Yes.

Q. Why was it necessary to call the police or to try to call the police? A. Mr. Grundy would not talk to me and he would not open the door.

Q. You were persisting in talking to him? A. And he was anxious to have me taken out, and I said I won't go until you talk to me.

Q. You wouldn't go until you talked to him? A. And he didn't; then Mrs. Corrigan invited me

to remain all night and I refused, we sat and talked for some time and she insisted upon me staying, I said no, I suppose I will go over and sleep alone on the cot again.

Q. Didn't Mrs. Corrigan walk to the telephone apparently take down the receiver for the purpose of calling the police? A. I didn't see her do that.

Q. You didn't see that? A. No, I heard noises as though she was probably talking but I paid no attention, I stood my ground and never moved, I know the police didn't come.

Q. You heard voices which indicated to you that she was calling the police? A. Yes.

Q. Then you left? A. I didn't leave.

Q. You didn't leave then, why? A. I remained right there and I sat down on the hall rack for a time and remained there.

Q. How long did you stay there? A. I stayed there perhaps half an hour more talking to Mrs. Corrigan; in the meantime she was asking me to stay all night and I refused.

Q. She was asking you to stay that night? A. Yes.

Q. After she had apparently called the police? A. Yes.

Q. Well, do you know what changed her heart?

HR. HEYMAN: I object to that.

Q. Do you know what changed her mind?

MR. HEYMAN: I object to that question, if your Honor please; this witness does not know what took place in another person's mind.

THE COURT: If she saw or heard anything that would change her attitude.

Q. Did you see or hear anything to change her attitude in the matter? A. Nothing; she sat right there in the hallway with me and talked; she sat down on the chair at the door of her living room and I sat on the hall rack on that little seat, and we talked, there was no sign of police coming and I stayed there and waited.

Q. Did Mrs. Corrigan explain how it was that she called the police? A. She did not.

Q. Weren't you discovered in the house and wasn't the person who discovered you one of the boarders that came in late? A. No, sir.

Q. Are you sure of that, or don't you remember? A. I am positive of it.

Q. Then you came back again, didn't you? A. I didn't come back again.

Q. Are you sure of that? A. Sure, positive.

Q. Are you sure that you didn't sleep in that house that night after three o'clock in the morning? A. I didn't sleep in that house.

Q. Didn't Mrs. Corrigan the next morning find you in that house, in the parlor? A. She never did find me that next morning in the parlor or any place else.

Q. Did she find you in the house the next morning? A. She did not.

Q. Where did you go that night? A. I went home.

Q. To 57 Clinton Avenue? A. 57 Clinton Avenue.

Q. And stayed there? A. I did.

Q. You remember distinctly everything that took place that night, do you? A. That night particularly, yes.

Q. You know, and you are quite definite that you did not return to that house? A. I did not.

Q. That night or that morning? A. That night or that morning.

Q. Now, do you remember distinctly, or have you forgotten what took place that night? A. I went home.

Q. Do you remember? A. To 57 Clinton Avenue, yes.

Q. Do you remember distinctly, or are you just saying that because it is the reasonable thing? A. No; I remember it distinctly.

Q. Weren't you so under the influence of liquor that night that you could not remember what you did? A. Absolutely not.

Q. Had you been drinking? A. No.

Q. Not at all? A. No.

Q. Do you remember another occasion that you went to the house of Mrs. Corrigan, at 53 Crescent Avenue and got there about 10:30 at night? A. No.

Q. The last occasion that you were there? A. I don't remember.

Q. When somebody found you sitting on the steps of the house within the last few weeks? A. Nobody ever found me sitting on Mrs. Corrigan's steps.

Q. You haven't in your mind now any recollection whatever of going to the Corrigan house and getting there about 10:30 o'clock in the evening and sitting on the steps? A. No.

Q. Is that right? A. No.

Q. Don't you remember that that took place after one of the hearings in this Court in this case? A. I never have been to Mrs. Corrigan's except the one time that I went about the pictures since the beginning of this case I have not been to Mrs. Corrigan's home for weeks and weeks, one occasion was when I went up there to ask her to please take my mail and re-direct and send it to me and she had my address.

Q. Was that after the beginning of this case? A. No, before this case.

Q. I am talking about the beginning of this case; this case was first opened for trial on May 3rd; now, after that was started, after the hearings in this case, almost immediately after one of the hearings, do you recollect going to the Corrigan house and getting there about 10:30 in the evening? A. I have not been near Mrs. Corrigan's house since the trial began.

Q. And stayed there until twelve o'clock? A. I have not been in Mrs. Corrigan's.

Q. And sit on the door step as long as twelve o'clock; you haven't any recollection at all of anything of that kind happening? A. No, sir; I have no recollection and it is not true that I have ever been there.

Q. Didn't you, on the first occasion when you went in September to Mrs. Corrigan's house, didn't you have a key with you? A. No.

Q. Sure of that? A. I did not have a key.

Q. What did you do with the key after you opened the door? A. Put it back where it belonged.

Q. Where did it belong? A. Alongside on the jamb of the door on the outside door.

Q. You don't recall keeping that key? A. I did not keep the key.

Mrs. Corrigan had to change that lock? A. No;

Q. Don't you know, as a matter of fact, that I don't know anything of the kind.

Q. Who is Cousin George, Mrs. Grundy—I beg your pardon; who is A. J. Demick, of Butler, Pennsylvania? A. A. J. Dennie?

Q. Yes. A. He is married to a cousin of mine.

Q. Your cousin? A. Yes.

Q. What is his wife's name? A. Mary.

Q. When were you up there last before January 22, 1914? A. I don't remember.

Q. When were you there last before January 24th, 1914? A. I don't remember.

Q. What? A. I don't remember when.

Q. Well, you were up there to spend the summer some time, weren't you? A. I have visited there.

Q. In the year prior to 1914, didn't you? A. I don't remember the year.

Q. Well, do you remember a time when you did go there to spend the summer, or some part of the year? A. I have been there a number of times visiting, I don't recall just what time you refer to.

Q. Well, do you remember when you were up there having difficulty with Mary with respect to your getting liquor surreptitiously? A. No, I don't remember.

Q. Well, do you say it did not occur or that you don't remember whether it occurred or not? A. I don't remember having trouble.

Q. Well, do you remember getting liquor surreptitiously for your use? A. Getting liquor.

Q. Yes; liquor. A. At my cousin's home?

Q. Yes. A. I get it?

Q. You get it? A. Why, they always got it themselves; I didn't have to get anything for them or for anyone.

Q. You know what the word "surreptitiously" means? A. Perhaps not.

Q. Well, didn't you get liquor without the knowledge of the people in the household? A. No.

Q. And wasn't there difficulty with respect to your doing that continuously? A. No.

Q. Do you recognize the handwriting on this

letter which I show you? A. I don't remember anything about it. Do you wish me to read it?

Q. Just look at the signature; is that your cousin's signature? A. I couldn't say that it is.

Q. Have you ever had any letters from him? A. I never had letters from my cousin, never.

Q. So you don't recognize his signature? A. I do not.

Q. Never seen this letter before? A. I never did.

(Letter marked Exhibit P-6 for Identification.)

Q. Do you remember about 1914, the early part of 1914, or the latter part of 1913, a proposition was made, or was under discussion, to take you up to Butler, Pennsylvania, and have you stay there so as to get over this liquor habit that you had? A. Proposition made by whom?

Q. Discussed with Mr. Grundy. (Last question repeated.) A. There was no proposition made to take me.

Q. Well, for you to go then? A. I was invited to go and visit.

Q. Well, were you invited to go, did you go on that visit? A. I think so.

Q. Wasn't there a talk about your going out there to stay to see whether or not you could not recuperate at an occasion when you didn't go? A. I did not.

Q. And didn't your husband tell you that your cousin had informed him that he could not take you? A. That he could not take me?

Q. Your cousin could not take you? A. I have no thought of such thing, or no recollection.

Q. Because you, the last time you were there, acted meanly with Mary when she criticized you

for getting liquor surreptitiously? A. I can't believe any such thing; I don't know anything about such a thing.

Q. Did you have any trouble with Mary? A. I never had any trouble with my cousin; never did.

Q. With respect to drink? A. Never; I never did have trouble with my cousin; we are the best of friends and always have been.

Q. I show you another letter and ask you whether you recognize the handwriting in this letter? A. That is my cousin's handwriting.

Q. Which cousin? A. Mary.

Q. That is Mary's handwriting? A. Yes.

Q. And that letter, did you ever see this letter before? A. I can't recall, unless I read it over.

Q. The letter is dated December 17, 1912. A. I don't recall of ever seeing it.

Q. But this is the letter of your cousin? A. It looks like her handwriting.

Q. With whom you have had no difficulty, is that right? A. Never had any difficulty with her.

(Letter marked Exhibit P-8 for Identification.)

Q. Now, do you remember being at your cousin's house some time prior to December, 1912, and do you remember that at that time both Jib or Gib—he is her husband, isn't he? A. Yes.

Q. Gib and Mary both talked with you and told you where you would end if you didn't wake up? A. He never talked to me.

Q. Well, I show you your cousin's letter and ask you to read that portion of it, and ask you then whether that doesn't refresh your recollection? A. They may have written that, but they never talked to me about it.

Q. Well, they did write that; this is the letter writing which you identified. A. They never talked to me on that subject.

Q. They never talked to you on that subject? A. No.

Q. There was no reason why they should ever talk to you on that subject, is that right? A. No.

Q. Do you remember about the same time, that in that conversation you agreed with them and stated that you were going to do wonders but were sorry that you hadn't?

MR. HEYMAN: I object to that on the ground that she has testified there was no such conversation and on the grounds that counsel is using a letter which is written by a third party and never has been written to the defendant, and on the further ground that he is using a portion of the letter for the purpose of cross examination.

THE COURT: This, I take it, is a different conversation, a different item of conversation.

MR. LANE: A different item of conversation.

THE COURT: Than the one you were just asking.

MR. HEYMAN: He is talking about a conversation referred to in the letter written by a third party to the petitioner, not to the defendant.

THE COURT: He is calling attention to that asking if that refreshes her recollection as to the conversation he has asked about that she said did not take place.

MR. HEYMAN: Now, he is asking her whether at the same time, during the same conversation, whether or not something was said; she has denied the conversation.

MR. LANE: I am not obliged to take her blanket denial.

MR. HEYMAN: I object to that on the ground that the witness has denied any conversation such as has been stated by counsel, and on the ground that it is being read from a letter written by somebody else to somebody who is not connected with this defendant.

THE COURT: I will take that question.

A. I never had any conversation with him.

Q. Now, will you refer to that clause in the letter and then I will ask you whether that refreshes your recollection? A. I don't know anything about this letter.

Q. You know this much about the letter that this is in your cousin's handwriting, don't you? A. It looks it.

Q. I am asking you to read that letter, which was written by your cousin, and ask you whether that refreshes your recollection as to such conversation? A. No.

Q. It does not; no such conversation took place? A. I never had a conversation with them concerning any of my affairs.

Q. Now, do you remember that during this visit, some time shortly prior to December, 1912, that you told them that the last place that you had been, referring to a sanitarium, was the best place for you when you came to your senses? A. No.

Q. I ask you to look at that clause in the letter, and ask you whether that refreshes your recollection? A. It does not, because I don't know anything about that letter, I don't know anything about what they wrote.

Q. That never took place, did it? A. Not to my knowledge, no.

Q. During all that time that you were there in December, 1912, did you go to Pittsburg on some short trips? A. With my cousin.

Q. Without your cousin? A. Not without her, no.

Q. Who is Rose? A. A frined of the family, Mrs. Crowen.

Q. Well, did you not go to Pittsburg on several occasions with Rose and without your cousin? A. No.

Q. Sure of that? A. No; my cousin, when we went to Pittsburg, my cousin would visit relatives of her husband's while I visited with Rose and we would go and come home together, out to Butler.

Q. How far is Pittsburg from Butler? A. About 35 or 40 miles, I should judge.

Q. Then when you ran in to Butler from Pittsburg with Rose and your cousin during the day you visited with Rose and your cousin visited herself alone, is that right? A. We would meet Mr. and Mrs. Crowen; Mrs. Crowen lived in Pittsburg.

Q. You and Rose at least were together during the time that you were on these trips? A. Sometimes the three girls were together.

Q. Do you remember at each time you went to Pittsburg and you got more liquor than was good for you? A. No, I don't.

Q. Do you remember that each time you went to Pittsburg on these trips you went back under the influence of liquor? A. No, I don't remember any such thing.

Q. Did you have any liquor on these trips to Pittsburg? A. I don't know now; we perhaps had drinks.

Q. Now, will you look at this letter again and read this part of it, and refreshing your recollection, tell me whether each time you went to Pittsburg with Rose she went bad, back in the position that she was before, to wit, that you were admitting it. Read it. A. I can't answer to questions on anything that is written in this letter, because I don't know what they refer to in the letter.

Q. Read the whole letter over from beginning to end now; read the entire letter? A. I did.

Q. Mrs. Grundy, do you know what the writer refers to? A. I suppose Mr. Grundy was planning for some other disposition of me, some other way; that is all I can account for that.

Q. That is your explanation? A. Exactly.

Q. And that letter, which was written December 17, 1912— A. 1912.

Q. You think it was written as a result of some plan unknown to you to dispose of you in some other way? A. Exactly.

Q. It is the result of a conspiracy between Mr. Grundy and the writer of the letter. Mary has always been a friend of yours? A. Yes.

Q. Mary has never done anything or indicated anything, so far as you were concerned, which would lead you to believe that she would enter into any such conspiracy as is evidenced in this letter, has she? A. Not that I know of.

Q. Up to this moment, until you read that letter, you considered her as a good friend; is that right? A. I thought so.

Q. And the statements contained in that letter are unqualifiedly false? A. I don't know what Mr. Grundy and my cousin had between them; I know nothing about it.

Q. But the statements in that letter are unquali-

fiedly false with respect to what you said? A. Yes.

Q With respect to the way you acted up there, and with respect to the sympathy which this woman is expressing towards Mr. Grundy; there is no reason for it, is there? A. No; this Rose, my cousin, has visited my home and entertained, and we all went out together; such a thing of Mrs. Crowen is not true, as we went out and did nothing that we were ashamed of or that my cousin was not a party to.

Q. Such a thing with respect to your making the statements that you know that everything in the world was being done for you for the best, that is not true? A. I don't know anything about that.

Q. It is not true that you said that? A. I never said it.

Q. Then it is false? A. I don't remember ever stating such a thing.

Q. You don't know to what your cousin refers when she says that she knows that George has done his share and more to get along; you don't know what she refers to? A. I do not.

Q. There is no reason for any such expression that you know of; is that right? A. I don't know what they had in mind, except talking drinks.

Q. You don't know what she refers to when she says, "If she (meaning you) were to brace up", you don't know what that refers to when she used the term "brace up"? A. I didn't notice that in the letter; I didn't see that. No, I don't know what she refers to.

Q. You don't know what she refers to when she said the words "brace up"; there was no reason for it? A. I don't know what Mr. Grundy wrote to call for that answer.

Q. The only explanation of the entire letter that you can give is that it is the result of a conspiracy? A. The result of some correspondence that I know nothing about.

Q. There was nothing for you to brace up over, was there? A. I can't recall now, it is so far back, 1912.

Q. Who is Lizzie? A. An aunt, my father's sister.

Q. Who is Warren? A. I have relatives in Warren, Pennsylvania.

Q. Was it suggested that you brace up and go to Warren? A. No, never.

Q. So that you can't understand that? A. I don't know; I don't know anything about any such plan.

Q. You don't know what she refers to when she says, "I know very well you are at your wit's ends (referring to George, your husband)"? A. I don't know what Mr. Grundy could have written to her to bring forth that reply.

Q. You don't know what she means when she says, "I am so sorry she does such things"; you don't know what she means by "such things"? A. I don't know what Mr. Grundy could have written.

Q. You had been visiting there only a short time before December, 1912, when this letter was written; she refers to the trips that were taken from Butler to Pittsburg with Rose? A. Any trips I went to Pittsburg on she was with me.

Q. You don't know what she means when she says, "You have done all you can and even done more than many men would do"? A. No, I say again I don't know what this answer came back for; I don't know what Mr. Grundy had written to her to bring forth this reply.

Q. You don't know what she means when she says, "I just can't see my way clear to go down very soon if I have a few days off"? A. I don't know what she refers to.

Q. Was there a suggestion that she come down to your house here in Jersey City for a few days? A. I don't know anything, any plans they had between them; I know nothing whatever of that letter; I didn't know Mr. Grundy was in corresponednce with my cousin secretly.

Q. I assume you didn't; but I am not asking whether you knew anything about this letter, but whether this letter, which is in your cousin's handwriting, written eight years ago, whether the facts stated in that letter do not refresh your recollection with respect to what happened, or do you still take the position that this letter is, in colloquial terms, a frame-up? A. I say again, I don't know anything about that letter.

Q. It doesn't refresh your recollection; you haven't the least idea as to what would give your cousin the excuse to write a letter of that kind to your husband? A. Except they were referring to drinks.

Q. Now, weren't they referring to drinks; isn't that just what they were referring to? A. It is possible.

Q. Isn't it that they were referring to the fact that you had become unfortunately an habitual user of liquor to such an extent that you were periodically intoxicated continuously; isn't that what they were referring to? A. I suppose they do refer to it.

Q. And it was a fact, wasn't it? A. No, it wasn't a fact.

Q. Then how is it that your cousin could have been writing with respect to something which was

not a fact, unless it was a frame-up? A. I don't know.

Q. Isn't it a fact, Mrs. Grundy, that you did get to such an extent, to such a point, with the use of liquor, that you were habitually periodically intoxicated? A. It is not.

Q. What I mean by that is this, not that you were intoxicated day by day, but every so often you got to the point where you became intoxicated, and that that was a regular thing? A. It was not a regular thing, for I wasn't.

Q. An irregular thing? A. It wasn't habitual.

Q. Was it an irregular thing ? A. Irregular.

Q. Didn't it occur so often as to give rise to this kind of a letter from your own cousin, who had your best interest at heart? A. I don't know what was in her mind.

Q. And isn't that condition that you got into the cause of this letter? A. I don't know what she thought; I don't know how I was represented by my husband to my cousin.

Q. She knew herself, didn't she? A. She didn't know anything more than we all had drinks together, we had drinks at her home.

Q. Read that letter again and then tell me whether or not that letter does not speak of your cousin's own knowledge and nothing that has been told her by anybody? A. I don't know.

Q. As a matter of fact, Mrs. Grundy, didn't everybody that came in contact with you do the best they could for you? A. I never had enemies that I know of.

Q. Didn't this cousin do the best she could for you? A. I didn't need help.

Q. You didn't need help? A. No, I wasn't helpless.

Q. Wasn't that your trouble, that you spurned

help when it was offered to you? A. I was always able to take care of myself.

Q. And isn't that the position that you have always taken, that you were always able to take care of yourself, and spurned any help that was offered to you when people sincerely interested in you tried to help you out? A. I can't say.

Q. Do you think, Mrs. Grundy, that a person who uses liquor to the extent that it is necessary to go to the sanitarium and to an asylum, a number of times, do you think a person in that position does not need help? A. Well, that is why I was put there for help, I didn't need help when I returned from there.

Q. That is it exactly; you realized that it was the best thing for you to go, as you did go under the circumstances, didn't you? A. Perhaps because my husband suggested that I would recuperate.

Q. Isn't the trouble, or wasn't the trouble, that every time you came out you went right back into the same condition? A. No.

Q. Because you did spurn help that was offered to you? A. No. Six years ago.

Q. Yes, it was in 1912. A. Eight years ago.

Q. But since that time you have been in Morris Plains Asylum twice, haven't you? A. Six years ago.

Q. Isn't it since that time that you have been treated by Doctor Opdyke, up until almost the present minute? Don't you know that?

MR. HEYMAN: Wait a minute; I object to that question because it contains more than one question.

THE COURT: Ask the witness and give her an opportunity to answer.

Q. (Question repeated.) A. No, not up until the present minute.

Q. Well, up until September, 1919? A. I was treated in 1919 for the fall that I had on the steps.

Q. Mrs. Grundy, now just think; I am going to ask this question once more; you know that Doctor Opdyke did treat you in September of 1919; you know that he did treat you before that; he has treated you upon several occasions; you know in your own mind, there can't be any mistake what he treated you for, because you know exactly what the circumstances are; you know also that Doctor Opdyke is a physician of reputation and that he is available for the process of this Court; I ask you to think and then answer me, whether or not Doctor Opdyke did not, in 1919, and before that, treat you for intoxication? A. Occasionally.

Q. And didn't he treat you for intoxication in September of 1919, when you called him to the Soper house? A. Yes, because, on account of the trouble, I was in a hysterical condition, upset, having suffered from the result of the fall; when the nurse was there she wanted to call Doctor Opdyke several times on account of my hysteria, as a result of this trouble between Mr. Grundy and myself.

Q. You know Doctor Keegan, don't you, Thomas Keegan? A. Mrs. Corrigan brought Doctor Keegan in one time.

Q. You were treated by him, weren't you? A. He was at my house a couple of times, once or twice, I don't remember.

Q. You were treated by him, don't you remember? A. Yes.

Q. Weren't you treated by him for intoxication? A. That was on the occasion of this Sunday ride,

that Mr. Grundy brought me over from New York, I was a resident of New York, we came over and we got to Mrs. Corrigan's, and that was the occasion that Mr. Jamieson and Mr. Corrigan went and brought a quart bottle of whiskey, they all drank, and they insisted upon my staying at Mrs. Corrigan's for two or three days, and they called Doctor Keegan immediately and brought me out to the Plains.

Q. Don't you know who treated you on other occasions? A. No, I don't know.

Q. Mrs. Grundy, just think again; don't you remember? Doctor Keegan is also a doctor of reputation and within range of the process of this Court.

MR. HEYMAN: I object to that, such remarks respecting Doctor Keegan; you know that he is a doctor of reputation, that he is subject to the process of this Court.

A. Well, I am not afraid of Doctor Keegan being called, not a particle.

Q. Certainly not; I am asking you to keep that in mind and then tell me—

MR. HEYMAN: I object to that, if your Honor please, any such admonition on the part of counsel of that kind. I don't think it is his duty to admonish this witness on anything.

MR. LANE: I am not admonishing her; I am drawing her attention to a certain fact, which I have a right to do.

MR. HEYMAN: I don't know that it is a reputation of any doctor, if your Honor fact. I object to your calling attention to the please. What does this witness know about his reputation.

MR. LANE: She is privileged to say so.

MR. HEYMAN: I object to that on the ground that the reputation of the doctor has nothing to do with this case, nor has the fact that he is within the process of this Court.

MR. LANE: If your Honor please, it has this to do with it, that the witness with respect to the last occasion, on September 18th, has now concluded that it was for intoxication, and she hasn't said that before.

MR. HEYMAN: She has not said anything of the kind.

MR. LANE: I disagree with counsel as to the answer to that question.

THE COURT: I will overrule that question.

Q. Now, I want you to think, Mrs. Grundy, and tell me whether Doctor Keegan did not treat you on some other occasion for intoxication? A. Never.

Q. Didn't you go to him for treatment in case of intoxication and didn't he refuse to have anything to do with you? A. I never went to Doctor Keegan's office; I have never been inside his door.

Q. Didn't you send for him; did you ever send for him, now? A. I never sent for Doctor Keegan.

Q. Did anyone to your knowledge send for Doctor Keegan when you were ill? A. Only one time that I know of, that I ever had Doctor Keegan was when Mrs. Corrigan brought him to the house, then it was arranged to send me out to the Plains, without my knowledge.

Q. Didn't he refuse to treat you upon one occasion? A. I never called him.

Q. Because he said he would not treat you any longer for intoxication because you would not do anything to stop it? A. No, I never saw Doctor

Keegan but the time he came to Mrs. Corrigan's; I never called Doctor Keegan; I don't know the man, if I saw him this minute, I don't know the man; I have never seen him since.

Q. You know Doctor Maas fairly well? A. I know Doctor Maas, yes.

Q. He treated you in 1911, did he not? A. Who?

Q. Doctor Maas. A. What was that, in 1911?

Q. Yes. A. Doctor Maas has been a physician for me for several years, he operated—

Q. A little louder. A. I don't remember, I was in the hospital for an operation, I don't remember, I think it was 1910 or 1911, for an internal operation.

Q. Well, he treated you for intoxication in 1911, didn't he? A. In 1911?

Q. Yes. A. I can't remember.

Q. Do you know his handwriting? A. Well, I have only seen prescriptions, I haven't seen his handwriting except on prescriptions.

THE COURT: The question was merely whether you knew his handwriting.

Q. Yes, it looks like his handwriting.

THE COURT: He hasn't asked you that.

A. I think it is.

Q. Is this his handwriting (exhibiting paper to witness)? A. That is his name (indicating.)

Q. Now, I ask you, did you ever see this particular letter before? A. No, I never did.

Q. Now, I ask you to read that part of it. Do you know what the doctor refers to when he says that he would keep his eyes open and watch every point with the greatest care, always having in mind the overwhelming obstinacy of the cure in hand? A. Of drink.

Q. Now, again referring to that same letter, October, 1911, what he says with respect to Butler; does that refresh your recollection as to the time you were in Butler? A. No, it doesn't, because I don't remember just any time I was in Butler; I don't remember the year now.

(Letter from Doctor Maas marked Exhibit P-10 for Identification.)

Q. I show you another letter, which was written in November, 1913, signed May, and ask you whether that is in your cousin's handwriting? A. It looks the same as the other.

Q. Now, Mrs. Grundy, I ask you to read that letter. Is that letter the result of a conspiracy also? A. Yes, I think so, she says there herself she won't mention it.

Q. Do you think that this letter is the result of a conspiracy? A. Certainly.

Q. What is the part that you refer to as saying that? A. I am going to write Ida a letter and send it to you and won't mention this.

Q. You think that that clause in the letter is an indication of a conspiracy? A. Why didn't she write to me instead of my husband?

Q. Now, Mrs. Grundy, if the facts stated in this letter be true facts, do you think that Mary would write you in this way? A. Why did they carry on the secret correspondence without letting me know something about it; I can't understand it.

Q. Why, don't you realize that at that time these people considered you in an unfortunate position and were trying to do everything they could for you? A. I don't know what they considered; I can't answer that.

Q. They wouldn't write you these things, would they? A. I can't answer that; I don't know.

Q. You think that because she says she was going to write Ida and say nothing about what she said in this letter to your husband, that that is evidence of a conspiracy? A. That means she only mentioned about what Mr. Grundy wrote to her, she would not mention anything about this correspondence she has been carrying on with my husband.

Q. You don't mean to imply that there had been any impropriety in this correspondence between your husband and Mary, do you? A. I don't imply anything; I don't understand it.

Q. Do you know what she means when she says that I don't know what I would do if I were you? A. I don't know what Mr. Grundy wrote.

Q. I wouldn't blame you for doing almost anything; I certainly would send her to a sanitarium if it helps her. How can you do your work after such worry on your mind. Do you know what she refers to? A. I don't know what Mr. Grundy wrote.

Q. Wasn't Mr. Grundy worried about your drinking? A. I wouldn't say.

Q. You wouldn't say he was worried about your drinking? A. I couldn't say.

Q. You didn't think that he was sincerely trying to stop it, did you? A. I won't say.

Q. You won't say that he didn't sincerely try to stop you, will you? A. He tried.

Q. And he tried sincerely, didn't he? A. That don't show it to me; I would say no.

Q. You would say no, because he wrote this to Mary, had this correspondence with Mary without your knowledge; that is the only reason why you say no, isn't it? A. I don't consider that is sincere.

Q. I say that is not sincere; otherwise he has sincerely tried to stop you, didn't he? A. Well, I can't answer that; I don't know what was in his mind.

Q. You won't say that he didn't; so far as evinced to you it was sincere, wasn't it? A. I don't thing it was sincere.

Q. When did you come to the conclusion that it was not sincere? A. After reading that letter.

Q. After reading that letter? A. Yes.

Q. Up until the time you read this letter from your husband to Mary, sent by Mary to your husband, you thought that your husband had done everything he could sincerely to help you? A. No.

Q. You did not? A. Other occasions.

Q. He did try, at any rate, to help you, didn't he? A. Outwardly.

Q. Outwardly, so far as he could, isn't that true? A. Yes.

Q. He tried two methods, didn't he; he tried by giving you a free rein and giving you money to spend, and he tried also by keeping you down to hard tack; he tried both methods, didn't he? A. He gave me money to spend for the home, to run my house.

Q. Without calling for an accounting, didn't he? A. He never asked for an accounting for the household expenses.

Q. That is one way; he also tried the method of confining you, didn't he? A. He stopped at nothing; he tried everything.

Q. He did both; he was generous sometimes, wasn't he? A. I can't say generous.

Q. Well, he let you do as you pleased sometimes? A. He told me he didn't care, not to

bother him, he intended to do as he pleased and I could do the same.

Q. That was within the last two years? A. Three or four years.

Q. Up until the last two or three or four years then? A. Yes.

Q. Sometimes he would be generous or not generous, but sometimes he would let you do as you pleased, and other times he would confine you and try to hold you down, wouldn't he? A. He did anything and everything to make life miserable and uncomfortable for me.

Q. Every time he did those things, to make life miserable and uncomfortable, he said that it was in order to prevent you drinking, didn't he? A. No, he did not.

Q. He did not? A. No.

Q. What did you mean a few moments ago when you told me that you thought that he had sincerely attempted to help you with respect to drink? A. Outwardly.

Q. What method did he use outwardly to do this? Let me get this straight, outwardly, didn't you testify a few moments ago to me, didn't you tell me a few moments ago that you thought he was sincere, up until the time you read this letter? A. At times I thought he was sincere; at times I thought not.

Q. At times you really did think he was sincere, didn't you, and he did try both methods, didn't he? A. He tried every method, as I said before.

Q. Didn't you resent it when he tried some of the methods that he did? A. Certainly I did.

Q. You thought that you were able to take care of yourself? A. Certainly.

Q. Don't you think now that you are able to take care of yourself? A. I have done it.

Q. You wouldn't tolerate anybody else, would you? A. Tolerate it—I was compelled to tolerate anything.

Q. You wouldn't tolerate it unless you were compelled to; you wouldn't do it voluntarily, would you? A. I was compelled to.

Q. Is that right? A. I don't know what you mean.

Q. You wouldn't submit to interference voluntarily, would you? A. Interference on what?

Q. As to your habits, what you should do? A. Certainly I will submit voluntarily, I did it my own way.

Q. What? A. I submitted.

Q. What did you say? A. Your question?

Q. You resented interference with your habits, didn't you? A. No.

Q. Notwithstanding the fact that you thought you were able to take care of yourself? A. I was able to take care of myself, to keep my home.

Q. You thought so. A. I knew so.

Q. You acted upon that thought, didn't you? A. Yes, tried to be agreeable always.

Q. You know what Mary means when she says that surely you have been patient, don't you? Do you know what she means by that? A. I don't know what subject Mr. Grundy put to my cousin or what he related to her; I have no idea what that answer is about; I have no idea.

Q. Mr. Grundy's writing or communication with your cousin can't explain the expression in the other letter, going to Pittsburg with Rose? A. These letters were written by her; I don't know what Mr. Grundy wrote to get these replies; I don't know what it was about, except of the occasion of taking a drink; I told you my cousin was always with me on these visits to Pittsburg to Mrs. Crowen's home.

Q. Was it suggested that your cousin should come down and endeavor to help you here in Jersey City? A. I don't know anything about it.

Q. You don't know whether your husband had asked her to come or not? A. I don't know anything about the letter or the correspondence at all; if she was invited by Mr. Grundy I knew nothing of it.

Q. What do you think that your cousin meant when she said that Park, the poor kid, I feel sorry for him, will be glad when he goes away to school? A. I don't know what Mr. Grundy wrote to my cousin.

Q. It surely is hard for him to see this; do you know what that refers to? A. I say again, I don't know what Mr. Grundy wrote to bring forth this reply.

Q. That is your only answer; you don't know what she means when she says, I am certainly sorry for you and will do everything I can as I am sorry things are just as they are now; you don't know what she means by that? A. I don't know.

Q. And the only explanation that you can give for the letter of December 12, 1913, P-8 for Identication, or the letter of November 26th, 1913, P-9 for Identification, is that it is the result of some conspiracy between Mary and Mr. Grundy with respect to you; is that right? A. I don't know; it may be; but I can't understand what the object of it was except Mr. Grundy complained to my cousin and she in turn wrote this letter.

Q. You didn't think that Mary was sincere? A. I can't say that.

Q. Certainly she wasn't sincere with respect to what she said as to your going to Pittsburg with

Rose and putting yourself back to the same position you were before; that was something which was within her knowledge, not Mr. Grundy's, was she sincere with respect to that? A. I couldn't say.

Q. Didn't you want, in September of this year, Rose to come and stay with you?

THE COURT: Last year.

Q. Last year? A. September of last year?

Q. Yes; after this trouble didn't you want Mr. Grundy to send for her? A. I did not.

Q. I show you another letter—

BY THE COURT:

Q. Who is this Rose? A. Mrs. Crowen, a friend of ours in Pittsurg, Mrs. Crowen of Thornburg, she lived in Crafton, about five minutes' ride.

Q. She lived with your cousin? A. No, she lived in this suburb of Pittsburg, Crafton, she was a friend of ours, my cousin met her when she came to Pittsburg; she would visit Mrs. Crowen's home and when I visited my cousin when we came to Pittsburg we would often go to Mrs. Crowen's perhaps have an appointment to meet Mrs. Crowen and we would go out shopping and have luncneon together.

BY MR. LANE:

Q. Didn't you want Mary to come on after the trouble in September; didn't you ask Mr. Grundy to send for Mary? A. No; I never did.

Q. Now, I ask you, Mrs. Grundy, to again look over P-7 for Identification, which you d'd not recognize so far as the handwriting is concerned. A. I don't recognize the handwriting.

Q. Read it and see whether or not the facts

stated in it do not help you to recognize the handwriting; it purports to be a letter from your cousin's husband, in 1914. Now, can you say, Mrs. Grundy, whether that was or was not in the husband of Mary's handwriting? A. I can't swear to it, to that being his handwriting; I never saw his handwriting.

Q. Are you familiar with any of the facts set forth in the letter so that by reference to the facts you would know whether he had written it or not? A. Not one.

Q. That letter was written by Mary's husband; that must be the result of a conspiracy against you, must it not? A. It must have been secret correspondence going on between them; that I know nothing about.

Q. Do you know what would give rise to any such secret correspondence? A. I can't understand; Mr. Grundy's persistence, no doubt, to get everybody for him.

Q. That accounts for the statements in this letter? A. Yes.

Q. There is no basis in fact for that? A. I don't know.

MR. HEYMAN: I object to that, if your Honor please. Counsel has asked for an opinion and he got an opinion.

MR. LANE: I am going to ask it again, having gotten the opinion, I am going to press it until the Court stops me.

THE COURT: I overrule that question.

Q. Mrs. Grundy, hasn't Mr. Grundy always said that he was going to take care of you? A. Why wouldn't my husband take care of me; who else would?

Q. Hasn't he always stated that he was always

going to take care of you? A. I think so.

Q. Didn't he say, as late as September of last year, 1919, when Mr. Townsend was present, that he intended to take care of you ? A. I think so.

Q. And he said that at the same time he said he was going to get a divorce from you, didn't he? A. He said that he would not, in case he was granted a decree of divorce he would not, if he was granted this decree of divorce, and he told me if I fought this case he would not give me a penny if he was awarded a decree.

Q. Didn't he tell you in Mr. Townsend's presence that it did not make any difference whether he got a divorce or whether he didn't, he would always take care of you? A. I don't recall.

Q. May he have said that thing? A. He may have.

Q. You won't deny but that he did say it? A. He may have said it.

Q. Didn't he say that he considered himself under obligations to take care of you, irrespective of whether he got a decree of divorce or not? A. No; I don't remember of him saying that.

Q. May he have said that thing? A. He may have.

Q. And didn't the very agreement that there was a proposition with respect of signing, contemplate that you should be supported for the rest of your life, whether he got a decree of divorce or whether he didn't?

MR. HEYMAN: I object to that, if your Honor please, for that agreement will, when produced, be the best evidence of what it contains.

MR. LANE: There is no proof that we have it and there is no demand for production served.

THE COURT: I will let that question stand.

MR. HEYMAN: If your Honor is going to allow the question I am going to ask Mr. Lane now, and Mr. Townsend, both of them, if they have that paper.

MR. LANE: You may ask and I refuse to say.

MR. HEYMAN: Then, if your Honor please, under the circumstances I object to the question on the ground that I don't know anything about such a paper and on the ground that I called for the production of it and counsel refuses now to say whether he has it. If he says he hasn't got it, that is a different proposition; if he has the paper and refuses to produce it I object to any question on the contents of that paper, on the ground that the paper will speak for itself; and on the further ground, if your Honor please, that the witness has testified that at Mr. Townsend's office the petitioner instructed Mr. Townsend to destroy the copy which the witness had, and that Mr. Townsend took the paper which the witness had and she has not seen it since and they have not explained its absence.

THE COURT: If the paper is in existence its contents ought to be proved by it.

Q. Weren't you told at the time the paper was given to you, or explained to you, weren't you told that you would be provided for whether Mr. Grundy got a decree of divorce or not? A. No.

Q. You were not told that? A. No.

Q. Sure of that now? A. Yes.

Q. What were you told the paper was to provide for?

MR. HEYMAN: I object to that, if your Honor please, to any examination on the contents of this paper.

MR. LANE: I am not asking for the contents of the paper; I am asking for what she was told.

MR. HEYMAN: I object to any questions on the contents of this paper; it has been shown clearly that the paper went out of our possession.

THE COURT: I don't understand this paper was ever executed. The question is as to her husband's attitude toward her, which I gather—

MR. LANE: Yes.

THE COURT: I will decline to go into the contents of the paper except by the paper itself; but as to what took place at the time I might not make the same ruling; it depends on the question. This is not an effort to obtain anything on the strength of the paper.

Q. What was said at the time?

MR. HEYMAN: By Mr. Grundy is this?

MR. LANE: By Mr. Grundy or Mr. Townsend, either one or the other.

A. I don't remember the conversation; I remember the paper, what the paper contained.

Q. Well, were you told that this provision for your support was to cease if Mr. Grundy got a decree for divorce? A. I was led to believe that by the contents of the paper.

Q. That it stopped if he got a decree for divorce? A. Certainly, if the Court awarded him a decree for divorce he would not support me, he was through.

Q. Then what was the paper to provide for? A. I understood it was just this separation pending this suit.

Q. Didn't he tell you that he desired to provide for you all your life, whether he got a decree or not? A. I don't remember.

Q. Well, may he have told you that thing? A. He may have.

Q. Wasn't that your understanding, Mrs. Grundy, with respect to his attitude, that he did want to, as a matter of fact, provide for you, irrespective of whether the Court gave him a decree for divorce or not? A. I can't say.

Q. Well, did you think his attitude was the other way? A. When he came to my room and told me if I fought the case, if I fought the case and he won, I would get nothing, he was through, what would I suppose from that—I should go and put in no defense and expect help, nothing of the kind?

Q. You might suppose from that, if that took place, that he was endeavoring to purchase your acquiescence in that decree for divorce, that is what you would imply from that; that is not the question that I asked, if that took place; what I am asking you is whether he did not, at the time, indicate to you a desire to take care of you irrespective of whether he got a decree for divorce at the time Mr. Townsend and he were there, not at some other time when he was talking to you. A. I don't recall what was said.

Q. May they have said that thing? A. They may have.

Q. Hasn't his attitude, Mrs. Grundy, been all along, that of taking care of you? A. He provided to send my check every week; then the Court ordered him to continue sending me the amount pending this suit.

Q. I am talking now before the episode of September, for a period of at least nine years, ten years, in this part of the country, and seven years in Pittsburg? A. Why, he has taken care of me ever since I have been married. Who would if he didn't? He was my husband.

Q. Don't you think that the manner in which you used liquor from 1911, at least, on, would have any effect upon him as a man? A. I can't say.

Q. Do you think it was a pleasant thing for him to go through? A. Mr. Grundy never objected to parties, all that we had, these drinks, why should he object to it; he was always present.

Q. But at the same time, during all of those years, he was objecting to your use of liquor to excess, wasn't he, and trying to stop it? A. Yes, he would question it.

Q. Isn't it a fact, and didn't you know, that the use by you of liquor to the extent that you used it, was going to have an effect on him; wasn't that inevitable in your mind? A. It is possible.

Q. Wasn't it more than possible, Mrs. Grundy? A. I say it is possible.

Q. Wasn't it more than possible? A. I can't alter my answer any; it is possible.

Q. Didn't he do, so far as you could observe, the very best he could? A. At times.

Q. Don't you think, therefore, that he is entitled to some credit for what he did do, in your own mind? A. I can't answer that.

Q. You can't answer that question? A. No.

Q. Didn't he always regard you, Mrs. Grundy, up until at least a short space of time, as being in an unfortunate position? A. I don't know what he regarded me.

Q. Didn't he act in that way? A. He acted in a very disagreeable and contemptible manner many times.

Q. Many times? A. Many times.

Q. Generally, didn't he act as if he regarded you in an unfortunate position? A. He regarded me as nothing.

Q. Well, that was only now; keeping out of your mind the last two or three years; keeping out of your mind what occurred in 1918; but before that, didn't he try his best, so far as you know? A. At times he was kind; at other times he was very disagreeable, unbearable, very grouchy.

Q. Didn't he have some justification for being grouchy on occasions? A. No more justification for that than I have to him for his actions.

Q. Was he ever continuously drunk? A. He has been away from home, I don't know what he was when he was away from home.

Q. When he was home was he ever under the influence of liquor periodically?

MR. HEYMAN: Oh, if your Honor please. I don't know that this is material at all to the issues; there isn't any charge here that Mr. Grundy was drunk.

THE COURT: I am inclined to overrule the question.

MR. LANE: Well, I think, if your Honor please, that I am entitled to show on this examination the entire married life and the attitude of this woman.

MR. HEYMAN: No charge here of any drunkenness on the part of the petitioner, nor of cruelty by reason of that.

MR. LANE: There is a charge of cruelty made on direct examination.

MR. HEYMAN: Not on the grounds of drunkenness.

MR. LANE: A charge made by her of cruelty in her direct examination.

THE COURT: I will overrule that question.

Q. Now, in order to clear up, to make it perfectly clear, if I understand you, Mrs. Grundy, either on your direct examination or cross examination, you say that you told Doctor Opdyke with respect to this proposition of your husband in 1918, to have sexual intercourse contra nature? A. I don't think I mentioned that to Doctor Opdyke.

Q. You don't think you said it? A. I mentioned his refusal since.

Q. You told Doctor Opdyke of his refusal to have sexual intercourse, is that right? A. Yes, to have it naturally.

Q. Naturally? A. You understand what I mean.

Q. Did you tell Doctor Opdyke that your husband wanted to have intercourse with you unnaturally? A. I did not tell Doctor Opdyke that, no.

Q. Did you tell him that your husband did refuse to have sexual intercourse with you in any way? A. Yes.

Q. Didn't Doctor Opdyke tell you that that was what you would have to expect, because of the condition that you were in, or words to that effect? A. No, I don't recall Doctor Opdyke saying that.

Q. May he have said something which was like that? A. He may have I don't recall that.

Q. Did I understand you to say in your direct examination that you told Doctor Mass about your husband's proposition, this unnatural method

of sexual intercourse? A. I think I told Doctor Maas.

Q. Are you sure? A. I think I did.

Q. And, as I understand it, you said you told Mrs. Corrigan? A. Not of that either; I told her of the other one.

Q. Of the gonorrhea? A. No.

Q. Of what? A. Natural intercourse.

Q. Of the unnatural intercourse? A. Of the natural intercourse.

Q. What do you mean by natural; what do you mean, that he would not have natural intercourse? A. Yes.

Q. That he would not have intercourse with you at all, is that right? A. Yes.

Q. There was nothing said between you and Mrs. Corrigan which would lead her to believe, so far as you know, that your husband had made any proposition of unnatural intercourse? A. I never told anybody.

Q. You told Doctor Maas, didn't you? A. Except Doctor Maas.

Q. Except Doctor Maas? He is the only one? A. Yes.

Q. Who was the doctor that you went to with respect to the gonorrhea; was that Doctor Maas? A. Doctor Maas.

Q. Do you remember that in the latter part of August, I think it was, of 1919, being on the on Jackson Avenue, when you were under the influence of liquor? A. Mrs. Low finding me on the street?

Q. Yes; meeting you on the street? A. No.

Q. And taking you home? A. No, sir.

Q. In the evening some time? A. No, I never remember seeing Mrs. Low on Jackson Avenue—

Q. You know Mrs. Low? A. I met Mrs. Low

a number of times but I never walked with her except walking to the grocery and we would walk together on our way back up to the door.

Q. There was no occasion at which you met her and she was obliged to take you home because you were under the influence of liquor? A. That is not true; Mrs. Low never met me and took me home; I met Mrs. Low a number of times at the store but she never took me home; I didn't need to be taken home any time I went to the store.

Hearing continued until June 7, 1920 at 12 o'clock noon, to take testimony of Harry T. Clark in New York City.

IN CHANCERY OF NEW JERSEY.

BETWEEN GEORGE H. GRUNDY, *Petitioner,* *and* IDA MAY GRUNDY, *Defendant.*	On Petition for Divorce. Deposition.

Deposition of Harry T. Clark, a witness produced on behalf of the defendant, taken before Hon. Frank P. McDermott, as Advisory Master, at the office of Messrs. Weissberger & Lissner, 99 Nassau Street, in the Borough of Manhattan, City, County and State of New York, this seventh day of June, 1920, at twelve o'clock noon, pursuant to order of Court.

APPEARANCES:

MARK TOWNSEND, JR., Esq., on behalf of the Petitioner.

BENJAMIN HEYMAN, Esq., on behalf of Defendant.

It is stipulated that the deposition be taken stenographically and the signature of the witness waived.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.:
ss.:

HARRY T. CLARK, being first duly sworn according to law, on his oath deposes and says:

DIRECT EXAMINATION BY MR. HEYMAN:

Q. Your full name is Harry T. Clark? A. Harry T. Clark.

Q. Where do you live, Mr. Clark? A. Freeport, Long Island.

Q. How long have you lived at that place? A. Since the first of May.

Q. Where did you live before that time? A. Brooklyn, in the Winter.

Q. Did you spend your Summers down at Blue Point? A. Blue Point and Bayport.

Q. Were you there in the year 1918? A. Part of the year.

Q. Were you there in the Summer of 1918? A. Yes.

Q. Do you know Ida May Grundy? A. I know a Mrs. Grundy.

Q. Do you know Mrs. Grundy, who lived in Jersey City? A. She told me she lived in Jersey City.

Q. You don't know her husband, George Henry Grundy, do you? A. I saw him once, I think.

Q. Do you know Park Grundy, her son? A. Park Grundy and my daughter used to go swimming together.

Q. Now, Mr. Clark, an incident has been related by Park Grundy and Mrs. Grundy about a trip which Mrs. Grundy made on board your yacht; do you remember that incident? A. I remember that one and only incident when she was aboard my yacht very well.

Q. Will you just tell the Court what happened at that time? A. Why, the yacht pulled around the end of the Blue Point Dock, aboard the yacht was a party of about fifteen—there might have been twelve or there might have been seventeen—and we started for a sail about three o'clock in the afternoon. We sailed down about twenty-five miles, and my captain went down to see about his engine and I says I will take the tiller; I took the tiller and thought I was going to make a short cut, but not knowing the bay as well as

the captain, I went aground. We went aground, I guess, about half-past six or seven o'clock.

Q. In the evening? A. In the evening. We worked there for about half an hour trying to get her off, and five or six of the life guards came out in their motor boat with a dory astern, and we all, my captain, myself and the rest of the men aboard the boat, pulled both anchors—I don't know whether you are familiar with yachting terms or not—we used the winch trying to pull her off, but we couldn't move her, and they suggested that we wait until high tide, which would be about four o'clock in the morning, or 3:30—I may not be correct about that now, as to the exact time—and they left their dory with me in case I wanted to go ashore, not having any of my own; and, as I said, we hoisted our lights, and about half-past one, I think, we were all down in the cabin taking a bite to eat, when my daughter says to me, she says, "Pop," she says, "I think the ship is afloat"; I says, "All right, I will tell my captain," I says; "We will go up and see." I went up to see the pull on the bow, I hoisted the sails, and found we had wind enough and we floated, together with the life savers' dory. He says, "What are you going to do with the dory?" I says, "We had better keep the dory, as long as we are going let us keep going, we can return the dory tomorrow," and we went, we sailed home, it was a beautiful night as I remember that, and we landed at the Blue Point Dock about 2:30.

Q. Now, Mr. Clark, have you got any cabins, or did you have any private cabins on board your boat at that time? A. No, sir; they are all open cabins.

Q. Do you recollect who was with you on that

trip? A. Outside of Mrs. Wright, who was my housekeeper, and Miss Mannion, who was her sister, and my daughter Carolyn, I don't recollect the rest of them, because my boat was most anybody boat down there.

Q. How old was your daughter at that time? A. What year was this?

Q. 1918. A. She was fourteen years old.

Q. Do you remember what took place on that boat that night? A. Outside of having something to eat we never did anything; the men were working like the devil to get her off.

Q. Are you sure that there wasn't any improper conduct on that boat that night? A. Absolutely; my daughter was aboard that boat.

Q. Did you have any improper relations with Mrs. Grundy that night on board that boat? A. Never.

Q. Did anybody else on board that boat that night have any? A. Not that I could see, and I could see all over my ship from stem to stern.

Q. Did you have anything to do with Mrs. Grundy at any time? A. Never.

Q. Either that night or any other night? A. Absolutely not; never.

Q. On board your boat or at any other place? A. Never.

Q. Do you remember another time when you took Mrs. Grundy and a Mrs. Smith, her friend, out in your automobile? A. I don't know whether it was Mrs. Smith or anybody else; I was in the habit of going in my machine to Patchogue, and if there happened to be a party down at the hotel when I was leaving and I would be stopped and asked, "Where are you going?" and they asked if I was going to Patchogue, and I would say, "Yes, jump in."

Q. Do you remember of one particular afternoon when you took Mrs. Grundy and another lady out for a ride? A. I don't think I ever had Mrs. Grundy and another lady out for a ride alone, unless they may have driven to Patchogue with me to some place, but no specific ride.

Q. Now, Mr. Clark, your wife at that time was stopping at the same hotel with Mrs. Grundy, wasn't she? A. She was; she wasn't my wife at that time.

Q. She wasn't your wife at that time? A. No.

Q. She was your wife to be? A. My wife to be.

Q. Was she friendly with Mrs. Grundy? A. As friendly as Summer people are.

Q. Were you ever at that hotel? A. What hotel?

Q. Where Mrs. Grundy was stopping? A. Yes, I lived there for two weeks in one May; I got out on account of the grub; I didn't like the grub.

Q. Did any of your family live at that hotel? A. My father and mother have.

Q. Did they live there during the year 1918? A. No, they did not.

Q. Before that time? A. No, after that time.

Q. What kind of place is this hotel? A. A family hotel.

CROSS-EXAMINATION BY MR. TOWNSEND.

Q. What is your business, Mr. Clark? A. Dry goods.

Q. What is the name of your concern? A. I am in business for myself.

Q. Under Harry T. Clark? A. Under Harry T. Clark.

Q. Your business is located in New York City? A. 43 Leonard Street.

Q. How old a man are you, Mr. Clark? A. I am forty years old today, sir; on the seventh of June I arrived; you just spoiled a nice little luncheon party for me; but I will forgive you for that.

Q. Mr. Clark, how many children have you? A. I only have one alive.

Q. That is the daughter about which you spoke? A. Yes, sir.

Q. How long has your wife been dead? A. She isn't dead at all; she is very much alive.

Q. I assume, of course, that you have been divorced, then? A. Yes, sir.

Q. When did you discontinue living with your first wife? A. About ten years ago.

Q. When were you married again? A. One year ago this June.

Q. You were married in June, 1919? A. Yes, sir; I think it was the 20th; I don't remember.

Q. To Mrs. Wright? A. No, no, to a—

Q. That is immaterial, anyhow. A. Her first name was Kerr; I knew her under the name of Miss Hallenbach, her name was.

Q. Were you down to Blue Point last Summer? A. Yes, sir.

Q. Did you have a cottage there? A. Part of the time; yes.

Q. Were you there the Summer of 1918—did you have a cottage there? A. No, sir.

Q. Where were you living? A. At the Five Mile Look at Blue Point.

Q. Is that the name of the hotel? A. Yes, sir; that is the name of the hotel.

Q. You spoke of your housekeeper, a Mrs. Wright? A. Yes, sir.

Q. Where had she been your housekeeper, Mr. Clark? A. In Brooklyn.

Q. Was she down at Blue Point with you? A. She came down there temporarily, yes.

Q. How long was she there? A. She was there about a week or ten days.

Q. A week or two? A. Yes, that is all.

Q. How long were you there? A. I used to go down the 15th of April and stay until about duck shooting.

Q. That was about what time? A. The 20th of October, I think, is the expiration of duck shooting.

Q. You were also down there during the Summer of 1917? A. Yes; 1916, 1915, 1914, 1913, 1912, I don't know how many years back.

Q. This occasion in 1918 when Mrs. Wright was there, was that the only occasion she had been down there? A. Oh, no; she kept house for me when I kept house at Bayport as well as in Blue Point.

Q. When did you keep house at Blue Point; what year? A. 1917.

Q. She kept house for you there? A. Yes, sir.

Q. When did you keep house at Bayport? A. No, it was 1916 at Blue Point and 1917 at Bayport.

Q. How far is Bayport from Blue Point? A. About a mile and a half.

Q. Is that on the Sound? A. Right out on the bay.

Q. During those two Summers she had been there all Summer? A. Yes, sir.

Q. This yachting trip about which you have spoken, could you in any way place the date when that occurred? A. No, I can't.

Q. Can you give us the approximate date? A. No, because it was not a matter of date; it was almost every day I went out in the yacht.

New Jersey State Library

Q. What hotel were you living at? A. The Five Mile Look.

Q. What hotel was Mrs. Grundy at? A. The Hallett House.

Q. How far is that away from the Five Mile Look? A. About three city blocks.

Q. You had one or more automobiles? A. I had just one down there in the Summer.

Q. And a chauffeur; or did you drive it yourself? A. I drove it myself.

Q. You drove this yourself? A. Yes, sir.

Q. You spoke about going to Patchogue; how far is Patchogue from that place? A. It is about two and a quarter miles.

Q. Were you living over there? A. No, sir; never.

Q. Did you go there daily? A. I went there daily and nightly.

Q. For what purpose? A. My boats were kept over night in Patchogue Creek.

Q. And you went over there? A. No; I went over there on board sometimes, but I am a member of the Patchogue Yacht Club and also of the Patchogue Golf Club.

Q. Blue Point, before the country going dry, was a place where they sold liquor? A. What is that?

Q. (Last question repeated.) A. They did until this new law went into effect.

Q. They sold it at the Hallett House? A. No, they never sold it at the Hallett House to my knowledge.

Q. Did they sell it at the Five Mile Look? A. They did until the law went into effect.

Q. Were there cafes in the vicinity around there? A. Well, there was one within about half

a mile outisde of the Five Mile Look and the Hallett House; yes, there were two.

Q. Can you tell us whether this trip, this yachting trip, was in the month of August or not? A. No, sir; I couldn't.

Q. What causes you to remember this so distinctly, Mr. Clark? A. In the first place, because we went aground; in the second place, Mrs. Grundy, when these life savers came out, asked them to telephone in to the Hallett House and state that they were aground.

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

Q. You thought the fact of Mrs. Grundy asking them to telephone was something rather singular? A. Why, no; because we didn't know when we were going to get off, and naturally she would notify her boy; wouldn't she?

Q. Had you ever been aground before? A. Oh, yes; a good many times.

Q. Have you been since? A. No, not with the big boat; I was aground yesterday with my small one.

Q. You went aground at 6:30? A. I think it was 6:30 or seven o'clock.

Q. And you were afloat again at what time? A. I think a little after one; before two.

Q. And the life guard told you it would be high tide about three or four? A. About three or four.

Q. So you went through then apparently at low tide? A. At low tide.

Q. It wasn't high tide until four o'clock? A. I said we didn't strike Smith's Point at that time; we had left the Blue Point Dock about three or four—

Q. It was high tide at three or four o'clock in the morning? A. I didn't say we left the house at three or four in the morning.

Q. I quite understand that, Mr. Clark; you said the life guards told you it would be high tide at four o'clock in the morning? A. Yes.

Q. So it must have been high tide at three or four o'clock in the afternoon? A. We hadn't gotten aground at three or four o'clock.

Q. I say it was high tide at three or four o'clock in the afternoon? A. Naturally it would be.

Q. So that if that were so, it wouldn't be low tide before ten or eleven o'clock that night, would it? A. This was on a flat; I don't know anything about the tides; this was on a flat.

Q. Now, Mr. Clark, you don't mean seriously to tell us that you as a yachtsman commanding a yacht and living in this vicinity ten or fifteen years, don't know anything about the tides? A. Not up there, no.

Q. Now, Mr. Clark, you knew this, that if it were going to be high tide between three and four in the morning, it would be low tide around between ten and twelve at night, didn't you? A. Yes.

Q. So that when you went aground it was between ten and twelve? A. No. You know how long it takes the tide to come in and go out, don't you?

Q. Yes, I do; it takes about twelve hours. A. Well, if we went aground at half-past seven or eight o'clock, and they said I could get afloat at three or four, we naturally had some water, didn't we?

Q. But I understood you to say, Mr. Clark, that you went aground about half-past six or seven? A. Well, we did.

Q. If it was high tide at four o'clock in the afternoon, when would it be low tide? A. Nat-

urally six hours after that time. If it was low; I don't know that it was low.

Q. That would be about ten o'clock, wouldn't it? A. I don't know that the tide was low.

Q. I am not asking you that, sir; I said if it were high tide at four o'clock in the afternoon, it would be low tide at ten o'clock at night? A. Yes.

Q. So that when you went aground it wasn't low tide? A. Well, I don't know if it was absolutely low.

Q. When did you first meet Mrs. Grundy? A. I think—why, I don't know what Summer it was in.

Q. About how many years ago? A. I should say four or five years ago.

Q. How did you come to meet her? A. Why, at the Summer hotel dances.

Q. Can you recall who introduced you? A. No, I can't.

Q. And you had carried on this acquaintance from that time on until at least during the Summer of 1918, had you not? A. I said "How do you do" to her every time she came down.

Q. Did you ever dance with her? A. Never.

Q. But you did meet her at the dances? A. I did.

Q. This trip this night, basing your recollection of the details upon the fact that the life guards came out and Mrs. Grundy sent word through them to telephone to her son, must leave a very indelible impression on your mind; did it? A. It naturally did; that was the first and only time the life guards came out for me.

Q. Can't you possibly tell us who the other members of the party were? A. No, I can't just this minute.

Q. Have you endeavored to refresh your recollection as to who they were? A. Why, I have thought the thing over to some extent, but I have forgotten.

Q. But you are sure that your daughter Carolyn was on board? A. Absolutely. Do you want to know why I am sure? I will tell you why I am dead sure.

Q. I am not asking you any question. I will give you a chance to explain that, sir. By the way, your daughter went to some Summer camp every year, did she not? A. Yes, sir.

Q. Wasn't she at Summer camp that Summer? A. Why, she was at a Summer camp, yes.

Q. Are you sure of that? A. Yes.

Q. What is the name of that camp? A. A Summer camp.

Q. At what place? A. A camp just below Port Jefferson.

Q. What camp? A. Camp Siwanaka, I think.

Q. That is below Port Jefferson, New York? A. Just below Port Jefferson, Long Island; it is New York, too.

Q. How far away from where you lived was this camp? A. About 24 miles.

Q. Did she come home frequently? She came home four or five times during the Summer.

Q. What day of the week was this? A. What do you mean, when she was over there?

Q. What day was the trip? A. I couldn't tell you that.

Q. You have no recollection as to that? A. No.

Q. Could you say whether it was a Saturday or Sunday? A. No, I couldn't say.

Q. Did you have any liquor aboard the yacht? A. I presume I did; I always had.

Q. How big a boat was this yacht? A. 39.10 water line.

Q. Did the captain sleep on board? A. Nobody ever slept on that boat except when we were cruising.

Q. How were you able to sleep on the boat when you were cruising? A. Why, there are bunks.

Q. You did have sleeping accommodations there? A. Yes.

Q. When you say you didn't have any private cabins, you mean you didn't have state rooms like one of the larger boats? A. Yes.

Q. As a matter of fact, boats of the size of yours, it is rather unusual to have private cabins on them, isn't it? A. That is correct.

Q. Owing to the lack of room? A. Lack of room is correct.

Q. Can you recollect who was it that introduced you to Mrs. Grundy? A. No, I can't.

Q. Was this yachting party the only time that you and Mrs. Grundy had been out? A. No, she wasn't in my personal accompaniment—out with the car?

Q. Yes. A. She wasn't in my personal entourage much.

Q. Had she ever been out in your personal company? A. Never.

Q. Positive of that? A. Positive.

Q. Had she been out in the car in your company before then? A. Yes.

Q. When was this? A. Why, on Saturday nights and Wednesday nights; on Wednesday night there used to be dances at the South Bay House, and Saturday nights at the Hallett House, and after that we would go to the Maples and have a club sandwich.

Q. The Maples Hotel? A. Yes.

Q. They were licensed to sell liquor? A. Yes.

Q. And they did sell liquor? A. Yes.

Q. This other place that you say you would go to on Saturday night—you spoke of the Maples, the Hallett House, and some other place. A. The South Bay House.

Q. Did they sell liquor there? A. Not the South Bay or Hallett House, to my knowledge.

Q. How many people would be in your company at these times? A. Eighteen or twenty.

Q. You have told us that you never danced with Mrs. Grundy? A. Never danced with Mrs. Grundy.

Q. Who was it invited Mrs. Grundy to go on this trip, this particular trip? A. I have forgotten that.

Q. Do you know? A. I don't remember. I think Miss Mannion.

Q. Were you usually consulted in the matter personally? A. No.

Q. How did she come to get aboard the yacht? A. Why, because Miss Mannion was my housekeeper's sister, she was quite friendly with her, and she was invited, of course, to come, except, of course, when I had my own bunch.

Q. How did she get aboard that evening? A. We didn't start that evening; that afternoon; she came aboard at the Blue Point Dock.

Q. Did you take her in your automobile? A. Why, no; the machine was leaving from up there and she took a ride in from the hotel.

Q. You are positive of the fact that your daughter was along with you? A. Absolutely.

Q. Your daughter and Park were more or less playmates around there, were they not? A. Why—

Q. Friends, like boys and girls are? A. Yes; they went swimming together.

Q. Do you know why Park wasn't asked to come? A. I don't know.

Q. Do you remember the occasion on which you took Mrs. Smith and Mrs. Grundy in your car? A. No, I don't.

Q. Will you say that it didn't happen? A. No, I will not say so.

Q. Do you recollect being out this afternoon, stopping at a couple of road houses, and have a drink that evening? A. I have done that often.

Q. With Mrs. Grundy, haven't you? A. I am not sure of that; if she was with the crowd, we went in and had a drink, and if she was with us naturally she would drink.

Q. Now, I want to know whether you remember this—whether you will say, under oath, that you did not take Mrs. Grundy and Mrs. Smith out in your automobile one afternoon, stop at several road houses for a drink— A. No, I will not swear to that because I am not sure; I will swear that I never had Mrs. Grundy out alone.

Q. Will you swear that on this particular occasion you did not bring Mrs. Smith back to the hotel, or the Hallett House, and then go away with Mrs. Grundy alone? A. I swear to that.

Q. In your automobile? A. Yes, sir.

Q. And that you hadn't been drinking heavily, both of you? A. I will swear that I never had Mrs. Grundy out alone in my machine.

Q. You were more or less a heavy drinker in those days, weren't you, Mr. Clark? A. I was, yes.

Q. As a matter of fact, you and Mrs. Grundy used to frequently go to the cafes in that neighborhood and drink, didn't you? A. Not alone, no.

Q. Positive of that fact, that you were never in there alone with her? A. Positive.

Q. Mrs. Grundy was a heavy drinker in those days, wasn't she? A. Not that I know of.

Q. There were a number of road houses around that vicinity, were there not? A. Yes, sir.

Q. Where you could get a few things to drink? A. Yes, sir.

Q. It used to be your practice, was it not, in going out with the ladies, to stop at road houses and have something to eat o rdrink? A. Yes, sir.

Q. And if Mrs. Grundy was in the party with you, she would share in your hospitality, I assume? A. It was usually a mixed party and we divided the expenses amongst the men.

Q. Did you ever meet Mr. Grundy personally? A. No, sir; I never did.

Q. You say you saw him once? A. I saw him once, although when I saw him I didn't know who he was.

Q. Where were you when you saw him? A. In the road house.

Q. Where? A. At the Maples in Blue Point; he and Mrs. Grundy were drinking there together.

Q. Are you positive of that? A. Well, they were at the table; I don't know whether they were drinking or eating.

Q. What caused you to say that, Mr. Clark, that they were drinking together, if you don't know? A. Well, they were eating, and they wouldn't go there just to eat.

Q. You mean that has been your experience, is that it? A. Yes.

Q. You never went there that way? A. Just to eat alone, no.

Q. You never took any ladies there just to eat, did you? A. Well, we all sat down, and if we wanted something to drink we could have it.

Q. So far as you were concerned, you never took any ladies there for the purpose of eating, alone? A. I don't quite catch that.

Q. I will withdraw the question. So far as you were concerned you never invited the ladies out to these road houses merely for the purpose of eating, did you? A. Well, they could eat or drink as they pleased.

Q. I say, you didn't take them there for that purpose? A. I went there to get a drink myself, and something to eat.

Q. When was the last time that you saw Mrs. Grundy, Mr. Clark? A. Where was the last time I saw her?

Q. When; yes. A. She had me on the phone about a month ago, I think.

Q. When was the last time you saw her? A. I have forgotten just this minute.

Q. About when? A. I think it was about two months ago.

Q. Did she come to your office? A. Yes, sir.

Q. And talk over this case with you? A. And talked over this case with me.

Q. After that she had you on the telephone? A. Yes.

Q. To talk over this case? A. She talked over the case, and she asked me would I go to Jersey City.

Q. She informed you what had been testified to in Jersey City? A. No, sir.

Q. Never said anything like that to you? A. No, sir.

Q. Has anyone, before you testified here today? A. Except that we talked over what we had seen in the paper.

Q. Who? A. Well, everybody; for instance a friend who lives in Hoboken, Harry Brown, he will insist on commenting on the whole thing; since he read it in the Observer I got a lot of notoriety in the matter.

Q. Have you talked over what you were to testify here to today? A. No.

Q. Not before today? A. No, sir.

Q. Not with Mr. Heyman? A. No, sir; I told him I was going to tell the truth.

Q. I didn't ask you whether you were going to testify to the truth; you didn't talk to him? A. No, sir.

Q. You haven't told Mrs. Grundy? A. No, sir.

Q. Did you send Mrs. Grundy an announcement of your marriage? A. No, sir; I did not.

Q. Did you notify her that you were married? A. No, sir.

Q. Were you at Blue Point last Summer? A. Yes, sir.

Q. You went there shortly after your honeymoon? A. We were married at Blue Point.

Q. And you remained there, did you? A. Yes, sir.

Q. And the fact of your marriage, I assume, was announced in the newspapers? A. It was in the newspapers.

Q. It was more or less public property? A. No question about that.

Q. Naturally the fact of your marriage would come to Mrs. Grundy's attention? A. I should think so.

Q. Mrs. Grundy didn't go to Blue Point last Summer, did she? A. Yes, I believe she was there.

Q. Last Summer? A. Yes.

Q. You saw her there? A. I understand she was there.

Q. For how long a time? A. That I don't know.

Q. Mr. Clark, do you remember an occasion where you invited Mrs. Smith out for a trip and stopping at several road houses and getting drunk so much that Mrs. Grundy or Mrs. Smith insisted that you take her home, and that you did so, and then continued your party with Mrs. Grundy? A. I don't remember such occasion; no, sir.

Q. Will you say it didn't happen? A. It didn't happen; I told you before that I never had Mrs. Grundy alone in my car.

Q. Will you say that this did not happen? A. Yes, I say this did not happen.

Q. On this particular occasion when Mrs. Grundy and Mrs. Smith were in your car, how did Mrs. Grundy happen to go in your car? A. What is that question?

Q. (Last question repeated.) A. Why, if they were there, if those two people were in my car, I don't know; the chances are that I might have been stopping at the hotel and said I am going up to get a drink.

Q. And you invited them to go along? A. I might have, yes; I wouldn't know this Mrs. Smith from Adam.

Q. I suppose this is a typical Summer resort down there; a lot of women around there all the time? A. Yes, sir.

Q. Some women with whom you hardly ever spoke? A. Well, I have been going there so many years that I know the greatest lot of people; a lot of people called me Harry and I don't know who they are, I didn't know their names; I met them at Summer dances.

Q. And that included ladies, as well? A. Yes.

Q. Do you remember who the ladies were that called you Harry? A. No, I don't; because there were so many that called me Harry around there.

Q. Mrs. Grundy may have been included in that list? A. I don't think she was, but I am not sure.

Q. When did Mrs. Grundy tell you that she lived in Jersey City? A. Why, it was a known fact down around the Hallett House there; I don't know whether she told me herself that she lived in Jersey City.

Q. You so said on your direct examination by Mr. Heyman, that she told you she lived in Jersey City. A. She may have told me.

Q. Do you now desire to change that statement? A. Yes; she may have said she lived in Jersey City; the same as I said before, everybody knew she was from Jersey City.

Q. What life saving station was it that the guards came out from that night? A. Smith's Point.

Q. Do you know the captain of this station? A. No, I don't.

Q. Do you know any of the life guards? A. I do not.

Q. Mrs. Wright had been your housekeeper for how long? A. A number of years.

Q. How old a lady was Mrs. Wright? A. About 65.

Q. And her daughter, or her sister? A. Her sister was about, she was just my age to a day, coming to think of it, June 7th.

Q. Do they live with you in Brooklyn? A. Now?

Q. Did they at that time? A. They did at the time.

Q. You say you landed on this occasion at Blue Point at 2:30 o'clock in the morning? A. About 2:30.

Q. When did you arrive in your house? A. Well, my daughter and I and Miss Mannion were home in the house before three o'clock.

Q. Did you take Mrs. Grundy home? A. I don't know; they walked, I guess.

Q. But on this particular occasion you are sure that you were home in the house about three o'clock in the morning? A. I know it.

Q. There would have been no reason why Mrs. Grundy should not have been home in her house by three o'clock in the morning? A. She should have been home before three.

Q. How far from your landing place was her hotel? A. About five minutes walk.

RE-DIRECT EXAMINATION BY MR. HEYMAN:

Q. Mr. Clark, was Mrs. Grundy on that boat of yours at any other time when you were stuck outside? A. Not to my knowledge; never while I was on board.

Q. Has Park Grundy ever been out on your yacht? A. Yes, I think he has.

Q. Why are you sure that your daughter was on board that boat on that particular occasion? Why are you sure she was? A. Why, she told it to the now Mrs. Clark before Mrs. Clark and I were married last Summer, we were out on the bay early in the Summer.

Q. She told you about the incident? A. When we passed Smith's Point, she explained to the then Mrs. Hallenback, who afterwards became Mrs. Clark, and told her of the incident.

Q. You have said, in answer to a question by

Mr. Townsend here, "Why was Park not taken on that trip?"— A. That I don't know.

Q. Well, do you know whether he was asked or wasn't? A. I don't know that.

Q. Does your wife know that you are testifying here today? A. She does.

Q. You have talked it over with her? A. Talked it all over with her.

Q. You were a very popular man down at Blue Point, weren't you? A. I don't know; I was elected king of the carnival at Blue Point by pouplar vote; I don't know whether it was popularity or what it was.

RE-CROSS-EXAMINATION BY MR. TOWNSEND:

Q. What was that, King of Blue Point? A. Yes.

Q. Is that some carnival? A. Yes, we had a big Mardi Gras carnival.

Q. I suppose it was more or less of an asset then for any of the ladies to have you as a friend, wasn't it?

MR. HEYMAN: I object to that.

A. No, the fact of the matter was, I was traveling then with the girl who was elected Queen.

Q. What was her name? A. Stokes.

Q. When was that? A. During the Summer of 1917 and 1918.

Q. Where did she live? A. She lived there at Blue Point.

Q. What do you mean by saying that you traveled with her? A. Why, we used to go out a great deal at nights, we used to go out, go around to dances, I knew her father very well, and her uncle, and her sister, and her brother.

Q. What did you do with Miss Mannion on those occasions? A. Why, Miss Mannion was sometimes along; sometimes she was not.

Q. By the way, what is the name of those people that ran this camp at Port Jefferson?

MR. HEYMAN: I object to that. What has that got to do with this matter? It is not recross examination, as a matter of fact.

A. Why, Mrs. —— I can't remember the name; the bill simply read Camp Siwanaka.

Q. Do you know whether the camp is still there or not? A. That I don't know; it was last Summer.

Q. You don't remember the name of the proprietor of the camp? A. No.

RE-DIRECT EXAMINATION BY MR. HEYMAN:

Q. Why is your daughter not at Camp Siwanaka this year? A. We haven't decided whether to send her to Camp Siwanaka or not.

Q. Was she attending school up to this time? A. She has been attending school at Hackettstown, New Jersey.

Q. Is she in Hackettstown now? A. No, sir; she is not in Hackettstown.

Q. Why not?

MR. TOWNSEND: I object to that as immaterial.

MR. HEYMAN: If your Honor please, I want to show why. We have been trying to get the daughter to testify here.

Q. Where is your daughter now? A. My daughter is in New York State.

Q. School isn't closed at Hackettstown? A. No, sir.

Q. Why didn't she finish school?

MR. TOWNSEND: I object to that as immaterial.

THE COURT: I know the reason why. I will overrule the question. Mr. Townsend and Mr. Heyman both agree that under such circumstances and conditions they will not endeavor to bring Carolyn Clark, the daughter of Harry T. Clark, into Court to testify.

Hearing continuel until June 8, 1920 at 10:30 o'clock in the forenoon, at the Chancery Chambers, Jersey City.

IDA MAY GRUNDY, recalled (June 8, 1920):

CROSS EXAMINATION (RESUMED) BY MR. LANE:

Q. Mrs. Grundy, I ask you to look at these two letters one dated November 20, 1914 and one dated December 18, 1914, and tell me whether you recognize them as letters written by your husband to you during the time you were in Morris Plains? A. These letters you asked me to find.

Q. Are they the letters? A. They are the letters.

Q. They are the letters which were written to you from your husband? A. Yes.

Q. During the time you were in Morris Plains? A. Yes.

(Letters marked Exhibit P-11 and P-12).

Q. Did you look through the rest of the things that you said were in storage? A. Those were the only letters that Mr. Grundy wrote to me.

Q. A little louder. A. These were the only letters that Mr. Grundy wrote to me during my four months incarceration in Morris Plains.

Q. I didn't ask you that; I asked you whether during the recess you looked in the trunk which you said might contain letters which were written to you by your husband? A. I have no other letters.

Q. Did you look during the recess in the trunk that you said might contain them? A. Yes.

Q. When? A. Yesterday I received the trunk from storage, yesterday morning, and I searched to the bottom of it, took everything out, and there are no letters of any description in the trunk.

Q. When did you take the trunk out of storage? A. Yesterday morning the expressman got it, brought it to my home.

Q. These letters you kept in your bureau? A. I don't know where I had them; they were in my possession somewhere and when you asked me then I suddenly remembered that those letters were in existence somewhere but I didn't remember of ever seeing them.

THE COURT: Who produced these letters that you just identified?

MR. LANE: I did.

Q. You made it a practice, did you not, of keeping papers that you were desirous of preserving, by slipping them underneath the bureau drawer, between the drawer and the bottom part of the slot in which the drawer slides, did you not? A. No, sir; I never made it a practice to keep letters any place of that kind.

Q. Did you make it a practice of keeping any papers? A. I kept my bank book there.

Q. Your bank book? A. My bank book.

Q. You kept your bank book underneath the bureau drawer, between the— A. Yes.

Q. Between the bottom of the slot in which it fits? A. Yes.

Q. Now, didn't you keep anything else there other than your bank book? A. Nothing but the bank book.

Q. Don't you remember having these letters, P-11 and P-12 in that place? A. No, I don't remember having them in that place.

Q. Do you remember having any papers or any letters of any kind in that place? A. No.

Q. Do you remember whether to the letters of November 20, 1914, you made answer? A. I don't remember.

Q. And is your answer the same with respect to the letter of December 18th? A. I don't remember.

Q. Do you know to what your husband referred when he wrote you as follows: in the letter of November 20th: "You owe it to our boy and yourself as well as to me to make a supreme effort and determine to undergo your treatment until both you and the doctors are thoroughly satisfied you are cured?" A. I think he referred to drinking.

Q. When he wrote you in November, 1914, as follows: "There is nothing more I wish for than to see Park grow up happy and contented and proud of his mother; he is older now and you can't afford to let him see you ever again" (it looks like, yet it doesn't) "Unless you are thoroughly satisfied and I will never be ashamed to see you": Did you think at the time you received that letter, in November, 1914, that your husband was sincere? A. No, I did not.

Q. You did not think that in 1914? A. No, because he never came in to see me all the time I was there; those letters were the only letters he wrote to me.

Q. Didn't he come to see you when you were there— A. See me there?

Q. Wait until I get through. Didn't he come to see you when you were there before? A. The first time, when I was there eight weeks.

Q. Yes. A. He came there every week.

Q. Didn't you all the times he came raise a scene? A. I never did.

Q. And didn't you finally persuade him, against the doctor's advice, to take you away? A. No, I didn't persuade him; I asked him to take me out and he consented voluntarily.

Q. Didn't you, every time he came, from the first day you were there the first time, endeavor to have him take you out? A. I asked him to bring me home.

Q. Each time? A. Yes.

Q. And he finally, after eight weeks, did take you away? A. Yes.

Q. And that was against the doctor's advice, wasn't it? A. I know nothing about that; we took a walk each time he came and I spoke of coming back home and then he consented to it and he came there and reported it to the doctors and they agreed to allow me to leave that same day.

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

Q. I show you a letter dated May 29, 1912, written by Doctor Evans— A. May?

Q. May 29th, 1912, that was after you were there the first time, wasn't it? A. Yes.

Q. And I ask you whether you have ever seen that letter before? A. I never saw this letter.

Q. Don't you know, as a matter of fact, when you were taken out by your husband in 1912, it was directly contrary to the advice of Doctor Evans? A. I never talked to him; I know noth-

ing about the letter; I never saw it before; I don't know anything about that.

Q. You don't know anything about that? A. No, sir; I do not.

Q. Didn't he tell you that he was not going to see you during the time you were there the second time— A. No, sir.

Q. Wait a minute.—because he intended to permit the cure to take its course without interference on his part? A. No, sir; he didn't tell me that.

Q. When he wrote you this letter in November, 1914, "I earnestly hope you will understand fully my motive in writing this letter and believe I am sincere in saying we are all doing everything in our power, acting in accord with out best judgment and under advice of the medical profession, in having you undergo the treatments," did you think when he said that he was sincere? A. I did not; I told Mrs. Corrigan, who he sent out there, I didn't believe a word of it, I wished she would discontinue her visits, I knew Mr. Grundy sent her here, and if Mr. Grundy didn't want to come I didn't wish to see anybody; she knew my feeling about those letters.

Q. When he wrote you in November, 1914, "I have cheerfully sacrificed the savings of years and opportunities for advancement so that you would be content, well loved and well cared for, in the hope that you in turn would wean away from your one weakness", was that true? A. Mr. Grundy never had savings which he cheerfully sacrificed that I know of.

Q. None of his sacrifices were cheerful? A. He never had any savings that I ever knew of, except what I helped him to save, and that was our home, which he sold, and there was very

little left from that, there was nothing to sacrifice.

Q. He wrote you in December, 1914, "Some day I sincerely hope you will realize you were treated with the utmost consideration and kindness, even though this temporary confinement seems harsh, it is the only manner in which we can hope to help you, every other means we can think of has been tried but without success." You knew, did you not, that he had been advised to that effect by doctors? A. By doctors?

Q. By doctors. A. In December he had been—

Q. You knew it at the time, didn't you? A. I suppose so.

Q. He says, "You have a boast what you would do to get even"; had you boasted what you would do to get even when you were released? A. I don't recall having boasted of what I would do. I told Mrs. Corrigan, his messenger, that I was wanting to get out of that place, that I was going to get out and shift for myself, which I did. The minute I got out of that place I went by trolley to New York; the first thing I did was to go to the bank and get the money and I intended to go and get myself a room and go and hunt a position. Then I phoned Mr. Grundy and he said he would like to see me, he was greatly surprised to know that I was in New York; then I came downtown, he said he wanted to see me, I said very well I would come downtown and meet him, then he insisted upon my coming over to Mrs. Corrigan's where he was living, insisted upon my coming over with him; he phoned to Mrs. Corrigan's to tell her that he was bringing me home to dinner. They were all greatly surprised that I left Morris Plains. I had talked to her when she came, to ask him to allow me to come out for Christmas and spend the day with Park, and he insisted

upon keeping me there, and he wouldn't do anything; that is why I left Morris Plains, I determined to get out for Chirstmas and spend the day with my boy.

Q. In the letter of December 18th, he writes you, "I will be very happy to come out Christmas and spend the day with you if you wish if you will try to be contented and show a desire to try to help me carry out my determination to comply with medical advice." Did you answer that? A. I did not. I did not care to spend Christmas there and I determined I wouldn't if there was any way at all of my leaving the place. Doctor Evans gave me parole, Mr. Grundy didn't give me parole, Doctor Evans saw me playing the piano in the parlor and he asked the supervisor who I was; then he said, "Well, that lady has no business here, give her parole", she said "That was the lady I had been asking about for parole" they gave me parole right then and I arranged my leaving and I got out, I didn't intend to spend Christmas there.

Q. The first thing you did after you got parole was to break it, didn't you? A. I beg pardon.

Q. The first thing you did after you got parole was to break it, wasn't it? A. I left the place.

Q. You knew that was breaking your parole, didn't you? A. They all treated me very lovely and the head supervisor said she saw no reason why I should be kept there, she knew that my husband didn't come to meet me there.

Q. You knew that you were not supposed to leave the place under parole, didn't you? A. Yes; it was my only way of getting away; my husband refused to take me.

Q. Do you know Cy Youngson? A. Mr. Youngson is a friend of Mr. Grundy's, another friend of his.

Q. Do you know Nell Piatt? A. Yes.

Q. Didn't you and Nell Piatt go out quite often? A. We went out occasionally to theatres.

Q. With Cy Youngson?

MR. HEYMAN: I object to that, if your Honor please; there isn't anything in this case about Cy Youngson or Nell Piatt or anything else; in the petition.

THE COURT: What is the purpose of it?

MR. LANE: The same line as the other evidence has been introduced and accepted, with respect to going around with other men.

MR. HEYMAN: I object to any such proof, if your Honor please. If they are going to allege any infidelity with Cy Youngson, I think it should be alleged in the petition in order that we have an opportunity to meet it.

THE COURT: I don't understand they do allege it.

MR. HEYMAN: Unless it happened during the months of June, July and August, 1919.

MR. LANE: This witness has opened her entire life, may it please the Court, and I am introducing it with the same purpose as I introduced the evidence with respect to the other men whose names have been mentioned, mentioning another name, that is all. Your Honor has permitted testimony with respect to Clyde, with respect to Clark, and Cy Youngson is another one, that is all, of that same character.

THE COURT: Is there anything claimed in relation to this witness and that person, I mean?

MR. LANE: The same as it was with respect to Clyde.

THE COURT: How long ago was this?

MR. LANE: I don't know; I will have to get the information from Mrs. Grundy.

THE COURT: I thought perhaps the paper you were reading from gave some information as to the time.

MR. LANE: It does not give it.

THE COURT: I will take this with leave to move to strike it out.

A. Never with Mr. Cy Youngson.

Q. With Nell Piatt? A. I went out with Mrs. Piatt, my husband always knew when I went with Mrs. Piatt, and I never went with Mr. Youngson; he was a friend of Mr. and Mrs. Piatt and Mr. Grundy's years ago, Mr. Grundy introduced me to Mr. Cy Youngson.

Q. Did you go out with Nell Piatt and Cy Youngson together? A. No, sir; I went with Mrs. Piatt but never with Cy Youngson and Mrs. Piatt; they were at a Summer resort one Summer, in about 1904—1903 or 1904; he was a visitor there and my husband knew he was a regular visitor, and so was Mr. Piatt and Mrs. Piatt; Mr. Piatt and Mr. Youngson were very dear friends, in fact they were always together, and my husband knew that Mr. Youngson was on that island, and I never went any place with Mr. Youngson and Mrs. Piatt except to meet them at the hotel and perhaps have a dance with Mr. Youngson, that is in 1903 or 1904.

Q. Wasn't Mr. Youngson at Savin Rock at the time you were there? A. I never saw Mr. Youngson at Savin Rock; never.

Q. You would know he was there if he was there? A. I never remember Mr. Youngson being at Savin Rock.

Q. Was Mrs. Piatt there? A. Mrs. Piatt came down every day, for she lived in West Haven.

Q. And saw you every day? A. Most every day.

Q. How long did Mr. Grundy's daughter live with you? A. Which daughter; he has two daughters.

Q. Ora? A. Ora lived with me quite some time before we left Pittsburg, Mr. Grundy had considerable trouble in taking that child from her aunt, the sister of his former wife, he had a court proceeding for that, and I was compelled to take the youngest daughter, for she was a lovely girl, we brought her from Pittsburg down here with us; I don't know how long she lived with me, some years; she went back to Pittsburg in 1909 to live with her grandmother; she met a young man there that she is married to, and she didn't return.

Q. Do you remember an occasion when Mr. and Mrs. French came to your house and you became ill? A. In New York?

Q. Who was Delia? A. That was the woman who worked for me, did my laundry work.

Q. When you had Delia, was that in New York? A. No, that was on Union Street.

Q. Union Street, Jersey City? A. Union Street.

Q. Do you remember the night Mr. and Mrs. French came to dinner? A. Yes, I have a faint recollection.

Q. Do you remember you became ill then? A. Yes, because I worked very hard all day and I prepared a very lovely dinner, and I was quite ill, all the time the dinner was being prepared I was ill.

Q. You didn't drink anything that night? A.

Yes, we had some drinks before dinner; Mrs. French spent the afternoon with me.

Q. And the illness that you had was due to your drinking, wasn't it? A. I think not; I had some drinks, I don't deny.

Q. Don't you know it was due to your drinking? A. It was not.

Q. And don't you know that Delia had to put you to bed? A. They didn't have to put me to bed.

Q. Delia had to put you to bed? A. No; I served the dinner.

Q. Don't you know Mr. Grundy had to go to Mrs. French and apologize for your condition? A. No, sir; Mrs. French had been with me all afternoon.

Q. Nothing like that ever happened? A. No, sir; they didn't put me to bed.

Q. Weren't you in bed when they got there, Mr. and Mrs. French? A. No, sir.

Q. Sure of that? A. I wasn't in bed when they got there.

Q. Weren't you ill when they got there? A. No, sir.

Q. Did you see them that evening at all? A. Yes, sir; I talked to them; I put the dinner on the table, I served the dinner.

Q. When did you first meet Miss Halverson? A. I think between four and five years ago; met her soon after we went to that Clinton Avenue residence.

Q. Through whom? A. A Mrs. Thune, who came occasionally to cook for me and assist me with general cleaning.

Q. When was it that you became quite intimate with her? A. Miss Halverson?

Q. Yes. A. Well, I should judge three years ago.

Q. How was that intimacy evidenced; what happened between you and she that indicated that you were intimate? A. Well, I don't know, Gertrude called at my house frequently, I liked her playing, she is a nice pianist, and I naturally was very glad to have Miss Halverson there, I was left alone continually and I always insisted upon her coming to spend the evenings with me.

Q. When was it that you first met Evans? A. Last February, 1919, after Mr. Grundy sailed for Europe.

Q. What date in February, do you know? A. Oh, I couldn't remember the exact date.

Q. Last Saturday, Mrs. Grundy, you went over to see Doctor Maas, didn't you? A. Last Saturday?

Q. Yes. A. Yes, sir; my ears bothered me considerably and I went over to have an examination of my ears and he gave me a prescription.

Q. How long is it since you have seen Doctor Maas? A. How long?

Q. Yes, before that time. A. I don't remember how long.

Q. A year ago, wasn't it? A. I had a prescription from Doctor Maas several weeks ago.

Q. Did he operate on you last Fall? A. Yes.

Q. You went over to see Doctor Maas because of this ear last Saturday, isn't that right? A. I have been there several times since that operation.

Q. That is the reason you went over there the last time? A. No, sir; because I had that singing in my ears; Mr. Grundy knows about my deafness.

Q. That is the only reason you went over there? A. Yes.

Q. You asked Doctor Mass, didn't you, to come over and testify that your husband had gonorrhea? A. I did not.

Q. You asked Dr. Maas to come here to testify that your husband had gonorrhea, did you not? A. I did not ask Doctor Maas to come here to testify.

Q. Did you speak to Doctor— A. He said that—

Q. Did you speak to Doctor Maas about your husband having gonorrhea? A. It was spoken of, because Doctor Maas told me Mr. Grundy had been there.

Q. Who opened the conversation with respect to gonorrhea, you or he? A. I don't remember.

Q. Didn't you ask him to come over and testify that your husband in fact had gonorrhea? A. No, sir; I did not ask Doctor Maas to come and testify.

Q. What did Doctor Maas say to you with respect to whether your husband had gonorrhea or not? A. He said Mr. Grundy had been over there and asked him if he remembered at the time he took treatment; he said yes, he had a faint recollection of it; Mr. Grundy asked him what it was and he said it was a form, he thought, of gonorrhea, but it may have been of long standing, something to that effect, some venereal disease.

Q. I want to get this straight now. Did Doctor Maas tell you when you were over there that your husband had had gonorrhea? A. He did not.

Q. Well, what did he say with respect to it? A. Just as I have told you.

Q. Didn't he say that your husband did not have gonorrhea and that you were crazy, or words to that effect? A. He did not say I was crazy; he did not ever say it.

Q. Did he use the word "crazy"? A. No, sir.

Q. Did he say that you must be crazy to think it? A. No, sir; he did not.

Q. Or words to that effect? A. No, sir.

Q. Sure of that now? A. I am positive of it, that he did not use that word.

Q. Did he say that it was a disease, or words to that effect? A. I don't think so.

Q. Well, did he say that your husband did not have gonorrhea and that you knew it? A. No, sir; he didn't say that; he said that he had a venereal disease, and it may have been something of long standing that broke out again.

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

Q. He didn't say that you knew that your husband did not have gonorrhea? A. Not that I recall.

By the Court:

Q. Did he examine your ear? A. Yes, sir; with the electric strong light on his face, you know, the reflector and the tubes he put in my ears, inserted them, and used some sort of a syringe or large bulb to force it, and told me to take a small mouthful of water, then he inserted this rubber bulb with the tube in my nose and forced this water through.

Q. Who brought up the subject as to your husband having this disease? A. That I can't just place, how it came about; I think I asked him if my husband had been there and seen him and he said he had been—oh, I will tell you—

Q. Go ahead. A. He said, "What is wrong

now?" I said, "My ears have been troubling me greatly because I have had that ringing or singing, it seems like I am getting more"; he said, "All right, take your hat off and I will examine you." He said, "I thought perhaps you were here about your case. How is it coming?" I said, "Well, I can't say." Then I said, "Has my husband been here?" He said, "Yes." I said, "What about?" Then he told me it was about this disease.

By Mr. Lane:

Q. Getting back to the other subject matter, it was after your husband had gone to Europe that you first met Evans, wasn't it? A. Yes.

Q. Where? A. At my home.

Q. Brought there by Miss Halverson? A. Brought there by Miss Halverson.

Q. Did you know at the time Miss Halverson brought him there that he was going to be there? A. Yes; Gertrude had asked me if she could bring her friend; I said, all right.

Q. Then it was immediately after he was brought there the first time that he came two or three times a week next? A. Yes, Gertrude stayed with me considerably while Mr. Grundy was away; Mr. Evans called on Gertrude and we spent a pleasant evening, Gertrude would play and sometimes I would play.

Q. It was immediately after he was first introduced that he commenced to come two or three times a week, is that so? A. Yes, with Miss Halverson.

Q. On the day that the barrels were brought up, on September 15th, where were the barrels put? A. In the dining room.

Q. After they were brought up? A. In the dining room .

Q. How long did they remain in the dining room? A. Until we moved out on September 26th.

Q. So that the barrels, after they had been brought up from downstairs, were placed in the dining room? A. Yes.

Q. And there remained until they were moved? A. Yes.

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

Q. You are sure they weren't placed anywhere else? A. No, sir.

Q. You are sure.

THE COURT: No doesn't mean you are sure.

A. They were not placed any place else; they were left in the dining room.

Q. You have in your mind at this time a picture of that apartment; you know that those barrels were in that dining room on September 15th and thereafter until they were removed some time about the 26th, wasn't it? A. Yes.

Q. You saw them there? A. Certainly I saw them.

Q. There can't be any mistake about that? A. No.

Q. On September 15th, the evening of September 15th, Mr. Townsend was at the apartment, was he not? A. Yes.

Q. Mr. Grundy was there, and Park was there? A. Park came in his room and went out again after he spoke to his father.

Q. Mr. Grundy was in the dining room, wasn't he? A. No, sir.

Q. The dining room doors were open, were they not? A. They were open, the dining room was dark, there was no light burning in the dining room.

Q. I didn't ask you that; the dining room doors were open, were they not? A. Yes.

Q. Park went through the dining room, didn't he? A. No, sir.

Q. Mr. Townsend went into the dining room, didn't he? A. No, sir; Mr. Townsend never left the living room from the time he came in until he went out.

Q. You are sure the barrels were in the dining room? A. In the dining room.

Q. What part of the dining room were they in? A. In the corner, between the serving table and the buffet.

Q. They were what kind of barrels, flour barrels or sugar barrels? A. Well, ordinary barrels, with wire—

Q. Were they large barrels or small barrels? A. Medium sized, I should judge, with wire hoops, heavy wire hoops around.

Q. Clean on the inside, weren't they? A. Yes.

Q. And closed on the inside? A. Yes.

Q. Quite large barrels? A. Medium sized barrels; I wouldn't call them extra large.

Q. Did you ever see a larger barrel? A. Yes, sir.

Q. I am talking about a barrel, not a hogshead? A. They weren't hogsheads.

Q. Did you ever see a larger barrel, as distinguished from a hogshead, than these two barrels that you had there? A. Did I ever see a larger barrel?

Q. A barrel, as distinguished from a hogshead? A. I don't think so; I may have; I don't know.

Q. Packed, were they? A. The barrels packed?

Q. On September 15th? A. No, sir; they were brought up empty, there was excelsior and papers in them from having been used previously.

Q. When were they packed? A. Between September 15th and 20th.

Q. Who packed them? A. I started, Mr. Evans attempted to pack them with my assistance, when he put a few plates in, then I decided that we were not equal to that, because the china was very expensive and good, I thought perhaps we had better have a packer, I was afraid to take a chance on packing it without having the excelsior and papers and having it done in the way it should be.

Q. How many plates, dishes or china ware did he put in? A. Oh, I think quite a number of them, they all had later to be taken out.

Q. Quite a number? A. Yes.

Q. Was the barrel half full, or quarter full? A. Oh, no.

Q. Quarter full? A. No, not quarter full; not more than probably a dozen or so plates.

Q. Did he start to pack only one barrel? A. Yes.

Q. How long did it take him to pack that? A. I couldn't tell that.

Q. Well, some time? A. Some time, I couldn't tell you how long, I didn't time it.

Q. 15 or 20 minutes? A. Possibly.

Q. You were there assisting him? A. No, no; I was in the bedroom then.

Q. Who handed him the china to pack? A. No, he got that.

Q. Where was he?

By the Court:

Q. Who handed him the china ware at the beginning? A. He took it off the table himself, and wrapped it up.

BY MR. LANE:

Q. Where was the packing being done by him? A. In the dining room.

Q. Where was the china? A. In the dining room.

Q. On the table? A. Yes, sir; and on the buffet and some on the serving table.

Q. Had been gathered together by you? A. Yes.

Q. Prior? A. Earlier in the morning.

Q. During the time that Evans was there in the house? A. Yes.

Q. You say that this packing took, you think, about 15 or 20 minutes? A. I said possibly it may have been 15 or 20 minutes, I am not sure.

Q. This was on September 15th? A. Yes.

Q. Immediately after Evans had come up with the barrels? A. (No answer).

Q. Immediately after Evans had come up with the barrels? A. Well, yes, I think so, soon.

Q. Before Park came in? A. Yes; he had just put a few plates in then I said, "No, don't proceed with it, because it don't suit."

Q. Before Park came in? Answer my question. A. Yes, before Park came in.

Q. And he had to pass from the kitchen into the dining room, is that right? A. No, coming into the dining room—

Q. Yes. A. You go through the kitchen or you can go through the hall.

Q. Did he go through the kitchen or through the hall? A. I couldn't remember that; I think through the hall, when he brought the barrels up.

Q. Then when he came up with the barrels what did he say to you? A. He didn't say any-

thing to me; I was in my room sitting at the foot of the bed, my head resting on the foot board.

Q. Did he say anything at all to you? Did you see him come up? A. Yes.

Q. When he came up did he say anything at all to you? A. No, sir; he took the barrel in the dining room.

Q. Never made any remark to you? A. Not just when he took the barrel in, not that I recall now.

Q. Didn't he ask you whether he should start packing or not, or words to that effect? A. He may have, I don't remember, but he started to put a few plates in and I went to see it and I said, "No, don't proceed, it don't look right to me."

Q. So you don't recollect that when he came up with this barrel, the last barrel,—by the way, how many trips did he make down again? A. He didn't make any trips down; he brought the two up.

Q. How many trips did he make down; did he take the two barrels up at one time? A. Two trips, naturally, he moved two barrels up.

Q. When he came up from the second trip, you don't recollect his saying anything to you? A. I don't recall now.

Q. You do recall distinctly now that he started to do some packing? A. He put some in the barrel.

Q. And that may have taken from 15 to 20 minutes to do that? A. It may have, I couldn't say positively.

Q. How was he interrupted in the packing? A. I told him not to proceed, that I didn't like the way the plates were packed.

Q. How did you know that he was packing? A. I went out and looked.

Q. You went out and looked, is that right? A. Yes.

Q. Was he in his shirt sleeves? A. Yes.

Q. What did you say to him? A. I said not to proceed with packing the plates, that I thought he wasn't equal to it.

Q. What did he say? A. He said he knew all about packing; I said, no, I prefer for you not to proceed, I think I had better have a regular packer to pack this china, it is very fine china, it has to be packed carefully.

Q. Then what did he say? A. I don't remember now.

Q. What did he do? A. I went back to my room and sat by the foot of the bed.

Q. Then what did he do? A. Then he came to the kitchen, I presume, he called for his coat, he said, "Where is my coat?" I said, "It is here on the rack," the only rack we have in the house.

Q. Between the time that he brought up the second barrel and the time that he called for his coat, he had been packing for a space of time that might have taken 15 or 20 minutes? A. I didn't say 15.

Q. You had gone out of your bed room into the living room and interrupted him, is that right? A. Yes.

Q. You are sure that it happened that way; there could not be any mistake about that? A. No mistake about that.

Q. After Park left how long did Evans stay? A. A very few minutes.

Q. During the few— A. It was lunch time.

Q. During the few minutes that he did stay

there what did he do? A. Put his coat on and asked if there was anything else he could do; I said not then; he said he would go home to his lunch.

Q. Was that the only conversation that took place between you after Park left? A. To my recollection it is.

Q. You knew that Park had seen Evans in your bedroom, didn't you? A. Yes.

Q. You knew by the way that he acted that he thought something was wrong, didn't you? A. No.

Q. You didn't think so? A. No.

Q. You didn't think that he acted in any peculiar manner? A. No.

Q. There was no talk between Evans and you with respect to what had taken place? A. None at all.

Q. Wasn't it mentioned or referred to? A. Not that I recall.

Q. Was there any discussion between you and Evans with respect to his continuance with the work of packing? A. I beg pardon.

Q. Was there any discussion between you and Evans with respect to his continuing with the work of packing after Park left? A. I don't remember now.

Q. There wouldn't be any necessity for it, because you did tell him it before Park came in. that you were not going to have him do any more packing? A. Of the china?

Q. Yes. A. Yes.

Q. So that, so far as you recollect, there was no discussion with respect to the packing after Park had left? A. Not that I recall now.

Q. When did you next see Evans? A. That I couldn't say, I don't remember.

Q. Do you know where? A. I don't remember.

Q. You paid Evans' expenses down here from Buffalo? A. Yes, I sent him the money.

Q. And paid his expenses back? A. I presume a certain amount, he asked for it because he wasn't in a position to pay his own expenses.

Q. How much did he ask for? A. $50.

Q. Coming down and going back? A. Yes.

Q. How long was he here? A. I don't know. I didn't see Mr. Evans before he left.

Q. You paid him $50? A. I did.

Q. Have you paid the counsel fee for Mr. Evans? A. No, sir.

Q. Have you agreed to? A. No, sir.

By the Court:

Q. Mrs. Grundy, can you not recall when you saw Mr. Evans next after September 15th? A. To the best of my knowledge I can't remember the exact day or date, I can't recall where I saw him after that; it seems to me that Gertrude and I met him on the street one evening we were going for a walk, and I think that he was coming up to speak to us for a few minutes, and that was the next time I saw him, I can't remember how soon after September 15th; Gertrude stayed with me most of the time and we had gone out for this walk, right near the house, within the same block, I think we met him. he came down, he said good evening and just a few words were spoken, and that was all; I couldn't tell definitely.

By Mr. Lane:

Q. I want to get some dates straight, Mrs. Grundy, if I can. The Levine incident took place on what date? A. August 24th, 1919.

Q. Mr. Townsend and Mr. Grundy were at your house the afternoon of September 9th, were they not? A. I beg your pardon.

Q. (Last question repeated). A. The afternoon of September 9th?

Q. Yes. A. I don't think so.

Q. Well, I say in the afternoon, they were there from four until half past five, were they not, about an hour and a half? A. September 9th.

Q. September 9th, which was on a Tuesday? A. I don't think so.

Q. Do you recollect what date it was, or how long before September 15th it was? A. I don't remember.

Q. It was before September 15th, wasn't it, and it was after the Levine incident and before the Evans incident? A. I don't remember Mr. Townsend being there with Mr. Grundy except one morning, and I don't recollect whether that was before August 24th or after; I don't remember of them being at my home in the evening. Mr. Townsend was there several times alone, but not with Mr. Grundy.

Q. Well, do you mean to say that you didn't see your husband and Mr. Townsend between the time of the Levine incident and the happening of the Evans incident, that is between August 26th and September 15th? A. I say I didn't see them.

Q. Yes.

THE COURT: You mean to say that you didn't see them from August 24th?

A. I don't remember what morning that was Mr. Townsend came to the house; I don't remember the date at all.

Q. Don't you remember an occasion on which you talked to your husband and Mr. Townsend? Do you remember the night that you tried to commit suicide? A. That was September 9th.

Q. Yes; don't you remember that on that very day, the suicide incident happened, about eight o'clock at night, didn't it? A. That night?

Q. Well, between eight and nine? A. I think so.

Q. Now, don't you remember that very night Mr. Grundy and Mr. Townsend had been at your house, that very afternoon? A. I can't recall that that was the day.

Q. And had a talk with you with respect to the Levine incident, and had told you that Mr. Grundy was going to get a divorce? A. I can't recall any incident that they came, except that morning I don't recall now.

Q. Well, do you recollect your husband and Mr. Townsend having a conference with you between the time of the Levine incident and the Evans incident? A. I can't say when I talked to Mr. Grundy and Mr. Townsend, I don't know whether it was after or before.

Q. But didn't you talk to Mr. Grundy and Mr. Townsend on two occasions at your house? A. I have no recollection of that time, between August 24th and September 15th, of Mr. Townsend and Mr. Grundy coming there together and me talking or had a conversation with them I can't recall.

Q. Wasn't the Levine incident discussed between you and Mr. Townsend before the happening of the Evans incident? A. I think not.

Q. What was it that caused you to try to commit suicide on September 9th? A. I was very despondent and melancholy because Mr. Grundy

had told me the morning before that he was leaving and certainly going to have a divorce, and I said, "On what grounds?" I said, "If you mean the Levine incident, I want you to give me a chance, we will go right down to Mr. Levine." He said, "I told you I am through," he said, "not only that, the janitress has told me that you gave parties," I said, "Come downstairs with me to the janitress" but he positively refused, he would n't go down, he said, "I told you I am through" and he pounded his hand on the table, he said, "I am going to divorce you."

Q. I didn't ask you that.

MR. HEYMAN: I object, if your Honor please, I think he did ask that; he asked for the reason why she attempted to commit suicide.

THE COURT: Yes.

MR. HEYMAN: And she is giving the reason.

MR. LANE: I didn't ask for the conversation between herself and her husband. She has already recited that three or four times.

Q. Now, don't you remember that after you had your talk with your husband alone, you sent for Mr. Townsend? A. No, sir.

Q. Did you ever send for Mr. Townsend? A. No, sir; not that I remember of; never.

Q. Did you ever tell your husband that you wanted to talk to Mr. Townsend? A. No, sir.

Q. No conversation between yourself and Mr. Grundy and Mr. Townsend took place on the very day that you attempted to commit suicide, about four hours before you did it, your mind is absolutely blank with respect to that conversation; is that right? A. It certainly is, for I recall no such incident.

Q. Now, do you remember two days after the happening of the Levine incident—the Levine incident happened on August 24th, which was a Sunday—do you remember the following Tuesday, in the morning, about nine o'clock, Mr. Townsend came to your house? A. Mr. Townsend came one morning, I don't recall whether it was two days after the 24th or not.

Q. It was one morning during that week, or shortly after? A. I couldn't tell you how long after, or what day, or what time, or what month that was.

Q. Was there any talk between you and Mr. Townsend on that occasion? A. If it is the morning that Mr. Townsend came, I had no conversation with Mr. Townsend.

Q. Do you know how it was that Mr. Townsend happened to come there that time? A. I don't know; I didn't know Mr. Townsend was coming until a few minutes before he arrived, and Mr. Grundy on that day said, "I am going to have Mr. Townsend come to have a talk", I said, "I refuse to talk to Mr. Townsend."

Q. You didn't ask Mr. Grundy to get Mr. Townsend to come? A. I did not.

Q. You were in bed at the time Mr. Townsend called? A. Yes, sir; I wasn't up.

Q. Did you, after the time that Mr. Townsend first called in the morning, ask your husband to have Mr. Townsend call? A. I don't recall.

Q. Now, two days after the 15th of September, which would be on Wednesday, the 17th, do you remember having a conference at your house with Mr. Grundy and Mr. Townsend? A. The 17th of September?

Q. Yes. A. Not with Mr. Grundy; with Park and Mr. Townsend.

Q. And yourself? A. About Park's trunk.

Q. Yes. A. Yes.

Q. What time was that? A. I don't remember; I think it was afternoon, early afternoon; yes, it was early afternoon.

Q. Your trouble arose over the fact that Park wanted to take some pictures? A. Park was stripping the home of things, some things belonged to me, he had put them all in his trunk; I said, "You are not going to take these things out of the house." He said, he was going to take all the things; I said, "No, you can't take anything out." He immediately called Mr. Townsend and Mr. Townsend came. He said, "Why, you are not going to interefere with Park taking his clothes, are you?" I said, "Certainly not, but he must not strip the house of decorations pillows and other things that really belonged to me, things that had been given to me." So Mr. Townsend asked Park to take them out and leave them in the home, which he did; then he got his trunk with his clothes.

Q. Now, getting to the Levine inicident, on August 24th, where was the beer put? A. I beg your pardon.

Q. Where did you put the beer that was brought in by Levine? A. I always kept it in the stationary tub; we never kept beer anywhere else.

Q. I didn't ask you that; I asked you whether this particular beer was put in the stationary tubs? A. Yes.

Q. Were the stationary tubs closed down? A. Yes.

Q. You had just closed down when this knock on the door came; is that right? A. I was just holding it up, I had to hold both lids up, because they wouldn't lean against the wall.

Q. You just put them in? A. Put just them in the tub off the table.

Q. There was a dozen bottles? A. I think so.

Q. Was there any other liquor or any other beverages in that stationary tub? A. I don't think so.

Q. Was there any other liquor in the house? A. I think there was.

Q. Where? A. In the buffet, where we always kept other liquors.

Q. What kind of liquor was in the buffet? A. Well, we always kept gin and whiskey, sometimes cocktails.

Q. That was in the buffet? A. Yes.

Q. Was there any liquor in any other part of the house except the buffet? A. I don't remember now.

Q. Well, where else would it be if it were there?

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

THE COURT: I will take it.

A. I couldn't tell you now.

Q. There was nothing to prevent anyone from looking into these stationary tubs and seeing that liquor, was there? A. No, sir.

Q. It wasn't hidden? A. No, sir; we never did hide it.

Q. It wasn't hidden? A. No, sir.

Q. And that was, as you already testified, the customary place? A. Always kept beer in the stationary tubs, they were used for no other purpose.

Q. Park Knew that? A. Park knew it; Mr. Grundy knew it; everybody knew it that came in.

Q. Don't you know, or didn't you see Park go to these stationary tubs and look in other places

in the kitchen to find out whether there was any liquor there? A. No.

Q. On this day? A. No.

Q. You didn't see him do that? A. No, sir; Park wasn't in the house long enough to look for anything.

Q. You didn't see him looking for any liquor? A. I did not; he wasn't in the kitchen long enough to look for anything, to the best of my knowledge.

Q. If he had looked he would have found it, wouldn't he?

MR. HEYMAN: I object to that.

Q. If he had looked, there was nothing to prevent him from finding it, was there?

MR. HEYMAN: I object to that
THE COURT: I will take it.

A. No, sir.

Q. When you were at Blue Point where did Park usually sleep? A. In my room, always.

Q. And he also slept there during the time that your husband was down at Blue Point, did he not? A. Yes, he did.

Q. No exception to that? A. No, for the place was always crowded, it was very hard to get rooms unless you engaged the room weeks before.

Q. Why didn't you go down to Blue Point in 1919? A. For the reason that Mr. Grundy came home from Europe in the middle of June. Park came home from Perkiomen Academy in the latter part of July.

Q. What was your usual custom with respect to coming to Blue Point, as to the time that you would go? A. Usually the latter part of July or the first of August.

REDIRECT EXAMINATION BY MR. HEYMAN:

Q. Did Mr. Grundy ask you to go down to Blue Point in 1919? A. No, sir.

Q. Did he offer to send you down there at any time? A. Other time?

Q. At that time, in 1919. A. No, sir.

BY THE COURT:

Q. Did you take any vacation at all, or any trip out of town in 1919? A. Did I take a trip?

Q. Yes. A. One day trip, your Honor, with Mrs. Mulack and Park and the young lady friend of Park's, we took the day trip down to Blue Point and returned the same day.

BY MR. HEYMAN:

Q. Now, have you got the letters which Mr. Evans wrote to you asking for the expenses? A. I think so.

Q. Will you show us them, please. A. (Produces letter).

street, and having Mrs. Low find you on the street,

Q. Is this the letter? A. Yes, that is the letter.

(Letter offered in evidence, admitted without objection, and marked Exhibit D-1).

Q. Was this a letter which you received from him also? A. Yes, sir.

(Letter offered in evidence, admitted without objection, and Marked Exhibit D-2).

Q. Did you ever ask Doctor Maas to come here to testify in this case? A. No, sir; I never did.

Q. Doctor Maas of Newark. A. Yes.

Q. Has Miss Halverson been a steady visitor at your house for the last three years? A. Yes.

Q. And during the last two years slept with you very often? A. Very often; while Mr. Grundy was in Europe she was with me almost constantly.

Q. Have you told the entire conversation that you had with Doctor Maas when you were there to see him last about your ears? Have you told us everything? A. That is last—

Q. The last visit. A. I think so.

Q. Now, when have you seen Cy Youngson and Nell Piatt? A. The last time I saw Mrs. Piatt was in 1911 at Savin Rock and I don't recall when I saw Mr. Youngson.

Q. Well, when? A. It was years ago when we knew Mr. Youngson, and he was a Pittsburg man, and a very good friend of my husband's years ago; I only met him—

Q. Did you see him before 1911? A. Oh, yes; in, I should judge, 1902 or 1903, I met Mr. Youngson at Mr. and Mrs. Piatt's home, at parties, they always gave them, and Mr. Youngson would be there; that is where I met Mr. Youngson.

Q. When is the last time you saw Mr. Youngson? A. I think probably in 1904 or 1905.

Q. Was Mr. Grundy there at the time? A. That I don't recall; I think the last time I saw Mr. Youngson was at a place called Wilson's, a little Summer place that I spoke of, where Mrs. Piatt and I had been, and Mr. Youngson visited that island, because he knew plenty of people, and he boarded at the hotel.

Q. Did Mr. Grundy visit there? A. Yes, sir; that night; Mr. Piatt also.

Q. Was Mr. Grundy there when Mr. Youngson was there at any time? A. I don't think Mr. Grundy was, but Mr. Piatt was; Mr. Piatt was right in the cottage with us.

Q. Now, after you left Morris Plains sanitarium in 1914, you broke your parole and ran away, didn't you? A. Yes.

Q. Did anybody ever try to get you back there? A. No, sir; I think they were delighted I went.

Q. What happened when Mr. Grundy came to see you in 1912 while you were at Morris Plains Sanitarium? A. Nothing happened, except I would ask him to bring me home.

Q. Any scenes of any kind raised at all? A. No, sir; never any scenes.

Q. Did you have any troubles at all while he was there? A. No, sir.

Q. Now, are you sure that those two letters, of November 20 and December 18, 1914, are the only letters which Mr. Grundy wrote you while you were at Morris Plains? A. They were the only letters that Mr. Grundy wrote, and he never came near to see me; never.

Q. How long is it since you have had a bank account? A. Well, probably 1910 or 1911, a very small account, just enough to pay bills.

Q. Where did you get the money for that account? A. Mr. Grundy would give me an allowance every month.

Q. Now, in answer to Mr. Lane's question as to whether or not you thought your husband was sincere in his efforts to cure you of this habit of drinking, your answer was outwardly; will you please explain to us why you say outwardly, what you mean by it? A. Mr. Grundy created the impression among his friends and my friends that he was doing everything in his power to make me happy; I couldn't conceive of what happiness I was deriving out of being kept in first one place and then another, and he never came near me; I couldn't conceive of that being for my welfare and my benefit.

Q. Now, did you think after 1914, or rather from 1915 down to 1919, while you were living at 57 Clinton Avenue, that he was doing everything in his power to cure you of this drink habit? A. I certainly do not; Mr. Grundy neglected me all the time, he never came home, I would coax him and he would not take me out in the car, he would not talk to me. When I would ask him he would say, "What do you mean, do you think you are going to ride in that? I will have you distinctly understand that car belongs to me, I am going out in it. I am going out any time I want and come back whenever I like. I don't want you to ask me to account for anything whatever. I am not interested in you. I can do what I please. I am through with you."

Q. After he told you these things what would you do? A. He would simply walk out and stay out.

Q. What would you do? A. Usually I would cry and feel very despondent and melancholy.

Q. How long would those crying spells last? A. Probably all day.

Q. Would you take something to drink at the same time? A. Yes, sir; sometimes I would, to try to forget my lonesomeness and my sorrows.

Q. Mrs. Grundy, has Mrs. Corrigan been to see you since the institution of this suit, September 25, 1919? A. Not since the beginning; she came a few days before.

Q. Since September 25, 1919, since the institution of the suit, the service of the papers upon you? A. Oh, yes.

Q. By the sheriff? A. Yes.

Q. Has Mrs. Corrigan been to see you? A. Yes.

Q. When was she to see you? A. She came—

wait until I see—the last she came to see me was the 20th of April.

Q. 1919? A. 1920.

Q. This year? A. Yes, sir.

Q. Shortly prior to the— A. Yes.

Q. Prior to the commencement of the hearings in this case? A. Yes.

Q. Did you talk with her at that time? A. Yes.

Q. Did she talk to you at that time? A. Yes.

Q. About this case? A. Yes, she told me—

MR. LANE: I object to that.

Q. Never mind what she said; did she talk to you about this case? A. She opened the conversation—

Q. Did you talk with her and did she talk with you about this case? A. She spoke of the case, yes.

Q. Talked all about the case, didn't you? A. Yes, she broached the subject to me.

Q. Now, Mrs. Grundy, in 1912, while you were at Low's, I believe you attempted to commit suicide, did you? A. Yes.

Q. Can you tell us what if anything, brought that attempt about at that time, if there was anything extraordinary at that time? A. Yes. I had returned from Pittsburg, I had gone on to Pittsburg at Mr. Grundy's request because his oldest daughter being in trouble, he sent me on there to go and see the young man's parents—

MR. LANE: I object to that.

THE COURT: Never mind about that.

Q. Well, did Mr. Grundy know what you are telling us about now? A. Yes.

MR. LANE: I don't care if he knew or not.

Q. Did he say to you at any time? A. He sent me to Pittsburg.

Q. Tell us what he sent you there for?

MR. LANE: I object to that.

Q. What he said to you.

MR. LANE: I object to that; that is immaterial so far as this case is concerned, as to bringing in other names. Now, if she went to Pittsburg on Mr. Grundy's request, that is all right; she came back; but as to the details, as to what it was all about, I submit that is immaterial and irrelevant.

MR. HEYMAN: I don't want to bring in the names of any other people, but you cross examined her at some length about those attempts at suicide.

MR. LANE: Naturally; that is all right.

THE COURT: Go ahead.

Q. Tell us about what Mr. Grundy said to you when he told you to go to Pittsburg? A. Mr. Grundy sent me to Pittsburg, he had word from his daughter that she was in trouble, Mr. Grundy would not go himself, he said that if he went he would kill her; I said "You won't do anything of that kind", he said, "Then you will have to go and straighten this thing out," which I did, I had to go and see the young man's folks and arrange all the—

Q. Never mind what you did there; just tell us what happened when you came back? A. When I came back—

Q. How long were you in Pittsburg, first? A. On that visit?

Q. Yes. A. I think three weeks.

Q. When you came back what happened? A.

I came back, and very soon after my husband came back from a business trip to Albany I discovered he had a dose of crabs.

Q. Tell us what you found? A. He had a dose of crabs, and I had to pick those off him, they worried me greatly; I said I thought he must have been around with somebody, he denied it absolutely; then I was worried and despondent again.

MR. LANE: Now, if your Honor please, I move to strike out the conversation with respect to the trip to Pittsburg, as it is apparent the trip to Pittsburg had nothing to do with this attempt at suicide; now she is going to tell about an incident which happened later on.

THE COURT: Well, the question, of course, related to this attempt at suicide; I don't know but we are wandering a little bit. I think we are wandering just a bit.

MR. HEYMAN: I think we are wandering a bit but I think they are all connected so closely that they cannot be separated.

MR. LANE: She was at Pittsburg three weeks and then came back.

MR. HEYMAN: Yes.

MR. LANE: Now something else is narrated.

MR. HEYMAN: Then she discovered something else and then she became despondent because she thought or imagined that her husband was going out with somebody else.

MR. LANE: My point is that the trip to Pittsburg had nothing to do whatever with the attempt.

MR. HEYMAN: I say, if your Honor please, they are both the causes, that while she was in Pittsburgh a certain thing happened, which she discovered upon her return.

MR. LANE: I am not attacking the Pittsburgh incident, so far as the going is concerned, but the conversation and the purpose for which she went had nothing to do with the attempted suicide.

MR. HEYMAN: I say it is so related—

THE COURT: I will strike out the conversation.

MR. HEYMAN: Your Honor is only striking out the conversation.

THE COURT: Only the conversation which led her to go to Pittsburgh, that is all.

Q. Then what happened; you became despondent again? A. Yes, sir.

Q. Did you take some drinks at that time? A. I think I did.

Q. Pardon? A. I think so.

Q. Now, in 1913, if I understand it, you were confined to some sanitarium over in New York; that you were in some sanitarium over in New York?

THE COURT: Have you finished that incident, Mr. Heyman?

MR. HEYMAN: I think I have. I think I found out the reason why she attempted to commit suicide.

Q. Now, how soon after your return from Pittsburgh did you make this attempt? A. I think after I discovered what my husband had done.

Q. Well, how soon after was that? A. A very few days.

Q. How long? A. Probably within a day or two.

Q. What was there in your mind at the time that it happened? A. Why, that my husband had been going around with somebody of course, while I was away.

Q. Anything else? A. I was very despondent and blue about it.

Q. About your husband being out? A. Yes.

Q. Was there anything else beside the fact that you discovered that your husband had what you say he had and that you thought that he was out with others; was there anything else? A. Except

Q. Was that in your mind at that time? A. all this worry that I had, this railroad trip that I had and the trouble I had in Pittsburg in straightening out this matter. Certainly that worried me greatly.

Q. Why [illegible] that worry you? A. Because I knew the conditions that existed at home, at his mother's home, I knew just how they felt, the daughter had brought this sorrow to his mother.

MR. LANE: I move to strike that out.

Q. I don't want to know what was said; that was in your mind at the time? A. Yes, worried me considerably.

Q. Some time in 1913, if I remember rightly, I think it was December, 1913, you were at the Oppenheim Institute; is that correct? A. Yes, sir.

Q. Now, will you tell us at that time why you were at that institute what happened? A. (No answer).

Q. I mean was there anything extraordinary

that occurred directly prior to your entering the institution? A. In December, 1913?

Q. Directly prior to that time? A. In 1913 or 1914?

Q. 1913; December, 1913, while you were living in New York. A. I can't recall in December, 1913.

Q. Well, while you were in New York, and shortly prior to entering either the Oppenheim or the Audubon Institution, was there anything which occurred? A. In 1914 did you say?

Q. No, 1913. A. I can't recall now.

Q. Well, was there anything in 1914 that you can recall? A. Well, 1914, that was when Mr. Grundy's father visited me.

Q. Well, when was that? A. That was in 1914, in the latter part of June or the first of July.

Q. Shortly before you went to the Morris Plains sanitarium the second time? A. Yes.

Q. Did you have any trouble with him? A. Yes.

Q. You had some trouble with Mr. Grundy's father, did you? A. Yes.

Q. Then what happened? A. But Mr. Grundy's father—

Q. Never mind what happened with his father; I don't want to know that; I want to know what happened after that? A. That I went out to the Plains; that I came over to visit Mrs. Corrigan, my husband said she had a nice room and to come over, that Mr. Jamieson had informed her that she had a nice room and to come over there and see this room; we came over and had drinks on our way coming over, and when we got to Mrs. Corrigan's we had a couple of drinks.

Q. Now, you have told us all that; what I want to know is this: Did anything extraordinary hap-

pen in New York which caused this state of mind, and this condition of body in you so that you had to go to Morris Plains sanitarium? A. Nothing except this affair with his father.

Q. And his father had been living with you at the time? A. His father visited us at the time.

Q. Stayed at your house? A. Yes.

Q. After this occurred, what happened, did his father go away? A. Yes, very hurriedly.

Q. The same day? A. The same night.

Q. When Mr. Grundy came home did you tell him about it? A. I did.

Q. Then shortly after that you came over to Mrs. Corrigan's and went— A. Yes.

Q. Now, after the occurrence with his father did you start to drink again? A. I think so.

Q. And that was the cause of your being in that rundown condition, was it? A. Yes.

MR. LANE: I object to that as leading.

THE COURT: I will take it.

Q. Now, Mrs. Grundy, on your cross examination I think that you said in answer to a question of Mr. Lane's, "Could you hear voices in the outer hall of the apartment house where you lived?" A. I could not.

Q. Why don't you wait until I finish my question? A. I think that in answer to a question of Mr. Lane's you said that you could hear from the kitchen to the outer hall of the apartment you could hear voices in the outer hall of the apartcould you heard voices if you were standing in your kitchen, could you hear voices in the hall? A. I couldn't hear voices; I could perhaps hear voices but I never could tell what they were saying, but it would be very very hard work for me to hear, because I don't hear well, I couldn't personally hear, myself.

Q. Do you mean to say that you personally could hear voices in the hall? A. I couldn't hear personally, I couldn't hear.

Q. You couldn't. If the door of the bedroom and the kitchen were closed, and if you were in the kitchen, could you hear anybody talking in the bedroom? A. I think not.

Q. You think not? A. I could not.

Q. Now, when you said that you could hear from the hall into the kitchen, what did you mean? A. I said it was possible, but for people who had good hearing, but not me, I couldn't hear.

Q. You don't know whether anybody else could hear or not, do you? A. No.

Q. You only imagine that you could hear that, one with good hearing could hear voices in the hall? A. Yes.

Q. That is your imagination? A. Yes.

Q. You are quite sure that you couldn't hear? A. I know I couldn't hear.

Q. Now, I understand also that you said, in answer to Mr. Lane's question, that when Park opened the door, or when you opened the door for Park, rather, Park rushed in, brushed right by you, and you didn't say anything to him at the time; is that correct? A. I think I said, "What is all this fuss and noise about?"

Q. Then he walked right by you? A. Yes.

Q. Now, Mrs. Grundy, for whom did you have the beer in the house? A. Mr. Grundy always had several bottles of beer when he came home from playing golf Sunday night, he always had a drink and a little lunch.

Q. Did Mr. Grundy always come home Sunday nights? A. Always Sunday nights, yes.

Q. About what time would he usually get home?

A. Probably half past ten, eleven or half past eleven.

Q. But he was always home Sunday nights, you are sure? A. Yes.

Q. Now, Mrs. Grundy, when you had these drinking spells, how long did they last, as a rule? A. Probably a day.

Q. And then you would be sick after it, wouldn't you? A. Yes.

Q. You would be sick for how long, approximately? A. Several days.

Q. Now, during the time that you were drinking, or that you were sick from the result of the drinking, were you boisterous or noisy in any way? A. No.

Q. What would you do? A. Why, lie down and be quiet.

Q. Just lie down? A. Yes.

Q. Then you wouldn't eat? A. No, I wouldn't eat.

Q. And that was the principal cause of your sickness? A. Yes, I would worry and wouldn't eat.

Q. Now, did you drink because yon wanted to drink? A. No, sir.

Q. What was the cause of your drinking? A. Simply to try to forget myself.

Q. Try to forget what? A. My troubles, my worries.

Q. What troubles? A. Because my husband acted so ugly, so indifferent, he said he wouldn't speak to me; I would ask him very kindly are you coming home to dinner and he would give me some insulting remark, "I don't care to eat your meals, I don't care for your meals" and he wouldn't come and he would go and eat out.

Q. Did he eat at the club? A. I don't know;

he told me not to bother him, not to call him at the club, he didn't care to be annoyed.

Q. But he didn't come home? A. He didn't come home; I don't know whether he was at the club or where.

Q. After he had these talks with you in the morning what did you do? A. I usually waited and the minute he got out of the door I cried.

Q. How long did this continue? A. For days at a time.

Q. I mean for how long a period, how many years? A. Oh, the last three or four years was almost continuous.

Q. That was his general conduct during the last three or four years? A. Yes.

Q. Mrs. Mildred Kruger, who was Mrs. Mildred Smith, was very frequently visiting at your house, wasn't she? A. Yes.

Q. Very frequent? A. Yes.

Q. Mr. Lane asked you whether you did not think that your husband had done everything he could to help you cure yourself and I understand you said that you think that it was done outwardly and not sincerely; is that correct? A. Yes.

Q. What makes you think that besides the fact that he neglected you in this way? A. Why, his staying away from home and being—

Q. I mean besides his neglect of you; is there anything else that makes you think that this was not sincerely done? A. His general behavior and his attitude toward me.

Q. While you were at Morris Plains, for instance, was there anything else that gave you this impression? A. The year before he sailed for Europe he kept most of his—

Q. No; while you were at Morris Plains I am talking about now, while you were at Morris Plains, was there anything besides his conduct toward you that led you to believe that he was not sincere? A. (No answer).

Q. Well, did he talk with other people? A. Oh, his refusal to have intercourse with me.

Q. No, while you were at Morris Plains? A. His not coming out to see me.

Q. I mean besides his conduct; did he talk with other people who were in charge at Morris Plains, the superintendent? A. I thought it very strange that my husband did not come to see me.

Q. No, no; did you talk with other people? A. With the supervisor.

Q. Yes. A. Yes, and the heads of the institution, the doctors.

Q. You spoke to them about your husband keeping you there? A. Yes.

Q. Now, was there anybody there who thought that your husband wasn't treating you right?

MR. LANE: I object to that.

THE COURT: I will overrule that question.

Q. Do you love your son today, Mrs. Grundy? A. Yes, very much.

Q. Do you feel in any way ill disposed toward him because of the fact that he came here and testified against you? A. No, sir; I never could, because I don't think the boy realized what he was doing.

Q. Do you know whether or not you had been adjudged insane, Mrs. Grundy? A. I think not.

Q. Now, I don't know whether you got this straight; I will ask you again to straighten it out; I understand that after the incident which oc-

curred at Blue Point 1918, in answer to a question of Mr. Lane, did you say that you told Mrs. Corrigan, Doctor Opdyke, and Doctor Maas, about what your husband tried to do? A. I didn't tell no, not that incident; no.

Q. You talked to them about what? A. Refusal for intercourse.

Q. Mrs. Grundy, up to the time of the Levine incident you had a telephone in your home, didn't you? A. Yes.

Q. After the incident occurred what happened? A. Mr. Grundy ordered the phone out.

Q. And it was removed? A. Yes.

By the Court:

Q. How soon after the Levine incident? A. Well, a few days, I couldn't recall, but it was a few days the service was discontinued but the phone itself was not removed until about the second or third of September, but the service had been discontinued.

By Mr. Heyman:

Q. Did Mr. Grundy ever ask you to sign a confession of guilt, that you were guilty of adultery? A. Now, maybe he did expect to—

Q. Did he ever ask you to sign any paper confessing your guilt of adultery? A. No.

Q. The only paper that he ever asked you to sign was that paper which has been mentioned in this trial? A. This first paper that Mr. Townsend gave me.

Q. That is the only paper that he ever asked you to sign? A. Yes.

Q. Your husband has been to see you since the institution of this suit, has he not? A. Yes.

Q. At your home, 18 Enos Place? A. Yes.

Q. When was the last visit, do you remember? A. The week between Christmas and New Years.

Q. Of 1919. A. 1920; between, yes, 1919, between Christmas and New Years.

Q. What was the conversation that was had at that time? A. Pertaining to this question of my going down—

Q. Now, tell us exactly as nearly as possible what was said and by whom? A. Mr. Grundy said if I wanted a word of advice, to take his advice, I should not put in any defense, that he would see that I was taken care of, he would give me $500 and would see that I was taken care of, the best thing for me to do was to put in no defense, if I fought the case he would feel very much peeved and would give me nothing.

Q. At that time Mrs. Grundy, who was your attorney? A. Mr. Townsend had recommended a couple, I called up Mr. Carey—

Q. Judge Carey was your attorney? A. Judge Carey.

Q. Did Mr. Grundy know that? A. Yes.

Q. How did he know it? A. Why, he saw the letter that Judge Carey sent to me requesting that I give my answer whether I was to fight the case or let it drop.

Q. You mean this letter that I show you? A. Yes.

(Letter offered in evidence, admitted without objection, and marked Exhibit D-3).

Q. This letter Mr. Grundy saw on your table? A. Yes.

Q. What did you tell him at that time? A. I said I was very much worried, I would not agree to a divorce—a separation but not a divorce; he said he would not have a separation, he was go-

ing to have a divorce at any cost and I should take his advice and put in no defense.

RECROSS EXAMINATION BY MR. LANE:

Q. Mrs. Grundy, you retained Judge Carey or went down to see Judge Carey for the first time when? A. I was in Mr. Townsend's office and I said, "Mr. Townsend—

MR. LANE: I move to strike that out and object to it as not responsive.

MR. HEYMAN: I object, if your Honor please, what difference does it make when she retained Judge Carey. It doesn't make any difference. I haven't gone into anything like that.

THE COURT: I will take it.

Q. When did you see Judge Carey first?

MR. HEYMAN: I object to that.

THE COURT: I will take it.

A. I don't recall just what date I saw Judge Carey; Mr. Townsend sent me to Judge Carey.

Q. Do you recall about when it was? A. I couldn't tell you the exact day, no.

Q. It was some time in at least October, wasn't it? A. I think perhaps it was, I am not sure.

Q. You knew that the time had expired for you to file an answer some time in October, didn't you? A. Yes.

Q. You had had several conferences with Judge Carey with respect to what you should do? A. Very very short conversations; he was a busy man.

Q. Well, you had some? A. Yes.

Q. You were an innocent woman, of course? A. Pardon.

Q. You were an innocent woman? A. (No answer).

Q. You were an innocent woman, weren't you? A. Certainly.

Q. This charge was made against you, of adultery? A. Certainly.

Q. Then will you tell me why it took you from October to the 27th of December to decide whether this was false? A. Because I didn't want him to have it, to prevent the divorce.

Q. You knew that in order to prevent the divorce you would have to file an answer, didn't you? A. Certainly.

Q. You knew that a charge of adultery was made against you? A. Yes.

Q. You knew it was necessary to answer that charge? A. Yes.

Q. But it took you from October until December to make up your mind whether you were going to give up? A. After that man served these papers I thought something would happen to bring a reconciliation, he didn't charge me openly with that, and I don't think he believed it himself.

Q. Why did you wait from October until December 27th to make up your mind as to whether you were going to defend this suit or not? A. I didn't want a court suit.

Q. Well, you knew you had to defend, didn't you? A. My husband may have changed his mind before going to the court.

Q. Were you waiting for your husband to change his mind before going to court? A. No.

Q. Notwithstanding your counsel wrote you on December 27th that it is very important that you take action in one way or the other in this suit, because of what you testified to—

MR. HEYMAN: I object to that.

MR. LANE: I will withdraw it

Q. Judge Carey wrote, "It is very important that you take action one way or the other in your husband's case"; he had written you before to that same effect, hadn't he? A. No, sir.

Q. He told you the same thing before, didn't he? A. No, sir; he told me when I asked him at the time I spoke I said, "We must do something," and he said, "There is plenty of time."

Q. When did he tell you that? A. I don't recollect; Judge Carey said "There is plenty of time."

Q. So that this letter of December 27th was the first letter that you had, was it— A. Yes.

Q. Wait a minute until I get through—or the first intimation that you had that it was important that you should take action one way or the other in your husband's case? A. Yes.

Q. Sure of that? A. Yes.

Q. You never had that intimation from Judge Carey by letter or personally before? A. Not before I received this letter.

Q. Why did you wait from December 27th until February 8th before you filed your answer?

MR. HEYMAN: I object to that first, on the ground that she had nothing to do with the filing of the answer.

THE COURT: I suppose also on the ground that the answer was filed January 23d.

Q. Why did you wait between December 27th and January 23d? A. I had seen my counsel, Mr. Heyman, in the meantime.

Q. When, for the first time? A. Right after receiving that letter.

Q. Didn't Judge Carey tell you personally that Mr. Townsend was insistent—prior now to December 27th—that Mr. Townsend was insistent that you should file an answer if you intended to? A. No, sir; I don't recall any such thing.

Q. During that time, between October and the time you filed your answer in this case, didn't you see Mr. Townsend upon several occasions, and didn't you see your husband upon several occasions, and didn't you ask Mr. Townsend and your husband to send you to Reno so that you could get a divorce?

MR. HEYMAN: I object to that question on the ground that it asks for several answers; on the second ground that it is not re-direct examination; there was absolutely nothing in my direct examination about any conversation with Mr. Townsend.

THE COURT: I will take that question.

A. The conversation about going to Reno was talked over, I don't remember who suggested it, it was talked over and they agreed, Mr. Townsend said he could make all arrangements he wanted me to see a certain party that he had sent out, so that I would become acquainted with the place out there, to know just where to go and how to get along, they gave me train schedules marked out on the trains and expenses, and I refused absolutely to go to Reno, I said if we have to fight we will have the fight here.

Q. When was that? A. That was, I should judge, in October or November, I am not sure.

Q. Wasn't it before that? A. October or November, the latter part of October or else around the first of November.

Q. Weren't you the one that suggested going to Reno? A. No.

Q. And didn't they finally agree to send you to Reno? A. No, sir.

Q. They didn't finally agree to send you to Reno? A. No; they did not; they almost agreed until they refused, got that paper back from me, and then they immediately said no, we will have the case.

Q. Well, they had the train schedules all marked out, you said? A. Yes; they changed their minds and I changed my mind; I refused to go.

Q. You had first agreed to it, hadn't you? A. No, I did not.

Q. What did you say about changing your mind then? A. I thought it over, they suggested it and I thought it over and said no.

Q. Well, you said you changed your mind, didn't you? A. I changed my mind because they talked about going, they told me to think it over.

Q. You first made up— A. They told me to see this party that Mr. Townsend sent there, Mrs. Smith, Mrs. Jack Smith—Mrs. Fletcher—Mrs. Smith, rather.

Q. You first made up your mind to go, didn't you? A. No, sir.

Q. Then you didn't change your mind? A. I never fully made up my mind.

Q. You practically made up your mind to go? A. I had considered it.

Q. You did— A. I didn't decide.

Q. In preparation for going you proceeded to get intoxicated, didn't you? A. No, sir; I had no preparations to go.

MR. HEYMAN: I submit that is not recross examination; I did not bring anything like this out on my redirect and I submit it is not redirect examination.

THE COURT: I don't think it is recross examination.

MR. LANE: Well, it is recross examination on this aspect: They tried to show by this redirect examination that Mrs. Grundy for some reason or other has attempted to suppress the defense in this case, and that this answer was held off absolutely for that purpose. Now, I am trying to show the real purpose

MR. HEYMAN: If your Honor please, I have not tried to show anything of the kind. I have not tried to show that any defense was suppressed or any defense was held off upon any promise of Mr. Grundy whatsoever. I simply tried to show the conversation which occurred.

THE COURT: After this suit had started?

MR. HEYMAN: Yes.

THE COURT: I think I ought to take it.

A. I never did.

Q. And in preparation for going you went down to the house of Mrs. Mulack in order to recuperate, didn't you? A. No, sir; I had no place else to go; I was sent there by Mr. Grundy and Mr. Townsend.

Q. Then afterwards you became in such a condition that you could not take care of yourself, you became intoxicated, didn't you? A. That is not true; I never was in a position that I could not take care of myself; I did not get intoxicated.

Q. Then they informed you, did they, that they would not consent to you going out to Reno to get a divorce? A. No, sir.

Q. Mr. Townsend and Mr. Grundy? A. No, sir.

Q. Then after that, for a period of three months, up to the time that you filed your answer, didn't you ask Mr. Townsend and Mr. Grundy on many occasions to agree to send you to Reno? A. No, sir; I did not ask them.

Q. Well, I am talking now up until January 1st. A. No, sir; I did not see Mr. Townsend and Mr. Grundy; I did see Mr. Grundy in my room; I did not see Mr. Townsend after some time in November.

Q. Didn't you want to, prior to January 1st now, didn't you want Mr. Grundy to send you to Florida in order to get a divorce? A. I never did; Mr. Grundy suggested that himself, he drew out a diagram where this friend of ours that I haven't seen or corresponded with in twelve years lived, and he wanted me, he suggested himself for me to go down to Florida.

Q. Then the Florida divorce was discussed at Mr. Grundy's suggestion? A. Yes, and I refused to leave the State.

Q. In Mr. Townsend's presence? A. No, sir; that was—he may have mentioned it before he discussed it and gave me the plan, drawn out a diagram where this Petersburg was in Florida; he came up in my room and asked me and I said no, I will not go, for I haven't seen this lady for years, haven't corresponded with her, so why should I go to Florida?

By the Court:

Q. Mrs. Grundy, you said a moment ago that one of the reasons for your delay in interposing your defense to this petition was you had a hope of reconciliation with your husband? A. Yes, sir.

Q. What led you to indulge that hope, what

act or word of his led you to that belief? A. Well, I considered Mr. Grundy had been misinformed, he had acted hastily, and that he did not realize just what he was doing, and if we talked it over he would give me an opportunity to prove my innocene of these charges and that we would come together again and that we would not have a court trial or any divorce or separation; that was my fondest hope.

REDIRECT EXAMINATION BY MR. HEYMAN:

Q. Did you at any time want a divorce? A. Never.

Q. Did you at any time tell Mr. Townsend or Mr. Grundy that you wanted to go to Reno for a divorce? A. No, sir.

Q. Did you know that your case was being taken care of while you were with Judge Carey and while you were with me did you know that your case was being taken care of? A. I thought so.

Q. Did you think at any time that you would be in default? A. No, sir; because when I talked with Judge Carey he said, "You have plenty of time."

Q. There wasn't any question about default in the time to answer while you were at my office? A. You acted immediately.

Q. Did you ever know that Mr. Townsend had insisted upon an answer being filed? A. I never knew it.

Q. When did I draw the answer, do you remember? A. Oh, I couldn't say the date.

Q. While you were present I dictated the answer? A. Yes, sir; as soon as I went to your office.

Q. That was the first time you came to my office? A. Yes, the first day I came to your office.

MR. LANE: I confined, Mr. Heyman, my examination on the question of the delay to a period before January 1st.

MR. HEYMAN: We are going to have the whole thing, Mr. Lane, if you want it; we are going to put in every word of it; I have nothing to hide here, neither has Mrs. Grundy.

THE COURT: Go ahead.

Q. Did you ever admit to any lawyer, or to any other person, that you were guilty of any charges laid to you in the petition? A. I never did.

Q. Did you always deny that? A. I certainly did; and do now.

Recess until two o'clock P. M.

After recess the witness resumed the stand for further examination.

BY MR. HEYMAN:

Q. Mrs. Grundy, on cross examination by Mr. Lane you said that you did not remember an incident when Mr. Townsend came with your husband to the house; now have you thought the matter over since recess? A. Yes.

Q. You have thought the matter over since recess? A. Yes.

Q. Do you recall any incident when Mr. Townsend came to the house with Mr. Grundy? A. Yes, I think I remember now the incident.

Q. Do you remember when it was? A. I can't recall the date; it may have been the 9th.

BY THE COURT:

Q. The 9th? A. Of September.

By Mr. Heyman:

Q. Well, do you remember how they came there? A. I phoned Mr. Grundy and asked him what he meant by leaving me, I did not wish to live like that, and I asked if he did not intend to come back to come and talk it over; he said he would come up and talk it over with me; when he came he had Mr. Townsend with him.

Q. Did you talk it over with him at that time? A. Yes, we talked over about the separation, and he said he was going to divorce me, and I said, "On what grounds?" He said, "The Levine incident," and he told me what Park told him. I said, "Will you come with me to the beer man and I will face any accusation that you have to make in regard to the beer man" and he positively refused, he said no, he was going to divorce me.

Q. Anything else said at that time? A. He told me he was through and he meant it.

Q. Then what happened? A. Mr. Grundy and Mr. Townsend left soon after.

Recross Examination by Mr. Lane:

Q. When was this? A. I think it was the afternoon of the 9th.

Q. The afternoon of the 9th of what? A. Of September.

Q. You had completely forgotten that when I examined you before? A. My mind was very much of a blank at the time from the time Mr. Grundy first left, the day before, when he told me he was going to.

Q. What refreshed your recollection during recess? A. I kept thinking it over then the more I thought it over I thought they were there one afternoon.

Q. That was the afternoon upon which you attempted to commit suicide? A. I think it was the 9th of September.

Q. It was the afternoon that you attempted to commit suicide? A. That evening.

Q. And that conversation was what caused you to make the attempt? A. Yes, sir; I was very despondent and I felt I had nothing left to live for.

Q. And the fact that your husband had charged you with adultery? A. Yes, and his threatening to divorce me and leave me flat.

Q. Notwithstanding the fact that you knew you were innocent? A. Yes; but I felt very despondent and blue, so very much cut up about it.

Q. You knew then that your husband did charge you with adultery, didn't you? A. No, he didn't charge me with adultery then; he said—

Q. Do you know what "adultery" means? A. Certainly I know what "adultery" means; he didn't charge me with adultery; he said Park had told him of finding the beer man there and he would not give him an explanation, and he came to the conclusion, I presume, but he did not accuse me of adultery.

Q. Are you making a point of the word "adultery"? Don't you know that your husband charged you with having improper relations with Levine? A. Not at that time he didn't say a word about an adultery charge.

Q. Not at that time? A. No.

Q. Did he say he expected to get a divorce that day? A. That is why I asked him on what grounds, to come with me if he meant about the beer man, I said, "Come right with me to the beer man."

Q. Are you a little deaf, Mrs. Grundy? A. Pardon.

Q. Are you a little deaf? A. Yes, deaf.

Q. How long have you been deaf? A. Several years.

Q. Can you tell how long? A. Back since I was a child.

Q. Have you difficulty in hearing? A. Yes.

Q. Difficulty in hearing me now? A. Yes; not when you speak in a loud tone of voice.

BY THE COURT:

Q. Mrs. Grundy, when did you first see counsel in relation to your defense in this suit? A. You mean my present counsel.

Q. Oh, no. A. Judge Carey?

Q. Any counsel. A. Judge Carey, that was in, to the best of my knowledge, I think now it was in October some time now, because I went to Long Island on the 30th of September and it probably was within the next ten days or two weeks.

Q. Judge Carey was the first lawyer you consulted? A. Yes, except speaking with Mr. Townsend, of course.

Q. For your own self? A. Yes.

REDIRECT EXAMINATION BY MR. HEYMAN:

Q. Was Judge Carey the first lawyer outside of Mr. Townsend? A. Except that first paper that—

Q. I am not talking about papers; I am talking about lawyers. A. Yes, except Mr. Townsend he was the only one I spoke to; when the first paper was served I spoke to Mr. Van Winkle.

Q. Then Mr. Van Winkle was the first lawyer with whom you consulted about your troubles? A. Well, that was simply to have him look at the paper.

Q. But you consulted him about your marital

difficulties with your husband? A. No, sir; I only consulted him about the paper that I did not feel I should sign without someone's advice or reading the paper over to see whether or not it was correct.

RECROSS EXAMINATION BY MR. LANE:

Q. Didn't you consult Mr. Alexander Simpson? A. No, sir.

Q. Didn't you tell Mr. Townsend at one of your conferences that you had consulted Mr. Alexander Simpson? A. I told him that I came to consult Mr. Simpson.

Q. You didn't tell him that you had consulted him? A. No; I didn't see Mr. Simpson; I wouldn't know him if I saw him.

HENRIETTA L. GRANT, Sworn:

DIRECT EXAMINATION BY MR. HEYMAN:

Q. Mrs. Grant, where do you live? A. 39 Clendenny Avenue.

Q. Do you know Mrs. Grundy? A. I do.

Q. How long have you known Mrs. Grundy? A. About five years.

Q. Have you ever been to her house? A. Several times.

Q. How often? A. Oh, I don't know; that is too numerous to mention.

Q. How did you happen to go to Mrs. Grundy's house? A. Well, I was quite a frequenter of the Monticello Theatre and I usually used to stop on my way to the theatre and on my way home, if I felt like.

Q. When you went to Mrs. Grundy's house did you find her in? A. Oh, most always.

Q. How often would you say that occurred? A. What do you mean, when I found her in?

Q. That you went there. A. Two or three times a week; maybe sometimes more than that.

Q. You found her in the house usually? A. Yes; usually I would find her home.

Q. You lived near the Monticello Theatre, Mrs. Grant? A. Yes, I lived near the Monticello Theatre.

Q. 57 Clinton Avenue is very near the theatre, is it? A. Yes. About a block.

Q. The Monticello Theatre is a moving picture theatre, isn't it? A. Yes, sir.

Q. When you went up to Mrs. Grundy's house was there anybody there? A. No; nobody but Mrs. Grundy.

Q. You found her there all alone? A. Every time I was there but once.

Q. This once whom did you find there besides her—Mr. Grundy? A. No; I met Park, I think once, and Mr. Grundy once.

Q. They were there on two occasions, were they? A. Yes.

Q. The other times she was always alone? A. Always.

Q. What was she doing while you were there? A. Sometimes I would go there and she would be all right; sometimes I would go there and she would be very despondent and crying.

Q. Did this happen? A. Well, yes, it did.

Q. Did you ever find Mrs. Grundy drunk? A. No, I never saw that.

Q. Did you ever have a drink with Mrs. Grundy? A. Yes, I did.

Q. At the house? A. Yes.

Q. Did you ever drink enough to get intoxicated? A. No, I never was intoxicated myself.

Q. During what period of time were those visits to Mrs. Grundy's house? A. Well, now, I don't recollect; within the five years time; I don't really know the definite dates.

Q. But within the last five years? A. Oh, yes.

Q. What time of the evening would you go there, if you went before the theatre? A. Well, it would be before the first show, of course, and the first show usually started at seven o'clock.

Q. That would be before seven? A. Yes.

Q. And after that, after the theatre, what time would it be? A. Oh, it would be about nine or half-past.

Q. Any of these nights that you have been going there, you met Mr. Grundy only once; is that right? A. Yes; that is positively true.

CROSS-EXAMINATION BY MR. LANE:

Q. You mean to say that you have seen Mrs. Grundy two or three times a week for the past five years? A. No, not every week.

Q. Well, how many weeks did you see her two or three times a week? A. Well, I don't remember; it was of no consequence.

Q. I ask you that; can you tell me on an average how many times you saw her during the year? A. No, I couldn't tell you that either; I never kept account of it.

Q. How many times did you see her during the month? A. Well, as I told you, it was of no consequence, so I kept no tabs on it.

Q. But you gave the impression, at least, on your direct examination that within the last five years you saw her two or three times a week; isn't that true, is it? A. Not every week, no.

Q. Well, was it one week, or two weeks, or three weeks, or four weeks, or five weeks, of the year? A. Well, I just don't recall.

Q. You didn't go to the theatre two or three times a week, did you? A. Yes, I did, many a time.

Q. Each week? A. No, not each week.

Q. Where did you first meet Mrs. Grundy? A. When, I don't recall that; I met her about five years ago.

Q. Where; do you remember? A. In Jersey City.

Q. Where? A. I don't remember; I think I met her with a crowd of people.

Q. A crowd of people at Carrell's Hotel, didn't you? A. What is it?

Q. A crowd of people at Carrell's Hotel, wasn't it? A. No, indeed I did not.

Q. You know where Carrell's Hotel is, don't you? A. I certainly do.

Q. Can you recollect where you did meet her? A. No, but I never met Mrs. Grundy at Carrell's Hotel; I don't frequent that place very often.

Q. With this crowd of people, I am talking about? A. No.

Q. Who was in that crowd of people? A. I don't remember that, either.

Q. Do you remember anybody that was in that crowd of people? A. Yes, I think Mrs. Jaeger, of Boulevard Court.

Q. What is that? A. Of Boulevard Court; she lives there now; she didn't live there then.

Q. I don't hear you. A. I said Mrs. Jaeger.

Q. You can't remember anybody else? A. No.

Q. And you haven't the least idea where it was? A. No.

Q. Were there any men in the party? A. No.

Q. All women? A. Yes.

Q. How many women were there? A. I don't remember that even.

Q. Was it in some woman's house, or was it out on the street? A. A. I don't remember; I think it was on the street.

Q. Had you ever been out with Mrs. Grundy anywhere? A. Yes.

Q. Where? A. To New York; we would go to dinner.

Q. About how often would you go to dinner with Mrs. Grundy? A. I think I have been with Mrs. Grundy three or four times.

Q. When was that? A. Now, I really don't remember.

Q. How recently was the last time? A. Well, not within the last year.

Q. Well, do you remember the occasion that you were out with her? A. No, I do not.

Q. I understand now that you don't remember the occasion when you were out with her last? A. No, I really do not.

Q. Do you remember where you went? A. No, I don't remember.

Q. Do you remember what time you went? A. It was for dinner, in the evening.

Q. In the evening? A. Yes.

Q. Do you remember who was in the party? A. Mrs. Grundy and myself.

Q. Anybody else? A. No.

Q. Do you remember where you went? A. No, I really do not.

Q. Do you remember what time you went? A. Yes; I think it was around six o'clock.

Q. Do you remember what time you got home? A. Yes; I think it was around half-past ten or eleven; now, I won't be certain.

Q. Do you remember what caused you to go

out with Mrs. Grundy alone on this occasion? A. Yes; Mrs. Grundy was alone that afternoon, so she phoned me and asked me if I would come over here, and I did; it was a holiday; I don't remember the holiday.

Q. Did you go to New York? A. Yes.

Q. You have no recollection of the date? A. No.

Q. And you have no recollection of the place that you went to? A. No, I have not.

Q. You and Mrs. Grundy were all alone? A. Yes, we were.

Q. By the way, did you have any drinks that night? A. We might have had a couple of high balls; that is all.

Q. Do you remember the other occasion that you were out with Mrs. Grundy before that? A. No, I do not.

Q. Do you remember what time of day it was? A. No; I think it was evening, too.

Q. Do you remember what time you went? A. I think around the same time.

Q. Do you remember where you went? A. No, I do not.

Q. Who was in the party? A. Mrs. Grundy and myself.

Q. You don't remember what restaurant you went to over in New York? A. No.

Q. Did you have any drinks on that occasion? A. Well, I don't remember whether we did or not.

Q. You might have had a couple of high balls? A. I would not say for sure.

Q. You wouldn't say you didn't? A. No; nor I wouldn't say I did.

Q. That was two occasions you were out with Mrs. Grundy. Do you remember any other occa-

sions you were out with Mrs. Grundy? A. Yes, I think I was out with her once before that.

Q. Where? A. I think we were up to Wilcox's that time.

Q. Wilcox's is where? A. What is that?

Q. Wilcox's is where? A. Now, wait a minute, on 42d Street, isn't it, or 43d Street.

Q. 43d Street and Broadway, isn't it? A. Yes.

Q. Do you remember what time of night you went there? A. I think that we were there for lunch that day.

Q. What time did you get there? A. I don't remember that.

Q. What time did you leave? A. I don't remember that.

Q. Did you leave Jersey City? A. I think I met Mrs. Grundy in New York.

Q. How did you come to meet her there? A. By appointment.

Q. When was the appointment made? A. I don't remember.

Q. How was it made? A. By phone, I think.

Q. Do you know the reason for that lunching expedition? A. No reason at all that I know of.

Q. Just went over there for lunch? A. Yes.

Q. How late did you stay there? A. I don't remember that either; I don't think we stayed over for the evening.

Q. Which dining room of the Wilcox did you dine in? A. You know what they call it, I just—

Q. Was it the grill? A. No, it was that room back—the poppy room they call it.

Q. The poppy room? A. Yes.

Q. Did you have any drinks that day? A. Yes, I think we did.

Q. What did you have? A. A couple of high balls.

Q. Do you remember that on all of these occasions you had high balls; didn't you? A. Yes, mostly always.

Q. Whiskey high balls? A. Ginger ale high balls.

Q. But with whiskey? A. Yes, certainly.

Q. On that occasion you were alone? A. Yes, always.

Q. Any other occasions when you did go out with Mrs. Grundy? A. No, I don't recall.

Q. Do they have dances at the poppy room in the Wilcox? A. I believe they do.

Q. They did at that time, didn't they? A. I think they did.

Q. Any other occasions that you remember being out with Mrs. Grundy? A. No.

Q. Are you married? A. Yes, I was.

Q. At that time? A. Yes.

Q. Living with your husband? A. No, I am not; I am divorced.

Q. At that time? A. No.

Q. You say that you didn't make it a practice of frequenting Carrell's very often? A. No, I do not.

Q. You have been there? A. Certainly, I have been in there.

Q. And have been there with Mrs. Grundy? A. Well, I was there with Mrs. Grundy once, but it was since this case has been going on; I went home from this court room with her and we had dinner there.

Q. Anything to drink? A. No.

Q. Didn't you meet Mrs. Grundy at Carrell's? A. What is that?

Q. Didn't you meet Mrs. Grundy at Carrell's five years ago? A. No, I did not.

Q. You say you met Park there upon one occasion; when was that? A. No, I couldn't recall the time, but I imagine it must be some time when he was home from school on a vacation.

Q. Were you alone with Mrs. Grundy when Park came in? A. I think Park was already in there when I went in.

Q. Were there any other women besides you? A. No.

Q. You and Mrs. Grundy were alone? A. Yes.

Q. Was there ever an occasion when Park came in and you were there with six or seven other women? A. What is that?

Q. (Last question repeated.) A. Oh, no.

Q. When you had a drink at Mrs. Grundy's house, what did you have? A. Cocktails.

Q. What kind of cocktails? A. Manhattan.

Q. Did Mrs. Grundy make them? A. No, I think they were already made in the bottle.

Q. How many would you have at a time? A. Maybe two or three.

Q. Did you have anything after the cocktails? A. No.

Q. You had these cocktails each time you went there, didn't you? A. No, indeed.

Q. How many times did you not have the cocktails? A. That was the only time.

Q. Once that you had cocktails? A. Yes; I had beer there; never cocktails.

Q. Only one occasion that you were in Mrs. Grundy's house where you had cocktails? A. Yes.

Q. Did you have any whiskey there? A. No.

Q. You didn't have any high balls in Mrs. Grundy's house? A. No.

RE-DIRECT EXAMINATION BY MR. HEYMAN:

Q. While you were at dinner or at luncheon with Mrs. Grundy and you had these one or two high balls, did you get drunk? A. Oh, no.

Q. Did Mrs. Grundy get drunk? A. No.

Q. Did she get intoxicated so that she would not be able to know what she was doing? A. No.

Q. On the occasions that you had something to drink at home, did either of you get drunk? A. Oh, no.

Q. When you were through with dinner, what did you do? A. What do you mean, through with dinner?

Q. In New York, when you had dinner in New York. A. We would go home.

Q. Would you go right home? A. Yes.

Q. Did you ever meet any men on any of these occasions? A. No.

Q. Either by appointment or by chance? A. No.

RE-CROSS-EXAMINATION BY MR. LANE:

Q. On any of these occasions did you drink any—or did Mrs. Grundy drink any more than you drank? A. Well, I don't think she did, no.

Q. You know pretty well that each one of you drank about the same amount? A. Yes.

Q. But you never saw Mrs. Grundy intoxicated? A. I certainly did not.

Q. Did you ever see her under the influence of liquor? A. No.

Q. Did you ever see her when the liquor had any effect on her at all? A. No, I never did.

Q. Three or four cocktails did not affect her? A. Well, I don't know if she took three or four cocktails.

Q. Well, three cocktails was the limit? A. Yes.

Q. Three cocktails did not affect ner? A. No.

Q. Nor two high balls didn't affect her? A. No.

CLARA ALTAI, Sworn:

DIRECT EXAMINATION BY MR. HEYMAN:

Q. Mrs. Altai, where do you live? A. I live at 18 Enos Place

Q. 18 Enos Place? A. Yes.

Q. That is the house that Mrs. Grundy lives in? A. Yes, Mrs. Grundy lives with me.

Q. You are the lady who lets out the rooms at that house? A. Yes.

Q. Mrs. Grundy lives with you at that place, does she? A. Yes.

Q. She has a room in it? A. Yes.

Q. Mrs. Altai, do you remember when Mrs. Grundy first came to live with you? A. Mrs. Grundy first came to my house in October.

Q. Of what year? A. Last year.

Q. 1919? A. Yes.

Q. Do you know how she came to your house, under what circumstances and how she happened to come to your house? A. No; she came like any other party asking for a room.

Q. Well, I mean who engaged that room for her? A. Mrs. Grundy.

Q. When? A. You mean the date?

Q. I mean with reference to the time in which she came to your house. A. I think it was the same afternoon.

Q. What I mean is, did she come to your house and ask for a room, and you gave her a room? Did she go right into that room? A. No; she

came a few days before and asked me if I had a room; I had a good many rooms occupied, but that I expected one to be unoccupied if she would just wait a little while; I had a room with two wardrobes in it and I said if I had that room unoccupied I would let her know; so I sent her word about it.

Q. Did she give any address at that time? A. She gave me a telephone number.

Q. Where was that telephone number, do you remember? A. I think it was Elmhurst, Long Island.

Q. Now, what happened after that? A. Why, I sent word to her.

Q. How? A. By telephone.

Q. When? A. I think it was on a Sunday.

Q. Then what happened when you sent this word? A. I sent word to come, because I had a room.

Q. What happened? A. Mrs. Grundy came to my house then.

Q. That night? A. Yes.

Q. Did she stay that night? A. I think she did.

Q. Did she take the room that night? A. Yes.

Q. Has she been there ever since? A. Yes.

Q. Have you ever seen Mrs. Grundy drunk? A. No; never.

CROSS-EXAMINATION BY MR. LANE:

Q. How did you send her word by telephone? A. I beg your pardon?

Q. How did you send her word by telephone? A. By telephone; I asked one of the gentlemen to call up.

MR. LANE: I move to strike out the testi-

mony in respect to having sent her word by telephone.

THE COURT: Why?

A. Because I was very busy; I had no help.

Q. Did you hear him call? A. No. Because the people often do favors for me like that.

BY THE COURT:

Q. Did you take any part in the call? A. No.

Q. You didn't take any part in the conversation? A. No.

MR. LANE: I move to strike that out.

A. I just asked some gentleman to call up.

THE COURT: I guess that ought to go out.

BY MR. HEYMAN:

Q. Did you hear anybody call up on the telephone? A. No.

Q. Have you got a telephone in the house? A. Yes, I have one.

Q. Did you see that person whom you sent, call on the telephone? A. No, because I was very busy, and that is the reason why I asked that party to call up, because I couldn't waste my time at the telephone, I had no help and I have all the work to do.

Q. At any rate, the same night did Mrs. Grundy come to the house? A. Yes.

MR. LANE: I move to strike out the reference to the telephone message.

THE COURT: That ought to go out.

BY MR. LANE:

Q. What time did Mrs. Grundy get to the house that night? A. Well, I think it was late in the afternoon.

Q. Did you hear her when she first came? A. Yes, certainly.

Q. Had she been drinking? A. No; I wouldn't have taken her into my place, because I feel particular whom I take into the house.

Q. Did you get close enough to her to know whether she had been drinking or not? A. Certainly; because she didn't feel very well and I tried to do anything I could for her.

Q. What seemed to be the matter with her? A. Well, she didn't feel good, that is all.

Q. How did she show that she didn't feel good? A. She just was tired and flushed.

Q. Did you see her? A. Yes; she had carried her luggage, I think, and she was very tired; I think she carried her luggage from the station, or something like that.

Q. Did she go to bed? A. I really couldn't tell you whether she went to bed.

Q. How long have you been keeping this house? A. Almost three years.

Q. Before that where did you live? A. In the Summit.

Q. How long did you live there? A. About a year.

Q. Before that, where did you live?

MR. HEYMAN: I object to all these questions; I don't see what bearing it has on this case, and it is not cross-examination. I confined myself strictly to the arrival of Mrs. Grundy at this house and the conduct of Mrs. Grundy after her arrival.

MR. LANE: I submit I am entitled to find out who the witness is, if your Honor please.

A. I was in Europe.

Q. How long have you been keeping furnished room houses? A. Almost four years.

Q. Before that you never kept a furnished room house? A. No.

Q. What did you do, as a matter of business, before that, if anything? A. I never did anything.

MR. HEYMAN: I object to that; I don't see what bearing it has on this case; and it certainly is not cross-examination.

THE COURT: It does not seem to be material.

Q. Have you been convicted of crime? A. No.

Q. Sure of that? A. I am positive of that.

MISS GERTRUDE HALVERSON, sworn:

DIRECT EXAMINATION BY MR. HIRSHENSTEIN:

Q. Where do you live, Miss Halverson? A. No. 1 Reed Street.

Q. Jersey City? A. Yes.

Q. Are you the Gertrude Halverson referred to by Mr. Evans in his testimony? A. Yes.

Q. With whom he called at Mrs. Grundy's house some time during the Easter vacation of 1919? A. Yes.

Q. At which occasion you left the house of Mrs. Grundy and left Mr. Evans alone with Mrs. Grundy? A. Yes.

Q. Do you recall the incident? A. I do.

Q. Do you recall having left the house and not returning to the house? A. I have a faint recollection of it.

Q. What is that? A. I have a faint recollection of doing it.

Q. Do you recall the reason why you happened to leave the house at that time? A. Well, it might have been I went to the store or something for Mrs. Grundy.

Q. Do you recall having failed to return?

MR. LANE: I object to that question as leading.

MR. HIRSHENSTEIN: I will withdraw the question.

Q. Do you recall whether or not you came back to Mrs. Grundy's house upon that occasion?

MR. LANE: I object to that as leading.

THE COURT: That is practically the same thing.

Q. What happened after you went to the store upon that occasion? A. Why, I might have gone right home.

Q. Can you now assign any reason why you went home upon that occasion? A. Well, I guess I wasn't feeling well and I went right home or something.

Q. Now, coming down to September, 1919, do you recall about the time when Mrs. Grundy was about to move from her residence at that time? A. Yes.

Q. Do you recall whether on the day or evening of September 14th, 1919, you had occasion to get in touch with Mr. Evans with regard to his going to Mrs. Grundy's house? A. I have a faint recollection of it, yes.

Q. Do you recall what was the purpose of his going to the house during that month, or at that time when you have your recollection as you say? A. It might have been to help Mrs. Grundy pack or do something like that, because she didn't have anybody to help her.

Q. Do you know whether Mr. Evans had assisted Mrs. Grundy to do some packing prior to that time? A. Yes, once before.

Q. Do you remember when that occasion was? A. Yes, when Mr. Park Grundy's trunk came back from school.

Q. Were you at the house at that time? A. Yes, I was.

Q. Did you see Mr. Evans assist Mrs. Grundy in packing or unpacking any of the cases which came to the house for Park Grundy? A. I did, yes.

Q. Upon the occasion that Mr. Evans was asked to go to Mrs. Grundy's house to do this packing, or assist in doing this packing, do you recall whether you came to the Grundy house that day in the morning, afternoon or evening? A. I came in the afternoon.

Q. Was Mr. Evans there at that time? A. No.

Q. He wasn't there at the time? A. No, he wasn't there.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Miss Halverson, were you served with this subpoena? A. Yes, I was served with that.

MR. HEYMAN: I offer in evidence the subpoena served upon this witness by the petitioner.

Q. Who served this on you? A. The first one Mr. Park Grundy did.

MR. LANE: I don't see its materiality but I have no objection.

(Subpoena marked Exhibit D-4).

CROSS EXAMINATION BY MR. LANE:

Q. Miss Halverson, you were in the Grundy house on the afternoon of September 15th, weren't you? A. Yes.

Q. On that occasion you were told about what had happened a few hours before, weren't you? A. Yes that evening I was told.

Q. Mr. Grundy was there and Mrs. Grundy was there and Mr. Townsend, were they not? A. Yes.

Q. All four of you? A. Yes.

Q. Was Mrs. Grundy there during the time that you were told as to what had occurred? A. No, I was alone in the kitchen and Mr. Grundy told me.

Q. Mr. Grundy told you? A. Yes.

Q. Did you overhear a conversation that took place between Mrs. Grundy, Mr. Townsend and Mr. Grundy? A. No, I did not.

Q. You didn't hear any of that conversation? A. I couldn't tell you what they said.

Q. Did you hear the conversation that took place between Mrs. Grundy and Mr. Grundy? A. That same evening?

Q. That same evening or that afternoon. A. No, I don't remember that; no, not that same evening.

Q. The story that was told to you at that time by Mr. Grundy affected you to a considerable extent, did it not? A. Well, it startled me; I couldn't hardly believe it.

Q. When did you next see Evans?

MR. HIRSHENSTEIN: If your Honor please, that is not proper cross examination; she is here under their subpoena and if they want to go into the circumstances when she next saw Evans it is not cross examination.

MR. LANE: She isn't here under our subpoena at all, in the first place; and in the second place—

THE COURT: She is not called under your subpoena.

MR. LANE: She isn't here under our subpoena. That was served on her a long time past.

MR. HIRSHENSTEIN: Well, she will be here if you want her.

MR. LANE: I don't want her now.

MR. HIRSHENSTEIN: I object to this, if your Honor please; it is not cross examination along the lines of the direct examination.

THE COURT: I will take it.

Q. (Last question repeated). A. Two or three days later.

Q. You had a conversation with him at that time with respect to this incident, didn't you? A. Yes.

Q. And discussed it with him? A. I asked him if it was true, that is all I said.

Q. What did you ask him? A. I asked him if it was true that he was found in Mrs. Grundy's bedroom with what Mr. Grundy said, and he said, "Do you believe it?" and I said "No."

Q. What did he say then? A. He didn't say anything then.

Q. Was there anything else said about the subject matter? A. Nothing was said.

Q. Did he say that he had not been in the bedroom? A. He didn't say that either.

Q. He did not say one way or the other? A. No.

Q. And you did not press him for an answer? A. I did not press him, no.

Q. Now, are you sure that that was all that was said with respect to that episode? A. That is all that was said.

Q. Nothing further, as to the details? A. No.

Q. Did he say to you, "It is a nice thing for you to telephone me and then not show up" or words to that effect? A. He may have; I don't just quite remember; he might have said it.

Q. Did he say to you, "Why didn't you come to me, why didn't you come around as you promised to in the morning?" A. He might have said it; I don't remember.

Q. Did he say, "You have gotten me into a nice mixup not coming as you said you would", or words to that effect? A. I don't remember that either.

Q. You have no recollection with respect to that at all? A. No, I have not.

Q. The only recollection that you have with respect to what was said at that time was that you said to him, "I am informed that you were caught in Mrs. Grundy's bedroom" and he said, "Do you believe it", and you said, "I don't"? A. Yes, that is all I remember.

Q. That is the entire conversation? A. That is all I remember.

Q. You have no recollection of having telephoned the night before the 15th, have you? A. Well, if I didn't telephone him I must have met him in the street and asked him to do it.

Q. You didn't telephone? A. I don't really remember; I might have telephoned.

Q. What is that? A. I might have telephoned.

Q. Have you any recollection of it? A. It might be possible, I say.

Q. I know, all things are possible, Miss Halverson, but have you any recollection of it at this time? A. I think I asked him; I don't think I telephoned.

Q. You asked him? A. I think I met him on the street.

Q. Where did you meet him? A. Up on Bergen Avenue.

Q. Now, have you any distinct recollection of that? A. No.

Q. Do you recollect what you asked him? A. Well, I may have asked him to come up and get the barrels out of the cellar for Mrs. Grundy; I just don't remember that.

Q. Did you intend that day, on the 15th, to be there in the morning?

MR. HEYMAN: I object to that, if your Honor please, to any intentions on the part of the witness. They do not bind this defendant and I do not think that is a fair question. How can the intentions on her appointment with Mr. Evans bind this defendant in any way at all? It isn't what she intended; the question is what she did do.

THE COURT: I will overrule that question, what she intended.

Q. Did you tell Evans that you intended to be there in the morning? A. I think I did, yes.

Q. Have you any recollection of it? A. Yes, I have a faint recollection of it.

Q. What is that? A. Yes, I think I have.

Q. You have a very good recollection as to that? A. A pretty good recollection of that.

Q. Is that recollection any better than the recollection as to whether you did telephone or did talk to him?

MR. HEYMAN: I object to that, if your Honor please, as calling for a comparison on the part of the witness as to recollections.

THE COURT: I will take it.

A. Yes, it is better.

Q. That is better? A. Yes.

Q. The fact that you told him that you were going to be there the next morning is more distinct in your recollection than the fact as to whether you talked to him at all, is that right? A. Yes.

Q. Why didn't you come there in the morning? A. I guess I overslept, that is all.

Q. Have you any recollection of that, or is that only a guess? A. Yes, I have a good recollection of that.

Q. You have a good recollection that you overslept that morning? A. Yes.

Q. How late did you over sleep? A. About ten, I guess, something like that.

Q. What time did you go to bed the night before? A. It was quite late, I guess.

Q. I know; I don't want any guesses? A. About one o'clock.

Q. Do you remember that distinctly? A. Well, I guess it is, yes.

Q. What? A. Yes.

Q. What time did you usually get up in the morning? A. Well, I don't sleep very good nights then I sleep late in the morning.

Q. What time did you usually get up in the morning? A. About ten or eleven.

Q. That is your usual time for getting up? A. Around that time.

Q. Your usual time? A. Yes.

Q. Then you didn't oversleep that morning, did you? A. I guess it was a little bit after ten, for I did oversleep.

Q. How many minutes did you oversleep, if your usual time for getting up in the morning is ten or eleven and you got up at ten o'clock, how

much did you oversleep? A. I don't know just how to answer that.

Q. Is that the only reason why you didn't go to Mrs. Grundy's house that morning, because you overslept? A. Yes; I guess I was busy around the house and I couldn't get out.

Q. I don't want guesses; do you know, do you recollect? A. Yes, I do, I was busy.

Q. Do you recollect now or is that just a mere guess? A. I recollect it.

Q. You recollect that, do you? A. Yes, I was busy there.

Q. You recollect distinctly now that you were busy and that is the reason why you didn't go, is that right? A. Pretty much so, yes.

Q. How clear in your mind is your guess? A. Well, I don't know, it wasn't of any consequence to me, so I didn't remember.

Q. Why, Miss Halverson, it was of the utmost consequence to Mr. Evans, wasn't it?

MR. HEYMAN: I object to that on the ground that it calls for a conclusion on the part of the witness.

THE COURT: I will take it.

A. It might have been, yes.

Q. Didn't you realize it? A. Well, I didn't think anything wrong, no.

Q. You were told that very afternoon that Mr Evans had been caught in Mrs. Grundy's bedroom, weren't you?

MR. HEYMAN: There is no such testimony in the case, if your Honor please.

MR. LANE: There is.

MR. HEYMAN: That very afternoon?

Q. That very evening then, that is true, isn't it? A. Yes.

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Q. Did you tell Mr. Grundy at that time, when he told you this story, did you tell him that you had made an appointment for Evans to be there that morning? A. No, I didn't.

Q. You didn't say a word about that, did you? A. No, I didn't say a word.

Q. Did you tell Mr. Grundy at that time that you had been delayed in getting there and got there in the afternoon instead of the morning? A. No.

Q. You never said a word about it, did you? A. No, Mr. Grundy walked right out of the room.

Q. You never said a word, you fainted, didn't you? A. I didn't faint.

Q. You never said a word about that, did you, to him? A. No.

Q. You didn't say, "Why, Mr. Grundy, I made the appointment for him to be here," did you? A. No, I didn't say that.

Q. Or anything that sounded like that? A. No.

Q. There was no conversation about your having made the appointment and not having kept the appointment, except two days afterward when you talked to Evans, was there? A. No.

Q. Now, are you sure, Miss Halverson, that you made this appointment for Evans that morning? A. I won't say for sure; I have a faint recollection of it.

Q. Your recollection is only faint? A. Yes.

Q. Your recollection with respect to this entire matter, so far as your transactions with Evans are concerned, with respect to this specific thing, is very faint, isn't it? A. Yes.

Q. As a matter of fact, you have no recollection at all, have you? A. Just a faint recollection.

Q. You have been discussing this case quite often with counsel for Mrs. Grundy, have you not? A. Not quite often, no.

Q. How many times? A. Just about two times.

Q. When was the last time? A. Let me see—

Q. What? A. The day before yesterday, I think.

Q. Yes; and when before that? A. About a month ago, I think; before that; I just don't remember.

Q. Didn't you discuss it with them at the lunch hour today? A. No, I did not.

Q. With any counsel? A. I might have spoken to Mr. Hirshenstein.

Q. When I say counsel for the defendant I mean either Mr. Hirshenstein or Mr. Heyman; you talked to him this lunch hour today, didn't you? A. Yes.

Q. You talked to him before today, haven't you? A. Mr. Hirshenstein?

Q. Yes. A. Well, different questions.

Q. Different times; you told him, did you now, when you first discussed it with him, that you did not know anything about this appointment, didn't you? A. I said I had a faint recollection of it.

Q. Did you not, two weeks ago, in the presence of Mr. Grundy and your own brother, say that you never made any appointment for Evans in the morning? A. I never said it in front of Mr. Grundy and my brother.

By the Court:

Q. Were you present when Mr. Evans was a witness? A. Yes, I was.

Q. During his whole testimony? A. Yes.

By Mr. Lane:

Q. Now, do you recollect the time, Easter time, when Mr. Evans came to the apartment and was

there when Park came in? Do you recollect that time? A. Easter, was it?

Q. Easter time, I said; do you recollect starting out for a walk with Mr. Evans and then going to Mrs. Grundy's house, then Mrs. Grundy sending you to the store on an errand, and then you forgetting to return? A. I have a faint recollection of that, too.

Q. A faint recollection of that; now, just give us your best recollection with respect to that? A. Well, I think she sent me to the store and I had to go home.

Q. I don't want your thoughts; I want you to —

MR. HEYMAN: You asked for her best recollection.

MR. LANE: I want her best recollection.

MR. HEYMAN: She says she thinks.

Q. What do you recollect about it, if you recollect anything? A. Well, that she might have sent me to the store and that I went home.

Q. I don't want the "might have", I want to know—this is only a year ago, a little over a year ago—it would be an unusual thing, wouldn't it, Miss Halverson, for you to accompany Mr. Evans to Mrs. Grundy's house and then be sent out for an errand to return in a very short space of time, and not return at all; that would be unusual, wouldn't it? A. No, I thought he was going to leave right away; he was on the point of leaving, I thought.

Q. It would be unusual if he had said to you that he was going to wait until you returned, wouldn't it? A. No, it would not be unusual.

Q. It would not be unusual? A. No.

Q. You think it would not be unusual to be

sent for an errand and then having the gentleman who accompanied you to the house say that he would wait until you returned, and then you not to return at all, that would not be unusual? A. Of course that would.

Q. Well, did anything like that ever take place? A. Only that one time, I guess.

Q. Did it take place that one time? A. I just don't remember; I can't tell you; I can't swear to that.

Q. Don't look at somebody else.

MR. HEYMAN: If your Honor please, I object to any such remarks.

MR. LANE: The witness has had her eyes glued on the eyes of Mrs. Grundy for the last ten minutes.

MR. HEYMAN: I object to any such remarks; I think that is absolutely uncalled for.

THE COURT: The Court hasn't observed it.

MR. HEYMAN: I object to any admonitions by counsel to this witness. I think if there are any instructions to be given to the witness the Court should do it.

THE COURT: That is so.

MR. LANE: I direct the attention of the Court to the fact that the witness has, for the last ten minutes, had her eyes glued on Mrs. Grundy.

MR. HEYMAN: You know because Mr. Townsend just called your attention to it.

MR. LANE: Mr. Townsend did not call my attention to it.

MR. HEYMAN: I want to object to this going on the record; I think it is eminently unfair.

THE COURT: One moment. I am bound to say that I have not observed anything of that kind. If anything of that kind occurs and it is brought to my attention I will investigate it.

Q. You heard Mr. Evans testify about it, didn't you? A. Yes, I heard him.

Q. What Mr. Evans testified to did not stir any recollection in you? A. No, it did not.

Q. Miss Halverson, were you in the dining room on September 15th? A. No, I wasn't in the dining room.

Q. You didn't see into the dining room, did you? A. No, I did not.

Q. You didn't observe any barrels in the apartment, did you? A. I didn't look into the dining room.

Q. You did not, as a matter of fact, see any barrels in the apartment, did you? A. No, I did not.

Q. Did Mr. Evans tell you then two or three days afterwards that you saw him, that he had brought up the barrels? A. Yes, I think he did tell me that day.

Q. Do you recollect it? A. Pretty well, yes.

Q. Then there was something more said than just "I was told that you were caught in the room with Mrs. Grundy" and he said "Do you believe it"? and you said, "I don't believe it." A. Yes, I think he told me afterwards that he did bring some barrels up for Mrs. Grundy.

Q. I asked you what the conversation was that took place at that time and I asked you if that was all, and you said nothing else was said except what I have recited; if there was anythink else, I said, let me have it. A. Well, I don't remember whether he told me at that time, but it was

some time around that time that he did tell me, within the next day or so.

Q. Well now, what did he tell you? A. That he had taken the barrels up from the cellar.

Q. What was the rest of the conversation? A. That was all about that.

Q. He just said he took the barrels up from the cellar; you don't remember whether it was on this conversation or on the other occasion? A. No, there wasn't any other occasion.

Q. You don't recollect any criticism of you for having gotten him into this hole? A. I don't remember.

Q. If he had done that thing don't you think you would have recalled it? A. I don't think so.

Q. What? A. I don't think so, no.

Q. You wouldn't recollect if he had blamed you for being the cause of the position in which he was put because you didn't keep the appointment which you had made with him; you wouldn't recollect that? A. No.

Q. That would just pass out of your mind? A. Yes.

Q. Now, do you know whether after the 15th Mr. Evans was at the Grundy house? A. No, I don't think so.

Q. Do you know whether he was, or whether he wasn't? A. He might have been; I don't know.

Q. Why do you say he might have been? A. I don't just remember.

Q. You must have some reason for saying he might have been; now what was it? A. I am not sure about that.

Q. What I want to get at is what is your information, what makes you think that he might

have been there? There is something in your mind that makes you think he might have been there; now what is it? A. He might have taken some trunks up from the cellar.

Q. Afterwards? A. Yes.

Q. After the 15th? A. Yes.

Q. Why do you say he might have taken some trunks up after the 15th? A. I remember seeing the trunks, I think he took them up from the cellar, they were out in the hall.

Q. After the 15th? A. Yes, I think they were.

Q. Why do you think that he took them up? A. Well, it was either he or my brother; I can't swear to it.

Q. What makes you think it may have been him? A. I don't know.

Q. What? A. I think he was up one other time.

Q. After the 15th? A. One morning I think it was, yes.

Q. After the 15th; what did he do on that occasion? A. He was going to pack the china, I think he was going to start to pack up.

Q. How did he come to go there that day? A. I think I asked him to go.

Q. That was after the 15th, wasn't it? A. I am not sure whether it was the 17th or 18th; I don't remember.

Q. It was two or three days after? A. Something like that.

Q. You asked him to come there that day in the morning to pack the china? A. Yes.

Q. You were there that morning, weren't you? A. Yes.

Q. You got there that morning? A. Sure.

Q. On that morning what time did you go there? What time did you get there? A. This was about eleven oclock.

Q. Eleven o'clock? A. Yes.

Q. Did you make that appointment with him by telephone that morning? A. No, I think I asked him.

Q. You think you asked him on the street to come there that morning of the 17th or 18th? A. I think so.

Q. And that was for the purpose of packing china, wasn't it? A. Yes.

Q. When he got there what was the first thing he did that morning? A. Took some clubs out of the cellar, I think.

Q. Didn't he bring barrels up out of the cellar at that time? A. No, it was trunks.

Q. What did he pack the china in? A. The barrels were in the dining room.

Q. Do you remember you came there? A. Yes, sure.

Q. Do you know when the barrels were brought up yourself? A. No, I don't know that, no.

Q. Did he start to pack these barrels with china? A. Yes.

Q. Did he spend about 15 or 20 minutes in packing them? A. Something like that.

Q. Then did Mrs. Grundy say that she didn't think he was qualified to do it? A. Yes.

Q. Then the packing was given up, wasn't it? A. Yes.

Q. She said she would get somebody else to do the packing, that is right? A. Sure.

Q. That was on the 17th or 18th? A. Something around that.

Q. At least after the 15th? A. Yes.

Q. It wasn't on that occasion that the barrels were brought up; that is right? A. Yes, that is right.

Q. Is that the last time that he was there,

to your knowledge? A. Yes, I think it was the last time.

Q. You were there during all that time? A. Yes, after that I was there most every day.

By The Court:

Q. On the 17th, or whatever day it was, you were there then? A. Yes, the day Mr. Evans brought the trunks up.

By Mr. Lane:

Q. With respect to that, on the 17th or 18th, your making an appointment with him, meeting him on the street the night before and telling him to come there to help pack &c., so far as your recollection is concerned, it is very distinct, isn't it? A. Yes.

Q. There is no question about that at all, is there? A. I am pretty sure about that.

Q. It stands out in your mind, doesn't it? A. Pretty well.

Q. Now, will you tell me, Miss Halverson, why it is that if that stands out so strongly in your mind, as to what took place on the 17th or 18th, why doesn't what took place on the 15th stand out equally strong? A. I don't know why.

Q. For some reason or other it doesn't, does it? A. No.

Q. Your friendship with Evans was close, wasn't it? A. Just in a friendly manner.

Q. Yes, but close in the sense that you and he went out together quite often, did you not? A. No, I wouldn't say quite often, to go out together.

Q. How long after the 15th of September did that friendship continue? A. Until the time he joined the army, up to that time.

Q. When did he enter the army, do you know?

A. Some time in October, I don't remember what day.

Q. A few weeks after this episode? A. No, it wasn't a few weeks; I think it was towards the end of October.

Q. As a matter of fact, weren't your relations with Evans completely different after this episode of the 15th than they were before? A. No.

Q. Didn't you tell Mr. Grundy and Mr. Townsend, not both together, in this court room, during one of the days on which this case was on for hearing, that you had nothing more to do with him after the experience of the 15th? A. Well, I met him in the street and just talked to him, but never anything special, engagements or anything, he never wrote to me or anything.

Q. The thing dropped? A. Yes.

Q. Friendship stopped, didn't it? A. Yes.

By The Court:

Q. Miss Halverson, before that time you had been going with Mr. Evans several times to Mrs. Grundy's house, had you not? A. Yes.

Q. Do you mind telling your age? A. 25.

Q. You spoke of getting up late on some morning, said that you usually got up about that time in the morning; do you mean every day or on Sundays? A. Well, some days, most every day, I don't sleep good nights so usually I slept late in the mornings.

By Mr. Lane:

Q. Do you know Thomas Anderson? A. I don't know him, no.

Q. Do you know whom I refer to by Thomas Anderson? A. Yes.

Q. When were you introduced to him? A. I

just don't remember; it was one time about two years ago, something like that, I think.

Q. By Evans? A. I think so.

Q. How did he introduce him? A. I just don't remember how.

Q. Haven't any recollection with respect to that? A. No.

Q. Do you know who he was? A. No.

Q. Ever know who he was? A. No, I don't.

Q. Did you ever meet him on any other occasion? A. No, I didn't.

Q. Did you ever meet him in Mrs. Grundy's house? A. Never did.

Q. Were there any other men at Mrs. Grundy's house on any of the occasions that you were there, with the exception of Evans? A. Any other men?

Q. Yes. A. No.

Q. On any one of the occasions? A. Oh, yes; there was a Mr. Jackson, his boss.

Q. Who? A. Mr. Jackson.

Q. Mr. Jackson? A. Yes.

Q. When was that? A. I think some time in June, June or July some time like that.

Q. Was that Mr. Evans' boss? A. May or June, I think it was.

Q. That was Mr. Evans' boss? A. Yes.

Q. What time of day was it that you were there with him—that you were all there together, I mean? A. Oh, around seven or eight.

Q. Who was in the party? A. Mrs. Grundy and Mr. Evans, Mr. Anderson and I.

Q. What time did the party breake up? A. Most all the time before twelve; a few times it was a little bit after twelve.

Q. Well, how many times was Jackson there? A. Two or three times.

Q. Two or three times? A. I think so.

Q. During the month of June? A. Either May or June, I don't remember, it was one of those months.

Q. How often did these parties continue; how often would it be that you would have one of those parties? A. Mr. Jackson was only up there about two or three times.

Q. Was there any drinking at any of those parties? A. Only beer.

Q. Any hard liquor? A. No.

Q. What nights would they be up? A. Sometimes on Saturday night and Wednesday; either Wednesday, Friday or Saturday night.

Q. They were before Mr. Grundy came home from Europe? A. Yes.

Q. Also before Park came home from school, wasn't it? A. Yes, I think so.

Q. Now, this man Jackson was, in fact, Mr. Evans's employer wasn't he? A. Yes.

Q. What is his first name? A. Thomas.

Q. Where does he live? A. I don't know where he lives.

Q. Where is his place of business? A. I think it is the Hine Harrison Fur Company, in New York.

Q. Where are they? A. I don't know what street they are on.

Q. Does he live in Jersey City? A. I couldn't tell you where he lives.

Q. Well, didn't he ever say? A. I don't remember if he did say it. He might have said it.

Q. How did he come to be there? A. Mr. Evans brought him up.

Q. How old is he? A. I should judge a man about 35 or 40.

Q. Married or single, do you know? A. Single.

Q. You haven't the least idea where he lives? A. No, I don't know.

Q. Now, is the man that has been referred to as Thomas Anderson this man Thomas Jackson? They are two different men, is that right? A. Yes.

Q. Now, I will ask you one more question along that same line: Were there any other parties that you had at the Grundy house at which there were any men present, other than Mr. Evans? A. No, we didn't entertain any other men.

Q. Do you remember any time when you were at Mrs. Grundy's house and Mrs. Grundy sending the janitor out for liquor?

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

A. I can't swear to that.

THE COURT: I will take it.

A. She might have sent him to the store.

Q. What do you mean, she might have sent him to the store? A. The Grocery store.

MR. HEYMAN: I object to this line of examination, if your Honor please; first on the ground that it is not cross examination; secondly it has nothing to do with the case, it does not in any way effect the question of adultery.

THE COURT: It does not seem to be cross examination, Mr. Lane.

MR. LANE: I will withdraw the question.

Q. On any one of those parties that Mr. Jackson was present do you remember whether Mrs. Grundy sent the janitor out for liquor? A. No.

Q. Or for anything else? A. If he did come up there we couldn't get rid of him, if he came up to fix something he wouldn't go out until we told him to go; I don't remember.

Q. Did you tell Mr. Grundy after this case was started that on one of these occasions at which Mr. Jackson was present there was eating and drinking? A. Yes.

Q. Until early in the morning? A. It might have been a few times a little bit after twelve.

Q. Did you tell Mr. Grundy that? A. I don't recall having told him that.

Q. Didn't you tell him that on that same occasion that Mrs. Grundy sent out for liquor—sent the janitor out for liquor twice? A. I never told him that.

Q. Did anybody in the party send out for liquor? A. Mr. Evans might have gone out and ordered beer.

Q. Now, do you remember Mr. Evans going out for beer or sending the janitor for beer? A. No, I don't remember.

Q. Well, did you tell Mr. Grundy that Mrs. Grundy had sent out, or that anyone of the party had sent out, for liquor on any occasion? A. I never told Mr. Grundy anything like that.

Q. Did you tell Mr. Grundy, at any time, anything about anybody being sent out for liquor at any time? A. Never told Mr. Grundy that.

Q. Do you recognize this picture which I show you, which has been marked Exhibit P-7 for Identification? A. I don't know him, no.

Q. Do you recognize that picture? A. Yes, I recognize it as one my brother had.

Q. Did you ever meet the original of that photograph? A. Never; never did.

Q. Do you know who the original of that photograph is? A. Well, my brother told me he was Doctor Hoffman.

MR. HEYMAN: I object to what her brother told her.

Q. You don't know yourself? A. No, I don't.

Q. You never met him? A. Never met him.

Q. Did Mrs. Grundy ever say anything about him to you? A. I don't recall that she did.

Q. Well, do you recollect whether she ever discussed or mentioned his name? A. No, I don't recollect.

Q. Do you recollect that she didn't? A. I don't recollect whether she did or not.

Q. You never had any talks with her with respect to him? A. No, I did not.

REDIRECT EXAMINATION BY MR. HIRSHENSTEIN:

Q. Miss Halverson, is your memory good, or is it bad? A. I have a bad memory.

Q. What is your physical condition, are you well or are you sick? A. Well, I am in a run down condition.

Q. What is that? A. Run down condition, not well.

Q. How long have you been in that condition? A. Well, about three or four years, I guess.

Q. What are you suffering from, if you know? A. I am suffering from throat trouble, nervous trouble.

Q. There is a large gland in your throat, you are covering that over now with your fur piece? A. Yes.

Q. And that causes you a great deal of trouble? A. Yes.

Q. Has your memory ever been good, or is it generally bad. We want to know. Do you remember things, or are you apt to forget them? A. Well, there are some things I do remember, but others I do not.

Q. When you testify to things which might have happened, or you have a faint recollection

that they did happen, do you mean that you recollect that those things did occur, or do you mean that they might have occurred and you don't remember them to actually occur?

MR. LANE: I object to that as leading.
THE COURT: I will take it.

A. Yes, they might have occurred; I don't really remember.

Q. You don't actually remember their occurrence? A. No.

Q. Now, you told Mr. Lane, as I understand, that you broke off your connection, friendship and relations with Mr. Evans after this episode, or in answer to the Master's question; is that correct? A. I don't really say I broke off, no, just in a friendly way.

Q. Now, were your relations with Mr. Evans prior to the time Mr. Grundy told you of what he said had occurred, and your relations with him subsequent to that time, up to his joining the army—was there any difference in your relations; yes or no. A. No, no different.

Q. When you told the Master it was changed what did you mean that your friendship ceased, or your friendship lessened in any way, after Mr. Grundy told you what he did, or did it not? A. It did not.

Q. Are you quite sure about that? A. Certainly.

Q. Now, you saw Mr. Evans very frequently prior to the September incident? A. Yes.

Q. Did you see him just as frequently after the September incident? A. Almost just as frequently, yes.

Q. If you stated to the Master that your friendship lessened or broke off, were you cor-

rect in saying it or was that incorrect? A. Incorrect.

Q. If you said that was it correct? A. Incorrect.

Q. My recollection is that you told the Master that your friendly relations broke off; is that correct or is it not correct? A. Well, it didn't break off; when he joined the army he didn't write to me.

Q. So that they broke off after he joined the army, because you haven't see him, is that what you mean now? A. Yes.

Q. So that there was no difference in your friendship or in your regard for him, for Mr. Evans, after Mr. Grundy told you? A. Not much different, no.

Q. You continued to see him? A. Sure.

Q. And go out with him? A. At different times.

Q. As a matter of fact, did you believe what Mr. Grundy told you to be correct? A. No, I could hardly believe it.

Q. Now, Miss Halverson, I understand that you told Mr. Lane you said you had a distinct recollection that upon a certain occasion Mr. Evans did go to the Grundy house and assist in packing? A. Yes.

Q. You also told Mr. Lane that you had a distinct recollection of having asked Mr. Evans to go to the house for the purpose of assisting Mrs. Grundy to pack? A. Yes, I have.

Q. Well, now, can you now tell how you fix the time of that occurrence of which you have this distinct recollection? A. How I fix the time?

Q. How do you fix it? A. I don't know just now.

Q. What is that? A. I couldn't tell you.

Q. Now, is it possible that that occurrence of which you now speak occurred as well on September 14th or 15th, as on September 17th or 18th? We want your best recollection; we want the facts as you know them and nothing more. A. That it did occur on what day?

Q. (Last question repeated). A. Yes.

Q. But it is quite clear in your mind; you have a recollection of that fact occurring that day?

MR. LANE: I object to that as leading.

Q. But you have a distinct recollection that upon a certain occasion during the month of September you did ask Mr. Evans to go to Mrs. Grundy's house for the purpose of having him assist her in packing, and that he did on a certain occasion actually go to her house for that purpose? A. Yes.

Q. You went to Mrs. Grundy's house very frequently with Mr. Evans? A. Yes, very often.

Q. Did any circumstances occur during that period of time ever impress themselves upon you in any particular and distinct way? A. No, never.

Q. It was such a common occurrence then, your going with Mr. Evans, that what took place doesn't leave any particular impression on your mind?

MR. LANE: Going where? I object to that as leading. I will withdraw my objection.

A. (No answer).

RECROSS EXAMINATION BY MR. HEYMAN:

Q. Now, Miss Halverson, what part of the story that Mr. Grundy told you don't you believe?

MR. LANE: I object to that on the ground that it is immaterial and irrelevant what she believes.

MR. HEYMAN: All right; I will withdraw the question.

Q. When Mr. Grundy told you this story what did he tell you? A. That Park found Mr. Evans in the bedroom with Mrs. Grundy, buttoning his pants.

Q. What is there about that that you don't believe? A. Why, the last part of it I don't believe.

Q. What part? A. Buttoning his trousers.

Q. You believed that he was there? A. Yes.

Q. You believed that he was in Mrs. Grundy's bedroom? A. Surely, but I didn't think anything of that, because there was an old rack we used to hang our clothes on that.

Q. Now, isn't it a fact that Mr. Evans did say to you when he met you two or three days later, "Why didn't you keep your appointment with me."

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

MR. HEYMAN: Why, if your Honor please, this is cross examination; I have a right to lead the witness on cross examination; this witness is not my witness.

THE COURT: I will take the question.

A. He might have.

Q. Miss Halverson, you were present at a conversation between Mr. and Mrs. Grundy? A. Yes.

Q. Shortly around this time, whether it was directly before or directly after; do you remember?

THE COURT: September 15th?

MR. HEYMAN: September 15th, whatever it was; I don't remember.

A. Yes, before.

Q. What conversation took place between Mr. and Mrs. Grundy? A. Well, Mr. Grundy came in the kitchen one night and asked me if she had told me about the man being found behind the closet.

Q. Yes. A. I said no; "Well," he said, "I am going to get a divorce, I am through," he says, "I warned her years ago that I would cease to love her but only because of pity for her, that is why I stayed."

Q. Only because why? A. Because he pitied her.

Q. What did Mrs. Grundy do when he said that? A. She was crying, she said that that is a terrible thing to say.

Q. What did Mr. Grundy do? A. He went in, he called Mr. Townsend on the phone, I think he did, he went out and came back later and called him on the telephone, I think.

Q. Did Mr. Townsend come that night? A. No, he didn't come that night.

Q. Now, you lived with Mrs. Grundy a great deal, didn't you? A. Quite a lot.

Q. Even while Mr. Grundy was there and slept in the house, isn't that so? A. Yes.

Q. You have been a frequenter there for years, haven't you? A. Yes.

Q. Now, why didn't you tell Mr. Grundy that you had made the appointment when Mr. Grundy told you about Evans having been found in this condition? A. Well, I don't know just why; I think Mr. Grundy went right out of the room.

Q. You didn't have time to talk to him about that? A. It might have been that.

Q. Miss Halverson, your hearing is pretty good, isn't it? A. Yes, pretty good.

Q. You know that house very well, don't you, the apartments in which Mrs. Grundy lived? A. Yes.

Q. Can you tell us if, when the kitchen door is closed and the bedroom door is closed, whether you can hear any person talking in the bedroom, if you are in the kitchen? A. No, I couldn't hear.

Q. Can you tell us whether, if the door leading from the main hall into the apartment is open about one inch and you stood in the kitchen, whether you could then hear any conversation being had in the hall?A. Yes, I think I could.

Q. You think you could hear the conversation? A. Yes.

Q. Do you think that Mrs. Grundy could hear? A. No, her hearing is kind of bad, I don't think she could.

Q. How do you know that her hearing is quite bad? A. Well, she often asked me to repeat things and I did so.

Q. Did you ever hear anybody else have to repeat things to her? A. Yes.

Q. Whom? A. I think Mr. Grundy was asked at different times.

Q. Now, are you sure that it was on the 17th or 18th of September that you saw Mr. Evans pack some of this china into the barrels? A. Yes, I am pretty sure.

Q. You are quite sure it was not on the 15th? A. No, it wasn't on the 15th.

Q. Now, Miss Halverson, during all the time that Evans was going to the house and that you were there, or at any time on which he was there and you were there, did you ever see any affection displayed between Evans and Mrs. Grundy? A. Certainly not; never.

Q. Did you ever hear any terms of endearment used by either one? A. Never.

Q. Towards the other? A. No.

Q. Did you ever see Mr. Evans embrace Mrs. Grundy, or Mrs. Grundy embrace him? A. Never.

Q. Did you ever see either one kiss the other? A. Never did.

Q. Did you ever see any conduct between them which would in any way lead you to believe that there was any undue intimacy at all between them? A. No.

Q. Now, on the nights that Mr. Jackson was there, what took place on those occasions? A. Well, we played the piano, talked, had a little lunch or something like that.

Q. Was there anything wrong at that time? A. Never anything wrong.

Q. Did Mr. Jackson conduct himself like a gentleman? A. Always properly.

Q. Was there any undue intimacy between Jackson and Mrs. Grundy? A. No, sir. Everything was perfectly proper.

Q. Were you ever absent from the apartment while Mr. Jackson was there? A. No.

Q. Did you leave the apartment while he was on these visits? A. I might have gone out to the store or something; I just don't remember.

Q. How long would you be away? A. Not very long.

Q. If you left was Evans with Mr. Jackson? A. Yes.

Q. During all those times did you ever see anything that was in any way wrong? A. Never anything, there was never anything wrong.

Q. Did you ever hear any expressions of endearment? A. No.

Q. Embracing by Mr. Jackson of Mrs. Grundy, or Mrs. Grundy of Mr. Jackson? A. No, everything was perfectly proper.

Q. Are you quite sure that there never were any other men at any parties? A. Yes. We never entertained any gentlemen.

Q. Not in all of the three or four years? A. Yes.

Q. While Evans was down here to testify in this case he called on you at your home? A. Yes.

Q. You subsequently spent the evening with him, did you? A. Yes.

Q. Has he written to you since he has gone out of town? A. No, he hasn't written.

RE-CROSS EXAMINATION BY MR. LANE:

Q. The time that Evans packed you were present, weren't you? A. Yes.

Q. It was after the time that you had been told about this episode? A. Yes, it was.

Q. A couple of nights after that, as you recollect? A. Yes.

Q. Making it about the 17th? A. Yes.

Q. There is no question in your mind, is there, with respect to that? A. No.

Q. What did Mrs. Grundy say at that time when Mr. Grundy referred to the fact that the man had been found behind the closet? A. She was crying, she was really hysterical, didn't say anything hardly.

Q. Well, did she say, "It isn't so, it isn't so," or words to that effect? A. Something like that, yes.

Q. She did? A. Yes.

Q. Did she say he never was here? A. No, I don't remember her saying that.

Q. What did she say now, that you recollect? A. She said that isn't true.

Q. She said Park lied, didn't she? A. No, she didn't say, I don't remember her saying that.

Q. She mentioned Park's name? A. No.

Q. Now, what did Mr. Grundy say with respect to ceasing to love his wife? A. He told me he warned her years ago—I don't remember the day—that he would cease to love her.

Q. That he would cease to love her? A. Yes.

Q. Why? A. I don't know, he didn't say that, he only said because he pitied her.

Q. As I understand it it was about the time, —was it after the Evans episode or before? A. Before.

Q. And after the beer episode? A. Yes.

Q. He told her, as I understand it, that he had warned her several years before that he would cease to love her? A. Yes.

Q. He didn't give any reason why he would cease to love her? A. No, he didn't.

Q. Didn't you know from what he said that he referred to her drinking heavily?

MR. HEYMAN: I object to that.

THE COURT: I will take it.

A. No, I didn't know that.

Q. You knew she did drink, didn't you? A. Yes.

Q. You knew she drank to excess? A. No, I didn't know, I can't say that, I couldn't swear because I didn't see her take much stuff.

Q. You didn't see her take it? A. No.

Q. But you knew she took it, didn't you? A. I don't know whether she did have or not.

Q. Didn't you take care of her many times after she became ill from the use of drink? A. Yes, I was with her.

Q. Many times? A. Yes.

Q. Wasn't it? A. Yes.

Q. Your mother also did, didn't she? A. A few times.

Q. After the incident on August 24th your mother was there, wasn't she? A. August 24th, that was the beer man affair?

Q. Yes, the beer man, so called. A. I think she was.

Q. How long did she stay? A. About two days, I think, something like that.

Q. Didn't she leave because Mrs. Grundy got so bad from drink that she wouldn't stay there? A. I don't say it was from drinking, they had a few words, I don't know whether it was from drink or what.

Q. They had a few words, at any rate? A. Yes.

Q. Mrs. Grundy was drinking, wasn't she? A. I can't swear to that.

Q. Why can't you swear? A. Just because I didn't see her take it.

Q. But you did see the effect of that? A. I don't know whether it was from drink or what, but she was sick.

Q. Something the matter, at any rate? A. Something the matter.

Q. Have you ever seen her on an occasion when you knew that she was under the influence of liquor? A. I might have.

Q. Have you any recollection of it? A. Yes.

Q. How many times? A. Oh, I don't remember, how many times.

Q. A number of times? A. Sometimes more from weakness from not eating, like faint.

Q. A number of times you have seen the acute effects of the alcohol immediately after it was

consumed, haven't you? A. I can't swear to what it was she was taking because I didn't see her take it.

Q. You saw something which suspiciously looked like intoxication, didn't you?

MR. HEYMAN: I object to that; this witness says she doesn't know and she didn't see it.

THE COURT: I will take it.

MR. HEYMAN: I think that calls for a conclusion pure and simple, suspicion of intoxication.

THE COURT: I will take it.

A. I don't know; I can't swear to that.

Q. A few moments ago you told me that you had seen her under the influence of liquor several times; now what did you mean by that?

MR. HEYMAN: I don't remember her having said that, if your Honor please.

MR. LANE: She did say it.

MR. HEYMAN: My recollection is that she might have seen her sick from the effects of it, most of the times weak from not eating.

MR. LANE: That is not her testimony. I am asking her what she meant when she told me she has seen her several times under the influence of liquor.

A. Well, she would be put in bed.

Q. Well, what made you think it was from the influence of liquor? A. Sometimes Mrs. Grundy would take one glass of wine; it wouldn't take much to make her intoxicated.

Q. You have seen her intoxicated, haven't you? A. I can't say; she might have been once or twice, something like that.

Q. Do you recollect distinctly once or twice? A. Yes.

Q. When were they? A. Oh, I don't remember, quite a while ago, years ago.

Q. Haven't you seen her on several occasions during the course of time that you knew her, going around her apartment in the morning in a nightgown and that is about all? A. She would have a kimona on, too.

Q. Have a kimona on, too? A. Yes.

Q. Sometimes she would go around without a kimona on throughout the entire morning? A. When she would be alone with me, when she would go to the bath room.

Q. In her bare feet, too? A. Yes.

Q. During the entire morning? A. Well, she would be in bed most of the time.

Q. For a week or ten days at a time she would do that, wouldn't she? A. Well, she would be sick, yes.

Q. Those sick spells happened quite often, didn't they? A. No, not quite often, I don't think.

Q. You found her on the floor so that she couldn't get up, haven't you had to pick her up and carry her into bed? A. She fainted a good many times.

Q. Why do you say she fainted? A. Well, she would faint on the floor and I would have to pick her up.

Q. How many times has she fainted on the floor that you had to pick her up? A. Quite a number of times.

Q. Do you know whether she fainted or was under the influence of liquor? A. I don't know.

Q. You don't know which it was? A. I think she fainted.

Q. Well, do you know whether she fainted or was under the influence of liquor? A. Fainted, I think.

Q. Why do you think so? A. It was more from weakness, I think, weakness from not eating.

Q. What was the cause of the not eating, do you know that? A. I don't know.

Q. One day, or one night, rather, between the happening of the Levine incident—or the beer man as you call it—and the Evans incident, you sat up quite late one night with Mrs. Grundy destroying papers, didn't you? A. Yes.

Q. Do you remember what night that was? A. One night my mother was there.

Q. That was about September 1st, wasn't it? A. Between August 24th and September 15th, I don't remember.

Q. How late in the night did you stay up, do you know that? A. It might have been two or something like that.

Q. What papers were destroyed? A. It don't know what papers they were.

Q. Who did the destroying? A. Mrs. Grundy.

Q. Where did she get the papers from? A. I don't know.

Q. Did they just suddenly loom up at the time? They must have come from somewhere. A. I don't know; I don't remember where they came from.

Q. What did she say before she destroyed them? A. She didn't say anything.

MR. HEYMAN: I must object; this is all new matter. I don't think it is proper recross examination.

MR. LANE: It is not proper recross examination I ask the indulgence of the Court to put it in.

MR. HEYMAN: I think this witness can be called on the part of the petitioner at another time.

MR. LANE: I am not going to do that, with the permission of the Court, unless the Court orders me to.

MR. HEYMAN: If your Honor please, I think if this is allowed we will never get through. This is all new matter and it should have been brought out on their case.

THE COURT: It is proper recross examination. I will take it out of order—I will permit it in cross examination.

Q. How did you come to participate in the destruction? A. I just went out in the kitchen, I don't remember what she said, that was all.

Q. You helped her? A. I didn't help her.

Q. Now, you sat up until 11 or 12 o'clock with her that night, didn't you? A. Yes, I was up.

Q. You were there and saw her destroying them, didn't you? A. Yes, I saw it.

Q. Nothing was said during all the time as to the destruction of these papers? A. She didn't say anything to me that I remember, no.

Q. You did not see where she got any of these papers from? A. I think they were from the trunk.

Q. Did you see what kind of papers they were? A. I don't know what kind of papers they were.

Q. Well, do you mean to say that you sat there in the same room and saw this destruction and did not see as she destroyed them the kind of papers they were. A. I can't swear what kind of papers they were.

Q. What did you see? A. I just saw her destroy the papers, that is all.

Q. How did she destroy them? A. Burned them.

Miss Gertrude Halverson—Re-Cross.

Q. There was a pan on the floor, wasn't there, in the middle of the floor? A. A heavy galvanized pan, yes.

Q. In that galvanized pan the papers were burned up, were they not? A. Yes.

Q. She lit a match to them? A. Yes.

Q. And burned them? A. Yes.

Q. Didn't you help in the destruction? A. I didn't help.

Q. Weren't you pretty close to her when she was doing this burning for a couple of hours? A. About two feet, two or three feet away.

Q. Then you didn't see what kind of papers they were? A. I can't swear to what kind of papers they were.

Q. Were they letters? A. No, they weren't letters.

Q. What did they look like? A. I don't remember, they might have been check stubs, something like that, I can't swear to it, small papers about that wide (indicating).

Q. You stood within two feet from her? A. Yes.

Q. Watching her do it? A. Yes.

Q. That is the best information you can give us with respect to what kind of papers they were? A. Yes.

Q. You said they might have been check stubs? A. they might have been, yes.

Q. Are you sure they were check stubs? A. I am not sure of that; I can't say.

Q. Where was the trunk? A. In the small room right off the kitchen.

Q. How many trips did she make to get these papers? A. Only one.

Q. One trip? A. Yes.

Q. How long did it take her to do that des-

truction? A. About five or ten minutes, I think.

Q. Is that all? A. Yes, something like that.

Q. Why were you so late in getting to bed? A. Well, because Mrs. Grundy wanted to see what was taken out of her trunk, so we got talking and the time slipped past.

Q. Why did you stay up until 12 or 11 o'clock? A. Because Mrs. Grundy asked me to come down and help her get the trunk open.

Q. What time was that? A. I guess it was pretty late.

Q. Well, what time? A. It might have been two or three, I don't know.

Q. Two or three what? A. In the morning.

Q. In the morning? A. It might have been.

Q. When did you start? A. We had a hard time getting the trunk open, so it took us some time to get it open, after we forced it open, the little lock, it took up at least three hours maybe to do it.

Q. You stayed up all night, didn't you, as a matter of fact? A. Most all night.

Q. Up until midnight, didn't you? A. Yes.

Q. During all that time the only actual destruction was of papers from this trunk, wasn't it? A. Yes, that was the one.

Q. That was the only thing, wasn't it? A. Yes.

Q. The small trunk, wasn't it? A. Yes.

Q. The only things destroyed were taken out of that trunk? A. That is all I seen.

Q. So that all that was done during that long space of time was the opening of this trunk, the examination of its contents, and the destruction of the papers? A. Yes.

Q. You had nothing else to do during all that time, did you? A. I helped to pry the lock open.

Q. Yes; I say you had nothing else to do except such things as you did do with respect to this trunk? A. That is all.

Q. You say you can't tell me what the nature of those papers were? A. No, I can't tell you.

Q. Not a word was said by Mrs. Grundy during all that time? A. No.

Q. As to what the nature of those papers were; is that right? A. That is right.

Q. You were absolutely ignorant as to whether they were letters, checks, bank books, bank stubs, deeds or anything else? A. They weren't letters.

Q. Sure they weren't letters? A. Yes, I am pretty sure of that, they were bank stubs and bank books.

Q. Are you pretty sure, or sure? A. Pretty sure of it.

Q. That no letters were among them? A. Yes.

Q. You are pretty sure they were check stubs? A. Yes.

Q. Did Mrs. Grundy say why she was destroying the check stubs at that time? A. No, I don't think so.

Q. Did she give any reason for desiring the destruction of these papers? A. I don't remember her giving any reason.

Q. Your mother was there at the same time, wasn't she? A. She was asleep.

RE-CROSS EXAMINATION BY MR. HEYMAN:

Q. Now, Miss Halverson, did you tell this to Mr. Grundy about the checks? A. No.

Q. About the burning of the papers? A. I didn't tell him.

Q. Who told him; did your mother tell him about it? A. She might have.

MR. HEYMAN: Now, if your Honor please, I don't see anything so comical about this case. I would like to note the way counsel smile at each other.

MR. LANE: I suppose I haven't the right to smile. You will also note that Mr. Hirshenstein is smiling.

THE COURT: I haven't noted any unseemly levity.

Q. Well, you told Mr. Grundy all that you did know about the matter, or about the case, didn't you? A. About what case?

Q. About this case, you told him almost everything that you knew, didn't you? A. No, I didn't.

Q. You didn't tell him? A. No.

Q. Now, you say that you saw Mrs. Grundy in a kimona and night gown; well now, when was this that you saw her in that condition? A. In the mornings, mostly in the morning.

Q. How early in the mornings; would it be until twelve o'clock noon? A. Sometimes, yes, when she didn't feel well.

Q. Only when she didn't feel well? A. Yes.

Q. When she was feeling well she would always get dressed? A. Yes.

Q. How was she dressed while she was working around the house? A. She threw a house dress on.

Q. What else besides a house dress? A. Almost all dressed, just the house dress over it.

Q. Only while she was ill, going back from the bed to the bath room? A. Only when she was ill.

Q. Then she was dressed in a kimona and night gown? A. Yes.

Q. Did you ever see Mrs. Grundy dressed in a kimona and night gown when any strangers were in the house? A. She would be fully dressed underneath, I think.

Q. Fully dressed underneath? A. Most of the time.

Q. Now, during the many years that you have been going to Mrs. Grundy's house, did you see Mr. Grundy there? A. Yes, I have.

Q. See him quite often? A. Yes.

Q. Did you ever notice his conduct towards Mrs. Grundy? A. Yes.

Q. What was the conduct of Mr. Grundy at that time? A. Well, I think it was very cold.

Q. Well, did he show any affection toward her whatsoever? A. No.

Q. Embrace her; did he kiss her? A. No, never did.

Q. Did he sit down and have his dinner with her at night? A. Yes, I have seen him take his dinner at different times.

Q. During that time was he conversing with her; did he talk with her at that time? A. Sure, I think it has only been about once or twice that I did see him at dinner.

Q. Once or twice during all those years? A. That I did see him, yes, I think.

Q. Well, did he act friendly toward her at those times? A. Yes.

Q. There wasn't any trouble at all, was there? A. No.

Q. When he was friendly? A. There didn't seem to be.

Q. Have you heard him in the morning? A. No, I haven't heard him in the morning.

Q. Have you seen her in the morning after Mr. Grundy would leave the house? A. Yes.

Q. What was her condition at that time? A.

She would be very despondent, crying sometimes.

Q. How often did that occur? A. Oh, different occasions when I was there.

Q. During all the years that you have been going with Mrs. Grundy, or going to her home, have you ever seen anything improper at any time with any man at any place? A. No, I have never seen anything improper.

By Mr. Lane:

Q. Have you told us how many years it was that you have known Mrs. Grundy? A. Three or four.

By Mr. Heyman:

Q. It might be five or six? A. No, it isn't as long as that.

Chancery Chambers, Jersey City, N. J.
June 10, 1920.

Hearing resumed at 11 o'clock A. M.

Jacob Levine, sworn:

Direct Examination by Mr. Heyman:

Q. Mr. Levine, you are the wine merchant who has been mentioned so frequently in this case? A. Yes, sir; I am.

Q. Are you married? A. Yes.

Q. Is your wife in court today? A. Yes.

Q. Have you any children? A. I got four.

Q. How old are they? A. 14, 12, 8 and 4.

Q. Live in Jersey City? A. Yes.

Q. You went to the home of Mrs. Grundy on August 24th, 1919? A. Yes.

Q. What did you go there for? A. To deliver some beer.

Q. What was your business at that time? A. I was a wine merchant.

Q. Where was your place of business at that time? A. 366 Jackson Avenue, Jersey City.

Q. Mrs. Grundy was a customer of yours? A. Yes.

Q. How did you come to go to Mrs. Grundy's house on the 24th of August? A. Well, the day before I was up to Mrs. Grundy's house and she telephoned for half a case of beer— 10

Q. How is that? A. The day before I was to Mrs. Grundy's.

Q. You were to Mrs. Grundy's house? A. The day before.

Q. Yes. A. She telephoned for half a case of beer.

Q. Yes. A. In the morning; I sent it up with my man and there was no one at home and my man brought the beer back.

Q. Now, wait a minute; let me see if I get 20 that right. The day before you went to Mrs. Grundy's house? A. Yes; she telephoned to me to my place for half a case of beer.

Q. Now, I don't understand exactly what you mean. Did you go to Mrs. Grundy's house the day before August 24th? A. No.

Q. What do you mean by "the day before I went to Mrs. Grundy's house"? A. Well, the other day she ordered the beer.

Q. You mean the day before August 24th, when 30 you were in Mrs. Grundy's— A. When I was in Mrs. Grundy's house.

Q. On August 24th? A. She telephoned for half a case of beer; I sent it up with my man in the afternoon and there was no one at home and the man brought it back.

Q. How many bottles in half a case, Mr. Levine? A. 12.

Q. All right now; what happened after that? 40

A. Why, the next day, on Sunday, my wife and myself were going up to New York; we stopped in at the store to get some money from the safe; we had to pass there to get the train.

Q. Yes. A. While I was in the store the telephone rang; I answered the phone; Mrs. Grundy was at the other end; she wanted to know why she didn't get her beer; I said that the man said that she wasn't in and he brought it back; well, she said that, "won't you please kindly can you bring it up to me now, I need it very bad"; my wife was with me and she said, now, bring it up, maybe she needs it for her husband.

Q. Yes. A. All right; so we put up two packages, six bottles in each package, and we carried them down; we got to the house and I took the package from my wife and went upstairs.

Q. What time of day was this? A. This was about half past eleven, I think; between half past eleven and twelve o'clock.

Q. All right; when you got to the house what did you do? A. When I got to the house Mrs. Grundy opened the door and she says; "Step in the kitchen please," and I step in the hall, I didn't know where the kitchen was, so of course I got in the hall and looked where the kitchen was and I found the kitchen.

Q. Then what happened? A. When I look inside the door I don't know which way to go to the kitchen, I looked around for the kitchen and I went right in.

Q. What happened while you were in the kitchen? A. Well, I hold the packages until she relieved me of it.

Q. Yes. A. She opened the wash tub and took one package out and put it in.

Q. Put the entire package in the tub? A. Yes.

Q. Paper and all? A. Paper and all; while she was doing that someone was pounding at the door.

Q. Yes. A. When she finished taking the packages from me she asked me to step into the dining room.

Q. Yes; did this pounding continue all the time? A. This pounding continued.

Q. Yes. A. She says, "Step in," and she went out to get the money.

Q. What did you do? A. I went to look for the dining room and I see a door there, I think that was it, and I find a closet there, and I stay there.

Q. You stood there behind the door? A. Behind the door; I got frightened.

Q. What were you frightened about? A. Why, it seems kind of a funny thing, while I was in in there, that the pounding was there, and I couldn't imagine, it looked like a frame-up to keep me in here with this woman.

Q. What did you do? A. Why, I simply stood there, I didn't know what to do.

Q. Then what happened? A. Some young man came and walked up pulled the door and asked me, he says, "This demands an explanation," I says, "There is no explanation," and I walked out.

Q. What did you do? A. I went downstairs, my wife saw me and she says, "What is the matter, you look all excited," I says, "A young man came in there and asked me what I was doing in there, I thought it looked like a frame-up to catch me with this woman, I am going to get a policeman and have this pair arrested"; she says, "Don't bother, let us go to New York, don't

get in a mix-up here, don't get mixed up with the police; let us go to New York."

Q. Did you go to New York? A. Yes.

Q. Now, Mr. Levine, how long were you in the house altogether from the time that you went into the door until the time that you got back into the street? A. Less than five minutes.

Q. Your wife was downstairs all the time? A. Yes, sir; she was waiting for me.

Q. Had you ever been into Mrs. Grundy's apartments before that in your life, at any time? A. Never; only I went up there once before, we had a dispute about a bill and she wants to have it straightened out, she didn't want to pay the driver, but I stayed out in the hall when I got to the door.

Q. Were you inside her apartment at any time before? A. No.

Q. Had you delivered any beer before that in your life? A. I never was in the habit of delivering beer.

Q. Who delivered your beer? A. I always had a man.

Q. Always had a man? A. Yes.

Q. At that time did you drive up in your automobile? A. No, sir; I did not. I didn't own an automobile then.

Q. Now, did you at that time commit adultery or have sexual intercourse with Mrs. Grundy? A. No, sir; not then.

Q. Did you at any time have sexual intercourse with Mrs. Grundy? A. No, sir; I never saw her before that.

Q. You never saw her before what? A. Before that time.

Q. Well, you had been up there once before? A. That is before the time I was up there.

Q. Now, how long before August 24th had you

been up about this bill? A. I guess it must have been some time in June.

Q. Between June and August you never saw Mrs. Grundy? A. No, sir.

Q. So that you saw Mrs. Grundy at her home only twice in your life? A. That is all.

Q. Now, did Mrs. Grundy display any affection towards you when you were at her home? A. She did not.

Q. Did Mrs. Grundy kiss you at that time? A. No, sir; I should say not.

Q. Did you kiss Mrs. Grundy? A. No, sir.

Q. Did either one of you embrace each other? A. Never did.

Q. Was there anything at all improper when you were at Mrs. Grundy's home on August 24th? A. Not that I noticed.

Q. Well, you would know, wouldn't you? A. Certainly I would know.

Q Well, was there anything improper? A. There was not.

Q. Did you ever meet Mrs. Grundy any place else outside of her home or at your store? A. Why, she was up to the house after that.

Q. I mean outside of your home or your store or her home? A. No, sir.

Q. Did you ever meet her outside at some amusement place? A. Never.

Q. Either by appointment or accidentally? A. No, sir; I never saw her before.

Q. Did you ever make an appointment with Mrs. Grundy? A. No, sir.

Q. To meet her at any place? A. No, sir.

Q. Did you ever go to any place with Mrs. Grundy? A. No, sir.

CROSS EXAMINATION BY MR. LANE:

Q. You were there on a perfectly innocent errand, weren't you? A. Yes, sir.

Q. You were telephoned for, weren't you? A. No, she telephoned for the beer.

Q. Yes. Nothing suspicious in what you had done? A. Nothing at all.

Q. Absolutely nothing? A. Nothing.

Q. Is it an unusual thing for a person to knock at the door of a house? A. Oh, I don't know.

Q. What? A. How do you mean?

Q. Is it anything unusual to hear somebody knocking at the door to try to gain entrance to the house? A. The way that man pounded, it sounded unusual.

Q. How long did you hear him pound that way? A. Why, it must have been, I don't remember, about two minutes.

Q. What did Mrs. Grundy say when he started to pound? A. Why, she says, "Step into the dining room, I will get money for you.

Q. When he first started to pound? A. Yes.

Q. You hadn't done anything that would cause criticism of you, had you? A. No, sir; not at all.

Q. Yet you made the mistake of going into the closet instead of into the dining room? A. Why, yes; I was simply frightened.

Q. Frightened? A. Frightened; yes.

Q. Frightened over what? A. Frightened at the pounding.

Q. But you were there on an innocent errand? A. On a very innocent errand.

Q. Your wife was downstairs waiting for you? A. Waiting for me.

Q. Was there any reason for you to be fright-

ened? A. I thought it looked like a frame-up, to get me to come into the house with this woman.

Q. Then there was something suspicious in what you had been doing? A. There was nothing suspicious at all.

Q. If there was nothing suspicious, why were you afraid of a frame-up? A. That is the way I thought.

Q. So the first thought that struck you and struck your mind was that they had framed you up? A. Yes.

Q. But there was no basis for the frame-up, was there? A. Not that I noticed.

Q. You were so frightened that you went into the closet instead of the dining room? A. I simply stood by the closet door; I didn't go in the closet.

Q. You stood there? A. I stood there.

Q. You stood behind the door, didn't you? A. Behind the door, I stood there.

Q. So that anyone looking into the kitchen would be able to see you? A. They could see me, yes. It was partly open.

Q. It wasn't locked or anything? A. It was opened partly; it was open so that they could see me there.

Q. So you were standing behind the door? A. I simply stood there, that is all.

Q. Didn't you walk into the closet at all? A. No, I didn't.

Q. When you saw you had opened the closet door, why did you stay there; why didn't you look for the dining room? A. I was frightened.

Q. Frightened out of your wits; you didn't know what you were doing? A. I was simply frightened; my thought was simply to stay there; I didn't know what to do.

Q. Frightened out of your wits by that; you didn't even know enough, after you opened the closet door and found it was a closet, to go in the dining room? A. I wasn't thinking of finding anything then.

Q. You then just stood there when you got there, with the closet door open? A. Yes.

Q. What time was it that Mrs. Grundy telephoned to you? A. About 11:30, I think; about that time.

Q. The day before? A. The day before, it must have been about ten o'clock.

Q. In the morning? A. In the morning, yes.

Q. Did she telephone you, did you talk with her personally, or did someone else? A. I talked with her personally.

Q. Did you have any books? A. No, sir.

Q. You didn't keep any books in your business at all? A. No.

Q. No books? A. We have no books, because we had nothing but a cash business.

Q. You never kept any books in your business? A. That record is the day's receipts, that is all.

Q. What did you do when you got an order like that; what procedure did it take? A. I wrote it down on a piece of paper and put it on the file.

Q. What did you do with those files? A. Why, it is destroyed we haen't kept any records since we closed up.

Q. When did you close up? A. On January 16th.

Q. Of this year? A. Yes.

Q. Weren't you closed at one time in August, of 1919? A. No, sir; we sold 2.75 beer.

Q. You were still doing business? A. Yes.

Q. What kind of beer was this that she ordered? A. She got beer, 2.75; regular beer.

Q. What kind? A. Regular beer; 2.75 beer that we were selling at that time.

Q. What was the brand that she ordered? A. I believe I sent Schaeffer's beer at that time?

Q. Have you any recollection? A. Well, I think it was Schaeffer's; I wasn't sure.

Q. Did she have any particular brand that she ordered? A. Nothing particular, no.

Q. She just ordered beer? A. Just ordered beer.

Q. Was she in the habit of ordering beer? A. Quite often.

Q. Well, how often? A. About once a week.

Q. Did she order any other kind of liquors from you? A. No.

Q. Never? A. Never.

Q. Are you sure about that? A. For instance, she might have bought some grape juice once.

Q. But you never sold her any other kind of liquor than beer? A. That is the only kind I sold.

Q. Not during all the time that you had been doing business with her? A. Yes, sir.

Q. How long did you do business with her? A. Since last May.

Q. May of 1919? A. 1919.

Q. You never did business with her before that? A. No, sir.

Q. What is the name of your company? A. United Wine Stores.

Q. Was it always that name? A. Yes, sir.

Q. For how many years? A. Why, since the company had it, why, I guess, about three years; three or four years.

Q. When did you start there? A. I bought them out in May, 1919.

Q. In May, 1919? A. Yes.

Q. That was when you first went into business? A. Yes, sir.

Q. Do you know whether Mrs. Grundy had been a customer of the previous concern? A. She might have been; I don't know.

Q. Was she on the books of the previous concern when you took this store? A. I know she was a customer there, that is all I know; that is how I came to get her.

Q. Did she continue to be a customer of yours? A. Yes, sir.

Q. Now, what time did you leave your house that Sunday? A. The time I left my house?

Q. Yes. A. I think it might have been about twenty minutes to eleven.

Q. Where were you bound for? A. We were going to New York.

Q. Where? A. To New York.

Q. To New York City? A. New York City, yes.

Q. What time did you reach your store? A. It must have been five minutes later.

Q. What time did you leave your store? A. Well, we left there, I think ten or fifteen minutes later.

Q. You weren't in your store more than ten or fifteen minutes? A. About ten or fifteen minutes; something like that.

Q. Well, you were going to your store for what purpose? A. To get some money from my safe.

Q. Is that the only purpose you had? A. The only purpose.

Q. Is that the only thing you did when you went there, except getting this telephone message? A. Oh, yes.

Q. So that you went to the store simply for the purpose of getting some money, and you were on your way to go to New York? You weren't doing any business there in the store? A. No, that

is all; I just opened the safe and got the money out.

Q. You were in a hurry? A. Yes.

Q. Was the telephone bell ringing when you first went in the store? A. It was.

Q. You just happened to go to the store? A. I happened to go to the store when the bell was ringing.

Q. Wait until I get through. You just happened to go to the store this minute, at the time when this telephone bell was ringing; is that true? A. Yes, sir.

Q. Did you get your money for the beer that day? A. No, I didn't wait for it.

Q. Why not? A. Because I was in a hurry to get out.

Q. Did you ever get your money for that beer? A. Yes, she sent it to me.

Q. How? A. With some woman.

Q. When? A. Two weeks afterward, I think.

Q. And that is the first time you ever gave her any credit? A. No, she had credit before.

Q. She had credit before? A. Sure.

Q. What do you mean by having credit? A. Why, if she didn't have the change or something we would let it go until the next time when she ordered.

Q. Where did you make your record of that? A. We simply have a slip and keep it on the file.

Q. You haven' any of those slips now? A. No.

Q. Did you put this order down on a slip? A. Sure—no, not this later order; that was on a slip.

Q. On this Saturday? A. Sure.

Q. That was on a slip of paper? A. Yes.

Q. When was that slip destroyed? A. Well,

we destroyed them about once a month, destroyed all the slips.

Q. You destroyed them once a month? A. Yes; we never keep them.

Q. Well, when was it destroyed; in what month did you destroy that order? A. That slip was destroyed the first—about the first of September.

Q. It was in existence on the first of September? A. Yes.

Q. Showing the fact that she had ordered this beer on Saturday? A. Yes.

Q. Was there anything in your books, other than this slip? A. No; we never put those things in a book.

Q. You destroyed that slip on the first of September? A. Yes, we destroyed all the slips.

Q. All of them, including that one? A. For the month, yes.

Q. Why didn't you keep that slip? A. Why should I keep it? I don't know.

Q. Because you were the victim, as you thought, of a frame-up and had been gotten into trouble, and this slip indicated the fact that she had ordered beer on Saturday, showing that you were on a legitimate errand? A. I didn't think I needed it.

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

Q. Notwithstanding the fact that you were so frightened? A. Yes.

Q. And that when the knocking first began- A. Yes.

Q. That you went behind the closet door instead of into the dining room? A. Yes.

Q. How long did your fright continue? A. About three or four minutes.

Q. Then you got all over it? A. No, I walked out.

Q. Then you got over it when you walked out? A. Sure.

Q. You were going to have him arrested? A. I was thinking of that, but my wife says, "Don't you do it, let them alone, don't bother with them."

Q. You still thought about that thing, didn't you? A. Yes, I did.

Q. You still thought you were the victim of a frame-up, didn't you? A. Yes.

Q. And that something might come of it; didn't you? A. I don't know; I didn't think of that.

Q. Are you sure of that? A. Yes.

Q. Didn't you go within the next few days to Mrs. Hansen, or see her, to have a talk with the janitress? A. Mrs. who?

Q. Mrs. Hansen, the janitress of this apartment? A. I didn't see Mrs. Hansen.

Q. Didn't you send your wife to the woman? A. No.

Q. Didn't your wife tell you that she had seen Mrs. Hansen? A. She did not.

Q. Did you take any steps at all— A. No, sir.

Q. Wait a minute. Did you take any steps at all after August 24th to find out what it was all about? A. I did not.

Q. What? A. I did not.

Q. No steps whatever? A. No.

Q. When you went there the first time to collect this bill you stood out in the hall? A. Yes, sir.

Q. You didn't go inside the outer door? A. I did not; I stayed in the hall.

Q. You weren't invited inside the outer door? A. No, sir.

Q. Do you know why you weren't? A. I don't know; I simply stood out in the hall.

Q. That is an unusual thing, isn't it? A. I explained to her where the mistake was.

Q. You had your conversation in the hall? A. Yes.

Q. On this occasion when you delivered the dozen bottles of beer you were immediately invited into the apartment—into the kitchen? A. She says, "Step into the kitchen until I put the beer away."

Q. She wanted you to carry the beer into the kitchen? A. Yes.

Q. While she lifted the tubs—lifted the covers of the tubs and put them in there; is that right? A. Yes, sir.

Q. Do you know whether there was a dumb waiter in that house? A. No, sir.

Q. You don't know anything about that? A. I don't know anything about that.

Q. You had never been in that house before? A. No, sir; only that time I was up there to collect the bill.

Q. You never came to that house in your automobile and left your automobile standing outside for a considerable number of minutes? A. I didn't own any automobile at that time.

Q. You never came to that house in an automobile and left the automobile standing on the outside of the house? A. No, sir.

Q. For several minutes? A. I never had an automobile at that time.

Q. Well, did you have an automobile on this occasion? A. No, sir.

Q. How did you come there? A. Why, we walked down.

Q. You didn't have a machine? A. No, sir; I didn't own any.

Q. Well, do you own one now? A. I own one now.

Q. When did you get it? A. I got it March 20th.

Q. Of this year? A. Yes, sir.

Q. You never had one before? A. No, sir.

Q. Who did you get that from? A. What; the machine?

Q. Yes. A. The Nash people; the Nash Motor Company.

Q. Where? A. On Mercer Street.

Q. Between what streets? A. Well, I can't tell exactly where; it is down near the viaduct.

Q. Buy it in your own name? A. Certainly.

Q. A new car? A. A new car.

Q. You had no car before that? A. No, sir.

Q. Have you the bill of sale of that car here? A. I haven't got it here, no.

Q. What is your driver's license number? A. My license number?

Q. Yes. A. I can tell you just a minute; 99330.

Q. Where is your car license number? A. (Producing and exhibiting card).

Q. Was this driver's license a renewal? A. Yes. Was it a renewal?

Q. Yes. A. Yes, certainly a renewal.

Q. You had a driver's license for how long? A. I always had a driver's license.

Q. But you never drove a car of your own? A. Not my own.

Q. How long have you had a driver's license? A. About two or three years.

Q. You did drive a car then, didn't you? A. Oh, yes; sure.

Q. Did you drive the car in your business? A. Not in my business, no.

Q. How much of a practice did you make of driving a car? A. How much a practice I make driving a car?

Q. Yes. A. I don't quite understand your question.

Q. Well, did you drive a car once a week, once a year, once a month, how often did you make it a practice of driving a car, whether it belonged to you or somebody else? A. Well, whenever I got a chance, to take a ride together.

Q. Did you make it a regular practice to borrow a car? A. Yes.

Q. Whom did you borrow it from? A. I think some dealers somewhere.

Q. Well, who? A. Different dealers.

Q. Different dealers? A. Yes.

Q. Well, name some of them that you borrowed cars from during 1919? A. I don't remember now.

Q. During 1919.

THE COURT: Last year.

A. Well, I used to borrow a car from Brauer.

Q. Where is he? A. He is 119 Orient Avenue.

Q. Who else? A. That is all.

Q. All the cars that you borrowed you borrowed from Brauer? A. Yes.

Q. Why did you say a few moments ago from dealers for—that you borrowed them from dealers? A. Well, that is the only one I remember.

Q. That is the only one you remember? A. Yes.

Q. Well, do you remember that you did borrow one during that time from other dealers but you don't just recall the names? A. I didn't borrow none at that time.

Q. Did you ever pay for those cars that you borrowed? A. No; sometimes I paid for them; sometimes he lets me use it.

Q. What did you use them for that you borrowed? A. For pleasure.

Q. For pleasure? A. That is all.

Q. About how often would it be? A. Maybe once a month or so.

Q. But you never drove that car, or any other car, whether it was borrowed or not, or belonged to you, to the Grundy apartments? A. No, sir.

Q. What is the position of the closet door behind which you stepped, with respect to the dining room door? A. I don't remember what position it was; I know there was a door, that is all, and I opened it.

Q. You don't remember now? A. No.

Q. Did you see Mrs. Grundy go into her bedroom to get the money to pay you? A. Well, she walked out of the door, I don't know where she went.

Q. Well, did she walk out of the door? A. She walked out of the kitchen, that is all I know.

Q. She told you to step into the dining room until she got the money, as I understand it? A. Yes.

Q. Now, did you see, when she stepped out of the kitchen, whether she walked into the bedroom, or whether she went to the door? A. I didn't notice which way she went.

Q. Did you see her come back? A. No, sir.

Q. You didn't see her in that house then from the time you stepped behind the kitchen door until the time that you left the house? A. I didn't see her any more after she stepped out and opened the door.

Q. Did you recognize the young man who came into the house? A. No, sir; I never saw him before.

Q. What did he say? A. He said, "This demands an explanation."

Q. What did you say? A. I said, "There is no explanation," and I walked out.

Q. There is no explanation? A. No; I was frightened; I didn't say anything, I just wanted to get out.

Q. There was no explanation, was there? A. There was no explanation, as far as I know; I didn't think it was necessary to explain.

Q. You were there for the purpose of delivering beer; and there was beer— A. I know— pardon me.

Q. You were there for the purpose of delivering beer; you had your order slip; your wife was downstairs waiting for you, the beer which you had just delivered was in wrapped packages in the tub, and yet, when he asked you for an explanation, instead of showing him, as you could have, you walked out and said "There is no explanation"; is that right? A. Well, I was frightened; I only had one thought in my mind, to get out, that is all; I just wanted to get out; I was too frightened for anything, I wanted to get away.

Q. You did that merely because of your fright? A. Yes, I wanted to get out.

Q. Yet within the space of five days you destroyed the slip? A. Well, it is customary to destroy the slips at the first of the month.

Q. I didn't ask you that; you did, in fact, destroy the slip, didn't you? A. I destroy the slips the first of every month.

THE COURT: Did you destroy this one?

THE WITNESS: Yes, this was destroyed with them.

Q. You never made any attempt afterwards to give any explanation or to find out what it was all about, did you? A. No.

Q. You never spoke to anybody about it, and Mrs. Grundy never came to you to speak to you about it? A. Why, no; she came in the store, I think, about four or five weeks afterwards, she bought some beer, but she never said nothing to me about it.

Q. You saw her in the store five weeks afterward? A. Yes, my wife waited on her then.

Q. Five weeks afterwards? A. I think it was that time.

Q. So you never said anything about it? A. Not that, no.

Q. There was no discussion? A. No discussion then.

Q. When was the first time she did say anything? A. About two months before the trial she came up to the house.

Q. Was your wife there, too? A. Yes, sir.

Q. You didn't know that you had been named in this case? A. I didn't know; she says they got me mixed up in this case.

Q. You didn't know thatyou had been named in this case until that time? A. Not until that time.

Q. About two months before this trial opened? A. Yes.

Q. Where did you get this license for your car, 128019? A. I got it at the regular place down on Grove Street.

Q. Have you any idea why it is that this license apparently is scratcehd up and your name written over somebody else's name, and different numbers are written over the original numbers that are on that license card? A. Well, I tell you, I didn't get this; they got that for me, the company that sold me the car got this license for me; they evidently made a mistake in the name; that is the way it was handed to me.

Q. That is the way it was handed to you? A. Yes, sir; the man that sold me the car got this license for me.

Q. Didn't the United Wine Stores have any automobile? A. No, they had a horse and wagon.

Q. They had no automobile? A. No automobiles.

Q. How long had you been connected with the United Wine Company? A. Since the time I bought them out.

Q. Had you been connected with them before? A. No, sir.

Q. What was your business before? A. I was a whiskey salesman.

Q. When you were a whiskey salesman did you have any dealings with Mrs. Grundy? A. No, sir.

Q. The first time you knew her, or knew that such a woman existed, was in May, 1919? A. May, 1919; yes, sir.

Q. How old are you? A. I am about 46.

Q. Who was the proprietor of the United Wine Stores before you bought them out?

MR. HEYMAN: I object to that, if your Honor please; I don't see how that is material; he said he was never connected with it.

THE COURT: I will take it.

A. Steinhart Brothers.

Q. Steinhart Brothers? A. Yes.

Q. Where are they now?

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

THE COURT: I will take it.

A. I don't know where they are now; I guess they are out of business.

Q. Have you got a bill of sale for this store? A. Yes.

Q. Where? A. I got it home.

Q. Who were you employed by before you bought the United Wine Stores out? A. Matthias Last.

Q. Up until the time you bought them out? A. Yes, sir.

Q. How long had you been with him? A. About a year.

Q. Where did you live in 1919, in August? A. In 1919?

Q. In August, at the time of the happening of this episode? A. I lived at 167 Claremont Avenue.

Q. How long had you lived there? A. I lived there since a year ago last May.

Q. From May, 1919? A. May, 1919.

Q. Before that where did you live? A. I lived at Kearny Avenue, I think it was 31 Kearny Avenue.

Q. How long had you lived there? A. I don't know; about a year, I guess.

Q. Where did you leave your wife when you went up to this apartment on the 24th of August? A. I left her waiting downstairs.

Q. Where downstairs? A. Down near the door; near the entrance.

Q. On the street? A. On the street, yes.

Q. Not the inside door? A. No, sir.

Q. She stood there waiting for you? A. Yes, sir.

Q. And was she still there when you went down? A. Yes.

Q. This whole thing happened inside of a period of five minutes? A. About five minutes, yes.

Q. How close to the door was she standing? A. That I don't know; she was near the corner when I went downstairs.

Q. How close to the door was Mrs. Levine when you left her to go upstairs? A. How close to the door was she?

Q. Yes. A. I left her at the door; when I went in she was standing between the door and the corner.

Q. What is the distance between the door and the corner? A. Oh, about thirty or forty feet.

Q. Is that house a corner house? A. Yes.

Q. Did you hear the bell ring before you heard the pounding? A. No, sir.

Q. Did you hear the key turn in the lock before you heard the pounding? A. No, sir.

Q. Did you hear any conversation on the outside of the door before you heard the pounding? A. I did not.

Q. Or after you heard the pounding? A. Did I hear what after?

Q. Any conversation at the door, after you heard the pounding. A. No, sir; I heard no conversation.

Q. Did you hear any conversation between Mrs. Grundy and the man, whoever he was, that came into the house? A. No, sir.

Q. You didn't hear her say anything, and you didn't hear him say anything? A. I didn't hear nothing.

Q. Did you hear walking down along the hall? A. I heard someone walking there.

Q. The first you heard was when he said "This demands an explanation"? A. Yes, sir.

Q. Was there any reason why you couldn't hear Mrs. Grundy and Park talking when he came into the house? A. I didn't hear any conversation, because I don't know, there may have been a conversation but I didn't hear what they said.

Q. You can hear from the kitchen what takes place at the hall door, can't you? A. Yes.

Q. You can hear? A. Yes.

Q. If the conversation is carried on in an ordinary tone of voice? A. I don't know; I don't think—

Q. I am asking you whether you could. A. There is no reason why you couldn't.

Q. Then why couldn't you, if it took place?

MR. HEYMAN: I object to that; he says he didn't hear it.

Q. Is there any reason why you could not hear a conversation, if any, in fact, took place? A. No reason.

Q. You could hear from the kitchen? A. I could hear when?

Q. Any conversation that took place at the hall door; couldn't you? A. I don't know.

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

Q. How far is the kitchen from the hall door? A. I don't know; I didn't measure it.

Q. Well, how far, about? A. I have no idea.

Q. Is it about as far as the length of this room? A. I couldn't tell you, sir.

Q. You haven't the least idea? A. I don't remember.

Q. Why did you say a few moments ago that you could hear? A. Well, you could hear voices, that is about all I could hear.

Q. You didn't hear anything? A. No, sir.

Q. You didn't hear a sound at all? A. I heard voices, yes.

Q. You did hear voices? A. I said I heard voices, yes.

Q. You didn't say you heard voices before. A. Yes, I just said I heard voices; just before I answered that.

Q. You just said you heard voices? A. Yes.

Q. What voices did you hear? A. I don't know what they were; I know I heard voices; that is all; I don't know what.

Q. You say you couldn't distinguish anything that was said? A. No, sir.

Q. You couldn't hear anybody talking in the hall? A. No.

Q. All the time you were merely standing by the door? A. Yes.

Q. Isn't it a fact that you couldn't hear, and that you couldn't see, because you were in the closet with the door closed? A. I wasn't in the closet with the door closed; I was in with the door open.

Q. If you were standing in the closet with the door closed you couldn't hear, could you?

MR. HEYMAN: I object to that; there is no way that this man could tell.

THE COURT: I will take it.

A. Well, I don't know whether I could hear or not.

Q. Do you think you could hear? A. I don't know.

Q. Now, let me ask you once more, are you absolutely certain that from May 19th down to the present time you never sold Mrs. Grundy anything but beer? A. Beer, and she bought some grape juice once or twice.

Q. Some grape juice? A. Yes.

Q. You never sold her any gin? A. No, sir.

Q. And never sold her any wine? A. I didn't sell any liquor after January 1st—after July 1st.

Q. You never sold any gin? A. No, sir.

Q. And you never sold her any wine? A. No.

Q. You never did during all the course of time that you dealt with her? A. I never sold her any liquor at all outside of the beer.

Q. What is your business now? A. Now I am a real estate broker.

Q. Located where? A. Located in my house; I have my office up there.

RE-DIRECT EXAMINATION BY MR. HEYMAN:

Q. Is this your license card; your automobile license card? A. Yes.

MR. HEYMAN: I offer that in evidence.

(License card marked Exhibit D-5 in evidence).

Q. Mr. Levine, how was Mrs. Grundy dressed when you came into the house on August 24th? A. I know she had clothes on; I don't know how she was dressed; I know she was clothed, that is all I could say.

Q. Did she have her shoes on? A. Certainly.

Q. Did she wear a kimona or night gown? A. I don't know anything about what she wore; she had clothes on; I never did particularly notice what she wore.

BY THE COURT:

Q. Mrs. Grundy met you at the door when you got there? A. She opened the door; yes, sir.

Q. Did she close the door? A. She closed the door behind me after she asked me to step into the kitchen.

Q. Did you notice whether there was a chain on that door? A. I didn't notice; no sir.

Q. Whether it was closed entirely shut, or whether it was left with the chain fastened on a hook? A. No, I didn't notice anything of that; I know she closed the door and followed me in.

Q. Did you notice when the young man came, that he couldn't get in with the key, or did he get

in with the key? A. I don't think so; all I heard was the pounding on the door.

Q. Had he come there with a key and he opened the door, he could get in, of course? A. Yes.

Q. Did you see what kept him from getting in? A. No, sir; I didn't see; all I know is there was pounding at the door.

Q. Did you see Mrs. Grundy open the door? A. No, sir; I did see at that time when she asked me to step into the kitchen.

Q. Did you hear her say anything to the man who was there before she opened the door? A. I didn't hear what was said; I know she said something; I didn't hear the conversation.

Q. Did she shout to him, or just speak? A. No, she didn't; she just spoke in the ordinary tone, as far as I could hear.

Q. You couldn't hear what she said? A. No, sir; I can't say what she said.

SARAH LEVINE, Sworn:

DIRECT EXAMINATION BY MR. HEYMAN:

Q. Mrs. Levine, you are the wife of Jacob Levine? A. Yes, sir.

Q. The former witness on the stand? A. Yes, sir.

Q. Do you remember the Sunday on which your husband went to Mrs. Grundy's with this beer? A. Yes, sir.

Q. Were you with your husband at that time? A. Yes, sir.

Q. Just tell the Court what you know of what occurred at that time? A. On Sunday, it was about half past eleven, my husband and me were getting ready to go to New York, and we got outside of the door, and he says, "Come, let us go down to the store, I have to get some money

from the safe"; anyway, we had to go that way to get the train, and when we go in the store, the phone was ringing, and he answered; I said, "Who is that?" He said, "A customer, Mrs. Grundy; she says she didn't get her beer yesterday because she wasn't home and the driver brought it back," and he says, "No, I can't deliver it," and I says, "Oh, yes, you had better, Jacob, probably her husband wants it when he comes home," and he says, "Well, I will deliver it to you on the way down," I says to him, we will walk, because there was no car coming, and we walked down, and I stood at the corner while he went up with the beer; I says to him it is late, it is so warm, you had better hurry up and we might get the Belt Line or the Jackson Avenue car right down to the tube; he wasn't up there five minutes and he came down so excited looking, and I says to him, "What is the matter, you look so excited?" and he says, "Oh, dear," he says, "I don't know what happened," he says, "I went in with the beer, I was standing waiting while Mrs. Grundy lifted the covers up to take the beer from me, and there was such a pounding at the door"; and I says, "Well, who was it?" he says, "I don't know." He says, "Mrs. Grundy told me to step in the dining room until she gets the money, I don't know where the dining room is, I see a door and I open it and I walked behind there," he says, "and it was a closet or something, and I stood there," and he says, "While I was there he came to the door," and he says, Somebody came in, I don't know who," he says, "I went out and they asked me for an explanation, and I says there wasn't any necessary and I walked right out," and he says, "You know it looks just like a frame-up, I ought to go and have them all arrested," I says, "No, Jake, don't

bother," I says, "the devil with them all, come on now, we want to get our supper," I says, "You know we have a grown family, and people will be talking, you may get into a mix-up in the papers or something; come, let us go," and we went right to New York after that.

Q. Mrs. Levine, are you sure that your husband was not there more than five minutes? A. No, sir; not more than five minutes, because the car hadn't come yet.

CROSS EXAMINATION BY MR. LANE:

Q. What time did you leave your house? A. About half past eleven or twenty minutes after; at half past we were in the store.

Q. At half past? A. About half past; about 25 after, we left around that time.

Q. What time did you get to the store? A. About half past eleven.

Q. How far is the store from the house? A. About two blocks; not quite two blocks.

Q. Then you opened the store door and you heard the telephone ringing? A. Yes, sir.

Q. How long were you in the store? A. About ten minutes.

Q. What was your husband doing while he was in the store? A. He went to the safe first, and he answered the phone.

Q. Yes. A. And I says to him, "Who is that?"

Q. Never mind that. What did your husband do? A. He answered the 'phone.

Q. Then you had this conversation that you have already related? A. Sir?

Q. Then he had this conversation which you have already related? A. Yes, sir.

Q. What else did he do? A. He took the money out of the safe.

Q. That is all he did? A. That was all; and he took that beer in the bags.

Q. And that took him ten minutes? A. Yes.

Q. You walked down the street to the Grundy house? A. Yes.

Q. How far is the Grundy house? A. I don't know how many blocks it is; I didn't count them; I don't know; it is quite a little distance.

Q. How long a walk? A. About fifteen minutes.

Q. About fifteen minutes walk? A. Yes.

Q. You were carrying two packages of beer? A. Well, he carried one and I carried one.

Q. Six bottles in each package? A. Yes, sir.

Q. Do you know what kind of beer it was? A. I don't know what the name was; I didn't look.

Q. Where did you leave him, or where did he leave you? Where were you standing? A. At the corner of the building, at the house there on Clinton Avenue.

Q. He left you standing at the corner? A. Yes, sir.

Q. You didn't go up to the door with him? A. I walked as far as the door, then I walked back again.

Q. You did go as far as the door? A. Yes.

Q. And he left you at the door and you walked back? A. When he walked in, I don't know where he went, and I went back to the corner.

Q. You stood on the corner waiting? A. Yes, sir.

Q. Then within five minutes he came down? A. Yes, sir.

Q. And he told you this story? A. He told me, yes.

Q. Did he tell you anything else other than

what you have testified to? A. No, sir; he didn't tell me anything.

Q. How soon after that was it that you knew that there was a mix-up in this case? A. It was while Mrs. Grundy came to the house two months before, then I was very sick.

Q. That was the first you knew? A. That was the first time.

By The Court:

Q. Two months before what? You mentioned two months before. A. Well, two months before this trial, before this came up.

Q. Well, how long ago now; I just want to fix the time. A. Sir.

Q. How long ago, calculating from today; how long ago? A. Well, it must have been in March, when I came up, I was just getting better.

By Mr. Lane:

Q. Then within five minutes your husband came downstairs? A. Yes, sir.

Q. What did he say about the closet door when he came down? A. He came down and repeated what I said before.

Q. Now, just what did he say with respect to the closet door? A. He says to me that Mrs. Grundy had asked him to go into the dining room, that she would get the money for him, and he says, he didn't know where the dining room was, and the door was partly open and he walked in back of the door; and he says when he walked in back of the door he saw it was a closet and he got so frightened when he heard that pounding that he didn't know what to do, and he stood there, he says.

Q. He said the door was partly open? A. Partly open, yes.

Q. Did he say how far it was open? A. No, sir.

Q. And he then walked behind the door? A. Thinking he was inside the dining room.

Q. And he then discovered that he was in the closet; is that right? A. He wasn't in the closet; he says he just stood behind the door.

Q. He discovered that the door that he was facing was the closet? A. Yes; that is what he told me.

Q. Then he just stood behind that door? A. He just stood behind that door.

Q. Did he tell you whether the door was closed further than it was open? A. He says the door was opened partly, that is all he said.

Q. The door was open when he first saw it? A. Yes.

Q. Then he walked around this open door and found himself facing a closet; is that right? A. I don't know whether he walked around it or what he done, but he told me that he looked, he was going to walk into the dining room, he didn't know where the dining room was in somebody else's house, so he thought that was the dining room, so he just walked in back there and he stood there.

Q. He stood there? A. Yes, sir; he didn't know where he could go; he got so frightened when he heard that pounding at the door.

Q. Well, did he tell you what had frightened him? A. Sir?

Q. Did he tell you what had frightened him? A. Well, he says to me it looked very funny to him, he happened to come in this woman's house and he heard this pounding at the door like that, and he didn't know what to do, he says he was so nervous and so frightened, and he says to me

"Perhaps if I wasn't a nervous man I would have stood right there".

Q. Did he say that he thought it was a frame-up? A. Yes, sir; he came down and told me, he says it looks like a frame-up to me, he was at the house with this woman alone, a strange married woman, he says, that he never saw before, and never was inside her house before.

Q. It looked rather serious, didn't it? A. Sir?

Q. It looked rather serious, didn't it? A. Well, I should think so; I think any woman would think it looked serious at that time.

Q. A serious proposition, wasn't it? A. Well, I don't know the proposition; it is just how people take it.

Q. Well, you took it seriously, didn't you? A. I took it just the way he told me, and I didn't take it serious at all.

Q. You didn't think it was serious? A. No, I didn't think nothing.

Q. You didn't think that if it was a frame-up it was a serious thing? A. No, I didn't think that.

Q. Then why did you tell me a few moments ago that it was a serious thing? A. Well, when he came down so excited, I didn't think it was serious, I didn't know what he had done.

Q. Why did you say a few moments ago that it was a serious thing? A. Well, I should think it would look serious to anyone else, but it didn't look serious to me.

Q. You thought it was serious to anyone else in the world? A. Perhaps so.

Q. But not to you? A. Not to me.

Q. Although you think it would look serious to anybody else; is that right? A. Perhaps; I don't know how it looked to anybody else.

Q. You said a few moments ago that he came

down in a nervous and excited condition? A. A nervous condition.

Q. So that he had been frightened out of his wits? A. Yes.

Q. And that he suspected that he had been the victim of a frame-up? A. Yes, sir.

Q. Do you mean to tell us now that you did not consider that at all serious? A. No, not to me; I didn't think it serious.

Q. You didn't think it at all serious? A. If I thought it was serious I would have told him to get a policeman and have them arrested.

Q. You didn't make any attempt to find out— A. No, sir.

Q. Wait a minute. You didn't make any attempt afterwards to find out what it was all about? A. No, sir; nothing.

Q. Your husband didn't, so far as he reported to you? A. No, sir.

Q. You just forgot it? A. I forgot it, yes; I didn't think of it.

Q. Did you ever wait on the store? A. Yes, I was in the store; I used to help my husband sometimes.

Q. In the latter part of— A. Especially in the evening.

Q. In the latter part of 1919? A. When we took the store; when he bought the store.

Q. Did you ever wait on Mrs. Grundy? A. Yes; but I didn't know her at that time, you know, when she came in; I never saw her before.

Q. Did you ever wait on the woman whom you now recognize as Mrs. Grundy? A. Yes, sir.

Q. What kind of stuff did you sell? A. She came in for a bottle of grape juice that night; it was about eight o'clock in the night—I don't know what time it was exactly, but it was after supper.

Q. Did you ever sell her anything else but grape juice? A. No, sir; never.

Q. Did you ever sell her beer? A. Beer; yes, sir.

Q. But you never, during the time that you were in the store, sold her anything other than grape juice or beer? A. No, sir; never.

Q. You never sold her gin? A. No.

Q. And never sold her any sherry wine? A. No, sir.

Q. And you never sold her any cognac? A. No, sir; never.

Q. Or any other kind of hard liquor? A. No, sir.

Q. Any other kind of wine? A. No, sir; not that I remember.

Q. Or any kind of wine? A. No, sir.

By The Court:

Q. When Mr. Levine came down on this occasion did he tell you how Mrs. Grundy was dressed? Did he say anything about the condition of her clothes? A. No, sir; he says she was dressed ready for dinner.

By Mr. Lane:

Q. What did he tell you about her being dressed? A. Nothing; he says to me, "I suppose she needed the beer for dinner, because she was dressed ready for dinner", he says.

Q. Was this after he had come down in this excited condition? A. Yes.

Q. What else did he say? A. He didn't say anything; I just dismissed it from my mind.

Q. He did say she was dressed ready for dinner? A. Dressed; yes, sir.

Mr. Heyman: The defendant rests.

Mr. Hershenstein: We rest.

DR. MAX MAAS, Sworn.

DIRECT EXAMINATION BY MR. LANE:

Q. Doctor, where do you reside? A. Newark, New Jersey.

Q. You are a practicing physician? A. I am.

Q. And surgeon? A. Yes, sir.

Q. And have been for how many years? A. Approximately nineteen.

Q. Do you know Mr. and Mrs. Grundy? A. Yes, sir.

Q. You have known them since what time, about? A. About 1907.

Q. Doctor, do you remember Mr. Grundy and Mrs. Grundy coming to your office some time in 1907—I think it was—and your examining Mr. Grundy? A. Yes, sir.

Q. Did Mr. Grundy at that time of your examination have gonorrhea? A. No.

Q. Did you tell Mrs. Grundy that he had gonorrhea? A. No, sir.

Q. Did you ever tell Mrs. Grundy, in all of the time that you have known her, that her husband had gonorrhea? A. No, sir.

Q. Or any venereal disease? A. No.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Have you got your records with you, Doctor? A. No, sir; I am speaking from my memory alone.

Q. From memory alone? A. Yes, sir.

Q. Of 12 or 13 years ago? A. Oh, yes.

Q. You do have records? A. In some cases I have; in others I haven't.

Q. In what cases do you have records? A. All those cases where I judged the disease may have some future bearing on the patient.

Q. Only in those cases? A. Yes, I didn't think it necessary in smaller cases.

Q. Is gonorrhea a small case? A. In certain cases it is small; in others it is a big case.

Q. Some cases may be big? A. Yes.

Q. You did keep records of some gonorrhea cases? A. Yes.

Q. You have those records now? A. Yes.

Q. Did you keep any records of your patients' visits, regardless of what the disease is? A. Not always.

Q. Not always? A. Especially of unusual cases; I didn't see any necessity of keeping a record of this.

Q. In 1907 did you have a card system or book system? A. I had a book system.

Q. Have you got the books now? A. I have the books; I simply made entries as a matter of charge.

Q. You remember distinctly that you only had one visit on this occasion by Mr. Grundy? A. That, I don't remember distinctly how many.

Q. You didn't see anything at all about this case whch would help you to remember how many visits Mr. Grundy made at this time? A. I can't tell you how many.

Q. Well, about how many? A. It is a long time ago; it simmers down to one or two; I couldn't tell you definitely.

Q. One or two? A. Yes, probably that.

Q. Do you remember what your fees were? A. No, sir.

Q. Well, don't you keep a record of your income Doctor? A. Oh, yes.

Q. And you did at that time? A. Yes, sir.

Q. Have you got a record of how much Mr. Grundy owed you at that time? A. No; I charged him according to so many visits at the

house and so many at the office.

Q. Well, do you remember how much you charged him? A. Well, at that time I made a charge of between one and two dollars, at the office, I should say.

Q. Do you remember how much you charged him at this particular time for these particular visits? A. No, I don't remember.

Q. Do you remember whether he was alone when he paid you these visits? A. On one occasion, I believe, yes.

Q. On the other occasion with whom was he? A. I don't recall.

Q. You only remember one visit, do you? A. Oh, yes; that is distinct; that I remember.

Q. And on that one visit you treated him for what? A. For catarrh of the bladder.

Q. How did you treat him for that? A. Internal medication.

Q. Through the mouth? A. Oh, yes.

Q. Did you have anything to do with his private parts at that time? A. Well, I examined his urine.

Q. Anything else? A. Well, no; local applications is all I can tell.

By The Court:

Q. Any examination? A. Oh, yes; I examined him thoroughly; the most important thing that I did was to make a smear of a mucous discharge that came from it, which showed no gonorrhea.

By Mr. Heyman:

Q. But there was a mucous discharge at the time? A. Oh, yes.

Q. From his penis? A. Oh, yes.

Q. Could you determine what this discharge was without examining his prostates? A. I

could make a good guess, but in order to eliminate that guess I made a microscopical examination.

Q. Do you know when the discharge stopped? A. No, sir.

Q. You have no record of that now? A. No.

Q. And you don't remember? A. I do not.

Q. You saw Mrs. Grundy last Saturday, didn't you, Doctor? A. Oh, yes.

Q. Did you tell Mrs. Grundy last Saturday that he did have some sort of a venereal disease? A. No.

Q. Of long standing? A. No, I didn't tell her that.

Q. Which you treated in 1907? A. No.

Q. Did you mention anything at all about this disease? A. I had occasion to speak to Mrs. Grundy, she asked me as to the causes of such conditions.

Q. Of such what? A. Such conditions.

Q. Yes. A. And I told that those conditions may come from an early condition of many years back and it may come from colds, and may come from any other inflammatory conditions of the bladder; that was all I said to Mrs. Grundy.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. A mucous discharge from the penis may be caused by other things than gonnorhea, may it not? A. Oh, indeed.

Q. The first suspicion of a physician in a case of that kind where there is a mucous discharge is gonorrhea, isn't it? A. Naturally; surely.

Q. So that the first thing a doctor does, usually, is to find out whether that suspicion is well founded or not? A. Yes; that is most important.

Q. Now, the method by which this is ascertained is by taking a smear and making a microscopical examination, isn't it? A. Yes.

Q. And the presence or the absence of gonorrhea is noted? Whether there is or there is not a gonorrheal condition? A. Yes.

Q. And that is the method of investigation that you pursued in this particular case? A. Yes.

Q. You knew, and was the physician for, the Grundy's for a space of what time; from 1907 down to what time?

MR. HEYMAN: I object to that question as not being redirect examination.

THE COURT: I will take it.

A. I would like to have this question explained a little more. I knew and I have visited Mrs. Grundy, and also I believe Mr. Grundy, when other physicians were nearer the house but I would be called in occasionally, so that would bring it into the present day, you might say.

Q. During that time you have had many conferences with Mr. Grundy and Mrs. Grundy, have you not? A. Oh, yes.

CROSS EXAMINATION BY MR. HIRSHENSTEIN:

Q. Now, Doctor, you explained to Mr. Lane how you determined the presence of gonorrhea for the purpose of ascertaining whether a man is affected with gonorrhea; now, isn't it true that when there is a discharge from the penis it may be due to chronic prostitis? A. Oh, yes.

Q. And isn't it true that such discharge does not contain the gonorrheal germ? A. It may and may not.

Q. What is that? A. It may contain gonorrhea and it may not.

Q. But it may not? A. Oh, yes.

Q. So that when there is a discharge from the penis it shows from an analysis that there is an absence of gonorrhea; but it does not necessarily mean that he is not troubled with chronic prostitus, isn't that true? A. That is true; but it does not necesssarily say that prostitis is true.

Q. That is true? A. It does not necesssarily show that chronic prostitis exists.

Q. No, but the idea of my supposition is true? A. Yes.

Q. Now, isn't chronic prostitis the result of some venereal disease? A. Not necessarily.

Q. But usually? A. It usually is.

Q. Now, did you examine Mr. Grundy at that time for the purpose of ascertaining whether the discharge was due to a catarrhal condition of the bladder, as you call it, or whether it was due to chronic prostitis? A. The most important examination of this kind, if I may describe it, is the causative factor or the germ; other conditions are, particularly in married people, more or less irrelevant, and that was to see whether or not gonorrhea were present.

Q. Are you now prepared to say whether at that time Mr. Grundy was suffering from chronic prostitis or from a gonorrheal condition of the bladder? A. I am not.

Q. What is that? A. I am not prepared to say that.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. Was there anything to indicate, from the examination of the urine, that the chronic prostitis, if it existed, was the result of a gonorrheal condition? A. No.

Q. If it had been the result of a gonorrheal condition would there not either have showed a gonococous, or if it had been a chronic case would it not show threads? A. There may be gonococci and there may not; there may occasionally be some found; but there are other methods of determining, especially lately, where chronic cases will show the same gonococci, which was not known in those days, and that is by—

Q. That is a new method? A. Oh. yes.

Q. What is that known as? A. That is the culture method. When it comes to the point that you want to know positively, that is the method; besides, threads may be in any case where you would have any inflammation of the bladder or the penis.

Q. In any event, you never felt that Mr. Grundy was suffering from a gonorrheal or venereal condition? A. No.

MR. HEYMAN: There is no evidence in this case that Mrs. Grundy said that the doctor told her that he had gonorrhea. There is absolutely no evidence in this case that Mrs. Grundy testified to that.

MR. LANE: Mrs. Grundy went on the stand and said that Doctor Maas had told her that he had a venereal condition of long duration.

THE COURT: I will take that question and answer subject to the objection.

Q. Doctor, at the time Mrs. Grundy was sent to Morris Plains were you acting as the physician of the Grundy's at that time?

MR. HEYMAN: Now, if your Honor please, I object to that on the ground that it is not redirect examination.

THE COURT: I will take it.

A. I was at that time only an adjunct, you might say, because there was another physician in the case.

MR. HEYMAN: I object to that, if your Honor please, on the ground that it can be answered yes or no; the witness has already answered and I think he ought to stop.

THE COURT: I will let the witness answer.

A. I mean to say that I was an adjunct at that time.

RE-CROSS EXAMINATION BY MR. HEYMAN:

Q. Doctor, will you swear that Mr. Grundy never had gonorrhea? A. No.

Q. Will you swear that when you examined him in 1907 and found this discharge, that it was not a discharge resulting from an old case of gonorrhea that he had once had? A. No.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. Doctor, is it possible to swear with certainty upon an examination as to whether any person has ever had gonorrhea? A. No.

RE-CROSS EXAMINATION BY MR. HEYMAN:

Q. Will you say that you couldn't tell whether a man had gonorrhea?

THE COURT: Has had or not had.

Q. Will you say that you couldn't tell whether a man ever had gonorrhea? A. No.

Q. You couldn't tell me about that? A. If you pin me down to yes or no it is impossible to give an answer.

Q. You were positive of your answer to Mr. Lane? A. Yes, but his question was more direct; you are circumscribing any case in this question.

Q. Mr. Lane asked you if it was possible for you to determine whether or not a man has had gonorrhea and you said no? A. Any man, he said.

Q. Any man? A. Yes.

Q. You said no? A. It is not possible for any man to tell, if any man comes to me with a cured case, an absolutely cured case, it is not possible for anyone to tell afterwards that he had it.

Q. Will you say that if you examined a man who had had gonorrhea you could not tell whether he had it or not? A. In many cases that I cured you couldn't tell.

Q. Will you swear that in any case? A. In every case.

Q. In every case; not in any case? A. No.

MARTHA J. LOW, sworn:

DIRECT EXAMINATION BY MR. LANE:

Q. Mrs. Low, where do you live? A. 37 Madison Avenue.

Q. Do you know Mr. Grundy and Mrs. Grundy? A. Yes, I do.

Q. How long have you known them? A. I have known them about twelve years.

Q. Did they live at your house at one time? A. They lived in my house two years and eight months.

Q. From what time to what time? A. They lived in my house two years and eight months, from November until two years from that, July,

I think it was; I wouldn't say positively; around July; they lived in my house.

Q. What year was it? A. I don't recall the year; it has been some time. We moved to 21 Madison Avenue ten years ago and they came in my house in November, what year that was I don't just recall the date.

Q. What was the year you started with, eleven? A. Eleven years ago; ten years ago last November they came to my house.

Q. And they stayed there two years and eight months? A. Two years and eight months.

Q. Have you known them since that time also? A. Oh, yes, I have known them; I have known them right straight through, of course I haven't been closely connected with them at times.

Q. Do you remember meeting Mrs. Grundy on the street a few days previous to September 9th? A. I do.

MR. HEYMAN: September 9th what year?

A. This year, 1919.

Q. Where did you meet her? A. Jackson and Clinton Avenue.

Q. What was she doing at the time you met her? A. She was going to a store to get some meats of some kind, and I believe some other things.

Q. What condition was she in?

MR. HEYMAN: If your Honor please, I desire to object on the ground that this is not rebuttal that this is not alleged in the petition, and that there is nothing in the petition regarding the condition of Mrs. Grundy in September, 1919.

THE COURT: I will take it.

A. Well, she wasn't her natural self, she was —I don't know whether she had been taking

liquor or whether she had drugs. She was not herself as she came out of the store.

MR. HEYMAN: If your Honor please, I move to strike out this dissertation of the witness on the ground that it is an opinion and on the ground that the witness does not know anything at all about her condition.

THE COURT: I will take it.

Q. Why do you say, Mrs. Low, that she was not her natural self? How did she act that indicated it? A. People never walk along the street when the are in their natural self and stagger, they don't spread all over—I guess you know what I mean; they usually walk along in a very natural way, if they are themselves; if not, they do differently, that is all.

Q. Did she stagger? A. Well, she didn't walk in her natural way, there was something wrong, I could tell it by her ways, because I had seen her in her old condition.

Q. What did you do? A. What did I do? I took her home.

Q. Where? A. To 57 Clinton Avenue.

Q. Did you have any talk with her when you met on the street? A. Well, I asked her why she was out, what she was out in the street for, and the circumstances, and she started to say to get something.

Q. That is the extent of your conversation? A. Well, when I went home with her she said Mr. Grundy was going to break up the home; I asked her if she had done all she could to try to keep the home, if she couldn't win him back by doing right, and she said she was afraid it was too late.

Q. She was afraid it was too late? A. Afraid it was too late.

Q. Did she say why she was afraid it was too

late? A. No, she didn't say why.

Q. You said you had seen her that way before? A. I have.

Q. How many times?

MR. HEYMAN: I object to that on the same grounds.

THE COURT: I will take it.

A. Well, I can't recall how many times; a number of times; when she lived in my house, during those two years and eight months I have seen her under the influence either of drugs or liquor a number of times.

Q. When she was in this condition what would she do generally? A. What would she do.

Q. Yes; how long would she continue in this condition?

MR. HEYMAN: If your Honor please, this is all over my objection.

THE COURT: I will take it.

A. Sometimes it would be several days; sometimes it would not last very long, it would depend on herself, I think; I don't know, I never watched that specially, because it wasn't any of my business to watch my people in my house that were there.

Q. During the time that they lived in your house, how did Mr. Grundy treat Mrs. Grundy, as you observed? A. I must say, as far as I know, Mr. Grundy always treated Mrs. Grundy very very nicely, he was most kind to her and very generous.

Q. Were you there when she was taken to Morris Plains? A. I was; it was from my home she was taken.

Q. That was the second time, or the first time? A. The first time.

Q. Do you know the circumstances under which

she came to be taken? A. Yes.

Q. What were they? A. Well, she attempted suicide in the house two or three different times —three different times—which was most annoying to me.

Q. Then what happened? A. Mr. Grundy asked if I could take care of her then, but I found I couldn't do it with the work I had to do. He got a nurse to look after her until he could make arrangements with the doctors to take her to Morris Plains.

Q. Did you ever talk with her at that time, before she was taken to Morris Plains? A. No, I did not.

Q. During the time that she lived there at your house were there any occasions when she came downstairs to the dinner table intoxicated?

MR. HEYMAN: If your Honor please, I object to that on the ground, first, that it is leading; secondly, that it is not in any way connected with the charge of adultery.

THE COURT: I think, Mr. Heyman, that you ought to have the benefit of a general objection to this line of testimony, so that whether you make an objection specifically to each question or not you may have the benefit of it.

MR. HEYMAN: All right. Now, if your Honor please, I object to this particular question on the ground that it is leading, and I think this witness is intelligent enough to tell exactly what happened without being led.

THE COURT: I will take it.

A. There were.

Q. Will you tell me how often? A. Well, I can't tell how often, no, I didn't keep account

of them; I know there were several occasions when she came down under the influence of liquor.

Q. How would she act then? A. Well, I don't know as I could hardly tell how she acted. Anybody that saw her that way would very easily explain it.

MR. HEYMAN: Now I ask that that be stricken out, if your Honor please.

THE COURT: I will deny the motion.

Q. Well, just tell us generally, Mrs. Low; try to picture in your mind how she acted then and try to tell us how she acted? A. Well, Mrs. Grundy when she is herself, she was most attractive and intelligent and educated and lovely, but when she was under the influence of liquor she was decidedly the opposite; she tried to brace up by herself but it was hard work; you could tell well enough that she was under the influence of liquor; I could tell from the minute I would see her.

Q. Did you ever go upstairs in her room and find her intoxicated there? A. Well, no; I didn't find her intoxicated, any more than I saw her through the house, you know; she wouldn't be upstairs; she would be downstairs. I never went to her room to see her drinking or anything like that.

Q. Did you ever go up in her room and find her on the floor? A. I never saw her on the floor drunk upstairs; I found her on the floor downstairs in my dining room.

Q. Under the influence of liquor? A. And the maid and myself carried her to my room.

Q. Now, did you observe what Mr. Grundy did with respect to this situation? A. Did I what?

Q. (Last question repeated). A. Well, I don't

know as I hardly can tell you what he did exactly; he was very quiet, he didn't seem to have a great deal to say when he came in and found her under those circumstances, because he seemed to be perfectly disgusted.

Q. Did you ever see Mr. Grundy during that time ill-treat his wife in any way? A. I never did; I never did.

Q. Or abuse her, either by word— A. I never saw him abuse her.

Q. Or act? A. No, I never did.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Mr. Grundy was pretty much disguested, wasn't he, Mrs. Low? A. When he would find her intoxicated? When he would find her intoxicated.

Q. You said that he was disgusted? A. Why, under those conditions, yes.

Q. And he showed his disgust, didn't he? A. Well, most naturally he would say that he was, it was rather distasteful to him to see how she was at the table where there were other people.

Q. He showed it, didn't he? A. I can't say that he showed it, no more than he looked as if he didn't feel just right over it, but he never said anything.

Q. Only he never did anything? A. Not at my table, no, never.

Q. But he did elsewhere, didn't he? A. I don't know; I didn't follow them to their room; I never did that.

Q. Then you don't know how he treated her? A. I don't know how he treated her when they were alone; I said that before; as far as I know Mr. Grundy was most kind to Mrs. Grundy; I never saw him abuse her in any way.

Q. You never heard any quarrel in their room? A. I never did.

Q. You never heard Mrs. Grundy make any noise in her room? A. I don't recall ever having heard her make any noise.

Q. You never heard Mrs. Grundy make any noise in any of your rooms? A. Mrs. Grundy?

Q. You never heard her create a scene, did you? A. Well, no more than when she got up from my table in the dining room and started to go upstairs, she fell in my dining room and created a little scene for those that were there.

Q. Did she do that intentionally? A. I don't know whether she was under the influence of liquor or whether she could not help it now.

Q. Now, what I mean by creating a scene is this: When she got into this condition from drugs or from liquor, as you have described her, did she get up and become boisterous? A. No.

Q. Did she yell? A. No.

Q. Did she shout? A. No, she didn't, not in my presence.

Q. She tried her best to brace up? A. In my presence she never did any of those things.

Q. She never did any of those things in your presence? A. No.

Q. She tried to be herself? A. She tried to brace up and keep herself together; you could tell.

Q. She tried her best to make a presentable appearance, didn't she? A. As far as I know.

Q. Now, you said here that you have seen her at your home under the influence of drugs and liquor several times. A. Now, listen; I beg your pardon; I said drugs or liquor; I didn't know which.

Q. Drugs or liquor, several times? A. Yes, I have.

Q. Why do you say drugs? A. Because I don't know whether it was drugs or whether it was liquor.

Q. Well, what made you say drugs? A. What made me say drugs, because I knew she used some drugs.

Q. What drugs do you know she had? A. She had laudanum that I took away from her. That is a drug.

Q. That is a drug? A. It certainly is.

Q. How do you know that? A. Don't I know that laudanum is a drug?

Q. Well, how do you know it? A. How do I know that laudanum is a drug?

Q. You heard the question, didn't you?

MR. LANE: The witness' answer, I submit is proper.

Q. You heard my question, didn't you? A. I heard your question, yes.

Q. All right; now answer it? A. Laudanum is a drug.

Q. How do you know? A. It is a drug that kills.

Q. How do you know it?

MR. LANE: She said because it kills.

MR. HEYMAN: Now, if your Honor please, I submit that I am entitled to be permitted to examine without interruption.

THE COURT: Go ahead and examine.

A. Well, I don't know how to answer that question.

Q. Well, I want to know how you know it? A. Well, I know one thing, you can't get it without a doctor's prescription, because it is a drug; they haven't a right to sell it, that is, without a doctor's prescription, and if it wasn't a drug, if it wasn't injurious, or wasn't dangerous, why

you could get it the same as you could anything else.

Q. Did you know that in 1910 or 1911? A. Yes, I have known it all my life, even since I was a child that laudanum was a drug, and that you had to be very careful in using it.

Q. And if you didn't use it carefully it would kill or it would put you to sleep? A. Whether you waked up or not I don't know; I never used any of it so I don't know.

Q. Then you say that while Mrs. Grundy lived in your house she took laudanum, did she? A. I didn't say she took it; I said I took a bottle away from her, it was in her possession.

Q. And that is the reason that you say Mrs. Grundy took drugs? A. I said drugs or liquor.

Q. Now, did you ever see her take any drugs? A. I never saw her take any drugs and I never saw her take liquor, but I know she was under the influence of one or the other.

Q. Now, how do you know that? A. How do I know? Well, just the same as anybody would know when a person wasn't himself.

Q. Tell us how you know? A. By the way she acted.

Q. Is that the only way? A. And the way you could smell it from her.

Q. You used to smell it from her breath? A. Yes.

Q. What drugs did you smell from her breath? A. She came down once and I smelled laudanum on Mrs. Grundy many times.

Q. You smelled laudanum on Mrs. Grundy? A. A number of times.

Q. Those times she would be staggering around the house would you say when she had taken laudanum? A. I didn't say she was staggering around.

Q. Well, when did you smell it from her breath? A. When did I smell it from her breath.

Q. Yes. A. I smell it on different occasions,

Q. Well, what was she doing when you smelled laudanum? A. Well, sometimes she would be dazed.

Q. Was she staggering then? A. No, she wasn't staggering; people usually always stagger when they have a little bit of liquor in them not drugs.

would put you to sleep? A. If you took enough of it it would.

Q. If you took enough of it? A. Yes; I said it would.

Q. You have had quite a little experience with it, haven't you? A. I never had any more experience with it other than what the doctors told me, to use a very little of it, and I knew that it was very dangerous.

Q. Did you have any in the house? A. I never had any in my house for years.

Q. What did you have it in your house for when you did? A. I used it when I had a very bad boil and I used to poultice it and the doctor recommended laudanum to put on these poultices to ease the pain.

Q. You didn't use any internally, did you? A. No, I did not.

Q. You don't know what effect it would have on you? A. No, I am not in the habit of using it, as far as that went, but that is one of the drugs that you are not supposed to use without a prescription.

Q. If you don't know what effect it would have, why did you try to so testify? A. I don't know that I did.

Q. Didn't you say before that if you took laudanum it would put you to sleep? A. I told

you that; I only know what the doctors have said about it.

Q. But you don't know anything of your own knowledge? A. No, not of my own experience I don't.

Q. You knew the smell of laudanum? A. I did.

Q. No question about that? A. Anybody can smell laudanum.

Q. You are sure you never used any of it yourself? A. To take it?

Q. To take it internally. A. Yes.

Q. You are sure of that? A. Quite sure I never took any.

Q. When did you take the bottle away from Mrs. Grundy? A. When she was living at my house.

Q. Well, when was it? A. When she was in one of her spells, I don't know whether she was drunk; I suppose there was some in the bath room; of course she went away to Morris Plains after that.

Q. That was the time that she attempted suicide, wasn't it? A. Yes, that was the time.

Q. You took it away from her when she was trying to use it to kill herself, didn't you? A. I don't know whether she was trying to use it to kill herself or whether she was using it to become under the influence of it, or what, I don't know; she had it and I took the bottle away from her.

Q. Well, how did she try to kill herself at that time? A. Do you want me to tell you?

Q. What is that? A. Do you want me to tell you?

Q. Yes, surely, I want you tell me. A. Well, one time I went in the bath room to take a bath—

Q. I am talking about the time that you took

the bottle of laudanum away from her? A. Well, you asked me how she attempted suicide.

Q. That time— A. Well, I didn't say that she did attempt suicide just at that time; it was around about that time when she was taking this.

Q. Didn't you tell us a minute ago that you took a bottle away from her when she attempted to commit suicide? A. No, I beg your pardon.

Q. You didn't say that? A. No, I did not say that. If I said it I didn't understand the question which was put to me. I said I had taken a bottle of laudanum from her. You said "Previous to the time that she attempted suicide" you wanted to know if I took it from her because she was thinking of committing suicide, and I said, "No, I did not."

Q. That was your testimony before? A. Then you asked me how it was and I started to tell you.

Q. That is the way you want your testimony to stand now? A. Yes; I don't know whether she attempted suicide or whether she took it because she liked it, or whether it was for pain; I know she had it.

Q. Qou know she had pain? A. I know she had the laudanum. No, I didn't know she had pain.

Q. Her attempts at suicide annoyed you quite a good deal, didn't they? A. They certainly did.

Q. People talked about it a great deal, didn't they? A. I don't know that they did.

Q. Then how did it annoy you? A. Can I put a question to you?

Q. No. A. Well, it was very annoying to me to have anyone trying to take their life in my house, where it is like a large family, it is not

very pleasant to have anybody trying to take her life.

Q. How many times did she attempt to commit suicide in your home? A. Three different times.

Q. You didn't actually believe that after the first time? A. No, sir; I did not.

Q. You started to tell us about the bath room incident, when Mrs. Grundy attempted to commit suicide; tell us about that? A. Do you want me to tell you?

Q. Yes. A. Saturday afternoon she had been planning, making plans to go to a sanitarium; Mr. Grundy came home had his lunch, the maid that I had, went upstairs; she called down—she called down, she says, "Mrs. Low," she says, "Mrs. Grundy is in the bath room," she says "—the bathroom is locked and I smell gas," so she called me and I told Mr. Grundy, who rushed upstairs; the door was locked; and he called me so that I would be a witness to what it is, she hadn't unlocked the door, but he burst the door in, and she was in the bath tub with the gas turned on in the bath room; he took her out of the water, threw her bath robe around her, and he took her into their room and laid her on the couch.

Q. Mr. Grundy called you up to be a witness to it? A. To what was happening then, yes.

Q. Now, once before that she attempted suicide in the bath room, too, didn't she? A. Not in the bath.

Q. Not in the bath room? A. In her own room.

Q. By taking some sort of medicine of some kind? A. Gas.

Q. By gas in her own room? A. Yes.

Q. Then the third time? A. Gas again; there

were four gas jets in their room at that time; once—

Q. Now, wait a minute; don't let us get so confused. I want to know how many times she attempted suicide at your house. A. Three different times.

Q. All three times by gas? A. Yes.

Q. Always by gas? A. Always by gas.

Q. You are sure that there wasn't one time when she took peroxide? A. I don't think so; she took some boracic acid by mistake for something else and she came downstairs frightened about it, and I gave her some mixture and she lost that, whatever she had taken for something else.

Q. You did call Doctor Maas on that occasion? A. Yes, we did; that was something taken by mistake.

Q. You did not consider that an attempt at suicide? A. I certainly did not.

Q. Now, what did Mr. Grundy say to you when he called you up to be a witness? A. He said—

Q. On this occasion when she attempted to commit suicide? A. He says, "Will you see this; isn't this dreadful?" and it was dreadful.

Q. Anything else? A. Not that I know; I don't recall anything else.

Q. That was shortly before she went to the sanitarium, wasn't it? A. Just before she went away.

Q. Shortly before that time, Mrs. Low, Mrs. Grundy had been in Pittsburg, hadn't she? A. I don't just recall how long she had been there.

Q. Shortly before that? A. Well, it might have been a month; it might have been two months; I don't recall how long before.

Q. You remember she went away? A. I know she was in Pittsburg.

Q. Do you remember what the occasion was

for her going to Pittsburg? A. Yes, I think I do.

Q. What was it?

MR. LANE: I object to that, if your Honor plase.

THE COURT: What is the relevancy of it in any way?

MR. HEYMAN: Well, if your Honor please, your Honor wants to hear the whole thing, as I understand it.

THE COURT: I want to hear everything that is material.

MR. HEYMAN: In the second place, it was so closely connected with the attempted suicide that it might be a reason for the attempt.

THE COURT: I will take it.

Q. Why did she go to Pittsburg, if you know? A. Why did she go to Pittsburg?

Q. Yes. Don't you hear very well, Mrs. Low? A. Why, I was just trying to be sure that I answered the question right.

Q. Oh, I see. A. I don't recall, unless it was the time of the birth of a baby.

Q. To whom? A. To Mr. Grundy's daughter.

Q. When Mrs. Grundy returned from that trip to Pittsburg she was pretty well upset, wasn't she? A. I don't recall.

Q. You don't recall? A. No, I don't.

Q. You don't recall whether she was pretty well worn out? A. No, I don't.

Q. You don't? A. No, I don't.

Q. You don't recall anything at all about her return from Pittsburg, do you? A. As I remember, I didn't pay any attention to her.

Q. Mrs. Low, when you met Mrs. Grundy on the street in September, 1919, was she boisterous, or noisy? Did she interefere with anybody

at all, or did she go about her own business? A. She went about her own business.

Q. She knew what she was doing? A. Yes.

Q. She just simply wasn't her natural self? A. She wasn't her natural self.

Q. Her natural self, Mrs. Low, was quite respectable and an entirely enjoyable self, wasn't it? A. When she was herself, yes.

Q. There wasn't any trouble when she was perfectly natural, was there? A. Not to my knowledge.

Q. Did she keep herself tidy and clean? A. Yes.

Q. And do whatever she had to do in her home? A. I don't know anything about Mrs. Grundy in her home.

Q. But while she was with you? A. Yes.

Q. She did whatever was necessary in her own place? A. As far as I know; I don't know what her business was while she was in her room at all.

Q. But she assisted you once in a while around the house, didn't she, when she was all right? A. Occasionally, a little sometimes she would.

Q. She always tried to make herself pleasant and companionable? A. When she was herself she was most agreeable.

Q. How often would she come in this condition?

THE COURT: Which?

Q. I mean not her natural self; how often will you say? A. Well, I can't say; I don't know as I can just say.

Q. Well, can you approximate how often? A. I wouldn't say, because I wouldn't like to say unless I knew positively.

Q. Well, can you tell us whether it was a hundred times? A. While she was with me.

Q. Yes; while she was living at your house? A. Well, a hundred times would be a whole lot to keep account of.

Q. Then it wasn't a hundred times? A. I don't imagine it was a hundred times, no.

Q. Well, in two years and eight months that she was with you, would you say that occurred once a month, or once in two months? A. Well, it would occur hardly once a month; sometimes a couple of times in a month, and then there would be quite a little while, there would be quite a little time that she would be all right for a time then.

Q. Then she would go off again? A. She would go off again.

Q. It wasn't regular, I mean? A. No.

Q. She had no specified and stated time? A. I don't think so, no.

Q. It might be once a month, or twice a month, or once in four months, might it? A. Well, I would like to say this, that I was so busy in my own home with my own affairs, that it was hard work for me to keep accurate track or account of the things that other people did in my home.

Q. You didn't think it was important enough to you to keep any record of it? A. I really didn't think it was any of my business what people in my house did, only when she attempted suicide, then I thought that was a little too much.

Q. You thought it was about time for her to quit, didn't you? A. I thought it was about time for something to be done.

Q. Now, Mrs. Low, Mrs. Grundy had a number of these spells right in her own room that you didn't know anything about, didn't she? A. I am sure I don't know what people are doing in their own rooms when I am not around,

and I very seldom go into my people's rooms. If there was anything the matter with her and I could be of any assistance to her, I went to her aid, but otherwise I didn't go there at all.

Q. Well, did she have any spells when you offered aid? A. She most always wanted me to do something for her when she was sick; very often when she wasn't well she would say she was sick when she wasn't really sick.

Q. When she had these spells she always said she was nervous? A. Yes, always said she was sick and had the doctor.

Q. She always tried to make you believe that it wasn't from liquor? A. Yes.

Q. Didn't she? A. Yes; she was sick.

Q. I beg your pardon. A. She said she was sick.

Q. On those occasions you found her in bed, didn't you, most of the time? A. Not always.

Q. But a good many times? A. Occasionally on the bed, or on the couch.

Q. Or on the couch? A. Yes.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. Mrs. Low, why wasn't it that you didn't ask her to leave after those attempts at suicide? A. Because I felt sorry for her boy, I felt that as long as he was with me I could be a mother to him and look after him and care for him when she wasn't in a condition to do it. Her boy was as much to me as if he really belonged to me; he came to me when he was a little boy and he even calls it his home yet.

BY THE COURT:

Q. What date was this in September, 1919? A. I think you gave it about the 11th of the

month? A. I didn't give the date; I said the first part of September; I don't recall the date

RE-CROSS EXAMINATION BY MR. HEYMAN:

Q. Now, Mrs. Low, her boy was with her while she lived with you? A. He was.

Q. When she didn't have these spells she took care of her boy? A. It is awful hard for me to answer that.

Q. What is that? A. It is hard for me to answer that.

Q. You can't answer? A. It is hard for me to answer.

Q. Can you answer it. A. She wasn't just a kind and loving mother to the boy that she should have been.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. One question I wanted to ask—it is not redirect, but I ask it as an omitted question—were you at the house, Mrs. Low, on the night of September 9th? A. I was.

Q. At the time she attempted— A. 57 Clinton Avenue.

Q. At the time she attempted to commit suicide? A. Yes, I was there until after the—

Q. What time did you get there? A. I guess around about nine o'clock.

Q. Did you see Mrs. Grundy? A. I did.

Q. What condition was she in then? A. Well, it is awfully hard for me to tell exactly the condition she was in; there was something the matter with her, I don't know what, but she didn't act naturally, and was very, sort of ugly.

Q. Could you tell at that time whether she had been drinking or not? A. Oh, no; I couldn't tell, because I didn't know.

RE-CROSS EXAMINATION BY MR. HEYMAN:

Q. She was ugly with Mr. Grundy? A. She was.

Q. How do you know that she wasn't drinking that night?

MR. LANE: I object to that on the ground that it contains an unwarranted assumption of fact.

Q. Why is it that you can't say whether she was drinking? A. I had no proof. I hadn't seen her drinking, I didn't know anything at all about it; I couldn't really say.

Q. Never mind. A. Excuse me.

Q. So that the only time that you knew that she was drunk was when you actually saw her drinking? A. I didn't tell you that I ever saw her drinking.

Q. Well, now, will you say if you ever did? A. I never saw Mrs. Grundy drinking but one time in my life, I was in New York with her and she wanted me to take a cocktail with her, I wouldn't take one, I told her I didn't take those things, and she says, "Come on, be a sport for once," and I said, "No, I don't take those things, I never have and I never expect to."

Q. That is the only time you ever saw Mrs. Grundy drinking? A. The only time I ever saw Mrs. Grundy actually drinking.

Q. Of course she would take a glass of beer, wouldn't she? A. I guess she would.

Q. You have seen her do that? A. I have seen her do that.

Q. You don't call that drinking? A. I don't call that drinking, like taking liquors, strong liquors.

Q. You take a glass of beer, too, at your own home? A. I never drink beer.

Q. Never drank beer at all? A. I possibly did drink about a year ago, by the doctor's prescription when I was ill; ever since then I am not in the habit of taking anything.

Q. I am not trying to attribute any habit to you, Mrs. Low; I am simply asking you whether you did not actually take a glass of beer? A. No.

Q. Did you ever see Mr. Grundy take a glass of beer at your house? A. Mr. Grundy?

Q. Yes. A. Yes, they take those things into their rooms.

Q. You know that they did have? A. They must have had it because I have seen it in the house occasionally.

Q. Sometimes they kept the bottles in your ice box, didn't they? A. Yes.

MARK TOWNSEND, JR., sworn (June 10, 1920):

DIRECT EXAMINATION BY MR. LANE:

Q. Where do you live? A. 2350 Boulevard, Jersey City.

Q. What is your profession? A. I am a lawyer.

Q. How long have you been a lawyer? A. About 12 years.

Q. Do you know Mr. and Mrs. Grundy? A. I do.

Q. How long have you known them? A. About eight or nine years.

Q. Have you known them intimately? A. I have. So far as Mr. Grundy is concerned, I have known him intimately for about that period

of time; Mrs. Grundy I have known intimately for about four years.

Q. When was it that you first heard of anything which was said to have occurred on August 24th, 1919?

MR. HEYMAN: I object to that, if your Honor please, anything that this witness heard unless the defendant was present.

MR. LANE: I am just trying to fix the date.

THE COURT: I will take it.

A. August 25th.

Q. When was it, after August 25th, or after August 24th, that you first saw Mrs. Grundy? A. On the morning of August 26th, about 9:30; I think that August 26th was on a Tuesday, if I am not mistaken.

Q. Where did you see her? A. At her home, 57 Clinton Avenue.

Q. Who was present? A. Mr. Grundy—I think there was someone else there, I can't recollect now who it was, I have a recollection it was some woman.

Q. What time did you get there? A. I got there about quarter after nine. Park may have been there at that time; I don't recall.

Q. Did you have a conference with Mrs. Grundy at that time? A. I wouldn't call it a conference; no.

Q. Just tell us what took place.

MR. HEYMAN: If your Honor please, I don't know if this is admissible unless the witness states in what capacity he was there.

THE COURT: Do you mean on the theory that he was counsel——

MR. HEYMAN: Yes, sir.

THE COURT: For Mrs. Grundy?

MR. HEYMAN: Yes, sir.

MR. LANE: Well, do you plead privilege on the part of Mrs. Grundy?

THE COURT: Is there any contention that Mr. Townsend was counsel for Mrs. Grundy?

MR. HEYMAN: I don't know, if your Honor please. Mrs. Grundy has testified that she consulted Mr. Townsend.

THE COURT: I was under the impression that she consulted Mr. Van Winkle.

MR. HEYMAN: Mr. Townsend had a talk with her before and after that, about this.

MR. LANE: The plea of privilege is personal in the person who has the conversation; it cannot be asserted by counsel, if Mrs. Grundy wants to take the position that Mr. Townsend was her counsel, that is the only event in which a plea of privilege can be asserted. I ask her if she does so assert.

MR. HEYMAN: I am not asserting any privilege. I would like to have his position stated before he is permitted to testify.

THE COURT: I will permit you to ask the witness.

MR. LANE: I object to any examination of the witness unless the pleas of privileged communication is asserted.

MR. HEYMAN: We plead no privilege, if your Honor please, but we would like to know what his position was at that time, in order to be able to determine whether we can plead privilege. We don't know yet what his position was.

THE COURT: You can assert it if you believe it to be true.

MR. HEYMAN: I don't believe anything, if

your Honor please, until I know from the witness in what position he came there.

THE COURT: I will let you ask him.

BY MR. HEYMAN:

Q. Whom did you represent, Mr. Townsend? A. Mr. Grundy.

Q. When you called at Mrs. Grundy's house, on August 26th? A. Mr. Grundy, and I so told Mrs. Grundy. As a matter of fact, I had been retained by Mr. Grundy the day before.

BY MR. LANE:

Q. Now you may tell us what took place? A. I went there as a result of a conversation with Mr. Grundy. When I arrived, in a few moments I was ushered into the bed rom, and Mrs. Grundy was in bed. I endeavored to have a few words—I endeavored to talk with Mrs. Grundy, to tell her why I was there, etc., and I immediately saw that she was in such a condition that I could not intelligently carry on a conversation with her.

MR. HEYMAN: If your Honor please, I don't know that this is perfectly proper. I cannot see why a lawyer should attempt to express an opinion. I think it is——

THE COURT: I will take it.

MR. HEYMAN: I think it is taking a most unfair advantage of us, and I move to strike it out.

A. I so told her, and so told Mr. Grundy.

Q. What happened? A. That in my judgment it was a waste of time to attempt to carry on any conversation with her.

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

THE COURT: What he told Mr. Grundy goes out.

Q. What did you tell her? A. The conversation took place while both of them were in the bedroom.

Q. What did you say? A. I told them that in my judgment it was useless—I can't give you the exact words, but I will give you the substance of the conversation.

MR. HEYMAN: I move to strike this out on the ground that the testimony of Mr. Townsend himself shows that this defendant was not in a condition to understand what was going on.

THE COURT: I will take it.

A. I said, in view of the existing conditions, that it was useless for me to attempt to have any conference with Mr. and Mrs. Grundy.

Q. Then what happened? A. Mr. Grundy, referring to that said that I would leave and if they wanted me—if he wanted me to come in he would let me know, and I thereupon left the apartment.

Q. Was there anything which indicated to you or which would indicate to you, as to what had caused the condition of Mrs. Grundy?

MR. HEYMAN: I object to that.

THE COURT: I will take it.

A. There was.

Q. What was it? A. You mean what it was that indicated?

Q. Yes. A. Well, the odor as well as her actions.

Q. What was the odor that you observed? A. The odor of liquor.

Q. And from whence did it come? A. From her breath.

Q. What were her actions, other than you have already described?

THE COURT: Was she lying down or sitting up?

A. No, she was lying down in bed. My recollection is that she had the bed clothes over her, and her general demeanor, her——

MR. HEYMAN: If your Honor please, I move to strike out all generals.

THE COURT: I will take it.

A. Her attempts to carry on a conversation and breaking off in the middle of a sentence, my saying, or attempting to say something to her and not getting any response whatever.

Q. What was the next time that you saw Mrs. Grundy? A. September 9th.

Q. Where did you see her then? A. 57 Clinton Avenue.

Q. What time of day was that? A. Around 5:30 or 6 o'clock; between 5 and 6 o'clock.

Q. Who was there? A. Mr. Grundy——

THE COURT: Was that September 9th?

THE WITNESS: September 9th; yes, sir.

A. Mr. Grundy; Mrs. Grundy and Park Grundy.

Q. What took place from the time you entered the house until the time you left? A. I had gone there in response to a communication from Mr. Grundy. When I entered the house Mrs. Grundy was there and I addressed her I said, "Ida, I understand that you want to talk to me" —understand, I am just giving you the substance, for I have no way of recalling the exact

language—"about the difficulty between yourself and your husband". I said, "George has told me that he has advised you that he is going to get a divorce. He has consulted me about it. He is going to file a petition. He also advised me that you want to have some talk on the matter as to whether there could not be a reconciliation, also as to what your future plans would be so far as your living is concerned, or so far as your maintenance is concerned." She replied that—I don't recall the exact words but the substance of her reply confirmed what Mr. Grundy had told me about her desire to talk the matter over with me —Mr. Grundy and myself. She was badly worked up. I told her what I had been told about the man being found in the closet on the 24th by Park, and she said that Park lied, that the thing absolutely was not true. Park was in the adjoining room, and he and his mother began to exchange words of some kind relative to the matter she said it was not true and Park insisting that it was. Thinking that a family argument would take place, I told Park I thought he had better leave the house, or leave the room, and I would talk to his mother. We thereupon continued the conversation, he having left. She said the thing was absolutely not true, that Park lied, and that the whole matter was a frame-up. I told her, of course, as far as I was concerned, the situation was an embarrassing one to me, as I had known them both for a long time, also because I had done some work in connection with Park attending school in the Spring, but that I was satisfied, from my conversation with Mr. Grundy, that he was through, so far as living with her again is concerned, and that he was going to institute a suit for divorce, I told her, on the

ground of adultery, and then she went in an argument on the matter of fact, that the thing was not true; and I related the circumstances that had been related to me by Park, I said "Ida, now you take the fact that Park is your son, that he comes home unexpectedly on this Sunday morning, that he is unable to gain admission to the house, that you had the door locked on the inside with the chain or bolt, that after he was there for 15 or 20 minutes he cannot get in, that you only let him in the house when you overhear a conversation between him and Mrs. Hansen in respect to going in through the fire escape, and he comes in and finds you in your bedroom, and then, after searching through the house, finds a man in the closet, fully dressed, and with no explanation given", I said, "it is preposterous if you want Mr. Grundy or anyone else to believe that that man was not there and that Park is lying about it." The conversation continued along those lines and then she finally completely changed her attitude and said that the man was there, but she said nothing wrong had been done, but that this man had come there for the purpose of delivering liquor; and I said "Well, now, in view of these surrounding circumstances, do you really expect Mr. Grundy to believe that?" She then said, "Well, if he"—in the meantime she talked about a reconciliation, and I told her in my judgment, after having talked with Mr. Grundy in the meantime—I think Mr. Grundy had, some time during the conversation, gone into the other room, and later returned, after my talk and having taken the matter up with him—I did not see, in my judgment, there was no hope of any reconciliation. "Well," she said, "Then why can't we have a separation?" I told her that, of

course, it was a matter entirely between herself and Mr. Grundy, but that I did not think that Mr. Grundy would want a separation. Mr. Grundy came into the room—my recollection is that he came in afterwards—and I said that he would not have any separation. She then began to worry and she was very much broken up, her whole demeanor, as to what was going to become of her, she said that she had no relatives here, that she was not a woman that could go out and earn her own livelihood and she did not know how she was going to get along. Some suggestion was made, of some kind, for some arrangement by which Mr. Grundy was to pay her a monthly allowance—I don't recall whether he had been doing it or not—and I believe at that conference Mr. Grundy said that out of sympathy and pity for her, regardless of any action of the Court, he would provide for her maintenance for the rest of her life, under conditions that she refrain from drinking and would lead a respectable life, I think the amount was set at about $100 per month. At that time the conference ended. She was in the hope that there would be a reconciliation.

Q. When did you see her the next time? A. Could I see that book? I have a diary here from which I could tell that definitely.

Q. (Examining counsel hands witness book.) A. I don't believe I saw her, but I was at her house again that evening, around—I think after that conference ended Mr. Grundy and I went over to the Jersey City Club. After that conference Mr. Grundy and I went to the Jersey City Club, talked over the situation generally, and I returned some time after dinner. I was at the house again somewhere between 8:30 and 10 o'clock that night. I don't think that I saw Mrs.

Grundy; however, I did see Mr. Grundy. The next time that I saw and talked with Mrs. Grundy was on the evening of September 15th.

Q. Tell us what took place? A. I went there at the request or as the result of a conversation with Mr. Grundy. I entered the house with Mr. Grundy. Mrs. Grundy was in some other part of the house, I believe her bedroom, and I sat down in the room adjoining their reception room, between there and their hall, for a few minutes when I got up and walked around; I think I had to wait about five minutes until Mrs. Grundy came out. I told Mrs. Grundy that Mr. Grundy had informed me that she wanted to talk the matter over again with Mr. Grundy and myself, also Mr. Grundy desired to know what she was going to do. I told her that I had been informed of what Park—I told her that Park had told me what he had seen that day in reference to the man Evans; she said that Park lied; she still wanted a reconciliation or separation; I said "Ida, you will recall that when we were here before you said that Park had lied about the other incident. of the 24th; now, after persisting in that for some time you changed your story and eventually admitted that the man was here. How do you expect Mr. Grundy under those conditions to believe you. What reason would there be for Park to come in and tell Mr. Grundy an impossible story such as this when it wasn't true," I said, "the thing is preposterous on its face. Mr. Grundy don't believe it; I don't believe it". She then said, "Well, there was a man here, he was a real estate agent looking for an apartment for me". I think I made the remark at that time "It is somewhat strange, if he was a real estate agent looking for an apartment for you, that he

would be in your bedroom and you in there in a semi-disrobed condition". I reiterated to her that the thing was so preposterous on its face that she could not expect Mr. Grundy, myself or anybody else to believe her story. She then said to me, "Well, what do you expect—" in substance she said, "What do you expect if your husband hasn't had anything to do with you for over a year". Mr. Grundy was present at that conversation. I said, "Ida, he is firmly convinced that you are guilty of adultery with this man". I said, "I have prepared a petition for divorce to file against you on that ground; now, the petition will have to be amended, or have to be changed, and this incident that happened to-day will be inserted in it." Mr. Grundy in the meantime had moved somewhere on Crescent Avenue, to Mrs. Corrigan's, and she was undecided as to what she was going to do, as to whether she was going to stay in that apartment or where she was going. She then went over the fact that if Mr. Grundy got his divorce, or Mr. Grundy left her, she was helpless, she couldn't work, that she was not in a physical condition to work, and stated that $100 a month was not sufficient for her to live on. She and Mr. Grundy then discussed the amount and finally agreed to pay her $125 a month. She at that time spoke of going into a rooming house business, that she and Mrs. Smith were to take an apartment of some kind, rooms of some kind, and take boarders; she was very anxious, as well as Mr. Grundy, to avoid any publicity in any divorce case; she had realized at that time that there was no hope of any——

MR. HEYMAN: I object to any conclusions.

THE COURT: All right, strike that out.

A. It is pretty hard for me to represent all that.

Q. Give us the substance of it; changing the form of the words, that is about all it means. A. I told her that in my judgment the thing that she ought to do was to consult a lawyer; she said she had already had a lawyer; I asked her who it was and she said Alexander Simpson. During the conversation she stated that she realized finally that there was no hope for any reconciliation, Mr. Grundy was going to get a divorce from her, that he was through with her, she knew that he would not come back to live with her again, she said, but in the event of a divorce action there is going to be a lot of publicity in it, "I don't want my folks in Pittsburg to know about this, I wouldn't want them to know a word about it for the world, it is a dreadful thing to drag out in open Court against a woman" and she wanted to know whether there wasn't some way, in view of the fact that Mr. Grundy would not consent to a reconciliation, for her to go to Reno to get a divorce; she said she had known a Mrs. Fletcher who had gone there and gotten one and she could get one there, she thought she could go out and stay and get one, and she wanted Mr. Grundy to send her to Reno. The question of her maintainence was discussed, Mr. Grundy agreed to pay her $125 a month—I am a little bit ahead of what I want to say—neither she nor Mr. Grundy wanted any publicity in this case because of the fact that the son was a witness and because of the general complexion of the case itself, as to the fact that it was a petition for adultery instead of disertion. The Sargeant case was then, about that time, being hashed in the papers in Jersey City, which Mrs.

and Mr. Grundy both deprecated, and Mr. Grundy stated that regardless of the outcome of any divorce case, and in view of the fact that he felt sorry for her, he would be willing to provide for her for the rest of her life, or until she remarried, if she would stop her drinking and lived a clean and respectable life, to his satisfaction, and would not try her case in the newspapers as had been done in the Sargeant case, he told her that he was through having his money go to saloon keepers, that his money had been keeping them for the last ten or fifteen years and he didn't propose to do it any longer, he said he didn't wish to furnish an apartment for her to entertain her men friends, but as long as she behaved herself and led a clean and respectable life he was willing to support her and pay the sum of $125 for the rest of her life, and on the further condition that she would not try this case in the newspapers before the actual trial, to which she agreed.

MR. HEYMAN: I object to what she agreed.

THE COURT: Strike out what she agreed.

Q. Well, what did she say? A. I can't remember the exact language; she said the thing was acceptable to her.

MR. HEYMAN: I object to that, if your Honor please; that is a conclusion.

THE COURT: Strike it out.

A. She substantially said it was satisfactory to her, that she didn't want any publicity, she wasn't going to spend her money to give to saloonkeepers any more, and that she wasn't going to fit up a house for the purpose of having men come to see her. I left with the understanding——

MR. HEYMAN: I object.

A. That practically concluded the interview; I told both of them that I would draw an agreement embodying those terms and they could call at my office—either call at my office or I would send it up to them.

Q. When next did you see her? A. (Witness refers to book.)

By Mr. Heyman:

Q. I would like to know what this book is? A. That is my daily blotter.

Q. Were those entries made at the time they are set forth here in this book? A. I wouldn't say that. I endeavor to keep systematically the time spent by me on each case. Some times I may go a week without making any entries and I would make them all at one time. Sometimes I make them the same day. Sometimes I make them the next day or the day following.

Mr. Heyman: I object to the use of this book, if your Honor please.

The Witness: However, I might say this, if your Honor please, for your benefit——

Mr. Heyman: I object to any speeches; I don't want anything for my benefit. I object to the use of that book.

By Mr. Lane:

Q. At the time the entries were made in the book, did you know the entries to be correct at that time? A. Absolutely, yes.

Mr. Heyman: I object to that question, if your Honor please, on the ground that it is leading and it is improper.

Q. Did you know that they correctly represented the facts? A. Yes, they did.

Q. Was your memory more precise, particularly as to dates, at that time, at the time the entries were made, than it is to-day? A. Certainly.

Q. Would the use of the book refresh your recollection as to the dates? A. It would.

Q. I ask you to look at the book to refresh your recollection with respect to that.

MR. HEYMAN: I object to the use of the book. The witness has testified that he didn't know whether he made the entries on that date or whether he made them a week later.

THE COURT: I will take it.

A. September 17th.

Q. Where? A. At her home.

Q. I want to ask you one more question before I go to September 17th; on September 15th did you see any barrels in the dining room? A. I did not.

Q. Were you in such a position as that you could if they had been there?

MR. HEYMAN: I object to that, if your Honor please, whether he saw any barrels in the dining room or not. There isn't any testimony in this case to show that Mr. Townsend was there around noon time o nSeptember 15th, and it hasn't been shown that the barrels were in that place after noon time on September 15th.

THE COURT: Well, I will take it.

MR. LANE: I don't want your Honor, by my silence, to get the impression that Mr. Heyman's statement of the testimony is true. My recollection of the testimony is that the barrels remained there from September 15th to September 17th.

Q. Were you in such a position that if they had been there you would have seen them? A. I was.

Q. Why do you say that? A. During the time when I first went in there, having to wait, I think I sat down for a moment and became restless, and walked around, the dining room doors were open, I was admiring the china ware that they had on a rail, around the rail like you have in your dining room, with dishes, and they had some very fine china.

Q. Was that china there in its usual place? A. I don't know about its usual place; there was china up on the rail, plates.

Q. It appeared to have belonged there? A. Yes.

Q. Was it piled up on the table or any other place? A. It was not.

Q. Was there any china of any kind piled up on any table in any other room of the house that you saw? A. I saw none.

Q. Did you observe any barrels in any part of the house? A. I did not; I only saw the dining room.

MR. HEYMAN: Are you talking, Mr. Townsend?

THE WITNESS: No; I am thinking.

A. I saw two rooms, the hall and the dining room, there is a room in the center, I suppose they call it the reception room, and the room on the corner, where they had a piano; that is the parlor.

Q. Were there any barrels in any of those rooms? A. No, there was not.

Q. Now, on September 17th, where did you see her? A. Where did I see Mrs. Grundy?

Q. Yes. A. It was either in the sitting room or in the parlor.

Q. But it was at her house? A. At her house.

Q. How did you come to go there then? A. In response to a telephone communication from Park.

Q. Who was there at the time? A. She, and, as far as I saw—Mrs. Grundy and Park.

Q. Now, what room were you in on that occasion? A. I was in the hall, or the sitting room, if they call it that, and the parlor.

Q. Did you see any barrels then? A. I did.

Q. Where were the barrels then? A. In the sitting room.

Q. What kind of barrels were they? A. My recollection is that they were ordinary barrels, something like a flour barrel.

Q. Do you know the distinction between a flour barrel, an apple barrel and a sugar barrel? A. No, I do not.

Q. You don't know that a sugar barrel is considerably larger than an apple barrel or a flour barrel, made of different kinds of wood? A. No; I can't tell the distinction; at least if there was a distinction I didn't observe it.

Q. Were those barrels big enough, that you had seen on September 17th, that they would have attracted your attention if they had been there on September 15th? A. Yes, surely.

Q. What happened? A. Mrs. Grundy and Park had had some dispute, they told me, over the taking away of some pictures, I think some things Park said were his and Mrs. Grundy said they were not, he wanted to take them away to college with him and she didn't want him to do it; so I endeavored to adjust the argument.

Q. Was there anything discussed at that time

with respect to their marital relations? A. No, there was not.

Q. On the night of the 15th that you were there, could you state whether Mrs. Grundy had been drinking or not? A. I don't believe I could tell whether she had been drinking to excess.

Q. After the 17th did you see Mrs. Grundy? A. Oh, yes, several times.

Q. When was the next occasion? A. On the 18th.

Q. Where? A. At my office.

Q. How did she come to be there? A. (No answer.)

Hearing adjourned until June 22nd 1920, at 10:30 o'clock, A. M.

MARK TOWNSEND, JR., recalled.

DIRECT EXAMINATION (resumed) BY MR. LANE:

Q. Mr. Townsend, when we adjourned at the last hearing we were talking about the next occasion that you saw Mrs. Grundy after the 17th, and you said on the 18th, at your office. And I asked you how she came to be there. That question was not answered. A. I don't recall whether she came there and I got Mr. Grundy after that, or whether she came there by agreement with Mr. Grundy.

Q. What was the subject matter of the discussion, if there was a discussion? A. Well, that he was going to give up the apartment in which they were then living, when she was going to move, and I believe the matter of signing the agreement for her maintenance came up at that time. I had drawn the agreement some time—

could I see that blotter there? I can tell better by looking at that. (Witness refers to book.) I had drawn the agreement that they had spoken about, or at least I dictated it on the 16th, and at the time she was there the matter of signing the agreement was discussed, and I believe I left a copy with her.

Q. How did the agreement come to be drawn? A. The first time that I had talked with Mrs. Grundy about it, on the 9th, and at the subsequent conversation on the 15th, where the matter of her maintenance was increased—the amount of it—Mrs. Grundy was very greatly worried about what was going to become of her in the future, she was naturally broken up about the fact that her husband had moved away; he had gone, as I recall, on the 9th; she wanted something to show that he would continue to pay her this amount agreed upon in the future, so Mr. Grundy said in order to make her feel more at ease about her maintenance, etc., to go ahead and draw an agreement, if one could be properly drawn. That was after they had agreed, or it had been discussed, as to the matter of her not trying their case in the newspapers and avoiding publicity.

Q. Did Mr. Grundy ever express a desire to support his wife, in the presence of his wife, irrespective of the outcome of any divorce suit?

MR. HEYMAN: I object to that, if your Honor please, on the ground that it is leading. I think that the witness is intelligent enough to tell this Court exactly what the conversation was, without any assistance on the part of counsel.

THE COURT: It seems to be leading.

Q. What was said with respect to that? A. Are you referring to the conference at my office on the morning of the 18th, or at the house?

Q. What was said?

MR. HEYMAN: When?

Q. What was said at the first time the support of Mrs. Grundy was mentioned by Mr. Grundy?

MR. HEYMAN: When?

MR. LANE: The first time.

MR. HEYMAN: When was it? I object unless the time is fixed.

THE COURT: The witness may fix the time.

MR. HEYMAN: That is what I say.

A. The first occasion was September 9th.

Q. What was said? A. That was where Mrs. Grundy had been informed—I think I had told Mrs. Grundy that Mr. Grundy told me that he was through, he wasn't going to live with her any more, and he intended to start a divorce action. The matter of her maintenance—future maintenance—was discussed, as I related before, and Mr. Grundy told her, in my presence, that he would give her $100 a month for the rest of her life, provided that she did not throw her money away on liquor, and provided she led a clean and respectable life, to his satisfaction. She was not willing to take his word that he would do that, and it was her desire to have some agreement, or some paper, signed by him, as an evidence of his statement, or his agreement.

Q. I show you a paper writing and ask you whether that is the agreement which was drawn by you? A. Yes, that is one of them.

MR. LANE: I offer that in evidence.

Q. Where is the other?

MR. HEYMAN: May I inspect this agreement before it is admitted, to consider whether or not I will admit it or object to its admission?

Q. Have you the other agreement? A. Yes.

Q. Will you produce it?

MR. HEYMAN: May I ask that counsel permit me to finish the inspection of this paper? I thing I am entitled to that.

BY MR. HEYMAN:

Q. Did you say that you gave this to Mrs. Grundy for her signature? A. I did not say that; no, sir.

Q. Did you ever give this to Mrs. Grundy, or a copy of this to Mrs. Grundy? A. I don't think so, no.

MR. LANE: This is the paper he prepared.

MR. HEYMAN: I object to any paper this man prepared. How can it in any possible way bind this defendant, by any paper which be prepared and never communicated to this defendant?

THE WITNESS: I did not say that, Mr. Heyman.

THE COURT: I will take the paper now.

(Paper marked Exhibit P-13 in evidence.)

MR. HEYMAN: How can he in any possible way bind this defendant by a paper which he prepared in his office, without any knowledge on the part of this defendant, without any communication with her, and without imparting the contents of it to her? How can that in any way possible bind this defendant?

THE COURT: He didn't say it does bind her.

MR. HEYMAN: I would like to know for what purpose he offers it then.

THE COURT: I don't know know yet. I will take it.

BY MR. LANE:

Q. Did you communicate the contents of that paper to Mrs. Grundy? A. I did.

Q. When? A. My recollection is that it was on the 18th.

Q. How did that particular paper come to be drawn? A. I had drawn a previous one——

Q. Have you that? A. I have.

Q. Produce it. (A. Witness produces paper.)

MR. LANE: I offer it.

(Without objection the paper was admitted and marked Exhibit P-14.)

Q. How did the paper which was first offered, and which has been marked P-13, come to be drawn? A. I had originally drawn P-14 as it is there, but upon reflection, I think I had conferred with some other attorney, I don't know who it was, and I decided that the provision in there respecting counsel fees was vicious, was a bad one, and that it might be construed that Mr. Grundy was attempting to suppress her defense; and in order not to have anything like that, I redrew the petition, leaving out the provision respecting counsel fees.

Q. Well, now, which one of those papers did Mrs. Grundy have? A. My recollection is that she was given a copy of the first one.

Q. Of P-14? A. Yes.

Q. And took it away with her? A. I think

so. And I then later told her that it would not be executed, and told her the reason why, and said that I would redraw one and leave out the provision respecting counesl fees in it, so that she would be at liberty to engage counsel and apply to the Court for a counsel fee.

Q. Now, was the discussion on the 18th the final discussion with respect to these papers? A. No, I think not.

Q. What was the result of the conference on the 18th? A. Well, the conference on the 18th was that I redrew that agreement, from the original P-13.

By the Court:

Q. You speak of the original and the copy; you mean one is a copy of the other; or are they different? A. They are different.

Q. They are not copies of each other ? A. No.

Q. One is on first copy paper and the other is on carbon copy paper? A. Yes.

Q. P-14 is a carbon copy, and the other is original? A. Yes. I think it was redrawn that morning, at least it was dictated by me, and that afternoon Mr. Grundy and several other men and myself went to Shawnee on the Delaware and remained there until the 22nd. We went there on a golfing trip.

By Mr. Lane:

Q. Well, what was the next conference you had with Mrs. Grundy? A. I believe the 26th.

Q. What happened then? A. In the meantime, as a result of the conversation between Mr. Grundy and myself, it had been determined——

Mr. Heyman: I object to that, if your Honor please, to any conclusions or determin-

ations. Tell the facts; determinations are objectionable.

Q. Had been determined by whom? A. Mr. Grundy and myself.

MR. HEYMAN: I object to any determination between Mr. Grundy and counsel.

A. A certain determination had been arrived at between Mr. Grundy and myself——

Q. What was the determination?

MR. HEYMAN: I object to any determination, if your Honor please.

THE COURT: How can you vindicate that?

MR. LANE: In view of the fact that the petitioner is charged, or I assume will be charged, with attempting to suppress the defense by this agreement, I want to show what was in the minds of the parties with respect to this agreement, with respect to whether it is or is not collusion or an attempt to suppress the defense. I am entitled to show, outside of Mrs. Grundy, what their intent was.

THE COURT: Do you still object?

MR. HEYMAN: Most assuredly, now more than ever. No question has ever been raised about any collusion or anything like that. I have never raised any such question in this case.

THE COURT: I will take it.

A. That the agreement would not be signed.

Q. Well, acting upon that determination, what happened. What did you do? A. In the meantime, after that first paper—after Exhibit P-14 had been drawn, some time between that date and the next time that I saw Mrs. Grundy, on

the 26th, she had consulted Mr. Van Winkle—Mr. Marshall Van Winkle—and Mr. Van Winkel had written me a letter, which I received shortly after our return from Shawnee. I had had a conversation with Mr. Van Winkle and wrote him a letter.

Q. Will you go to the 26th; what happened as a result of this talk? A. I told Mrs. Grundy that Mr. Grundy would not execute any such agreement.

Q. That is on the 26th? A. Yes, sir.

Q. What did she say? A. I don't recall what she did say at that time.

Q. Well, was the copy of the agreement which she had then delivered? A. I asked her to return the carbon copy that I had given her.

Q. Did she? A. She did.

Q. After that, when did you see Mrs. Grundy? A. I believe it was the 30th.

Q. What was the purpose of that conference? A. Mrs. Grundy had been served with the citation and copy of the petition for divorce. She came down to my office, greatly excited about the matter, and wanted to know what she should do. I told her the best thing she could do was to get a lawyer—to consult one. She claimed she didn't know of any lawyer—that is, not that she didn't know any lawyer, but there wasn't any lawyer that she knew that she wanted, and Mr. Van Winkle could not handle her case. She then told me she had not retained Mr. Simpson, and then wanted me to recommend some lawyer. I told her the reason why I could not do it, being counsel for her husband, and I certainly could not pick out a lawyer for her. I believe I gave her the names of probably six or ten lawyers —I don't know how many—and told her those

were good lawyers to get, and any of them could handle her case and take the best of care of it. I think with that she left my office.

Q. Can you tell me the names of the lawyers whom you recommended, or whom you suggested? A. I can probably tell you the names of two or three of them.

Q. Tell me the names of those whom you remember? A. One was Edwards & Smith; Vredenburgh Wall & Carey; Ziegener & Lane; Robert Carey—there were several more, but I can't recall.

Q. Will you tell me when you next heard from Mrs. Grundy? A. She came to my office on October 6th.

MR. LANE: It will be noted for the purposes of the record, that I am not now and was not at the time, a member of or connected with the firm of Ziegener & Lane.

THE WITNESS: No; it was your brother. In fact, I had sent another case to him a year or two ago before this.

MR. HEYMAN: Also a divorce case?

THE WITNESS: No; I think that was a case where a man had been arrested charged with deserting his wife, or something like that. He came to me as a member of the Ethics Committee.

Q. Do you remember what took place at that time? A. If I can see another memorandum (producing and referring to memorandum). At one of the previous conferences with Mrs. Grundy, following out her suggestion made at the house, she wanted to go to Reno to get a divorce there, in order to save this litigation and the publicity about the divorce she said that would follow,

and at one of those conferences, I had taken the matter up with Mr. Grundy and the matter was under advisement, whether she would go to Reno or not; and on October 6th she telephoned me in the morning from somewhere out on Long Island and she came in the office in the afternoon; I don't know whether it was that date or not; it was one of those times around there; and I told her that Mr. Grundy would not consent to having her go to Reno.

Q. After that, did you see her again? A. I saw her several times. At that time I had asked her if she had gotten any lawyer; and she said she didn't know of any that she wanted to go to, and she wanter me to pick out one for her. I reiterated what I said before. I did finally tell her, I said, "Why don't you go around to see Judge Carey and take up the proposition with them?" Shortly after that I had gotten a letter from Judge Carey, or a telephone message from him, saying that he represented Mrs. Grundy. She frequently came in after that time. She was then living, I think, down somewhere in Long Island, at Mrs. Mulack's; she would come to my office and state that she had an appointment with Judge Carey and went around there and found a number of people in his office, she didn't know what to do, she couldn't wait there all day, and I advised her to go back the following day and follow whatever advice he would give her and that continued for several months. She seemed to blame me for Judge Carey not keeping the appointment with her at the time he made it.

Q. Was there ever, by you, or in your presence by anyone else, any suggestion made to Mrs. Grundy with respect to suppressing her defense? A. There was not, absolutely; on the

contrary, in order that there might not even be any intimation of any such thing, I insisted and advised her to get an attorney, and finally, when she would not select any of the list that I gave her, because she did not know any of them and was reticent about going to their offices, I suggested that she go to Judge Carey.

Q. In your testimony that you gave the other day, on page 18 of the transcript, you are quoted as saying, "She said she had known a Mrs. Fletcher who had gone there and gotten one and she could get one there, and she thought she could go out and stay and get one, she wanted Mr. Grundy to send her to Reno." Do you desire to make any correction with respect to that know whether she knew Mrs. Fletcher; I know that she knew of a Mrs. Fletcher.

Q. And the correction is this, by changing it from "She had known a Mrs. Fletcher" to "She had known of a Mrs. Fletcher"? A. Yes, sir.

CROSS EXAMINATION BY MR. HEYMAN:

Q. It is true Mr. Townsend, that Mrs. Fletcher had gone to Reno and procured a divorce, isn't it? A. From what I subsequently learned, yes.

Q. Well, Mrs. Fletcher had been your client, hadn't she? A. Yes.

Q. And you had sent her to Reno, hadn't you? A. No.

Q. Didn't you tell Mrs. Grundy that you sent Mrs. Fletcher to Reno and she got her divorce? A. No, because Mrs. Grundy——

Q. Didn't you tell Mrs. Grundy—— A. I did not.

Q. Mrs. Grundy was the first one to mention Reno, wasn't she? A. She was, to my recollection.

Q. She asked you if it wasn't possible for her to go to Reno and get a divorce in Reno, didn't she? A. Finally, yes.

Q. Well, who first suggested her going to Reno? A. Mrs. Grundy.

Q. Where? A. At her house.

Q. When? A. My recollection is that it was on the 9th of September.

Q. And it was arranged that she should go to Reno, wasn't it? A. Not as far as I know.

Q. Didn't you and Mr. Grundy make arrangements for her to go to Reno? A. I don't know what Mr. Grundy did. I did not.

Q. Don't you know whether or not Mr. Grundy had made arrangements for her to go to Reno? A. As far as my knowledge goes, Mr. Heyman, he did not. Mr. Grundy was considering the matter, as to whether he would let her go to Reno.

Q. Now, didn't you ask Mrs. Grundy to go to Mrs. Fletcher, meet her, and talk about her trip to Reno? A. I think not.

Q. You think not? A. Yes; I say that for this reason——

Q. Never mind reasons; you think not, is that your answer? A. I submit I have a right to finish my answer.

Q. I ask you to please answer my question. A. Yes. To the best of my recollection I did not.

Q. Mrs. Grundy did not know Mrs. Fletcher, did she ? A. I believe she did, because——

Q. Never mind because; did she, or did she not?

MR. LANE: If you know.

A. I had no personal knowledge, except they used to both go to the same golf club on Sundays.

Q. Then why did you correct your testimony

just now from "She said she had known a Mrs. Fletcher who had gone there" to "She had known of a Mrs. Fletcher who had gone there"? A. I don't correct my testimony. That testimony was incorrectly taken. I don't know as a matter of fact, I have never known, whether Mrs. Grundy traveled with Mrs. Fletcher or not. Mrs. Grundy lived just across the hall from Mrs. Fletcher's present husband, and had, for a number of years.

Q. That is Mr. Smith? A. Yes.

Q. That is the former husband of Mrs. Kruger, who was a witness in this case, is that so? A. Mrs. Mildred Smith's husband.

Q. I say, that is the former husband of Mrs. Kruger who was a witness in this case? A. No it is not.

Q. Will you explain the relationship between the former Mrs. Fletcher and the former husband of Mrs. Smith, or Mrs. Kruger, I mean? A. Mr. Smith was fomerly the husband of Mrs. Mildred Smith.

Q. And is at present the husband of Mrs. Fletcher, isn't he? At the present time the husband of Mrs. Fletcher? A. Exactly. That isn't what you asked me. You asked me if he is the present husband of Mrs. Smith, or Mrs. Kruger.

BY THE COURT:

Q. Which one is it that lived opposite Mrs. Grundy? A. Mrs. Smith formerly lived there, I think on the same floor.

BY MR. HEYMAN:

Q. Weren't you the attorney for Mrs. Fletcher at the time, or shortly prior to her obtaining a divorce? A. Mrs. Fletcher had consulted me shortly before going to Reno. At the time she consulted me she had had her mind already made up, I think had had her plans already formulated.

Q. You recommended an attorney to her, didn't you? A. I knew no attorneys, except that I went through the list of the Western Union Telegraph Company and picked out a firm of lawyers, and wrote to them then to find out that they had been retained by Messrs. Fort & Fort, to represent the husband; and I think, through some arrangement with Fort & Fort, they finally represented Mrs. Fletcher.

Q. Were those arrangements made by you with Fort & Fort? A. I had had a conference with Mr. Shipman, of Fort & Fort's office, relative to it.

Q. Then it is a fact, Mr. Townsend, isn't it, that you arranged for Mrs. Fletcher's divorce in Reno, isn't it? A. No, I wouldn't say that; I had something to do with some arrangements so far as getting counsel out there was concerned, yes.

Q. You knew all about the divorce, didn't you? A. You mean now?

Q. That the suit had been instituted? A. Not until the thing was over; I assumed that it had been instituted.

Q. You assumed that it had been instituted? A. Yes.

Q. You had no correspondence with Reno attorneys about the matter, had you? A. Oh, yes; in the first instance, certainly.

Q. Did you have anything to do with Mrs. Mildred Kruger's divorce case? A. No, I did not.

Q. Didn't you represent Jack Smith at the time that the suit was in progress? A. I did not.

Q. Who was the attorney for Mr. Smith? A. I don't know.

Q. Where was the divorce obtained? A. I understood it was obtained in New York. I know that only from what Mr. Smith told me.

Q. When did he tell you that? A. About the time the thing was pending.

Q. You don't know who his attorney was at that time? A. Whose, Mrs. Smith's?

Q. His attorney. A. You asked me about Mrs. Smith.

Q. I am asking you now, do you know who the attorney of Mr. Jack Smith was at the time the suit was pending? A. No, I do not.

Q. You don't know anything at all about that case? A. That isn't what I said.

Q. I am asking you now, do you know anything at all about that case? A. I know a lot of things about that.

Q. Tell us what you know? A. I object to telling what I know.

Q. Tell us what you know about the facts of Mr. Smith's divorce case? A. I object to telling that.

THE COURT: What has that got to do with this case, Mr. Heyman?

A. On the ground that it is privileged.

Q. On what ground is it a privileged communication?

THE WITNESS: He wants to know what I know about the Smith divorce case and I object to telling him.

Q. You say you object on the ground that it is a privileged communication? A. Not necessarily.

Q. But you did say on the ground that it was privileged? A. You heard my answer, didn't you?

Q. All right; I want to know what privilege you claim? A. For this reason, that Mr. Smith consulted me about the matter while we were playing golf together, and he consulted me about getting a divorce in Jersey, and I told him I didn't think he could get one.

MR. LANE: I object to that on the further ground that it is immaterial and irrelevant. We are not going to investigate the Smith divorce case here.

MR. HEYMAN: I am not going to investigate anything. I want to know what his connection with the Smith divorce case was.

MR. LANE: You have asked him for the facts.

MR. HEYMAN: I haven't asked him for anything.

Q. On what grounds do you claim that is a privileged communication? A. I told you, I am not claiming that, I said. I withdraw that objection, Mr. Heyman.

Q. Why did you say it? A. Well, for the reason —do you want to know the reason? Mr. Smith and I had played a lot of golf together. I think Mr. Smith talked to me about the time he and his wife had separated, casually mentioned the thing to me, that they had separated, and he wanted to know if an action could be maintained in New Jersey, and I told him in my judgment, no. And he wanted to consult a lawyer in New York, and I sent him to a man that I knew, former Judge Campbell. Now, that is the extent of my communication with Mr. Smith about his divorce case, whether you consider that a privileged communication or not.

Q. After that you had absolutely nothing to do with the matter? A. Nothing whatsoever.

Q. You did not communicate with former Judge Campbell? A. I did not.

Q. Never wrote him any letters at all about the Smith divorce case? A. I did not.

Q. And he never wrote you about the Smith divorce case? A. He did not.

Q. And you received no part of his fees? A. I did not.

Q. Do you know upon what grounds that divorce case was instituted? A. I do not.

Q. Do you know who was the petitioner and who was the defendant? Who was the petitioner, or plaintiff? A. If your Honor please, I don't think that is at all relevant to this matter.

THE COURT: It doesn't seem to me to be relevant although counsel did not object.

MR. LANE: I have objected. I objected to the first question asked along these lines.

THE COURT: I will overrule it. It does not seem to me to be material or relevant to this matter.

Q. Did you ever send anybody to Reno to get a divorce?

MR. LANE: Yes, or no.

A. You mean, other than the Fletcher incident about which you have spoken?

Q. Did you ever send anybody to Reno to get a divorce? A. You mean, other than the Fletcher incident about which you have spoken? Do you include that?

Q. Can't you answer that? A. I cannot.

MR. LANE: I submit he has a right to exclude a particular case as to which there has been discussion, as to which there is some evidence already.

MR. HEYMAN: It seems to me the question is perfectly simple, if your Honor please; it can be answered yes or no. I am entitled to that answer.

THE COURT: He may exclude that one.

MR. HEYMAN: He may exclude anything

he likes. Did you, or did you not, ever send anybody to Reno for the purpose of instituting a suit for divorce? That is a very simple question, and a man of his intelligence ought to be able to answer it without any quibbling or without any fencing.

THE COURT: I don't understand it is quibbling. I understood that he asked you before if that is exclusive or outside of the Fletcher matter.

MR. HEYMAN: I submit that my question is perfectly simple. If your Honor thinks it is not I will reframe the question. If your Honor thinks the question ought to stand I will let it stand. Does your Honor exclude the question?

THE COURT: The question has not been excluded at all. The witness asked you if you intended to exclude the Fletcher incident.

MR. HEYMAN: I am not excluding anything. I am asking him a very simple question in plain ordinary, every-day language.

A. May I ask you what you mean by "send", Mr. Heyman?

Q. Don't you know English, Mr. Townsend? A. Yes, I do. Not necessarily the way you ask it.

Q. Don't you understand my English? A. Not necessarily, not the way you do.

Q. So that is the best answer that you can give me to that question, is it? A. Other than what I have told you, Mr. Heyman.

Q. That is the best answer that you can give to that question, Did you send anybody to Reno for the purpose of instituting a suit for divorce, at any time, and any person, during your experience as a practicing attorney and counsellor of

this State? A. My dear sir, I cannot answer that question intelligently until you can tell me what you mean by the use of the word "send".

MR. LANE: That is your answer. Please let it stand that way.

Q. Is that the answer you want to stand to that question?

THE COURT: He has given an answer to that question. Go ahead with the next question.

Q. Did you ever ask or suggest to Mrs. Grundy that she go to Reno to get a divorce? A. I did not.

Q. Did you ever say to her that you could make arrangements out there so that she could get a divorce? A. At the time?

Q. Did you ever say that you could make arrangements in Reno so that she could get a divorce? A. Mr. Heyman, it is practically impossible for me to answer that question in the manner in which you put it.

Q. That is your answer, is it? A. I will say no, if that is the way you insist on asking me the question.

Q. Are you familiar with the divorce laws of the State of Nevada? A. No; to a certain extent, yes, but as an expert, no.

Q. But you do know the grounds upon which divorces are granted in Reno, don't you? A. I know some of them.

Q. You know the law regarding residence in the State of Nevada for the purpose of instituting suits for divorce, don't you? A. I do.

Q. You know that it is not necessary to allege adultery in Reno, don't you? A. No; it is not necessary.

Q. You know that, and you knew it at the time that Mrs. Grundy—

By The Court:

Q. You mean there are other causes for divorce? A. Yes, sir; other grounds besides adultery.

By Mr. Heyman:

Q. You knew that at the time that Mrs. Grundy was at your office at these various consultations and conferences and advisements? A. I know that you can get a divorce in the State of Nevada on other grounds than adultery.

Q. At the time Mrs. Grundy was at your office? A. Yes, sir.

Q. At these various conferences which were had between you, Mr. Grundy and Mrs. Grundy? A. Yes, sir.

Q. You never suggested to Mrs. Grundy that she go to Reno and get her divorce? A. I did not. Mrs. Grundy made that suggestion.

Q. In your presence? A. Yes.

Q. Then you and Mr. Grundy took that under advisement? A. Mr. Grundy took it under advisement, as to whether he would allow her.

Q. Didn't you say before "Mr. Grundy and I took it under advisement"? A. All right, include myself if you like.

Q. Then did you consider, on Mr. Grundy's suggestion, the question of sending her to Reno to get a divorce, didn't you? A. I did not. This conversation—

Mr. Lane: Just a minute, Mr. Townsend. Answer the question and don't volunteer.

Q. Didn't you say a minute ago that Mr. Grundy suggested it, in your presence?

Mr. Lane: I object to that, if your Honor

please. It is a false statement of the witness' testimony. He has testified and reiterated that Mrs. Grundy suggested it.

MR. HEYMAN: My recollection is that I asked the witness whether or not he did not suggest to her going to Reno to get a divorce, and the witness answered Mr. Grundy suggested it in his presence. That is my recollection.

THE WITNESS: No, no. Mrs. Grundy suggested it then you said, "In your presence?" and I said "Yes". That is the way I heard it.

MR. HEYMAN: I ask the stenographer to refer back. My recollection is I asked the witness if he did not suggest Mrs. Grundy going to Reno to get a divorce and he said he did not, Mr. Grundy did.

(The stenographer reads the previous questions and answers, as follows: "Q. You never suggested to Mrs. Grundy that she go to Reno and get her divorce? A. I did not. Mrs. Grundy made that suggestion. Q. In your presence? A. Yes.")

Q. So Mrs. Grundy made the suggestion, in your presence? A. She did.

Q. Then you and Mr. Grundy considered it, and finally decided that he would not do that; is that right? A. That is correct.

Q. No arrangements were ever made about her going, either by you or Mr. Grundy? A. I did not say that.

Q. Had any arrangements been made? A. No. Inquiries had been made.

Q. What sort of inquiries had been made, and by whom? A. Under the state of facts given me

by Mrs. Grundy, I made inquiries from some attorneys as to whether they were grounds for divorce in the State of Nevada; that was in the presence of Mr. Grundy.

Q. It was what? A. All during this conversation.

Q. You made inquiries from attorneys? A. Yes, to ascertain whether any grounds for divorce existed on the part of Mrs. Grundy in the State of Nevada.

Q. Where did you make these inquiries? A. From the attorneys in Nevada.

Q. In Mr. Grundy's presence, did you say? A. I say Mr. Grundy was there at the time the facts were discussed.

Q. Now, let me understand you. You made inquiries in the presence of Mr. Grundy, you said? A. No, I didn't make any inquiries in the presence of Mr. Grundy.

Q. Now you say under the state of facts told you by Mrs. Grundy? A. Yes, in the presence of Mr. Grundy.

THE COURT: In this general conversation.

Q. What state of facts did Mrs. Grundy give you? A. Mrs. Grundy had told me that her husband had had no intercourse with her for some time.

Q. What else? A. I forget the length of time that she mentioned.

Q. What else? A. That was all on that particular line. She thought that she could get a divorce in Reno on that ground.

Q. Well, how did you make inquiry, by letter, telegram or telephone? A. I can't recall, Mr. Heyman.

Q. You must be able to recall how you made these inquiries; you have some record of it; where

is your note book; where is your diary; look it up and tell us what sort of inquiries you made? A. Will you please repeat those first ten questions; they were all asked at the same time.

Q. You must remember. A. If Your Honor please it is impossible for me to answer those ten questions at the same time.

THE COURT: (After questions were repeated) There are several questions involved in that one.

Q. Have you got any record of the inquiries you made? A. I have not.

Q. Do you know whether it was by telephone? A. It would not be by telephone.

Q. By letter? A. It was either by letter or telegraph.

Q. Have you got any copies of any letters or telegrams which you sent? A. I think not, Mr. Heyman; I haven't any in my papers; I tried to find them.

Q. You did try to find them? A. I tried to find them, if there were any in existence; I couldn't find any in my file.

Q. When did you try to find them? A. Well, in the last—I think since the last hearing, or at the last hearing, that day or the day following, or the day before, I don't know which.

Q. Why did you try to find them? A. Well, in order to refute Mrs. Grundy's statement or suggestion that I was trying to railroad her off to Reno for the purpose of her getting—Mr. Grundy getting rid of her.

Q. When had Mrs. Grundy made that suggestion? A. Well I don't know whether Mrs. Grundy had made the suggestion; if she hadn't, you had.

Q. When? A. At either one of the last few hearings.

Q. To you? A. No, in open court here.

Q. That was the reason you thought that you ought to have these letters? A. I wanted to go over the record, Mr. Heyman, that I had.

Q. You haven't any copies of those records? A. I have no copies in my file; I wasn't able to find any.

Q. What happened to the copies? A. I don't know, I am sure, sir.

Q. Where did you keep the copies? A. My girl always kept the copies, the girl that I had at that time was away, she was away about this period of time, in September, and since that time she left.

Q. Now, you knew that it was rather important that you should have these copies here, didn't you? A. Knew when.

Q. All the time, since the last hearing? A. I did; I looked for them and couldn't find them.

Q You remember the names of the attorneys with whom you communicated? A. Yes, I certainly do.

Q. Is that right? A. Yes.

Q. Did you write to them and ask them to send you copies of the correspondence? A. I have not.

Q. Did you?

THE COURT: He said not.

Q. Why didn't you, if you thought they were so very important? A. I didn't say that I thought they were so very important, sir.

Q. But they were important to you, weren't they? A. That is a conclusion, whether they were or were not.

Q. Don't you care to give us a conclusion whether they were or were not? A. Do you want one?

Q. Do you care to give us a conclusion? A. Do you want one?

Q. Will you answer my question? A. Not unless you can answer mine.

Q. That is the best that you can give us on the question of the records, is it, that you have no records whatsoever of any communications with anybody in Reno respecting divorce? A. I didn't say that.

Q. In this case? A. I didn't say that.

Q. Well, have you got any records? A. I said I have not been able to find any; I have none in my files.

Q. Have you got any records? A. I have not been able to find any, sir.

Q. Won't you please answer my question? A. That is the best answer I can give you.

Q. Have you, or have you not, any records regarding the question of Mrs. Grundy going to Reno to procure a divorce? A. As far as my search has gone, Mr. Heyman, I have not been able to find any.

Q. Have you got any records? A. I can't tell you, sir, unless I find them; if I could find them I should say yes; if I don't find them I should say no.

Q. Have you got your files here in this matter? A. Yes.

Q. Will you look through these files here? A. Yes.

MR. LANE: Counsel has already looked. There is no use of taking the time to look over the file, if he has already taken the time to look over them today.

THE COURT: Certainly. Have you looked at this file?

THE WITNESS: I have looked this morning.

Q. And you can't find anything in your files or anywhere at all? A. No, sir.

Q. You don't know whether it was a telegram or whether it was a letter, do you? A. I can't recall at this time; it was one or the other.

Q. Was it one communication, or was it more than one? A. My recollection is that it was one communication.

Q. You remember with whom? A. Yes.

Q. Whom? A. Hoyt, Gibbon & French.

Q. Do you remember their address? A. No, I do not, only the fact that it is Reno, Nevada.

Q. Where did you get the name of Hoyt, Gibbon & French? A. Hoyt, Gibbon & French had been attorneys in the Fletcher case; I also got them through the Western Union directory.

Q. Did you ever have Hoyt, Gibbon & French in any other case, outside of the Fletcher case? A. I have not.

Q. Were there any other arrangements of any kind made, whereby Mrs. Grundy was to go to Reno to procure a divorce? A. Mr. Heyman, in the first instance, no arrangements were ever made for Mrs. Grundy to go to Reno.

Q. Were there any arrangements, other than those that you have spoken of here, ever made? A. Other than the inquiries that I made?

Q. Other than what you have told us here, whereby Mrs. Grundy was to go to Reno to procure a divorce? A. No steps—subsequent to that time, while Mr. Grundy had this thing under advisement, he decided that he would not let Mrs Grundy go to Reno to get a divorce.

Q. So that nothing else was ever done, outside

of the inquiries which you have made? A. So far as I know.

Q. In regard to her going to Reno to procure this divorce? A. So far as I personally know.

Q. Now, don't you know, from your own knowledge, that all these arrangements had been made, and that railroad accommodations had been provided, and that at the last minute Mrs. Grundy refused to go? Don't you know that? A. I do not. On the contrary—

Q. Don't you know that? A. I say I do not. On the contrary, I should say—

Q. Just please listen, Mr. Townsend. A. I said I don't. I said, on the contrary—

Q. Explain at any time you please, but not while I am examining. Just answer my questions, if you will, and I think we will get along very much better. Now, don't you know, as a matter of fact, that all the time tables had been procured and handed to Mrs. Grundy, properly marked; don't you know that? A. I do not.

Q. You never saw those? A. I did not.

Q. They were not handed to her in your office? A. They were not.

Q. And Mr. Grundy did not write out on those time tables exactly what directions she was to have? A. I don't know.

Q. Didn't you see that? A. No, I didn't see Mr. Grundy do any such thing.

Q. You did not see it? A. No, sir.

Q. You did not see any time tables in your office? A. No, sir.

Q. You did not see anything turned over in your office, in your presence?

MR. LANE: I object to that. The question was answered.

Q. Don't you know that?

MR. LANE: I still object.

Q. Don't you know that?

THE COURT: I will take it.

A. I have answered that, Mr. Heyman; I said that I do not.

Q. But there had been constant talk, Mr. Townsend, hadn't there, from the 26th day of August, 1919, up until the 26th day of September, about her going to Reno to procure a divorce? A. I would not necessarily limit it exactly to the 26th; I would include even down to June 1st, 1920.

Q. June 1st, 1920? A. Or at a subsequent date.

Q. Pardon me. A. Or a subsequent date.

Q. There had been constant talk over that, down from August 24th, on? A. Maybe—

Q. Can't you answer that yes or no? A. I cannot.

Q. All right; I will withdraw the question. A. Unless you tell me what you mean by constant talk.

Q. Well, you talked with Mrs. Grundy from the 26th of August about going to Reno, hadn't you; you, Mr. Grundy and Mrs. Grundy? A. Mrs. Grundy had talked to me about going there; I told you that.

BY THE COURT:

Q. You said that was continued until after the 1st of June, 1920? A. I had never talked to Mrs. Grundy about it; other people have talked to me about it.

BY MR. HEYMAN:

Q. Mr. Townsend, you recollect the day that

Mrs. Grundy went to Robert Carey, don't you? A. I don't recall the date offhand, Mr. Heyman.

Q. Well, I mean you recollect the day; I don't mean the date.

THE COURT: The occasion, he means.

A. I remember, I think the first time that I knew that she went to Judge Carey was when Judge Carey telephoned me—either telephoned me or she told me, I can't recall which; I remember that I knew about the time that she went there yes.

Q. Now, don't you remember that you called Judge Carey from your telephone and made an appointment for her, and that she went directly over there? A. I may have done that.

Q. And don't you remember that you followed her and went to Judge Carey's office in five or ten minutes later, while she was sitting in the office, and you went in and had a talk with Judge Carey? Don't you remember that? A. I have been to Mr. Carey's office so frequently—my recollection is, since you speak of it, possibly I did telephone Judge Carey and say that Mrs. Grundy was coming over.

Q. Then you went, later on, and you saw Judge Carey while she was in his office—I don't mean in his private office, I mean in his offices. A. I don't recall that.

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

Q. You wouldn't say that you didn't? A. No, no; because I saw Judge Carey very frequently; I was in some litigation with Judge Carey at that time.

Q. But you went over the facts in the Grundy case with Judge Carey very particularly, didn't you? A. I think not, other than Judge Carey had asked me and I told him—I can't give you

the date or what time it was, but Judge Carey had asked me what the situation was and what the facts were, and I told him substantially what had occurred on the—at the Levine incident and the Evans incident; I told Judge Carey that.

Q. Is that all that you talked about in that matter? A. That is all that I can recall just now.

Q. Well, didn't you tell Judge Carey her entire life's history? A. Possibly I did.

Q. You wouldn't say that you didn't? A. No.

Q. Now— A. I will not say her entire life's history, because I didn't know that.

Q. What is that? A. I didn't know her entire life's history. I assume that you meant the history of her marital life. Is that what you mean?

Q. Well, I mean so far as you knew her life's history you told Judge Carey; so far as you knew? A. I wouldn't say that. I told Judge Carey about her drinking.

Q. You told Judge Carey about her continuous life's history from the time that you knew her, didn't you, and from the time that you had heard about all this drinking and the carryings on; isn't that so? A. I probably told Judge Carey the fact that she had been a very heavy drinker for some years, and still continued it.

Q. Now, Mr. Townsend, you were very frequently with Mr. and Mrs. Grundy for several years last past, weren't you? A. Yes, I will say that.

Q. Visited their home and they visited yours? A. I had been at Mr. and Mrs. Grundy's home on several occasions; I don't know whether they had ever been to mine or not; I don't recall.

Q. But you had been to their home on several occasions? A. Yes.

Q. On some of those so-called parties that have been spoken about? A. No; my recollection is I was there twice in all this time.

Q. Well, I mean on occasions when you would have dinner there? A. No, I never had dinner there.

Q. Well, you went there after dinner? A. I was there on one occasion with my wife, stopped in a few minutes; I think we had been over to the Jersey City Club for dinner and I met Mr. Grundy at the club and he wanted us to come over.

Q. Well, on any of those occasions did you ever have anything to drink at Mrs. Grundy's home? A. Oh, I suppose if they ever offered me any I would take it; I can't recall.

Q. You don't remember whether you had any or whether you did not? A. I may have had a drink. I certainly did not have more than that.

Q. Well, do you ever remember having a drink there at the house? A. I do not.

Q. Drink liquor, whiskey, cocktails, or high balls, or what else? A. No, I have no recollection of it.

Q. Don't you remember one night— A. I suppose if they offered me one I would take it.

Q. Don't you remember one night that one of the boys brought a bottle of stingers from the club and you all had a drink at the house? A. I recall that incident, yes.

Q. Do you know what a stinger is? A. Since the 18th Amendment went into effect my memory is bad about that.

Q. Before the 18th Amendment went into effect what was it made of? A. I believe it was some sort of cocktail.

Q. Made out of whiskey? A. With whiskey? I don't know that, no.

MR. LANE: Half brandy and half creme de minthe.

Q. Did you ever drink one of those things at Mrs. Grundy's house? A. I have no recollection of that; I know I have drank there.

Q. You know somebody brought it there? A. I remember Mrs. Grundy told me it was there; I believe one of the fellows had brought some over.

Q. Mr. Grundy was present? A. I don't know where Mr. Grundy was; he was somewhere in the house.

Q. He was in the house, you mean? A. Yes. Although I don't believe Mr. Grundy knew that this party had brought any over; my recollection is that that was not to be published.

Q. Your recollection is what? A. My recollection is that it was not to be published.

Q. What was not to be published? A. The fact that this fellow brought some over.

Q. Who was the fellow that brought some over? A. I believe, I think it was a man by the name of Hartranft.

Q. And the fact that he brought it over was not to be published to whom? A. I say that I don't think Mr. Grundy knew of it.

Q. You don't think Mr. Grundy knew, and Mrs. Grundy didn't want to know it; is that what you mean? A. That is my impression; I may be wrong about that, Mr. Heyman.

Q. Did she tell you not to tell? A. No, I don't think she said that.

Q. Then why did you suggest that thing? A. I say it for the reason that Hartranft—in order to answer that question I will have to bring in the conversation I had with Hartranft. If you can do that I can easily explain.

Q. Did you want this Court to believe that Mrs.

Grundy did not want anybody to know that Hartranft had brought this stuff? A. No, sir.

Q. What did you mean to intimate? A. Mrs. Grundy did not want Mr. Grundy to know that Hartranft had brought it.

Q. And she said so to you? A. I don't recall whether she said so to me or not.

Q. Then why did you say such a thing? A. For the simple reason that my conversation with Mrs. Grundy and my conversation with Hartranft gave me that impression. Will you tell us anything that Mrs. Grundy said to you, at any time, which would lead you to believe that she did not want Mr. Grundy to know that Hartranft had been to the house with this liquor; anything at all, at any time? A. I don't know whether Mrs. Grundy said that to me, but Hartranft did tell me at that time that Mrs. Grundy had called him up at the club or sent him over to the club to bring this liquor over.

Q. Is there anything in that which would lead you to believe that she didn't want Mr. Grundy to know it? A. I—

Q. Is there anything in that which would lead you to believe that? A. Yes.

Q. There is? A. Yes.

Q. Well, now, that night, Mr. Townsend, you had had dinner at the club, hadn't you? A. My recollection is that I had.

Q. And Mr. and Mrs. Grundy and Hartranft also had had dinner at the club? A. I don't know that.

Q. Didn't you see them there with Joe Perlmuller? A. I have no recollection of seeing them there.

Q. You have no recollection of seeing them there? A. No, not seeing them that day; I may have been to my father-in-law's.

Q. You have a very distinct recollection of what Mr. Hartranft told you, haven't you? A. I have; for two reasons.

Q. Never mind the reasons; you have a very distinct recollection of that, but you have no recollection whether you had dinner at the club? A. I remember stopping in there on the way home. Now whether we were there at the club or had dinner at my father-in-law's house, I don't know which.

Q. You have no recollection of seeing Mr. and Mrs. Grundy and Mr. Hartranft at the club that night? A. I don't know; they may have been there, but I have no recollection of that; I may have seen them; I don't recall.

Q. Now, Mr. Townsend, you and Mr. Grundy were very close, intimate friends, weren't you? A. Oh, yes.

Q. Played golf together? A. Yes.

Q. And went off on trips together, didn't you? A. No; this one, the Shawnee occasion around 1919, September, was the only time I was ever away with Mr. Grundy.

Q. You play golf with him very often now, don't you? A. No, I don't think I played golf with Mr. Grundy inside of a year, except the last time we were up to Shawnee.

Q. Before that time you played with him very frequently, didn't you? A. I never played golf with him frequently; he and I belonged to the same golf clubs for a number of years and I used to see him out there. I played more golf with Mr. Grundy around 1911.

Q. You would go out with him to the club sometimes? A. I may have.

Q. Now, you went there to the house for the first time on August 26th, didn't you, with reference to these marital difficulties? A. That is my recollection, yes.

Q. On August 26th; is that right? A. That is my recollection, yes.

Q. Where is your book? May I look at it a minute, please? A. Certainly.

Q. Are these all in your handwriting, everything in this book? A. Yes, everything in there is in my handwriting.

Q. You have testified that you had a conference with Mr. Grundy on September 9th; is that right? A. Yes.

Q. Where did you have that conference? A. Mr. Grundy came to my office and I then went to her house.

Q. How is that? A. I went to her house.

Q. Mr. Grundy came to your office, did you say? A. My recollection is he came to my office some time in the afternoon.

Q. Then you, together with him, went to the house? A. Yes.

Q. Now, what time did you get to the house? A. I think it was around 5.30.

Q. How long did you stay there? A. I have no recollection; I assume half or three-quarters of an hour, possibly.

Q. What time did Mr. Grundy get to your office that day? A. I can tell you if you let me see the book.

Q. Well, can't you remember— A. No.

Q. Without the assistance of this book? A. No.

Q. Look at the book and tell us what time he got to your office. A. Well, I am wrong about being to Mrs. Grundy's house around six o'clock. Mr. Grundy came to my office about four o'clock and we went from the office up to his home, apparently, according to this record, and we were through there about half past five.

Q. Then your record is wrong, isn't it? A. No, I wouldn't say that. So far as the 5.30 on there is concerned, for instance, I don't pull out my watch to look and see what minute it is.

Q. Well, how long did Mr. Grundy stay at your office? A. I can't recall, Mr. Heyman, how long he was at my office; he was only there a short time.

Q. When did you get to Mrs. Grundy's home? A. Well, the time it would take to leave my office and go up there; I don't know whether we took the car or we went in his automobile.

Q. You don't know anything, as a matter of fact, about this episode, do you? A. Other than what I have testified to, I don't know.

Q. You don't know anything at all about it, do you? A. Nothing but what I have testified to.

Q. You don't remember a thing about it, do you? A. I just answered your question.

Q. That is the best answer you can give us, is it? A. Yes.

Q. This record, you say, is absolutely correct; no question about that? A. Well now, as I explained to you the other day, Mr. Heyman—

Q. Never mind about the other day; now is this book correct or is it wrong? A. This entry may have been made the next day, or it may have been made several days afterward.

Q. Can't you answer my question, Mr. Townsend? A. I cannot.

Q. You cannot answer my question? A. Not the way in which you put it.

Q. Can't you answer my question whether or not the entries in this book are correct or whether they are incorrect? Can't you answer that question? A. My recollection is they are correct. You were examining as to the time.

Q. All right. Tell us what time you left your office and what time you got to Mrs. Grundy's house? A. I cannot.

Q. Did you make a record of it? A. No, I did not.

Q. Why didn't you make a record? A. I didn't think it was important.

Q. You didn't think it was important to know when you were going to see Mrs. Grundy? A. I kept that record—

Q. You didn't think it was important to know when you saw Mrs. Grundy, did you? A. I did not.

Q. Still you kept making entries every day in this book of every time that you had had conferences with either one of them? A. I make them on every occasion.

Q. You didn't think it was important enough to make a record but still you did make a record of those various conferences which you have testified to here today, is that right? A. Mr. Heyman, if you will allow me to answer that question I will try to do so.

Q. Did you think it was important enough, Mr. Townsend?

MR. LANE: Counsel has asked that question at least ten times.

MR. HEYMAN: All right; I will withdraw it.

Q. Did you think it was important enough to make a record of every time you saw Mrs. Grundy? A. Important for what purpose?

Q. Did you think it was important?

MR. LANE: For any purpose. Answer the question yes or no. If counsel's question carries a false inference answer it no; that is all.

MR. HEYMAN: Now, if your Honor please, the Court ought to at least say something about it.

THE COURT: Go ahead with your question.

MR. HEYMAN: I think the Court ought to say something to counsel on that question. I don't think it is proper or fair.

A. No, I did not; I kept that for the time that I spent on the case.

Q. That is the only interest that you had in making any records in this book? A. Exactly.

Q. The time that you spent on the case? A. Yes, sir.

Q. That is the only reason that you made these entries? A. Yes, sir.

BY THE COURT:

Q. What is that, your charge book? A. Yes, sir.

BY MR. HEYMAN:

Q. Now, can you tell us why it is that in your record of August 26th you will find two different styles of writings? A. I used two different pens; I have two styles of handwriting; let me illustrate it to you.

Q. No particular reason why they should be in two different styles? A. No.

Q. Now, why did you note on the entry of August 26th, Tuesday, Grundy, Mrs. Grundy, conference; then in a different handwriting, with Mr. and Mrs. Grundy 1½ hours? A. I should say this is the same; I probably used this pen which I have here.

Q. Don't quibble about pens, Mr. Townsend. A. I am not trying to quibble about anything.

Q. Why did you write— A. I am not trying

to quibble on anything. If you will let me show you.

THE COURT: I don't think the question has any relation to pens. He asked you whether you wrote that underneath, or when you wrote it.

A. I can't tell you that, other than the fact that I frequently write a hand like this one, vertical, and then I will change to the other. I notice that the entry above is written with the same pen and the same system of writing as the entry of Mrs. Grundy's.

Q. I am asking you why you made the entry of the conference with Mr. and Mrs. Grundy. Why did you make that entry? A. Well, in order to charge it in submitting my bill to Mr. Grundy.

Q. Because you had had a conference with Mr. and Mrs. Grundy? A. Yes, exactly.

Q. Now, tell us why on September 9th, if you had a conference with Mrs. Grundy, didn't you enter it in your book? A. I don't know why the name of Mrs. Grundy wasn't entered in the book, I am sure.

Q. Were you there from 8 to 10? A. I was, yes.

Q. In the evening? A. Yes; I don't say all the time at the house; I was in the house part of the time and around part of the time.

Q. Did you have a conference with Mrs. Grundy at that time? A. I did not.

Q. Why didn't you write down here with whom, or what sort of conference you had from 8 to 10? A. Now, in order to put that in it would have taken two or three books to follow that out.

Q. That is the only reason? A. Other than the fact that we had the police department and the city ambulance and about two hundred people around the house.

Q. Any entry in that book about that? A. No.

Q. Why? A. Well, it wasn't necessary to put it down.

Q. You thought it was quite necessary, didn't you, representing Mr. Grundy at that time, the divorce proceedings pending or about to be instituted, that you should keep a record of everything that you did, didn't you? A. No, I did not.

By The Court:

Q. Is this a journal of facts and incidents, or is it a charge book? A. A charge book, entirely; I don't keep any diary as to the facts in this case.

By Mr. Heyman:

Q. But you used this to refresh your recollection as to the conferences which you had with Mrs. Grundy? A. As to the dates that I was at their house.

Q. You can tell from these entries? A. I can tell, irrespective of the entry, that I was at the house that afternoon, but I couldn't place the date without consulting that book, and I finally consulted records at the Police Headquarters and found that September 9th was the night that the police patrol and the city ambulance were there. I went there with Mr. Grundy, probably at half past five or quarter to six in the afternoon; and I went to the Jersey City Club with Mr. Grundy

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Mr. Lane: Mr. Townsend, will you please answer the question and no more. I don't know how many times I have said that. We will be here a week if you keep on this colloquy between counsel.

Q. Now, when you got to Mrs. Grundy's house on August 26th, you told Mrs. Grundy that you

were acting for Mr. Grundy as his attorney, didn't you? A. I endeavored to—yes, I did.

Q. What time did you get there? A. My recollection is around quarter of nine or nine o'clock.

Q. In the morning? A. Yes.

Q. Mrs. Grundy was in bed at the time wasn't she? A. She was.

Q. She was in such a drunken condition that she didn't know what was going on didn't you say? A. I wouldn't say that exactly.

Q. Well, what would you say about her condition, so far as drink was concerned? A. Mrs. Grundy showed every evidence of having been drinking heavily.

Q. What evidence did you say that she had been drinking heavily? A. Well, the odor, the breath, her eyes and general appearance and color.

Q. I will withdraw this line of examination for a minute. I show you your book, and I call your attention to the entry under date of December 9th, reading Grundy v. Grundy. Conference with Carey. Letters; and appearing after that, one hour. A. Yes, that is correct.

Q. Does that refresh your recollection? A. Yes.

Q. Did you have a conference with Judge Carey on that day? A. I did.

Q. Now, let us get back to August 26th. Her eyes were in what condition, Mr. Townsend? A. Well, it is rather difficult to describe what condition her eyes were in, but it showed that they were not in their natural condition, the same as any other person, who has been drinking heavily.

Q. From your experience you could tell by her eyes whether or not she had been drinking? A. Not necessarily; that would be one of the symp-

Q. Did you go into her bedroom? A. I did.

Q. Were the shades drawn or were they up? toms I would take into consideration, yes.

A. I don't recall.

Q. Was the light burning? A. I don't recall that.

Q. But you could see her eyes very clearly; there wasn't any question about that? A. I could see her general appearance; she was in the bed. I was right beside her there, Mr. Heyman.

Q. You could see her eyes very clearly? A. I could see her general condition; I could see her face the same as I see her now.

Q. I am asking you. Could you see her eyes clearly? A. Yes, I could clearly enough for the purpose which I have just answered.

Q. You went there for that purpose, didn't you? A. I did not.

Q. What did you go there for? A. I went there in response, possibly, to a request by Mr. Grundy.

Q. Did you go there to examine her condition? A. I did not.

Q. You went there to talk with her, didn't you? A. I did.

Q. You had to go up to the bed and stand alongside of the bed, in order to be able to do it, didn't you? A. I think Mr. Grundy, when we first got there, finally suggested my coming into the bedroom.

Q. I am asking you whether or not you did not have to go into the bedroom and stand alongside of her bed in order to be able to carry on any conversation with her at all? A. Yes.

Q. She was so positively drunk that you could not talk with her, isn't that so? A. She could—

Q. Now, can't you answer that question? A No, I can't answer.

Q. Yes or no? A. No, sir——

MR. HEYMAN: All right; that is all I want. If you can't answer it, say so. I don't want any stories. If your Honor please, I object to any speeches or anything else like that on the part of the witness. If my question cannot be answered state so, and that is all.

THE COURT: Well, I don't think counsel ought to admonish the witness.

MR. HEYMAN: I ask the Court to instruct the witness to answer my questions.

THE COURT: I will do that.

THE WITNESS: I will be very glad to answer them if I can.

Q. Well, could you talk with her? A. Yes.

Q. But you didn't? A. I should say not.

Q. Because she was drunk; isn't that so? A. I don't believe that she was so drunk that she couldn't talk. I don't think that she talked intelligently.

Q. Well, if she couldn't carry on a conversation with you intelligently, then she must have been so drunk that she couldn't do it; isn't that so? A. If you chose to put it that way, yes.

Q. Well, isn't that a fact? A. She was intoxicated, Mr. Heyman; now——

Q. Yes or no; don't you want this Court to believe from your testimony that Mrs. Grundy was so under the influence of liquor as to be unable to carry on intelligently a conversation with you; isn't that what you want this Court to believe? Now, isn't that so, Mr. Townsend? A. I am trying to testify, Mr. Heyman, as to what actually occurred; as to whether the Court believes it or not.

Q. I want you to tell this Court whether you want the Court to believe that this woman was so under the influence of liquor that she could not carry on intelligently a conversation with you? Now, is that what you want us to believe or not? A. Of course I can't answer if you want me to answer it that way.

Q. You can't answer it that way? A. No.

Q. So that you won't say that she was so drunk that she could not carry on a conversation intelligently, will you? A. I didn't say that.

Q. You didn't say that. Well, what will you say now as to her condition? A. If you will give me an opportunity to answer that question I will gladly do so. Mrs. Grundy was too intoxicated to intelligently discuss the matter that I went there, at Mr. Grundy's request, to discuss, and so told Mr. Grundy at the time in the room with her.

Q. Well, don't you want us to believe then that she was so drunk that she could not carry on a conversation intelligently with you? A. Yes.

Q. Why didn't you say so? A. If that is the answer you want, I will say so.

Q. Why didn't you say so when I asked you that before? Do you think this is such a laughing matter? A. It is, the way you argue.

Q. It has been a laughing matter all the way through, hasn't it? A. Your method of cross examination has been, yes.

Q. The whole defense has been a laughing matter to you, so far as Mrs. Grundy and my cross examination is concerned? A. No; just your cross examination; that is all.

Q. Now, what did you tell Mrs. Grundy on August 26th? A. When I went there I told Mrs. Grundy that I had come there in response to the husband's request.

Q. Go ahead; tell us the whole conversation? A. I can't tell you the exact conversation.

Q. I don't want the exact words; I want the substance of the conversation that you had with Mrs. Grundy on August 26th. A. Mr. Grundy said that he was through with her, that he had consulted me, was going to file a petition for divorce, and that he had said that she wanted to talk with him and me. I think that was the substance of the conversation, Mr. Heyman.

Q. What did she say? A. I think she refused —she didn't answer.

Q. Isn't it a fact, Mr. Townsend, that she pulled the cover over her head and said, "I refuse to talk to you"? Isn't that so? A. Absolutely not she didn't say a word.

Q. Didn't you just start to say "She refused" and then corrected yourself? Isn't that a fact? A. No; I didn't say that.

Q. Isn't it a fact that she refused to talk to you told you that she wouldn't talk to you, and pulled the covers over her head? A. It is not a fact.

Q. Didn't she pull the ocvers over her head? A. No.

Q. Didn't you so testify, that from her general actions at that time, pulling the covers over her head, that you say that she was in no condition to talk to you? A. She wasn't in any condition to talk.

Q. I am not asking you that. Did you say that? A. She had turned her head away; now I don't know if I testified——

Q. Didn't you testify—— A. If I testified that she pulled the covers over her head, that is probably correct; that is, my recollection is——

Q. I am not asking you whether it is correct

or not; I am asking you now: Didn't you testify on direct examination that she pulled the bedclothes over her head? A. If you will let me read the testimony——

Q. I am asking: Didn't you testify to that? From your recollection now? A. I should say yes.

Q. Then what did you mean, when you said a minute ago that you did not testify, or that she did not do it? A. Mr. Heyman, a lot of those small details, actually what took place there, are not first of all in my mind.

Q. It wasn't important enough for you to remember what took place there? A. No, apparently it was not; I did not go there for the purpose of seeking evidence.

Q. You cannot recollect the details which took place at that time, can you? A. No, I cannot recall.

Q. Will you say now whether or not Mrs. Grundy refused to talk with you, whether she didn't pull the covers over her head and said, "I won't talk with you, I won't have anything to do with you"? A. She did not say that, positively; she did mumble something in response to my statement to her.

Q. What was it she mumbled? A. I couldn't understand it, and no one else could have understood it there in the room.

Q. Didn't she pull the covers over her head when she mumbled? A. No.

Q. What did the pulling of the covers mean to you when you saw it? A. It didn't mean anything in particular to me, Mr. Heyman, except her general condition, and my decision to Mr. Grundy that she wasn't in a condition to attempt to talk intelligently about the subject matter at that time.

Q. That is all it indicated to you? A. Yes.

Q. It didn't indicate to you that she would not have anything to talk to you? A. Absolutely not.

Q. Didn't indicate that at all? A. No.

Q. Did she say anything at all to you at that time? A. No, as conversation; her mumbled conversation.

Q. Did she say at that time, on August 26th, while she was lying in bed? Did she say anything at all to you? A. I don't recall whether she did.

Q. Will you say that she didn't? A. I will say that she didn't say that she wouldn't have anything to do with me, that she didn't want to see me.

MR. HEYMAN: I ask that that be stricken out.

THE COURT: That doesn't seem responsive.

Q. (Last question repeated.) A. No, I will not say that she didn't say anything.

Q. But you can't remember what she did say to you, can you? A. I think if she did, my recollection is, it was not intelligible.

Q. Can you tell this Court anything that Mrs. Grundy said to you on August 26th, while you were at her house; anything at all? A. August 26th?

Q. We are talking about August 26th. A. Other than the fact when I came in, I think she called me by my first name.

Q. Say "Hello" to you? A. My recollection is——

Q. Or "Good morning"? A. I think she said, I believe that I addressed her by her first name, and that she replied.

Q. You remember that distinctly, do you? A. No, I don't remember that distinctly.

Q. Well, do you remember anything that she said to you at that time? A. No, I do not, not at this present time.

Q. And from your observation she was in such a condition as to be unable to understand what was going on, wasn't she? A. I can't answer that yes or no.

Q. You can't answer yes or no? A. No.

Q. You smelled the odor of her breath at that time, didn't you? A. I smelled liquor, the odor of liquor.

Q. You smelled liquor from her breath at that time, didn't you? A. Yes.

Q. How far from her were you standing when you smelled that? A. Why, it couldn't have been over a foot.

Q. One foot from her? A. Yes; I may have sat down on the bed; I don't recall.

Q. It was a particularly important conference for you, wasn't it? A. It was not.

Q. It wasn't important to you at all? A. I don't think it was.

Q. What did you go there for if you didn't think it was important? A. At Mr. Grundy's request.

Q. What were you there for? A. Do you want me to tell what Mr. Grundy told me?

Q. Won't you tell us what you went for? A. Mr. Grundy asked me——

Q. Never mind what he asked you; I want to know the purpose of your visit. A. I didn't know what it was for when I went there until Mr. Grundy—I can only explain that by telling you what Mr. Grundy said to me. Do you want that?

Q. You don't know what you went there for, do you? A. Yes.

Q. You do know? A. Yes.

Q. What did you go there for? A. In response to the request of Mr. Grundy, that Mrs. Grundy wanted to talk to me.

Q. So you went there for the purpose of having a talk with Mrs. Grundy, didn't you? A. Yes and Mr. Grundy.

Q. And Mr. Grundy? A. Yes.

Q. Mr. Grundy had at that time told you all about the Levine incident, hadn't he? A. He had.

Q. He told you that Mrs. Grundy had been—or Mr. Levine had been found in Mrs. Grundy's kitchen closet? A. No, he didn't mention the man's name; he told me he didn't know who he was.

Q. He told you it was the beer man, though, didn't he? A. No, he didn't.

Q. He told you he knew the man, didn't he? A. No, he didn't.

Q. He told you he knew who the man was? A. He did not.

Q. What did he tell you about him? A. He told me that Park had come home on Sunday morning I think it was Sunday, that he had been away to Shackamaxon, Park was unable to get in the house, found the door locked on the inside, and the conversation Park had had with Mrs. Hansen, Mrs. Grundy finally opening the door, the manner in which she was dressed, that Park had become suspicious, I think he said Park had overheard——

Q. What? A. He told me that Park had overheard the conversation on the inside before the door was opened, that he went in, and when he searched through the house he found the man standing in the closet with the door closed, fully dressed, Park had demanded an explanation, no

explanation was forthcoming, and the man had left the house, Mrs. Grundy had denied there was ever a man there.

Q. Is that all? A. So far as the incident of the 24th is concerned.

Q. Is that all that he told you? I want everything that you remember at that time? A. Well, Mr. Grundy discussed with me at that time as to whether he could procure a divorce.

Q. What did you tell him? A. I told him in my judgment that he could, under those conditions.

Q. You thought Mr. Grundy had given you sufficient facts—those which you have just related here—which would entitle him to file a petition for divorce and in your opinion succeed in such case; is that right? A. Why, at that time he told me about her past life; about Mrs. Grundy's past life.

Q. What did he tell you about her past life? A. Of her drinking.

Q. What else? A. That was all he mentioned.

Q. Well, in your opinion, that was a sufficient basis for a suit for divorce, was it? A. It was.

Q. And you so advised him, didn't you? A. I did.

Q. Didn't he ask you to institute such suit for divorce? A. He did.

Q. Why didn't you file a petition? A. I believe I informed Mr. Grundy at that time, although in my judgment that that was sufficient evidence for a divorce, there would probably be more corroborating evidence if he would allow the matter to go on for a couple of weeks; and he was making arrangements to move, and Park was arranging to enter Lehigh University, there was some reason for which he was not responsible why the petition was not filed at that time.

Q. Well, now, you then discussed with Mr. Grundy the question of watching her further, didn't you? A. No.

Q. Didn't you talk with Mr. Grundy about watching the house, watching her actions? A. No; Mr. Grundy at that time was very much up in the air; he wanted to move but he didn't know where to move, but he wanted to give up the apartment there.

Q. He was through? A. Yes.

Q. He told you he was through, isn't that so? A. He told me he was through with her.

Q. But you, Mr. Townsend in your opinion, knew that he did not have sufficient facts to institute a successful suit for divorce, didn't you? A. I did not. I considered that sufficient evidence to institute a suit for divorce.

Q. Then why did you tell him that in your opinion it was not sufficient? A. I didn't tell him that.

Q. And that it would be better to wait until you got some more evidence? A. I didn't tell him that. I thought the case would be much stronger; the more evidence you get the stronger your case is.

Q. Why did you tell us before that you told him that in your opinion it was not sufficient, and that it would be better to wait a couple of weeks? A. I didn't tell him that.

MR. LANE: I object to all this.

Q. You didn't tell him that? A. No.

Q. But you were satisfied that that was sufficient for a successful suit for divorce, were you? A. I was.

Q. And so advised Mr. Grundy on August 26th, or the day after? A. I did.

Q. August 24th or the day after; is that right? A. I did.

Q. Now, then, on August 26th knowing that Mr. Grundy had spoken to you about filing a petition for divorce, and knowing that all of those facts had taken place as you have stated, that they were sufficient for instituting a suit for divorce, and that you had advised him they were sufficient for instituting a suit for divorce, why did you go to Mrs. Grundy's house on the 26th? A. Mr. Grundy had called me up and asked me to come down there.

Q. But you knew, Mr. Townsend, that you represented Mr. Grundy, and that all of those things had taken place, and that you had advised a suit for divorce and that he had sufficient grounds for divorce didn't you? You knew that, didn't you? A. Please repeat that question.

Q. I will withdraw the question. Now, you knew that Mr. Grundy had sufficient grounds for divorce and that you had so advised him, didn't you? A. I have already told you that I did.

Q. You were attorney for Mr. Grundy at that time, weren't you? A. I have already answered that.

Q. You were attorney for Mr. Grundy on August 24th and 25th, weren't you? A. No.

Q. On the 26th, weren't you? A. Mr. Grundy first consulted me——

Q. You were attorney for Mr. Grundy on August 24th, 25th and 26th, weren't you? A. No.

Q. Why did you make a charge on August 26th?

MR. LANE: Now, wait a minute; you wanted the 24th, 25th and 26th; the answer is properly no. Confine yourself to the two days beginning the 26th and you will be commencing something.

Q. Why did you make the charge?

MR. LANE: When does the charge begin?

THE WITNESS: The 26th.

Q. Show us the first charge? A. The 25th.

Q. Anything before that? A. No.

Q. Why did you make the charge on August 25th, if you were not his attorney? A. I was his attorney on August 25th.

Q. Then do you want to change your testimony? A. No.

MR. LANE: I object to that; that is an unfair question.

THE COURT: I will strike that out.

MR. LANE: You asked him if he was Mr. Grundy's attorney on August 24th, 25th and 26th.

MR. HEYMAN: Yes.

MR. LANE: He said no; but you kept insisting that he was.

THE COURT: He was on the 25th.

Q. You were his attorney on August 25th? A. Yes.

Q. And on the 26th? A. Naturally.

Q. And you had consulted with him about the divorce suit which he had spoken about? A. Yes.

Q. And he told you all of these facts? A. He did.

Q. And you had advised him that he had a good and sufficient suit for divorce?

MR. LANE: I object to all this as a useless repetition.

MR. HEYMAN: It is simply the foundation for my next question. I got to bring that out.

THE COURT: You may use it as a foundation in your question.

MR. HEYMAN: If your Honor please, when I did that before he didn't understand my question.

Q. Knowing all of these facts to which you have testified here to-day, representing Mr. Grundy as his attorney and advising Mr. Grundy that he had good cause for divorce on the facts which he had told you, why did you go to Mrs. Grundy's house on August 26th to have a talk with her? A. Mr. Grundy asked me to go there with him.

Q. Is that the only reason you can give? A. It is a sufficient reason in my judgment.

Q. That is what you want this Court to understand, is that so?

THE COURT: You need not ask him that. I assume he wants the Court to understand everything he says.

Q. Why didn't you file a petition for divorce? A. On August 26th Mrs. Grundy was in that condition and she continued in that condition for some days; I had already told Mr. Grundy that there was no particular hurry about filing a petition at that time—I mean that day—that in my judgment the thing would happen again in the near future, Mr. Grundy had already made arrangement as to moving, he was going to move, Park was getting ready to go to Lehigh University—I think he was preparing to take the entrance examinations, so that there was no particular reason why the petition for divorce should be filed at that time.

Q. But you knew that Mr. Grundy was in a hurry to get out of the house, didn't you? A.

Well, that had nothing whatever to do with the filing of a petition for divorce.

Q. You knew that he was in a hurry to get out of the house, didn't you? A. Mr. Grundy was not in a hurry to get out of the house. Mr. Grundy wanted to get away, he wanted to make different arrangements; he couldn't go off and leave Mrs. Grundy in the condition she was in on the 26th.

Q. And that is the reason that you did not file the petition for divorce? A. Not necessarily, no.

Q. What is the reason? A. I can give you no reason except the fact that there was no particular hurry about it; I was probably busy with some other matters—if you let me have the diary I will look it up and tell you.

Q. You told Mr. Grundy, didn't you, that the thing would probably happen again, didn't you? A. That is my recollection.

Q. And you told him at that time that it would be better to wait a couple of weeks and let it happen and catch her? A. Mr. Grundy——

Q. Can you answer that? A. No, I didn't tell him necessarily to catch her.

Q. Didn't you discuss the question about catching her again if it should happen again? A. No, I did not.

Q. Maybe you don't understand my word "catch". Do you understand the word "catch" as I mean it? A. Well, I don't know how you mean it.

Q. That she would be discovered in the act of committing adultery again after August 24th. Do you understand that? A. What is the question?

Q. You told Mr. Grundy that he perhaps had better wait, that she would do this again; that

she would commit adultery a second time and that it would be better to wait until you got evidence of a second commission; isn't that so? A. No; my recollection of the conversation with Mr. Grundy is Mr. Grundy had repeated to me rumors that he had heard from some of the neighbors, I told him under the facts that he gave me, in my judgment, the thing would happen again, and that in the meantime I would go ahead and prepare, and I think I did go ahead and prepare a petition for divorce.

Q. Have you finished your answer? A. To give you a direct answer to the question, I should say no, Mr. Heyman, because I find that on September 10th I drew the petition for divorce.

Q. Well, from August 24th until September 10th, did you do anything? A. In the Grundy matter?

Q. No, I mean about drawing the petition for divorce? A. I think not.

Q. Now, Mr. Townsend, you knew from what Mr. Grundy had told you on the 24th and 25th, or both days, that a reconciliation between the parties was utterly impossible, didn't you? A. August 24th?

Q. On the 25th, or both? A. I didn't know anything on August 24th; I didn't know there was any difficulty between them even, on August 24th.

Q. I am talking about August 24th or 25th? A. My first knowledge of anything wrong in the domestic affairs of Mr. and Mrs. Grundy was on August 25th.

Q. Now, from what he told you on August 25th, and from his actions and from what he said to you, and his desire to have this petition filed, you knew that a reconciliation was absolutely impossible, didn't you? A. I knew on August 25th

that so far as Mr. Grundy was concerned that there would be no reconciliation.

Q. You knew he was through? A. So he told me.

Q. You knew he wanted a divorce didn't you? A. After he had asked my opinion and I had given it.

Q. And he wanted a divorce, didn't he? A. Yes.

Q. No question about that, is there, Mr. Townsend? A. Sufficient proof of that is the filing of his petition.

Q. There is no question that on August 25th he told you he wanted a divorce, is there? A. He did.

Q. I will withdraw the question. Did he tell you on August 25th that he wanted a divorce? A. Not exactly that, no.

Q. Did he ask you on August 25th if he could sue for divorce? A. Yes.

Q. And did you tell him on August 25th that he could? A. I think I did tell him that, in my judgment.

Q. And he then instructed you to go ahead and file a petition for divorce? A. I think that he did, now.

Q. Well, then, knowing that this condition existed here, can you explain why you did go to Mrs. Grundy's house on August 26th? A. Because Mr. Grundy asked me to go down there.

Q. But you knew there wasn't any possible chance of reconciliation, didn't you? A. I didn't go there for the purpose of reconciliation.

Q. What purpose did you go there for? A. Because Mr. Grundy asked me.

Q. I want to know for what purpose? A. He said that Mrs. Grundy wanted to talk the mat-

ter over with me; he didn't say what she wanted to talk to me about.

Q. You knew it was about this divorce didn't you? A. I assumed so; I didn't exactly know it was about this case.

Q What were you thinking of when you consented to go there when you did go there? A. Thinking about what?

Q. What were you thinking about? A. I may have been thinking about a hundred different things besides this case.

Q. Can you tell us now what was in your mind about the marital difficulties between these two people when you went there on August 26th? A. No, I cannot.

Hearing continued until Tuesday, June 29th, 1920, at 10:30 o'clock in the forenoon.

Chancery Chambers, Jersey City, N. J.
June 29, 1920.

Hearing resumed at 10:30 A. M.

MARK TOWNSEND, JR., recalled.

MR. LANE: Before you proceed with your cross-examination, Mr. Heyman, I desire to give the witness an apportunity to correct the testimony. On page 11 of the cross examination, at the bottom of the page, the testimony as transcript says, "She was badly worked up, I told her what I had been told about the man being found in the closet on the 24th and said that Park lied"; the word "she" was omitted.

THE WITNESS: It was incorrectly transcribed in the transcript.

THE COURT: "She said."

THE WITNESS: Yes.

CROSS-EXAMINATION RESUMED BY MR. HEYMAN:

Q. I show you an entry in your diary under date of September 25th reading "Grundy v. Id. conference with Mr. and Mrs. Grundy, letters, 3½ hours"; what does that mean? A. It means September 26th.

Q. September 26th? A. The 26th; here is the 25th (indicating).

Q. All right; what does it mean? A. Just a moment and I will tell you, as far as I know, if you give me an opportunity—about that time Mrs. Grundy had vacated the premises or was about to vacate the premises; she had entered the Corrigan house some time late at night and stayed there all night—after having gone out and come in again—and at that conference the matter of her going to Reno was taken up; my recollection is at this time it was that I communicated with the attorneys in Reno to get an opinion as to whether a divorce action could be maintained in that State; I think also at that time the matter of the agreement was discussed, the agreement that has been offered in evidence.

THE COURT: The only question, Mr. Townsend, was what that entry meant in your book.

THE WITNESS: Oh, I thought you meant—Pardon me.

Q. I am asking you what you mean by "letters"?

MR. LANE: You asked about the whole entry, first.

A. Well, it contains "Conference Mr. and Mrs. Grundy 3½ hours"; I had a conference and wrote some letters.

Q. To whom did you write the letters? A. I can't tell you offhand to whom I wrote letters, but I assume that one of those letters was to the attorneys in Reno.

Q. Any other letters? A. There apparently must have been more than one letter, because I would not use the plural of the noun for one.

Q. Well, can't you tell us to whom the other letters or letter was? A. I haven't any idea at this time.

Q. Have you any idea to whom you wrote in re Grundy on that date?

By The Court:

Q. Is there anything in that entry to indicate to whom you wrote? A. No, there is nothing in there.

Q. It is just simply— A. Just shows the time that I spent on the case, that is all.

By Mr. Heyman:

Q. Well, have you got your file here which would help you in any possible way to find out to whom you wrote letters besides the attorneys in Reno? A. I got the letter file here, whether it would show me or not. Do you want me to consult it?

Q. Haven't you consulted it before now? A. Not today I haven't, no.

Q. All right; we will pass that. Now, Mr. Townsend, what was your purpose in going to Mrs. Grundy's house on August 26th?

The Court: August 26th?

Mr. Lane: I object to that upon the ground that it has been asked and answered on cross-examination several times.

The Court: You gentlemen have the record. If it has been asked and answered I will overrule it.

Q. As a matter of fact, didn't you go there for the purpose of having Mrs. Grundy sign an admission of guilt, or admit to you that she was guilty of misconduct? A. Absolutely no; I did not.

Q. Didn't you go there for the purpose of having her consent to a divorce? A. I didn't need her consent; no.

MR. HEYMAN: I ask that that be stricken out.

THE COURT: Strike out the first part; the part that is not responsive will go out; the other I will let stand.

Q. Why did you write to Reno? A. Mrs. Grundy had wanted to go to Reno to get a divorce in order to save the publicity and the disgrace that would be incident to a trial such as this; she had asked her husband to let her go; at my office she had mentioned the fact that her husband had no intercourse with her for some time; and her husband, in order to pacify her, and if it could legitimately be done, and properly done, he was willing to take it into consideration; therefore, the first subject was to ascertain whether a divorce action could be maintained in the State of Nevada.

Q. But you knew that it could not be legitimately done? A. I did not know.

Q. Don't you know now that it could not be legitimately done?

MR. LANE: I object to that, what he knows now. The fact is—

A. I did not.

THE COURT: You did not object to the first, as to what he knew at that time.

MR. LANE: No, I am talking about now.

THE COURT: I think that ought to be struck out.

MR. HEYMAN: If your Honor please—

THE COURT: What he knows now.

MR. HEYMAN: The same state of facts existed then as today.

THE COURT: His information may not be the same.

MR. HEYMAN: I will withdraw the question.

Q. You did not know on August 25th, or August 26th, that it was not legitimate for her to go to Reno and obtain a divorce? A. I did not.

Q. Are the facts the same today as they were on August 25th?

MR. LANE: I object to that. How can he say?

Q. So far as your knowledge and information is concerned?

MR. LANE: I object to that on the ground that it is immaterial.

THE COURT: That is immaterial.

Q. You think it was perfectly legitimate for her to go to Reno to get a divorce, do you?

MR. LANE: I object; it is immaterial what he thinks. I don't object to what he thought at that time.

THE COURT: No; what his condition of mind may be now is immaterial.

Q. Did you think on August 26th that it was perfectly legitimate for her to go to Reno to get a divorce? A. I had no thoughts on the subject on August 26th.

Q. You knew, however, that Mr. Grundy had

sufficient grounds for divorce on the 26th of August?

MR. LANE: I object to what he knew. What he thought may be evidential, but he cannot testify to what he knew, and as not binding on Mr. Grundy.

THE COURT: I will take it.

MR. LANE: I will withdraw the objection.

A. I have already answered that yes, in my judgment he did have, from what had been reported to me.

Q. When did you give Mrs. Grundy, or communicate to Mrs. Grundy, the contents of the paper marked P-13, which is the second paper that you prepared? A. May I see it?

MR. LANE: I find they are not in my records, owing to the fact that I have given them to my stenographer to make copies for Mr. Heyman Saturday morning and she has not returned them. Do you have copies there?

MR. HEYMAN: I have two copies which you sent to my office. I don't know whether they are copies or not.

A. Well, I can answer the question by referring to the second one. My recollection is that that was communicated to Mrs. Grundy on the 26th, which was after we had returned from Shawnee.

MR. LANE: The 26th of which month?

THE WITNESS: The 26th of September.

Q. At your office? A. I believe so; it might have been before; I have no distinct recollections of the exact date.

Q. That is about the same day that you wrote these letters? A. If it was on the 26th; that entry shows that on the 26th I wrote some letters.

MR. HEYMAN: I move to strike out the answer, if your Honor please.

THE COURT: I won't strike that out.

Q. Did you communicate the contents of the paper, P-13, to Mrs. Grundy on the same day that you wrote these letters? A. I don't know, sir; I can't testify to the fact that I did on that day, on that same day.

MR. LANE: Will you answer the question? If you don't know say so, and stop.

Q. Have you a record which will show when you gave Mrs. Grundy P-14? A. No.

THE COURT: P-14?

MR. HEYMAN: P-14; the first paper.

Q. You drew that paper when—P-14? A. Assuming that it is the first agreement to which you refer, it was September 16th I dictated it.

Q. On September 16th? A. Yes.

Q. When did you give it to Mrs. Grundy? A. My recollection is that it was on the 18th.

Q. Where? A. At my office.

Q. Is there anything in this book which will show when you gave that paper to Mrs. Grundy? A. There is not.

Q. Did you give Mrs. Grundy a carbon copy of that paper, P-14, or did you give her the original? A. I don't recollect.

Q. Was the paper which you gave Mrs. Grundy signed by Mr. Grundy or not?

THE COURT: At the time, or later.

MR. HEYMAN: At the time he gave it to her.

A. I don't recollect whether that was signed or not.

Q. Did Mr. Grundy sign either the original or the carbon copy of P-14 at any time? A. He may have; I can't say for certain whether he did or not.

Q. Have you any record which will show whether Mr. Grundy signed P-14? A. I have not.

Q. Did you destroy either the copy or the original of P-14 at any time? A. I did not; no.

Q. Have you both the original and carbon copy of P-14—this is the first paper of which I am speaking now? A. I think not; I think that I looked for that and couldn't find it.

Q. Then you evidently destroyed one copy, didn't you? A. Not necessarily, no.

Q. What then—if you haven't both copies, what then did you do with one copy? A. I did nothing other than leave them in the filing basket for the purpose of their being filed by my girl, by my stenographer.

Q. Left both copies? A. I assume so.

Q. Do you know whether P-14, which is in evidence in this case, is the copy which Mrs. Grundy had or not? A. I don't know; I think so; I think that is the copy she had.

Q. Are you quite sure that Mrs. Grundy had the paper which is in evidence here and marked P-14, in her possession? A. I have no recollection as to that at all; I can't say that whether she had or not; my impression is that she did have.

Q. You swear that this is the absolute paper which she had? A. I have answered your question, Mr. Heyman.

Q. Will you swear that Mrs. Grundy had P-14 in her possession?

MR. LANE: I object to that, if your Honor please, upon the ground that it has been answered; he said he has no recollection, he does not know but he has an impression that it is.

MR. HEYMAN: I am asking, if your Honor please, for an absolute statement whether or not he will swear to that.

A. Yes, sir; I am under oath, and anything I say I am swearing to, Mr. Heyman.

Q. Will you swear that Mrs.—

THE COURT: I will take that question.

Q. Will you swear that Mrs. Grundy had P-14 in her possession? A. I can't answer that any more than I have.

MR. HEYMAN: I ask, if your Honor please, that that answer be struck out. I think I am entitled to an answer yes or no.

THE COURT: I will let it stand.

Q. Will you swear that you did not destroy the agreement which Mrs. Grundy had in her possession, which was handed you, or left on your desk, when she was at your office, in the presence of Mr. Grundy?

MR. LANE: Referring to the first or the second, P-14 or P-13?

MR. HEYMAN: I will withdraw the question, if your Honor please.

Q. You have just told us, you told us before she never had P-13 in her possession, haven't you? A. Whatever I said was my best recollection.

MR. HEYMAN: I ask to strike out the answer, if your Honor please. I ask for a

direct answer, whether or not the witness has not said that Mrs. Grundy never had P-13 in her possession. I think I am entitled to an answer.

THE COURT: I will take that question.

Q. Haven't you testified that you never gave Mrs. Grundy that paper? A. The record will show what I have testified to.

Q. Haven't you testified to that? A. My recollection is that she never had the second one, which you say is P-14.

Q. I am asking if you haven't testified to the fact that Mrs. Grundy never had P-13 in her possession? A. Now, Mr. Heyman—

MR. LANE: Will you answer the question directly, either yes or no?

A. I don't remember whether I testified to that or not; my recollection is that she did not have it.

Q. Then why did you ask which paper I am talking about, when I say to you, didn't you destroy the agreement which Mrs. Grundy had in her possession, which was returned to you, at Mr. Grundy's request, and in her presence? A. Do you want me to answer that question?

Q. Yes. A. For the reason that you had misquoted me last week and I wanted to be sure you are not doing it this week.

Q. Do you think I can misquote testimony on two papers, of which you say Mrs. Grundy had one and not the other? A. Last week when I was on the stand you said that I had testified to so and so at the previous hearing; the record shows no such thing that you said I testified to.

Q. So you infer that I am trying to catch you now again in the question whether or not she

had ever had P-13 in her possession; is that what you want to convey to this Court?

THE COURT: One minute; let us get some question that relates to the hearing here. That question I will strike out.

Q. Will you swear, Mr. Townsend, that you did not destroy, or cause to be destroyed, the agreement which Mrs. Grundy had in her possession? A. Yes, I will swear to that.

Q. There can't be any mistake about that? A. No, sir.

Q. But you don't know where the other copy of that paper is at this time? A. I haven't looked for it.

Q. Do you know where the copy is at this time? A. I do not.

Q. Have you looked for the correspondence with the attorneys in Reno since the last hearing? A. I have not.

Q. Would you consent that I write to the attorneys in Reno and ask them for copies of all the correspondence between you and them in reference to the Grundy matter?

MR. LANE: I object to that. Consent is one for Mr. Grundy to answer. I haven't the least idea what the correspondence is. It may be of a highly favorable character.

THE COURT: I will overrule that question.

MR. HEYMAN: If the Court please, I am not asking for permission; I am asking whether the witness would consent to having me write.

THE COURT: The question is objected to.

MR. HEYMAN: That has nothing to do with Mr. Grundy, if your Honor please; the witness' consent cannot bind Mr. Grundy. If

the attorneys in Reno want to plead privilege that is a different matter. Mr. Grundy has nothing to do with the witness being willing to have me write.

MR. LANE: The question is objected to.

THE COURT: I will overrule the question.

Q. While Mrs. Grundy was in your office, Mr. Grundy asked you to destroy those papers, didn't he? A. He did not.

Q. Who asked Mrs. Grundy to give back the paper, did you? A. My recollection is that I asked her to return it.

Q. Why did you want the paper back? A. Because I had determined that the provision in there respecting counsel fees, that the agreement was bad, and it might give them a wrong construction, as an attempt to suppress her defense.

Q. What was there in the agreement which made you think so? A. The provision that she should not apply for counsel fees.

Q. You thought that that was binding on her at that time—did you at that time think that was binding on her? A. If the agreement had been signed, executed and delivered.

Q. Did you think if she had signed that agreement and she had then applied for counsel fees, that the Court would not have given her a counsel fee because she had agreed not to ask for it? A. No, sir; I did not.

Q. Well, then, in what way did you think it was vicious? A. For the simple reason that the agreement provided that Mr. Grundy would pay her an income for the rest of her life, as long as she complied with certain conditions. Now, to have that agreement go into court with the provision in there that she should not apply for counsel fee would not prevent her from going into

court; the only effect it would have is Mr. Grundy would be relieved from any such agreement, but at the same time the court might consider, or her attorneys, or whoever she might meet on the street, that this was an attempt to prevent her from getting counsel, in order to suppress her defense. That is exactly what I did not want.

Q. You knew that such an agreement with such a provision in it would not be binding, and that the court would give the woman her counsel fee? A. That was not the point, Mr. Heyman; I did not want the court—

Q. You knew that, didn't you? A. Yes.

MR. LANE: I know the answer to the question or the reasoning may be beneficial to counsel in this case, but it is highly unimportant in this case.

MR. HEYMAN: I object to the remarks of counsel. I don't think it is the duty of counsel to point out the answer.

MR. LANE: It may be the duty of counsel to indicate to the witness not to continue.

MR. HEYMAN: I want to make my objection, I want to make it emphatically, if your Honor please, counsel has no right to make any communications to the witness regarding the testimony. I think the witness is intelligent enough to be able to testify for himself without any communications or assistance on the part of counsel.

Q. The paper was returned to you on September 26th, wasn't it, Mr. Townsend, by Mrs. Grundy? A. I can't give you the exact date.

Q. And that was your only reason for asking that it be returned; what you have stated before? A. It was.

Q. You had not at that time received any communication from Mr. Van Winkle? A. I had not.

Q. You are quite certain of that? A. My recollection is that it was the 29th that I had some conversation with Mr. Van Winkle.

Q. Have you got your correspondence with Mr. Van Winkle at present? A. Yes.

Q. Will you produce it? Just before you look, just one second, please—will you please refer to your book and see whether or not you have any entry in that book as to any conversation with or communication whatsoever with Mr. Van Winkle in re Grundy? A. No, I have not.

Q. I think it was on the 27th of September. A. It may have been on the 26th; I don't know.

Q. Pardon? A. It may have been on the 26th; I don't know.

Q. Will you produce the correspondence?

MR. LANE: I object to this correspondence upon the ground that it is immaterial, irrelevant and incompetent, and not binding in anywise upon Mr. Grundy.

THE COURT: In the first place, what correspondence are you asking for?

MR. LANE: Correspondence between counsel for Mr. Grundy, Mr. Townsend, and counsel for Mrs. Grundy.

THE COURT: Well, is that what you asked for?

MR. LANE: Correspondence between Mr Townsend and Mr. Van Winkle; those are two letters passing between two lawyers representing clients. I submit that their contents are not evidential, whatever the lawyers may have said to one another in respect to their clients; and so far as Mr. Grundy is concerned, it is a confidential communication, and I plead the privilege.

THE COURT: What have you to say as to that?

MR. LANE: I submit the contents of that letter ought not to be drawn out here; I have no objection to your Honor reading those letters but I object to their being made part of the record. We have had enough names in this case without dragging in a lot of other people.

THE COURT: Mr. Heyman, aren't these confidential communications?

MR. HEYMAN: No, sir; they are not confidential, if your Honor please, first, on the ground that they have been communicated and have been spoken about; and secondly, on the ground that Mr. Townsend, at the time of this transaction was taking place, communicated with Mr. Van Winkle without Mr. Grundy's knowledge and without his having anything to do with it, and he gave the information contained in that paper and in those letters to Mr. Van Winkle without any hesitation whatsoever. We have been discussing the question of whether or not the request for the return of P-14 was made because the witness has testified that he thought at that time that the contents of the paper were vicious, and that he thought that the paper was returned before his communications with Mr. Van Winkle. I think that the contents of the paper are vitally important for the purpose of showing just what was in the minds of both Mr. Van Winkle, Mrs. Grundy's lawyer, and Mr. Townsend. I don't think there is anything privileged in the communications whatsoever, if your Honor please, there is absolutely nothing in them

which Mr. Townsend has not testified to here today.

MR. LANE: I don't see their relevancy or their materiality, even assuming the question of privilege waived. What have two letters passing between counsel to do with the merits of a divorce litigation of that nature, of that kind?

MR. HEYMAN: If your Honor please, both those papers and the paper P-14 are very important in this case.

MR. LANE: I don't know from what standpoint.

MR. HEYMAN: You ought to know; you brought it out; you brought out everything about P-14 and P-13 on direct; it was all brought out by the petitioner in his rebuttal in the direct case.

MR. LANE: Is it not true, if you read the testimony, the testimony of Mrs. Grundy; she brought it out on her direct examination of the defendant's case. All I have been doing is to meet her charges, and I have a right to, here.

THE COURT: I think I ought to exclude those letters.

MR. HEYMAN: I think, if the Court please, I must insist that I have that, for the purpose of testing the credibility of this witness, if for nothing else, these papers are admissible. Now, the witness has testified that on August 26th he delivered P-14 to the defendant; he has testified that she was consulting an attorney about signing them; he has testified that on September 26th—to the best of my recollection—the witness said the petitioner came to his office and had a confer-

ence, and at that time he told the defendant that he thought the contents of P-14 were vicious.

THE COURT: That is the first one.

MR. HEYMAN: And that he said he would re-draw the paper, leaving out the provision respecting counsel fees and submit it to her in re-drafted form. The question on cross-examination was what made you think that it was vicious, and his answer was the provision respecting counsel fees. The question was then, didn't you receive a communication from Mr. Van Winkle before that time, and his answer was, my recollection is that I had a talk with Mr. Van Winkle or communicated with him on the 27th. Now I submit, if your Honor please, that this paper is vitally important for two reasons; first, to show that it was the letter from Mr. Van Winkle which caused the witness to change his attitude regarding P-14, and secondly, to fix the date. I think for those reasons they should be admitted into evidence.

THE COURT: I will not require the producing of those papers.

Q. Mr. Townsend, have you seen the date on these letters, or the dates on these letters? A. Other than the time I just brought them up here.

Q. Have you seen the dates on those letters? A. At some time, yes.

Q. Do you know the dates of those letters? A. I can't say for sure, no.

Q. Look at the letter of Mr. Van Winkle to you? A. The 23d.

Q. What is the date of your letter to him? A. The 26th.

THE COURT: Of September?

THE WITNES:: Yes.

Q. There is no question but what your carbon copy of your letter to him is absolutely correct, is there? A. As far as I know.

Q. This is your letter to Mr. Van Winkle, is it? A. It looks like mine, yes.

Q. Dated September 26th, 1919? A. Yes.

Q. There is no question about that, is there? A. The letter speaks for itself; it shows September 26th.

Q. Do you know the contents of the letter from Mr. Van Winkle to you? A. I recall the substance of it.

Q. You do recall the substance of it? A. Yes.

Q. Will you read the letter, please, which Mr. Van Winkle wrote to you? A. (Witness examines paper.)

Q. Now, Mr. Townsend, did you receive that letter before you asked Mrs. Grundy to give you back P-14? A. I can't recall.

Q. Will you say now that you spoke to Mr. Van Winkle, or had communication with him, about Mrs. Grundy's case after you received P-14 back from Mrs. Grundy, or before? A. That doesn't refresh my recollection as to that at all; I had a telephone conversation with Mr. Van Winkle.

Q. After September 26th? A. On the morning of the 26th.

MR. HEYMAN: If your Honor please, I ask these two letters be marked for identification, if they cannot be offered in evidence.

(Letters marked Exhibit A and B for Identification.)

Q. Will you say now, Mr. Townsend, that you

had your communication, or conversation, with Mr. Van Winkle after you received the paper from Mrs. Grundy? A. I can't say.

Q. Well, will you say now that you had a communication or conversation with him on September 27th? A. No; I had it on September 26th.

Q. Before you got the paper back, or after you got the paper back from Mrs. Grundy? A. I can't say.

Q. Was she in your office at the time you spoke to Mr. Van Winkle? A. My recollection is that she was not.

Q. What time was she at your office? A. I believe I can tell you that;—I don't know, the record doesn't show what time; I have no way of refreshing my recollection.

Q. Won't your book or diary refresh your recollection? A. Not as to the time she was there.

Q. What did you do with it after they left? A. I did several things, in connection with other matters.

Q. What did you do before they got there? A. I don't know whether they were there last in the afternoon or whether they were there in the morning, or what; I got no way of telling.

Q. Will your book show that you did something other than the Grundy thing after that? A. No, it doesn't show when I did it; there were other matters done on that date.

Q. Don't you keep your entries according to the work you do? A. No.

Q. You make your entries every day as it occurs? A. Sometimes at the end of the day, sometimes I don't make entries in this book until days after.

Q. Sometimes you make them as they occur?

A. That is one thing I have never done, to make them as they occur.

Q. So that you can't tell us what time Mr. and Mrs. Grundy were at your office on the 26th? A. Not from this record.

Q. What time did you have your conversation with Mr. Van Winkle? A. My recollection is that it was in the morning; I think he called me up.

Q. He called you up on the telephone? A. Yes, that is my recollection.

Q. On the morning of the 26th? A. That is my recollection.

Q. Before Mr. and Mrs. Grundy got there, or after? A. They weren't there, to the best of my recollection, when he telephoned.

Q. Then they got there after? A. I don't know.

Q. Do you remember what the conversation was? A. The substance of it.

Q. Have you any objection to stating to this Court what your conversation with Mr. Van Winkle was over the telephone on the 26th of September?

MR. LANE: I object to that; it is not his privilege; it is the privilege of Mr. Grundy's, if anybody's.

MR. HEYMAN: Do you plead that privilege?

MR. LANE: Yes.

Q. Mr. Townsend, these papers which you sent to my office yesterday, aren't typewritten copies of Exhibits P-13 and P-14, without the lead pencil markings,—I mean without the lead pencil marks, which are mine? A. I never did see them; I gave the originals to my girl to make copies and told her to send them to Mr. Heyman, and

I left my office; this is the first time I have seen them.

THE COURT: If there is any question about this let us get the originals.

THE WITNESS: I can get them at lunch time.

MR. HEYMAN: Nowhere in this paper is the word "counsel."

THE WITNESS: I can get the originals, if you want to, from the office.

Q. Now, Mr. Townsend, did you at any time on the 26th of August tell Mrs. Grundy that you or Mr. Grundy charged her with adultery? A. I never charged her with adultery at any time.

Q. I mean on August 26th at her home, while she was in bed. You say you never personally charged her with adultery? A. I did not.

Q. No? A. I said no.

Q. Now, Mr. Townsend, you went to Mrs. Grundy's house again on September 9th? A. I did.

Q. That was the second time that you had gone there after August 24th; is that correct? A. That is correct.

Q. What was the purpose of that visit, Mr. Townsend? A. Mr. Grundy had asked me to go up there that afternoon, they started to talk the matter over with Mrs. Grundy; she didn't know what she was going to do, she didn't know what to do, what was going to become of her, she wanted to have a talk with him something about a reconciliation or separation.

Q. At that time did she have in her possession P-14? A. On the 9th.

Q. September 9th. A. I think not; no, she did not.

Q. Now, what did you mean when you said to

Mrs. Grundy on September 9th, "Ida, now you take the fact that Park is your son, that he comes home unexpectedly on this Sunday morning, that he is unable to get admission to the house, that you had the door locked on the inside with the chain or bolt, that after waiting there for 15 or 20 minutes he couldn't get in, that you only let him in the house after you overheard a conversation between him and Mrs. Hansen in respect to going in through the fire escape, and he comes in and finds you in your bedroom, and then after searching through the house finds a man in the closet, fully dressed, with no explanation given"; what did you mean to infer to her? A. She had said that Park had lied, there wasn't anybody in the house whatever; I asked her if she wanted Mr. Grundy to believe that, and I assumed she wanted me to believe that; I told her that under those conditions she could not expect Mr. Grundy to believe that there wasn't anybody there, and that Park was lying.

MR. HEYMAN: I ask that the answer be stricken out, if your Honor please, on the ground that it is not responsive. I did not ask for the conversation that took place; there was nothing said about conversation; and I asked what was meant by the witness when he said what he did to Mrs. Grundy. I ask that that be stricken out, if your Honor please, on the ground that it is not responsive. The witness has given the conversation which ensued. I don't want that.

MR. LANE: You say you asked him what he meant to be inferred.

MR. HEYMAN: Yes; what the inference of those words was.

MR. LANE: Why can't you answer that? What did you infer by it? I haven't any objection to it being stricken out.

THE COURT: All right; strike it out.

A. What I inferred was, I meant to infer that a man was there and that Park was telling the truth about it.

Q. Nothing else? A. That is all.

Q. Are you quite sure of that? A. I suppose that likewise I wanted to infer that a man who was there under such conditions would be there only for one purpose under those conditions.

Q. Did you tell her what that supposition was? A. I don't recall; I certainly did not tell her that, no, what inference I meant.

Q. Now, you told her that Mr. Grundy was going to get a divorce, didn't you? A. I did.

Q. Didn't you tell her on what grounds he was going to get a divorce? A. I think I told her on the ground of adultery.

Q. Then you did charge her with adultery, didn't you? A. If you call that charging.

MR. LANE: I object, if your Honor please, to this discussion as to the conclusion of the witness. The witness has told what he said, now it is for the Court to determine whether it is a charge or not.

THE COURT: The question was answered.

Q. Well, didn't you tell Mrs. Grundy at that time that she had been guilty of adultery with a man in her apartment on August 24th, and that she had been discovered by Park; didn't you tell her that? A. Not in those words, no; I told her that she couldn't expect Mr. Grundy to believe that adultery had not been committed un-

der those circumstances; that is my recollection.

Q. Well, did you say to her before she denied any adultery that Mr. Grundy or Park had charged her, or had told you that she had committed adultery on August 24th with this man who afterwards developed to be the beer man? A. Park never told me at any time that she had committed adultery, and I therefore never told her that Park had told me that.

Q. Well, did Mr. Grundy ever tell you that she had committed adultery with this man on August 24th? A. He did not; Mr. Grundy told me what the facts, as related by Park, were, about the man being there, and the conditions under which he was there.

Q. And from that you drew the conclusion that she was guilty of adultery, and so advised Mr. Grundy? A. I did, sir.

Q. Well, now, Mr. Townsend, when you told her, "It is preposterous if you want Mr. Grundy or anyone else to believe that that man was not there and that Park is lying," she did finally admit that a man was there, but that nothing wrong had been done, isn't that so? A. She finally admitted that a man had been there, and said he was there for the purpose of delivering liquor.

Q. And that nothing wrong had been done? A. She said nothing about that; she said he was there for the purpose of delivering liquor.

Q. Well, didn't you testify on direct examination as follows: "The conversation continued along those lines, then she finally completely changed her attitude and said that the man was there, but she said nothing wrong had been done, but that this man had come there for the purpose of delivering liquor"? A. Well, if I so testified to that, that is correct.

Q. Well, now, which is correct? A. What I testified to there.

Q. In your direct examination? A. Yes.

Q. Then she did say to you that nothing wrong had been done? A. Apparently so, yes.

Q. Did you at that time ask her who the man was? A. My recollection is not clear as to that, I think that I did; she said that she didn't know; that is just an impression; I am pretty—she certainly did not tell us.

Q. She told you it was the liquor man? A. She said there was a man there for the purpose of delivering liquor; she didn't tell us his name.

Q. Then you asked her who he was and she didn't know? A. I don't know whether I asked who he was or not; I may have asked her; I am not sure.

Q. You are sure she did not say, "Come down with me and I will prove to you by this man that nothing wrong was done"? A. Absolutely she did not.

Q. You swear she did not say that to Mr. Grundy in your presence? A. I do swear to that.

Q. You are absolutely certain about that? A. No doubt about that whatever.

Q. Your mind is clear on that point? A. It is.

Q. Now, can you tell us whether or not you asked her who the man was? A. I have just answered that question several times; my recollection is that either Mr. Grundy or myself asked her; I am not certain about that; and she said she didn't know.

Q. Now, is your mind clear that that question was asked? A. No, my mind is not clear about that.

Q. Then you talked about the agreement, didn't you?

THE COURT: What is this?

MR. HEYMAN: On September 9th.

Q. Did you talk about the agreement at that time? A. Are you referring to the written agreement? May I understand what you mean by the word "agreement"?

Q. Well, was there any other agreement besides the written agreement? A. No, there wasn't any written agreement.

Q. I beg your pardon. Any written agreement. A. The discussion at that time was as to what was going to become of Mrs. Grundy in the future, how she was going to live, that she could not earn her livelihood, she had no relatives here, what was going to become of her and so forth, and Mr. Grundy I think it was at that time said he would pay her an income, give her an allowance of $100. a month, on the condition that she would not squander it, and so forth.

Q. Then you talked, on September 9th, about drawing the agreement P-14, didn't you? A. I did not.

Q. You did not say anything at all about it? A. To my recollection, I did not.

Q. Well, you knew, Mr. Townsend, when you drew this agreement, that if Mr. Grundy filed a petition for divorce and succeeded, on the grounds of adultery, that Mrs. Grundy would not be entitled to any maintenance after the decree was entered; you knew that, didn't you?

MR. LANE: Is that a legal question, calling for a legal conclusion? The authorities differ as to whether she would be or would

not. There is such a thing as charitable alimony.

THE COURT: I will let the question stand.

A. That was my judgment.

Q. Did you tell Mrs. Grundy that? A. I may have.

Q. You told Mrs. Grundy that? A. I assume that I did.

Q. Did you think at the time that you drew P-14 that it was binding on Mr. Grundy? A. Let me see, P-14—

Q. And that he would be liable in an action for the payment of alimony, maintenance or support for Mrs. Grundy? A. I thought so.

Q. You thought that he would be liable under this agreement?

MR. LANE: He said so.

MR. HEYMAN: I wanted to make sure; I didn't know whether he understood that.

MR. LANE: His answer is there; he said he thought so.

Q. Do you still think, Mr. Townsend, that if this paper had been signed and a divorce had been granted to Mr. Grundy on the grounds of adultery, that this agreement would have been binding and that Mrs. Grundy could recover the sum of $125 a month?

MR. LANE: I object to that upon the ground that it is immaterial irrelevant and incompetent, as to what he now thinks.

THE COURT: It seems to me immaterial what he now thinks.

MR. HEYMAN: Well, if your Honor please, I submit that I am entitled to that information from this man; he has testified that he

drew the agreement with a certain thing in mind; and I want to know—

THE COURT: He said what he thought at the time he drew it.

Q. Mr. Townsend, from this agreement, if Mr. Grundy had instituted a suit for divorce and had been unsuccessful, do you then think that this agreement would have been binding so that he would have been liable? Did you think at the time that you drew it that he would be liable for the sum of $125. a month, if he were unsuccessful and the divorce were denied?

THE COURT: If the case proved to be unsuccessful.

A. Not under this agreement.

Q. Not under that agreement? A. No.

Q. Now, wasn't it your purpose to have Mrs. Grundy consent to a divorce, and isn't this agreement for the purpose of giving this money if Mr. Grundy received the decree of divorce? A. (No answer.)

MR. HEYMAN: I will withdraw the question.

Q. Wasn't it your purpose to have Mrs. Grundy sign this agreement and consent to a divorce? A. It was not; for the very fact that in my judgment we did not need Mrs. Grundy's consent for any divorce.

Q. Then why did you ask her to sign an agreement such as this, to accept the sum of $125. a month for her support, when it was a voluntary payment on the part of Mr. Grundy? A. Mrs. Grundy at that time was in a rather pitiable condition.

Q. At what time? A. Around the 9th of September, or the 10th of September.

Q. But this paper was not spoken of on the 9th of September, was it? A. Let me finish my answer, please.

THE COURT: Let him finish his answer.

A. During that time she had been drinking, periodically, heavily, and she was greatly distressed and worried for fear that she was going to be a charge on the public, and Mr. Grundy had told her, out of sympathy and pity for her, he was going to provide for her for the rest of her life, provided she did certain things; she was not willing to take Mr. Grundy's word for that, she wanted the thing in writing; Mr. Grundy said that, in order to pacify her, to make her feel better, he was perfectly willing to have an agreement drawn, which he would execute.

Q. You knew if he did not succeed in getting a divorce, agreement or no agreement, he would have to support her, wouldn't he? A. Why, certainly.

Q. Then what was your idea of having her sign an agreement to accept something which in your own opinion the law provided for? A. In my opinion the law did not provide, in the event Mr. Grundy got a divorce. I was convinced, so was Mr. Grundy, that he had evidence and that the evidence was sufficient for him to get a divorce from his wife on the ground of adultery, and the matter that Mr. Grundy wanted to provide for her the rest of her life, provided she did not squander it away in saloons, and that she led a clean and respectable life, he did not propose to give her the money and let her run around on the streets.

Q. But you knew, Mr. Townsend, that if he got a decree against her on the grounds of adultery he would not have to pay her alimony? A. Exactly; that was my judgment.

Q. Then what was the idea of your giving an agreement which, in case he did not get a divorce, would not be binding?

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

MR. HEYMAN: I will withdraw the question.

Q. You still say that it was not for the purpose of getting her to consent to a divorce? A. Absolutely.

Q. Did you receive a telephone message from Mrs. Grundy between September 9th and September 15th? A. I think not.

Q. Did you see Mrs. Grundy between September 9th and September 15th? A. I did not, other than the fact I may have passed her on the street; I haven't any recollection of it.

Q. Did you see Mr. Grundy between September 9th and September 15th? A. I did.

Q. On what date? A. September 10th.

Q. Where? A. At my office.

Q. Did you see him after September 10th and before the 15th? A. I have no recollection; very likely I did, because he used to go to the Jersey City Club.

Q. Have you a record in your book of it? A. I have not.

Q. Didn't you get a call from Mrs. Grundy on the 12th of September; didn't Mr. and Mrs. Grundy come to your office on that day? A. They did not.

Q. Now, on the 15th, Mr. Townsend, you went

to Mrs. Grundy's house with Mr. Grundy? A. Yes, I did.

Q. What time did you get there? A. My recollection is it was somewhere around in the early part of the evening.

Q. Did you make a record in your book? A. No record of the time I got there, no.

Q. Have you any entry there on September 15th in Grundy vs. Grundy? A. I have.

Q. (Indicating) Is this the entry to which you refer? A. Yes.

Q. Does this refer to the conference that you had at the house that night of September 15th? A. That refers to a conference I had with George Grundy—with Mr. Grundy and I think Park Grundy, at the Jersey City Club, my recollection is, and afterwards we went to Mrs. Grundy's house.

Q. Do you know when you made that entry? A. I certainly did not make it on the 15th. I probably made it sometime on the 16th, or possibly the 17th.

Q. What was the purpose of that visit, Mr. Townsend? A. Mr. Grundy had asked me to go there; in the meantime he had moved—

Q. Never mind about his moving; what was the purpose of your visit on September 15th? A. Mr. Grundy asked me to go over there, Mrs. Grundy wanted to—oh, Mr. Grundy wanted to get it definitely settled as to what she was going to do as far as that apartment was concerned.

Q. That is the only purpose you had in going to the house, to find out what she was going to do about the apartment? A. Exactly; on the 15th this other matter had happened; Evans—

Q. Just a moment. This was your only purpose in going to the apartment on the 15th?

A. Yes, it was; I went there at Mr. Grundy's request.

Q. When you came into the house where was Mrs. Grundy? A. I don't know what room she was in; she wasn't in the room that I was in.

Q. Did you see Gertrude Halverson there on that night? A. I never knew Gertrude Halverson until this trial.

MR. HEYMAN: I ask that that be stricken out.

A. Why, I didn't see her.

Q. You didn't see her in the apartment at all that night? A. My recollection is that there was someone there; now, as to whether—I can't tell you who it was, because I didn't know them.

Q. You knew Gertrude Halverson, didn't you? A. I didn't know at that time.

Q. Do you know Gertrude Halverson? A. I do.

Q. Did you see Gertrude Halverson in Mrs. Grundy's apartments on September 15th, while you were there? A. To recognize her, I did not.

Q. Did you see Gertrude Halverson in Mrs. Grundy's apartments on September 15th, while you were there?

MR. LANE: I submit he has answered; he said not to recognize her; he may have seen her and he may not.

MR. HEYMAN: I submit I am entitled to a direct answer.

THE COURT: You may answer.

MR. HEYMAN: If he says he doesn't know he doesn't know, but I think I am entitled to an answer.

MR. LANE: I think you have an answer.

MR. HEYMAN: Not to recognize her is not an answer.

THE COURT: That is an answer.

Q. Was Gertrude Halverson in the apartments?

MR. LANE: I object to that on the ground that it has already been answered.

THE COURT: It has already been answerd. Strike it out.

MR. HEYMAN: Well, if your Honor please, I would like to have the Court tell me,—I am sure I would like to have the Court tell me whether or not the witness said that he saw Miss Halverson in the apartment that night.

THE COURT: Well, I understand that the witness has since become acquainted with Gertrude Halverson, he didn't know her at that time; while there was someone there, he did not recognize that person as Gertrude Halverson. I think that is what he says.

MR. HEYMAN: This question is not whether he saw her there to recognize her; the question is whether he saw her. That is a very simple question. If he saw some other person there he can say so.

THE COURT: I will take the question.

Q. Did you see Gertrude Halverson in the apartment on September 15th while you were there? A. It is my recollection that someone was there, some woman, I don't know who she was, didn't know who she was at that time; however, later, Mr. Grundy—if you want me to tell you what Mr. Grundy told me at that time it might be an answer to your question.

Q. Can't you tell, Mr. Townesnd, from what you saw and what you afterwards learned, whether you saw Gertrude Halverson in the apart-

ments on September 15th? A. I don't know; she wasn't in the room where I was.

Q. I didn't ask you that? A. I saw someone there but I didn't recognize her.

Q. I ask you now, from what you saw on September 15th and from what you afterwards were told by Mr. Grundy, can't you tell me whether or not you saw Gertrude Halverson in that apartment on that night? A. Mr. Grnudy told me that she was in the kitchen, that Gertrude was in the kitchen; I didn't even know her last September.

Q. Did you see any woman in the kitchen, other than Mrs. Grundy? A. I wasn't in the kitchen.

Q. Was there anyone in the kitchen that night other than Mrs. Grundy? A. I didn't even see Mrs. Grundy in the kitchen.

Q. Did you see any other woman in that apartment, other than Mrs. Grundy, that night? A. My recollection is that I did.

Q. Was that Gertrude Halverson? A. I don't know.

Q. You mean that you don't recognize now the woman that you saw in the apartment on that night as Gertrude Halverson? A. I didn't get a good look at the woman that was there that night.

MR. LANE: Yes or no; is that what you want you to believe.

THE WITNESS: Yes, that is exactly what I want you to believe.

Q. Where did you go when you entered the apartment? A. The center room; I don't know what kind of room they call it, sort of a reception hall.

Q. Off the hall, at the end of the hall; at the end of the private hall of the apartments? A. (Making sketch) where you go in, this is the hall; there is a little room, a little square place; this is the little room that runs off that; I can show you on the diagram (indicating).

Q. You didn't see Mrs. Grundy as you came in the apartment that night, did you? A. I did not.

Q. You didn't see her until about five or ten minutes afterwards? A. Some time afterwards.

Q. Where was Mr. Grundy in the meantime, during the five or ten minutes; did he wait to see Mrs. Grundy? A. I don't know I think he stepped in one of the rooms.

Q. Do you know where Mrs. Grundy was? A. I do not.

Q. Did Mr. Grundy go into the small room with you, and then leave you and go out into one of the other rooms? A. I can't recall whether he went in and left me there and then came out.

Q. Now, maybe I can refresh your recollection. A. He went in the apartment with me; then he went to some room and I sat down alone for a few minutes.

Q. Now, isn't it a fact, Mr. Townsend, that when you and Mr. Grundy came in the apartment, Mrs. Grundy was in the kitchen with Miss Halverson, and as you passed the door you greeted her and she greeted you, and that she went right out after you went into the living room with you and sat down and talked with you? A. I can't answer that question directly because I don't know whether she was in the kitchen; but of her following me out, she didn't do that; I don't know what part of the house she was in; she wasn't in the room which I was in, she wasn't in the parlor.

Q. Were you in the parlor? A. Afterward, yes.

Q. You walked from the little room in the parlor and then in the dining room; is that right? A. No; when she came in we went in, I guess they call it the parlor, which is on the left hand side, the corner room, where they had a piano; when she came in we went in there.

Q. Did you go into that room before she came in? A. No, my recollection is I did not.

Q. You went into the dining room, didn't you? A. I didn't go into the dining room; I was standing at the doorway.

Q. Mr. Townsend, were the lights burning in the entire apartment that night—in every room in the apartment—on September 15th? A. I am sure I can't say that; I don't know whether they were burning throughout the entire apartment or not.

Q. Were they burning in the dining room? A. My recollection is that they were, yes.

Q. Were they burning in the living room, or the parlor, as you called it? A. Yes.

Q. Were they burning in this little room? A. There isn't any wall dividing this little room from the other room, from the parlor.

Q. Which other room? A. From the parlor; it is sort of lattice work of some kind.

Q. Was there any light burning in the kitchen? A. I don't know.

Q. Was there any light as you were passing down the hall, in any of the rooms to the left or to the right? A. Other than the fact they had the hall light burning, I didn't notice whether any lights were in the rooms; I assume the doors were closed.

Q. But you are quite sure they were burning in the dining room? A. Yes.

Q. How soon after you got into the apartment? did you go into the dining room? A. I say I had to wait there a few minutes and I walked around, I was walking pacing back and forth.

Q. How soon after you got into the apartment? A. I don't know; it was probably four or five minutes.

Q. And the lights were burning all the time, did you say, in the dining room? A. They certainly weren't turned down while I was there.

Q. Were they burning all the time that you were in the apartment, while you were walking around? A. Yes.

Q. You didn't see anybody light those lights, did you? A. I did not.

Q. And you didn't see anybody turn them out, did you? A. I did not.

Q. Did you, on September 15th, accuse Mrs. Grundy of having committed adultery? A. Other than what I had said at the prior time, at that time she wanted a separation or reconciliation; she again—she denied then that there had been any man there that day.

Q. (Last question repeated). A. I never directly at any time accused Mrs. Grundy.

Q. Or at that time? A. Of committing adultery.

Q. Did you at that time tell her that Mr. Grundy accused her of having committed adultery on that day? A. I had told her that Mr. Grundy had told me what had happened, I think I also told her that Park had said so, but she said that Park lied, that the thing wasn't true; I then went into the facts with her; that is what she said before, she wanted a reconciliation, she still lived in the hope of a reconciliation with Mr. Grundy, and when she found she couldn't get that, she wanted a separation.

Q. Well, what did you talk to her about that for? A. Why did I talk to her about that,—because she asked me.

Q. What did she ask you? A. She wanted to know whether there could not be—whether the matter could not be reconciled, whether they could not be reconciled.

Q. And you then told her? A. And I told her that in my judgment Mr. Grundy was through and he was gong to get a divorce; I told her that Park had told me and Mr. Grundy had told me what had happened that day and what he had seen.

Q. Didn't you tell her that when you first began to talk to her, before she asked you about any separation; didn't you tell her what Park had told you that day? A. I think not.

Q. It was only— A. I am not giving the sequence of what the conversation was.

Q. Give us the sequence. A. I can't do it. It was, my recollection is, when I went in there with Mr. Grundy, she wanted a reconciliation; I told her that in my judgment Mr. Grundy would not do it; I told her that he had told me and Park had told me what had happened that day; she said "Park lied, there was nobody here." I said, "Now, you can't expect Mr. Grundy to believe that. That is what you said before, and after persisting in a denial for some time you finally admitted that a man was there; now the same thing happens again with some other person; you still say Park lied," I said, "How do you expect Mr. Grundy to believe that?" The result of it was she said a man was there, that he was a real estate agent looking for an apartment for her.

Q. Now, Mr. Townsend, you knew before you went to the home of Mrs. Grundy on September

15th, Park had told you at the Jersey City Club what happened that day? A. Yes.

Q. And you knew it? A. I did.

Q. And you knew that there wasn't a possible chance in a million of a reconciliation between those two? A. I did.

Q. Then what did you go there for? A. I went there because Mr. Grundy asked me to go there to see Mrs. Grundy; he wanted to find out what Mrs. Grundy was going to do, so far as the apartment was concerned.

Q. And that is all? A. What she was going to do about her maintenance and support.

Q. And what else? A. What is going to become of her; Mr. Limbach wanted that apartment if she wanted to go out.

Q. Didn't you tell Mr. Grundy that he would have to support his wife during the pendency of any suit? A. Whether I told him then or not, I told him at some time.

Q. Then what was the purpose of going there, if you knew that there could not be a reconciliation, if you knew all the facts? A. I went there because Mr. Grundy asked me to go there, Mr. Heyman.

Q. That is the only reason that you went there? A. Other than what I have told you.

Q. Did you tell Mrs. Grundy there was no chance of a reconciliation, that you were going to file a petition for divorce? A. I had told Mrs. Grundy about the petition prior to this, it had already been drawn, I told her at a previous time that we had drawn a petition for divorce, and I told her at that time that the petition would have to be amended to insert the Evans incident.

Q. Then what was your purpose in talking with her, if that was in your mind?

MR. LANE: If your Honor please, I object to this persistent questioning as to what his purpose was. He has answered the best he can. How can counsel get any possible benefit by keeping this up.

THE COURT: I think I will take that.

A. I had no purpose in going to her, other than the fact that Mr. Grundy asked me to go there, and he wanted to get the matter settled, as to what they were giong to do with the apartment, whether she was going to get out.

BY THE COURT:

Q. Mr. Townsend, can you recall what happened after you got there, in the way of conversation at first, with Mrs. Grundy, how it happened, what was said? A. I cannot, if your Honor please; I cannot recall offhand what was said; I can recall the substance but not the sequence of it.

Q. I want to get how it began, if you can tell us. A. I think that the way the subject matter began, I came in with Mr. Grundy, I believe that I told her what Park told me, that Park or George had told me what had happened that day and that Mr. Grundy wanted to find out what she was going to do about the apartment; he in the meantime had talked about Park going to college—he went away to college on the 19th or 20th—and I believe also at that time the matter was discussed of increasing her allowance; I think that she wanted an increase, and it was finally decided to make it $125 a month.

Q. At that time the matter of this agreement was discussed? A. That same night; yes, sir. And that recalls to my mind that probably that was one reason why I went over there; I think that Mr. Grundy talked that over with her in

the meantime and he had told me that she was not—she was very worried about what was going to become of her, and that she wanted some agreement drawn, and he wanted to know whether one could be drawn; that matter was discussed over there, and I believe that that was one of the purposes why I went over there.

By Mr. Heyman:

Q. Now, isn't it a fact, Mr. Townsend, that the purpose of all of your visits to Mrs. Grundy's house after August 24th was to get her to consent to a divorce? A. Absolutely, it was not so. We didn't need her consent.

Q. And isn't it a fact that you went to that house for the purpose of getting Mrs. Grundy to make some admissions or confessions in order that you could make her testify in this trial? A. I did not, because in the meantime I had told you exactly what she had told me, and I told you, that under no conditions did I want to go on the stand as a witness in this case.

Q. In what meantime, Mr. Townsend? A. Since the last hearing when I saw you—I mean your brother—I told Sam—under no conditions did I want to go on the stand in this case; I didn't think it was my place to go on the stand. I say also it absolutely was not my desire or purpose to get a confession from this woman.

Q. You don't want this Court to understand that any time around September 15th you told my brother Sam about this case? A. I didn't say September 15th; I said since this hearing has been on.

Q. You were particular about that time to note the condition of the house? A. I was not.

Q. And things of that kind; in order that you might be able to testify to them? A. I was not.

Q. Well, you did testify that you were examining the china quite closely? A. I did not.

Q. Didn't you? You did examine the china, didn't you? A. I did not, other than to look at it.

Q. Now, didn't you testify that you were admiring the china? A. I did it, and I testified, too, in that respect.

Q. How did you admire the china without examining it?

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

THE COURT: I will overrule that question.

Q. Well, did you go into the dining room?

MR. LANE: I object to that upon the ground that it has been answered two or three times.

THE COURT: I will take it.

Q. Did you go into the dining room? A. My recollection was that I was at the doorway; I don't know whether that would be in the dining room.

Q. Was the china closet near the doorway? A. I don't know anything about the china closet; I said nothing about the china closet.

Q. Where did you see the china? A. I said I saw some china on the rails.

Q. How many pieces of china did you see? A. I don't know; I haven't any recollection how many pieces I saw.

Q. About how many? A. I couldn't give you any idea whatever.

Q. Well, did you see any china at all other than that which was on the rail? A. I have no recollection of seeing any other than that.

Q. You didn't want to go on the stand and testify as to the facts in this case, did you? A.

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I didn't want to go on the stand whatever; I didn't think I had any business on the witness stand.

Q. You felt that it was your duty to testify because of the question of the suppression of the defense? A. I thought because of the way you handled the matter that it was necessary for me to be a witness.

Q. Only on the question of suppression of defense; isn't that right? A. What is that?

Q. Only on the question of whether or not the petitioner was trying to suppress the defense in this case; that is the only thing that made it necessary for you to go on the stand; isn't that so, Mr. Townsend?

MR. LANE: I object to that.

Q. Isn't that so?

MR. LANE: I am bound to say I don't quite—that I do not quite understand the purpose of the question.

MR. HEYMAN: Well, the witness has testified that he did not want to go on the stand to testify in this case at all. Now I am asking him if it is not a fact that he thought it was necessary in order to meet the charge that he was trying to suppress the defense that he testified in this case, whether he did not think that that was necessary, and not for the purpose of offering himself here as a witness voluntarily on behalf of Mr. Grundy as to the facts which he knew of in this case.

MR. LANE: I don't know what that means.

THE COURT: It is somewhat involved now.

MR. HEYMAN: I will withdraw the question and put it this way.

Q. The purpose of your testifying in this case,

Mr. Townsend is to clear up the question of whether or not you were endeavoring to suppress the defense and nothing else; isn't that so?

MR. LANE: If he knows what the purpose is.

Q. Isn't that so?

MR. HEYMAN: There isn't any objection on the record, if your Honor please.

THE COURT: I am going to take the question. I want to take it in its form as you put it.

Q. I took the witness stand in pursuance of the advice of Mr. Lane; I didn't know what he was going to ask me until he put the questions.

Q. Didn't you talk the matter over with Mr. Lane before you went on the stand? A. Naturally I told Mr. Lane what I knew.

Q. Didn't you talk about the question of the suppression of the defense with Mr. Lane? A. I talked about your insinuations and Mrs. Grundy's insinuations and intimations and direct statements.

Q. What is the purpose of your testimony?

MR. LANE: I object to that, if your Honor please. How can he tell?

MR. HEYMAN: I will withdraw that question.

Q. What purpose had you in mind before you took the witness stand?

MR. LANE: I object to that as immaterial.

MR. HEYMAN: I think it is very material, if your Honor please.

THE COURT: I will overrule that question.

Q. Did you talk with Mr. Lane about the charge that you were trying to suppress the defense before you went on the witness stand to testify? A. I talked with Mr. Lane fully about this case, Mr. Heyman.

Q. Before you went on the stand to testify on June 10th, 1920, did you talk with Mr. Lane about the charge that you were trying to suppress the defense in this case? A. I didn't know that there was any formal charge to that effect.

Q. Did you talk with Mr. Lane about the charge that you were endeavoring to suppress the defense in this case, before you went on the stand on June 10th, 1920? A. I didn't know at that time that there had been any direct charge of suppressing the defense.

MR. HEYMAN: If your Honor please, I ask that the answer be struck out and that the question be answered. I think I am entitled to a direct answer.

THE COURT: I will strike out the answer.

MR. LANE: I object to the answer being struck out. The witness says he does not know that such charge had been made, and counsel is presuming in his question there was a charge made. The witness is not required to answer every question yes or no.

THE COURT: I will let that answer stand and let the question be repeated.

Q. (Last question repeated). A. The direct question or charge of suppressing the defense was not discussed between Mr. Lane and myself; Mr. Lane knew what the facts of the matter were and he thought, in view of the attitude taken by counsel for the defendant, that I ought to go upon the witness stand.

Q. Have you finished? A. I have.

Q. And for the purpose, Mr. Townsend of rebutting any charge that might arise that you were endeavoring to suppress the defense; isn't that so? A. So far as I know my purpose was in order to state what the facts were as they actually occurred.

Q. Then you were to testify in behalf of Mr. Grundy as to everything that you knew about the case; isn't that so? A. Well, I am sure I testified in answer to questions that were put to me by counsel.

Q. Then the purpose, Mr. Townsend, of your testifying was, to tell everything that you knew about all the facts in this case, isn't that so? A. The purpose of my testifying was to answer questions that were properly asked and the Court held were proper I was compelled to answer.

MR. HEYMAN: Now, if your Honor please, I submit that that is not an answer to my question.

A. I assure you that I couldn't tell you what the various questions Mr. Lane was going to ask me when I got on the witness stand; I don't think he knew.

Q. You knew that you had told him all you knew about the facts in the case, didn't you?

MR. LANE: I object to allow him to assume the responsibility for my examination.

MR. HEYMAN: I am not trying to get him to assume the responsibility for anything. I am trying to get the purpose of his testimony.

MR. LANE: He doesn't know.

MR. HEYMAN: If he doesn't know, let him say so.

THE COURT: I will let the question stand.

A. I did.

Q. And it was then that he thought that you ought to go on the stand and so advised you; isn't that so?

MR. LANE: I object to that, what advice I gave him and my thoughts. That is my privilege.

MR. HEYMAN: You claim privilege.

MR. LANE: Certainly I claim privilege.

MR. HEYMAN: I will withdraw the question.

Q. Now, did you go on, Mr. Townsend, to testify for the purpose of telling all that you knew about this case, or for the purpose of rebutting any possible charge which might be made in this case that you were endeavoring to suppress or had endeavored to suppress the defense? A. I didn't know what I was going to testify to when I went on at all; I was asked the questions by counsel.

Q. You didn't know what testimony you were going to give in this case before you went on the stand? A. I didn't know.

Q. Did you know what testimony you were going to give? A. I told Mr. Lane what I knew.

Q. Will you say now that before you went on the stand to testify in this case you didn't know what you were going to be asked? A. I didn't know what I was going to be asked, only in a general way, that covered the range of the subject matter.

Q. So you did know, generally? A. If you want to take it from that you are at liberty to do so.

Q. I want you to tell me what you knew? A. I have already told you what I know.

Q. Did you know that testimony would be ask-

ed of you? A. I answered that question; no more than I have stated.

Q. Then you didn't go on the stand, Mr. Townsend, simply because I made it necessary, is that so? A. Does your Honor want me to answer that question?

THE COURT: There is no objection.

Q. Can you answer that question yes or no? A. I cannot answer yes or no; no, I cannot.

Q. Go ahead then and make your speech. A. Through your attitude throughout the case, and Mrs. Grundy's attitude, Mr. Lane thought that I ought to go upon the witness stand.

Q. Is that your answer? A. It is.

Q. Did Mr. Lane tell you why he thought you ought to go on the stand?

MR. LANE: I object to that.

THE COURT: I will overrule that.

Q. Well, did you consider the matter any personal reflection against you?

MR. LANE: I object to that.

MR. HEYMAN: He said in view of the attitude of counsel and the defendant, Mr. Lane thought he ought to go on the stand. I am asking if it was necessary for him to rebut it because he thought it was a personal question.

THE COURT: I will overrule that question.

Q. Mr. Townsend, did you think before you went on the stand to testify in this case that the attitude of counsel for the defendant and the defendant herself made it necessary for you to testify to any facts other than the question of the suppression of the defense? A. I told you,

Mr. Heyman, that when I went on the witness stand I didn't know what questions Mr. Lane was going to ask me, and when I went upon the witness stand I was compelled to answer any questions that Mr. Lane put that were proper.

Q. Now, did you think at that time— A. My thoughts in the matter were entirely irrelevant and immaterial.

Q. I am not asking you that; I did not ask you to pass upon it; I ask that that be struck out.

THE COURT: I will strike that answer out. Finish your question.

Q. Did you think at the time that you were called upon to testify in this case that it was necessary for you to testify to anything in this case other than the question of whether or not you were endeavoring or had endeavored to suppress the defense in this case?

MR. LANE: I object to that upon the ground that it is immaterial and irrelevant, what he thought.

THE COURT: I will overrule that question.

Q. Did you feel, Mr. Townsend, that a charge had been made against you, that you had endeavored to suppress the defense in this case, before you went on the stand on June 10th, 1920? A. The attitude—

MR. LANE: Yes or no; did you or didn't you?

A. I didn't think there was a formal charge that had been made.

Q. Did you think that an informal charge had been made? A. I did.

Q. You thought then that it was necessary for you to rebut that charge, didn't you? A. I followed the advice of Mr. Lane in the matter.

Q. Can't you say yes or no in answer to that question?

MR. LANE: If you had any thoughts on the subject.

MR. HEYMAN: I submit that that is very unfair.

MR. LANE: No more unfair than the question is.

THE COURT: I will let that question stand.

A. I can't answer yes or no.

Q. You can't tell us whether or not you thought it was necessary to refute that charge?

MR. LANE: I object to that.

A. You heard my answer, didn't you.

Q. You want that answer to stand as it is?

MR. LANE: I object to this repetition.

Q. Why can't you answer the question yes or no? A. I had taken the matter up with Mr. Lane and told Mr. Lane that I didn't want to go on the stand—

MR. LANE: Now, is that conversation? I object to it, if it is.

THE COURT: Strike out the conversation.

Q. (Last question repeated). A. I cannot answer that yes or no because I followed Mr. Lane's instructions.

Q. Why can't you tell this Court whether or not you thought it was necessary for you to refute the charge that had been made against you that you had endeavored to suppress the defense

in this case? A. Well, Mr. Heyman, in my judgment as to what I thought about the matter that is utterly immaterial; it is not my case that is being tried; I am not the defendant.

Q. I am not asking you why you thought that; I am asking you why you can't tell us whether it was necessary for you to refute that charge here; why it can't be answered yes or no. A. In the first place, that question is based upon the assumption that a charge existed.

Q. Is that the answer you want to have stand on this record? A. That is the answer I have given you, sir.

Q. Is that the answer you want to stand now?

MR. LANE: I object to that.

THE COURT: I will overrule that.

Q. Is that the only reason that you want to give us at this time why you can't answer that question yes or no? A. If you want it that way, yes.

MR. HEYMAN: If your Honor please, I ask that the answer be stricken out.

THE COURT: Strike out the answer.

A. As I told you before, Mr. Heyman, what I thought of the matter was utterly immaterial.

MR. HEYMAN: If your Honor please, I ask that that be stricken out and that the witness be instructed to give a responsive answer.

A. Let me hear the original question again, if I may?

Q. Will you say whether or not you thought it was necessary for you to go on the stand to testify for the purpose of refuting the charge

which had been made against you that you had endeavored to suppress the defense in this case?

THE COURT: If there is no objection I will let him answer.

Q. Now, will you say whether you thought it was necessary for you to go on the stand and testify in this case for the purpose of refuting any charge which had been made against you that you had endeavored to suppress the defense in this case? A. I had no thoughts in the matter; I followed the direction of Mr. Lane.

Q. You had absolutely no choice in the matter? A. You got my answer, didn't you?

Q. Then why did you tell us before, in view of the attitude and conduct of counsel for the defendant it was necessary for you to go on the stand and testify? A. Did I use those words?

Q. I don't remember whether you did or not. A. You are so apt to misquote the testimony; I want to refresh my recollection whether I did.

Q. That is an answer to my question? A. I think so.

Q. Did you consider yourself under a charge before you went on the stand to testify in this case that you had endeavored to suppress the defense? A. Do you want me to answer that?

THE COURT: The question is asked, Mr. Townsend.

A. The attitude that Mrs. Grundy and her counsel have taken—

MR. HEYMAN: If your Honor please, I submit that that can be answered yes or no.

A. I can't answer that yes or no.

Q. Do you consider yourself now under a charge that you had endeavored to suppress the

defense in this case? A. Is that at all material?

Q. Your answer can tell. (Last question repeated). A. I can't answer that yes or no.

Q. Do you know now what the purpose of your testimony was?

MR. LANE: That I object to.

THE COURT: I will overrule that question.

Q. You talked with Mr. Lane about the charge of your suppressing the defense in this case before you went on the stand, didn't you, Mr. Townsend?

MR. LANE: I object to that as repetition. He said he talked with me about the entire case several times.

MR. HEYMAN: I will withdraw the question.

Q. Did Mr. Lane advise you to go on the stand and testify in this case?

MR. LANE: I object to that on the ground of privilege.

THE COURT: I will overrule that question.

Q. Mr. Townsend, you consider yourself as the attorney for Mr. Grundy, or solicitor for Mr. Grundy in this matter, or as one of his counsel, or as his personal counsel, or in the relation of attorney and client anyway? A. Are you through? Did you finish the question?

MR. LANE: He says he does.

MR. HEYMAN: If your Honor please, I have not heard him say.

MR. LANE: He said I do.

Q. Did the witness say "I do"? A. I asked you if you were through.

Q. (Last question repeated). A. Attorney and client.

Q. Not as counsel in this case? A. What do you mean, as counsel in this case?

Q. Well, do you represent him as one of his counsel in this case? A. I am one of his attorneys; certainly.

Q. You have been acting as his legal representative since August 25th, 1919, in this matter?

MR. LANE: I object to that upon the ground that it is in evidence, not once but twice.

MR. HEYMAN: I don't see that it is going to do any harm.

MR. LANE: I say it is doing harm; I think it is a waste of time.

MR. HEYMAN: I think we are wasting a great deal of time by these frivolous objections.

THE COURT: I am going to admit that question.

A. One of them.

Q. Well, who were the others, Mr. Townsend, who represented Mr. Grundy in his marital difficulties? A. I don't know whether Mr. Lane—Hartshorne, Insley & Vreeland are Solicitors of record.

Q. When did Mr. Grundy retain Hartshorne, Insley & Vreeland?

MR. LANE: I object to that on the ground that it is immaterial and irrelevant.

MR. HEYMAN: Now, if the Court please, I want to know who are interested in this matter; whether or not Mr. Townsend's actions were the actions of the petitioner's from August 24th, 1919.

MR. LANE: He said that he has represented him since.

MR. HEYMAN: I want to know if there was anybody else who was responsible for any actions of the petitioner, and if so, from what time. I think I have that right.

THE COURT: I will overrule this question.

Q. Now, Mr. Townsend, will you swear that this is the paper which Mrs. Grundy had in her possession, showing you P-14?

MR. LANE: I object to that upon the ground that it has been gone into three or four times already. The witness has already sworn that he could not swear that this was the particular paper.

MR. HEYMAN: All right; I will withdraw the question if that is the statement of counsel. That is all I want.

MR. LANE: That is the statement of counsel.

Q. Will you swear that Mrs. Grundy had an exact copy and duplicate of this paper in her possession, P-14?

THE COURT: That is the first one.

A. If she did not have that she had an exact copy.

Q. Was the copy signed by Mr. Grundy or not?

MR. LANE: I object to that upon the ground that it has already been asked and answered.

THE COURT: I think it is.

Q. Was the copy on light paper or heavy paper?

A. Which copy are you speaking of?

MR. LANE: The copy she had. Can you tell?

A. It all depends on whether she had the original or carbon copy.

Q. Do you know whether it was on light paper or heavy paper? A. If it was the carbon copy it was on the same kind of paper as that; if it was the original, then it was on heavier paper.

Q. Do you know? A. I do not.

Q. That is all I want; if you don't know, say so.

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

THE COURT: All right, strike it out.

Q. Did you ever draw any other agreement besides these two, P-13 and P-14, between Mr. and Mrs. Grundy? A. I did not.

Q. Did you ever give Mrs. Grundy any paper other than P-14 or P-13 at any time? A. My recollection is that I did not.

Recess until two o'clock.

(After recess the witness resumed the stand).

Q. Now, Mr. Townsend, when did you finally notify Mrs. Grundy that you would not—that P-14 would not be executed?

MR. LANE: I object to that on the ground that it has been asked and answered at least four times.

THE COURT: I will let it be answered.

A. I can't give you the exact date, Mr. Heyman; it was after our return from Shawnee; it was at Shawnee when Mr. Grundy and I had determined that the matter would not be executed. It might have been on the 26th.

Q. When did you leave for Shawnee? A. If

you let me have that book I can tell you (After examing book). I believe it was late in the afternoon of the 18th.

Q. When did you return? A. On the Sunday evening, which was the 21st.

Q. When did you draw P-14? A. My best recollection is that the first one was drawn on the 16th and I think that the other one was drawn or re-drawn on the 18th.

THE COURT: Of September.

Q. Why didn't you give her P-13 when it was drawn? A. My recollection is she did not have a copy of P-13; she may have had it; evidently it was drawn after they were at the office on the 18th.

Q. Was this P-13 drawn about the 18th of September? A. That is my recollection.

Q. I thought that it was on that date that you told her, or communicated to her the contents of P-13? A. The contents, Mr. Heyman, of P-13, were the same as the contents of P-14, excepting the provision respecting counsel fees was stricken out; they were identical.

Q. You communicated that to her? A. Yes, I did.

Q. On the 18th? A. That is my recollection, that I communicated that to her on the 18th.

Q. You are sure that it wasn't later than that or before that? A. There is no way that I can be positive about the thing; it is my best recollection that it was not later than that, because it was while we were at Shawnee that we had determined that the agreement would not be executed.

Q. That is, P-14 should not be executed? A. Yes; I had told Mrs. Grundy in the meantime some time.

Q. You had told Mrs. Grundy? A. Yes, Mrs. Grundy, that I wanted that other one paper and that it would not be executed.

Q. In what meantime? A. Between the time that she had gotten it and the time that the other one was drawn.

Q. That is, between the 16th and the 18th, is that right? A. I think so; I think I told her that morning, she came down on the 18th; understand, I have no way of exactly fixing the date or the time; I am depending entirely on my own recollection.

Q. Isn't it a fact that P-13, the second paper, was drawn long after September 18th,—long after? A. No; it wasn't.

Q. Well, you are quite sure of that? A. To the best of my recollection, yes.

Q. Wasn't that drawn after September 25th? A. No.

Q. You are certain of that? A. Yes.

Q. What makes you so certain? A. Because as I say, while at Shawnee we had determined not to execute any agreement—execute this agreement.

Q. Now, look at the paper itself and see if that won't help you to determine?

THE COURT: Which is that?

MR. HEYMAN: P-13.

Q. See if that won't help you to determine when you drew it? A. No; certainly this agreement P-13 was drawn after the petition had been filed.

Q. When was the petition filed? A. I guess it recites in there.

Q. When was the petition filed? A. I can't recall offhand.

Q. Haven't you got any record of it? A. No, I have no record.

Q. There is the petition; it was filed on the 19th. A. It was verified at the office on the 18th and evidently reached the Clerk's office the following day.

Q. So that it was after the petition had been filed that you drew that agreement? A. It was either after the petition had been filed or the petition had already been drawn and executed and instructions were given to send it to the Clerk that this was drawn; that recites in there, "has filed a petition for divorce."

Q. Well, what did you tell Mrs. Grundy—what did you communicate to Mrs. Grundy about P-13? A. I told Mrs. Grundy what I have already stated respecting the counsel fees, that I was going to draft that and leave out the provision respecting counsel fees.

Q. Was Mrs. Grundy excited when she came to your office on the 26th? A. There was one day, the day that she came there with the petition for divorce, she was excited that day, whether that was the 26th or later than that, it was right after the petition had been served upon her; my recollection is it wasn't the 26th, it was later than that, that she came in there with the petition, or with the citation.

Q. She had the citation on the 26th when she came to your office, didn't she? A. I don't recall whether she had it then or not.

Q. Have you any record when you delivered it to the Sheriff for service?

MR. LANE: The original will show when it was served.

MR. HEYMAN: Served September 25th.

A. No, I have not.

THE COURT: (Referring to original file) The 25th.

Q. Did she have it with her? A. Evidently she had that with her, because she came in with the citation, I recall, and I know she was excited about it.

GEORGE H. GRUNDY, recalled:

DIRECT EXAMINATION BY MR. LANE:

Q. Mr. Grundy, what was the fact with respect to your method of life in Pittsburgh before you came to Newark, as to drinking? A. Possibly a year or two prior to our leaving Pittsburgh Mrs. Grundy had become addicted to excessive drinking, I would find at times hard liquor in bottles around the house, in refrigerators, and it is a fact that frequently she would have to be helped home; she came home at times in the house with a cut face, and it became almost unbearable; as a matter of fact, I tried to seek a change of position to get away from the conditions that existed in Pittsburgh at the time before I left.

Q. She has testified that you were the first person with whom she ever drank; is that true? A. I don't know.

Q. During the time you were in Pittsburgh did you take any steps to stop the excessive drinking? A. Yes; I done everything in my power to appeal to her to instill in her a spirit of pride and to make her realize that she had a home and child and there was only one end to this question of excessive drinking.

Q. You came to Newark in 1907? A. Right.

Q. Mrs. Grundy has testified that prior to your coming to Newark she wasn't well, that she had been ill in Pittsburgh; is that true? A. Because of indulgence in liquor, yes.

Q. Was there anything else; anything else the matter with her than that, to your knowledge? A. We found out later, after medical attention in Newark, that she had been suffering from some ailment that the doctor thought might possibly be due to indulgence in liquor.

Q. Was there any difficulty between you and Mrs. Grundy with respect to coming to Newark; to changing from Pittsburgh to Newark? A. Yes; she didn't like it; she objected to coming very much; she become very much discontented; when we came she was disagreeable, she didn't like it at all, she felt that she was leaving all her friends in Pittsburgh and she was uncomfortable; the question of leaving our home that we had in Pittsburgh to find a new home did not appeal to her.

Q. Did you tell her the reason for your changing your position? A. Yes.

Q. What did you tell her? A. I told her that I thought it was really wise and necessary that we leave the place we were living in at the time, because I felt we could not live here, because certainly there was no chance for me under those conditions, and we should seek a change of scene.

Q. When you came to Newark and got to Newark, was she under the influence of liquor? A. I think so.

Q. Why do you say you think so? A. Because it was necessary to go to a hotel, she didn't care to eat, we had to call in a doctor, in a very short time, and the doctor wanted to know what was wrong, he thought there was something there that wasn't right. I have some very hazy recol-

lections, it was some thirteen years ago, but my impression is that she had a drink at one time and she wasn't over it.

MR. HEYMAN: I object to surmises and conlcusions.

conclusions. I think I ought to object to all this line of testimony.

THE COURT: He should, of course, testify to facts he knows.

MR. LANE: As I understand it he is testifying of his own knowledge,

MR. HEYMAN: No; he said the doctor asked him and he said a whole lot of things.

THE COURT: He states certain facts and then he says "my impression is hazy about that." With that qualification of it I will let that stand.

Q. Now, you went, in 1909, to Mrs. Corrigan's? A. Possibly the better part of the year; it may have been a year and a little more; I don't recall exactly.

Q. Why did you leave? A. Again for the same reason, feeling that a change of scene was necessary; Mrs. Grundy was drinking excessively, and at the time she blamed a lot of the troubles on Mrs. Corrigan; she claimed that Mrs. Corrigan encouraged her drinking and there was no way for her to guard against it except to move from the house. I did not feel that Mrs. Corrigan was responsible, but that was the plea made, so we moved from there to Mrs. Low's.

Q. Did you object to Mrs. Corrigan's? A. Did I?

Q. Yes. A. I did not.

Q. As to her meals or her unkempt house? A. I did not.

BY THE COURT:

Q. What is that, a boarding house? A. Yes; we couldn't keep house.

Q. You didn't keep house there? A. We did prior to that.

BY MR. LANE:

Q. I am talking about Mrs. Corrigan's housekeeping. A. Yes.

Q. Mrs. Grundy testified that you objected to Mrs. Corrigan's housekeeping, her meals and her unkempt house, it was filthy; did you make any such objections? A. Nothing like that. Mrs. Grundy would be confined to her bed for days at a time and the conditions seemed to be getting worse day by day, so I thought it necessary to look up another house where there was less chance to get liquor.

Q. From there where did you go? A. Mrs. Low's.

Q. How long did you stay there? A. I should say about two years.

Q. What was the conduct of Mrs. Grundy, with respect to drinking at Low's? A. For a time there was some improvement, but she again started to purchase liquor from local stores; she could not have it at the boarding house very well and she would go out and get it until we gradually got back to the same old situation.

Q. What do you mean by the same old situation? A. The excessive drinking condition, confined to her bed; there were some disagreeable scenes of drinking, because of her drinking and falling on the floor; she staged two or three attempts at suicide in Mrs. Low's house, but we never thought she meant them seriously, we always thought they were done to create sympathy,

because she always complained. Conditions became very bad; we had to give her medical attention from time to time, even had a nurse, and expenses at Mrs. Low's ran very heavy. While at Mrs. Low's, Doctor Maas arranged to have Mrs. Grundy go to a private sanitarium in Irvington for treatment after one of these heavy spells. While at Mrs. Low's she always went to Pittsburgh, at one time she went up to West Haven, at another time, and on her return in each case—

Q. Do you remember the trip to West Haven —to Savin Rock—in the Summer of 1911? A. Yes, sir.

Q. Was that the time you received this letter, which has been marked P-2? Do you recollect that trip? A. Yes, I do.

Q. Tell me what happened? A. Mrs. Grundy and Park had been to Savin Rock; I took a short vacation, a Summer vacation, and we had had some correspondence back and forward, and I had advised that I would come up to spend the week-end. I finally arrived, I think, on a Saturday, and went to the hotel and found Mrs. Grundy dead intoxicated, she was in very bad shape; in fact so bad that she was ashamed to leave the room; she hadn't been out of the room, I don't believe, for the better part of two days; her face was badly stained. I saw the condition and immediately turned around and left the hotel and came back home.

Q. And did you thereafter receive this letter, which has been offered for identification and bears the postmark August 20, 1911? A. Yes, I did.

MR. LANE: These have been marked P-1 and P-2 for identification. I offer them in evidence.

(Letters marked Exhibits P-1 and P-2 in evidence.)

Q. Now, when she came home from Savin Rock, do you remember her coming home from Savin Rock? A. Yes.

Q. Where did you meet her? A. I met her there at the station.

Q. What condition was she in? A. On that particular trip I am quite sure she was all right; but on another visit to New Haven—

Q. When was that? A. I should say 1912.

Q. What happened then? A. She went to New Haven, or West Haven, to visit some friends; it was planned she would stay a week or two, or longer, if she enjoyed the outing. Much to my surprise I received a telephone message from someone at the Grand Central Station to come and get my wife, she was in bad shape in the waiting room, what they call the hospital; I went up and found her there lying down, her face was badly cut. She explained that she had fallen and cut her face; she was then intoxicated very much so that it was necessary to get a taxicab to take her home.

Q. That is, home to Low's? A. Yes.

Q. Where you were living at that time? A. Yes.

Q. When did you give up your residence at Low's? A. We left there, I am sure, in July, 1912.

Q. Prior to leaving there had she been taken to Morris Plains? A. Yes.

Q. When was that? A. It is a month or two previous to July; I should say May or June—April, May or June, 1912.

Q. What caused you to send her there at that time? A. The doctors in attendance—

MR. HEYMAN: I object to that, if your Honor please. I don't think this witness is qualified to testify as to why she was sent there. I think that is a matter of record and that is the best way to prove it.

THE COURT: You ought to call for the facts. Call for the facts.

Q. What are the facts? How did she act?

MR. HEYMAN: I object to that.

MR. LANE: I am getting now the witness' state of mind. I am entitled to show that.

MR. HEYMAN: I object to the witness' state of mind, if your Honor please. The question is why a person was sent to an institution. I think that is a matter for expert testimony, and I think that is a matter of record. I think that is the best way to prove it, and the only way that it can be proved.

THE COURT: I will permit it.

A. She was drinking to excess; conditions at Mrs. Low's became unbearable; Mrs. Low said, "We could not stand for this—"

MR. HEYMAN: I object to that.

THE COURT: Not what Mrs. Low said, unless it was in Mrs. Grundy's presence. That will go out.

A. We found it necessary to call in physicians, at least two physicians, they were attempting to give Mrs. Grundy—

MR. HEYMAN: I object to anything that the doctors attempted to do.

A. They were calling at the house regularly to attend Mrs. Grundy; the doctors advised—

MR. HEYMAN: I object to what the doctors advised if your Honor please.

A. They told me—

MR. HEYMAN: I object.

MR. LANE: I press that question. The question is whether this man was justified in sending this woman to an institution. Now, what he was advised by doctors and the effect upon his mind is proper to show, if your Honor please.

MR. HEYMAN: Now, I submit, Morris Plains is an institution which keeps records and there is a certain prescribed method by which patients can be admitted to that institution, and there is only one certain prescribed method for admission to that institution; that method contains the very best information about the disease for which the patient is admitted. I submit that that paper and that record will contain the doctors' findings and the doctors' advices and everything else pertaining to the patients and the patients' sickness. I say that is the only way to prove it.

THE COURT: I will take the answer; it is only part of the answer; he says the doctor advised him something.

A. It was impossible to correct the situation concerning Mrs. Grundy and her habits in boarding houses such as Mrs. Low's, and that she necessarily must be taken to some sanitarium where she would be under observation and where it would be impossible for her to get liquor.

Q. Now, did you follow that advice and take her to Morris Plains? A. I did.

Q. And did you visit her continuously while she was there? A. Regularly.

Q. Did you finally take her out? A. Yes.

Q. How long afterwards? A. How long after?

Q. Yes. A. Possibly a month and a half, thirty days.

Q. How did you come to take her out? A. Because she kept constantly pleading to come back home, she felt that she was in much better physical condition, she admitted her fault, that she had been in error on the excessive drinking, and she promised by every vow that she would stop it and never give any more cause for complaint; she improved wonderfully from the treatment they gave her, she improved in weight and appearance, and I decided that it was not proper to keep her there under those conditions, so I prevailed on the doctors to release her.

Q. Now, did you do that, did you take her out in accordance with or against the doctors' advice?

MR. HEYMAN: I object to that.

A. Against their advice.

THE COURT: I will take it.

A. So far as medical treatment is concerned.

Q. I show you a letter dated May 29th, 1912, from Doctor Evans, and also an envelope dated May 29th, 1912, and ask you whether that refers to the time she was taken out of that institution? A. It does.

Q. Did you receive that coincident with taking her out of that institution? A. I did.

MR. LANE: I offer that in evidence.

MR. HEYMAN: I object to any letter by any doctor to this witness, and I object especially to this because it seems to be in reply to a letter from Mr. Grundy.

THE COURT: From whom?

MR. HEYMAN: From Mr. Grundy to Doctor Evans.

THE COURT: You don't object on the ground of the proof of signature?

MR. HEYMAN: No. I object also on the further ground that it is not the best way to prove the facts in the letter.

THE COURT: I will take it.

(Letter and envelope marked Exhibits P-15 and P-16 in evidence).

Q. After she was released from Morris Plains where did you go; where did you take her? A. We came back to Mrs. Low's. I then decided, rather than have a repetition of the situation that it was best to seek another change of scene, in another effort to create an interest on the part of Mrs. Grundy, and I decided to go to housekeeping again, hoping that she would find housework would occupy her time; and at quite a little expense I rented an apartment in New York, fitted it out nicely and arranged for a two years lease.

Q. That is at 170th Street and Fort Washington Avenue? A. Right.

Q. What was her habit of life in respect to drinking during those two years? A. She started drinking very shortly after we moved there.

Q. What do you mean; what happened? A. She became worse than ever; there was a time when we had constant medical attention, nurses day and night nurses, she drank to such excess that it was impossible to govern her actions; we found her in the hall in her night gown, with her hair hanging down, riding in the elevator and running around about the hall when Park and I were sleeping, and the policeman told her repeatedly—there were several of them—

MR. HEYMAN: I object to that.

A. The situation became unbearable, because we had, for instance, nurses—

Q. Wait a minute; did you say a policeman brought her home? A. Yes.

MR. HEYMAN: Were you there?

THE COURT: He said the policeman told her.

MR. HEYMAN: I beg your pardon.

Q. During the time that you lived there did she go to various places for treatment? A. Yes.

Q. Where? A. To the Audubon Sanitarium.

Q. What is that? A. It is maintained as a convalescent hospital, where they treat them, they give treatments for alcoholic patients.

Q. I show you a bill and ask you whether that is a bill for treatment given to her there? A. It is; that is one bill.

MR. LANE: I offer it in evidence.

(Bill marked Exhibit P-17 in evidence).

Q. Did she go to that institution more than once? A. I think only the once, to the Audubon.

Q. Now, did she go to the Oppenheimer Institute? A. Yes, at least twice.

Q. What kind of an institution is that? A. It is maintained principally for patients subject to alcoholic and drug habits.

Q. I show you a bill dated December 9, 1913 and ask you whether that represents a bill rendered to Mrs. Grundy by that institution? A. It does.

MR. LANE: I offer that in evidence.

(Bill marked Exhibit P-18 in evidence).

Q. Did she go to any other institution during that period of time save the Oppenheimer Institute? A. (No answer).

Q. I show you another bill dated July 1st, 1914, and ask you whether that is a bill of the Oppenheimer Institute, also for services rendered on or about that date? A. Yes; that is her last visit to the Oppenheimer Institute.

MR. LANE: I offer that in evidence.

MR. HEYMAN: I object to that because it seems to be not a bill but it is just a receipt for an advance payment.

MR. LANE: Well, I offer it as a receipt for an advance payment, if that is what it is.

MR. HEYMAN: I object to that on the ground, if your Honor please; I don't see that it is a bill for treatment or for cure; it does not seem to be.

THE COURT: I will take it.

(Bill marked Exhibit P-19 in evidence).

Q. Now, during that time who was your physician, during the time that you lived in New York for two years? A. I don't recall the names of the physicians other than these physicians that were employed by these hospitals; but we did have a physician in the apartment on the ground floor, also a physician on the corner of Broadway and 168th Street.

Q. Was Doctor Maas advising you? A. Not while we were living in New York; but prior to that he was advising me.

Q. I show you a letter from Doctor Maas to a Doctor Rosenwasser, of New York City, and ask you whether that letter will refresh your recollection as to consulting with some other physician? A. Yes, I recall going to Doctor Maas making a visit to Newark, to confer with Doctor Maas and to report to him the conditions I still was living under while in New York, and Doctor Maas then gave me this letter to Doctor Rosenwasser.

Q. Did you go to consult with him? A. No.

Q. What finally happened? A. After this second visit to the Oppenheimer Institute Mrs. Grundy's doctor 'phoned me from the Oppenheimer Institute that she was raising so much disturbance that she could not remain.

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

THE COURT: Someone 'phoned from the Oppenheimer Institute. Strike out the rest of that.

Q. What did you do in response to that 'phone call? A. I went down to see the doctor, and he told me—

MR. HEYMAN: I object.

A. I went down to the Oppenheimer Institute.

Q. What happened? A. And found that Mrs. Grundy was acting in such a disagreeable manner, complaining of the nurses and the doctors, they could have no control over her, that they told me that I would have to take her out.

Q. Did you take her out? A. I did.

Q. Did you take her to Morris Plains? A. Not directly; we went back home.

Q. How long did you stay home? A. She was very much incensed because of the treatments we had been trying to give her and started drinking to excess. In an effort to get her in a better frame of mind, I proposed an automobile ride on a Sunday; we started for Jersey, and on the way Mrs. Grundy became ill and insisted that she must have a drink. I had telephoned previously to Mrs. Corrigan, explaining the difficulty we were having, and asked Mrs. Corrigan if there was any chance of our coming back to live with them, because Mrs. Grundy could not manage to keep house. Mrs. Corrigan invited us over to see her and talk it over, and we were on our way to

Corrigan's this Sunday—Saturday or Sunday, I am not clear—on second thought I am sure it was Saturday, because we had to stop and buy a drink on the Boulevard to brace her up, and she drank so much that by the time we got to Mrs. Corrigan's she was in such bad shape that she was almost helpless and she remained in bed practically until the 21st of August, under a doctor's atten- 1914, Mrs. Grundy was again taken to Morris Plains from Mrs. Corrigan's house.
from Mrs. Corrigan's house.

Q. Did your moving from New York to New Jersey have anything to do with any trouble that was occasioned in the New York house by your father? A. Not at all.

Q. At the time that your wife was in Morris Plains the second time did you visit her? A. I did not.

Q. Why not? A. I was instructed to stay away.

Q. How long did she stay in Morris Plains? A. From August until the latter part of December.

MR. LANE: I offer the letters, if your Honor please, which have been marked P-11 and P-12 for identification.

THE COURT: Written by whom?

MR. LANE: Written by the husband to the wife and identified by the wife.

MR. HEYMAN: Which you asked us to search for in our trunk. I have no objection.

(Letters marked Exhibit P-11 and P-12 in evidence).

Q. Did you receive any letter from her while she was in Morris Plains? A. Yes.

Q. I show you a letter dated July 9, 1914.

Where was she when she wrote that one? A. This appears to be, from the date, written in New York.

Q. Do you recollect the details with respect to it?

MR. HEYMAN: I object to that; he doesn't say he remembers the letter. There is no evidence that it was written by her.

Q. Never mind; do you remember the details about this; yes or no?

MR. HEYMAN: I object to that unless the witness identifies it.

MR. LANE: Well, I offer the letter in full. I offer the letter in evidence; it has been marked P-3 for identification and identified by Mrs. Grundy as having been written by her to her husband.

(Letter marked Exhibit P-3 in evidence).

Q. How do you remember the details with respect to that letter? A. I recall this letter reaching me at approximately that date, which was my birthday; I am quite sure Mrs. Grundy was not at home.

MR. HEYMAN: If your Honor please, if the witness is going to testify to any inferences I am going to object. If he is going to state facts, I won't object.

THE COURT: State the facts, Mr. Grundy.

MR. HEYMAN: I think the witness should be instructed to that effect.

Q. According to your best recollection.

MR. HEYMAN: Of what?

MR. LANE: Of the facts.

A. According to my best recollection, that letter was sent to me from the Oppenheimer Institute.

Q. I show you a bill of Thomas B. Keegan, and ask you whether that represents a payment, or rather a bill for services rendered at the time Mrs. Grundy was taken to Morris Plains the second time? A. It does.

Q. Is Thomas B. Keegan a physician in this city? A. He is.

Q. Was he advising you? A. He was.

MR. LANE: I offer that in evidence.

(Bill marked Exhibit P-20 in evidence).

Q. How, long did she stay in Morris Plains the next time, that second time? A. Approximately four months.

Q. When did you know that she had gotten out? A. A telephone message from Mrs. Grundy.

Q. From New York, or from where? A. From New York.

Q. What did she say on the telephone? A. She said that she had escaped from the institution and had worked her way into New York and she said that she would let me know where she was, where I could find her, provided I promised to guarantee not to send her back.

Q. What did you say? A. I was greatly alarmed at her condition and I didn't know what would become of her.

MR. HEYMAN: I object to that.

A. I told her I would meet her, and I did.

Q. What did you do; meet her? A. I met her.

Q. What happened then? A. We had quite a long talk; we had luncheon or dinner and she told me she had borrowed money from someone who had been an inmate, and watched her oppor-

tunity to escape, and used this money she had borrowed to get over to New York; and she boasted of the fact that she had spent the last fifty cents she had in her pocket for a drink.

MR. HEYMAN: I object to that.

Q. What was her statement? A. Her statement was that she had spent the last fifty cents for a drink. She further stated—

Q. What happened? A. We went back to Mrs. Low's.

Q. How long did you stay there? A. Only a month or two; I think we left there in July.

Q. Then where did you go? A. To New York.

Q. Where? A. To New York.

Q. To New York? A. Yes, sir. Oh, you are speaking of the second time?

Q. I am speaking of the second time. A. She came back to Mrs. Corrigan's; we stopped on our way back at Mrs. Corrigan's.

Q. How long did she stay in Mrs. Corrigan's? A. Only a few weeks.

Q. Then where did you go? A. I rented an apartment in Jersey City.

Q. That is 57 Clinton Avenue? A. Yes, sir.

Q. Where you resided until the time of the separation? A. Right.

Q. Now, how did she behave herself with respect to drinking after she started to live at 57 Clinton Avenue? A. Well, after starting housekeeping at 57 Clinton Avenue in our own apartment she did take care of herself for a reasonable length of time, and then she started drinking again.

Q. How long would you say that was? A. I believe—I don't know—I should say possibly the better part of three months.

Q. Then what happened? A. She started drinking again. What did she do? What was the family life after that? A. That was in 1915, and her drinking spells became more frequent, and

we found it again necessary to call in physicians and occasionally have nurses; she was spending an enormous amount for liquor; I would find liquor bills in the house for large amounts that had been spent, cash payments for liquor.

Q. Did she have any doctor during that time? A. Yes.

Q. Who? A. Doctor Opdyke.

Q. Did he attend her down to the time of the final separation? A. He did.

Q. Did you, about the year 1918, have any conversation with her with respect to what your attitude was going to be as to further matrimonial intercourse with her under the circumstances?

MR. HEYMAN: I object to that on the ground that it is leading.

A. I did.

THE COURT: I will take it.

Q. When did it happen; where did it happen; what was the conversation? A. In the summer of 1918, after her return from a visit to Blue Point, I told Mrs. Grundy that I was very greatly discouraged over her actions or habits, her excessive drinking, and her waste of money, and that unless she made a great change I had decided to show or to have no further affection for her, unless she would stop drinking to excess and change her habits, and keep her house and body clean, both ways, as a wife should.

Q. Was there any change in her conduct? A. There was not.

Q. In the summer of 1918 did you endeavor to get her—

MR. HEYMAN: If your Honor please, I object to the question before it is finished, on the ground that it is leading. He is placing the answer right in the witness' mouth, and I object to that.

THE COURT: Don't answer, Mr. Grundy.

MR. HEYMAN: If your Honor please, I object to the question being asked in that manner.

THE COURT: I don't know what it is yet.

MR. HEYMAN: I don't either; but I can see from the tone, from the phraseology that it is going to be a question which embodies the answer.

THE COURT: I can't tell that, Mr. Heyman. The most I can do is to tell the witness not to answer until I have an opportunity to rule on it.

MR. LANE: I tell your Honor now that it is going to call for a categorical denial, and that, as I understand the rules, I am entitled to ask.

MR. HEYMAN: Not unless he is going to quote the testimony of the witnesses

MR. LANE: That is exactly what I am going to do if you will keep still a minute.

MR. HEYMAN: If your Honor please, I don't know that I have a right to keep still.

MR. LANE: I can't talk to the witness if you keep on objecting.

MR. HEYMAN: I think I have a perfect right to object, if I do it in a legal and orderly manner. I don't think, if your Honor please, I should be admonished by counsel.

Q. In the summer of 1918, did you endeavor to get her to use her mouth for your private parts? A. Absolutely not.

Q. Did you during that summer, or at any other time, wake Mrs. Grundy up in the night and endeavor to have sexual intercourse in the way I have described? A. Never.

Q. Did you, in the summer of 1918, or at any other time, ever say to Mrs. Grundy that you knew of people who did it that way, and that there was no feeling to it the other way, it was no good, and if she was like other people you knew that she could get along? A. I did not; such statement was absolutely untrue.

Q. Was there any episode in the summer of 1918, or at any other time, in which that subject matter, or anything like the subject matter that I have alluded to, was discussed? A. No.

Q. During that summer when Mrs. Grundy was at this place at the shore, wasn't it— A. Blue Point.

Q. Blue Point? A. Yes.

Q. How many rooms did she have there? A. Just the one.

Q. Who slept in that room when you were not down there? A. Park and his mother.

Q. When you were down there did you sleep in the same room? A. I had to.

Q. Did you, as a matter of fact? A. I did; there was no other room in the hotel available.

Q. Did you at any time, particularly in the summer of 1918, when you remained away from home at night, say to Mrs. Grundy that was none of her damned business, and that you would have no woman telling you to come home, and that you would have her distinctly understand that; or words to that effect? A. I did not.

Q. Did you ever tell Mrs. Grundy that you were sick and tired of her, that you did not know what she was hanging around there for, that you wished she would get out, that you

loathed the sight of her, and didn't she have any backbone, why didn't she get out? A. I did not.

Q. What did you say to her with respect to your feelings toward her?

MR. HEYMAN: When?

MR. LANE: In the summer of 1918 and subsequently thereto.

A. I stated, previously I told her that she must change her habits and her actions, her excessive drinking or that I would certainly lose all possible respect and affection for her; after that, the fact that I continued her allowance and paid for the medical attention and maintained the house and paid all the bills would show that I did not—

MR. HEYMAN: I object.

A. —make the statements she claims I did.

THE COURT: Only what you said.

Q. I asked you what you said with respect to your feelings toward her. A. Yes.

Q. Did you ever strike or hit her? A. No.

Q. Or curse her, and damn her? A. No, sir.

Q. Now, when did you make up your mind to go to Europe in 1919? A. February—oh, well, when did I make up my mind? It was within about a few months before; I did go in February.

Q. What was the purpose of that visit? A. A business trip.

Q. Prior to the time that you went did you make arrangements to give up the apartment? A. I didn't make any definite arrangements.

Q. What did you do with respect to the apartments? A. Mrs. Grundy raised the question about remaining in this, what she called a large apartment; she didn't like Jersey City, she wanted to go to New York, she wanted to give up

the apartment, or rather talked about giving up the apartment during my absence, and at her request I talked to the landlord.

Q. Yes; what happened? A. Finally she was undecided what she wanted to do; my visit abroad was uncertain, I had no idea how long I would be gone, it might be three months or it might be a great many more months, so, because she could not make up her mind what she wanted to do, we left it in an unsettled condition, with the understanding that the rent for the apartment would be paid regularly and that her allowance would be continued regularly, and that she would have the say as to whether or not she would continue in those apartments.

Q. Did you make arrangements for the rent? A. I did, with the understanding that if she gave up the apartments she would have an additional allowance.

Q. Did you use any pressure upon her to give up the apartments? A. I certainly did not.

Q. Did you get her the opportunity to go down to this Blue Point during the summer of that year? A. Yes; she went down frequently, several years, and spent the summer.

Q. Do you know why it was that she didn't go down there during the year 1919? A. I can't say that I know.

Q. Did you have any talk with her as to why she didn't go down? A. Yes, I raised the question with her and asked her repeatedly why she wasn't going away for the summer as usual but she gave me no decided answer, except that she thought she preferred to stay around the house. As a matter of fact, she was drinking very heavily during the summer of 1919.

Q. When did you first hear of the occurrence

of August 24th, I think it was? A. In the evening, on Sunday evening, that day.

THE COURT: 1919?

MR. LANE: Yes.

Q. From whom did you hear it? A. My son, Park.

Q. Did you then talk to Mrs. Grundy? A. I did.

Q. On that same night? A. Yes.

Q. What did you say to her and what did she say to you? A. I told her what Park had told me, and she said, "Do you believe it?" I said, "I do." She said, "Park is lying, there was no man in the house."

Q. What else? A. I told her that Mrs. Hansen was corroborative evidence that there was a man in the house, that Park had talked to her, and the fact that Park could not get into the apartment for such a long period, and that he heard voices in the apartment, would appear that someone was there, and that she had seen the man there, and I believed him. She denied the fact that there was anybody there.

Q. Then what happened? A. Park and I were very greatly discouraged—

Q. Never mind that. A. We talked it over quite a little that night, and the next day I telephoned to Mr. Townsend and arranged an appointment for the next day, on Monday, the 25th, in regard to the situation at home.

Q. You saw him on the 25th? A. I saw him.

Q. When did you next see Mrs. Grundy? A. I think on Monday night.

Q. The 26th? A. Park and I were living there on the 25th and 26th.

Q. When did you first see Mrs. Grundy with Mr. Townsend? A. On the 26th.

Q. How did he come to go to the house? A. I requested it.

Q. By whom? A. My request.

Q. How did you come to make the request? A. I had had one or two talks with Mrs. Grundy and told her that I was convinced that the time had come when we should make arrangements to separate; she was very greatly upset and wanted to know if I meant to throw her out on the street and what would become of her. I had found from experience in years gone by—

MR. HEYMAN: I object, if your Honor please, to any findings and experience.

THE COURT: What happened; what was said?

A. I knew that Mrs. Grundy would be more willing to talk to a third party than she would to me and I asked her at the time if she cared to talk to anybody and she said no, she didn't want anybody to know about it, but finally she said that she would be willing to talk to Mr. Townsend.

Q. When you and Mr. Townsend got there on the 26th what was Mrs. Grundy's condition? A. In very bad condition, she was drunk.

Q. Could she talk? A. No; hysterical, crying and weeping, impossible to talk to her.

Q. When was the next time you saw Mrs. Grundy with Mr. Townsend? A. I think the early part of September.

Q. How did that appointment come to be made? A. Again by her request to me and my request to Mr. Townsend.

Q. Who was present at that interview? A. I was present, Park was in the house early in the day; I think only Mr. Townsend, myself and Mrs. Grundy.

Q. What was the conversation? A. With reference to the general situation, that I had determined to change the situation at home and wanted to ask her if she was prepared to take any definite action, if she had given the thing much thought or consideration, and I wanted to convince her that I was really serious this time; I had great difficulty in making her believe many, many times in the past when she was on excessive drinking bouts, she always knew when she was straightened out that it would be forgiven, and I was quite confident that she felt now that this was simply another repetition of the same old occurrence, if she did not have some other party to convince and prove to her that I was really in earnest that she would not take it seriously.

Q. At that time during that conference was there anything said with respect to the episode of the 26th? Did she make any explanation? A. On the 24th?

Q. On the 24th. A. Yes.

Q. What did she say? A. She said then that there had been a man in the house, but he was a liquor man, but being pressed for the name of the party she didn't know it.

Q. Was there a suggestion made at that time with respect to Reno? A. I don't think so.

Q. Was there a suggestion made at that time with respect to her support in case you got a divorce? A. I had told her that repeatedly, many times; it is quite likely—

MR. HEYMAN: I object to that, if your Honor please, on the ground that it is not responsive.

MR. LANE: That is not a proper objection.

THE COURT: No, the fact that it is not

responsive does not make a good objection on your part. However, I would suggest to the witness that he adhere to the question.

A. It is difficult for me to say whether I talked to her about Reno on the 9th, 10th, 11th or 12th; I have no means of verifying the dates; it is only a question of memory.

Q. Was it discussed at one time or another? A. Many times.

Q. At whose suggestion? A. At Mrs. Grundy's suggestion.

Q. When it was discussed, do you recollect what she said about it? A. I do.

Q. What? A. She did not understand why I would consider bringing a divorce proceeding in Jersey, Jersey City, among people we knew, because of the possible notoriety, and she thought it would be much more simple to go to Reno and let her get a divorce.

Q. Now, did you ever agree to permit her to go to Reno? A. Never agreed definitely.

Q. Did you have it under consideration? A. I did.

Q. At whose suggestion was it that some provision was sought to be made with respect to her support in case you got a decree? A. My suggestion.

Q. What was said? A. At that time during the month of September, the early part of September, Mrs. Grundy was in a very pitiable and deplorable condition, she was constantly bemoaning the possibility of being without any means of livilihood, she professed to have no means of supporting herself, and it was impossible to talk with her, to reason with her, to have any clear explanation, because of the fact, it annoyed her, preyed on her mind day and night, and in an effort to

ease up this great fear she had, and to put her in a better frame of mind to have her realize that it was not a case of cutting loose and throwing her out on the world, I requested Mr. Townsend to prepare some sort of an agreement that would answer the thing that worried her so greatly.

Q. Did you tell her what your obligations were as you considered them, irrespective of whether you got a decree for divorce or not?

MR. HEYMAN: I want to object to this last question because it is leading. I think this witness is an intelligent witness and he ought to be able to tell what took place without any assistance from counsel. I don't think that is fair that he should give the witness the answers to the questions that he is asking.

THE COURT: I will take that question.

A. I did.

Q. What was said? What did you tell her?

MR. LANE: As a matter of fact, the purpose of the question is merely to get his mind on a certain thing, that is all.

A. I told Mrs. Grundy that she need not worry about maintenance and support, that so long as she lived I would see that she was not in need.

Q. Why did you tell her that? A. Because I could not break clear of the regard and the respect I did have for her in days of old; she was the mother of the boy and had been my wife for a number of years, and I felt it only right that she should be provided for, no matter what the outcome of her action would be.

Q. Was it because of any doubt in your mind with respect to her guilt? A. Absolutely not.

Q. Did you tell her that you would do this

thing provided she suppressed her defense, or words to that effect? A. I did not.

MR. HEYMAN: I object to that, if your Honor please, on the ground that there is no testimony that the witness did say that; absolutely nothing like that in the case.

MR. LANE: I don't know whether there is or not. Counsel has taken at least three hours in the cross examination of Mr. Townsend and when he left the stand there was some impression that this was for the purpose of suppressing the defense.

MR. HEYMAN: I object to that on the ground that there is no testimony that this witness has ever said that he wanted to suppress the defense or try to suppress the defense; and in the second place, it is leading.

THE COURT: I will take the question.

Q. Did you, after this suit was started—I have forgotten the date—see Mrs. Grundy, or send anyone to Mrs. Grundy with instructions to tell Mrs. Grundy that if she suppressed her defense you would give her $5,000 to suppress her defense, or words to that effect, or any other sum of money? A. I did not.

Q. Did you make a suggestion, or authorize anyone to make the suggestion on your behalf, or know of anyone making the suggestion on your behalf, that the defense be suppressed? A. I did not.

Q. My recollection is now refreshed that Mrs Grundy's testimony is to the effect that about Christmas time of 1919 you called at her house and made some suggestion that she suppress her defense; do you recollect that occasion? A. I recollect visiting the house.

Q. Can you tell me how you came to visit her

house? A. On the telephoned request from Mrs. Grundy.

Q. What happened when you got there? A. The same old story; she continued to ask me if I intended to go through with this, wasn't there a chance for reconciliation, wouldn't I at least agree to a separation, or at least allow her to go to Reno.

Q. What did you tell her? A. I told her no, that I had made up my mind to go through with the action. At one time I had taken under consideration the question of going to Reno thinking that it would save her somewhat and protect her name, and pride, but that we had decided that she wouldn't go through with any plan, or probably that she would start to drink too much, so that the question of Reno was simply eliminated.

Q. By the way, when she telephoned, to where did she telephone; at what place? A. To the office in New York.

Q. Did she leave a message there for you? A. Yes, sir.

Q. During the pendency of this suit? A. About that time.

Q. Do you know of your own knowledge, of her coming to your house where you now reside? A. I do.

Q. How do you know? A. I saw her there.

Q. When? A. In the winter of 1919 or 1920, either December or January.

Q. What time was it? A. She was there in November, too; she came in the day time, and also at night time.

Q. When at night time? A. I recall definitely her coming into the house shortly after dark, and I moved to Mrs. Corrigan's—

Q. What happened? A. Park and I were

asleep and we heard a hammering on our bedroom door; I got up and went to the door and Mrs. Corrigan said Mrs. Grundy was in the house and she insisted on coming in to see me. We had a conversation through the door, I refused to open the door because I knew Mrs. Grundy was intoxicated, and Mrs. Corrigan was very much alarmed, and I instructed Mrs. Corrigan, or requested her, rather, to go down and call up the Police Department and have them remove Mrs. Grundy from the house. Mrs. Corrigan went through the program of calling up on the telephone, and at that time Mrs. Grundy did leave the house and sat on the front stoop.

Q. Did she return that night? A. I don't think that night.

Q. Do you remember any other occasion since then, since this suit has been started, of her coming to your house? A. Yes.

Q. When? A. She became ill at that time, and at my suggestion went to Doctor Maas in Newark; Doctor Maas thought that an operation might be necesary, and she came to Mrs. Corrigan to talk to me about the operation and necessary expenses, and I arranged to see that she go through with it.

Q. What did you do? A. I arranged to pay the expenses, so that Doctor Maas would come and operate on her, which he did after November, 1919; of course I paid the bills, the hospital bills, etc.

Q. Do you know of any other occasion when she came to the house where you lived and tried to communicate with you, of your own knowledge? A. Not of my own knowledge.

Q. I show you a letter which has been marked P-4 for Identification, and ask you when you

first saw that envelope enclosure? A. I first saw it in September, 1919.

Q. When, in September, 1919? A. The early part of September, when we were packing up, just prior to the time that we left the house.

Q. Where did you find it? A. In Mrs. Grundy's dresser.

Q. Where, in Mrs. Grundy's dresser? A. Under the bureau drawer; the dresser drawer.

Q. Won't you explain just what that place is, so that we can understand it? A. Yes; I would like to go back a few words to give a better description. Mrs. Grundy was very much intoxicated. When I went in her bedroom to speak to her about something or other she accused me of stealing her Liberty Bonds; I was somewhat alarmed, because when intoxicated she usually kept her jewels, her Liberty Bonds and any valuables or money she had in a little hand bag in bed with her. This particular time she accused me of stealing her Liberty Bonds, and in an effort to convince her that I did not have them I started to search, thinking she hid them somewhere in her room. In pulling out the dresser drawer and looking in the drawer, attempting to shove the drawer back again it would only close half way, and I pulled it out to see what the trouble was underneath the drawer; and on the top of the lower compartment were a number of papers, among which was this letter and other scraps of paper, and a number of memoranda which she had been hiding under the dresser drawer.

Q. Did you know she kept papers in that receptacle until that particular moment? A. I did not.

Q. At the time you found this letter, did it con-

tain the enclosures which I show you, commencing "Thursday morning"? A. It did.

Q. And did it contain these little slips of paper which have been marked P-6 and P-5 for Identification? A. Yes.

Q. Both P-21, P-6 and P-5 for Identification were enclosed at the time you found it in P-4 for Identification; is that right? A. That is right.

Q. Did you find the Liberty Bonds? A. Yes; they were found; she had them with her in bed.

Q. On the night of the 15th you were at the apartment, were you not? A. Yes, sir.

Q. Who was there? A. Mrs. Grundy, Miss Halverson, Mr. Townsend and myself. I am quite sure Park was there.

Q. On that night were there any barrels in the dining room? A. There were not.

Q. If there had been barrels in the dining room, were you in such a position in the apartment that you would have seen them? A. I would.

Q. Why do you say that? A. Because the apartment was small, and I was naturally interested at the time as to what preparations, if any, Mrs. Grundy was making to move, and I know that there were no barrels in the apartment on the 15th of September.

By The Court:

Q. In the apartment? A. In the apartment.

By Mr. Lane:

Q. Was any explanation made by Mrs. Grundy at that time with respect to the Evans incident, as to who Evans was? A. She at first denied that there had been anybody there.

Q. Then what did she say? A. Later on she said he was a real estate agent that had offered to help her find an apartment so she could move.

Q. Were you present at the time, or at any time, when she was talking to Mr. Townsend and said anything with respect to her husband, that her husband did not have sexual intercourse with her, or words to that effect?

MR. HEYMAN: Now, if your Honor please, I object to any question of this kind. It is purely and simply leading and giving the witness the answer. I think this witness is big enough to tell the story, what was said and what was done, without any assistance. I submit, if your Honor please, it is unfair to ask such questions and then have me object to them.

THE COURT: Is this not contradiction?

MR. LANE: It is not contradiction; it is merely to get his mind on a particular occasion that the remark was made, if he does recall.

MR. HEYMAN: I think, if your Honor please, he ought to recall without the assistance of counsel.

MR. LANE: I am not going to have him recite conversations during their entire lifetime in order to get to a particular object.

A. I was.

Q. What was the conversation bearing upon that subject?

MR. HEYMAN: When?

Q. When was it, and where was it? A. In our apartments.

Q. When? A. At 57 Clinton Avenue, on September 15th, in the presence of Mr. Townsend and Mrs. Grundy. After admitting that there was a man there but that he was a real estate agent, she said that, to use her own words, "Well, what can you expect if I don't get affection at home? I am only human."

Q. Did you, Mr. Grundy, during the course of your married life, at any time, encourage your wife in drinking? A. No, I did not; it was my constant effort, if I may add—

Q. What is it; yes. A. My constant effort was to have her correct her habits of excessive drinking; I never felt free to ask her to abstain entirely; I had no real objection to her taking a drink occasionally, but it was a constant worry of our married life that she did drink excessively, and I think drugs, which cost me many thousands of dollars in the last thirteen years in which we have been here.

Q. Did you take any steps to prevent it? A. I did.

Q. Did you try more than one method? A. Every method I could conceive of; I felt helpless finally.

By The Court:

Q. Did you keep liquor out of the house? A. No.

Q. Did you keep liquor out of the house? A. Yes; we destroyed all the liquor we found; occasionally at that she would really waste a great deal of money in buying it, and then having it destroyed.

Q. I mean did you keep any there for your own purpose? A. No; it was impossible to keep any there for my own purpose, it would not last very long.

By Mr. Lane:

Q. Did you, as a matter of fact, destroy liquor which was found? What was Mrs. Grundy's practice with respect to keeping liquor in the house? A. It was very difficult to explain; when she was in these fits of drinking spells she would arrange for the delivery of liquor to the house by some means or other, it was impossible to

prevent it, in wholesale quantities; I have known her to consume more than, well, two quarts of alcohol in a day. Whenever she would be out of the house they would find bills thrown in the waste basket showing cash deliveries at that time at the apartments. When she was drinking to excess she would sometimes spend a week or ten days or two weeks in bed; doing nothing else but getting up and going for liquor and going back to bed. She didn't do anything else. She would make no attempt to keep her house in order or keep her body clean, her face or her hair or anything, she would just be disheleved for a week or ten days or two weeks.

By The Court:

Q. How about the meals? A. It was impossible for her to prepare any meals at those times. I found it necessary for a longer period than I could remember to get my own breakfast and have my other meals outside. I have seen her try to get the meals at the house when she has been badly intoxicated, and in an attempt to carry the food from the stove to the dining room, to drop it on the floor and pick it up and put it on the platter again and then lay it on the dining room table. Things of that sort disgusted me and made it impossible for me to take meals in the house. I have seen that actually happen.

By Mr. Lane:

Q. Prior to the time that you took the position that you say you did, did you try to cure her with affection? A. I did.

Q. After 1918, what was your course of conduct with respect to affection? A. I tried to make her realize the seriousness of the situation;

I told her at that time it is only a question of time, that if she kept this up I would lose all my patience and it would reach the breaking point, where it would be impossible for me to continue living as we were. It was a constant, continuing worry when I would leave the house and go to work and coming home and finding things even more disagreeable than before. It reached the point where I really hated to come home, and even Park hated to come home on his vacations because when he came home he could not invite anybody to the house and he could not accept any invitations to go elsewhere; it was a very bad situation.

Q. Prior to the 24th of August, 1919, did you know, or have any knowledge of any infidelity on the part of your wife? A. I did not.

Q. You did not? A. I did not.

Q. Did you do anything to lead your wife to commit adultery? A. I did not.

Q. Had you any knowledge of the visits of Evans there during the Summer and Spring of 1919? A. After my return from Europe I know I saw Evans in the house on two or three occasions, and on asking or making inquiry as to why he was there I was told he was there waiting for Gertrude.

Q. Did you accept that explanation? A. I did; although I thought it strange that that occasion was repeated; and I know that one time I heard Evans say, "I don't think I will wait any longer for Gertrude," and leave probably half an hour after I came home.

By The Court:

Q. Mr. Grundy, during this long period while Mrs. Grundy was taken to drinking prior to August, 1919, you say you had never known of

any infidelity on her part? A. No.

Q. Had you ever seen or known of anything to suggest infidelity, or the probability of infidelity, at any time? A. No, I can't say that I did. There were times when I heard incidentally about her being away on Summer vacations, and hear, not hear directly, but incidentally, that she might be drinking at the time, but I endeavored to keep in touch with her constantly by letters and to know that she was improving, and I knew further that unless she was away during those periods the situation was still worse at home so far as drinking is concerned.

Q. Well, you knew she drank? A. Yes.

Q. And kept this up for a long time? A. Yes.

Q. My inquiry was directed to this, whether you saw anything or heard of anything which indicated the probability of infidelity. A. I never saw or heard anything prior to August.

Q. Saw nothing unbecoming in that respect? A. In that respect, no.

Q. Prior to 1918 what was your habit as to taking Mrs. Grundy out? A. Whenever possible I endeavored and strived to interest her and occupy her mind, and to have friends come to the house to visit.

Q. Did you have an automobile in those days? A. I did.

Q. Did you take her out in that? A. Very frequently.

Q. Frequently? A. I must ask your Honor to keep in mind that those occasions when I went out was when she would not be drinking; when she had been drinking I would find it very difficult to take her out, to take friends to the house and to find her there when she was drinking.

Q. How about the theatre? A. Many times we bought tickets for the theatre and found it was impossible to go because she was intoxicated.

Q. Well, at other times did you go? A. Yes.

Q. You did take her to the theatre? A. Yes.

Q. Up to 1918? A. We had the tickets ready many times to go and she couldn't go.

Q. From the time of this conversation you have given, in 1918, up to August, 1919, did you take her out at all? A. Oh, yes. Please keep in mind, I was away for four months.

Q. Yes; I know that; that is the reason I changed the question, to cover that. A. Yes.

Q. How about Sundays; what was your habit as to Sundays? A. Sundays, and nice weather, would be the only day I could really count on for golf.

Q. For what? A. Golf; to play golf; it was my practice to go to the golf links on Sunday during playing weather, and Mrs. Grundy was invariably asked to come, too; practically all the time she refused to go; I didn't compel her to go if she didn't want to go down there.

Q. Ladies do go to this golf club? A. Yes; in great quantities.

Q. Did she ever go? A. Yes.

Q. How long ago? A. In 1918 and 1919.

Q. Nothing occurred there which was untoward in any way? A. No.

By Mr. Lane:

Q. Do you remember arranging with respect to her taking golf lessons in 1919? A. In 1918 or 1919, full arrangements were made to have her take golf lessons, clubs were purchased and arrangements were made with the professional and everything was planned—

Q. What happened to the scheme? A. She decided she didn't care to.

Q. As a matter of fact, was there any change, any real change in the outward way in which you treated her after this talk in 1918 than there was before? A. Never no change.

Q. Except then was the time that you made your statement that something final would have to be done? A. Surely.

Q. You didn't change your outward demeanor toward her, did you? A. Oh, no.

BY THE COURT:

Q. How about the Sundays in the Winter when the golf season closed?

MR. LANE: Pardon me, if your Honor please.

BY MR. LANE:

Q. Do you remember what the name of the professional was with whom you arranged? A. Yes, the professional of the Shackamaxon Country Club, Peter O'Hara.

Q. Do you remember if Peter O'Hara was not at the club until 1919? A. No; I don't remember. I said it was either 1918 or 1919; I don't know.

BY THE COURT:

Q. Now, as to Sundays outside of the golf season, did you spend any of those with Mrs. Grundy, to take her out riding in 1919? A. Yes; there were quite a number of Sundays I spent at home; it is difficult to go back to 1918.

Q. 1918; yes. A. And say just exactly what was done. I know in 1918 I remember the playing season lasted quite a long time into the Winter, we had a mild Winter, I believe, in 1918, the playing season lasted quite long. There

would be other times when Mrs. Grundy would be lying in bed and she wouldn't know whether I was home or not on Sunday, many times.

Q. Well, taking the time back of your going to Europe in 1919, did you attend any church together? A. Yes.

Q. How many years ago was that? A. When we first came East, I think possibly 13 or 14 years ago, maybe.

Q. Did the children go to Sunday school? A. Yes.

Q. Did Park go to Sunday school? A. Yes.

Hearing continued to June 30th, 1920, at 10:30 A. M.

June 30th, 1920.

Hearing resumed at 10:30 A. M.

GEORGE H. GRUNDY, recalled:

DIRECT EXAMINATION RESUMED BY MR. LANE:

Q. Did you at any time—I think in 1911, if I am not mistaken—tell your wife that you had had gonorrhea?

MR. HEYMAN: I object to that.

A. In 1908.

Q. Whichever date it was. A. I did not.

Q. So far as you know did you ever have gonorrhea? A. I did not.

Q. Did Doctor Maas, in your presence, ever tell your wife that you were suffering from gonorrhea? A. He did not.

CROSS-EXAMINATION BY MR. HEYMAN:

Q. In 1908 you did have some discharge from the penis, didn't you? A. No.

Q. You didn't go to Doctor Maas for the purpose of curing a certain discharge from the penis? A. Not in 1908.

Q. You did not have your private parts wrapped in some sort of bandages? A. We can save time by correcting the date; that is right if the date is corrected.

Q. All right; what was it? A. In 1907.

Q. Did you have a discharge?

BY THE COURT:

Q. Well, now, does your answer stand to Mr. Lane's question for 1907? A. Yes.

MR. LANE: I asked him whether he ever said it but he said he did not.

BY MR. HEYMAN:

Q. Did you have a discharge from the penis in 1907? A. There may have been, I don't recall.

Q. Did you go to Dr. Maas, because you had this discharge from the penis, for treatment from Doctor Maas? A. No.

Q. Did you have your private parts wrapped in bandages during that time? A. I did not.

Q. Did Doctor Maas make an examination of this discharge? A. He made an examination, yes.

Q. Of a certain discharge from your penis? A. No, not to my knowledge.

Q. Did your wife go with you to Doctor Maas' office? A. She was under the care of Doctor Maas and may have accompanied me at times in visits to Doctor Maas.

Q. Did she go with you when you complained of a certain discharge from the penis? A. Did she go with me?

Q. Yes; to Doctor Maas. A. I can only say what I said a minute ago.

Q. You don't remember whether she did or not, do you? A. She never went to Doctor Maas to accompany me to have an examination made of myself, no.

Q. Do you remember whether or not she ever went with you to Doctor Maas when you went there to be examined by Doctor Maas for a certain discharge from your penis? A. Not to have any part of me examined.

Q. I am asking whether she went with you when you went to Doctor Maas for that purpose? A. I don't recall that she ever accompanied me.

Q. Will you say she didn't go with you? A. I can only say what I did say.

Q. Will you say that you didn't accompany her, and tell her upon leaving Doctor Maas' office that the doctor told you that there was a discharge and it looked like gonorrhea? A. I did not.

Q. And that it looked like a recurrence of an old case of gonorrhea which you had once had? A. I did not.

Q. You never told her that? A. I never told her that.

Q. You never did have gonorrhea in your life? A. Not to my knowledge.

Q. Well, you would know, wouldn't you? A. I am quite sure I would.

Q. Will you say you did or did not have gonorrhea? A. I did not.

Q. Never at any time during your life? A. No.

Q. Well, did you have any bladder troubles? A. All of this testimony is disgusting.

THE COURT: Answer the question, Mr. Grundy.

A. Doctor Maas said I did.

Q. And that was in 1907? A. 1907, right.

Q. Did it cause a discharge from the penis? A. There may have been; I don't recall; if so, it was not noticeable, not annoying to me.

Q. You didn't remember Doctor Maas taking a smear of a discharge or a slide and examining it? A. Yes, he did. He took a specimen, yes.

Q. You remember there was a discharge from your penis in 1907? A. There may have been.

Q. You remember it, don't you? A. My recollection is that he took a specimen of my urine to determine if there was any kidney or bladder trouble.

Q. Then will you say there was no discharge from your penis in 1907? A. I would say so.

Q. You remember when you visited Doctor Maas that he inserted some instrument into your penis? A. No.

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

Q. You don't remember telling your wife how painful that insertion was? A. No.

Q. Now, while you were living in Pittsburgh, Mr. Grundy, you were married before you were married to Mrs. Ida May Grundy, weren't you? A. I was.

Q. You were married to your former wife while you were under a charge of bastardy, weren't you?

MR. LANE: I object to that, if your Honor please, as entirely immaterial and irrelevant.

THE COURT: How is it material?

MR. HEYMAN: This witness has in his testimony painted himself as an injured, innocent man, that he has tried to impress this Court with his innocence, that he has endeavored to portray his character as of the

very best; that he has endeavored to impress this Court with the fact that his life was given up entirely to his home and his family, until it became so unbearable that he could not longer stand it. Now, I want to endeavor to show what this man's true character was, and I think the Court should permit it.

THE COURT: You are going back for years; I don't know how many years.

MR. HEYMAN: That is true; I don't know, either.

THE COURT: Beyond this present marriage.

MR. HEYMAN: Yes, sir.

MR. LANE: And I object to that; I say that it is irrelevant and immaterial to the issues in this cause.

THE COURT: I will overrule it.

Q. Mr. Grundy, you divorced your first wife on the same grounds that you are alleging now, adultery and drunkenness, didn't you?

MR. LANE: I object to that, if your Honor please, on the ground that it is irrelevant and immaterial.

MR. HEYMAN: If your Honor please, I urge it on the same grounds—

MR. LANE: It is not the best proof, either.

MR. HEYMAN: Also on the further ground that it tends to show that this man knew all about divorces, drunkenness and adultery, and that he so conducted himself since this marriage as to be able to lay a foundation for a divorce when the time came in his mind to procure it. I submit, if your Honor please, that this Court ought to take that into consideration.

THE COURT: I am inclined to permit that question.

A. I did not.

Q. Isn't it a fact that in your divorce case against Anna O. Grundy, your former wife, you alleged adultery? A. I did.

Q. And you alleged that she had been drunk when a man named Flower—William S. Flower?

MR. LANE: I object to that on the same grounds I urged before, also upon the ground that it is not proper cross-examination. He has made the witness his own witness and he is bound by the answer.

MR. HEYMAN: I am perfectly willing to be bound by the answer, if the Court please, but I want an answer.

MR. LANE: You had the answer. You are seeking now to cross-examine of this question of yours.

THE COURT: I will overrule that question.

Q. Did you ever see these papers, or papers similar to this, before in your life (showing witness three clippings from newspapers)? A. Have you got the dates of them?

Q. Just look at them. A. Have you got the dates of them?

Q. Just look at these papers and see whether or not you have seen them, or papers similar to this before, at any time? A. I notice the date has been very carefully removed; I may have seen something similar to this in—many years ago, possibly 20 or 21 years ago; that is all I can say.

MR. HEYMAN: I ask that the first part of the answer be stricken out.

THE COURT: The first part, about the date being removed, will be stricken out.

Q. You have seen papers similar to this? A. I may have done so; it is too long ago to remember.

Q. You don't remember? A. It is too long ago.

Q. Do you remember that in that divorce case against Anna O. Grundy you charged that Anna O. Grundy came home drunk with a man?

MR. LANE: I object to that on the same grounds as I urged to the other question.

THE COURT: I will overrule it for the same reason.

Q. Do you remember that you testified in that case against Anna O. Grundy, that Mrs. Anna O. Grundy told you that she called on Mrs. Stein, who had given her some wine, which intoxicated her, and that she subsequently confessed that she had not been at Mrs. Stein's?

MR. LANE: I object to that on the same grounds.

THE COURT: I will overrule the question. (Clippings marked Exhibits C. D. and E. for Identification.)

Q. You did accuse Anna O. Grundy of adultery?

MR. LANE: He said that he did. I object to that on the ground that it is repetition.

Q. In your former divorce case did the question of drunkenness come up at any time?

MR. TOWNSEND: I object to that on the same grounds.

THE COURT: I will overrule the question.

MR. HEYMAN: If your Honor please, is it on the objection of Mr. Townsend that your Honor rules on this question? I would like to have the record clear as to whether Mr. Townsend appears as one of the solicitors.

THE COURT: Of course, on the objection of Mr. Townsend.

MR. TOWNSEND: I would like to have it appear on the record that Mr. Lane has temporarily left the room and I am taking his place while he is out. And I offer to wait until Mr. Lane returns, if you want to wait. If the Court wants to wait, all right.

THE COURT: Go ahead.

Q. Did you at any time during the trial of the case against Anna O. Grundy, raise the question of drunkenness against her?

MR. LANE: I object to that on the same grounds, if your Honor please.

THE COURT: I will overrule that question.

Q. Mrs. O. Grundy committed suicide shortly after your divorce, didn't she?

MR. LANE: I object to that as wholly immaterial.

THE COURT: I overrule that question.

MR. HEYMAN: I submit that it is perfectly proper because it shows this man's entire life, his method of living, the standards by which he lived, the fact that his present conduct must be judged by his former conduct, that he has had much experience in these ways before, the fact that he has gone through just such a procedure as he is going through at the present time. I submit it is perfectly proper.

THE COURT: I will overrule the question.

Q. Mrs. Ida May Grundy was a single girl when she married you, wasn't she? A. Yes.

Q. She was? A. Yes.

Q. She was singing in a church choir at the

time you married her, wasn't she? A. She said not.

Q. She said not? A. She said not.

Q. Well, do you know what she was doing at the time? A. I do.

Q. What was she doing at that time? A. Sales lady.

Q. Didn't she sing in the church choir at all? A. She told me she had in years gone by, yes.

Q. Well, you knew her for many years before you married her, didn't you? A. Many years?

Q. You knew her before you married your first wife, didn't you? A. Yes.

Q. And you knew she sang in the church choir, didn't you? A. I did not.

Q. You had been told that she did, hadn't you? A. By her, yes.

Q. By anybody else? A. No.

Q. You had known Mrs. Ida May Grundy ever since she has been eleven or twelve years old, haven't you? A. Possibly.

BY THE COURT:

Q. What is your age, Mr. Grundy? A. 47.

Q. You were married how many years ago to the defendant? A. 1899; about 21 years.

BY MR. HEYMAN:

Q. Have you ever been convicted of a crime, Mr. Grundy? A. No.

Q. You were arrested in Pittsburgh for rape, weren't you?

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

Q. And while that charge was pending you married the complainant, didn't you?

MR. LANE: I object to that.

MR. HEYMAN: I submit, if your Honor please, that that is perfectly proper.

THE COURT: You asked him if he had been convicted of a crime; that was objected to, and he said not. That is a question often asked on cross-examination; but unless there is a conviction I don't understand you may ask that.

MR. HEYMAN: I submit, if your Honor please, that when a man is under a charge and those charges are dropped because of his subsequent conduct, that is perfectly proper.

THE COURT: I will overrule the question.

Q. Now, Mr. Grundy, while you were living in Pittsburgh, after you were married to Mrs. Grundy, you were living with your folks a couple of years? A. I don't recall the length of time; I know we did live there for a while.

Q. Then you purchased a home in Thornburg, isn't that so? A. That is right.

Q. At that time you were earning about $83 a month, is that so? A. Something like that; I have forgotten.

Q. Mrs. Grundy was helping you in every possible way too in this home? A. That is right.

Q. Then, about a year before you left Pittsburg she became addicted to drink; is that right? A. More than a year.

Q. How long before you left Pittsburgh? A. I should say two years, approximately.

Q. Now, while you were living at Thornburg you entertained quite a bit at your home, didn't you? A. Yes.

Q. And you went visiting to other people's homes, didn't you? A. Yes.

Q. And at these visits and entertainments you would have little card parties and drinking parties, wouldn't you? A. Yes.

Q. You would drink, also? A. Yes.

Q. And your friends would drink? A. Right.

Q. You had friends known as Mr. and Mrs. Porter, and Mr. and Mrs. Piatt, did you, at that time? A. I would rather ask my attorneys must I answer that?

THE COURT: They have not objected. It is simply asking about your friends.

A. The question is bringing in names, your Honor.

Q. What is your answer, Mr. Grundy? A. We had friends, yes.

Q. They came to visit you and you went to visit them, didn't you? A. Right.

Q. At all of these parties you had pleasant evenings, lunches and drinking, didn't you? A. We had pleasant evenings and lunches, and a limited amount of drinking, yes.

Q. A limited amount of drinking? A. Yes.

Q. Always drank liquor? A. Always?

Q. Or beer, or wine, on these occasions? A. Not always drank liquor and wine, no; invariably we had beer and lunches, cold lunches, after the card games.

Q. Never had any hard liquor whatsoever? A. I wouldn't say never; it was never drank to excess.

Q. I am not talking about excess; I am asking only about liquor, that is all. A. It wasn't served with luncheon, no.

Q. I am not asking whether it was served with luncheon; I am asking whether it was drunk on these occasions or not? A. Occasionally, yes; but frequently, no.

Q. You would take your drink the same as everybody else, wouldn't you? A. Quite likely.

Q. Nothing wrong at any of these parties, was there? A. No.

Q. There wasn't any abuse of liquor? A. I have seen abuse of liquor, yes.

Q. At some of these parties? A. At some of these parties.

Q. By whom? A. By Mrs. Grundy.

Q. When did that begin? A. I should say within two years before we left.

Q. The parties continued after she began to get drunk, didn't they? A. Oh, yes.

Q. Why didn't you stop the parties? A. Impossible to stop it.

Q. Did you keep it in the house? A. Your Honor, we lived in a suburban town five miles out of Pittsburgh where we had no deliveries of anything except case beer, and if there was to be any liquor for medicinal purposes it was necessary almost to bring it in.

Q. For drinkable purposes? A. For medicinal purposes; it was necessary; there were thirty some odd families living in this little suburban town, it was a case of visiting each other's homes invariably. We rarely had hard liquor in the house because I couldn't afford to buy it to any great extent, working on a small salary and paying for this house in instalments.

Q. Will you say that you did not have liquor in the house? A. I can't say that we did not have it; we did have it occasionally; many times we did not have it.

Q. Will you say that you did not have it when these people came to visit you at your house? A. No, I couldn't say that.

Q. Will you say that you did have liquor in the house on these occasions? A. I can't say.

Q. You don't know? A. I know we did at times and I know we didn't at other times.

BY THE COURT:

Q. Did you, Mr. Grundy, put it out of the house, or keep it out of the house, from the time that you first discovered Mrs. Grundy was fond of it? A. I tried my best; yes, sir.

Q. No; did you? A. I did destroy bottle after bottle.

Q. I mean back in the Pittsburg days. A. Yes, sir.

Q. From that time there has been no liquor brought into your house or drunk in your house by you or with your acquiescence or with your consent since that time, you said? A. No.

Q. That is not the fact. What is the fact about that, going back to the Pittsburgh days? A. Pittsburgh days?

Q. The Pittsburgh days, when you first discovered that Mrs. Grundy was prone to liquor, what did you do about keeping liquor at the house, absolutely out of the house? A. There was no liquor brought to the house with my knowledge; I did occasionally find bottles hidden in cupboards and around the house, but they were destroyed, and Mrs. Grundy was talked to quite a little.

Q. Those are bottles which you supposed were brought in clandestinely? A. Right.

Q. I am speaking about liquor which came in with your knowledge, which you drank yourself, going back to the Thornburg days; I would like to know about that time. A. I feel safe in saying that I never bought any hard liquor and brought it to the house after I found that Mrs. Grundy was drinking to excess in Thornburg.

Q. I want to get the extent; I want to get the extent of your efforts after you discoverd; she says that you taught her to drink. A. Yes.

Q. You have said what you have to say on

that in response to your counsel's questions. A. Yes.

Q. I am not going to repeat that. A. May I make a statement there in that connection?

Q. Yes. A. Mrs. Grundy frequently made the claim that she inherited her desire for drink from her father, who was a very heavy drinker, that she was ashamed to tell me for she couldn't help it, she inherited it from her father, frequently, more times than I can remember, and she promised positively that she would stop drinking, to be patient with her.

Q. How long ago did you know of this claim of inherited tendency? A. I should say that that came up for discussion probably in 1906 or 1907.

By Mr. Heyman:

Q. You knew her father, however, for many years before you married her, didn't you? A. Yes.

Q. Did you ever see her father drunk? A. No; he stopped drinking.

Q. Did you ever see him drunk? A. No, I never did.

Q. Now, while you were living in Thornburg, and while she was drinking to excess and getting intoxicated, and while you were attempting to correct this habit, her father was living in Thornburg, wasn't he, around Pittsburgh, within easy distance from you? A. Her father?

Q. Yes. A. Yes.

Q. And your father and mother were living in the immediate vicinity, weren't they? A. In later years, well, yes, approximately.

Q. Within easy distance? A. Oh, yes.

The Court: They lived with them part of the time.

MR. HEYMAN: I mean while the excessive drinking was going on.

Q. Did you ever go to her father and complain about this excessive drinking A. No.

Q. Did you ever go to your father and mother and speak to them about it? A. No.

Q. Did you ever invite your father and mother, or her father, to your home, in order to be able to assist you in curing this habit of drinking? A. No.

Q. So that the only means that you took to cure this habit was by destroying the liquor which you found around the house? A. No.

Q. What other means did you take? A. I testified yesterday that I had made—

Q. Never mind what you testified yesterday. Just tell us today. A. I realized that the situation was becoming worse day by day and that it would be wise to seek a change, and I started in to make arrangements to transfer my work—

Q. I mean before you began to make arrangements to transfer your work.

THE COURT: No; one moment; I don't think he has answered that question. He said yesterday some of the efforts he made, and you interrupted him and asked him to tell now what the efforts were.

MR. HEYMAN: I want him to tell us what he did after he discovered this habit, before he made the arrangements to come here; that is what I want to know, before he made the arrangements to come here.

THE COURT: Well, as to that period, Mr. Grundy.

A. During the meantime I talked many times with my wife and pleaded with her, that the way

she was going, that she was going into the drinking habit, and it would be wise to stop and that it would be wise to stop, so she agreed with me and promised to do it; I called on her friends to assist me in trying to correct this excessive drinking, and they all promised to do what they could, and gradually hoped, we all hoped, that it was only a temporary conditon and that she would see the error of her ways in a short time.

Q. Have you finished? A. Yes.

Q. During all this time, while you were doing all these things, you continued to have these visits from your friends and to make the visits to your friends? A. Naturally.

Q. And continued the lunches and parties that you used to have, or the dinner or parties, whatever you may call them? A. Quite likely.

Q. And the occasional drinking, to which you had no objections, as you have testified; is that right? A. That is right.

Q. Isn't it a fact, Mr. Grundy, that there was always a decanter full in your dining room? A. No.

Q. And that your friends came in at random and sat down and had a drink with you? A. No.

Q. Now, when you had men—

BY THE COURT:

Q. How about the decanter; you asked if there was always a decanter full; how about the decanter in various stages of fullness? A. I am quite sure there was not.

BY MR. HEYMAN:

Q. Did you ever have a decanter of liquor in the house? A. Oh, yes.

Q. Didn't your friends come in the evening,

and didn't you treat them to drinks, and have a drink with them? A. No.

Q. The decanter was always full? A. No.

Q. Well, did your wife drink it all? A. I wouldn't say that.

Q. Well, who drank it? A. I don't know that it was always full, or if we had it on display, as you speak of.

Q. But if your friends came in you would have a drink with them, wouldn't you? A. I said no.

Q. You never had a drink when any of your friends came to visit you at the house? A. Yes.

Q. I don't mean these regular parties; I mean if friends happened to come along and drop in to see you, you never had a drink with them? A. I don't recall ever having any.

THE COURT: Are you covering any particular period?

MR. HEYMAN: I am taking particularly around the period after he discovered his wife's weakness and before he made the arrangements to come here. I am talking about that particular period.

THE COURT: That ought to be made clear. I wasn't sure from the question whether you meant if he ever had these things.

Q. Now, you had a friend by the name of Jim Barber, didn't you? A. Yes.

Q. Didn't Barber buy whiskey by the gallon for you? A. No.

Q. Didn't he order it for you and have it sent to your home? A. No.

Q. Never? A. No.

Q. Now, when I say didn't Barber order whiskey for you, I mean liquor of any kind; I don't mean alone whiskey; I am not well enough versed in that particular branch of drinks to be able to dif-

ferentiate now; when I say whiskey I mean liquor of any kind. Did Barber ever order any for you and have it sent to the house? A. Not to my recollection, no.

Q. Will you say that he didn't? A. It is a great many years ago; I can't say positively; I have no recollection of it.

Q. Will you say that he didn't?

MR. LANE: Now, I submit he has answered, if your Honor please. He says he has no recollection. That is the best answer the witness can give.

Q. He might have done this; Mr. Barber might have ordered it and you don't recall; is that right? A. He might have; I don't know.

Q. Now, during the period from the time that you discovered your wife's weakness until you made arrangements to come here, did you stop drinking liquor? A. I was away a big part of the time.

Q. What is the answer? A. I was away a big part of the time.

Q. (Last question repeated). A. No.

Q. Now, while you were living at Thornburg your second baby was born, wasn't it? A. Yes.

Q. And the second one died, didn't it? A. Yes.

Q. After that second baby was born your wife had several miscarriages, didn't she?

MR. HEYMAN: If your Honor please, I want to call the Court's attention to the fact that every time I ask a question the witness looks at counsel. Now, I don't think that is proper.

MR. LANE: I can't stop him from looking. He has to look somewhere.

MR. HEYMAN: I don't think the witness

should always look to counsel, see whether or not he should answer.

THE COURT: I want to say this, that counsel is entirely under the eye of the Court.

MR. HEYMAN: I am not complaining against them, if your Honor please. I am not complaining of any correspondence between counsel and the witness. I am only complaining of the conduct of the witness in looking toward the counsel table for the purpose of seeing whether or not he should answer the question.

MR. LANE: The witness is hesitating and pausing after each question to find out whether I have an objcetion to the question. That is all he is doing.

THE COURT: I ought to say that any question the witness has any doubt about, he has a right to wait and see if counsel objects.

MR. HEYMAN: All right, if your Honor feels that way about it.

THE COURT: There is nothing that indicates communication between counsel and the witness.

MR. HEYMAN: But, if your Honor please, I have not tried to intimate that there is any communication between the witness and counsel. I am just drawing the Court's attention to the fact that after every question is asked he looks over to the counsel table to see whether or not he should answer, to wait for some sort of objection, or to wait for some sort of signal whether he should answer it or not.

THE COURT: He has a right to do that.

MR. HEYMAN: I am not charging any

ulterior motive, but if he has no right to do it I would like to have it stopped.

A. Not to my knowledge.

Q. Do you know Doctor McCaffrey? A. I do.

Q. He is very intimate with you? A. No.

Q. Why, he lived with you before you married Mrs. Grundy, didn't he? A. No.

Q. He lived at the same house with you? A. He didn't live with me; he had rooms in the house I lived in for a short time, yes.

Q. Didn't Doctor McCaffrey perform several operations on your wife? A. Not to my knowledge.

Q. You don't know whether your wife had any miscarriages in Pittsburgh, or Thornburg? A. Yes, I do.

Q. I thought you said a minute ago that you didn't know.

MR. LANE: I object to that. You asked whether she had several miscarriages or not.

Q. Did your wife have several miscarriages? A. No; not to my knowledge.

Q. How many miscarriages did she have, to your knowledge? A. Doctor McCaflrey attended her on one occasion that I know of.

Q. And that is all? A. That is all I know of.

Q. That was a miscarriage, wasn't it? A. Yes.

Q. The only one that you remember? A. The only one I can recall.

Q. You didn't make any suggestion to your wife at that time that it would best to avoid these miscarriages, or incidents of that kind in the future, did you? A. To avoid them? was very injurious and it should be avoided at all times, of course.

Q. Yes. A. I believe both of us knew that it

Q. You attempted to avoid them, didn't you? A. Pardon me?

Q. You attempted to avoid them; to prevent them?

THE COURT: You mean prevent?

MR. HEYMAN: Miscarriages, yes.

A. I don't know.

MR. LANE: The witness has already testified that he knows but one; now he is alking about preventing miscarriages; I don't know whether counsel and the witness are talking at cross purposes or not.

THE COURT: The witness said they both knew they were injurious.

MR. HEYMAN: I think the witness understands my question. If he doesn't, it is a very simple matter to ask me to explain it, if the Court please.

THE COURT: Let me hear the question.

(Question repeated by stenographer).

MR. LANE: I object to the question on the ground that it contains false inferences; that it speaks of miscarriages, and the witness testified that he knew of but one.

THE COURT: I will let the question stand.

A. I can't understand that question.

Q. What is there about the question that you don't understand? A. What do you mean by that,—having no connection with your wife?

Q. I don't know what you did to prevent them. Did you do anything to prevent having your wife become pregnant, so that it would necessitate an abortion or miscarriage?

MR. LANE: Now, I object to that question "So that it would necessitate an abortion or a miscarriage." There is no evidence that it would necessitate any such thing.

THE COURT: I will overrule that question.

Q. Did you do anything while you were living in Thornburg which would prevent conception by your wife? A. I did not.

Q. You did not? A. I don't recall anything. I don't understand what you mean.

Q. Didn't you ask her to do it? A. To do what, please? I can't understand the basis for your question; I don't understand what you are leading at. I can't get it at all.

Q. Did you ever ask your wife to do anything to prevent conception? A. I didn't; but the doctors did.

Q. Did you talk with the doctors about it? A. I did.

Q. Did you talk with your wife about it? A. I did.

Q. Was it done? A. She tried to do what the doctors told her to do.

Q. Did she, after that, have a miscarriage? A. I think not.

Q. Do you remember whether or not Doctor McCaffrey ever performed an abortion on Mrs. Grundy?

MR. LANE: I object to that upon the ground that it has been asked and answered. Mr. Grundy said that he did.

THE COURT: Is that the same doctor?

MR. LANE: This same doctor.

THE COURT: That was asked and answered.

Q. Do you remember the occasion when that abortion took place? A. I have some recollection of it.

Q. Isn't that the occasion when you found Mrs. Grundy had fallen down the stoop and cut

her face and you had to carry her into the house? A. No.

Q. Didn't you have Doctor McCaffrey call at the house three or four times shortly after that, because Mrs. Grundy was suffering from hemorrhages? A. No.

Q. Well, do you remember that Doctor McCaffrey did call at the house while she was suffering from hemorrhages? A. Yes.

Q. Isn't that the occasion when Mrs. Grundy fainted on the street one day and fell down and cut her face, and you had to carry her in the house? A. No.

Q. That is a different occasion entirely? A. Yes.

Q. She was pretty weak after that abortion, after this hemorrhages, though, wasn't she? A. Naturally.

Q. A very sick woman, wasn't she, at that time? A. I wouldn't say very sick.

Q. Confined to her bed, wasn't she? A. Oh, yes.

Q. Now, isn't it a fact, Mr. Grundy, that during that time, or about that time, you asked Mrs. Grundy to have this unnatural intercourse with you, in order to prevent conception? A. That is absolutely untrue.

Q. Isn't it a fact that you told her at that time that you knew of other people who did it that way? A. I did not.

Q. And that these people never had any trouble in the way of miscarriages?

THE COURT: You mean told her that?

MR. HEYMAN: Yes.

A. I did not.

Q. Didn't you mention at that time the names of Mr. and Mrs. Piatt and tell her—Mrs. Grundy

—that they were in the habit of doing that? A. I did not.

Q. And didn't Mrs. Grundy then refuse to have any unnatural intercourse with you in that way? A. She did not.

Q. And didn't Mrs. Grundy then call you a beast for asking her to do that thing? A. She did not.

Q. Did she ever call you a beast? A. Not to my knowledge.

Q. Mr. Grundy, isn't it a fact, the beginning of the trouble between you and Mrs. Grundy— A. What?

Q. The incident in Thornburg, when you asked her to have this unnatural intercourse? A. It is not.

Q. Now, you say that when you arrived at Newark Mrs. Grundy was drunk when she got off the train; is that correct? A. I thought so.

Q. When you left Pittsburg, or Thornburg, or wherever you boarded the train, she was drunk then, too, wasn't she? A. No.

Q. Were you with her on the train?? A. On the train, yes.

Q. Slept with her in the same berth? A. I think not.

Q. Didn't you occupy one berth, and your two children the other berth? A. I think not.

Q. And your daughter Flora and your son Park occupied the other berth? A. I am quite sure that is wrong.

Q. You are quite sure? A. I am quite sure I slept with Park on the train.

Q. Mrs. Grundy got drunk on the train, didn't she? A. Apparently.

Q. Did you see her take any drinks? A. I did not.

Q. When did you first discover that she was drunk? A. I discovered signs of drinking in the morning.

Q. When you got up in the morning on the train?

THE COURT: You mean the next morning after you left Pittsburgh?

THE WITNESS: Yes.

Q. Then that was before you got off the train? A. Yes.

Q. Where did she get the drink from? A. I don't know.

Q. Did you ask her? A. I don't recall.

Q. Did you look for the bottle? A. No, I had no opportunity.

Q. Had you had your meals on board the train the day before or the night before? A. No.

Q. What time did you leave Pittsburgh? A. The evening train, somewhere around ten, I should say.

Q. What time did you arrive in Newark? A. Possibly around seven or eight o'clock.

Q. Did Mrs. Grundy carry a grip? A. Surely.

Q. And did you carry a grip? A. Yes.

Q. Were the grips in the berth with you? A. Yes.

Q. Did you look into the grips before they were packed, or while they were being packed? A. No.

Q. Did you see what was in the grips at all? A. I don't recall.

Q. Did you take any precautions to see whether she took any liquor with her at that time? A. Quite likely I would, yes.

Q. Did you? A. I can't recall; it is thirteen years ago.

Q. You can't recall that? A. No.

Q. You recall, though, that she was drunk; you recall that you didn't sleep in the same berth with her, that you slept with Park; you recall that she wasn't drunk when she got on the train the night before? A. Yes.

Q. But you can't recall whether you looked for any whiskey or liquor or not? A. It is very unlikely that I would go through the packings of her grips, if she hid something in her grips I don't know.

Q. You felt that she might have some liquor? A. I didn't feel so.

Q. Why? A. Why should I?

Q. She had been in the habit of drinking? A. No, not daily; she was unlikely to bring any drink in her grips on the train.

Q. How regularly, how often did she get drunk while you were living in Pittsburgh before you came here? A. I couldn't give you exact figures, days or weeks or months.

Q. About how many times? A. I couldn't say.

Q. In the two years prior to coming East, how often did these shameful occurrences happen? A. It is impossible for me to tell you; I don't know.

Q. Would you say they occurred once a week? A. I might say that and it may be once in two weeks; I can't say.

Q. And it might be once a month? A. It might be.

Q. And it might be once in six months? A. Oh, no, that would not be frequent.

Q. That would not be what? A. That would not be frequent.

Q. Well, would you say once in three months? A. Yes, I would say once in three months, and quite more frequently than that.

Q. How soon before you left Pittsburg to come

East had she had one of these spells? A. I don't know.

Q. Had she had one the week before you left? A. I can't say of my own knowledge; I wasn't there.

Q. Well, how long were you away from Thornburg? A. Four or five weeks prior to coming East with the family.

Q. Were you away often like that? A. Not often, no.

Q. How often were you away like that? A. I don't recall ever having been, during our married life, I don't remember a trip of that sort prior to that time..

Q. Had you been away for a week at a time before that? A. Oh, yes.

Q. Did that happen often? A. No.

Q. Had you ever been away for two weeks at a time? A. No.

Q. Then you don't know where she got the liquor from that made her drunk on her trip to Newark? You don't know where she got the liquor from? A. No, I do not.

Q. Did you ask her where she got it? A. No.

MR. LANE: I object to that on the ground that it has been asked and answered.

THE COURT: I think that it has been answered now, and it was asked quite a while ago.

Q. Now, when you got to Newark you went to a restaurant to have your meals, didn't you, with your two children and Mrs. Grundy, right from the train? A. Yes.

Q. Then you left the children there and went hunting an apartment, didn't you, or a room, or a place to live in? A. That was the program.

Q. Pardon? A. That was the intention, the

program; I had been in correspondence with some boarding houses in Newark and it was my intention to visit these and look for rooms.

Q. Now, she had complained of feeling sick the night before, hadn't she? A. I don't recall.

Q. Now, the night before you left Pittsburg you had dinner at Rose Crowen's house? A. I don't remember.

Q. Don't you remember that your wife was so sick that her friends urged her to stay until she felt better and could make the trip to Newark? A. No, I don't.

Q. And that you insisted that she accompany you that night as your plans had been arranged; don't you know that? A. No, I don't know it.

Q. And don't you know that she was sick on the trip all the way in? A. No.

Q. You didn't make any arrangements that night for seeing whether your wife was sick or whether she was drinking, or whether she was up and around while she was on the train, did you? A. Make any arrangements?

Q. Yes; to watch her on the train? A. No.

Q. You didn't sleep with her, or think that it was best to sleep with her for the purpose of seeing what she was doing? A. No.

Q. Now, when you were out looking for this boarding house—

THE COURT: In the morning?

MR. HEYMAN: Yes.

Q. —After arriving at Newark, you left the children at the restaurant, didn't you, and you and Mrs. Grundy went out looking for a boarding house, isn't that so? A. We started out, yes.

Q. And she got sick on the way, didn't she? A. Complained of feeling ill, yes.

Q. And you went to the hotel? A. Right.

Q. And called the doctor? A. Yes.

Q. And they immediately prescribed hot applications, isn't that so? A. I have forgotten.

Q. Your wife became ill and stayed in bed for a couple of days, or probably over a week, isn't that so? A. I think the better part of the week.

Q. You are sure that she was drunk at that time? A. I can only say I think she was.

Q. You won't swear positively that she was, would you? A. Not now; no, sir.

Q. Now, when you were living at Mrs. Corrigan's in 1909 how often did Mrs. Grundy become under the influence of liquor so that she would be confined to her bed? A. I can't tell you how often; very frequently.

Q. What do you call frequently, Mr. Grundy? A. Every ten days, weekly, every two weeks.

Q. During this time she would continually drink, wouldn't she? A. She would what?

Q. Drink continuously, during this time? A. No.

Q. When she was lying in bed sick under the influence of liquor, that is all she would do, isn't it, drink liquor? A. Oh, no.

Q. Isn't that so? A. She would try to get more until it sickened her, then she stopped, yes.

Q. After she would recover from those spells she would be all right? A. Yes.

Q. In 1912 she was taken to Morris Plains sanitarium wasn't she, the Morris Plains Institution for the Insane; wasn't she? A. Yes, right.

Q. Did you sign the petition for her confinement? A. Not to my recollection.

Q. Did you accompany her to the Morris Plains Sanitarium? A. Yes.

Q. Was she drunk when you took her there? A. No.

Q. Perfectly sober, was she? A. Not perfectly sober, no.

Q. Was she under the influence of liquor? A. I think so.

Q. Now when you went to Savin Rock and found Mrs. Grundy drunk in bed and learned that she had been there two days, you immediately left and came home, didn't you? A. Right.

Q. And you received this letter, P-2? A. Yes.

Q. Now, when you got the letter what did you do? A. I answered it.

Q. What did you do? A. I answered it.

Q. Have you got a copy of that answer? A. I have not.

Q. Did you go to Savin Rock after that? A. No.

Q. How long was it before Mrs. Grundy came home from Savin Rock after she received that letter? A. I don't recall.

Q. Was she there a week after that? A. Possibly.

Q. During that time did you make any attempt to talk with her on the telephone, or to see her personally? A. No.

Q. Did you write to her again after that while she was at Savin Rock? A. Oh, yes.

Q. Did she answer the second letter? A. I think so.

Q. Have you got a copy of the answer to the second letter? A. I don't think so.

THE COURT: Or the letter itself?

THE WITNESS: I don't think so.

Q. Now, you knew the Piatts, didn't you? A. Yes.

Q. And the Stanfords? A. No.

Q. You didn't know the Stanfords at all? A. No.

New Jersey State Library

Q. They owned the hotel at which Mrs. Grundy stopped, didn't they? A. I don't know them; I don't know.

Q. You never had seen them or talked to them? A. Not to my knowledge.

Q. Had you ever been to that hotel with Mrs. Grundy? A. Certainly.

Q. But you never had seen Mrs. Stanford there? A. No, not to my knowledge.

Q. Mrs. Grundy was drunk when you got up there wasn't she? A. Yes.

Q. So drunk that you were disgusted and you came away? A. Quite right.

Q. You wouldn't have anything to do with her at that time? A. Right.

Q. You didn't want to talk to her, did you? A. No, I should correct that; she was convalescent, she was getting over her drunkenness.

Q. But still under the influence of liquor? A. To an extent, yes.

Q. When you got that letter what did you think it referred to? A. What did I think of what?

Q. What did it refer to? A. Her conduct.

Q. What? A. In drinking.

Q. Did you think that it was a defiant letter? A. No.

Q. You thought it was a letter asking for forgiveness, didn't you? A. Yes.

Q. But you didn't go up there after that, did you? A. I couldn't.

Q. You didn't go up? A. I didn't.

Q. When she returned from Savin Rock she wasn't under the influence of liquor, was she? A. I think not.

Q. She seemed to be perfectly sober, didn't she? A. Oh, yes, I thought so.

Q. In 1912 she went to West Haven to visit some friend, didn't she? A. Yes.

Q. Then you met her at the Grand Central Station in the Emergency Hospital and found that she was again drunk? A. Right.

Q. And took her home? A. Right.

Q. It was shortly after that that you took her to Morris Plains, wasn't it? A. Yes.

Q. Did you at any time, Mr. Grundy, think that your wife was insane? A. No.

Q. Now, while you were living in New York, your father was with you for a while, wasn't he? A. A short visit, yes.

Q. Do you know whether or not your father had had any trouble with your wife? A. No.

Q. You never knew anything about it at all? A. No.

Q. Your wife never told you about it? A. No.

Q. And your son never told you about it? A. No.

Q. But you do know that you came home one night and found that your father had departed rather suddenly, don't you? A. I do.

Q. And had gone back to Pittsburgh,—was it? A. Yes.

Q. Did you know why he went? A. Yes.

Q. He told you why? A. He did.

Q. He did? A. He did.

Q. Mrs. Grundy never did? A. What?

Q. Never told you why he went back to Pittsburgh so suddenly? A. No.

Recess until two o'clock P. M.

(After recess the witness resumed the stand).

BY MR. HEYMAN:

Q. You say your father told you why he left New York so suddenly? A. He did.

Q. When did he tell you that? A. On a subsequent visit of mine to Pittsburgh.

Q. When? A. Within a year.

BY THE COURT:

Q. You mean a year after that? A. Yes.

BY MR. HEYMAN:

Q. Did you ever write to your father about that matter, or did he ever write to you about it? A. No.

Q. Did you ask, shortly after he left, by letter or otherwise, why he had gone away? A. No.

Q. Did you endeavour to find out why he went away, immediately after he left? A. No.

Q. Did you ask Mrs. Grundy? A. Yes.

Q. Did she tell you? A. No.

Q. Did you ask Park? A. No.

Q. Didn't you try to find out why it was that your father had left New York so suddenly? A. I asked Mrs. Grundy, she would probably be the only one that knew, but she wasn't in any condition to tell me very much at the time.

Q. Shortly after that she became in very bad condition, under the influence of liquor? A. Immediately after; shortly after.

Q. Shortly after? A. Yes.

Q. Very shortly after that you sent her to one of those institutions, didn't you? A. Yes.

Q. She never told you any reason that your father had left for?

MR. LANE: I object to that, if your Honor please, to a constant reiteration of the question. He has said time and time again that she didn't.

Q. What did she say to you when you asked her for the reason? A. I don't recall.

Q. Did you then write to your father and attempt to find out from him? A. I did not.

Q. Isn't it a fact that your wife told you at that time what your father had done, or attempted to do? A. She did not.

Q. She did not? A. She did not.

Q. Well, do you know now? A. I do not.

Q. What did your father tell you? A. He told me that he became disgusted at the conditions at home and decided to leave.

Q. What condition was he disgusted with? A. Mrs. Grundy's drinking habits.

Q. Anything else? A. No.

By The Court:

Q. Is your father still living? A. No; he is dead.

Q. How old was he at the time? A. He was in his 70's.

By Mr. Heyman:

Q. When he was at your house in New York? A. He was close to his 70's.

Q. A good, strong, healthy man? A. I wouldn't say that, no.

Q. When did he die? A. In 1918.

Q. This occurred in 1914, didn't it? A. Yes, his visit.

Q. What is that? A. His visit occurred in 1914.

Q. And his sudden departure? A. Yes.

Q. Didn't Mrs. Grundy tell you when you came home that your father had attempted to do something to her? A. She did not.

Q. Didn't Park tell you that his grandfather had assaulted his mother? A. He did not.

Q. Or attempted to assault his mother? A. He did not.

Q. You had never heard such accusation before you appeared at this trial, Mr. Grundy? A. Yes.

Q. That is the first time you heard it? A. No.

Q. When had you heard it before? A. Within the past year, Mrs. Grundy has made such statements.

Q. Within the past year? A. Yes.

Q. Before the suit was instituted, or after? A. Afterward.

Q. Have you spoken to Park since that time about that? A. No.

Q. Did she tell you what occurred? A. She never told me; she has made statements to others.

Q. Did she tell others, or anybody else, who told you that Park was there at the time? A. No.

Q. Did you think that it was peculiar that your father should have left the city so suddenly? A. No.

Q. Now, as a matter of fact, don't you know, Mr. Grundy, that the reason for your wife's drinking spell immediately thereafter was directly caused by what had occurred in the apartment immediately before your father left and went home? A. I do not.

Q. Mr. Grundy, where do you live now? A. At the present time at the Elks' Club.

Q. Jersey City? A. Right.

Q. Is Park living there with you? A. When at home, yes.

Q. Is Park at home now? A. Yes.

Q. How long has he been at home? A. The past week.

Q. College is closed? A. Yes.

Q. Now, Mr. Grundy, where were you working while you were at Thornburg directly before you came East? A. In Pittsburgh.

Q. Where? A. Pittsburgh.

Q. For whom? A. The Crucible Steel Company.

Q. What was your position there? A. A clerical position.

Q. What was your salary directly before you left there? A. Before I left?

Q. Yes. A. Before I left Thornburg?

Q. Before you came East. A. Possibly $100 a month.

Q. What position did you receive when you came East? A. A clerical position.

Q. With the same company, wasn't it? A. The same company.

Q. You were placed in charge of some office, weren't you? A. No.

Q. What position did you receive? A. A clerical position.

Q. Just a clerk in the office? A. Right.

Q. What was your salary when you started in the East? A. The same.

Q. At the end of the year did you receive a bonus from the company? A. A bonus?

Q. Yes. A. No.

Q. Well, you bettered your position by coming East, didn't you? A. Yes.

Q. After Mrs. Grundy left the Oppenheimer Institute she complained to you about the nurses and the doctors and everything else, didn't she? A. I am sorry I can't say she complained.

Q. About the nurses and the doctors at the institute? A. I don't recall any complaints, no.

Q. (Last question repeated). A. I don't recall that she complained.

Q. She was incensed because you had put her there, wasn't she? A. Yes.

Q. And in order to appease her, you proposed a ride? A. No.

Q. An automobile ride? A. No.

Q. Didn't you testify yesterday "in order to appease her I proposed a ride?" A. Not for that reason.

Q. Didn't you testify yesterday "in order to appease her I proposed a ride"? A. Not for the reason that she complained about the nurses at the Oppenheimer Institute, no.

MR. HEYMAN: I ask that that be stricken out, if your Honor please.

MR. LANE: I submit, if your Honor please, it is perfectly proper.

MR. HEYMAN: I haven't mentioned a word about leaving the Oppenheimer Institute.

THE COURT: Just a moment. The question before that wasn't about complaints at all. It was whether she was incensed.

MR. HEYMAN: Certainly.

THE COURT: Whether she was incensed.

MR. HEYMAN: Yes; it has nothing to do with the nurses and doctors.

Q. Didn't you testify yesterday "in order to appease her I proposed a ride? A. I don't know that I used the word "appease".

Q. Well, did you propose a ride in order to appease her? A. Very frequently, yes.

Q. I am not talking about very frequently; I am talking about that particular time.

MR. LANE: Now, I object, if your Honor please. If he is talking about this particular time, he has asserted three or four minutes ago he was not talking about a particular time.

MR. HEYMAN: I want to take serious exception to that statement, and I want to say

now that I think I ought to be permitted to examine this witness without any interruption with unnecessary objections, because counsel knows as well as I do that he is wasting a great deal more time by making these unnecessary objections than I am.

THE COURT: There is no need of any comment. Counsel is entitled to make his objections.

MR. LANE: Did you intend your question to relate to this particular occasion?

MR. HEYMAN: If your Honor please, I have followed out the line of testimony given by this man on his direct examination. I first spoke of her confinement in the Oppenheimer Institute, about her complaints about the nurses and the doctors and about her being incensed at her confinement; then I followed it up by saying, "Didn't you testify that in order to appease her I proposed a ride". There can't be anything clearer or more direct than that question.

MR. LANE: I understood you to say that that had reference to this particular time.

MR. HEYMAN: Yes, absolutely; I am following here his testimony as I have it before me.

THE WITNESS: May I ask a question? I understand that he is trying to have me say that I took Mrs. Grundy riding because she was just released from the Oppenheimer Institute and was in a very bad frame of mind. The ride had absolutely nothing to do with the Oppenheimer Institute, other than she was in an ugly frame of mind for some time previous to that, and the ride did not occur shortly after—I don't know how shortly, but I am quite sure the ride was not immediately after she came out of the institute.

Q. She was in an ugly frame of mind, and for the purpose of appeasing her you proposed a ride; is that right? A. Yes.

Q. What was her ugly frame of mind about? A. Constant complaining, an aggravated feeling that she was being imposed upon, the doctors were treating her wrong, to use her own expression, she constantly said that no one could force her to stop drinking, that she would drink whenever she pleased, and that no treatment of any kind would ever stop her, she would do as she damned please, that was her constant expression.

Q. Didn't you testify yesterday that "she was incensed at me for having sent her to the institute"? A. Always incensed at me.

Q. I am not asking about always. A. Yes, quite likely I did.

Q. I am asking you didn't you testify yesterday— A. Quite likely.

Q. That "she was incensed at me for placing her in the Oppenheimer Institute"? A. Yes.

Q. "And in order to appease her I proposed a ride", didn't you testify to that yesterday? A. I don't recall the exact words; quite likely.

Q. You did propose a ride; you took her out. Now, who was with you on that ride? A. No one.

Q. Just you and Mrs. Grundy? A. Right.

Q. Then you brought her over to Mrs. Corrigan's again, didn't you? A. Yes; right.

Q. And while you were there she became very ill from liquor and she was put to bed; then you took her to the Morris Plains Sanitarium; isn't that so? A. No; not then; no.

Q. Well, how soon after that? A. I should say about a month.

Q. What was the date she went to Morris Plains? A. She went to Morris Plains the latter

part of August, and we went to Mrs. Corrigan's in July, yes.

Q. Now, this is 1914, isn't it? A. Right.

Q. Who committed her to Morris Plains in 1914? A. Order of the court.

Q. What is that? A. Order of the court.

Q. What court? A. I don't know.

Q. Who was your attorney at that time? A. I had no attorney.

Q. How did you get the order from the court? A. I believe it was an application of the Assistant County Physician.

Q. Didn't you make an affidavit at that time? A. Did I?

Q. Yes. A. I don't recall.

Q. But shortly after she was at Morris Plains did you get a letter from Judge Sullivan asking you to explain her confinement? A. That is right.

Q. Have you got that letter with you? A. No.

Q. Where is it? A. I don't know.

Q. It was in your letter file shortly before you moved from 57 Clinton Avenue, wasn't it? A. Possibly.

Q. Did you look through your letter file since then? A. Yes.

Q. Did you keep that letter with the rest of the letters that you have produced here today? A. I don't think so, unless my attorney has it; I don't know.

MR. LANE: We haven't it; it has not been demanded. If it has, we never heard of it.

MR. HEYMAN: No, it has not been demanded.

Q. You did not pay any visits to Mrs. Grundy while she was there in 1914, did you? A. No.

Q. Mrs. Corrigan went there, didn't she? A. At my request.

Q. How often? A. Two or three times a week.

Q. You were instructed to stay away, weren't you? A. I was.

Q. Were you instructed to send any messengers out there? A. Instructed to send messengers, no.

Q. You didn't think it would do any harm to have Mrs. Corrigan go out to see her, did you? A. On the contrary, we thought it would do Mrs. Grundy good by taking out presents, candy, books and flowers, showing that we were thinking of her all the time and trying to get her in the right frame of mind.

Q. You were very much interested to know how she was getting along, weren't you, Mr. Grundy? A. Naturally.

Q. And for that purpose you sent Mrs. Corrigan? A. Right.

Q. Who was the doctor who advised you not to visit? A. Doctor Keegan and this Assistant County Physician, as well as Doctor Henschell of the Morris Plains Institution.

Q. Do you remember Christmas night, of 1917? A. I have nothing at all in mind on that date, no.

Q. Don't you remember that Mrs. Mulack was there at your house? A. It may have been that year; I know she was there on Christmas some year, yes.

Q. Do you remember Mrs. Grundy was so drunk that she could not get the Christmas dinner that night? A. Yes, I remember that.

Q. Do you remember having a talk with Mrs. Mulack? A. Having a talk with Mrs. Mulack,—many talks, yes.

Q. Do you remember having a talk with Mrs. Mulack on Christmas, 1917? A. Not the year, no.

Q. You don't remember that? A. I don't recall the year, no.

Q. Do you remember that Mrs. Mulack told you about a certain Charley who had called her up and told Mrs. Mulack he was in love with Mrs. Grundy, and wanted Mrs. Mulack to use her good offices with Mrs. Grundy in order to marry her? A. I remember Mrs. Mulack telling me that, yes, but when, I don't know.

Q. You remember that Mrs. Mulack asked you why you didn't get a divorce? A. She did not.

Q. Don't you remember your saying to Mrs. Mulack, "What is the use, she will only be back again on my hands"? A. We didn't discuss the question of divorce at that time.

Q. You didn't discuss it at that time? A. No; we discussed the question of separation.

Q. Separation, was it? A. Yes.

Q. You didn't care to have any separation at that time, did you? A. No.

Q. You did object to any divorce at that time, did you? A. Certainly.

Q. You did object to a divorce at that time? A. Certainly.

Q. Because you loved your wife at that time, didn't you? A. I did.

Q. And you so told Mrs. Mulack, did you not? A. I did.

Q. You didn't say to her, "What is the use, she would only be back on my hands as soon as this other fellow got through with her," or words to that effect? A. I don't think I used those exact words.

Q. I say, words to that effect. A. Possibly.

Q. You won't say that you didn't, will you? A. No.

Q. Well now, didn't Mrs. Mulack tell you at

that time that Charley was in love with Mrs. Grundy? A. Did Mrs. Mulack tell me?

Q. Yes. A. No.

Q. Didn't Mrs. Mulack tell you that he wanted to marry Mrs. Grundy? A. Mrs. Mulack reported the telephone message that came to her; she had no knowledge of this man and was not in a position to tell me if he loved her or cared for her or wanted to marry her.

Q. Didn't Mrs. Mulack tell you that Mrs. Grundy showed her some Liberty Bonds and flowers, and said they were from Charly? A. She did.

Q. Didn't you think at that time, from what Mrs. Mulack told you of your wife, that she had been unduly intimate with a man by the name of Charley? A. At that time.

Q. Then you did have reason to suspect she was guilty of some sort of infidelity before 1919, didn't you? A. No.

Q. You had no reason to suspect it at all? A. No.

Q. No information whatsoever from which you might derive that knowledge? A. None whatsoever, no.

Q. You didn't believe what Mrs. Mulack told you about this Charley, did you? A. You are connecting now a number of stories all in one group. I believed what Mrs. Mulack told me about the Liberty Bond, and so forth, after that occurred, after I had the evidence of infidelity.

Q. After what occurred? A. What Mrs. Mulack told me.

Q. You mean Mrs. Mulack told you after you had the evidence? A. Right.

Q. What else did she tell you after you had the evidence? A. I couldn't tell you in detail what

she did tell me; you seem to have the story there in her evidence; I really could not add much to that.

Q. What did she tell you in 1917? A. I don't think she told me anything in 1917; it might have been 1918 or 1917; I don't know.

Q. Well, after you had the evidence, wasn't it? A. Oh, no; no.

Q. She told you something before you had the evidence? A. On some visit to the house Mrs. Mulack told me of a telephone conversation she had with some stranger, apparently, she had no knowledge, she didn't know who it was; she laid little stress in the story, neither did I, when she told me; I am not sure, it may have been in 1918.

Q. Now, in 1918 you went to Blue Point to visit your wife there, didn't you? A. Right.

Q. Mrs. Van Cleve was with you on that visit? A. Yes.

Q. You spent the day at Blue Point with Mrs. Grundy, didn't you? A. No; I am mistaken; I came there, Mrs. Van Cleve wasn't with me at the time I went down to spend the night at Blue Point.

Q. You were alone? A. I am quite sure I was.

Q. You spent the night with Mrs. Grundy there? A. Yes.

Q. And she told you about this incident on the boat, did she? A. At some time, on some visit to Blue Point, yes.

Q. The first visit that you made after it occurred she told you, didn't she? A. Yes.

Q. Now, when you spent the night with Mrs. Grundy, Park was in one bed in the room and you and she slept in another bed in the room; didn't you? A. Yes.

Q. There was a screen around Park's bed, wasn't there? A. Yes.

Q. So that he couldn't see what was going on in the room; isn't that so? A. Yes, sir.

Q. You say now you did not attempt to have Mrs. Grundy submit to unnatural intercourse with you? A. I do.

Q. You say that you did not tell her that you knew of people who did it that way? A. I do.

Q. You never talked to her about anything of that kind? A. Not to my knowledge, no; I don't recall any conversation of such sort.

Q. Didn't Mrs. Grundy say to you the following morning, "Now I understand where you have been spending your nights out"? A. She did not.

Q. Or words to that effect? A. No.

Q. She didn't say anything to you at all about where you had spent your nights or what you did with your nights? A. I don't recall any conversation with her on that subject.

Q. Was Mrs. Grundy drunk while you were down to Blue Point that summer? A. That particular night you have in mind, yes.

Q. She was drunk? A. She was.

Q. What time did you get there that day? A. Later in the day or early evening.

Q. About what time? A. I don't know.

Q. Between six and eight o'clock? A. Possibly.

Q. What did you do that night? A. Had dinner.

Q. With whom? A. Mrs. Grundy.

Q. And Park? A. No.

Q. Did you have anything to drink that night? A. Yes.

Q. Did she have anything to drink that night? A. Yes.

Q. Liquor? A. Yes.

Q. You had several drinks, didn't you? A. No.

Q. What? A. No.

Q. How many did you have? A. I don't know; we had several, possibly two.

Q. It might have been three? A. No.

Q. Only two? A. I should say so.

Q. What time did you go to bed? A. I don't recollect.

Q. Was Mrs. Grundy drunk when you got down to Blue Point that day? A. I thought so.

Q. You thought so? A. Yes.

Q. Do you remember going out on that night with Mr. and Mrs. Biala, Mr. Stotes and Mrs. Grundy? A. No.

Q. Were you out with Mr. and Mrs. Biala and Mrs. Grundy that night? A. We had dinner across the road at another hotel.

Q. At Stotes'? A. I think so; I don't know the name.

Q. Mr. and Mrs. Biala with you? A. Yes, I should say.

Q. Had dinner with you that night? A. I don't think so.

Q. Now, isn't it a fact that you had dinner at the Hallet House and you went over to Stotes' after dinner? A. No, not after dinner; I think we had dinner at this place across the road.

Q. What time did you have dinner at the place across the road that night? A. Early in the evening.

Q. What time did you get through with dinner that night? A. I don't know.

Q. What time did you go home? A. I don't know.

Q. Isn't it a fact that you were so drunk that you didn't know what time you got home? A. It is not.

Q. And isn't it a fact that you were so drunk that everybody was laughing at you? A. It is not.

Q. And isn't it a fact that Mrs. Biala said, "I am surprised at you, you started out to get your

wife drunk and you got drunk first"? A. You make that assertion.

Q. Isn't it a fact that you did that; isn't it a fact that that occurred? A. It is not a fact, no.

THE COURT: The question is whether Mrs. Biala said that. That was the first question.

Q. You had some drinks in that party, didn't you? A. Yes.

Q. More than two? A. Not to my knowledge.

Q. You don't remember what occurred then, do you? A. I recall very distinctly, yes.

Q. Tell us whether you had more than two drinks that night altogether. A. Yes, I recall Mrs. Grundy and I had quite a quarrel that night because of her insisting upon being fed with more drinks at this place, she wouldn't be satisfied, and she insisted on ordering more and more, until it was necessary to go back to the hotel.

Q. Then you did— A. We had quite a long talk.

Q. You do remember it was quite a drinking bout that night, wasn't it? A. No, I wouldn't say that.

Q. Biala was taking quite a number of drinks, wasn't he? A. Possibly.

Q. And Mrs. Biala was taking quite a number of drinks, wasn't she? A. I wouldn't say; she wasn't drinking heavy.

Q. You all had these drinks while you were sitting at the table together? A. No.

Q. Where did you have these drinks? A. They were there; they joined us later.

Q. Did they sit down with you at the table? A. Eventually, yes.

Q. Did they have any drinks while you sat at the table? A. Yes.

Q. Did you have any while they were there? A. I had a drink or two, yes.

Q. While Mrs. Grundy was sitting at the table? A. Yes.

Q. In her presence? A. Surely.

Q. But you do remember that Biala and Mrs. Grundy drank quite a bit? A. No, I didn't say that.

Q. Well, what do you want us to understand, Mr. Grundy, about Mr. Biala's drinking, and about Mrs. Grundy's drinking? A. I couldn't state a word about Mr. Biala's drinking.

Q. Didn't you say before that he had quite a number of drinks? A. That he had?

Q. Yes. A. No.

Q. He didn't have? A. I didn't say that; I don't know.

Q. Did he have? A. I don't know; I wasn't with them all evening; I don't remember.

Q. I mean only while she was in your company. A. He didn't have many drinks in my company.

Q. About how many did he have? A. I don't know; I didn't count them, I am sure; I don't know.

Q. Now, from the time that you arrived in Newark, in 1908, up to 1918, you had gone out frequently with Mrs. Grundy, hadn't you? A. I would like to get those dates again.

Q. From 1908 to 1918. A. I had what?

Q. You had gone out frequently. A. Yes.

Q. Gone to dinners with her? A. Yes.

Q. While you were at dinner did you have anything to drink with her? A. Occasionally.

Q. Liquor? A. Occasionally.

Q. During the time that you were keeping house you had some friends visit you, hadn't you? A. Naturally.

Q. At different times? A. Right.

Q. And you had something to drink in all those cases? A. Occasionally, yes.

Q. On New Years Day, 1917, you had some friends at your home, didn't you? You remember having Mr. and Mrs. Van Cleve, Mr. and Mrs. Cook, and their daughter, and Mrs. Smith and Mr. Jamison; you remember that? A. I recall some New Years affair when there was quite a crowd at the house.

Q. That was New Years day of 1917, wasn't it? A. I can't say; quite likely.

Q. You had something to drink at that time, didn't you? A. Yes, there was an excessive amount of drinking.

Q. An excessive amount? A. Yes.

Q. You had something to drink, too, at that time? A. I did.

Q. Do you remember the party in 1917, at New Years? A. Yes, I do.

Q. Was Mr. Townsend at your house at that time? A. I don't recall.

Q. On that occasion? A. I don't recall.

Q. Was Mr. Jack Smith there? A. I don't think so.

Q. Will you say that Mr. Townsend wasn't there? A. No.

Q. He may have been there; you don't remember? A. He may have been.

Q. You don't remember what time you got back to the hotel at Blue Point after you had dinner at Stotes'? A. No, I don't.

Q. Was Park in bed at the time you got there, do you remember?

THE COURT: Talking about Blue Point?

MR. HEYMAN: Yes; Blue Point, in August, 1918.

Q. Was Park in bed when you got up there, do you know? A. No, I don't know.

Q. Where did you have the quarrel? A. What?

Q. Where did you have your quarrel with Mrs. Grundy, at the hotel where you were having these drinks? A. On our return to the hotel.

Q. What was the quarrel about? A. Her desire for drinking excessively and being supplied with more drink and more drink.

Q. There wasn't any scene at the place where you were having these drinks? A. Oh, no.

Q. Mrs. Grundy didn't become boisterous at that time, did she? A. No.

Q. As a matter of fact, you didn't caution her because she became boisterous at that time, did you? A. No.

Q. You didn't begin your quarrel at that place, did you? A. No.

Q. You didn't remonstrate with her at that time, did you? A. Possibly.

Q. You waited, though, until you were on your way home before you had your quarrel? A. Right.

Q. Did you continue to quarrel after you got up in the room of the hotel? A. I don't think so.

Q. You went right to bed, did you? A. No doubt.

Q. Went right to sleep? A. No doubt.

Q. Slept all through the night without disturbing anybody? A. I think so.

Q. Are you sure you didn't wake at all during that night? A. Quite sure.

Q. Quite sure you had nothing to do with Mrs. Grundy that night? A. Quite sure.

Q. Did you have sexual intercourse with her that night at all? A. Nothing at all.

Q. What time did you leave the following

morning? A. I have forgotten.

Q. Did you have your breakfast at the hotel? A. No doubt.

Q. Well, did you leave the following morning? A. I can't say.

Q. Or did you stay down there the next day? A. I don't think so.

Q. How many days were you there altogether? A. On that trip?

Q. Yes. A. I think only the one day.

Q. Don't you remember you got down there on Friday and you stayed until Monday morning? A. No, I don't remember.

Q. Will you say you didn't? A. It is possible.

Q. Will you say that you didn't? A. I say it is possible; I don't recall.

Q. But you do recall distinctly that Mrs. Grundy was drunk at that time? A. Yes, I am very clear on that.

Q. You don't remember whether you were there one day, or two days or three days, though? A. I am quite sure I was not there three days; I don't think I was there two days; I seldom had time to be away from New York two days.

Q. When did you see Mrs. Grundy next after that episode? A. I am not clear whether I drove down to bring her home, or I went down—I am quite sure I went down for her at the end of the season.

Q. When you went down Mrs. Van Cleve was with you, wasn't she? A. I believe that was the time, yes.

Q. Shortly after your return from Blue Point in 1918 you had this very serious talk with Mrs. Grundy, didn't you? A. Yes.

Q. And shortly after that you took her to dinner one day, one Sunday, didn't you, at the

Robert Treat Hotel? A. It is possible; I don't recall; we have had dinner at the Robert Treat, yes.

Q. With Mrs. Van Cleve? A. Yes.

Q. Do you remember about two or three days after your return from Blue Point in 1918 you had dinner with Mrs. Grundy and Mrs. Van Cleve at the Robert Treat Hotel? A. Yes.

Q. About two or three days after your return from Blue Point?

THE COURT: Wasn't that your previous question?

tion.

MR. HEYMAN: I will withdraw the ques-

Q. About two or three days after your return from Blue Point, in 1918, do you remember you had dinner at the golf club with Mrs. Grundy and Mrs. Van Cleve? A. I don't recall.

Q. You don't remember that? A. I don't recall the incident, no.

Q. Now, shortly before you went to Europe, Mrs. Grundy told you she wanted to move to New York, didn't she? A. She talked about it, yes.

Q. She told you to give up the apartment so that she could move to New York, didn't she? A. No, she didn't say just that.

Q. What did she say to you? A. She thought she would like to live in New York, and the possibility of finding an apartment, or going to an apartment hotel.

Q. Then did you speak to the landlord about giving up your apartment in Jersey City? A. I spoke to him some time in January.

Q. That was after the talk with Mrs. Grundy? A. Yes.

Q. Do you remember at that talk about giving up the apartment, prior to your going to Europe, Mrs. Grundy and Miss Halverson were sitting in the living room, and you came in and told them that you had spoken to the landlord about giving up the apartment? A. That is quite possible.

Q. Do you remember that Mrs. Grundy said that she would not give up the apartment? A. She may have said that.

Q. And do you remember your saying you didn't know how long you were going to be in Europe? A. Yes, we had several talks on that subject.

Q. Now, didn't you tell her at that time that she ought to go to Mrs. Corrigan's or Mrs. Low's, and get a room, while you were in Europe? A. I didn't tell her she ought to, no.

Q. How is that? A. I didn't tell her, no.

Q. You told her, though, that you thought she ought to? A. She constantly talked about the cares of housekeeping and the burdens and trouble of keeping an apartment, why would it be necessary for her to keep the house open awaiting my return, my indefinite return; couldn't she go to a hotel or go boarding or do something or other, and give up the house; that was the subject of the conversation.

Q. Didn't you state to her that she should go to Low's? A. I told her it was entirely up to her, if she felt the house was too much for her, if she found something that appealed to her amongst the places, to leave; I left the matter entirely in her own hands.

Q. Didn't you state that she should go to Mrs. Low's, or to Mrs. Corrigan's? A. I by all means highly recommended Mrs. Low's.

Q. And Mrs. Corrigan's? A. Yes.

Q. You were anxious that she give up her

apartment, and to see that she go to either one of those places? A. No.

Q. You were not? A. No.

Q. Now, Mr. Grundy, on August 24th, when you returned from the golf club, Park told you what had occurred in the apartment that day, didn't he? A. Yes, that is right.

Q. What did he tell you? A. Park told me that he had returned home at noon, he went up to our apartment and found he couldn't open the door, the door was chain bolted from the inside, he rang the bell and he knocked and kept it up repeatedly, and he caused so much noise that he attracted the attention of Mrs. Hansen on the other side of the hall, who came out to find why all the disturbance was being made, when she was talking to Park she requested that he come through their apartment and get on the fire escape and in that way possibly find entrance into our apartment; shortly afterward our apartment door was unbolted, the chain was taken off, or the bolt, and Park gained admittance, and having heard voices in the apartment he knew that someone was there, particularly since the door was locked from the inside, so he made search through the apartments and found this man standing in the kitchen cupboard with the door closed; he demanded an explanation, he said to the man that he thought that it required some explanation, and this fellow that was in the cupboard said no explanation is necessary, and he got out of the apartment as fast as he could.

Q. Is that all he told you? A. Practically all.

Q. From that you believed that your wife had been guilty of adultery? A. I did.

Q. You were very loath to believe that? A. No; it was quite a shock.

Q. You went right home and discussed the matter with her? A. I did.

Q. What time did you get home? A. Early in the evening.

Q. How early? A. I can't say. I came home in time to have dinner.

By The Court:

Q. Where? A. At the Jersey City Club.

By Mr. Heyman:

Q. You didn't come home to dinner, did you? A. I came home in time to have dinner at the Jersey City Club.

Q. You didn't go home to your own home to dinner? A. No.

Q. Why didn't you go to your own home to dinner? A. Because Mrs. Grundy wasn't preparing any dinners.

Q. You knew that there would not be anything ready for you if you went home? A. Yes.

By The Court:

Q. You mean not prepared any dinners at all, or not prepared your Sunday dinners? A. On Sunday, particularly; very rarely, except when Park was home on his vacation.

By Mr. Heyman:

Q. You met Park at the Jersey City Club? A. No.

Q. Where did you meet him? A. In front of the apartment.

Q. Did you come to your apartment first? A. Oh, yes.

Q. What did you come there for? A. I always returned home.

Q. Then you did go home before you went to

the Jersey City Club? A. Yes; it is directly across the street.

Q. You went to your home and then you went across the street to the club for dinner? A. My recollection is I went to the apartment, Park was waiting there, and then we crossed over to the Jersey City Club for dinner.

Q. What did you say to Mrs. Grundy when you got home that night? A. I told her what Park had told me.

Q. The whole thing? A. The whole thing, and I asked for an explanation.

Q. What did she say to you? A. She said Park was lying, there was no one there.

Q. Was Park in the house at the time? A. Yes.

Q. In the room where this conversation took place? A. In the hall, right near the door.

Q. And he could hear the talk? A. He could, I think; I don't recall just where he was standing; I was interested in the conversation with Mrs. Grundy.

Q. Was that all the talk that you had with Mrs. Grundy that night? A. That was about all, yes.

Q. Did you tell her then that you were going to institute a suit for divorce against her? A. No, it was too great a shock to me; I didn't form any ideas in my mind at all, I simply was trying to seek for information.

Q. What did you do that night after that? A. I retired.

Q. You did take the lock off the door? A. Yes.

Q. About what time was it when you took the lock off the door? A. A day or two afterwards.

Q. A day or two afterwards? A. I think so.

Q. I thought you said you took it off that

night? A. I may have taken it off that night; I don't recall.

Q. You don't remember? A. I don't recall.

Q. Did she offer any explanation whatsoever of her conduct on that day? A. None at all.

Q. Did you then accuse her of adultery? A. Practically so, yes.

Q. What did you say to her? A. I told her that I had full faith in Park's story, that I believed he was right, there was the corroboration of Mrs. Hansen, knowing someone was in the apartment, and the fact that she denied flatfootedly was an indication that she was lying about no one being in the apartment, having the door locked, and it was clearly evident to me that adultery had been committed.

Q. When did you see Mark Townsend after that? A. The next day.

Q. Where? A. At his office.

Q. What time, early in the morning? A. I don't know.

Q. You had a talk with him? A. I did.

Q. Explained to him what you explained to us about it? A. Right.

Q. And he advised you that you had a good case for divorce, didn't he? A. Yes.

Q. You told him then to institute suit? A. I don't know that we took any definite action at that time, no.

Q. Do you know what you did do? A. I told him of the condition under which Mrs. Grundy was living that I hardly knew what to do, I was perplexed and I asked for advice and assistance; I told him I wanted to have a further conference with Mrs. Grundy, which I did that night, and as a result and at her request, Mr. Townsend tried to see her the following morning.

Q. Wasn't Mark Townsend at your house the following night when you talked with Mrs. Grundy? A. The following night?

Q. Yes; August 25th. A. On the 26th.

Q. No; on the 25th. A. On the 26th.

Q. Wasn't he at the house on the 25th? A. I don't think so.

Q. Well, now, didn't you instruct Mr. Townsend to file suit for divorce for you right away on the 25th of August? A. I can't say whether we took any decided action that day or not. I know we had it in mind.

Q. Well, didn't you talk with Mr. Townsend about whether or not you had sufficient evidence to procure a divorce, and didn't he tell you on the 25th of August, the day following the incident, that in his opinion you had sufficient grounds for divorce? A. I think he did.

Q. And didn't you instruct him then to institute suit for divorce? A. It is possible. I don't think we took any decided action that day, as I am telling you.

Q. Didn't he say to you that the thing would perhaps occur again and it would be better for you to wait until you got more evidence? A. I don't recall him saying that.

Q. At no time? A. No.

Q. Did you suggest that to him? A. I did not.

Q. Was it suggested at all by either you or he? A. It made no impression on me if it did, because I was not thinking of such a thing.

Q. You were satisfied that you had sufficient grounds for divorce? A. Yes.

Q. And that you could procure a divorce on the grounds that you already had? A. I did.

Q. There wasn't any question of further evidence necessary, in your mind? A. None at all.

Q. You were convinced that your wife had been guilty of adultery? A. I was.

Q. And there wasn't any possible chance of forgiveness on your part? A. None at all.

Q. There wasn't any possible chance of a reconciliation? A. No, sir.

Q. You had made up your mind on August 24th, when Park told you the story, that your wife was guilty of adultery and that you would never live with her again as long as you lived; isn't that so? A. It is not so.

Q. What was your determination on August 24th, after Park told you the story?

MR. LANE: If there was any determination.

A. There was no determination.

Q. None whatsoever? A. None whatsoever.

Q. Didn't you testify before you had determined that your wife was guilty of adultery? A. I was satisfied of that.

Q. Well, you were satisfied on August 24th, when Park told you the story, that Mrs. Grundy was guilty of adultery?

MR. LANE: I object to that upon the ground that it has been asked and answered several times; he reiterated and reiterated that he was.

Q. You were satisfied, Mr. Grundy, that you would never live with Mrs. Grundy again, weren't you, after Park told you that? A. I was satisfied at the time that the time had come when some arrangements must be made to separate, yes.

Q. You were satisfied that you had procured evidence against her which would enable you to

get a divorce, weren't you? A. I would not call it satisfaction, no.

Q. What? A. I would not call it satisfaction.

Q. You were convinced that you had procured evidence, weren't you? A. (No answer).

Q. You were convinced that she was guilty of adultery then, weren't you? A. Yes.

Q. You were convinced that you had the evidence? A. Yes.

Q. And you were convinced that the time had come when you should use that evidence, weren't you? A. I had no such thought as you are trying to express, no.

Q. When did you become convinced that you should use that evidence by instituting a suit for divorce? A. Within a short time afterwards.

Q. How short? A. A week, possibly.

Q. Inside of a week? A. Oh, I wouldn't say that. I am trying to tell you that I was in a very grave and complex state of mind, I didn't know what to do, Mrs. Grundy was in a pitiable, deplorable condition, someone had to advise and assist her, I wasn't in a position to take any radical action at the time, I couldn't frame up any plans then within a day or two after I gained this knowledge.

Q. Did you attempt to advise Mrs. Grundy? A. I did not.

Q. Pardon me? A. Everyone advised her.

Q. Did you attempt to advise Mrs. Grundy? A. No, I did not attempt to advise her.

Q. Did anybody attempt to advise her? A. I don't know.

Q. Oh, you don't know? A. I don't know.

Q. Did you send for anybody to come there and advise her? A. No.

Q. You made up your mind you were through, didn't you? A. Practically so, yes.

Q. And that you were going to leave the house? A. Eventually, yes.

Q. And you left the house, didn't you? A. Eventually, yes.

Q. You were looking around at that time for some place to go? A. No.

Q. Isn't it a fact that on the 26th of August you were trying to get some place to move to? A. I was.

Q. Is that right? On the 26th of August you were trying to find some place to move to? A. I don't recall.

Q. On August 26th Mr. Townsend came there, didn't he, at your request? A. Yes.

Q. For the purpose of talking to Mrs. Grundy? A. Right.

Q. You were going to discuss this incident of August 24th, weren't you? A. Yes.

Q. And you did discuss the incident of August 24th, didn't you? A. Mr. Townsend, you mean, and I?

Q. You and Mr. Townsend and Mrs. Grundy? A. No.

Q. Did Mr. Townsend discuss it? A. No, Mrs. Grundy was not in a state to talk to anybody.

Q. In what state was she? A. Highly nervous condition, suffering from excessive drinking and not in a position to talk, listen to reason or do anything at all.

Q. When did you see Mrs. Grundy prior to August 26th and after August 24th? Did you see her on the 25th? A. Quite likely in the evening.

Q. Did you talk with her that evening? A. I think so.

Q. Discuss this matter at all with her? A. I don't think so.

Q. So far as you were concerned then, on August 25th, there wasn't anything left to discuss, was there? A. Yes; considerably.

Q. What? A. Some explanation from her as to why that man was there.

Q. You wanted to satisfy yourself that she had committed adultery? A. I didn't want her to say that Park was lying; we knew she was lying when she made such a statement and we wanted her to tell the truth.

Q. You wanted to be satisfied— A. No, not satisfied; I wanted her to tell the truth.

Q. Were you satisfied that she had committed adultery at that time? A. I must go back over the same explanation.

Q. I don't mean satisfied.

THE COURT: You changed it a while ago to "convinced."

Q. I was talking about August 24th before; now on August 25th were you convinced that she had been guilty of adultery? A. Yes.

Q. So that there wasn't anything left for you and her to talk about, was there? A. Oh, yes; considerably.

Q. Well, tell us what? A. About her, there were many things to talk about.

Q. What? A. The question of separation and making plans for the future, why she degraded herself in that condition, why she left it possible for someone to find her that way; many, many things to talk about.

Q. Following that, you did not have any talk with her on August 25th? A. When?

Q. On August 25th? A. I am afraid not.

Q. You are afraid not? A. Yes.

Q. What makes you afraid? A. Because I am

quite sure she was very much under the influence of liquor.

Q. You could not talk with her? A. She was in no condition to be talked to properly.

Q. When did you ask Mr. Townsend to come to the house? A. On that Monday.

Q. What time? A. Probably early in the day.

Q. Did you have dinner at the Jersey City Club that night? A. Did I?

Q. Yes. A. I don't recall.

Q. Don't you remember that you met Mr. Townsend at the Jersey City Club and asked him to come over the following morning? A. Possibly.

Q. Now, Mr. Grundy, being convinced that Mrs. Grundy was guilty of adultery, and that there wasn't any possible chance of forgiveness or reconciliation, what was the object of your having Mr. Townsend come there to talk this matter over with Mrs. Grundy? A. What few talks I had with Mrs. Grundy, she requested that I ask Mr. Townsend to come and talk together with me.

Q. When? A. On the 24th.

THE COURT: On the 24th?

THE WITNESS: And 25th.

Q. On both of those days? A. Yes.

Q. Had she ever asked you to bring Mr. Townsend into the house before for the purpose of talking? A. Did she?

Q. Yes. A. No.

before, hadn't you, with her? A. With her?

Q. Yes; you had threatened time and again that you would quit? A. No.

Q. Hadn't you? A. No, sir.

Q. You hadn't told her before that if she did not mend her ways you would lose your respect for her, and your affection? A. I did.

Q. And that you would leave her? A. Yes. I didn't say I would leave her.

Q. You didn't say you would leave her? A. No.

Q. You never before had said that you would leave her? A. No.

Q. You never before had said that you would have a separation from her if she did not mend her ways? A. No.

Q. You never before had said, "I am through, I don't want to have anything further to do with you"? A. Not in those words, no.

Q. I don't mean those words; I mean words to that effect. A. I have testified before to that.

Q. You had told it to her then, hadn't you? A. No.

Q. Didn't you testify that you had told her often if she did not mend her ways you would be compelled to put a stop to it? A. Oh, yes; I did tell her that many times; I told her that before she was sent to the institutions for cures.

Q. Didn't you tell her many times if she did not mend her ways you would lose your respect for her? A. I did.

Q. And that you would have to get a divorce or separation from her? A. No.

Q. Didn't you threaten several times to leave her? A. No.

Q. You never threatened to leave her at all? A. Never. I may have, in a moment of excitement, said something to that effect, that I would leave her; but I don't recall ever saying that.

Q. Now, on August 24th, when she asked you to bring Mr. Townsend there, you knew that Mr. Townsend was your attorney, didn't you? A. Not yet.

Q. You knew that you were going to consult with him about this matter, didn't you? A. Yes.

Q. And on the 25th you had consulted him, hadn't you? A. Right.

Q. When Mrs. Grundy told you that she wanted to talk to Mr. Townsend there, did you tell Mrs. Grundy that he was your lawyer? A. Yes.

Q. You did tell her that? A. I told her that.

Q. Did you tell her that you had already consulted with Mr. Townsend about getting a divorce? A. No.

Q. Then what was your object in bringing Mr. Townsend there, if you had consulted him about a divorce? What was your object of having him come there? A. In hopes that she would say something definite, because she knew Mr. Townsend and because she would be more likely to tell him, or answer my questions, and I wanted to have her feel we were there trying to help her, if anything, we wanted to do what we could to have her talk and make some definite statement as to what she might do, and what she proposed to do for the future.

Q. That was all that was concerned? A. Practically so at that time.

Q. There wasn't anything about the facts of the case concerned? A. Oh, yes.

Q. There was? A. There wasn't a discussion; there wasn't any discussion; there would be if a discussion had been carried on, yes.

Q. Your idea of having Mr. Townsend there was to talk with her about the facts of the case? A. Yes.

Q. You wanted her to tell the truth, didn't you? A. Certainly.

Q. You wanted her to tell you what had occurred in the house with Mr. Levine, the beer man, on August 24th, didn't you? A. No, no; you mistake the idea. We wanted to impress upon Mrs. Grundy the seriousness of this situation, to

have her realize that she must stop drinking and take care of herself and make some plans for the future; that was all.

Q. Why for the future? Had you at that time made up your mind to get a divorce? A. I knew that the time had come when something must be done.

Q. Had you made up your mind at that time that you were going to start? A. I wouldn't say start divorce, but I was going to start something.

Q. You wanted to have a talk with her and ask for the facts which occurred on the 24th, didn't you? A. Not with the idea of asking her for the facts; I was hopeful that she would do some talking; she as a rule refused to talk with me.

Q. And you were in the hopes that while Mr. Townsend was there she would do some talking about the incident on the 24th; isn't that so? A. No.

Q. That is not so? A. No.

Q. What did you want her to talk about; what were you in the hopes that she would talk about?

MR. LANE: Now, I object to that on the ground that it has been asked and answered three or four times.

THE COURT: I will take that question.

Q. What were you in the hope of having her talk about while Mr. Townsend was there? A. I had in mind that Mrs. Grundy knew practically no one that she would care to talk to on such a subject, and I had hopes that she would realize the seriousness of the situation and that when she knew that I had engaged counsel that she in turn would take some definite action, some

steps to protect her interests, and I wanted to impress that upon her, that the time was coming when we must take some definite action to break up that household.

Q. Did you tell Mrs. Grundy that she should go to a lawyer? A. I tried to.

Q. On the 25th? A. I tried to.

Q. You thought it was necessary to have Mr. Townsend tell her that in order to impress it upon her mind? A. No, I didn't think it was necessary; I thought it would help.

Q. You didn't think it was necessary, but you thought it would help? A. To make an impression on her mind, yes.

Q. You thought it was sufficient if you told it to her but you thought it would help if somebody else told her? A. Really she paid little attention to what I said to her, she wasn't impressed, she thought every move of mine was unkind, she would not listen, she would not care, she would not take my advice.

Q. This was not an unkind move? A. Of mine?

Q. Yes. A. No.

Q. You thought it was friendly? A. I wanted to help her all I could; I pitied her.

Q. You thought it was a friendly move consulting about a divorce? A. I wanted to help Mrs. Grundy if I could.

Q. Now, isn't it a fact that you had endeavored to obtain from her a confession of guilt, and that she had denied it and offered to take you to the beer man to prove to you that nothing wrong had taken place? A. No.

Q. You knew that it was the beer man who had been in the house, didn't you? A. I did not.

Q. You did not? A. I did not.

Q. Didn't she tell you the man was there for the purpose of delivering liquor? A. She said that later; she first denied it.

Q. When? A. I have forgotten; some days later.

Q. Didn't she tell you on August 25th? A. No.

Q. Before the 26th? A. No, I don't think so.

Q. That it was the beer man? A. No.

Q. Did she tell you a week after that? A. Within a week, yes.

Q. Isn't it a fact then that you brought Mr. Townsend there on August 26th for the purpose of getting a confession of guilt from her? A. No.

Q. And isn't it a fact that she refused to talk to Mr. Townsend when he came into the room, and pulled the covers over her head? A. It is a fact that she was not in a condition to talk when we got there.

Q. And isn't it a fact that she said she would not talk to Mr. Townsend? A. I don't think so.

Q. Didn't you go into her bedroom and say, "Mr. Townsend is here" or "Mark is here, and he wants to talk with you," and didn't she say, "I won't talk to Mark or anybody else"? A. No.

Q. And didn't she pull the covers over her head and say, "Get out of my room"? A. No.

Q. Didn't she tell Mr. Townsend when he came in that she would not talk with him? A. No.

Q. And didn't she pull the covers over her head and refuse to talk to him? A. She may have; I stepped out of the room shortly after he came in there.

Q. You don't know what happened then after he got in the room? A. Not any too much, no.

Q. Then you got no satisfaction out of that visit to Mrs. Grundy on the 26th? A. None at all.

Q. You thought that it was still your duty to have somebody impress upon her the seriousness of this matter? A. Yes.

Q. So you requested Mark Townsend to come again, didn't you? A. The facts are, we immediately made arrangements to employ a nurse to stay with Mrs. Grundy shortly after; the nurse came on the morning of the 28th and remained a week, that is as long as she could remain; we then tried to employ another nurse, and she stayed only three days and she refused to stay in the house any longer; after the visit of the first nurse, Mrs. Grundy straightened out a little, and it was then possible to have a reasonable talk with her.

Q. Mrs. Grundy fell downstairs on August 27th, or the 26th? A. I don't know.

Q. Don't you know that she had a very serious fall and Doctor Opdyke attended her and arranged for the nurse? A. I know Doctor Opdyke was in constant attendance.

Q. Don't you know that she had injured herself severely by falling downstairs? A. I do not.

Q. Well, when did Mr. Townsend come the next time? A. My recollection is the early part of September.

Q. What date, do you remember? A. No; the 7th, 8th or 9th; about the 9th, probably.

Q. As soon as she was in condition to understand what was going on? A. Yes.

Q. Of course you requested him to come there the second time, didn't you? A. At Mrs. Grundy's request.

Q. You requested Mr. Townsend to come there, didn't you? A. At Mrs. Grundy's request.

MR. HEYMAN: I object to that as not responsive.

Q. Did you ask Mr. Townsend to come to your house on the 9th of September, or the 8th? A. Yes, at Mrs. Grundy's request.

MR. HEYMAN: I object to that, if your Honor please, and ask that the second part be stricken out.

THE COURT: Yes; strike it out.

Q. What was the purpose of the visit on September 9th? A. To advise Mrs. Grundy.

Q. Of what? A. That definite action would be taken to proceed with the divorce trial, and we discussed the question of an allowance to her for maintenance.

Q. Now, up to that time there wasn't any question but what Mr. Townsend was your lawyer, was there? A. Oh, no.

Q. There wasn't any question in your mind about what you were going to do, to institute a suit for divorce, was there? A. No.

Q. As a matter of fact, you had instructed Mr. Townsend by that time to institute a suit for divorce? A. I believe so.

Q. Yet you wanted your attorney to come to your wife to advise her about her rights, is that right? A. You persist in putting it that way. I am telling you that Mrs. Grundy requested Mr. Townsend to come to the house, to accompany me, and I in turn asked him to come, and we would both talk to her and explain the seriousness of the situation; that is all. In the meantime she would do nothing, she had done nothing, she refused to talk on the subject of doing anything to engage counsel or seeking advice, she simply said that she didn't know what to do.

Q. You told Mr. Townsend before he came on these visits that Mrs. Grundy wanted to talk with him, didn't you? A. Why, yes.

Q. You told him she had asked you to tell him to come, didn't you? A. No doubt.

Q. How? A. No doubt.

Q. Did you tell Mr. Townsend what your wife wanted to see him about? A. No, we didn't know.

Q. You told him that you had tried to talk with her and couldn't talk with her? A. She refused to discuss the subject with me.

Q. Now, did your wife tell you to call Mr. Townsend there so that she could discuss the facts of the divorce, or the facts of the adultery with him? A. She most likely did say—

Q. Did she ask you to get Mr. Townsend, that she wanted to talk over with him the facts of the incident on August 24th? A. No, no; she didn't go into any details of that sort.

Q. When Mr. Townsend got there on September 8th, or 9th, whichever it was, he did talk with her about what Park had told you and him? A. That was the general discussion.

Q. She then denied that she had committed adultery, didn't she? A. Yes.

Q. It was then that Mr. Townsend went over the facts of what Park had told him, and Mr. Townsend then said to her, or words to that effect, that it was preposterous for her to say such a thing in the face of what Park had told him; isn't that right? A. In reference to August 24th?

Q. The 24th of August. A. Yes.

Q. Now, when Mr. Townsend went there on September 9th you knew that it was the beer man who had been in the house on August 24th? A. I think she admitted that it was.

Q. That it was? A. Yes.

Q. She would not tell you his name, would she? A. She said she didn't know.

Q. Did she tell you where the man's business was? A. No.

Q. Did you know where the man's business was? A. No.

Q. Well, you had found a great number of bills for liquor and champagne around the house, hadn't you? A. No.

Q. Of course you didn't know where the liquor came from? A. Which liquor?

Q. On the liquor bills which you had found? A. Certainly I knew where the bills came from.

Q. Where had they come from? A. Jackson Avenue.

Q. Did you ask her if it was the same man who had been there at the house that night? A. I did not.

Q. Did you attempt to find out in any way whether it had been that man? A. I did not.

Q. Did you tell Park to go and find out whether it was that man who had been at the house that day? A. I did not.

Q. Did you endeavor in any way to find out? A. No; I didn't believe the story.

Q. Who that man was? A. No; I didn't believe Mrs. Grundy later on when she said that the beer man had been in the house.

Q. You didn't believe it was the beer man at all, did you? A. No.

Q. And you didn't care to find out who the man was, did you? A. It was hardly possible to find out.

Q. What is that? A. It would be hardly possible to find out; I couldn't conceive of any way of finding out who the unknown party was from an unknown address.

Q. Even after she had told you it was the beer man? A. Yes.

Q. You didn't think it was worth while to go to the beer man to investigate from him whether

he had called at your house? A. At that late date, no.

Q. You didn't think that an outrageous crime had been committed against you? A. I certainly did, yes.

Q. Yet you didn't think it was worth while going down to the beer man for the purpose of finding out whether he was that man? A. Not at that late date, no.

Q. What late date; September 9th? A. Yes.

Q. Ten or fifteen days after the thing occurred? A. No.

Q. You didn't think it was any use? A. No; the information wasn't given to me originally and I thought it was a framed up story, some time after the occurrence.

Q. You thought she had framed it up? A. I thought so.

Q. With whom did you think she had framed it up? A. Possibly with the man that was in the house.

Q. You didn't think it worth while finding out if she had framed it up with the beer man, to ask him to corroborate it? A. Yes.

Q. You didn't think it was worth while going down to ask him? A. She hadn't his name at the time.

Q. You knew the beer man, didn't you? A. There are a great many beer men in the neighborhood.

Q. Many beer men? A. With whom she was dealing.

Q. You knew the beer man with whom she was dealing had a place on Jackson Avenue, didn't you? A. No.

Q. You knew the place on Jackson Avenue, didn't you? A. No; I have never been there.

Q. You knew where it was, didn't you? A. I likely had some bills under that address, yes.

Q. You know where Jackson Avenue is, don't you? A. Surely.

Q. You lived near there? A. Yes.

Q. You saw the wine places along Jackson Avenue? A. I seldom passed on Jackson Avenue; I am not acquainted with it.

Q. So that you could not by any possibility find the wine store? A. Not on Jackson Avenue, not to find any particular one.

Q. You didn't think it was worth your while to find out the man who had supplied your wife with liquor on September 9th? A. I didn't believe there were any legitimate liquor stores or wine stores open; certainly I did not think it worth while hunting an unknown man that was supposed to be some beer man who was in my house on August 24th.

Q. So far as you were concerned, Mr. Grundy, you were perfectly satisfied or convinced that she had committed adultery and it didn't make any difference to you who the man was, so long as you had sufficient evidence for the purpose of starting a suit for divorce, you were satisfied; isn't that so?

MR. LANE: I object to that on the ground that it contains an unwarranted assumption of fact and I think the question has been asked and answered several times.

MR. HEYMAN: I want to get this man's frame of mind; I think I have that right.

MR. LANE: Do you want an answer, yes or no?

MR. HEYMAN: He can answer that any way he likes; I don't care how he answers it.

THE COURT: I think the question is too

complex, Mr. Heyman. I want you to have the benefit of it for summing up, if you wish.

MR. HEYMAN: It is the only way I can get at this man's frame of mind. I submit I am entitled to get this man's frame of mind at that particular time.

THE COURT: I agree with you about that.

Q. When did you first learn who the man was that was in your house on August 24th? A. Some time in the latter part of April or the first of May, the early part of May.

Q. Of 1920? A. Yes.

Q. How did you learn that? A. Through Mrs. Hansen.

Q. The same lady who had spoken to you about a man being in there on August 24th or 25th? A. No.

Q. That was the janitress of the house, wasn't it? A. She hadn't spoken to me; but it was the same lady, yes.

Q. The same lady? A. Yes.

Q. When did you first speak with Mrs. Hansen? A. About that time, when we were preparing for the trial.

Q. April, 1920? A. When I learned the name of Levine.

Q. You had never spoken to her before that, had you? A. No—well, wait, pardon me, I had never spoken to her before—that is a foolish question, because I have spoken to her many times—when I say I didn't, I didn't mean it; she lived in the same house, I have seen her many times during the many years we have lived in that house, and I spoke to her many times during the time I lived there.

Q. What is there foolish about the question?

A. You see I had spoken to her before, I said no quickly, I didn't mean that.

Q. Well, was there anything in the question which was foolish? A. Yes.

THE COURT: One moment. You don't have to discuss that.

Q. Had you talked with Mrs. Hansen about this case before April, 1920? A. I am quite sure I did not.

Q. What did you say to her in April, 1920? A. I asked her if she recalled the time Park tried to get into the apartment and she told me she did; she also told me that shortly after this occurrence in August that a woman claiming to be Mrs. Levine had come to her in great distress several days afterward and urged Mrs. Hansen to help Mrs. Levine get her husband out of trouble, some scrape he had gotten into in our apartment, in that house; she also told me of many disturbing things that went on in the apartment during my absence in Europe, that there were frequent noisy parties in the apartment until possibly two o'clock in the morning, banging on the piano, and that the neighbors had complained, and in a general way that there was very high times going on in this place during my absence abroad.

Q. That was the first time that you knew Mr. Levine by his name, is that right? A. To my knowledge, yes.

Q. Now, in August, 1919, when your son told you about this incident, he also told you that Mrs. Hansen had heard all about it, or had seen the whole thing? A. No, he didn't say that.

Q. He told you that Mrs. Hansen had made the suggestion that he get in through the fire escape? A. Yes.

Q. And he told you also that Mrs. Hansen was standing in the hall while he was knocking? A. Yes.

Q. And he told you also that Mrs. Hansen heard voices in the apartment? A. I don't recall that he said that.

Q. He told you that he had heard voices while Mrs. Hansen was standing there? A. Yes.

Q. So that you knew Mrs. Hansen knew all about these things? A. No.

Q. So that you knew that from what Park told you? A. Yes.

Q. Why didn't you go to Mrs. Hansen then and endeavor to find out who this man was? A. What?

Q. Why didn't you ask Mrs. Hansen then when your son told you this story? A. Mrs. Hansen hadn't seen anyone in the apartment, she didn't know who it was.

Q. How do you know that? A. From my son's story.

Q. From your son's story? A. Yes.

Q. You didn't know what Mrs. Hansen knew, did you? A. No.

Q. You didn't think it was necessary to go to her at that time to find out how much she did know? A. I did not.

Q. You didn't think about going to Mrs. Hansen before August 24th and asking her anything at all about your wife's conduct, did you? A. I did not.

Q. You didn't think that it was worth while, from August, 1919, until April 20th, to find out what it was Mrs. Hansen knew? A. No.

Q. You didn't think it was worth while making an effort to see whether she would know who this man was? A. I had no knowledge that she knew that there was any man in the apartment.

Q. I thought you said that your son had told you that the voices inside the apartment were the voices of a man and a woman? A. I don't know whether he said that or not, but that didn't prove that Mrs. Hansen heard it or knew anything about that.

Q. Didn't your son tell you that he heard voices in the apartment, and that one of the voices was a man's, and one voice was a woman's voice? A. I don't recall whether he said that; he may have said. The fact that he found a man in the apartment was proof enough that a man was there.

Q. Didn't your son tell you? A. I don't recall.

Q. You didn't think it was worth while finding out from Mrs. Hansen? A. What?

Q. Finding out what occurred on that night, whether she knew the man? A. No; I had no knowledge that she knew anything.

Q. Now, on September 9th, at the time that Mr. Townsend called at your home, you were then convinced that you were to institute a suit for divorce on the ground of adultery, and you had so instructed Mr. Townsend, hadn't you? A. I believe so. I can't say positively, because those dates are all running in my mind.

Q. How is that? A. I can't tell you definitely whether we took decided action in the early part of September, after the 9th or 10th, it was all one blur to me.

Q. Now, on the 15th of September, what was the purpose of having Mr. Townsend come there? A. After our talk on the 9th Mrs. Grundy again started very heavy drinking, a spasm like, you may call it, shortly after I left on the 9th, after a conference, and I was called back to the house—

Q. I am asking the purpose of Mr. Townsend's visit. A. I am telling you.

MR. LANE: I submit he is answering that.

Q. That attempted suicide didn't occur until after the conversation with Mr. Townsend. A. On the 9th.

Q. Isn't that so? A. That is so.

Q. Tell us the purpose of his visit before the attempted suicide.

THE COURT: That isn't it. We are talking about the 15th.

A. Your question relates to the 15th.

THE COURT: Yes; he wants to know the purpose of the visit on the 15th.

A. I must lead up from the 9th to the 15th to tell the purpose of the visit.

Q. Go ahead and tell us. A. On the night of the 9th, then, we found the Police Department, the ambulance, and several doctors, and a great number of people around the apartment and in the street, and a lot of excitement, and from that time on Mrs. Grundy started drinking very heavily again.

Q. You weren't at home after September 9th, were you? A. No.

Q. You had left the house entirely, hadn't you? A. On the 9th or 10th, yes.

Q. How did you know she was drinking heavily? A. I had occasion to visit the house occasionally to collect things that were there.

Q. During the time between the 10th and 15th? A. Off and on, yes.

Q. How often were you there? A. I don't recall; two or three times.

Q. What time of day or night were you there? A. Probably in the early evening.

Q. Did you see Mrs. Grundy when you got there? A. At times, yes.

Q. How many times did you see her? A. I don't know; several times.

Q. Did you talk with her? A. Why, yes.

Q. On each occasion that you would go there? A. I think so when she was in a condition to talk, yes.

Q. All right; now tell us what happened on the 15th; the purpose of the visit on the 15th? A. We had an understanding on the 9th of what allowance we would make, and then between that time and the 15th she bemoaned the fact that she had no assurance that she would get the allowance, she didn't feel that she that she could have any finances to engage counsel and pay fees unless she was assured an income, she had no means of livlihood, she was very greatly depressed, sometimes she would express the opinion that she was going to lose her home and be put out on the street and she had no assurance of any income at all; so the purpose of the visit and the conversation on the 15th was to talk over with her, if I remember rightly, the question of giving her some definite assurance that she would have a permanent income, and that I would agree to maintain her and offer evidence of some kind to satisfy her and get her in a better frame of mind. That was the purpose of the visit of the 15th, as I recall.

Q. For that reason you took Mr. Townsend over there? A. Yes.

Q. To explain that to her? A. Yes.

Q. There wasn't anything else to be talked about at that time, was there, except the question of her support? A. Why, yes, there was.

Q. What else? A. Park had told us about finding another man in the apartment on the 15th.

Q. Well, Mrs. Grundy had asked you to bring

Mr. Townsend there on the 15th, hadn't she? A. I don't recall.

Q. Well, didn't Mrs. Grundy telephone to you to bring Mr. Townsend there so that she could talk with him? A. Yes, she frequently telephoned and asked for a conference.

Q. On this day, September 15th? A. I wouldn't say that; I don't know.

Q. When was that? A. It may have been the 15th, or prior to that, or later than that; it might have been the 10th, it might have been the 17th; I don't know.

Q. What day of the week was the 15th on? A. I don't know.

Q. What day of the week were you there at that time, do you remember? A. I don't know.

Q. But you do remember that you had come there for the purpose of discussing her allowance, support and her counsel? A. We had that in mind.

Q. What? A. But I do recall that Park had told me about finding another man in the apartment on the 15th.

Q. You wanted to talk that over with her at that time, also, isn't that so? A. That wasn't the original intention of Mr. Townsend.

Q. But you were going to talk over that matter with her at the same time, weren't you? A. Yes, if she would talk about it.

Q. What was the object of talking over with her that matter when you were convinced on September 9th that you had sufficient grounds for divorce, and that you were going to institute suit for divorce? A. It is hard to say. The object was just simply again to try to get her in a more sane and sober frame of mind so that she would understand the situation.

Q. So that she would talk about it? A. Possibly.

Q. So that she would state to you the facts? A. So that she would make definite arrangements, that was the main idea.

Q. Wasn't your idea to talk about the facts, and wasn't it your idea that she should make a confession of guilt to you and Mr. Townsend? A. Absolutely not.

Q. Wasn't that the purpose of your visit at that time? A. You are wrong; it wasn't.

Q. Well, you told her on September 15th of the Evans incident and she denied it? A. She denied it.

Q. She denied any adultery, didn't she? A. Yes.

Q. She denied having committed adultery with Evans or with any other man, didn't she? A. Yes; she denied there was anybody in the house.

Q. Now, when was it that Mrs. Grundy first mentioned Reno? A. Sometime in September or October.

Q. Where? A. Where?

Q. Where was it? A. Possibly in the house.

Q. You weren't in the house after September, were you? A. After September.

Q. After September. A. No.

Q. So it could not have been, after September, at 57 Clinton Avenue? A. No, that is true; it may have been in the house.

Q. Was it at Clinton Avenue or elsewhere that she first mentioned Reno? A. She discussed the subject many times; no doubt she—

Q. Can't you tell us when it was and where? A. I really couldn't tell you when she first mentioned it; no.

Q. Well, what was the object of talking about Reno or considering Reno at all? A. She realized that I had determined to proceed with the divorce,

and she disliked the idea of going through a divorce proceeding here in Jersey, and she urged that we let her go to Reno; she explained that she thought she could secure a divorce there and in that way avoid the notoriety and publicity that she would get here; if I would allow her to go to Reno to secure a divorce it would save her name and save her the actual disgrace in this town; that was her main plea from time to time.

Q. You didn't care whether there was any publicity connected with this case, did you? A. I certainly did.

Q. You didn't want any publicity? A. I did not.

Q. You wanted everything to be kept perfectly secret, didn't you? A. I did; but I had no preference.

Q. You know, and you did know at that time, that if Mrs. Grundy interposed no defense to a suit by you the matter would come before a master ex parte and there would be no public hearings, didn't you? A. No, I didn't know it.

Q. Didn't you have that in Pittsburgh? A. Yes.

Q. Was your first divorce case contested? A. No.

Q. Wasn't it before a Referee or Special Master? A. It was, yes.

Q. Didn't you attempt to avoid the publicity of that case in Pittsburgh? A. I made no attempt to do it, no.

Q. Don't you know that the papers in that case were sealed and not given to the public? A. I don't know it, no.

Q. Don't you know that there were no reporters present at your first divorce case? A. I don't know.

Q. You didn't want any publicity in this case, did you? A. Naturally not.

MR. LANE: Now, if your Honor please, he has said time and time again that he didn't want it and he is perfectly justified in not wanting it.

THE COURT: He said so.

Q. You didn't attempt to have the matter kept as secret as possible? A. I didn't attempt?

Q. In this case; did you? A. I didn't attempt —that has two inferences; I can't answer that.

Q. You didn't do anything to keep it as secret as possible, did you? A. I requested my counsel to avoid publicity if possible.

Q. You knew that if there was a defense in this case the matter would have to be tried in open court, didn't you? A. I did not.

Q. You didn't know it? A. No.

Q. You had never heard of such a thing before? A. I knew nothing about the laws of this State as to what the proceedings were in divorce cases.

Q. Did you know the laws of the State of Pennsylvania about that matter? A. Did I?

Q. Did you? A. No.

Q. You didn't know that contested matters were tried in open court? A. I naturally knew that.

Q. And you knew that the court is public and that reporters and strangers could come into court? A. Right.

Q. You had been in courts before this? A. Yes.

Q. In the divorce court before this, other than the divorce case in Pittsburgh? A. No.

Q. Several of your friends had had divorce cases, hadn't they?

MR. LANE: I object to that.

MR. HEYMAN: I want to show that this man had knowledge of this matter, that it would come before the public, and that he attempted to conceal this matter. I want to show that following out this attempt to conceal this, he attempted to suppress the defense. That is the object of this line of questions.

MR. LANE: So far as an admission of notice may be proven from the fact that this man did not want publicity and he was willing to do anything to avoid publicity, he may have it without wasting time.

Q. Now, isn't it a fact that in view of the fact that you occupied such a prominent position in this town, and in view of the fact that you wanted this divorce, and in view of the fact that you knew it would be public if there was a contest, isn't it a fact that you wanted your wife to go to Reno to obtain a divorce? A. It is not.

Q. And didn't you make preparations for her to go to Reno? A. I did not.

Q. Didn't you procure time tables and mark them out for her? A. I procured them at her request but didn't mark them for her.

Q. You didn't mark them? A. No.

Q. (Exhibiting paper to witness) Is that your writing? A. The amount is, but the marking on the table—

Q. Is that your writing?

THE COURT: One moment; first indicate what you are showing.

A. That is my writing.

MR. HEYMAN: Showing witness time table and calling his attention to pencil marking and pencil writing.

Q. Is that your writing? A. Yes.

MR. HEYMAN: Showing another time table with pencil writing at the top, and the witness says that the pencil writing at the extreme top is his.

Q. Is all the pencil writing on that page 10 of this time table in your handwriting? A. All except the marking.

Q. I am not asking about the marking; I am asking about the writing at the top of page 10 overthere? A. Yes.

of this time table. A. Your Honor, I will admit all the writing on this time table is my writing. First he asked me if I didn't mark the time table and that is my answer.

Q. Did you ever see this time table before? A. I don't know; is it marked?

Q. Look at this paper, look at page 7 and see if you recognize that time table. A. No, I wouldn't; no, sir.

Q. Did you give Mrs. Grundy these time tables? A. I gave them to her or sent them to her, one or the other.

(Time tables marked Exhibits D-10, D-11 and D-12 for Identification.)

Q. Now, I show you another paper and ask you if you have ever seen that paper before? A. Yes.

(Paper marked Exhibit D-13 for Identification.)

Q. That is in your handwriting, isn't it? A. That is right.

Q. And the diagram is made by you? A. Right.

Q. A diagram of Florida? A. Supposed to be.

Q. At that time you spoke to Mrs. Gurndy about going to Florida, didn't you? A. She did.

Q. You discussed it with her at her suggestion, didn't you? A. Right.

Q. Now, what was the object of marking these time tables, D-11 and D-10, or of giving her the time tables which were checked and marked? A. I gave her the time tables which were marked, but I didn't say I marked them.

Q. What was your idea in giving her those time tables and writing those things on them? A. At her request.

Q. What for? A. She wanted to consider a trip to Reno.

Q. You wanted to consider it? A. She wanted to consider a trip to Reno.

Q. Did you discuss it with her? A. I did.

Q. Did you consider the matter? A. I had it under consideration.

Q. What consideration did you give of whether to send her there or not? A. I determined not to.

Q. You were considering letting her sue for divorce? A. Yes.

Q. Were you told at that time that a divorce could be obtained in the State of Nevada? A. No.

Q. On the grounds of desertion? A. No, I was not.

Q. Did you know what grounds a divorce could be obtained upon in the State of Nevada? A. I did not.

Q. What afterwards changed your mind when you finally decided not to let her go to Reno?

MR. LANE: I object to that question be-

cause it contains an inference that he made up his mind and that he changed his mind. There is no such evidence. He says he had it under consideration.

MR. HEYMAN: Now I say what afterwards changed his mind and made him decide that he would not send her to Reno? That was my question.

Q. What was it that made you change your mind afterwards and made you finally determine that you would not send her to Reno?

MR. LANE: I object to that question as containing a statement that there was a change of mind. Anybody who has a thing under consideration is not in a condition of mind.

THE COURT: I will take it.

Q. (Last question repeated.) A. Evidence that Mrs. Grundy had started drinking heavily again; she was in an unsettled state of mind, she did not know what action she would take herself day by day; she was also in touch with and meeting some unknown man.

Q. Where did you get that information from? A. Mrs. Mulack.

Q. Mrs. Mulack? A. Right.

Q. And that is all the information that you had on the question of meeting an unknown man? A. Yes.

Q. No other information about meeting any other men? A. Not that I recall.

Q. You certainly believed Mrs. Mulack? A. I had no reason to doubt her word; yes.

Q. Did you believe that your wife was meeting an unknown man at that time, at the time that you were discussing the question of sending her to Reno? A. No, not at that time.

Q. When did you find out from Mrs. Mulack? A. As soon as I heard that Mrs. Grundy was drinking again, she had left Mrs. Mulack's to meet some man in New York, then I determined she could not go to Reno at my expense.

Q. When did you give her these time tables? A. I don't know.

Q. Now, isn't it a fact that Mrs. Grundy refused to go to Reno? A. No.

Q. Isn't it a fact that Mrs. Grundy refused to go to Florida? A. No.

Q. And isn't it a fact that Mrs. Grundy refused to accept $500 from you? A. It is not.

Q. And isn't it a fact that Mrs. Grundy told you that she would not give you a divorce so that another woman could have you? Isn't that a fact? A. She said that, yes.

Q. Isn't it a fact that Mrs. Grundy told you that she would not let you do with her what you had done with your first wife? A. I don't recall her saying that.

Q. Will you say she did not say it? A. Yes.

Q. You will say she did not say it? A. Yes.

Q. Now, Mr. Grundy, before August 24th, 1919, you had never had any intimation that Mrs. Grundy had violated her marriage vows, had you? A. Any intimation?

Q. Yes. A. No, not to my recollection or knowledge, no.

Q. You never suspected that she was guilty of adultery before August, 1919? A. I did not.

Q. It had never come to your mind to suspect her of that, had it? A. No.

Q. You had been married how long at that time?

MR. LANE: At what time?

MR. HEYMAN: In August, 1919.

A. Approximately 20 years.

Q. Yet on August 24th, 1919, when, for the very first time since you were married to her, you heard a story from your son Park, you were convinced that your wife was guilty of adultery; is that right? A. Yes.

Q. And on September 9th you were convinced that she was trying to hide from you the name of her paramour; is that right? A. Up until the 9th, I should say, yes.

Q. Some time in October, when Mrs. Mulack told you that she was meeting an unknown man, you were ready to believe her and were convinced that that was true? A. After all the other circumstances, yes.

THE COURT: Was that in October?

MR. HEYMAN: In October, 1919, at Mrs. Mulack's home in Long Island.

Q. Did you ask Mrs. Grundy about the man whom she was meeting in October, 1919? A. No.

Q. Did you tell her that Mrs. Mulack had told you that she was meeting an unknown man? A. No; I knew that she was trying to cover it up.

Q. Did you tell Mrs. Grundy that Mrs. Mulack had told you? A. Quite likely I told her at some later date when I saw her; I wasn't in direct touch with her at that time.

Q. You saw her in October, didn't you? A. Some time, yes.

Q. Did you tell her immediately after you had learned from Mrs. Mulack? A. No; I didn't see her immediately after I learned it.

Q. Did you tell her as soon as you did see her? A. Quite likely.

Q. That Mrs. Mulack had told you? A. Quite likely I told her the next time I saw her, yes.

Q. What did she say to you? A. She denied it.

Q. What did you say to her? A. I had heard that she telephoned trying to cover up her movements, that she had made special requests of friends to say she had been with friends, so I knew whatever she said would be untrue.

Q. So that you would not have believed her, no matter what she said? A. I would not have believed her at all, no.

Q. Now, Mr. Grundy, late in 1917 or early in 1918 you had most of your clothing over in New York, hadn't you, at your tailors? A. No.

Q. You had a number of suits over there, didn't you? A. Possibly two.

Q. Do you remember talking to Mrs. Grundy about that? A. Quite likely.

Q. Do you remember she said to you, "Where are all your clothes?" and you said, "They are over at the tailors in New York"? A. No.

Q. Do you remember at that time that you began to stay out over night—you remember that—Wednesdays and Saturdays? A. No, I don't.

Q. Well, did you stay out over night? A. When?

Q. During 1917. A. All of the year?

Q. No; during the year. A. During the year, quite naturally I was out.

Q. Did you stay out during the week over night? A. Oh, yes.

Q. You say that when you came home Mrs. Grundy did not say to you, "Where have you been?" and you did not say to her, "None of your damned business"? A. No.

Q. You are quite sure about that? A. Quite sure.

Q. How often did you stay out over night during 1917? A. I couldn't tell you.

Q. Well, wasn't it every Wednesday night and every Saturday night? A. No, it wasn't.

Q. Well, how often was it? A. I don't know.

Q. Can you give us any idea? A. Hardly at this late date.

Q. The matter has passed out of your mind entirely, hasn't it? A. I traveled quite a little and I might be away from New York and home quite a little; it is hard for me to tell you when and how.

Q. Were you away from your home quite a little before 1917? A. I have always traveled more or less since I have been East.

Q. How long were you away at a time? A. I was away over night on short trips.

Q. How often would that occur? A. Oh, I don't know how often.

Q. Would it be once a week? A. Possibly.

Q. More than once? A. Sometimes more than that; somtimes not so much.

Q. They were always business trips? A. Not always, no.

Q. Did you take your wife on any of these trips? A. I have taken her on these trips, yes.

Q. When? A. In past years.

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

Q. Well, how late was the last time? A. I really don't know.

Q. Well, will you say within the last five years? A. Yes.

Q. Will you say within the last four years? A. I think so.

Q. Will you say within the last three years? A. I can't say.

Q. Where did you take her? A. Well, we have been in Boston and New Haven; I have been to Philadelphia, but just when I don't know.

Q. Well, can you tell us within the last two years of your living with Mrs. Grundy, how often

you took her away over night on these trips? A. Two years?

Q. Within the last two years, 1916 to 1918, did you ever take her on any of these trips? A. Oh, yes, I guess so.

Q. Between 1916 and 1918? A. 1916 would be four years ago.

Q. Yes. A. I think so; I am not sure.

Q. 1917? A. It might have been 1915, 1916 or 1917, I am not sure.

Q. Was it later than 1917? A. I can't say.

Q. Did you take her in 1918? A. I don't know.

Q. Did you take her in 1919? A. I don't know; I don't think so.

By The Court:

Q. On these occasions when you were away over night, Mr. Grundy, did you send word to your house there in advance of the time you were going, that you would be away? A. Invariably; if Mrs. Grundy was in a condition to talk in the morning I would let her know what my plans were, yes, that I would not be home at night, or something of that sort. There were times when I would visit the golf links when the playing season was on and I lived with her, I asked her if she cared to go, but she invariably said no, she didn't care to go; sometimes people used to stay at the golf club over night.

By Mr. Heyman:

Q. Now, did you want us to believe, Mr. Grundy, that within the last two years you would not find Mrs. Grundy sober enough to talk to every morning? A. No.

Q. And that this condition prevailed every day? A. No.

Q. That it prevailed every other day? A. No.

Q. That it prevailed every third day? A. No.

Q. Well, was she usually drunk or sober?

MR. LANE: What; where; when; how?

MR. HEYMAN: During the last two years.

A. Yes, drunk quite a good deal.

Q. Most every day? A. I don't say that.

Q. Was it more than every day? A. No; not most every day.

Q. Well, was it so bad that when you left your house if you were going away on a trip you could not talk to her? Was it as bad as that? A. When I left in the morning, you mean?

Q. Yes. A. Very frequently as bad as that, yes.

Q. Every day? A. No.

Q. Well, any day, I mean? A. Yes.

Q. Any day at all? A. Yes.

Q. And that would occur every time that you went on a trip? A. No, no.

MR. LANE: I object to that. The witness has not sworn to that at all.

THE COURT: I know it; the witness' testimony is quite clear.

MR. LANE: Counsel wants to pretend that she was drunk every day.

MR. HEYMAN: I am not trying to prove that she was; I am not trying to prove that she was.

THE COURT: Why he didn't tell her, I suppose the point is.

MR. HEYMAN: Why he didn't communicate with her. I am trying to find out from him if it was her drunkenness that prevented him from communicating with her every time he went away.

Q. Is that what you want us to understand, that every time you tried to communicate with

her and couldn't, the reason was that she was drunk and she could not talk to you? A. No; I don't think you have a clear conception of the case at all.

Q. Is that right or isn't it? A. No, it is not right.

Q. That is what I want to know.

By The Court:

Q. Let me ask you a question. Did you on occasions when she was in a condition to talk with you advise her of your going away? A. I did. There was no occasion for communication, because all my trips were short trips, the majority of them.

Q. How long would you call short trips? A. Always over night; I would communicate by telephone; I would not know of those trips, quite likely, in the morning, before I left home; when she was in condition I would telephone her, otherwise I couldn't see anything else I could do.

Q. Well, you could telephone her during the day, couldn't you? A. Oh, that has been done, yes, frequently.

Q. What I wanted to get at was whether when you were going to be away from home over night, you communicated that fact to her in advance of your being away. A. Yes, provided she was in condition to receive the information; yes, sir.

Q. Well, now, if she wasn't in condition, did you communicate it to her before you went away? A. I have tried many times to talk to her on the telephone but without success.

By Mr. Heyman:

Q. That is what I want to know; when you didn't communicate with her, it was because she

was drunk, isn't that so? A. The majority of times, yes; practically all.

Q. What other reason was there for not communicating with her? A. Why, I would come home at night and find notes on the table, Mrs. Grundy would leave a note stating, "I will be away for the night, I will not return tonight," or something of that sort.

Q. Did she tell you where she was? A. Yes; it was always understood she was making a visit to some friend in New York.

Q. She left the telephone number? A. No.

Q. Didn't you get her on the telephone? A. I hadn't the slightest doubt but what I could find her immediately in case of necessity, surely.

Q. You didn't complain about her staying away over night? A. No, but there were times—

Q. You didn't think there was anything wrong—

THE COURT: He hasn't finished. Let him finish.

Q. There were times what? A. Nothing. I had nothing in mind.

Q. You didn't think there was anything wrong in her staying away? A. No.

Q. How many times during the years 1918 and 1919 did you take your wife out? A. I don't know in that long period.

Q. How many times during the year 1919 did you take her out? A. So many times I couldn't count them.

Q. Where did you take her to? A. To New York and the Shackamaxon Country Club, to dinners.

Q. Where did you take her to in New York? A. To dinners.

Q. What hotel or where did you have dinner? A. She was very fond of Reisenweber's cabaret, and we have gone there many times for dinner.

Q. During the year 1919? A. Yes.

Q. Where else? A. The Shackamaxon Country Club, during the Summer season.

Q. Of 1919? A. Yes.

Q. How often did you take her to the Shackamaxon Club? A. I don't know; as often as she would care to go and would go.

Q. Now, how many times during 1918 did you take her out? A. I don't know; I haven't any idea.

Q. Would you say once a week? A. I wouldn't attempt to count it. It was impossible to make any definite arrangements with Mrs. Grundy over any extended period, and for that reason we could not buy theatre tickets in advance, too.

Q. Did you ever buy theatre tickets in advance? A. I did.

Q. How often?

THE COURT: When? During what period? During the whole period of their marriage, nearly 20 years?

MR. HEYMAN: Let us confine it to 1918 and 1919; the two last years.

Q. Let us confine it to those two years; how many times did you take her? A. I don't know.

Q. What theatres did you take her to? A. I don't know.

Q. What shows did you see? A. I don't know.

Q. How many times did you buy tickets that she could not go? A. Several times at least.

Q. What theatres did you have tickets for? A. I can't recall.

Q. What did you do with the tickets? A. Destroyed them, or gave them away.

Q. How many times did you give them away? A. I can't recall.

Q. Now, isn't it a fact, Mr. Grundy, that during the years 1918 and 1919 you did not take Mrs. Grundy out more than five times at the utmost, to theatres or to dinners in the entire two years? A. I would say it is not a fact.

Q. Well, will you say you took her out more than five times? A. Oh, yes.

Q. How many times would you say you took her out?

MR. LANE: I object to that. The witness has already stated that he could not answer.

MR. HEYMAN: Now, if your Honor please, the witness has a clear remembrance that he took her out more than five times. Now, I want to know what his best recollection is.

THE COURT: Go ahead.

MR. HEYMAN: I have the right to test his credibility and his memory.

A. I can't say.

Q. Have no idea at all, have you? A. Except that it was more than five times.

Q. That is the best answer that you can give us on that? A. I could make a statement, but I could not swear to that, therefore I can't tell you how many times I took Mrs. Grundy out in the two years.

Q. Now, it is not a fact that in 1917, when Mrs. Grundy asked you to have intercourse with her, you pushed her down in your bedroom, is it? A. No.

Q. And it is not a fact that you told her that you did not want to have anything at all to do with her at that time? A. In 1917?

Q. In 1917. A. No.

Q. You didn't push her through the hall away

from your room and into her room? A. No.

Q. And throw her into her room on the floor? A. No.

Q. You never did any such thing in your life? A. No.

Q. It is not a fact that you refused to have anything to do with her in 1917? A. No.

Q. Did you have intercourse with her in 1917? A. Oh, yes.

Q. When did you cease to have intercourse with her? A. Some time late in 1918.

Q. How late? A. After her return from Blue Point.

Q. After you returned from Europe? A. After her return from Blue Point.

Q. In 1918? A. Yes.

Q. And from that time down until the present day you have never had anything to do with her? A. Right.

Q. You mean from that time down to the day you left, on September 9th or 10th, something like that, in 1919, you never had anything to do with her?

MR. LANE: I object to all this repetition. Down to the present minute he has not. That is all conclusive.

THE COURT: It is.

Q. You were away to Europe for how long?

MR. LANE: I object to that; this witness has been asked and he answered and it is not disputed, he went in February and came back in June.

A. About four months.

Q. Did you notify Mrs. Grundy when you were to return? A. I attempted to.

Q. How? A. By cable and letter.

Q. You sent her a cable from where? A. London or Southampton.

Q. Have you got a copy of that cable? A. I have not.

Q. On what date did you send that cable? A. I don't recall; prior to the date of sailing.

Q. By what company did you send the cable? A. I don't recall.

Q. You don't recall what company? A. No, I don't.

Q. How much did you pay for the cable? A. In English currency, I don't recall that.

Q. What was in the cable? A. Arriving on the Adriatic.

Q. Did you give the date? A. About a certain date.

Q. Are you sure that you sent it to Mrs. Ida May Grundy, at 57 Clinton Avenue, Jersey City, New Jersey? A. Certainly.

Q. You didn't send it to anyone else, did you? A. No.

Q. You are sure about that? A. I said certainly; I know.

Q. Did you notify the office? A. Yes, they knew about it.

Q. Did you notify the office by cable? A. I think so.

Q. Did you notify the office by letter? A. They knew when I was expected, yes.

Q. Did you notify the office by letter? A. Certainly.

Q. Did you ask the office, or someone in the office, to notify Mrs. Grundy? A. Yes, I took that precaution also.

Q. Will that letter be on the file in your office? A. I don't think so.

Q. To whom was it sent? A. The New York

office, I don't recall, I think it was just a company letter, to the office.

Q. Who would receive such a letter? A. There were several correspondence clerks there.

Q. Was it a business letter? A. I am not clear on that letter at all; I don't recall the details of it at all.

Q. Well, if you wrote it to the office it would be a business letter, wouldn't it? A. Certainly; I wrote many letters to the office.

Q. And such letter would be kept in the file? A. Under some definite subject, yes.

Q. You think probably that is in the office now? A. It might be.

Q. When did you land in this country? A. I think on the 10th of June.

Q. What time? A. Late in the afternoon, or evening.

Q. Did you land in Hoboken or New York? A. New York.

Q. You didn't go home that night, did you? A. I did not.

Q. You stayed in New York? A. Yes.

Q. Of course, you telephoned to your home? A. I tried to.

Q. Couldn't you get any reply to the telephone? A. No reply.

Q. What time was it that you tried? A. Shortly after arriving in New York; I don't know just when.

Q. Was it before six o'clock? A. I should say it was later than that.

Q. Was it before eight o'clock? A. I believe so.

Q. Did you try after eight o'clock? A. I don't recall; I don't think so.

Q. You stayed in New York that night? A. I did.

Q. You didn't come home? A. No.

Q. You didn't come back to see why it was your wife didn't answer the telephone? A. I didn't go back to see?

Q. Why she didn't come back? A. Home, or where?

Q. You didn't come back to see her that evening? A. No.

Q. You didn't come to Jersey City to see your wife that night any time? A. Not that night.

Q. You had a stag party in New York City, didn't you? A. Yes.

Q. You stayed over? A. Yes.

Q. And came home the next morning, didn't you? A. Yes.

Q. Didn't you land at Halifax when you came back from Europe? A. No, I didn't land; no.

Q. Didn't the boat land at Halifax? A. The boat tied up to the dock but no passengers were permitted to land at the time when we were at the dock in Halifax.

Q. Didn't you tell Mrs. Grundy when you arrived at her home that you had landed at Halifax? A. No, I told her we stopped at Halifax on our way back.

MR. HEYMAN: If your Honor please, I should like to have an adjournment until tomorrow morning. I don't know that there is anything more I can ask this witness now unless I go over my notes very carefully.

THE COURT: I would like to complete the testimony of this witness now, if possible.

MR. HEYMAN: I think I am finished unless there is something very important that comes up during the night that I remember. I

think I have finished with him.

THE COURT: I would like to have you complete your examination.

MR. HEYMAN: I should like to have the right to ask any questions in the morning that I might have forgotten.

MR. LANE: I object to any keeping the examination open. I have no objection the Court using its discretion to permit him to ask any question which it thinks proper.

MR. HEYMAN: I won't say, but I think I am through with him unless something unusual occurs in going over my notes. If there is anything I think is important, I should like to have the right to ask.

THE COURT: If anything occurs you may bring it to my attention. I don't want to say in advance what I will do about it, but I will use my discretion, but I thought you ought to close.

MR. HEYMAN: I will close now, but I should like to call the Court's attention to the fact that there is a great mass of testimony taken here and if there is anything which occurs during the night I should like to have an opportunity to examine into it.

MR. LANE: I have one or two questions I desire to ask on re-direct.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. Mr. Grundy, a statement was made in the course of Mrs. Grundy's testimony with respect to some present, which I overlooked—which was given Mrs. Van Cleve; did you bring Mrs. Van Cleve any present from Europe? A. I did bring Mrs. Van Cleve some silver spoons from England at her husband's request.

Q. Were you paid by her husband for that? A. I was paid by her husband.

Q. Mrs. Van Cleve was with you on one of the trips to Blue Point; now, can you tell me why she was there? A. Yes.

Q. Why? A. I had spent the evening before at the Van Cleve house to dinner and I told Mr. and Mrs. Van Cleve that I was going down to Blue Point the next day to get Mrs. Grundy and Park; a suggestion was made by Mrs. Van Cleve to accompany me that she would enjoy it, and of course I was very glad to have her go along. I rode down with her, we left around nine or ten o'clock and arrived early in the afternoon, the exact hour I don't recollect, but we spent the afternoon there and drove back that same day from Blue Point.

Q. On this drive back, you mean you left Blue Point that afternoon? A. Oh, yes.

Q. You left Blue Point and drove back? A. Yes.

Q. Who came back with you? A. Mrs. Grundy, Park and Mrs. Van Cleve, and myself.

Q. When Mrs. Grundy told you about the man who has been called the beer man in this case, is that the term that she used, the beer man, or what words did she use? A. The liquor man she spoke of.

Q. The term has been used, the beer man; what is the real or actual expression she used in referring to this man? A. The liquor man.

Q. At any time after the 24th of August, either the 24th of August, the 25th of August, the 26th of August, or at any other time subsequent thereto, did Mrs. Grundy show you the bottles of beer taken out of the stationary tubs, or anything of that kind? A. She did not.

Q. Did you see them in the stationary tubs, were they shown to you in the stationary tubs? A. I didn't see them and they weren't shown to me.

Q. You were asked what Mrs. Hansen told you; did Mrs. Hansen also tell you with respect to her husband—

MR. HEYMAN: I object to that, if your Honor please, on the ground that it is leading. I think the witness should be permitted to tell the conversation and nothing else.

Q. You have testified to something which Mrs. Hansen told you—this is my cross on his direct; that is something which was brought out by Mr. Heyman; I couldn't have brought it out by Mrs. Hansen—during the course of this conversation also was something said with respect to her husband being sent for beer? A. She did.

Q. What did she say with respect to that?

MR. HEYMAN: Now, if your Honor please, I object to that on the ground that it is not cross-examination.

MR. LANE: He got part of it.

MR. HEYMAN: I asked him what Mrs. Hansen had told him about the incident of August 24th and nothing else. This is not cross-examination.

THE COURT: Isn't that the fact?

MR. LANE: Well, it isn't important enough to press it.

Q. Mr. Grundy, did you know of your own knowledge now, how recently, or what was the time, the last time—I don't want anything which you heard, I want your knowledge, if you have you have heard, I want your own knowledge, if you have any—what was the last proposition that

was made with respect to Mrs. Grundy going to Reno, do you know? A. Do I know what was the last proposition?

Q. Yes; what was the last time that that proposition was made, of your own knowledge, now? A. I believe—

Q. I don't want your belief; do you know of your own knowledge? A. May I ask if you mean the time I told her that we could not consider the Reno proposition?

Q. Was that the last time, to your knowledge? A. That is the last recollection I have of it.

MR. HEYMAN: Now, there are a couple of questions which I did omit in my original cross which I would like to ask now. I think they are important enough.

THE COURT: Go on.

RE-CROSS-EXAMINATION BY MR. HEYMAN:

Q. Do you remember being at the club one day and coming into the dining room, and while you were at the table a lady's ring falling out of your pocket? A. At the club?

Q. The Shackamaxon Club? A. I do not.

Q. You don't remember that incident? A. No.

Q. Don't you remember someone picking the ring up and giving it to Mrs. Grundy, and she asked you whose it was, and you said it belonged to one of the girls in the office? A. I do recall such incident, yes; now that you speak of it.

Q. Do you remember being out in the automobile one day with Mrs. Grundy, one Sunday afternoon after you had been out all Saturday night, and while you were riding in the automobile she took off your clothes, either your coat or your vest, two long light hairs, and asked you where you had gotten those from? A. I do not.

Q. You remember having told her that you did not know where they came from, that you had been out with Henry Hornung the night before? A. I don't recall such incident.

Q. Did you take Mrs. Van Cleve on any other pleasure trips in your automobile? A. I did not.

Q. That was the only ride that you ever took with her? A. It is, alone.

Q. Mrs. Van Cleve brought you in from the Shackamaxon Club to the Robert Treat Hotel, didn't she, in her little car? A. No.

Q. Or in her big car? A. No.

Q. Never? A. No.

Q. You met Mrs. Grundy at the Robert Treat while Mrs. Van Cleve was there, didn't you? Mrs. Van Cleve was there with you? A. Because—

Q. Never mind the because. A. Then I can't admit it.

Q. Well, was Mrs. Van Cleve with you when you met Mrs. Grundy? A. Yes; the fact is we were sitting in the corridor of the hotel waiting for Mrs. Grundy; she wasn't there with me.

Q. She had dinner at the hotel that night? A. We all had dinner.

Q. You and Mrs. Grundy? A. And Mrs. Van Cleve, she was there on a business trip.

Q. And you met her where? A. Sitting in the foyer.

Q. You had dinner with Mrs. Van Cleve and Mrs. Grundy? A. Naturally we met there for our dinner.

Q. Now, did that happen more than once, Mr. Grundy? A. Not to my recollection.

Q. Only once? A. I believe so, yes.

Q. Mr. Van Cleve was away from town quite a bit, wasn't he? A. I wouldn't say so.

Q. Was he out of town quite a bit? A. I don't know.

Q. Don't you remember Mrs. Grundy speaking to you about it? A. I do not.

Q. Don't you remember telling Mrs. Grundy, "Well, Al. is out of town," and dont you remember Mrs. Grundy saying to you, "Well, Al. never offered to take me out to dinner while you were in Europe"; don't you remember that? A. No.

Q. You don't remember it? A. No.

Q. Do you think there is a great distinction between beer man and liquor man, Mr. Grundy? A. Yes.

Q. What distinction do you draw between the two?

MR. LANE: I object to the question because it is immaterial if he thinks there is a distinction. I wanted to get the exact words used, that is all.

THE COURT: I will take it.

Q. Will you tell us what distinction you make? A. My impression of a beer man is one that sells beer only, or soft drinks, whereas a liquor man is a man that sells hard liquor and carries in hard liquor.

Q. Did you ever hear of a store, prior to the enforcement of prohibition Act, which sold beer and nothing else but beer? A. Oh, yes.

Q. Where? A. In different parts of the country.

Q. Where? A. I can't tell where.

Q. In Jersey City? A. Yes.

Q. Do you know the name of the place? A. No.

Q. Or the location of the place? A. No; I am giving you my impression; I don't know that there is such stores; I only had that impression; I believe there were.

Q. Do you know of any place where beer was sold and nothing else but beer, before August, 1919? A. This happened after August, 1919.

Q. What happened after August? A. This incident in the talk about the beer man.

Q. When did it happen?

MR. LANE: August, 1919; it has been in evidence fourteen times.

MR. HEYMAN: I just asked him and he said it happened after August, 1919.

A. The statement about the beer man occurred in September, 1919, when the beer men were taking wagons and selling 1½ beer, or something of that sort.

Q. That is what you mean? A. I didn't believe her story, to be perfectly frank with you.

Q. You didn't think anything of that, did you? A. No.

Q. You didn't think it worth while to investigate it, did you?

MR. LANE: I object to that.

THE COURT: I will take it.

Q. You didn't think it was worth while to investigate, did you? A. Investigate that story, no.

MR. HEYMAN: I think that is all.

MILDRED KRUGER, recalled:

DIRECT EXAMINATION BY MR. LANE:

Q. I show you a letter which has been marked for Identification P-4, the envelope, and the letter enclosed in it which has been marked for Identication P-2, and ask you whether you ever saw either the letter or the envelope before? A. No, I have never seen that before; it was never meant for me.

Q. You never saw either the envelope or the enclosure? A. Never.

Q. I draw your attention to the fact that it is addressed to Mrs. Mildred B. Smith, 57 Clinton Avenue, Jersey City, New Jersey, and that it is postmarked Washington, D. C., March 16, 1918, and ask you whether at that time your name was Mrs. Mildred B. Smith? A. It was Smith at that time, but I wasn't living there at that time.

Q. Were you at that time living at 57 Clinton Avenue, Jersey City? A. No.

Q. Where were you living? A. I was living in New York.

Q. How long had you been living in New York before March, 1918? A. Me, since 1916.

Q. Did you ever have arrangements or any understanding with Mrs. Grundy, under the terms of which she was to receive mail for you at her house, 57 Clinton Avenue? A. No, I did not.

Q. Do you recognize the handwriting on these letters? A. No, I do not.

Q. Have you read the letter? A. No, I have not read them. (After reading paper) No, it is not mine.

Q. Does the reading of that letter refresh your recollection so that you can say if that communication or that letter was meant for you?

Have you had any communications with anybody who would write letters of that kind to you? A. No, I don't know anybody in Washington, or anybody in Washington who would write to me.

MR. LANE: Now, I offer the letters in evidence.

MR. HEYMAN: Now, if your Honor please, I don't understand how this can in any way bind this defendant. I don't see how it is at all material, how it is competent, or evidential. Here is a letter addressed to Mrs. Mildred B. Smith, 57 Clinton Avenue, care of Mrs. Grundy; it has no salutation, it has no signature, it has no date; it has not been proved; it has not been proved as to whose writing it is; it has not been proved who sent it or who received it. It has not been proved that the defendant ever saw it. I submit that it could not be evidence against this defendant.

THE COURT: Wasn't this offered for identification some days ago?

MR. LANE: The evidence with respect to this letter stands in this manner. It was shown to Mrs. Grundy for identification; she refused to identify it and said she didn't know what it meant.

MR. HEYMAN: She didn't refuse to identify it. She said she couldn't identify it.

MR. LANE: Will you wait until I get through?

MR. HEYMAN: I submit that that statement is incorrect. When a man makes an unfair statement I am going to object.

MR. LANE: She refused to identify the letter; she said that she didn't recollect anything about it whatever. Then I asked her

whether she had any arrangement or agreement with Mrs. Smith under which she would receive letters addressed to Mrs. Smith at her house, she said she might have had such an agreement or such an arrangement. That that thing may have happened. That was the extent of her testimony with respect to that letter. Mr. Grundy on the stand identified the letter as a letter which he found when he was searching for Liberty Bonds among Mrs. Grundy's private papers underneath the bureau drawer, between the bureau drawer and the floor of the bureau drawer, where she kept her private papers and that he took it from that place. Mrs. Smith now says she never had such an arrangement with Mrs. Grundy as Mrs. Grundy thinks might have been, and the letter when produced indicates it was sent to Mrs. Grundy's house, it was sent to Mrs. Smith, care of Grundy, and found by Mr. Grundy. Under those conditions I think it is evidential.

THE COURT: Has it been opened?

MR. LANE: It was opened when Mr. Grundy took it into his possession, the way it is now.

THE COURT: I will decline to take the paper in evidence.

MR. LANE: Now, I offer Exhibits P-6 and P-5, which are separate papers, in the same handwriting as that letter which the husband testifies he took from the bureau drawer.

MR. HEYMAN: I make the same objection.

THE COURT: Unless there is something to differentiate it I will make the same ruling.

Q. Mrs. Kruger, Mrs. Grundy says that you were present at some party over in New York at

the Martinique Hotel, at which Mr. Thorling was present, Mrs. Grundy, yourself, and someone else, you and Mrs. Grundy were in there, then Thorling came up and afterwards at your table you had something to eat and drink; is that right? A. I wasn't at that party nor I never met Mr. Thorling.

MR. HEYMAN: I object to that question. Mrs. Grundy did not testify to that. Mr. Thorling testified to that, if your Honor please.

MR. LANE: As to what?

MR. HEYMAN: To the fact that Mrs. Smith was present.

MR. LANE: Mr. Thorling did not say anything of the kind. He said he didn't know who it was. Mrs. Grundy said it was Mrs. Smith.

A. I never met Mr. Thorling.

CROSS-EXAMINATION BY MR. HEYMAN:

Q. Mrs. Smith, while you were living at 57 Clinton Avenue you visited Mrs. Grundy frequently, didn't you? A. Occasionally, yes.

Q. You had the key to her apartment at one time, didn't you? A. I never had a key to Mrs. Grundy's apartment.

Q. Never left it there while she was out of her apartment? A. No, sir; never.

Q. Didn't you come into the house often while she was sick in bed? A. Not very often, no.

Q. Well, occasionally? A. Occasionally, yes.

Q. How did you get in on those occasions? A. Why, she let me in.

MR. LANE: I want to recall Mr. Grundy for one question, if your Honor please.

George H. Grundy—Direct—Cross.
Alma Hansen—Direct.

GEORGE H. GRUNDY, recalled:

DIRECT EXAMINATION BY MR. LANE:

Q. This letter, P-2, and the envelope, P-4, at the time that you discovered them, as you say you did, was the letter opened? A. The letter was open.

Q. And in the condition that it is in at the present time? A. As it is now.

NO CROSS-EXAMINATION.

MR. LANE: In order that there may be no mistake, my recollection is not distinct as to whether Mr. Grundy testified to that before, that that is the condition it was in, I now re-offer these two papers.

THE COURT: I make the same ruling.

CROSS-EXAMINATION BY MR. HEYMAN:

Q. Is Park living with you at the Elks Club and staying with you every night now? A. Yes.

ALMA HANSEN, recalled:

DIRECT EXAMINATION BY MR. LANE:

Q. Did you ever, at any time, have any conversation with Mrs. Grundy with respect to communications or letters from Washington? A. Well, when Mrs. Grundy was ready to go out, once she came down and asked me if it so happened to come a registered letter for Mrs. Smith that I will take it when she was out.

Q. Did she say from Washington, as to whether it was coming from Washington?

MR. HEYMAN: I object to that as leading; I say it is very unfair.

Q. Did she refer to Washington?

MR. HEYMAN: I object to that question on the ground, if your Honor please, that it is going to suggest the answer that counsel wants, and I submit that counsel should be instructed not to ask questions in that way.

Q. Mrs. Hansen, tell the whole conversation between Mrs. Grundy and yourself with respect to this letter?

MR. HEYMAN: When did it happen?

A. I couldn't tell when it happened; I can't tell what day; Mrs. Grundy at one day she came down and she says would I take a registered letter that is coming to Mrs. Smith, addressed to Mrs. Grundy, if she wasn't at home, and I said yes, but it didn't come.

Q. Do you recollect whether it was one year ago, two years ago or about what time it was? A. Well, I believe it was in 1919, I believe it was; I couldn't tell just when.

Q. It was within the last two years? A. Oh, yes.

Q. Now, is that all the conversation that you recollect, what Mrs. Grundy told you? A. That is all the conversation.

Q. Did she say anything about its coming from Washington? A. No, sir.

Q. Did she? A. No, sir.

CROSS-EXAMINATION BY MR. HEYMAN:

Q. Did you take Mrs. Smith's mail at that? A. It didn't happen to come.

Q. Did any mail ever come for Mrs. Smith? A. Not to my knowledge; not to my apartment.

Q. Did you ever see any mail for Mrs. Smith? A. I don't know.

Q. Did you ever see any mail of Mrs. Grundy's? A. It was none of my business to remember if there was any.

Q. You didn't see Mrs. Grundy get any mail for Mrs. Smith, did you? A. I did not.

Q. Do you know whether Mrs. Smith had a key to Mrs. Grundy's apartment? A. I don't know.

Q. You had a key to it, didn't you? A. Once in a while when Mrs. Grundy went away for the Summer I did.

Q. She left you the key? A. She left the key with me to take care of it.

MR. LANE: In order to have the record straight I am going to offer these letters again.

THE COURT: I make the same ruling.

Hearing continued untilJuly 2, 1920, at ten o'clock A. M.

Chancery Chambers, Jersey City, N. J.
July 2, 1920.
Hearing resumed at 10.30 A. M.

THE COURT: Mr. Lane, there was some testimony taken in New York of a man named Clark under stipulation which I think you saw; you consented to have it taken in New York. I am in doubt whether that needs to be offered, although it was taken before me.

MR. LANE: It may be considered to be formally offered, if counsel desires. I understand it is part of the testimony just exactly as if it were taken here.

THE COURT: So do I, but I mention that in order that there may be no misunderstanding on the record.

FRANCES CORRIGAN, sworn:

DIRECT EXAMINATION BY MR. LANE:

Q. Mrs. Corrigan, where do you live? A. 79 Crescent Avenue.

Q. Do you know Mr. and Mrs. Grundy? A. Yes.

How long have you known them? A. Well, since 1909, I think; about 1909.

Q. Was that when they first came to live in your house? A. Yes, they lived in my house, Mr. and Mrs. Grundy, and their son.

Q. How long did they live there? A. I couldn't possibly say, over 24 months; I never kept accurate count, so I wasn't interested in keeping dates.

Q. Then they went away and came back, did they?

MR. HEYMAN: If your Honor please, I desire to object to this testimony, on the ground that it is not rebuttal; it is all matter which should have been brought on in their direct case. I submit that it is not rebuttal.

THE COURT: Well, it is scarcely anything yet.

MR. HEYMAN: No, it doesn't mean anything yet, but I don't want the Court to understand that I am submitting to the examination, even though it does not amount to anything, without protest.

THE COURT: It seems to be, so far, only preliminary.

MR. LANE: That is all.

THE COURT: As soon as anything substantial is brought out I will make a ruling on it.

Q. After that they came back again, didn't they? A. Not until 1914.

Q. Then they lived with you? A. Yes.

Q. How long? A. About two months; Mrs. Grundy was three weeks at my house, from the time she came from New York until she was sent away to an institution.

Q. From the time she came from New York until the time she went away? A. Three weeks.

Q. She lived there at your home? A. At my home.

Q. During that time, during that three weeks she lived in your house, in 1914, before she went to Morris Plains, what was her condition?

MR. HEYMAN: I object to that on the ground that it is not proper rebuttal.

THE COURT: What have you got to say about that Mr. Lane?

MR. LANE: Why, it was all brought out, if your Honor please, in the direct case of the defendant, with respect to the method of life, the character of their life, the treatment of Mrs. Grundy, that Mrs. Grundy was subjected to by her husband. I am rebutting that.

THE COURT: I will take it.

MR. HEYMAN: If your Honor please, I want to say that the petitioner, in his direct case, brought all of that out; they went back to the very beginning of their married life.

MR. LANE: Who did?

MR. HEYMAN: The petitioner.

MR. LANE: He did not.

MR. HEYMAN: I beg your pardon.

MR. LANE: Mr. Grundy?

MR. HEYMAN: In Park Grundy's testi-

mony. All of that was brought out by the petitioner.

THE COURT: There was something of the defendant's habits brought out in Park Grundy's testimony. The petitioner testified to very little.

MR. HEYMAN: Yes, sir. I don't mean the petitioner's testimony; I mean the petitioner's case. Mrs. Mulack testified as to the condition at Mrs. Corrigan's in 1914.

THE WITNESS: Mrs. Mulack didn't know; she wasn't there.

THE COURT: I will take this question.

A. Well, constantly under the influence of liquor, drunk.

Q. Did you see how she got the liquor? A. No, I did not.

Q. Did you know how? A. No, I did not. Only one time.

Q. What was the one time? A. One time when the doctor told Mr. Grundy that he thought that she ought to have a little drink. Mr. Grundy got some, I don't know where.

Q. Which doctor? A. Doctor Keegan, of Clinton Avenue.

Q. That is all you know about it? A. That is all.

Q. Did you ever see her go out? A. No, I didn't see her go out; I saw her come back one afternoon.

Q. Did you ever see her have liquor? A. I didn't see any liquer.

Q. During the time that Mr. Grundy and Mrs. Grundy lived at your house, how did Mr. Grundy treat Mrs. Grundy?

MR. HEYMAN: I object to that on the same grounds, if your Honor please.

THE COURT: I will take it.

MR. HEYMAN: That it is not proper rebuttal.

A. With all courtesy and consideration and kindness, as far as I had seen.

Q. Did you ever observe Mr. Grundy or hear Mr. Grundy use any harsh words to Mrs. Grundy? A. Never.

Q. Did you ever see him strike her? A. Never,

Q. Did Mrs. Grundy ever complain to you about his having struck her, or used vile words?

MR. HEYMAN: I object to that, if your Honor please, on the ground that it is not proper rebuttal, because there is no testimony in the case that Mr. Grundy ever struck the defendant at any time while at Mrs. Corrigan's house.

THE COURT: Well, is there anything that he ever struck her anywhere?

MR. HEYMAN: Once at the home at 57 Clinton Avenue he pushed her from his room into her own room and threw her on the floor; that is all the testimony I remember; once at the apartment on Union Street when he choked her.

MR. LANE: There is a general charge.

THE COURT: I will take the question.

A. No.

Q. Did Mrs. Grundy ever complain to you, or say anything to you, about Mr. Grundy ever having proposed unnatural sexual intercourse with her—

MR. HEYMAN: I object to that. There is

no testimony to that effect in this case; absolutely none; it is not proper rebuttal. The defendant distinctly said she did not say any such thing to Mrs. Corrigan. The only thing she said to Mrs. Corrigan was that he had refrained from having intercourse with her.

MR. LANE: I haven't finished my question yet. You don't know what the question is going to be.

THE COURT: Suppose you withhold your objection until the question is finished.

A. —unnatural intercourse with her at any time, or at any place?

MR. HEYMAN: I urge my objection, if your Honor please.

THE COURT: My recollection of the testimony of Mrs. Grundy is to the effect that she said in one place that she had told Doctor Opdyke about this, and also Mrs. Corrigan.

MR. HEYMAN: I remember distinctly, if your Honor please, that your Honor inquired of the witness at the time whether she had done that and she said distinctly no, that she had told Mrs. Corrigan and Doctor Opdyke only about his refraining from having intercourse, not about the other thing. I remember that distinctly, if your Honor please.

THE COURT: I will take the question.

A. No, never.

Q. Did Mrs. Grundy ever say anything to you about Mr. Grundy refusing to have sexual intercourse with her? A. She said he did not occupy the room with her.

THE COURT: Said what?

A. She said he did not occupy the room with her.

Q. Do you know when that was? A. I don't know; during, I think, 1919.

Q. During 1919? A. I think about the past six months or a year.

Q. Did Mr. Grundy ever complain to you about the condition of your house, it being dirty and filthy? A. No he did not.

MR. HEYMAN: I object to that, if Your Honor please. There isn't any testimony that Mr. Grundy objected to the witness, or stated to the witness or raised any objection to the witness about the condition of her home.

THE COURT: I will overrule the question.

Q. Did Mrs. Grundy ever complain——

MR. HEYMAN: I object to that. There is no such testimony that Mrs. Grundy ever complained to the witness, and it is not proper rebuttal.

MR. LANE: I will finish my question if counsel will permit me.

Q. Did Mrs. Grundy ever complain about the condition of your house being filthy and dirty?

MR. HEYMAN: I object to that, if Your Honor please, on the same grounds as before. There is absolutely no testimony here that any complaint was made to Mrs. Corrigan by either Mr. or Mrs. Grundy, and I urge that it is not proper rebuttal.

THE COURT: I will overrule the question.

Q. Do you remember an occasion, after September 1919, or in September 1919, when Mrs. Grundy came to your house? A. Yes.

Q. One night? A. Yes, sir.

Q. What time was it? A. Half past two in the morning, Saturday morning.

Q. Do you remember the date, about? A. No; perhaps Mr. Grundy could tell the date, it was even before Park went away to school.

Q. What happened? A. Well, Mrs. Grundy found the key outside and came in, went through the house, and she told Mrs. Smith and Mrs. Smith told me the next day, that I had a visitor——

MR. HEYMAN: I object to that.

Q. Never mind what she told Mrs. Smith, What happened? A. She went through the house, went up to Mr. Grundy's door and knocked repeatedly. Mr. Grundy came to the door and asked me to call up the police station. Of course I didn't want to do that, but I went down to the telephone and spoke loud enough for Mrs. Grundy to hear, I made believe I was calling, then I took Mrs. Grundy back in my bed, and she stayed, I suppose, for about half an hour——

Q. Then what happened? A. That was all; the next morning she came in again.

Q. What time did she come in the next morning? A. I was in bed, it was about half past eight o'clock, half past eight or nine o'clock.

Q. Did you hear her come in, or did you find her? A. I didn't hear her come in the next morning; some one of our boarders told me Mrs. Grundy was in the parlor.

Q. Where did you find her? A. I didn't go out then until——

Q. Where did you finally find her? A. I didn't go; I didn't leave the room; another one of the guests of the house told me.

BY THE COURT:

Q. You didn't see her; somebody told you? A. I saw her at half past two in the morning,

yes; this is the incident of the second incident, when she came back.

Q. You didn't see her the second time? A. No, I didn't.

THE COURT: Strike that out.

BY MR. LANE:

Q. What was her condition when you saw her at half past two in the morning? A. Well, she was under the influence of drink.

Q. How do you know she was? A. Well, I could tell, from evidence that informed me.

Q. Now, do you remember another occasion when she came up to your house in the spring of this year? A. Yes; she has been to my house several times in the spring of this year.

Q. Well, do you remember a particular occasion when you were there, about twelve o'clock? A. No, I don't; that was when Mrs. Smith told me that she was in.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Mrs. Corrigan, while Mrs. Grundy was living at your house during these many years, did you go to her rooms quite often? A. To her room, yes.

Q. What was the condition of her room when you went there? A. Well, Mrs. Grundy was always quite clean when she was not drinking; when she was drinking she did not attend to those things the same as when she was otherwise.

Q. When she was not drinking she was very neat and clean about her person and her body also? A. Yes.

Q. About her room? A. Yes.

Q. And her clothing? A. Yes.

Q. And her bed? A. Yes.

Q. She usually did her own beds, didn't she, in the morning? A. Yes.

Q. Do you remember when she came to your house, in 1914, and stayed about three weeks? Do you remember that incident distinctly? A. Distinctly; absolutely, yes.

Q. They came there one Sunday afternoon, didn't they, Mr .and Mrs. Grundy? A. Yes.

Q. They came in their automobile? A. Yes.

Q. Mr. Jamieson was waiting for them? A. Yes.

Q. You and Mr. Jamieson and Mr. and Mrs. Grundy took a ride didn't you? A. Yes.

Q. You had several drinks that day? A. No, not one that day.

Q. When you got back to the house after the ride didn't the gentlemen go over to the Jersey City Club? A. I don't know where they went.

Q. They left you and Mrs. Grundy in the kitchen preparing supper? A. I don't know where they went.

Q. They went out? A. They went out.

Q. And didn't they come back and bring a bottle of liquor with them? A. I don't know what they brought back. I know there was drinking.

Q. There was? A. Yes.

Q. They had it going in the dining room, didn't they? A. Yes.

Q. And they had a couple of more drinks? A. No, no drinking at the table.

Q. No drinking at the table? A. No.

Q. Didn't Mr. Jamieson bring back a quart of liquor from the club? A. I don't know.

Q. Didn't he give you a quart of liquor; hand it to you? A. No, it wasn't handed to me.

Q. And didn't you and Mrs. Grundy go down in the kitchen and first have a drink and then brink up the bottle and glasses? A. No, we didn't go alone; the drink was handled there in the presence of Mr. Jamieson and Mrs. Grundy.

Q. Did Mr. Grundy have a drink, too? A. No, he didn't touch a drop.

Q. Mrs. Grundy was there? A. She was in such a weakened condition that she had to have a drink.

Q. No, I don't mean while you were out driving; while you were there at the house? A. Just one, Mr. Heyman.

Q. Then Mrs. Grundy drank a great deal more that Sunday? A. Yes, she did that night.

Q. Then she became sick from the effects of drink? A. She was sick when she came to the house; she wasn't able to go home.

Q. Then she was sick for practically three weeks at your house? A. Three weeks, yes.

Q. Then she was taken to Morris Plains, wasn't she? A. Yes; the doctor was in attendance during that three weeks.

Q. Do you remember whether or not she was given any drugs on that trip? A. Never one bit, only medicine that Mrs. Grundy had ever been given in my home; that was under the doctor's orders, from Mr. Cole's drug store.

Q. Don't you remember that Mrs. Grundy took drugs that day? A. I never remember one thing about that; she never had a drug in my house to my knowledge.

Q. Don't you remember her taking drugs? A. I do not.

Q. You are sure of that? A. I am certain of it, Mr. Heyman; I am very particular about drugs; I know they are dangerous, you know.

Q. Did you ever see her take medicine, other

than what was prescribed by the doctor? A. I never saw it in my life, except that she took salapatica.

Q. That is for what? A. Medicinal use.

Q. That isn't a drug, is it? A. Well, it is bought in the drug store.

Q. It isn't a drug in the sense that a drug is used? A. No, it isn't an opiate.

Q. Or narcotic, or anything of that kind? A. No.

Q. While Mrs. Grundy was living at 57 Clinton Avenue you visited her home, didn't you? A. Yes, occasionally.

Q. On the occasion when you visited her there what did you find the condition of the house to be? A. Well, when Mrs. Grundy wasn't drunk she was always clean and neat, just as her room in my house.

Q. You found as a rule that Mrs. Grundy was very particular about her home and about her person? A. While sober, yes.

D. Did Mrs. Grundy ever get boisterous? A. When she was under the influence of liquor, no, I never noticed that she did.

Q. Did she ever raise any disturbance at your house? A. Well, a couple of times she did when she wanted to go out and get a drink and I tried to prevent her.

Q. Well, did she become boisterous? A. Yes, she did; she tried to go downstairs before she was dressed one night, she tried to go past me to get downstairs and go out one Sunday evening.

Q. Those are the only two or three occasions that you recall? A. That there was any boisterousness, if it could be called that.

Q. Did you ever quarrel with her, anything

outside of this time? A. I never quarrelled, exactly, with Mrs. Grundy.

Q. I mean these attempts to get out of the house to get liquor? A. No, not that I know of.

Q. You never heard her quarrel with anybody at all in the house? A. No, I did not; we did not have many people in our house to quarrel with.

Q. What did she tell you in 1919 about her husband and her occupying separate rooms? A. That was all, that they did not occupy the same room.

Q. Did she tell you that he hadn't slept with her? A. That is what she said.

Q. Did she tell you he had not had intercourse with her? A. Yes, she did; that is a subject I don't care to discuss; that is not in my line.

Q. Did she tell you that she asked him to have intercourse with her? A. I don't think that she did.

Q. Did she tell you about his return from Europe? A. She just said that he returned.

Q. Anything else? A. No, she didn't say anything else; she said that he had gotten home.

Q. Did she say she had asked him to have intercourse with her? A. Not at all then, not a word of that was passed between Mrs. Grundy and I.

Q. Did she complain about Mr. Grundy staying out at night? A. Yes, she did.

Q. Away from home? A. Yes.

Q. Didn't she tell you, Mrs. Corrigan, that she was worried about him staying out? A. Well, I don't know as she said she was worried; she said he stayed out; I don't remember her saying she was worried.

Q. Didn't she say she was always alone, and complained about it? A. No, she didn't say she was always alone.

Q. She was alone a great deal? A. She said she was alone sometimes at night.

Q. And that she was growing melancholy from being home alone? A. No, she didn't say that.

Q. She didn't? A. No.

Q. Did she say that she wondered where her husband was when he stayed out and she ought to watch him? A. That she ought to watch him.

Q. Yes. A. She said she wondered where he was.

Q. Didn't you say she ought to watch him? A. I never said such a thing in my life.

Q. Didn't she say so? A. I never said such a thing that she ought to watch; I always thought Mr. Grundy was above reproach in that respect.

By The Court:

Q. Was she alone a great deal? A. I don't know anything about her life in her apartments; she wasn't in my house.

Q. She wasn't? A. Never in my house.

Q. Alone, you mean? A. Never alone in my house.

Q. Who was with her? A. I was in my house, Mr. Grundy was also home during their stay at my home; I never remember——

Q. You mean always home? A. In the evening.

Q. He wasn't home in the day time? A. No, he was home in the evening; I never remember Mr. Grundy staying out any in my house during Mr. and Mrs. Grundy's stay with me.

By Mr. Heyman:

Q. Now, do you remember in 1914, when Mrs. Grundy came back from Morris Plains and they were staying at your home; do you remember that? A. Yes.

Q. Christmas Eve Mr. Grundy went out, or New Year's Eve Mr. Grundy went out? A. Yes.

Q. And left her alone and she cried; do you remember that? A. Mr. Grundy went to the Jersey City Club and came home and pleaded with Mrs. Grundy to come around to the club with him, and he offered her money jokingly, in my presence, and in the presence of her son, in my dining room.

Q. She didn't go? A. She wouldn't go around to the club.

Q. She wanted to stay home? A. No, she didn't say anything about staying home; he wanted her to go with him to the club.

Q. And he went to the club and left her alone? A. I don't know; I went out.

Q. Don't you remember that he went out and stayed at the club that night? A. I don't; I don't remember anything further about that; I went out myself.

Q. What time did you get home that night? A. What time did I get home?

Q. Yes. A. I don't know; about ten or eleven o'clock I always got home.

Q. What time did he come home? A. I don't know; I never went to people's rooms in the evening when I came in.

Q. You don't know when he came in that evening? A. No, I don't; I don't know whether he went to the club after that.

Q. Didn't you go to Mrs. Grundy's room that night? A. No, I didn't.

Q. And found her there crying? A. No I didn't.

Q. Are you sure about that? A. I am certain about that.

RE-DIRECT EXAMINATION BY MR. LANE:

Q. Mrs. Corrigan, do you remember any other instance when Mr. Grundy endeavored to get Mrs. Grundy to go out when she wouldn't go? A. No, I don't; I know Mr. Grundy invited her very frequently while they were at my house.

Q. How do you know? A. He called up on the phone, after she came back from the institution and before.

PARK ALLEN GRUNDY, recalled:

DIRECT EXAMINATION BY MR. LANE:

Q. Mr. Grundy, on the 24th of August, at the time of the happenings of the Levine incident, did you, before you left the apartment, look around the apartment to see whether there was any liquor there? A. No, sir.

Q. When you got home and found Levine, did you examine the apartment at that time, or after that during the day, to find out whether any liquor was concealed in the apartment? A. Yes.

Q. When? A. Immediately after he left.

Q. Why did you say a few moments ago, in response to my question, that you did not? Did you understand the question? A. No, sir.

Q. What did you do? A. I looked all over the apartment.

Q. Did you find any? A. I did not.

Q. Did you look in the stationary tubs? A. Yes, sir.

Q. Did you find any beer bottles there? A. Empty beer bottles; yes, sir.

Q. Find any packages of beer bottles there? A. No, sir.

Q. Did you find any bottles anywhere? A. Yes, sir.

Q. Where? A. In the ice box.

Q. How many? A. About five bottles.

Q. Cooling on the ice? A. Yes, sir.

Q. How did you come to examine to find out whether there was any liquor in the apartment? A. It had gotten to be a habit to look around whenever my mother was under the influence, to look around to see if there was any liquor around the apartment at all, and if there was, to destroy it.

Q. How long had that been the practice? A. For quite a while; for years.

Q. Was Levine, at the time you found him, standing behind the closet door, or in the closet? A. He was in the closet.

Q. What was the condition of the closet door? A. Closed.

Q. Did you at any time during that day see Mrs. Levine? A. I did not.

Q. Was any woman standing outside of the apartment, apparently waiting for somebody in the apartment? A. I didn't see a person down there on the corner or in front of the apartment.

Q. If any person had been there waiting would you have seen them?

MR. HEYMAN: I object to that, if Your Honor please, first, on the ground that it has been shown that——

THE COURT: Never mind I will overrule that question.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Why didn't you tell us when you testified before, that you had looked in the stationary tubs for beer or liquor, or that you had looked all around the apartments for beer or liquor, and couldn't find any? A. There was no question asked like that previously.

Q. Why didn't you tell us when you were telling the story of what occurred, that you had looked around the apartments? A. I believe I did say that in my previous testimony.

Q. You believe you did? A. Yes.

Q. You believe you testified at the last hearing that you looked around for beer and liquor? A. Yes, sir.

Q. Is that what you want us to understand? A. Yes, sir.

Q. Don't you remember that you testified to the following effect: On August 24th I started for the Shackamaxon Club between nine and ten A.M. I returned between eleven and twelve, and I returned upstairs, put the key in the lock, I opened the door, and it would open about an inch, that the chain lock was on I rang the bell steadily for fifteen minutes and I pounded on the door and the janitress came out of the apartment next door I heard low talking in the house; I heard two voices, one a male and one a female; I talked in the ordinary voice in the hall with the janitress; she made the suggestion, and I began to knock and ring and Mrs. Grundy opened the door; she asked what is the matter, what the hell was the matter, and I shoved by the door, came to the kitchen door, walked to the closet, pulled it open, and there was a man fully dressed,

with his hat in his hand, I said, "This requires an explanation,," and he said, "No explanation is necessary", then he shoved past me and went out; my mother was in her night gown and kimona, her hair was disheveled; and I went back to the bed room, the bed was upset, and in very poor appearance, the bed clothes were all mussed up; after the man left I didn't go to mother nor talk with her at all; I left the apartment; the shades were drawn both the black and the white; do you remember that? A. Yes, sir.

Q. Is that true? A. Yes, sir.

Q. Did you look for liquor on that day? A. I did; yes, sir.

Q. While you were in the house, immediately after having discovered this man? A. Yes, sir.

Q. You walked to the stationary tubs, you opened them—— A. I searched all over the apartments.

Q. You walked to the stationary tubs and opened them? A. After searching around; yes, sir; that wasn't the first place I went.

Q. Did you go to the stationary tubs and open them and look into them? A. Yes, sir.

Q. Why did you go to the stationary tubs? A. I looked all over the apartment.

Q. Why did you go to the stationary tus? A. Owing to the fact that was the place the beer was kept.

Q. You knew that your mother kept beer in the stationary tubs, didn't you? A. Empty bottles; yes, sir.

Q. And your father knew that, didn't he? A. Yes, sir.

Q. You always looked there, didn't you? A. Yes sir.

BY THE COURT:

Q. How many empty bottles did you find in the stationary tubs? A. I couldn't give the exact number.

Q. Well, as nearly as you can? A. I should say about fifteen empty bottles.

Q. Empty bottles. The bottles still containing beer were in the ice box? A. Yes, sir.

Q. How many were there? A. About five.

BY MR. HEYMAN:

Q. This was a very important incident, that you had discovered when you came into the house, wasn't it? A. I don't understand the question.

Q. What is there about that question that you don't understand? A. What I don't understand is whether you mean the incident of Levine being there, or the incident of finding no bottles.

Q. Well, which was important to you, the Levine incident or the bottles incident? A. The first incident, the Levine incident.

Q. What? A. The Levine incident.

Q. That was important to you, wasn't it? A. Yes, sir.

Q. Instead of following up that incident, following Levine, and instead of endeavoring to find out who the man was, you went to look for liquor, didn't you? A. After he left; yes, sir.

Q. You didn't attempt in any way to find out who that man was, did you?

MR. LANE: I object to that on the ground that it is not cross-examination. This has all been asked and answered in the main case.

MR. HEYMAN: If Your Honor please, I

submit I should have a perfect right to inquire into this witness' mind.

THE COURT: I will take the question.

Q. You didn't think that was important enough, did you? A. I had no way of finding out.

Q. You didn't think it important to fiind out who was the man in the apartment with your mother, as it was to find out if there was any liquor in the house, did you? A. They were both important.

Q. Which was the more important? A. I have already answered; the first incident.

Q. Then why didn't you try to find out who that man was, by following him, instead of staying there looking for liquor? A. I don't know.

Q. Had you any idea that this man was the liquor man? A. No, sir.

Q. Then why did you go and look for liquor? A. I have answered that question.

Q. Answer it again. A. Because whenever——

MR. LANE: I think he has answered it.

MR. HEYMAN: Oh, if Your Honor please, I think I have a right to get an answer to that question.

MR. LANE: You did have a right to get an answer to it, undoubtedly; you did ask it and he answered it.

THE COURT: Yes, that question was asked and he answered it once.

MR. LANE: I knew it had been asked and answered.

MR. HEYMAN: I submit, if Your Honor please, that the witness should be instructed that unless some objection is made and some ruling is made by this Court, he should answer the questions. I think he should

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be instructed to that effect without arguing with counsel.

A. When I came home finding Mrs.——or my mother under that condition, it was my habit of hunting around the apartments to find any liquor that was concealed there.

Q. What condition did you find her in—in what condition did you find your mother that morning? A. Intoxicated condition.

Q. When you got home from Shackamaxon she was intoxicated? A. Not exactly intoxicated, but half under the influence, I should say.

Q. Half under the influence? A. Yes, sir.

Q. How do you figure out she was half under the influence? A. Because that had been going on for, I should say, for two weeks previous to that.

Q. And for that reason you thought she was half under the influence of liquor when you got back from Shackamaxon? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. That is the only reason that you can give us? A. Yes, sir.

Q. Why didn't you tell us that when you testified before? A. I don't know that, sir.

Q. What? A. I don't know that, sir.

Q. But you knew at the time that you found this defendant, that her condition was half intoxicated, didn't you? A. Yes, sir.

Q. Well, why didn't you tell it to us?

MR. LANE: I object to that; my recollection is that he did say something about that.

Q. Why didn't you tell it to us?

MR. LANE: I object to that, if Your Honor please, on the ground that it contains an inference that he did not tell.

MR. HEYMAN: I submit, if your Honor please, on my notes there is not one single syllable of her condition at that time; my notes are silent as to that.

MR. LANE: I am not responsible for the notes of counsel.

MR. HEYMAN: That means he didn't tell it; it means if he told it it would have been on my notes.

MR. LANE: I am quite definite that the testimony is to the effect that she had been drinking he didn't use the term "half intoxicated", but he certainly said she had been drinking.

THE COURT: Answer the question.

A. I don't know that, sir.

Q. You have talked over with your father, haven't you before you came here to-day, what testimony you were to give; didn't you talk this matter over with your father before coming here today? A. Yes, sir.

Q. And he told you that you would be asked whether you looked for liquor on that day, didn't he? A. Yes, sir.

Q. How long were you in the apartment at that time?

MR. LANE: I object to that on the ground that it is not cross-examination on anything that has been brought out on direct.

MR. HEYMAN: If Your Honor plase, on this witness' direct and cross-examination there never was one single word said about looking for liquor.

THE COURT: That is right.

MR. HEYMAN: And I want now to test

this witness' credibility about that statement which was brought out now, by going through the entire transaction. I think I have that right, because this witness has given us, if Your Honor please, not once, but, as counsel says, several times, everything that occurred at that time in the apartment; he went through it thoroughly, not once, but several times; now he comes here today, after having talked the matter over with his father and after having been told what testimony was going to be expected of him, he comes here and tells something entirely foreign to his testimony at the previous examination and I submit, if Your Honor please——

THE COURT: Something in addition, you might say.

MR. HEYMAN: Yes, something in addition.

MR. LANE: I don't want to submit to that statement, but if that is Your Honor's recollection I am satisfied. I don't want my silence to be considered as acquiescence that this man did not say anything in his previous examination in respect to hunting for liquor; my recollection is that he did.

MR. HEYMAN: If Your Honor please, I think I should be permitted to state my reasons for this examination without any interruption. I say that this man has come here today and he is giving us something entirely foreign, in addition to the former testimony, and that after consultation with his father, and I say that under those circumstances I should be permitted to inquire thoroughly into the entire incident to show whether or not this man is telling the truth; and the only way I can do that, if

Your Honor please, is by going carefully over his former testimony, and to show that such a thing as he testified to today is absolutely impossible.

MR. LANE: His whole testimony is complete, why put it in again.

THE COURT: I will decide on each question as it arises. The scope of the cross-examination indicated just now seems to me too broad. I don't purpose having all that gone into again.

MR. HEYMAN: I don't purpose going through the entire thing; but I want to find out——

THE COURT: As to this additional testimony, if it is additional to this testimony, of course, your cross-examination may be thorough. I don't purpose to limit that.

MR. HEYMAN: Your Honor will then permit that question to stand.

MR. HEYMAN: How long were you in the apartment altogether?

THE COURT: I think that has been answered before.

Q. Did you go into the bed room after Levine left the apartment? A. I did not.

Q. Did you go into the dining room? A. Yes, sir.

Q. Did you go into your bed room? A. Yes, sir.

Q. Did you go into the bath room? A. Yes, sir.

Q. All after Levine left the apartment? A. Yes, sir.

Q. But you didn't go into the living room? A. I did go into the living room.

Q. You didn't go into your mother's bed room, did you? A. No, sir.

Q. You went into very room in the house to look for liquor except your mother's bed room? A. Yes, sir.

Q. She was in a half intoxicated condition but you couldn't find any liquor in the house; is that right? A. Correct.

Q. You didn't think of looking in the bed room for liquor, did you? A. No, sir.

Q. Was she in bed when you passed the door? A. I don't understand the question.

Q. Was your mother in bed when you passed her door? A. I still don't understand, whether you mean when I first went in or when I was going through the apartments.

Q. Well, how many times did you pass the door? A. I passed it twice.

Q. Tell us whether she was in bed the first time you passed the door? A. The first time she was just going into her room; that was when I came into the apartment after she opened the door.

Q. And the second time? A. The second time, when I was going back to my room, or the bath room——

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

Q. Was she in her bed? A. I believe she was sitting on the bed.

Q. Did you talk to her about liquor. A. No, sir.

Q. You didn't ask her if she had any liquor? A. No, sir.

Q. Did you look into the bedroom for liquor? A. No, sir.

MR. LANE: I object to that. That has been asked and answered.

Q. Why didn't you go into the bedroom and look for liquor? A. I don't know why I didn't go in the room.

Q. You knew that your mother had liquor in the house, didn't you? A. I didn't know it; no, sir.

Q. You knew that she was half intoxicated, didn't you? A. I should say so; yes, sir.

Q. You knew therefore that she must have had liquor in the house, didn't you? A. It was a supposed, it wasn't a known fact.

Q. You supposed that she had liquor in the house then, didn't you? A. Yes, sir.

Q. Still you didn't go into the bedroom to look for it, although you were anxious to destroy whatever liquor you could find, isn't that so? A. Right.

Q. You wanted to protect your mother from drinking any further liquor that day, didn't you? A. Yes, sir.

Q. That was the purpose for which you searched for the liquor, wasn't it? A. Yes, sir.

Q. You couldn't find any throughout the house, and didn't go into the bedroom? A. No, sir.

Q. You testified at the former examination that you were very much disgusted with your mother at that time, didn't you?

MR. LANE: He answers yes, he did.

MR. HEYMAN: If Your Honor please, I submit that I should be permitted to ask these questions.

MR. LANE: That is not a question; that is a statement that he did testify. I object to any statement being put to the witness.

MR. HEYMAN: I object to being interrupted in this manner by counsel.

THE COURT: Counsel has a right to object. Of course you have a right to put your question.

MR. HEYMAN: I make no protest to a proper legal objection, but I don't think it is fair to interrupt me in this manner.

MR. LANE: Well, the only way to get an objection in is to interrupt. I object to that question upon the ground that it is a statement of the witness' testimony put to the witness; a mere repetition of the testimony, and not the proper way to draw to the attention of the witness any testimony given.

THE COURT: I will take the question.

A. That was my statement.

Q. Then why did you go to look for liquor?

MR. LANE: I object to that because of the use of the word "then"; there is no inference that the witness has not testified—

MR. HEYMAN: There is no connection between the two questions.

THE COURT: I will take that question.

A. To destroy it.

Q. What was your object in destroying the liquor if you were so disgusted with her? A. Simply to get rid of it.

Q. Well then, it wasn't for the purpose of preventing her from taking more, was it?

MR. LANE: What?

THE COURT: Then it wasn't for the purpose of having more?

MR. HEYMAN: Does Your Honor understand my question?

THE COURT: I understand the question. I don't understand why it was asked.

MR. HEYMAN: Maybe this question and answer will help Your Honor.

A. Yes, it was.

Q. Even though you were so disgusted with your mother, you still wanted to prevent her from having more liquor; is that right? A. Yes, sir.

Q. You wanted to protect her, even though you were so disgusted with her, didn't you? A. Yes, sir.

Q. You were looking after her welfare, weren't you? A. Yes.

Q. Even though you were so greatly disgusted with her?

MR. LANE: I object to that; he has asked that time and time again.

THE COURT: Strike it out; he said so over and over again.

Q. If you were so anxious to protect your mother, why didn't you try to stop Mr. Levine? A. I don't know.

Q. Did you know the man that you found in the closet, when you found him there? A. I didn't know him.

Q. Did you go to the police station and make any complaint at that time about a strange man having been found in your home? A. No, sir.

GEORGE H. GRUNDY, recalled:

DIRECT EXAMINATION BY MR. LANE:

MR. LANE: This is an omitted question, if Your Honor please.

Q. Mr. Grundy, there was some testimony with respect to some party at which Mr. Townsend was present at which some stingers were brought over from the club; do you know anything about that party? A. I may have known something of a party but it isn't clear; I don't recall any incident; I don't recall Mr. Townsend being present at any party, although he may have been; but I certainly don't remember any stingers being served at the house.

Q. I show you three letters which have been marked for identification P-7, P-8 and P-9, and ask you whether you received those three letters on or about the day of their dates?

MR. LANE: Those were letters, if Your Honor please, which were identified by Mrs. Grundy as being in the handwriting of a relative of hers and portions of which were read to the witness on the witness stand.

A. Yes, I did.

Q. You received them through the mails from the persons mentioned? A. I did.

MR. LANE: I offer them in evidence.

MR. HEYMAN: I object to them on the ground, if Your Honor please, that the contents of these letters were never communicated to Mrs. Grundy. They were written by total strangers.

THE COURT: Just a moment, Mr. Heyman. On what grounds do you offer these?

MR. LANE: I offer them to show the state of mind of the petitioner and the correspondence that he had with other persons and what other persons said with respect to his treatment of his wife; the inference was he didn't do——

THE COURT: Not as binding on the defendant.

MR. LANE: Not probative of anything that is in the letters but to rebut the inference that he should have done something else, that he was not playing fair, as the expression is often used.

THE COURT: Now, as to that——

MR. HEYMAN: I don't see how anybody can make evidence in that manner, if your Honor please, by having strangers to a proceeding write letters to them and in that way to make those letters evidential. There is absolutely nothing in these letters which has been communicated to Mrs. Grundy which she has there spoken of; there is no admission in these letters against her which she made herself they are admissions made by third persons who have absolutely no interest in this proceeding.

MR. LANE: They are not admissions they are statements by third persons, statements against her interest I called them admissions; they are statements against her interest; made by third parties.

THE COURT: Statements of her conduct, as I recall it.

MR. HEYMAN: Yes, sir.

MR. LANE: Yes, statements of her conduct.

MR. HEYMAN: Not statements of her con-

duct; some parts are statements of her conduct.

THE COURT: What is the purpose?

MR. LANE: They are offered for the purpose of showing that he had advices from her relatives and others, and that he acted upon that advice, he acted precisely the same as these people told him he should act, to show good faith, that is all.

MR. HEYMAN: I submit, if Your Honor please, that that is not proper evidence.

THE COURT: I will admit them for that limited purpose only.

Q. Mr. Grundy, the door between the dining room and kitchen, what kind of a door is that?

MR. HEYMAN: If Your Honor please, before admitting these letters, I want to urge another objection. P-9, which I picked up and saw for the first time, recites "I received your letter last week when I came home from Pittsburgh." Now I ask, if Your Honor please, that these letters be excluded, because it is evidence that these papers are written in answer to a former letter, and I submit that this witness has no right to make evidence for himself in that way. There is no question that this is a continuous correspondence, and I submit, if Your Honor please, that it is not proper to admit these letters because they were made by the witness himself.

THE COURT: I will let the ruling stand.

Q. The door between the dining room and kitchen, what kind of a door is that? A. A swinging door.

MR. HEYMAN: I object to this line of

testimony, if Your Honor please, on the ground that it is not proper rebuttal.

MR. LANE: I concede that it isn't. I ask it as an omitted question.

MR. HEYMAN: If Your Honor please. I submit that this line of testimony is all new to the case. Now are we going to open this rebuttal again to permit him to bring in all this testimony all over again.

THE COURT: After I hear the question I may permit it as an omitted question.

Q. The door in the closet that has been referred to, what kind of a door is that? A. An ordinary closet door that opens and shuts but the one way.

CROSS EXAMINATION BY MR. HEYMAN:

Q. Do you remember the occasion when Mr. Townsend was at the house which Mr. Lane referred to a moment ago? A. I can't say that I do.

Q. Well, do you remember any occasion when Mr. Townsend was at your house? A. Oh, yes.

Q. Did you have any drinks at that time? A. That may have happened at some time, yes.

Q. Did you have any drinks then? A. Did I —possibly.

Q. Did Mr. Townsend have any drinks then? A. Possibly. I don't recall the incident.

Q. Were there any other people present at the time? A. I repeatedly said that I don't recall the incident.

Q. Then you don't know whether there were any stingers there or not, do you? A. To my knowledge, there were never any stingers in my house.

Q. Do you remember coming home from the club one day when you had had dinner with Mrs. Grundy, Mr. Hartrof and Mr. Perlmutter? A. No.

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

Q. And you don't remember that Mr. Townsend came in later? A. I don't recall.

THE COURT: Do you know Mr. Hartrof?

THE WITNESS: Oh, yes; a club member.

Q. You wouldn't say somebody didn't bring a bottle of stingers in from the club that day? A. No, I wouldn't say.

Q. You wouldn't say they were in the house? A. I would say if they were there it was without my knowledge.

Q. Well, when you had dinner at the Jersey City Club did you ever have anything to drink? A. Any dinner; any time?

Q. Yes; with Mrs. Grundy. A. Yes, I have had dinners at the Jersey City Club and have had drinks with Mrs. Grundy.

IDA MAY GRUNDY, recalled:

MR. HEYMAN: I ask the Court to give me the letters which have been marked for identification the Court has them.

THE COURT: You mean this last time?

MR. HEYMAN: From Mr. Van Winkle to Mr. Townsend and from Mr. Townsend to Mr. Van Winkle.

MR. LANE: They were marked for identification.

DIRECT EXAMINATION BY MR. HEYMAN:

Q. I show you two papers and ask you if you have ever seen these papers before? These are

the papers identified by Mr. Townsend as having been sent by him and signed by him. A. I don't know, sir.

Q. Did you get that from Mr. Van Winkle? A. Oh, I did; I guess that is so; yes; that is when I went over there before this trial again, it was in his correspondence.

Q. Never mind what it is; just say, did you ever see them? A. Yes.

Q. Where did you get them from? A. Mr. Van Winkle.

Q Did you receive these letters from Mr. Van Winkle? A. Yes, sir.

Q. You got these letters after I had been retained by you in this matter? A. Yes, sir.

Q. And that was early in this year or very late last year, was it—early this year, in January, wasn't it? A. I think so.

THE COURT: To whom are they addressed?

MR. HEYMAN: These letters—this letter is a letter written by Mr. Townsend, addressed to Mr. Marshall Van Winkle, dated September 26th, in reply to a letter from Mr. Van Winkle which has been marked for identification.

THE COURT: There is another; what is the date of that.

MR. HEYMAN: That is a letter from Marshall Van Winkle, dated September 23, 1919; this is Exhibit A for identification; the answer of Mr. Townsend to Mr. Van Winkle is dated September 26, marked Exhibit B for identification.

THE COURT: Are you producing now the originals of them?

MR. HEYMAN: I offer now in evidence Exhibit A for identification, the letter from

Mr. Van Winkle to Mr. Townsend, and I offer Exhibit B for identification.

THE COURT: First, as to the first letter; that is from——

MR. HEYMAN: And I offer Exhibit B for identification, the letter from Mr. Townsend to Mr. Van Winkle and the reply.

THE COURT: Is that the same as the copy?

MR. HEYMAN: This is the original and that is a carbon copy. In order to make sure I will offer the carbon copy of that so that there won't be any question about that. Mr. Townsend identified the original as having been sent by him and signed by him.

MR. LANE: The papers were offered before and excluded; I don't know——

MR. HEYMAN: No, the papers were not offered before.

MR. LANE: Well, the papers were offered before copies of them were offered before and excluded. I don't know of any testimony that has now been given that makes them of more evidential value than at the time they were first offered.

MR. HEYMAN: If Your Honor please, the papers were never offered in evidence; they were offered and marked for identification.

MR. LANE: The papers were offered and Your Honor took the time to read them and to consider them, and they were excluded by your ruling.

MR. HEYMAN: If Your Honor please, I don't understand how they could have been offered, because they were only brought out on the petitioner's rebuttal.

MR. LANE: They were brought out and marked.

THE COHRT: I will adhere to that ruling.

MR. HEYMAN: Well, I don't know that that is a privileged communication between attorney and client; I don't see how this can be privileged; this is communication between two lawyers regarding the very facts which are now in dispute; I don't see how they can be privileged. As I understand the rule of privilege, it is a communication between attorney and client, or between the witness and attorney, something like that; not as between two lawyers who are discussing the facts in a case.

MR. LANE: There is another ground as concerns the plea of privilege, and that is, I don't know ofany rule that makes the statements of counsel binding upon the client unless he knows what is in this letter. I don't know what the purpose of offering these letters may be, but it must be to bind Mr. Grundy in some manner, shape or form.

MR. HEYMAN: If Your Honor please, I have always understood the rule of law to be that the attorney binds the client by everything that he does.

MR. LANE: That is a false assumption.

MR. HEYMAN: That may be a false assumption but that is my understanding, that the client is bound by his attorney's acts.

THE COURT: I will overrule the offer.

MR. HEYMAN: On what grounds, if Your Honor please

THE COURT: On all the grounds suggested.

Q. Mrs. Grundy, I show you three time tables, and I ask you where you have seen these time tables before? A. They have been in my possession since I received them in Mr. Townsend's office; Mr. Grundy gave those to me.

Q. When? A. I don't recall the date; I think it was early in October.

Q. 1919? A. 1919.

MR. HEYMAN: I offer in evidence, if Your Honor please, three time tables, marked Exhibit D-10 for identification, D-11 for identification and D-12 for identification, and particularly page 6 of Exhibit D-10, and page 10 of Exhibit D-11 and page 7 of Exhibit D-12.

THE COURT: They will be admitted.

(Time tables marked with the original identification numbers in evidence.)

Q. I show you Exhibit D-13 for identification and ask you where you received that paper? A. In my room at 18 Enos Place; Mr. Grundy drew it for me.

Q. When? A. I couldn't tell the exact date; I think it was around Christmas time in 1919; it may have been a little earlier than that.

Q. Christmas time 1919? A. Around about that I should say; I couldn't recall just the exact date; a diagram of Florida.

MR. HEYMAN: I offer that in evidence.

THE COURT: I will admit it.

(Paper marked Exhibit D-13 in evidence)

Q. I show you some clippings from newspapers, marked Exhibits E, F and G for identification, and ask you where you have seen those before? A. They have been in my possession ever since they were taken out of the Pitsburgs papers.

Q. Did you ever talk with Mr. Grundy about those clippings? A. At the time they were published, I think after Mr. Grundy began calling on me, they probably might have been spoken of.

Q. Did you discuss with Mr. Grundy the contents of those clippings? A. Yes.

MR. HEYMAN: I offer the clippings in evidence. if Your Honor please.

MR. LANE: I object to that.

THE COURT: On what grounds are you offering them?

MR. HEYMAN: On the ground that they show the grounds of the former divorce suit by Mr. Grundy.

MR. LANE: This is the first time that I have ever known that newspaper clippings were probative evidence of facts contained therein.

THE COURT: Unless there is some other reason I will overrule them.

MR. HEYMAN: If your Honor please, I think that they are just as probative of their contents as the letters which Mr. Lane offered which some third party writes to the petitioner without the defendant's knowledge.

MR. LANE: I didn't offer them for that purpose.

THE COURT: Counsel, when he made that offer, said they were not probative of anything contained in them, so that by the same reasoning that would not indicate the admission of these.

MR. HEYMAN: Well, I offer them, if your Honor please, for the same purpose that Mr. Lane offered the letters, namely, to show the state of mind of the petitioner at the time.

THE COURT: I will overrule them.

MR. HEYMAN: I desire, if your Honor please, to offer them for another purpose, for the purpose of disputing the testimony of the petitioner. The petitioner testified that in his former divorce case there was no testimony as to drinking by his first wife, and I

offer these papers in evidence to dispute that testimony.

THE COURT: My recollection is otherwise. He admitted that the divorce was granted for adultery. Your next question was whether it was not related to drunkenness, and that was objected to and overruled, if my recollection is right. I will overrule your offer.

MR. HEYMAN: If I recall rightly, the witness, the petitioner, was asked, Isn't it a fact that you sued your first wife for divorce on the grounds of adultery and drinking, and his answer was no; my next question was, Didn't you sue your first wife on the ground of adultery and the answer was yes.

THE COURT: There was no objection to that.

MR. HEYMAN: Now, if your Honor please, there is in evidence a question, Didn't you sue your wife for divorce on the grounds of adultery and drunkeness, and the answer was no. Now, I say, if your Honor please, that these papers are evidential for the purpose of contradicting that testimony.

MR. LANE: Assuming that to be true for the moment, how would the papers be evidential of anything?

THE COURT: I will overrule them.

Q. Mrs. Grundy, when Mr. Grundy gave you these time tables, what was said by him at that time?

MR. LANE: I object to that on the ground that it is not sur-rebuttal. Mrs. Grundy has testified in extenso as to what was said about her going to Reno. That testimony, very possibly, was in strict rebuttal; but she cannot be permitted to tell that story over again, or ought not to be permitted.

THE COURT: I will permit this question.

MR. HEYMAN: I want to explain the reason for the question.

THE COURT: I will permit it.

Q. What was said, Mrs. Grundy, when he gave you these time tables; just explain? A. He was just explaining where I changed cars in Chicago, and I found it a long tedious trip—

Q. Change cars in Chicago for what? A. From one train, I think, of one road to another.

Q. For what? A. To go to Reno; to proceed on to Reno.

Q. Mrs. Grundy, did you ever in your life use any drugs or dope or opiates or narcotics of any kind? A. I never used any drugs of any kind at no time, never.

Q. Did you ever take laudanum? A. I never took laudanum.

Q. On August 26th, 1919 when Mr. Townsend came to your house did he come there in response to a request that you had made to Mr. Grundy to bring him there? A. What date was that?

Q. August 26th. A. No, sir.

Q. When did you first know that Mr. Mark Townsend was coming to your house, if you knew?

MR. LANE: I object to that.

A. My husband told me in the morning that he had phoned for Mr. Townsend and that he was coming there to talk to me; I said, "I refuse to talk to Mr. Townsend." A very few minutes after Mr. Townsend rang the bell, Mr. Grundy ordered him to come in, I was in bed, Mr. Townsend came in and said "Hello, Ida" or some such thing, "Good morning, George has told me about the talk he had with Park, and I came to talk with you about it"; I said, "I have

nothing to do with you", and I turned my back upon Mr. Townsend; he could not smell my breath or do anything of the kind which he testified to; I said nothing to Mr. Townsend or Mr. Grundy, and Mr. Grundy said, "We might as well leave, she refuses to talk."

Q. Were you drunk at that time? A. I was not drunk.

Q. Were your windows open or shut? A. My windows were open.

Q. Was there any smell of liquor in the house? A. Not that I know of.

Q. Would you know if there was? A. Well, I should think I would know.

Q. On September 15th, when Mr. Townsend was at your house, did you say to Mr. Townsend, or did Mr. Townsend say to you something similar to the following, in substance: That he had been informed by Park what he had seen that day in reference to the man Evans, and did you then say Park lied? A. I never did say that Park lied.

Q. Did Mr. Townsend say to you, "Ida, you will recall that when we were here before you said that Park lied about the other incident, of the 24th, and now, after persisting in that for some time you changed your story and eventually admitted that the man was here; how do you expect Mr. Grundy under those circumstances to believe it? What reason would there be for Park to come in and tell Mr. Grundy and myself a story such as this when it wasn't true? The thing is preposterous on its face. Mr. Grundy don't believe it and I don't believe it." Did Mr. Townsend say that to you? A. I never recall any such conversation.

Q. Did Mr. Townsend on September 15th ever say anything to you about Evans? A. No, sir;

Mr. Evans' name was not mentioned on the 15th of September when Mr. Grundy and Mr. Townsend were in my home.

Q. Did Mr. Townsend have to wait five or ten minutes for you to come out of your room that day? A. He never had to wait five minutes; I got up immediately when Mr. Grundy and Mr. Townsend came in; Miss Halverson and I were sitting in the kitchen, and I expected the two gentlemen, and I got up and went in immediately; they said hello and I said hello, I got up and followed them in the living room, and Mr. Townsend never left that living room all the time. I saw that Mr. Grundy got out and spoke to Park and he came in. Mr. Townsend never left the living room.

Q. Was Evans' name mentioned that night or evening at all? A. Not in the living room; if they mentioned Mr. Evans's name they spoke to themselves after they went out.

Q. I mean did you hear Mr. Evans' name mentioned at that time or at any place at all? A. No, sir; not that night.

Q. Did you then say to Mr. Townsend, "Well, there was a man here, he was a real estate agent looking for an apartment for me"? A. No, sir; I never told Mr. Townsend there was a real estate man there or that Mr. Evans was a real estate man; I never mentioned such a thing, because I knew he wasn't.

Q. Did Mr. Townsend say this, "It is somewhat strange if he was a real estate man looking for an apartment for you that he would be in your bedroom and you in there in a semidisrobed condition?" A. There was no such conversation.

BY THE COURT:

Q. I understood you to say that the name of Evans was not mentioned? A. Not that evening of the 15th of September.

Q. Was there anything mentioned about a man being there, whether Evans' name was mentioned or not? A. Not that day.

Q. I mean that day, on the morning of the 15th. A. Except I think perhaps it was mentioned when I said—Mr. Grundy said he would divorce me, and I said "Do you mean for what Park told you about the beer man?" I said, "I have told you I will go with you to this beer man", that was the conversation in the living room with Mr. Townsend and Mr. Grundy, he said "I refuse, I told you I am through."

Q. Was there anything said about any other man except the beer man? A. No.

Q. That right? A. No, sir; there was no mention of any other man.

BY MR. HEYMAN:

Q. Did you then say to Mr. Townsend, "What do you expect if your husband has not had anything to do with you for over a year?" A. I never said that to Mr. Townsend; never.

Q. Did Mr. Townsend then say to you that he had prepared a petition for divorce and that it would then have to be changed? A. Never.

Q. Did you know of Mrs. Fletcher's divorce case before you went to Mr. Townsend's office? A. No, I did not.

Q. Who told you about it? A. When we were speaking of Reno, Mr. Townsend said he would have me speak to Mrs. Fletcher, whom he had sent to Reno and made all the arrangements for her, he would have me meet her and have a talk

with her, so that I would be well acquainted with the people by the time I got there.

Q. Did you ever know that Mrs. Fletcher had had a divorce before that time? A. I did not.

Q. Did you know Mrs. Fletcher? A. I didn't know Mrs. Fletcher, no; I didn't know Mrs. Fletcher had been to Reno.

Q. Did you ever, while you were living in New York City, walk around the hall of the apartment house in your night gown in a drunken condition? A. I certainly never walked around the hall of the apartment house in a drunken condition or otherwise unless I was fully clothed.

Q. In your apartment in New York did you have a private hall inside of your own apartment? A. Yes, sir.

Q. Were you ever found in the elevator in the apartment house in New York City at any time in your night clothes in a drunken condition? A. Certainly not.

Q. Did you ever tell your husband after you had left Morris Plains in 1914 after you had met him in New York in response to a telephone conversation between you, that you had spent your last fifty cents for a drink? A. No, sir; that is rediculous; I never said such a thing.

Q. Did you in 1919 go to Blue Point? A. 1919—one day, a one day trip; Mrs. Mulack, my son and a young lady friend of my son's drove down for the day.

Q. Mr. Grundy has testified to the effect that he offered you the opportunity to go to Blue Point but that you refused to go in the year 1919, the Summer of 1919; did you make any arrangements to go to Blue Point at all? A. I could not make arrangements during the Summer because my boy came home from school only in the latter part of July, and Mr. Grundy came

home from Europe in the middle of June, my boy came home from school the end of July, and we went down this day for a trip to Blue Point, early in August and the rooms were engaged, I spoke to the proprietor and he said he would have nothing up until Labor Day; it was then too late to go down to Blue Point in 1919.

Q. Did your husband send you a cablegram from Europe notifying you when he would return? A. Perfectly rediculous; he never sent me any cablegram nor even a message.

Q. Did he ever write you a letter informing you when he would return? A. No, sir; I had no idea when he was going to return.

Q. Where were you the day prior to his coming into the house after his return from Europe? A. I had been housecleaning for about three days before Mr. Grundy arrived, and Mrs. Halverson was assisting me; I wasn't out of the apartment for three days previous to his arrival, so also I had an engagement with her that same day that Mr. Grundy arrived; she was as much surprised to find Mr. Grundy home when he came as I was; when he came in we didn't expect him for several days, or a week, to the best of my knowledge; I think that I had been told by Mr. Van Cleve that he had heard from the office that the office expected him some time in the middle or latter part of June; that was all the knowledge I had or information from Mr. Grundy.

By The Court:

Q. You had some letters or cards while he was away? A. Yes, sir.

By Mr. Heyman:

Q. Just produce those cards? (Witness produces seven cards marked Exhibits D-1 to D-7 in evidence.)

Q. Did you say to Mr. Grundy on September 15th, 1919, "What do you expect if I don't get any affection at home, I am only human"? A. I never made such an expression, never uttered it.

Q. Did Mr. Grundy ever get any theatre tickets and come home and find you so drunk that you would not be able to attend the theatre with him, and then destroy the tickets? A. No, sir.

Q. Did he ever destroy tickets for the theatre? A. Once, when we lived in New York, he came home at half-past eight for his dinner, and by the time we would have finished and gotten down to the theatre—we lived on 170th Street, and by the time we got to the theatre, on 38th Street, the Casino, I think, it would have been too late, and I refused to go, which was the one and only time that Mr. Grundy destroyed tickets or had tickets to my knowledge, that I didn't go to the theatre with him.

Q. Did you ever say to Mr. Grundy that you inherited the drinking habit from your father? A. No, sir; I never said any such thing; I didn't have this inheritance and I don't think it can be inherited.

Q. How often duirng 1919 and 1918 did your husband take you to theatres? A. 1918?

Q. And 1919. A. I don't recall going to the theatre at any time during 1918 or 1919 with Mr. Grundy.

Q. Did he offer to take you to the theatre? A. No, sir; I asked him repeatedly and he refused, he said he was so busy that he couldn't go, but he didn't come home.

Q. Did you ever go to dinner with Mr. Grundy during 1919? A. To the best of my knowledge the night that he returned home after coming from Europe, we went to Reisenweber's at his suggestion, not mine, as he testified.

Q. After that did he ever take you to dinner? A. I don't recall any time.

Q. During 1918 how often did he take you out to dinner, to the theatre or any amusements, entertainments whatever? A. We did not go to the theatre; I had dinner with Mr. Grundy a few times.

Q. Did he ever take you to any place of entertainment at all? A. I can't recall, no.

Q. Something has been said about golf lessons; will you please explain to the Court this incident about the golf lessons? A. I think the latter part of 1918, probably the Fall, Mr. Grundy purchased a set of golf clubs for me and we went out to the golf links, and we met this professional, I think Mr. O'Hara, and he introduced me to him, and he said he was thinking of having Mrs. Grundy take a few lessons, but no definite arrangement was made, it was simply mentioned, no date was ever fixed, Mr. Grundy came home, and during 1919 I never went out, although I had the clubs once.

Q. Now, did you ever go with Mr. Grundy to the club after using those clubs once? A. I think not; I may have.

Q. Don't you remember having gone to the club with Park and Mr. Grundy once? A. I recall, that was in 1918, before Mr. Grundy went to Europe, he had been to Pittsburgh several days and when he returned back to the house, Park was home on some sort of vacation, he phoned for Park to come down to the Tube station to meet him, that he was going to play golf, so I hustled through my work, got in the car, came down and Mr. Grundy came over in the car; he didn't speak to me, he spoke to Park, he never recognized me at all; he didn't speak to me all the way to the Shackamaxon Club; I grew sad, I thought it very

peculiar treatment after being away for several days, possibly a week, and not to even say how do you do to me, and I concluded, when I got to the club I couldn't stand it any longer, I wouldn't get out, I stayed in the car, I refused to get out of the car; I asked Park to bring me back; Mr. Grundy said, "Aren't you going to stay?" I said, "I don't care to go in the clubhouse and make a scene crying there all day, I might as well go home as stay there," and I refused to get out of the car; so Park brought me home.

Q. Before you were married were you a regular attendant at church? A. Yes, sir.

Q. Did you sing in the choir? A. Yes, sir; for several years, in different churches.

Q. Did Mr. Grundy know that, too? A. He knew that; Mr. Grundy at the time was a married man.

Q. But he knew you before he was married, didn't he? A. I think possibly he did; he might have read it in the papers, and I think he knew from other friends.

Q. Did Mr. Grundy tell you that he would provide for you for the rest of your life, even though he received a divorce from you? A. Mr. Grundy never made that statement to me; he told me that if I fought him that he would do nothing for me, if I put in no defense he would take care of me for the rest of my life, if I was sick he would pay the doctor bills and he would see that I never wanted, but if I fought him he would do absolutely nothing for me, if he won the suit, he was sure he would win the divorce suit, there was no question about it.

CROSS-EXAMINATION BY MR. LANE:

Q. You never took laudanum; did you ever take paregoric? A. Yes, I have taken paregoric for pain, very little.

Q. How persistently did you use paregoric? A. Very, very seldom.

Q. Have you used it right up to the present time? A. No, sir; so seldom I can't recall when it was that I ever took any paregoric.

Q. When did you use it last? A. I couldn't recall, it is so ancient.

Q. So ancient? A. Yes, sir.

Q. You used it during the time that you were at Low's house? A. I can't recall now.

Q. Well, don't you remember having trouble with Mrs. Low with respect to a bottle either of laudanum or paregoric that you had there? A. No, sir; I never remember that.

Q. Did you hear Mrs. Low testify with respect to it? A. Yes, I did; I was very much surprised, for I have no recollection of such a happening.

Q. Your recollection is not refreshed at all by Mrs. Low's testimony to such an incident as that ever happening? A. No, sir.

Q. Either with laudanum or paregoric, or any other drug? A. No, sir; Mrs. Low did not testify to paregoric; she said laudanum.

Q. You know that paregoric is a derivative of laudanum, don't you? A. I don't know anything of the sort; I am not versed in medicine or anything of that kind.

Q. You don't know that paregoric is a derivative of laudanum? A. It may be; I don't know.

Q. Do you remember an incident in the Summer of 1919, that you and Park and Mr. Grundy went to the Shackamaxon Club on Sunday evening and afternoon? A. The incident that I just stated?

Q. Is that the incident that you just stated? A. I don't know what incident you mean. Do you mean when Park took me home?

Q. You mean the Sunday afternoon when Park and Mr. Grundy met you and went to Shackamaxon, you didn't desire to have dinner there, and that you all came in finally and had dinner in Newark? A. It might have been one of the evenings I had dinner with Mr. Grundy and Park in Newark.

Q. Yes; and that was one of the times that Mr. Grundy took you out in the afternoon, isn't it, within the year 1919? A. It may be.

GERTRUDE HALVERSON, recalled:

DIRECT EXAMINATION BY MR. HEYMAN:

Q. Do you remember on September 15th, 1919, when Mr. Grundy and Mr. Townsend came into the house? A. Yes, I do.

Q. Were you sitting with Mrs. Grundy at that time? A. We were sitting in the kitchen eating dinner.

Q. Eating your dinner? A. Yes, sir.

Q. When Mr. Townsend and Mr. Grundy came in, what did Mrs. Grundy do? A. Well, I don't know whether she went in the bedroom or not to fix her hair, but I know she went right in; it took about three or four minutes.

Q. Do you know what happened after she left the room? A. She went right in the living room.

Q. Do you know what happened when she got in the living room? Did you hear anything? A. Yes, I heard voices, that is all.

Q. Do you remember whether or not the lights were burning in the dining room at that time? A. I don't think they were, no.

CROSS-EXAMINATION BY MR. LANE:

Q. Are you certain one way or the other? A. Certain?

Q. One way or the other? A. Well, I am pretty sure, because Mrs. Grundy never had the lights burning when she was in another room.

Q. That is the reason why you are certain? A. Yes, sir.

GEORGE H. GRUNDY, recalled:

DIRECT EXAMINATION BY MR. LANE:

Q. Did you say, on the 15th of September, 1919, or at any other time, to Mrs. Grundy, that if she fought you and filed an answer, you would never do anything for her, or words to that effect? A. I did not.

NO CROSS-EXAMINATION.

Exhibit P-1.

Envelope Postmarked
New Haven, Conn., Aug. 20th, 1911, 8 P. M.
and addressed to
Mr. Geo. H. Grundy, No. 420 Canal St., New York City, N. Y.

L. D. Phone 2788 W. Har.
Dr. Max A. Maas.
329 Clinton Ave.
Hours
Until 9 A. M.
2-4
7-8 P. M.

Exhibit P-2.

Saturday—

My Darling Husband: I scarcely have the heart or nerve to write—have worried all day & not left the room. The "Pratts" were here & wanted me to go out, but guess I am better off here so—didn't dress. So sorry you were so cut up about me—but can't blame you—am going to stay by myself until I start home—while pretty lonesome—but perhaps better I do. Am going to have our meals served in our room think that will be better no extra charge. The Stanford's felt sort of cut up too that you didn't stay—but guess was better. I can say nothing more, only that I am might sorry the whole thing occurred & will do my best hereafter. I know you won't believe me so no use writing further on the subject. Until I hear from you will be a little nervous. Park was sick this A. M. but O. K. now, laid abed until this afternoon—guess he was tired out. Hope you are not worried, guess will come back (if you want me) soon.

Loads of love & kisses from our darling boy &
Your loving wife

Ida.

Exhibit P-3.

Thursday, July 9th, 1914.

Mr. George H. Grundy—

Husband: I congratulate you on this your forty-first birthday. May you have many more more happier returns of the day than you have had in the past. I sincerely regrett the past few years have been so unhappy but trust the remaining years your cup of bliss & happiness will be filled to overflowing with one perhaps more worthy.

Ida.

(P-3 for Identification.)

Exhibit P-7.

Butler, Pa.
June 22-14

Dear Cousin Geo.

Mary and I spent Sun in the City. I left her at sister's to rest a few days on my arrival home I rec your letter. I was very glad Mary did not see it, We just ret. from a flying trip to Hendersonville, N. C. and Brought her Aunt Kiz back with us who is in very bad health mentally and otherwise so it will be up to us to provide a home for her until we can get her placed as a result of the trip and the worry we had Mary is on the verge of a nervous breakdown and I really cant see Geo how we could take care of Ida, while I realize what you are up against I cant see how we can help unless you would put Ida in Sanitarium and let Park come to us for a long visit would be glad to have him and would take good care of him. You know the last time Ida was here she pulled one over on Mary and I in regard to getting the drink and acted very

nasty with Mary when she called her. Why dont you try and get her to visit her Aunt Lizzie up You sure have my sympathy would like to and at Burne or Warren she can-not get it there. would help if I or we could but really cant see how. We have our plans laid out for a six weeks vacation just as soon as we can get Aunt Kiz placed. I hope Geo. you will appreciate what Mary and I are up against and we would both strain a point to help if we could but for the life of me I cant not see how we can at least at the present, if mary is anyway near herself when she rets. I will show her your letter if not I will wait awhile. Would like to hear from you and what you decide to do. believe me Geo you have my sympathy and I am very sorry that we cant possibly take Ida at present, should you decide to send her some place send Park to us we will treat him right and take care of him. Please let me know.

With best wishes

Your cousin.

A. G. DENNY

511 Fairview Ave Butler

Exhibit P-8.

12-17-12

Tuesday, A. M.

Dear Cousin:

I just thot when I did'nt receive a letter there was something wrong. I received your letter Sat eve. and we left 720 Sun. A. M. to go to a funeral of Gibbs cousin just returned last night 10:30.

Geo. I hardly know how to advise or what to say I know very well you are at your wits end

Exhibit P-8.

I am so sorry she does such thing for she has'nt any one near to her to help out. I know and feel you have done all you can and even done more than many a man would do. I just cant see my way to go down very soon and if I did for a few days things would go back the same way. Gibb & I both talked and told her where she would end if she didnt wake up and she agreed with us and was going to do wonders but sorry she didn't. I really think to put her some place is best you see when here a trip to Pgh. with Rose puts every thing in the old way and she told me that last place she was she realized it was the best place for her when she came to her sences. Your Aptmt surely is an expense could you rent furnished to Frenches or some one to get expenses out of it. Poor Park our hearts often ache for him and if you feel you want to send him to us you can do so any time. Gibb took quite a notion to him and has lots of patience with kids and our home is very pleasant and lots of going and coming with the kids. I am sure he would never be alone and he is too young to be alone so much. I will go to Phila. any time for him and he can go back and forth often but just as you say. I know you dont know what to do but if I can do any thing to help you I will be glad to do so. I only wish we lived near to visit back and fourth often. If she were to brace up and go to Lizzies and Warren when here it would do her good but its best to look pretty good and dont let any more in on troubles than necessary.

Geo, I dont know what to advise but if I can back you up in any way will do so I know you have done your share and more to get along.

What ever you do let me know and if anythings happens I will be down soon as I can.

I left a light blue dress embroidered in front of waist with white daisies if you have time some day mail it to me, no hurry just some time.

I must close now and I really havent helped you any but you know I am willing to do so If I can.

With best wishes to you all

I remain
Your Cousin.
TEIT.

Exhibit P-9.

Butler, Pa.
Nov. 26, 1913.

Dear Cousin Geo

I recd. you letter last week when I came home from Pgh. and the next day I started in to clean house had a woman to help me so put in full time and each evening I thot I would write to you but either had company or worked. I certainly was sorry to hear of you still having trouble think you have more than your share. I dont know what I would do if I were you. I wouldn't blame you for doing almost any thing. I certainly would send her to Sanatarium if it helps you for how can you do your work and have such a worry on your mind, I sure you have been patient and done your part. I only wish we were near to help out. I cant say just when I can go down but not just now I am sorry. We are getting ready to go to Battle Creek Mich. to see Gibbs only sister. She is there for the rest cure in Sanitarium and is in very bad shape. She says this is her last try. We are only going to be gone a few days then if Lewis Walker my nephew

Exhibit P-9.

goes on to Phila., on Dec. 5 I may go with him, to take Exam for a trade school he has been sent for but wants to put it off till next year and hasn't heard yet what to do. I had thot if I could be of any help then I would go on but if not will not go. Gibb and I have talked of going down just for a day or two to take in the Hipprdrome before Jan. 1. We are afraid we dont get passes after that. Papa, Gibb and I were in Warren the first week in Nov. had a fine time and have hardly got settled. I had to clean up before we left again and now I will ask Gibb to get pass from Phila. to N. Y. & have it ready if I can be of any assistance I will go. He hasn't recd. the one to Battle Creek and dont like to ask for another till it comes and we have been going rather stron lately and dont like to spend car fare if we can help but will do so if necessary. Gibb and I have so often wondered how things were going. I don't believe Lizzie could help any her home is so blooming cold and open, big cracks and she has a boy and girl in school she would leave even to go to Warren for the day. She takes them along. Park the poor kid I feel sorry for him will be glad when he goes away to school. It surely is hard for him to see this. I wish he had never seen it but it can't be helped. I wish I could go down right now but can't see my way clear but will try and go before Christmas if only for a day or two. If you think it alright. I am going to write Ida a letter real soon and I wont mention this. I am certainly sorry for you and will do any thing I can and I am sorry things are just as they are now. Gibb and I often wish we were near and could help

you out for you are up against sure and we will try and help you soon.

Hoping by this late date things are better I must close with best wishes from Gibb and myself we are as ever your cousin

MARY.

Exhibit P-11.

Jersey City, Nov. 20, 1914.

My dear wife—

I have read, many times, your letter sent me last month, and have anxiously awaited news from you on each visit of Mrs. Corrigans hoping constantly to learn that you are improving and disposed to do all you can to help us overcome your weakness.

It grieves me beyond expression to constantly hear your complaints and to know that you are still antagonistic to every plan we have for your future happiness.

Surely you realize by this time that you are suffering from a disease, and that our one desire and hope is to help you overcome the influence of this disease.

We have tried every way and by every means to help you in the past, without success.

You know full well I never allowed anything to interfere with you securing, and having, any comfort or pleasure you cared for, or could have, in the past.

I have cheerfully sacrificed savings of years, and opportunities for advancement, so that you would be contented and well cared for, and in hopes that you in turn would be weaned away from your one weakness.

You are undergoing treatment for your own benefit and with my earnest prayers and hopes

Exhibit P-11.

that you will be finally cured once and for all.

Please do not say or think you are confined in an effort to punish or embarress you. Nothing could be more untrue or absurd, and until you realize this fully I am afraid you will never know again what true happiness is. You owe it to our boy and yourself—as well as to me to make a suppreme effor and determine to undergo your treatment until both you and the Doctors are thoroughly satisfied you are cured.

This change cannot take place in a month or several months, and it requires a complete change in habits and rebuilding of new tissue and will power to insure a cure.

You know this as well or better than anyone, and it does you absolutely no good to give way to bursts of temper and disappointments.

You are now working out your own destiny, you have it in your power to entirely change your habits and become a new and happy woman, or continue to be unhappy & discontented.

Surely you understand I could not possibly go through all the agony & suspense I have had in last five or six years. This would be unbearable again.

You have many years before you and it is up to you entirely to make these happy and joyful for yourself—your boy and your husband.

There is nothing more I wish for than to see Park grow up happy and contented, and proud of his mother. He is older now and you cannot afford to let him see you ever again unless you are thoroughly satisfied he will never be ashamed to see you.

I earnestly hope you will understand fully my motive in writing this letter, and believe I am sincere in saying we are all doing everything in our power, and acting in accordance with our

best judgment, and under advice of medical profession, in having you undergo treatment.

Please be assured it is all for your own good and your future happiness.

Don't force yourself to be discontented, and don't worry on much over present situation. Think more of future happiness and prepare yourself for happy days to come, when you are well able to take care of yourself and be a true mother to your boy.

Your loving husband,

George.

If there is anything you need or I can attend to for you do not hesitate to let me know.

Exhibit P-12.

December 18, 1914.

My dear wife—

Have rec'd your several letters and am more encouraged over your last letter. It shows some real feeling and appreciation of what happiness you might be enjoying if you were entirely rid of disease that has been your undoing for years. No doubt you are upset and distressed in mind & soul over the conditions, I am forced to live under. It has become a nightmare to me. Sometimes I wonder what is the use of working longer under such a strain. You know full well what I want & what I have worked many years to obtain and what I have every night to expect. Instead of this my home has been nothing but a horrible dream. No happiness, no contentment. You think still that you are being severely punished. Some day I sincerely hope you will realize you were treated with utmost consideration and kindness—and even though this temporary confinement seem harsh, it is the one and only

thing we can do to help you overcome your weakness. Every other method and means I can think of have been tried without success. Even now you think of and boast of what you will do to get even when you are released. This is conclusive proof that you are far from cured, or in proper condition to have your liberty. It means you have not yet gained control of yourself and until you do there is no hope for either yourself or myself. You demonstrated clearly two years ago that a short confinement and treatment did you absolutely no good. Our only hope is that you will now realize fully the necessity of overcoming your weakness, and if you ever hope to live happily with your son and husband and enjoy your remaining days in a happy home of your own making, then it is up to you to remain where you are indefinitely until you and the Doctors are thoroughly satisfied you are able and *determined* to take good care of yourself.

I have worried myself sick thinking over this and trying to determine what is best to do for your own good. You know well I would give anything and everything to have you here with Park and myself, but truthfully I am afraid for your sake. I only wish you could realize I am doing all this, and making every sacrifice for your own good. I know full well it would never do to have you come here for Xmas you would never willingly go back and the time is to short to hope for any permanent care or benefit. I have worried over this so much that I hate the thought of Xmas. It is very unfortunate that the holiday season is here. I know just now you feel and believe me it will be a very unwelcome & unhappy Xmas for Park and I. However we can all have good thankful thoughts in the hope that this will be the last Xmas we will ever have

Exhibit P-12.

to spend under such conditions. Your weakness is not incurable if *you will help* and if you will stay away from the influence, and develope sufficient will power and strength to forever leave strong drink alone. I know and you know this will take time. You must continue to fight hard and be patient live regular hours and continue to build yourself up physically. This Xmas will be hard for all of us but let us pray to God it will not be the last Xmas and that in the future we will all live to spend many truly happy holiday together.

Park arrived home Thursday P. M. he is looking splendid and in the best of health. He has gained in weight and is enjoying his school days thoroughly. Of course he misses you dreadfully, but he knows we are doing best we can under the circumstances and he is hoping you will be thoroughly changed and cured by the time he comes home for his long summer vacation. If so we can have a truly happy vacation, all together, somewhere away from this town. I can't help but think we would both make a serious mistake if I brought Park out to see you at Greystone. It would not doubt make an impression on him that he would never forget. Do you really want me to bring him out. I am sure it would be best not to do so. I would be very happy to come out Xmas and spend the day with you if you wish and if you will try to be contented and show a desire to try and help me carry out my determination to comply with the medical advice. Frankly this means your remaining where you are indefinitely. Just how long I do not know, but surely long enough to give your mind and body an opportunity to overcome the powerful craving you had when you had opportunity to give way to your weakness. You made a mistake

in telling Mrs. Corrigan to stay away. Her one desire is to help you and she at least kept you posted on daily happenings. Please *answer at once* let me know what you *need* and what you *want,* and what you would like to do about Xmas. What shall I send out or bring out to you to make you comfortable. Your loving husband,

George.

Exhibit P-13.

WHEREAS, George H. Grundy and Ida May Grundy were married on October 4th, 1899, and Whereas the said George H. Grundy has filed a petition for divorce in the Court of Chancery of New Jersey against the said Ida May Grundy, to dissolve said marriage, and Whereas the parties have now separated and are no longer cohabiting together, and Whereas the said George H. Grundy desires to arrange for the proper support and maintenance of the said Ida May Grundy in accordance with his income in the event that a divorce is granted,

Now witnesseth this agreement made, this day of September, 1919, between George H. Grundy, party of the first part, and Ida May Grundy, wife of the said George H. Grundy, party of the second part, both of Jersey City, New Jersey, that for and in consideration of the covenants and promises to be performed by the said party of the second part, the said party of the first part hereby agrees that if a divorce is granted to him by any Court of competent jurisdiction, he will pay to the said party of the second part, during her life-time, provided that she does not remarry, at which time said payment shall be discontinued, the sum of $125.00

Exhibit P-13.

per month, from the 30th day of each and every month, beginning September 30th, 1919.

The party of the second part, in consideration of the foregoing undertakings by the party of the first part, hereby agrees that she will not make any application for alimony pendente lite or for maintenance, and that neither she nor her agents nor representatives will either directly or indirectly give publicity to or cause, attempt, or endeavor to have anything concerning the facts or allegations upon which the same is based or any statement concerning the said party of the first party or the said divorce action published or printed in any newspaper or publication wherever situate.

SAID PARTY of the second part further agrees that from the date of this agreement, she will so conduct herself that she will lead a clean and respectable life to the satisfaction of the party of the first part. It is hereby understood and agreed that good faith is of the essence of this contract and in the event that the party of the second part shall violate any of the covenants or promises to be performed by her as above set forth, then the party of the first part may, at his option, without notice, rescind this agreement.

IN WITNESS WHEREOF, the respective parties have hereunto set their hands and seals, this day of September, 1919.

Signed, sealed, and deliver
in the presence of

Exhibit P-14.

WHEREAS, George H. Grundy and Ida May Grundy were married on October 4th, 1899, and whereas the said George H. Grundy is about to file a petition for divorce in the Court of Chancery of New Jersey against the said Ida May Grundy, to dissolve said marriage, and whereas the parties have now separated and are no longer cohabiting together, and whereas the said George H. Grundy desires to arrange for the proper support and maintenance of the said Ida May Grundy in accordance with his income in the event that a divorce is granted, now witnesses this agreement made, this 16th day of September, 1919, between George H. Grundy, party of the first part, and Ida May Grundy, wife of the said George H. Grundy, party of the second part, both of Jersey City, New Jersey, witness for and in consideration of the covenants and promises to be performed by the said party of the second part. The said party of the first part hereby agrees to pay to the said party of the second part, the sum of ONE HUNDRED AND TWENTY-FIVE DOLLARS ($125.00) per month, on the day of each and every month, beginning September , 1919, during the lifetime of the party of the second part or in the event that a divorce is granted by any court of competent jurisdiction to the party of the first part until the party of the second part shall remarry.

THE PARTY of the second part, in consideration of the foregoing undertakings by the party of the first part, agrees that in the event a petition for divorce is filed by the said party of the first part against her in any court of competent jurisdiction, she will not apply for alimony, pendente

Exhibit P-14.

lite, or maintenance or for counsel fees. Furthermore, the party of the second part agrees that in the event such a divorce proceeding is instituted, that neither she nor her agents nor representatives will either directly or indirectly or give publicity to or cause, attempt, or endeavor to have anything concerning said divorce action on the facts or allegations upon which the same is based or any statement concerning the said party of the first part published or printed in any newspaper or publication wherever situate.

SAID PARTY of the second part further agrees that from the date of this agreement, she will so conduct herself that she will lead a clean and respectable life to the satisfaction of the party of the first part, it is hereby understood and agreed that good faith is of the essence of this contract and in the event that the party of the second part shall violate any of the covenants or promises to be performed by her as above set forth, then the party of the first part may, at his option, without notice, rescind this agreement.

IN WITNESS WHEREOF, the respective parties have hereunto set their hands and seals, this day of September, 1919.

Signed, sealed and delivered in the presence of

Exhibit P-15.

STATE OF NEW JERSEY.
"SEAL"
Medical Directors Office.
The New Jersey State Hospital
at Morris Plains.
Britton D. Evans, M. D., Medical Director.
Greystone Park, N. J.
May 29th, 1912.

IN RE
Ida Grundy
Mr. George H. Grundy,
21 Madison Ave.,
Jersey City, N. J.

Dear Sir:—

I have your recent favor concerning Mrs. Ida Grundy and beg to inform you that my experience has been that if patients addicted to habits similar to those of Mrs. Grundy do not spend at least one or two years in an institution, the permanent effects of treatment are little. However, you may remove her June 1st and I will have her carried as on visit until June 30th, 1912. After that time, new papers will be necessary for her re-commitment.

Yours truly,
(Signed) B. D. EVANS,
Medical Director.

LKH/CHF.
Dictated but not read.
See visiting rules, etc., on back of this sheet.

Exhibit P-17.

Telephones (8) Audubon
(9)

AUDUBON SANITARIUM
8 St. Nicholas Place.

Mrs. Grundy,

New York, Nov. 25, 1913.

Board and Nursing	$15.00
from Nov. 23rd to 25th inclusive.	
Special Nurse	8.00
Special Nurse's Board	
Medicines and Dressings }	.85
Telephone Calls }	
Use of Operating Room	
Total	$23.85

Received Payment
H. W. Lloyds.

Bills must be paid weekly in advance.

Exhibit P-18.

Mr. G. H. Grundy in acc't with
317 West 57th Street

The
OPPENHEIMER INSTITUTE

New York, December 9, 1913.

To professional services of Dr. I. Oppenheimer and his assistants:

Room and Board: 14 days @ $3.00 daily.	$42.00
Calls and Sundries: Telephone	.10
	$42.10

Rec'd Payment
Dr. A. Burton Davis.

N. B. The above charge does not establish a precedent relative to future charges, neither does it cover any subsequent professional services other than the regular course of treatment.

Exhibit P-19.

Mr. Geo. H. Grundy, 420 Canal St.,
for Mrs. Grundy.
251 Ft. Washington Ave. in acct. with
The
Oppenheimer Institute
347 West 57th Street,
New York, July 1st, 1914.

To professional services of Dr. I Oppenheimer and his assistants	$50.00
Room and Board: @ $25.00 weekly if patient stays over one month four weeks in advance	100.00
Calls and Sundries:	
	$150.00

Rec'd. Payment
Dr. A. Burton Davis.

N. B. The above charge does not establish a precedent relative to future charges, neither does it cover any subsequent professional services other than the regular course of treatment.

If patient leaves before month elapses, weekly rate will be $28.00 refund to be made at this rate for amount due.

Exhibit P-20.

Jersey City, N. J., July 14th, 1916.

Mr. George Grundy, 53 Cresent Av., Jersey City, N. J.

To Thomas D. Keegan, M. D., Dr.

156 Clinton Avenue.

For Professional Services rendered

Mrs. Grundy.

Aug. 13 (2 visits) 14 (2 visits), 15, 16, 17, 18, 19,

" 20, 1914 .....$10

" 21, 1914, Making out commitment papers and accompany patient to Morris Planes...$10

Total $20

Thank you

Rec'd Payment.

Thos. D. Keegan, M. D.

Exhibit D-1.

Mrs. I. M. Grundy,

Dear Madam:

Your letter received and contents noted. I am filing an application for a furlough from May 16th to May 20th and if my request is granted I will appear at my Attorneys' office on Monday May 17th, at 10 A. M.

It is necessary that you have the Attorneys send a letter, also, a telegram stating that my appearance is absolutely essential and that I should obtain a furlough.

I shall require Fifty Dollars ($50.), to cover expenses and Railroad fares.

Kindly give this request your immediate attention.

Respectfully,

(signed) JOHN F. EVANS,

Exhibit D-2.

April 8th, 1920.

Mrs. I. M. Grundy,
Dear Madam:

Your letter of the 5th inst. duly received and contents carefully noted.

I will be unable to secure a furlough either on May 12th or 19th.

I am anxious to assist in your behalf and if an adjournment can be obtained until June 14th, I will appear at your attorney's office on that date or any date soon after.

Am sorry I cannot be on hand on May 12th or 19th as your Attorneys requested in their letter.

In order for me to appear in person on June 14th, or soon thereafter, it will be necessary for you to advance all expenses. My present financial condition will not allow me to make this outlay.

Trusting the above arrangement will be satisfactory, I am,

(Signed)
JOHN F. EVANS,

Exhibit D-3.

New York Office
170 Broadway.

ROBERT CAREY,
Counsellor At Law,
75 Montgomery Street, Jersey City, N. J.
Union Trust Co. Building

WILLIAM L. RAE.

December 27, 1919.

Mrs. Grundy,
18 Enos Place,
Jersey City,
Dear Mrs. Grundy:

It is important that you take action one way or the other in your husband's case. Unless you file an answer to contest the case he will undoubtedly secure his preliminary decree and order of reference at once and proceed to take his testimony. There will have to be a determination on your part as to what course you are going to pursue immediately, otherwise I will not be able to be of any service to you. Please get in touch with me.

Very truly yours,

Exhibit D-5.

(L. S.) THE STATE OF NEW JERSEY

To

GERTRUDE HALVERSON

Greeting: For certain reasons offered before us in our Court of Chancery, We command you that you personally appear before Frank P. McDermott, Esquire, one of the Masters and Examiners in our Court of Chancery, at Chancery Chambers, 75 Montgomery Street, in Jersey City, N. J.,

on Monday, the 3d day of May, at 10 o'clock in the forenoon, local time (nine o'clock Standard Eastern time) to give evidence in a certain cause now depending in our said Court of Chancery wherein George H. Grundy is the Petitioner, and Ida May Grundy, defendant. Hereof fail not, under the penalty of two hundred dollars.

Witness Edwin Robert Walker, Esq., our Chancellor, at Trenton, the 30th day of April in the year of our Lord, nineteen hundred and twenty.

JESSE R. SALMON,
Clerk.

HARTSHORNE, INSLEY & VREELAND,
Sol'rs.

Exhibit D-10.

Time table of Pennsylvania Railroad from New York to Chicago, so marked as to show on page 6, that the Mercantile Express leaves New York City at 5:30 P. M., and arrives in Chicago at 5:35 P. M. following day. Across top of it in petitioner's handwriting: "24 hrs. to Chicago. Bus transfer in Chicago."
Exhibit D-10 for
identification.

Exhibit D-11.

Time table of Chicago & North Western Railroad, from Chicago to Los Angeles, so marked as to show on page 10 that The Overland Limited leaves Chicago Daily at 7:10 P. M. and arrives at Reno, Nevada three days later at 7:35 A. M. Across the top in Petitioners handwriting is following: "3 nights—$100.53 R. R.—18.09, Pullman—Lower—Meals."
Exhibit D-11 for
Identification.

Exhibit D-12.

Time table of New York Central Lines, from New York to Chicago, so marked as to show on page 7 that the Lake Shore Limited leaves New York City 5:30 P. M. daily and arrives at Chicago 4 P. M. following day.
Exhibit D-12 for
identification.

Defendants Exhibit Q.

Seven postal cards from Petitioner mailed in Europe addressed to Mrs. Geo. H. Grundy, 57 Clinton Ave., Jersey City, N. J. U. S. A.

(London)
Feb. 19, 1918.

"Spending most of our time here running around checking up at Consul offices. Just taking train for Paris.

Geo."

Turin, Italy, Feb. 27.

"Have spent last few days calling on trade herein Turin. Making headway slowly. No definite plans. Travel is very slow. Takes weeks to secure any reservation on trains or boat. Simply have to wait as travel is very heavy, & but few trains. In good health. Love. Geo."

March 11, 1919.

"No mail rec'd. from U. S. A. yet except some mail from office mailed to Paris, Feb. 10 & rec'd. by me March 8. Am kept very busy on jump all time, but making some headway. In good health. Had fine Auto ride today. George"

Rome—4/2/19.

"Rec'd. your first letter in Milan few days ago. Was forwarded from Turin. Came to Rome Sun-

day night. Beautiful City and perfect summer weather. Nice & warm. I see you are having some real winter. In good health. Very busy. Geo"

Venice—4/27/19.

"Came here last night to spend Sunday. Enjoying the day of rest. This is a perfect wonderland—So much to see in a day. Hope you are well. No letters in a long while. In good health. Geo."

4/20/19.

"Easter morning.

Perfect weather. Hear you had a real snow storm in N. Y. about first of April. I haven't seen any here except on mountains. Am sailing for Spain about 1st. May, if have luck in winding up here. In good health. Geo."

Genoa. 5/8/19.

"This is my last stopping place in Italy, as sail from here for Spain, in a few days. Will be glad to be on the move, but have learned to like Italy very much. No letters in a long while. What is wrong. Hope you are in good health. Geo."

Appellant's Exhibits Marked for Identification, offered in evidence and Rejected.

IN CHANCERY OF NEW JERSEY.

Between

GEORGE H. GRUNDY,

Petitioner,

and

IDA MAY GRUNDY,

Defendant.

Exhibit D "A" for Identification.

Sept. 23, 1919.

Mark Townsend, Esq.,
239 Washington St.,
City.

Dear Sir: re: Grundy.

Mrs. Grundy has brought to me for advice a copy of agreement proposed by you for her signature. Careful questioning by me discovers no act of hers that would be a foundation for a divorce proceeding by her husband. As the recitals in the agreement refer to a petition for divorce to dissolve the marriage, it may be that Mr. Grundy has in mind a proceeding on the ground of desertion based on the failure of co habitation, but, assuming that Mrs. Grundy tells me the truth, the blame for this condition rests on the husband. Should there be any ground for a divorce by the husband, if you will tell me what the same is I will confer further with Mrs. Grundy; but, certainly, unless Mrs. Grundy is a very guilty woman, no lawyer should advise her

to sign the agreement proposed. The agreement assumes a condition of guilt on her part and her signature to the agreement is substantially some admission by her that the husband has some ground for divorce. As it seems the husband desires separate living, and as the wife will agree to such living separately provided she is adequately supported in the state of separation under an agreement in the usual form with the customary covenants, I shall be glad, upon word from you that the husband desires separate living and is ready to execute an agreement in the usual form with customary covenants, to take up the matter with Mrs. Grundy in order that an agreement may be signed.

Upon going over matters with Mrs. Grundy, and having in mind the means of the husband, and the high cost of living, $150.00 a month is named as the amount necessary to support Mrs. Grundy. Any agreement to be executed should be unconnected with any plans Mr. Grundy may have for a divorce proceeding.

Would it not be best to draw an agreement in the usual way with a third party as trustee so that there will be no question about the enforcement of the agreement for the benefit of both the wife and the husband?

Yours very truly,

Exhibit D "B" for Identification.

MARK TOWNSEND, JR.,
Counsellor At Law,
1 Exchange Place,
Jersey City, N. J.

Sept. 26, 1919.

Marshall Van Winkle, Esq.,
1 Exchange Place,
Jersey City, N. J.

Grundy vs. Grundy.

Dear Sir:

Replying to your letter of the 23rd instant in the above matter, and supplementing my telephone conversation with you of this morning, I beg to advise you that it was determined last week by Mr. Grundy, upon my advice, that the agreement referred to, although drawn, should not be executed. Mr. Grundy has instituted suit for a divorce against his wife, charging her with adultery, and she has been fully advised that the Court would undoubtedly allow her alimoney *pendente lite* and counsel fees, but if the proceedings should terminate in a decree in favor of her husband, she would thereafter be left to her own resources, so far as an income was concerned.

Mr. Grundy, from his past regard for his wife, and his desire to prevent her from being left without resources, was willing to arrange to pay her an income for life, or until she re-married, in the event that he should obtain a divorce.

Mr. Grundy has no desire to prevent his wife from taking such steps as she might deem proper

to defend this action and the execution of the agreement was contingent upon whether the Court would view it as collusion. The agreement pre-supposed no guilt on her part, nor was intended as any admission by her. In fact I do not conceive how you can so construe it. The substance of this agreement was submitted by me to Vice Chancellor Lewis, who approved it.

They have had difficulty for years, due to Mrs. Grundy's excessive use of alcohol. Mr. Grundy will only consent to pay her an income upon condition that she will not squander it, and that she will hereafter conduct herself in a respectable manner, to his satisfaction.

Mr. Grundy informs me that he has no desire to have a separation agreement between himself and his wife, and hence it is unnecessary for us to discuss that question.

I believe that Mrs. Grundy should retain counsel, and in the event that you should represent her, I shall be very glad to go into the case further with you.

Very respectfully yours,

(Signed) MARK TOWNSEND, JR.,

MT/IAB

New Jersey Court of Errors and Appeals.

Between GEORGE H. GRUNDY, *Petitioner-Respondent,* *and* IDA MAY GRUNDY, *Defendant-Appellant.*	On Appeal from Court of Chancery.

Sat. Below FRANK P. MCDERMOTT, A. M.

BRIEF FOR RESPONDENT.

This suit was brought by petitioner and respondent against his wife, appellant, for adultery; it was commenced by petition filed September 19, 1919 (p. 4), alleging the commission by the wife of adultery with a person unkown, on August 24th, 1919, and on September 15th, 1919, with one Jack Evans. The answer was not filed until January 23, 1920, and consisted of a general denial (p. 6).

The matter was referred to the late Frank P. McDermott as Advisory Master. On April 13th it was formally set down for hearing on May 3d (p. 19). Application was made on that day by counsel representing the defendant for a later date, upon the ground that she could not produce Evans, the co-respondent, until after 14th of June (p. 20).

On May 3rd, Mr. Hershenstein, assuming to represent Evans, appeared. He first stated that Evans could not attend until after June 14th,

New Jersey State Library

but when the Master indicated quite clearly that he would not permit the delay, it came down to a request for an adjournment for two or three days (p. 32).

Evans interevened and answer was filed by him on May 18th (p. 11). Evans was, in fact, produced and sworn on May 18th (p. 247). Evans had been caught in the Grundy house on September 15, 1919. He enlisted in the army October 6, 1919 (333).

A consideration of the colloquy between counsel and the Court on page 18 et seq., and of Evans' examination (pp. 382-385) as to how he came in contact with Mr. Hershenstein indicates clearly that Evans was injected as a party by the defense solely for the purpose of obtaining delay.

The case was heard upon parts of fourteen or fifteen days, approximately 1100 pages of testimony were taken. Petitioner's direct case took up some 267 pages, of which some 145 was cross examination. Of this cross examination some 70 pages were devoted to the son, Park Grundy, and of these, 15 pages were devoted to cross examination on the Levine incident respecting the presence of Levine in the apartment on August 24th, 1919; and 55 pages to the Evans incidnt, respecting whether Park Grundy really saw Evans in the apartment on September 15th, 1919. When the first witness for the defense, Evans, testified on the second day of the hearing May 18th (Park Grundy having testified on May 3d, notwithstanding Park's exhaustive cross examination), he admitted his presence in the bedroom of defendant's apartment (pp. 257-261) on September 15th, substantially as testified to by Park Grundy, except that he denied that when found there he was buttoning up his trousers. He admitted that he had his coat off. Mrs.

Grundy when examined on the fourth day of the hearing, admitted (p. 458) Levine's presence and the entire incident as testified to by Park, with the exception of a few details hereinafter discussed.

The Master decided in favor of petitioner, finding that defendant had committed adultery on both occasions, August 24th and September 15th. There is no justification for the remarks of counsel for the wife, "the Master decided against the wife *presumably* as to both offenses alleged." There is nothing indefinite in the concluding clause of the Master's memorandum (p. 15). A decree *nisi* granting a divorce was made on July 26th (p. 15), and from that decree this appeal is taken by the wife, defendant.

It developed after the filing of the petition that the unkown man with whom defendant was charge to have committed adultery on August 24th was Jacob Levine, a wine merchant in Jersey Ctiy. At the time of the filing of the petition his name was unkown to petitioner.

The Facts and Argument.

Petitioner and defendant were married in Pittsburgh, on October 4th, 1899, and a son, Park, aged nineteen years, is the only child of the marriage. Petitioner is about 48 years old and defendant 46. They came from Pittsburgh to live in Newark in 1907. After living there one year they moved to Jersey City, where they remained until July, 1912. They then removed to New York, where they stayed until July, 1914, returning to Jersey City, at that time They remained living in Jersey City at 57 Clinton Avenue until petitioner left defendant, in September, 1919. From February, 1919 until June, 1919, petitioner was absent in Europe upon a business trip.

Shortly after they came to live in New Jersey defendant became addicted to the use of intoxicating liquors to excess, and conditions with respect to this drinking became worse until, in the Summer of 1918, the parties ceased cohabiting. Defendants swears (p. 443) that this cessation of cohabitation was due to her refusal to indulge in unnatural intercourse (pp. 443; 521). Mr. Grundy says, and his version seems to be accepted by counsel for defendant, that he ceased cohabiting because he was completely discouraged over her actions and habits, and took the poition that he would not have sexual intercourse with her if she continued in the way that she was going (p. 984). Park Grundy during the year 1919, was away at school, except for the Easter and Summer vacations. Mrs. Grundy, although on previous years she had always gone for the Summr to a resort, usually Blue Point (p. 442), did not go during the Summer of 1919, although she was offered the opportunity of doing so by her husband (p. 988).

Besides making the charge against her husband that he had attempted to induce her to have unnatural sexual intercourse with her, Mrs. Grundy also charged that in 1908 her husband had told her that he had gonorrhea (p. 448), which is denied (pp. 1006, 805). Mrs. Grundy has been sent to sanitariums on several occasions to cure her of her excessive drinking.

Adultery was Proved.

There has been this day (February 28th) served upon petitioner by appellant a typewritten brief. The first point indicated is that adultery was not proven. The fifth point is that the granting of a divorce in this case depends on the testimony of Park Grundy, the son, and he is a discredited witness. The third point is

that if the appellant committed adultery, the respondent connived at the offense. Counsel has some difficulty in arguing connivance to avoid admitting facts quite clearly indicating guilt.

It is our contention that, excluding from consideration all the testimony offered by petitioner, and considering only the testimony of Mrs. Grundy, Evans, Levine, Sarah Levine and Miss Halverson, the Court can come to no other conclusion but that Mrs. Grundy was guilty of adultery. The Master had the witnesses before him; he could judge of their appearance upon the stand, and whether they were telling the truth or not.

The Proof for the Petitioner.

Park Grundy, the nineteen year old son, said that on August 24th in the morning, he started out with his father to go to the Shackamaxon Country Club (p. 37). It was usual for him and his father to stay all day. On the day in question after leaving his father at the club, he decided to return, and reached home about 11:45 A. M. He says (p. 38):

> "I went upstairs and tried, I inserted my key in the lock and turned the key; that opened the door about one inch, and there was—we had a swivel lock on the door and that lock was bolted. I rang the bell for about fifteen minutes, just kept steadily ringing it, and this noise caused Mrs. Hansen, by the way the janitress, who was in the opposite apartment, to come out and asked me what was the matter."

He said that: the door was ajar; he heard low talking; a man and a woman; he could not, however, hear what they said; he was there about fifteen minutes and talked with Mrs. Hansen; Mrs. Hansen said: "Can't you get in?" and he replied, "No", and she said, "Well, come

in her through the fire escape, you can get in that way". Immediately after Mrs. Hansen said this the door opened (p. 157). His mother came out and said, "What the hell is the matter?" (p. 41). He just went right through the door, went through the apartments, came to the kitchen door opened it, and standing there was a man with his hat in his hand. Park said, "I think this requires some explanation", but the man said, "No explanation is necessary", and shoved past him, out through the door and downstairs. The defendant was dressed in a nightgown and kimona, her hair was in a disheveled condition, the bed showed that it had not been fixed. Defendant went right back to her room. Park said to her "This looks fine" (p. 63, ll. 1-24). When his father came home he told him about it. He was not present at a conversation which his father and mother had about it on the next night, August 25th (p. 42).

On September 9th, he and his father moved from the Clinton Avenue house. He was preparing for college and returned to the apartment on the 15th to pack the goods that he had there. In the meantime his father had removed the chain from the door. He went into the apartment, walked through and "in my mother's room I saw Mr. Evans standing by the window, with the shades down, buttoning up his pants. Evans said to me, 'Hello, Park' but I didn't make any answer to that at all. I walked through the apartment and he went out" (p. 41). His mother was dressed in a nightgown and kimona; she was sitting on the bed, which was mussed up; the bed had a disheveled appearance; her hair was disheveled; the shades were down; Evans was standing near the foot of the bed, between the foot of the bed and the window, which is about two feet away (p. 45).

He said he first met Evans in March, 1919, when he met him in the front room of their apartment; no one was present except his mother and Evans. He, Park, had come home for his Easter vacation (p. 45); his mother told him that Evans, was a good friend of Gertrude Halverson's, and that he was in the apartment waiting for Gertrude. Altogether Park saw Evans in the apartment about five times (p. 45, l. 26). He never on any occasion saw Evans and Gertrude Halverson in the apartment at the same time (p. 46, l. 32).

Alma Hansen, the janitress, testified that she had seen Levine at the house upon several ocassions; she had seen him delivering beer. She saw him on two other occasions (p. 410) go into the apartment with nothing in his hands; she was cleaning downstairs and stayed there for about twenty minutes, and he was still in the apartment; this was between nine and ten in the morning.

She testified as to the incident on August 24th, that she was upstairs cleaning in the apartment opposite, and hearing a noise, went out to find out what it was; she found that Park was locked out (p. 415); that she offered to let Park go through the window and through the fire escape of adjoining apartment; that he was hammering on the door and calling his mother; that this noise was kept up for about ten minutes before she went out to Park; the door was not closed tight, it was on the chain (p. 417). After the conversation between Mrs. Hansen and Park, Mrs Grundy opened the door. As she opened the door Mrs. Hansen closed her door. She did not hear what Mrs. Grundy said.

During the time that Mr. Grundy was in Europe Mrs. Grundy held parties in her apartments (pp. 412, 421). Mrs. Hansen saw a

young man who was at those parties, whom she recognized as the one whom she had seen in September or August down at the dumb waiter, who called up the dumb waiter to Mrs. Grundy and to whom Mrs. Grundy replied "It is all right" (pp. 412, 422).

Cecile V. Mulack testified (p. 184) that "She had known Mrs. Grundy for six or seven years and knew her well; Mrs. Grundy was addicted to excessive drinking and she got herself upon occasions in a loathsome condition (p. 188); she stayed with Mrs. Grundy all the month of July, 1916, at Blue Point to which place the defendant, was sent by Mr. Grundy to recover from a drinking spell; at Christmas of 1917 or 1918, she stayed at the Grundy home; there was a telephone conversation which Mrs. Mulack reported to Mrs. Grundy as follows (p. 197):

> "I came over to Mrs. Grundy, she was in that state of drunkeness, and I told her I said, 'A man named Charley called me up and asked me wouldn't I use my good offices with you in his favor, he said he was in love with you and wanted to marry you if you would only consent to it.' She said, 'Oh, Charley said that.' That is all; she wasn't in a state to tell me anything, nor could I discuss anything with her."

A couple of days afterwards Mrs. Grundy showed the witness some Liberty Bonds and said "This is Liberty Bonds that Charley had given me, $200. Liberty Bonds," and further, "You know he must love me to do that for me."

While the witness was staying at the Grundy home, the 'phone rang many times and some man would ask for Mrs. Grundy and Mrs. Grundy would go to the 'phone and there would be a conversation "nearly all related to going out somewhere, going to dinner, some date, or some engagement, some such thing" (p. 198). Upon

one occasion Mrs. Grundy went out and told the witness that she had an engagement with a gentleman that she wanted to keep (p. 199). Mrs. Grundy told the witness about Charley, "he was very kind to her and that he loved her, he gave her those presents, and that he was going to Washington back and forth for week-ends or every week, he was connected in Washington, I don't know how" (p. 200). She knew a man named Clyde (p. 202); Mrs. Grundy told the witness that Clyde called her up continuously and invited her out to lunches and dinners; that one day he came to the house and she was frightened to death for fear that Mr. Grundy would see him (p. 202).

After the 15th of September (the Evans incident), Mrs. Grundy went to live with the witness (p. 206); during that time she came back to the house several times under the influence of liquor; one Sunday she left saying that she had to go into town; she did not return that night; the next morning she called up and said she could not find a place to go, she could not find any room, and would the witness not take her in.

Prior to Mrs. Grundy leaving, a man had called her up on the telephone; there had been a conversation between Mrs. Grundy and the man, who said over the telephone that he was her lawyer (p. 211). Mrs. Grundy threatened to shoot her husband (p. 212).

Mildred Kruger. That in September or October of 1919, Mrs. Grundy called her up and asked her to say that to anyone who called up inquiring for her that she had stayed at Mrs. Kruger's house the previous night; the fact is she had not so stayed (406). This occasion undoubtedly was the night after she left Mrs. Mulack's home after making an appointment with some man on the telephone.

Frank Thorling testified (p. 97) that he knew both Mr. and Mrs. Grundy; in the Fall of 1915, he met Mrs. Grundy at the Hotel Martinique in New York; Mrs. Grundy was there with another woman; Thorling was there with another man; Mrs. Grundy sent a waiter and asked Thorling to join them at her table, "after which", the witness says, "we had several drinks" (p. 99); "she asked me if I was willing to join an all night party" (p. 100), "I objected to so doing, and in answer she told me that it was fair for any man or woman to change pastures once in a while." There was no party, so far as Thorling was concerned; he would not participate, as he says "I told her I knew she was a married party, and I knew her husband, and I didn't believe I would care to join such a party. She answered that she had plenty of money and that I had better come along." Thorling did not tell Mr. Grundy (pp. 103, 104).

This was petitioner's case, and called upon defendant for an explanation. In considering that explanation the language of Vice Chancellor Backes, adopted by this court in *Slack v. Slack*, 89 N. J. Eq., 589, may be kept in mind.

> "To overcome or to neutralize the presumption of guilt, her explanations must be probable; they must have the ring of truth; they must be supported. I do not say supported by the testimony of others, but by the surrounding circumstances at least to lend probability. It is true as her counsel argued that we cannot conjecture, we cannot speculate as to crimes of this kind having been committed; all that we must have is proof, clear and convincing; but when we have that proof in the form of admitted circumstances of a decidedly incriminating nature, unsatisfactorily explained, we are not driven to either in arriving at a verdict."

Taking up the incidents in their order:

The Levine incident, that of August 24th, is explained by **Mrs. Grundy** in her testimony (p. 458) as follows:

> "The day before, Saturday, I had 'phoned for some beer to be delivered. I don't think I was home when the delivery was made. I 'phoned down Sunday morning to ask him about it, saying that we would need the beer, could they possibly send some down a few bottles; he said he would see what he could do, that perhaps he would bring some, they were going to New York. He came. The bell rang; I opened the door; Mr. Levine came in with a dozen bottles of beer, a package in either arm. I said, 'Step in', he went to the kitchen. I told him to put in on the table. I immediately started to put the beer away, when I heard the knock on the door; I said, 'Wait a minute until I finish putting the bottles in the tub where I always kept the bottles of beer, in the stationary tubs'. I said to Mr. Levine, 'Step to the dining room, I will get the money.' I went to the door, opened the door, and I said, **'What is the meaning of all this noise.'** Park came in, brushed by me, and walked right into the kitchen. * * * I came back and went to my bedroom to get my pocketbook to get the money for the man. I came back, went to the dining room **and saw no man.** I said to Park, 'Where is the beer man?' He said, 'This is a pretty thing.' thing. How dare you talk to me like that. I said, 'What do you mean, this is a pretty but he went right along, no further word was said, and I said nothing more."

She says she was dressed in a house dress. "Q. **Did you see what happened to Levine? A. No, I did not; he disappeared.**" She says the door was closed (p. 460), and that it had on it a chain lock. It was not unusual, says the witness (pp. 488, 489) for Park to come home at this hour (her counsel now seems to take a different view insinuating that Park returned on

this occasion expecting to find what he did find. There is not, I add here, a scrap of evidence to support this insinuation. It was a pure accident). When she heard Park at the door she was in the kitchen putting the beer in the tub, and Levine was standing in the kitchen by the ice box; the door leading to the dining room was six or seven feet away; she said to Levine, "Wait a minute and I will get you the money." She then heard Park at the door and she said to Levine, "Step into the dining room until I get you the money"; she then let Park in, going back to her bedroom to get the money; Park came in and walked right by without saying anything (pp. 488-489); she continued, however, into her bedroom, still intent upon getting the money; this took about two seconds; when she came out of her bedroom "I went into the kitchen through the dining room, I didn't see him (Levine) and I came to Park and I said, 'Where is the beer man?' He said, 'This is a nice thing.' I said, 'What do you mean is a nice thing. What do you mean by talking to me like that? How dare you?' and he went out. He made no reply." She had heard Park and Levine talking in the kitchen but made no attempt to find out what they were talking about (459).

Jacob Levine. Now, turning to the explanation of this visit of Levine's given by him, we find that he says (p. 770) that: "the day before, Mrs. Grundy had telephoned for half a case of beer; he sent his man up in the afternoon; there was no one home and the man brought it back; the next day, on Sunday, he and his wife were going to New York; he stopped in at the store to get some money from the safe, and while in the store the telephone rang and he answered the 'phone (772) (on cross examination he says the 'phone was ringing when he went in, 781), and Mrs. Grundy was at the other end; "she wanted

to know why she didn't get her beer"; he said he told her that the man said she wasn't in and he brought the beer back; she said, "Won't you please kindly, can you bring it up to me now, I need it very bad"; that the witness' wife was with him and she, the wife, said, "Now, bring it up, maybe she needs it for her husband", so they put it up in two packages, six bottles in each package, and carried it down; when they came to the house he took the package from his wife and went upstairs; this was about half past eleven; "Mrs. Grundy opened the door and she says, 'Step in the kitchen, please, and I stepped in the hall. I didn't know where the kitchen was, so of course I got in the hall, and looked where the kitchen was, and I found the kitchen"; that he held the packages until she relieved him of them; "she opened the wash tub and took one package out and put it in," * * * "paper and all, and while she was doing that someone was pounding on the door" when she finished she asked the witness to step into the dining room, and the pounding continued, and she went out to get the money (pp. 771, 2, 3); **"I went to look for the dining room and I see a door there, I think that was it, and I find a closet there, and I stay there"** (773). "Q. You stood there behind the door? A. Behind the door; I got frightened. Q. What were you frightened about? A. Why, it seems kind of a funny thing, while I was in there that the pounding was there, and I couldn't imagine, **it looked like a frameup to keep me in here with this woman.**" Then, "some young man came and walked up, pulled the door, and asked me, he says, 'This demands an explanation,' I says, 'There is no explanation', and I walked out." "I went downstairs, my wife saw me, and she says, 'What is the matter, you look all excited', I says, 'A young man came in there asked me what I was doing there, **I thought it looked like a frameup to**

catch me with this woman, I am going to get a policeman and have this pair arrested'; she says, 'Don't bother, let us go to New York, don't get in a mixup here, don't get mixed up with the police; let us go to New York' ", and they went to New York (773-774).

The witness had never been to Mrs. Grundy's apartment before, except once, when he had a dispute about a bill, on which occasion, however, he stood in the hall (p. 774). The witness said (p. 776) on cross-examination, that there was nothing suspicious in anything that he had done, that he was on an innocent errand and his wife was downstairs waiting for him; that there was no basis for a frameup, but that he was so frightened, however, that he made the mistake of going into the closet instead of going into the dining room (p. 776); he says he does not keep any books (p. 778), but he thought he put the order that he received on Saturday on a slip (p. 781); **that this slip was in existence on the first of September (p. 782), showing the fact that she had ordered the beer on Saturday; that he destroyed it because he did not think he needed it.** Thus, notwithstanding the fact that he was so frightened that he went into the closet instead of the dining room, and that he thought he was the victim of a frameup (pp. 783, 788). And see the question and answer on page 788, as follows:

> "Q. You were there for the purpose of delivering beer; you had your order slip; your wife was downstairs waiting for you, the beer which you had just delivered was in wrapped packages in the tub, and yet, when he asked you for an explanation, instead of showing him, as you could have, you walked out and said 'There is no explanation'; is that right? A. Well, I was frightened; I only had one thought in my mind,

to get out, that is all; I just wanted to get out; I was too frightened for anything, I wanted to get away."

Park Grundy testifies that he looked for liquor and found none (pp. 1139, 149), and right here let me draw the Court's attention to the unfair insinuation made by counsel that Park had not testified when first called to the stand that he had looked for liquor. The witness was right and counsel was wrong when the witness said he had so testified (pp. 1138-1149). This is important because of the statement made by counsel, with nothing to support it, that Park had been posted (p. 43 of the brief).

At page 780 Levine says he was only at the store this Sunday morning ten or fifteen minutes; he stopped there for the purpose of getting some money and he was in a hurry; the telephone bell was ringing when he first went into the store (p. 781). Then he was asked, "Q. Did you get your money for the beer that day? A. No, I didn't wait for it. Q. Why not? A. Because I was in a hurry to get out" (p. 781). It is submitted that this testimony does not ring true.

Sarah Levine, the wife of Levine, was called to corroborate him (p. 796). Her story is as follows:

> "On Sunday, it was about half past eleven, my husband and me were getting ready to go to New York, and we got outside of the door and he says, 'Come let us go down to the store, I have to get some money from the safe.' Anyway, we had to go that way to get the train, and when we go in the store the 'phone was ringing, and he answered; I said 'Who is that?' He said, 'A customer; Mrs. Grundy; she says she didn't get her beer yesterday because she wasn't home and the driver brought it back,' and he says, 'No, I can't deliver it,' and I says, 'Oh, yes, you

had better, Jacob, probably her husband wants it when he comes home' (It is not explained how Mrs. Levine knew the husband was not home). And he says, 'Well, I will deliver it to you on the way down.' I says to him, we will walk, because there was no car coming, and we walked down, and I stood at the corner while he went up with the beer; I says to him it is late. it is so warm, you had better hurry up and we might get the Belt Line or the Jackson Avenue car right down to the tube; he wasn't up there five minutes and he came down so excited looking, and I says to him, 'What is the matter, you look so excited?' and he says, 'Oh, dear,' he says, 'I don't know what happened,' he says, 'I went in with the beer, I was standing waiting while Mrs. Grundy lifted the covers up to take the beer from me, and there was such a pounding at the door'; and I says, 'Well, who was it?' he says, 'I don't know.' He says, 'Mrs. Grundy told me to step in the dining room until she gets the money, I don't know where the dining room is, **I see a door and I open it and I walked behind there,' he says, 'and it was a closet or something, and I stood there,'** and he says, 'While I was there he came to the door,' and he says, 'Somebody came in, I don't know who,' he says, 'I went out and they asked me for an explanation, and I says there wasn't any necessary and I walked right out,' and he says, 'You know it looks just like a frameup, I ought to go and have them all arrested.' I says, 'No, Jake, don't bother,' I says, 'the devil with them all, come on now, **we want to get our supper,'** I says, 'You know we have a grown family, and people will be talking, you may get into a mix-up in the papers or something; come, let us go,' and we went right to New York after that" (pp. 797, 798).

She denies that she knew that there was any trouble about the matter until two months before the trial was opened on May 3d (p. 800); she thinks it must have been in March. See her

testimony (p. 801): "Well, he says to me it looked very funny to him, he happened to come in this woman's house and he heard this pounding at the door like that, and he didn't know what to do, he says he was so nervous and so frightened, and he says to me, 'Perhaps if I wasn't a nervous man I would have stood right there.'"

The testimony of Jacob Levine and his wife shows important discrepancies. He swears (p. 774) that he had been to the Grundy house before and had a dispute with respect to a bill. His wife says that he said to her when he came down (802): "He was at the house with this woman alone, **a strange married woman, he says, that he never saw before, and never was inside her house before.**"

Mr. Levine says (p. 795) that he did not know how Mrs. Grundy was dressed; he knows that she had clothes on. "I know she was clothed, that is all I could say." "Q. Did she wear a kimona or night gown? A. I don't know anything about what she wore; she had clothes on; I never did particularly notice what she wore." Mrs. Levine says (p. 804) that when he came down he said to her "I suppose she needed the beer for dinner, because she was dressed ready for dinner."

Mrs. Levine first says that on Levine's story she thought it looked serious, but when she found where that was leading her to, i. e., that it was inconsistent with her pretended failure to ascertain what had come of it, she changed her testimony (p. 802).

Levine, after repeatedly denying that he could hear noises in the hall, and after denying that he heard Mrs. Grundy talking, finally admitted that he did hear talking in the hall before the door was opened, and afterwards heard Mrs. Grundy talking.

Park Grundy (p. 1137, l. 30). He saw no woman in front of apartment or on corner when he entered.

It is submitted that these stories of Mrs. Grundy, Mr. Levine and Mrs Levine do not ring true, and do not explain the admitted facts: First, the man in the closet. Second, the door locked and caught with the chain, so that it could not be opened with the key.

If the Master believed, as he might, Park and Mrs. Hansen, that Park was fifteen minutes or more knocking on this door, and that the door did not open until Mrs. Hansen suggested that Park should go through the window and on to the fire escape and so enter, and that Mrs. Levine was not outside of the apartment, and the testimony of Mrs. Hansen that Mr. Levine had been there several times before and had stayed periods in excess of twenty minutes in the house, there is no escape from the conclusion of guilt.

In considering this testimony, these matters are to be considered:

First, the strange coincidence of the telephone bell ringing as Mr. and Mrs. Levine were entering the store.

Second, the fact that Levine should go to the safe before answering the telephone (p. 798, l. 30).

Third, the fact that they would interrupt a holiday trip to New York to deliver a dozen bottles of beer.

Fourth, Mrs. Levine refutes her own statement that she was present, when she says she told her husband not to have them arrested, but to come on and get our *supper*. It was twelve o'clock noon.

Fifth, why did they destroy the order slip?

Sixth, if Levine's errand was an innocent one, why did he become frightened? Why did he not give an explanation when demanded, and

when he was in a position to do so by showing the beer, the order slip, and calling his wife into the apartment?

Seventh, their denial of knowledge that he was named as co-respondent until March 1st, 1920, quite inconsistent with the fact that Mrs. Grundy saw them frequently after the petition for divorce was filed, and if innocent, she would certainly have informed Levine, at least.

Eighth, Mrs. Grundy states (pp. 439-440) that tradesmen very rarely came to the door; they always used the dumb waiter.

Ninth, Mrs. Grundy stated (p. 484) that she knew of no reason why her son should swear falsely against her.

In considering the case with respect to the Levine incident, the following questions are pertinent:

1. If he (Levine), being a strange man, as she said, came there for the purpose of delivering goods, why did she invite him into her apartment instead of taking the goods at the door?

2. Why did she lock him in the apartment by the chain on the door after he entered?

3. Why should she continue to put the beer away in the tubs and keep him waiting there, instead of paying him at the door and letting him go; as he was on his way to New York? She could have put in the beer afterwards.

4. Why should she have told him to step into the dining room after she heard the knocking?

5. What objection was there to his remaining in the kitchen?

6. She knew that Park was peeved, or angry, because of the situation. Why did she not make an explanation to him?

7. If Levine was such a stranger that he mistook the kitchen closet door for the dining

room door, how was he able to get out of the apartment so quickly after being discovered, without having been seen by Mrs. Grundy?

8. Having denied that she said anything to Park when he entered, she not only contradicts herself, but impliedly admits that the bell had been ringing for some time and that the knocking had been going on for some time, when she said to Park, "What is the meaning of all this noise?"

9. Proof of the fact that she did not say to Park, as she testified, "Where is the beer man?" is established by the fact that when she discovered the beer man was gone she made no inquiries of Park as to how he got out, or as to where Park found him.

10. Knowing that Park was angry and suspicious, after having raised the rumpus that she spoke of, would she not have explained to her son why she had put the chain on the door, with the strange man in the apartment; and why she had kept him, Park, waiting at the door for a considerable length of time?

I will deal with the implied confession made by Mrs. Grundy, in her explanation of, or her failure to explain, this incident to her husband, and to Mr. Mark Townsend, his counsel, both of whom testified with respect thereto, at the same time that I take up her explanation with respect to the Evans incident. I say here merely that her statements to her husband and to his counsel were inconsistent with innocence. At first she denied absolutely that any man was in the apartment (p. 989). She changed this and finally admitted that there had been a man in the house, but said it was the liquor man, and that she did not know his name (p. 991).

If the explanation given by defendant of the so-called Levine incident is impossible of belief, her explanation, and that of the witnesses called in support of it, as to the Evans incident of September 15, 1920, is, if possible, still more incapable of belief.

With respect to this Evans incident she says:

That Evans came to the house (p. 464); "He asked me if Miss Halverson was there"; I said, "no, she hadn't arrived as yet, and he said she had told him I thought of moving, wanted him to bring up some barrels for me, to assist me," I said, "Yes, that is what I told Gertrude," so he said, well, he would wait a few minutes because most likely Gertrude would come in in a minute. (According to Evans' testimony, at the time of the telephone message the night before, Miss Halverson was at Mrs. Grundy's house, (p. 328). "I was busy and he said he would sit down in the living room a while and wait, so he did; I went on and did the work I was doing in the dining room, taking my plates down, wrapping up my linen in papers, taking all of it out of the buffet drawers, etc.; then about 11 or 11:30 he said, 'It is getting onto lunch time, if you want me to get the barrels I guess I had better do it.' I said, 'All right,' I gave him the key, and I said, 'Be sure to return that key to me' and he went down and brought one barrel up; I was still in the dining room; he went down for another; in the meantime I went—I had had a severe headache in the morning, I had my head tied up—and I went in the bath room and bathed my head off; I was very tired, I went in and sat at the foot of my bed to rest, with a pillow over the footboard. * * * I put a pillow over the foot of my bed, I sat at the foot of the bed with my head over the pillow. * * * Mr. Evans brought the barrel up, put it in the dining room, I heard him say, 'Mrs.

Grundy,' I said, 'Yes.' He said, 'Where is my coat?' I said, 'It is here on the rack.' He came in and got his coat and he said, 'Here are your keys.' He laid them on the chiffonier, the chiffonier that is near the door; just then the door opened. * * * Mr. Evans said, 'Hello, Park,' and Park said, 'Hello, Jack.' Park seen me and he backed away, it didn't seem he was there two minutes and he went out again; there was no conversation." She says (p. 466) that she took Evans' coat, which he had left on the kitchen table when he went down to the cellar, and put it on the rack in her bedroom. Why she did that she does not explain, nor does Evans.

She says (p. 495) that there were three occasions when Evans was at her house when Miss Halverson was not there. One incident was in May or April, of 1919, when Park came in. "Q. How did that occur; you haven't told us about that yet? A. He stopped in with some message; I don't remember now, at the time, but there was some message, when Park came in, and I went to Park's room and asked him to come and meet a friend of Miss Halverson's, and he did, they sat and chatted quite some time; when he left—Mr. Evans left—Park said, 'Where did Miss Halverson ever meet that nice young man?' I said, 'I don't know.' He said, 'He is a very nice young chap, isn't he?' I said 'Yes, he seems to be.' They talked about athletic sports, school and the colleges." It was early in the afternoon; "I said he came with a message of some sort from Miss Halverson, because he used to pass my door and he stopped up sometimes to bring messages from her to me, Miss Halverson would have him deliver them."

There was another occasion, in the Summer of 1919 (p. 498), in July or August, after Mr. Grundy had come back from Europe that Evans happened to be at the Grundy house, on which

occasion Mr. Grundy saw him. Mrs. Grundy testified respecting this occasion: "I don't remember that occasion; he may have said Gertrude was coming up that night, or he may not; I couldn't remember what it was; I thought nothing of it" (p. 499).

He says that each time Evans happened to be at the house alone, without Miss Halverson, either Park or Mr. Grundy happened to come in (pp. 499, 500).

The witness' attention is then drawn to the testimony of Evans, which had previously been given, to the effect that at the time Park found him at Mrs. Grundy's house he had come there with Miss Halverson, Miss Halverson and himself having started out for a walk, and that when they got to Mrs. Grundy's house, Mrs. Grundy sent Miss Halverson out for an errand, from which she never returned; that Evans waited for her, expecting her back every minute; that while he waited, Park came in; that he waited a little while longer and then left, and she is asked whether she does not recollect an occasion of that kind, and she says (p. 500): "Q. Is it a fact that at Easter time, 1919, Mr. Evans came to the house with Miss Halverson, then Miss Halverson left the house, being sent on some errand by you, and that then Park Grundy came in and found Mr. Evans there? A. I think so." She then says she is positive of it. She then says (p. 501): "Q. Why are you positive of it now? A. Because I know that Miss Halverson and Mr. Evans did stop in and for some reason she went home, she was to return and she did later, and Mr. Evans did not wait until she returned." See her examination on pages 501, 502, 503.

On her cross examination (p. 671, l. 1) she says that on September 15th, after Evans brought the second barrel up and before Park came in,

Evans began packing the china. "Mr. Evans attempted to pack them with my assistance, when he put a few plates in, then I decided that we were not equal to that, because the china was very expensive and good, I thought perhaps we had better have a packer, I was afraid to take a chance on packing it without having the excelsior and papers and having it done in the way it should be." See examination on pages 672 and 673. He was at it about 15 or 20 minutes; she was in her bedroom (p. 671); she finally told him to stop, having come out of the bedroom and looked to see what he was doing (pp. 673, 674). On page 674 she says, "He said he knew all about packing; I said, no, I prefer for you not to proceed, I think I had better have a regular packer to pack this china, it is very fine china, it has to be packed carefully." She then went back to her room and sat by the foot of the bed (p. 674). "Q. Then what did he do? A. Then he came to the kitchen, I presume, he called for his coat, he said, 'Where is my coat?' I said, 'It is here on the rack,' the only rack we have in the house." Then Park left.

There was no discussion after Park left with respect to the packing; there was no discussion with Evans as to what had happened; he simply put his coat on and asked if there was anything else he could do; she said not then and Evans said he would go home to his lunch (p. 675, l. 3).

She denied that after September 15th she saw Evans, except perhaps on the street upon one occasion (p. 676).

Evans' story of the incident (p. 253). In answer to the question that he tell how he came to go to Mrs. Grundy's apartment, he said: "The evening previous to that Miss Gertrude Halverson called me on the 'phone—she had my 'phone number—and asked me if I would come up to Mrs. Grundy's home the following morning

to assist her in moving, and I said I would; and I understood her to say that she would be up there—early in the morning—which I supposed would be eight or nine o'clock at the latest, so I went at ten, and I found that Gertie wasn't there"; he got there about ten o'clock; Mrs. Grundy opened the door, she was dressed in a house dress; she had sort of a cloth around her head; the first question he asked her was whether Gertie had arrived; Mrs. Grundy told him no. "So she asked me to have a seat, so I went in the parlor and sat down there" (p. 265); he stayed there reading a magazine for what he says, he should say was an hour and a quarter (p. 254), "Then it got rather late and I suggested going down to the wood shed as she requested to bring up the empty wooden barrels. Q. What were you doing there that hour or so? A. Waiting for Gertrude to arrive. Q. Did she arrive? A. No, she did not" he asked Mrs. Grundy for the key to the wood bin, she gave it to him, he went down to the wood bin, unlocked the door, found the barrels, and carried them out. Previous to going to the cellar he removed his coat and laid it on the kitchen table (p. 255); he brought the barrels up and put them in the dining room (p. 256). "Then I made the second visit and came up with the second barrel; Mrs. Grundy was lying on her bed the second time I walked in; I walked right by and put it in the dining room and came back and walked into Mrs. Grundy's room and asked her where my coat was; she says 'On the rack,' pointing to the rack which was in her bedroom. Q. The rack was where? A. In her bedroom; so I asked her where would I leave the key; she told me to leave it on the chiffonier, which I did, which was to my left, and I asked her—I told her I had a few minutes to spare

and I would gladly assist her in packing the china; she was explaining to me how it should be done, **and I told her that I didn't feel as though I was able to do it, never having done it before; so that was the extent of the conversation; in the meantime Park—''**

Observe here that Evans' story is that no packing was done by him, while Mrs. Grundy's story is to the contrary.

Evans says that they were talking about packing the china when Park came in, and that he told Mrs. Grundy that he did not feel competent to do it. Mrs. Grundy says that he was packing in the dining room while she was in the bed room; she came out and interrupted his packing and told him that he was not doing it properly, and he said that he knew all about packing; she then went back into the bed room, and it was then that he came into the bedroom after his coat, and Park came in.

Evans' story is that Mrs. Grundy was lying on her bed at the foot, facing out to the window; that he was standing two feet from the door, "right almost that I could put my hands on the chiffonier"; that he then heard the door knob turn (p. 258) and he stood right where he was, and he thought it might have been Miss Halverson (p. 259); Park came in and he said "Hello," and he turned around and went away.

And on page 259 he said: "I stood there waiting so that if he came back to demand an explanation I was ready to give him an explanation." And on page 260: "Well, I was in his own mother's room and I thought he might certainly ask why I was there; that is the reason why I was ready to give him an explanation, which was proper and right."

He says that the shades were drawn seven inches from the bottom (p. 261). Park says that the shades were down.

Referring to the condition of the bed, Evans says (p. 261): "Well, directly behind her it was the least little bit mussed up, which stands to reason, because she was lying there, I suppose." He says that after Park left, he left a few minutes later, and that Miss Halverson had not then arrived.

This was on **September 15th**, and Evans enlisted in the Army **on October 6th** (p. 265). The enlistment followed rather quickly upon his being caught and note that the enlistment is for a very limited period and was "merely for the experience" (p. 265).

He closed the door when he brought the second barrel in (p. 265).

He denies that he knew suit was started at the time he enlisted (p. 267). That he did not know it until March, 1920, and then only when Mrs. Grundy wrote him (p. 268).

In answer to the question on page 270 he says: "Q. You never thought there was a possibility of your being named as co-respondent? A. Yes, I will admit there might be a possibility. Q. Why might there be a possibility? A. Because I was in Mrs. Grundy's home at the time when Park walked in, and, as I previously stated, Gertrude was not there at the time. Q. Why did you think that that would lead to a possibility of your being named as co-respondent? A. **Well, I don't think it looked right to see me in Mrs. Grundy's home unaccompanied, as I was only a friend of a friend of Mrs. Grundy's.**"

He is cross examined then as to why it was that he didn't tell Park or Mr. Grundy, and as to whether he had any conversation with Mrs. Grundy about it. Following his denial of any such explanation or conversation he is asked this question: "Q. Nevertheless, knowing the situation that you were in, knowing that it called for

an explanation, and knowing what Park thought about that, and realizing that Park would take it back to his father, you never said anything to Mrs. Grundy with respect to what had happened, did you? A. No, sir" (p. 275).

He says that Miss Halverson had called him up the night before, between eight and nine o'clock, "She asked me was I busy the following day and I said no, I wasn't; I said, why; she said, Mrs. Grundy intends to move; would you mind assisting her and myself; and I consented, saying yes, I would (pp. 280, 281)." * * * "Q. What else did she (Mrs. Grundy) say? (The time referred to being after Evans had called at the house on Sept. 15th, and had asked for Gertrude Halverson and had been told that she was not). A. I said, I understand you have a little job for me to do. Q. Yes. A. She said, Yes, I have a couple of barrels in the wood bin and I would appreciate it if you would bring them upstairs. Q. Yes. A. And I said I surely would; so I said I would go in the parlor and wait a few minutes and probably in that time Gertrude would arrive, because I would rather have her come down and show me where they were. I sat in the parlor reading some magazines, I don't recall which one, Mrs. Grundy was in the dining room gathering china ware and taking pictures from the wall; I sat there for quite some time until I thought it was growing late and getting near lunch hour, and I then suggested that I get started so that I would be home in time for lunch, which I did, so I got home in time for lunch. Q. During the time that you were there, from ten o'clock in the morning, until twelve o'clock, what conversation took place between you and Mrs. Grundy? A. That was all; then she was fixing china ware and I was in the parlor reading" (p. 281). He says the only thing he went there that day for was to bring these barrels up (pp. 284, 285). "Q. So that when that

woman told you that she had a job for you to do, to wit, to get the barrels from downstairs, the very purpose for which you came there, you said, 'Well, I guess I will wait until Gertrude comes'; is that night? A. I said I would wait, yes, sir; that is what I said" ((p. 285).

He was examined on pages 282, 283, as to how it was that he let this woman work, without moving a finger, to do the thing that he had expressly come to do.

He is cross examined on the incident (pp. 356, 357) and he says that when he came up with the second barrel, Mrs. Grundy had disappeared from his sight; he did not in fact know what part of the house she was in; he called Mrs. Grundy (p. 358); she answered, and he then said, "Where is my coat?" She said, "In here on the rack; come in and get it." "Q. Where was the rack? A. The rack was right next to the chiffonier, more to the window, on the far side, the left hand side" (p. 359); she was standing about two steps from the foot of the bed (p. 362); he then said, "I said, well, I asked her if she had all her chinaware gathered, and if she didn't want to start on a little bit of packing; she explained to me how it was done and I finally said that I would not be capable of doing it, for I didn't know how to pack. Q. What did she explain? A. She told me how it is packed with excelsior on top". He says he was sincerely desirous of helping with the packing (p. 364). See examination on page 365. There was no reason, so far as he knew, for removing his coat from the place where he put it, and hanging it on the rack (p. 370). He thought when he heard the click of the door that it was Miss Halverson (p. 375); he did not expect Park (p. 377).

On re-direct examination (p. 389): "Q. On September 15th, when did it occur to you, at what

particular time did it occur to you that it was an embarrassing position to be alone with Mrs. Grundy? A. Not alone when Park walked in, but at all times."

He says he did not go to the Grundy house after September 15th (p. 391).

In answer to the Court's question (p. 396) he says: Q. **Mr. Evans, on this occasion on September 15th, did you or did you not know that you were locked in alone with Mrs. Grundy?** A. **I did know I was locked in; yes, sir.''**

Compare this final admission with the testimony which he gave on page 376. There he equivocated with respect to whether he knew the door was locked or not.

He says that Park first saw him at Mrs. Grundy's house at the Easter vacation, 1919; and with respect to this visit he says (p. 249): "The time I was introduced to Park Grundy, Gertrude was not present; **I accompanied Gertrude to Mrs. Grundy's home in the forenoon, but in the meantime Mrs. Grundy had sent Gertie to the store, and Park walked in, and Mrs. Grundy introduced me to Park.''** He left before Gertrude returned and he does not know whether she came back or not. (Mrs. Grundy says she came back, Miss Halverson says she did not). He says he just accidentally met Miss Halverson in the street and they went to Mrs. Grundy's house. They got to Mrs. Grundy's house about eleven o'clock. He sat down in the reading room; Gertrude stayed there for a while, then Mrs. Grundy asked Gertrude to go to the store. * * * "What she wanted I don't know; I overheard her ask her if she would go to the store and she said she would; she said, 'Will you wait?' and I said, 'Yes, I will wait; don't be long'. It was getting near lunch hour and I went out * * *" (pp. 294, 295, 296). Then Park walked in, Mrs. Grundy intro-

duced him, and they conversed for about 15 or 20 minutes; then "I asked Mrs. Grundy where she sent Miss Halverson and she told me she sent her down the avenue. My reason for asking was because she was so long, so I decided to go home. I lived only a short distance from Mrs. Grundy's home; it took me a few minutes; I decided to go home, I shook hands with Park Grundy, was pleased to make acquaintance with him, and went home." He made no inquiry as to where she was going at the time Miss Halverson was sent out; he did not expect her to be gone more than about 15 minutes (p. 297). It was nice walking weather; there was nothing to prevent him from accompanying Miss Halverson. The reason why he did not was (p. 298), "Well, when she was leaving she said, 'Jack, you can wait until I return.' So I says, 'All right, I will wait; you won't be long,' so I thought I would wait."

He says that these were the only two occasions that he was alone with Mrs. Grundy. On each occasion Park caught him. Mrs. Grundy relates an occasion when Mr. Grundy caught him. He says he saw Gertrude the following evening and asked her why she did not return, and she told him that she went home. Whether she went back in the afternoon or not he does not know.

Then (p. 304) he was asked: "Q. Don't you think it also funny, or extraordinary, that after she had started out on a walk with you, and after she had left you at this Mrs. Grundy's house with a promise that she would be back in a few moments, having been sent for an errand, that she did not come back? From your standpoint wasn't it extraordinary? A .Yes, when you stop to consider that you are going out for a walk, yes" (p. 306). "Q. Did Mrs.

Grundy, while you were there, and before you left, say, 'I wonder where Miss Halverson is with that errand I sent her on? A. While I was about to leave she said, 'It will take her a long time,' or something to that effect" (p. 306). He says he does not know to this day why it was that Miss Halverson, instead of coming back from the errand, went home (p. 308).

He says he met Miss Halverson the night after September 15th and said, "I waited an hour for you in the morning." Then: "Q. Yes. A. She said, oh, she was busy, so that was sufficient, I thought" (p. 309). See his testimony (pp. 310, 311) with respect to his communication with Miss Halverson afterwards. "Q. You simply contented yourself with her answer to you that she was too busy? A. I contented myself with that answer."

He tells how Miss Halverson, when telephoning, had to get a *cafe* on the telephone and have a man sent out to find him (p. 315). This cafe is where he "hangs out". And see his testimony, page 319: "Q. Now, upon this second occasion in September of last year, did you tell Miss Halverson that this was the second time she had gotten you into a pickle? A. No, I didn't consider it a pickle. Q. Well, did you consider that it was the second time that she had gotten you in a situation which required an explanation? A. Well, that is rather difficult to remember, an assertion made six or seven months ago, or six or eight months ago. Q. Now, Mr. Evans, just think for a minute. You had been found under circumstances which indicated to your mind that an explanation was required; you had seen the son of the house go through the house and leave in a condition of mind you called a bit peeved, or angry? A. Angry, or peeved. Q. Refusing to ask for an explanation, you considered that the story in all probability

would be carried to Mr. Grundy; you assumed that under the circumstances there would be trouble, the whole thing occurred from your standpoint because Miss Halverson had not kept an appointment which she herself had made with you the night before; and you had been placed in that position because of that? A. Yes, sir. Q. And the only thing that you said to Miss Halverson when you met her the next day was, 'Why didn't you come?' and she said, 'I was busy,' and that is all you said; is that true? A. Why, I said, 'You made an appointment for early in the morning, I thought you would be there when I went there,' and I told her 'I waited for an hour for you but you did not return,' then I told her I went down to get the barrels as requested and brought them up, and that was the extent of my story."

He says he saw Miss Halverson the night before he testified (p. 321); he says he realized that that telephone message was important (p. 322); that it was quite important that she should have some good excuse for not appearing at the Grundy house on September 15th; and then (p. 323): "Q. Yet after all this conversation, with all the facts in your mind, the only excuse that you could offer here was she could not be there because she was too busy, or words to that effect; is that right? A. That is right. Q. Did you ask her last night what the business was? A. I did not; no, sir. Q. Why not? A. Well, I just didn't ask her. Q. You realize its importance, didn't you? A. Yes, I do realize it." He says he realizes (p. 324) that it would be of the utmost importance if somebody could be found who would corroborate the fact that there was something which detained Miss Halverson that morning. When he testified, he did not know what the reason was (p. 327).

On page 329 Evans again denies that he saw Mrs. Grundy at her home after the 15th of September; and particularly in view of what follows immediately (p. 329). "Q. Did you see her any place where you could talk to her? A. Where I could talk to her? Q. Yes. A. No, sir; not since September 15th. Q. Why not? A. Why not? Q. Yes; why not? A. **Well, I was never asked to assist any further in helping her move or anything like that, so surely I wasn't going to ask that I be permitted to help her, so I let it go at that.**". On page 339 he was asked: "Q. Now, I am asking you this question: When she (Miss Halverson) was talking to you on that night of the 17th, within 48 hours after this thing happened, as you testified in your examination a few moments ago, she was up in the air, she was telling about it, telling what Park had said and what Mr. Grundy had said, I ask you now why it was at that time, **when the thing was fresh in your mind, you didn't ask her why in the world it was that she wasn't there as she agreed to be?** A. **No more than I already stated.** Q. Why didn't you put the blame on her right there? A. That was the answer she gave me; that was all I said."

He denies, in answer to questions by the Court (p. 340) that he was at Mrs. Grundy's house alone except on two occasions. Mrs. Grundy's testimony does not agree with this.

Evans says that he first met Mrs. Grundy about February, 1919; he went to the house two or three times a week until the Easter vacation; he was at Mrs. Grundy's house only once during the Easter vacation, and that was the time Park found him there; after the Easter vacation he resumed going there two or three times a week until Mr. Grundy returned from Europe in June; after Mr. Grundy returned from Europe in June

Evans was only at the house on one or two occasions; once when he was introduced to Mr. Grundy, and this day, September 15th, when he was caught by Park.

He was asked this question (p. 353): "Q. **You don't; you don't think it is remarkable that for a period beginning in February and extending down until September you managed to visit the house of Mrs. Grundy two or three times a week, down to the Easter vacation, not at all during the Easter vacation; then two or three times a week down to July; then more seldom in July and August; and during all that space of time you never met Mr. Grundy but once, and you came in contact with Park but the number of times that you testified to on the stand here?** A. **Yes, sir.** Q. There is nothing remarkable about that in your mind? A. No, sir; there is not" (p. 352): "Q. **Now, can you give me any reasonable explanation of the coincidence of your cessation of visits with Park's coming home during the Easter vacation, and your cessation of the numerous visits during July and August, coinciding with Mr. Grundy's coming home from Europe? Could you give me an explanation?** A. **In the summer time we had warm nights and we preferred to take a walk, which we did.** Q. We got the explanation that it was Summer time and it was warm nights. (Last question repeated). A. **During the Easter vacation Gertie, as I remember, hadn't extended any invitations and I wasn't the one to suggest it.** Q. **Well now can you give me any reasonable explanation as to why Gertrude did not invite you during this period of ten days?** A. **That I cannot answer.**"

Counsel for appellant says (p. 23 of his brief): "Evans fared badly on cross-examination, especially as to why he was alone with Mrs. Grundy

in the apartment on the other occasions when Mr. Grundy and his son had returned there, and the result of his testimony is that his acquaintance with Mrs. Grundy is surrounded with suspicion * * *." It seems to me that it is surrounded by more than mere suspicion. The explanations given do not explain; the statements of Mrs. Grundy and Evans with respect to what took place on September 15th do not jibe; their statements as to what took place at the other time that Evans admits he was alone with her do not jibe; their statements with respect to the number of times they have been alone in the house together do not jibe.

The circumstances which they admit, irrespective now of anything which Park said, are not explained by the story which they tell with respect to what occurred. Their conduct after being caught is not consistent with innocence.

In one particular they both agree; they did not see each other after the 15th of September, at Mrs. Grundy's house; they are both certain with respect to this.

It is quite apparent from a consideration of the stories of Mrs. Grundy and Evans, with respect to this Evans episode of September 15th, that Miss Gertrude Halverson is an important witness. Evans' testimony is that the night before he went on the stand he discussed the case with Miss Halverson (pp. 324, 325), and Miss Halverson was with him during the time that she was in court and the case was proceeding; she heard Evans testify, and she had been in conference with Mrs. Grundy's counsel on at least three occasions (p. 737). She is called at page 727.

Far from supporting Evans and Mrs. Grundy, her testimony indicates quite clearly that their tales are manufactured. She is asked whether

she remembers an occasion when she left the house of Mrs. Grundy and left Evans alone with Mrs. Grundy, and she says that she has a "faint recollection." She was asked (p. 728): "Q. What happened after you went to the store upon that occasion? A. Why, I **might** have gone right home. Q. Can you assign any reason why you went home upon that occasion? A. Well, I **guess** I wasn't feeling well and I went right home or something." And then (p. 728): 'Q. Do you recall whether on the day or evening of September 14th, 1919, you had occasion to get in touch with Mr. Evans with regard to his going to Mrs. Grundy's house? A. **I have a faint recollection of it, yes.** Q. Do you recall what was the purpose of his going to the house during that month, or at that time when you have your recollection as you say? A. It might have been in to help Mrs. Grundy pack or do something like that, because she didn't have anybody to help her." She was at the Grundy house on the afternoon of September 15th (p. 729). She was told that evening about what had happened a few hours before, at a time when Mr. Grundy, Mrs. Grundy and Mr. Townsend were present. The story that was told her at that time startled her (p. 730). She next saw Evans a couple of days after the incident and she asked him if it was true that he was found in Mrs. Grundy's bedroom with what Mr. Grundy said, and he said, "Do you believe it?" and she said no. She didn't press him for an answer and nothing further was said as to details (p. 732). "Q. Did he say to you, 'It is a nice thing for you to telephone me and then not show up' or words to that effect? A. He may have; I don't just quite remember; he might have said it." She has no recollection of anything being said. And (p. 732): "Q. You have no recollection of having telephoned the night before the 15th, have you? A. Well, if I didn't

telephone him I must have met him in the street and asked him to do it. Q. You didn't telephone? A. I don't really remember; I might have telephoned. Q. What is that? A. I might have telephoned. Q. Have you any recollection of it? A. It might be possible, I say. Q. I know, all things are possible, Miss Halverson, but have you any recollection of it at this time? A. I think I asked him; I don't think I telephoned. Q. You asked him? A. I think I met him on the street. * * * Q. Now, have you any distinct recollection of that? A. No. Q. Do you recollect what you asked him? A. Well, I may have asked him to come up and get the barrels out of the cellar for Mrs. Grundy; I just don't remember that."

She says she did not go there in the morning (p. 734). She said, "I guess I overslept, that is all." She had been told the very evening of September 15th that Evans had been caught in Mrs. Grundy's bedroom (p. 736). "Q. Did you tell Mr. Grundy at that time, when he told you this story did you tell him that you had made an appointment for Evans to be there that morning? A. No, I didn't. Q. You didn't say a word about that, did you? A. No, I didn't say a word. * * * Q. You didn't say, 'Why, Mr. Grundy, I made the appointment for him to be here,' did you? A. No, I didn't say that. Q. Or anything that sounded like that? A. No" (p. 737). She had discussed the matter with counsel for Mrs. Grundy (p. 737). Miss Halverson was at the house on the afternoon of September 15th, also in the evening (p. 740). "Q. You did not, as a matter of fact, see any barrels in the apartment, did you? A. No, I did not. Q. Did Mr. Evans tell you then two or three days afterwards that you saw him, that he had brought up the barrels? A. Yes, I think he did

tell me that day. Q. Do you recollect it? A. Pretty well, yes."

Then comes the testimony which clearly indicates that the story told by Evans and Mrs. Grundy, with respect to what occurred on September 15th, at the time he was at the house, was a capitalization of what did occur, in part, on September 17th or 18th, or a few days after the 15th.

Evans and Mrs. Grundy had sworn definitely that Evans was never at the house after the 15th. Miss Halverson was asked the question (p. 741): "Q. Now, do you know whether after the 15th Mr. Evans was at the Grundy house? A. No, I don't think so. Q. Do you know whether he was or whether he was not? A. He might have been; I don't know. Q. Why do you say he might have been? A. I don't just remember." Because of this use of the expression "He might have been," counsel was tempted to press her, and she said (p. 742) that he might have taken some trunks up from the cellar. "Q. What makes you think it might have been him (Evans)? A. I don't know. Q. What? A. I think he was up one other time. Q. After the 15th? A. One morning, I think it was, yes. Q. After the 15th; what did he do on that occasion? A. He was going to pack the china, I think he was going to start to pack up. Q. How did he come to go there that day? A. **I think I asked him to go.** Q. That was after the 15th, wasn't it? A. I am not sure whether it was the 17th or 18th; I don't remember. Q. It was two or three days after? A. Something like that. Q. You asked him to come there that day in the morning to pack the china? A. Yes. Q. You were there that morning, weren't you? A. Yes. Q. You got there that morning? A. Sure. Q. On that morning what time did you go there? What time did you get there? A. This was about eleven o'clock. Q.

Eleven o'clock? A. Yes. Q. Did you make that appointment with him by telephone that morning? A. No, I think I asked him. Q. You think you asked him on the street to come there that morning of the 17th or 18th? A. I think so. Q. And that was for the purpose of packing china, wasn't it? A. Yes. Q. When he got there, what was the first thing he did that morning? A. Took some clubs (trunks) out of the cellar, I think. Q. Didn't he bring barrels up out of the cellar at that time? A. No, it was trunks. Q. What did he pack the china in? A. The barrels were in the dining room. Q. Do you remember you came there? A. Yes, sure. Q. Do you know when the barrels were brought up yourself? A. No, I don't know that, no. Q. Did he start to pack these barrels with china? A. Yes. Q. Did he spend about 15 or 20 minutes in packing them? A. Something like that. Q. Then did Mrs. Grundy say that she didn't think he was qualified to do it? A. Yes. Q. Then the packing was given up, wasn't it? A. Yes. Q. he said she would get somebody else to do the packing, that is right? A. Sure. Q. That was on the 17th or 18th? A. Something around that. Q. At least after the 15th? A. Yes." Then (p. 744): "Q. With respect to that, on the 17th or 18th, your making an appointment with him, meeting him on the street the night before and telling him to come there to help pack, &c., so far as your recollection is concerned, it is very distinct, isn't it? A. Yes. * * * Q. Now, will you tell me, Miss Halverson, why it is that if that stands out so strongly in your mind, as to what took place on the 17th or 18th, why doesn't what took place on the 15th stand out equally strong? A. I don't know why. Q. For some reason or other it doesn't, does it? A. No."

Counsel attempted to get her to say (p. 753) that this occurrence, when she asked Evans to

pack the china, etc., may as well have been on September 14th or 15th, as on September 17th or 18th, but see her testimony (p. 758) in which she says that when Evans did the packing she was present. **It is conceded by all that she was not present on the morning of the 15th.** According to Mrs. Grundy, then is when the packing was done; according to Evans, then is not when the packing was done; according to both Evans and Mrs. Grundy, Evans was not again at the house. She (Miss Halverson) says that she is certain (p. 758) that it was two or three days after the 15th.

As a sample of Evans' credibility, see (pp. 382-383-384-385) wherein he denies that counsel for appellant suggested Herschenstein's name to him, and when confronted with telegram admits it.

Up to this time I have excluded from consideration entirely the evidence of the statements of Mrs. Grundy considered by counsel for appellant in Point II. I have rested wholly upon the evidence of Park Grundy, corroborated as it is by Mrs. Hansen, and of Frank Thorling and Mrs. Mulack, as establishing facts which unquestionably call for explanations. The explanation of the Levine incident, given by Mrs. Grundy, Mr. Levine and Mrs. Levine, does not explain. The explanation of the Evans incident, given by Mrs. Grundy and Evans, does not explain; and the explanation is completely overthrown by the evidence of the witness called to corroborate them, Miss Halverson.

I.

The defendant made statements inconsistent with innocence. These statements were not made under duress and are entitled to belief.

In considering this point, I shall also consider appellant's Point IV, which is "PUBLIC POLICY REQUIRES THE DENIAL OF A PETITION FOR DIVORCE

SUPPORTED AS HERE BY THE TESTIMONY OF PETITIONER'S COUNSEL AS A WITNESS TO THE ESSENTIALS OF THE PROOF."

A word first with respect to the Fourth Point. I do not know that there is any rule of public policy which requires the denial of a petition for divorce because counsel for the petitioner testifies in favor of the petitioner. Counsel for appellant say (p. 35) that petitioner's counsel was competent to testify for his client. They then proceed to say that it was an impropriety and deprecated by professional opinion, for him to do so. There are statements cited to this effect from cases and other publications.

The statement from the Nineteenth Canon of Ethics of the American Bar Association is "Except when essential to the ends of justice, a lawyer should avoid testifying in court in behalf of his client."

The statement of *McLaughlin v. Shields,* 12 Pa., 283, noted in 49 L. R. A. (N. S.), 428, is "The practice of assuming the office of a witness without relinquishing that of counsel cannot be too much discountenanced."

Whether there was or was not impropriety in Mr. Townsend testifying, this cannot, according to the appellant's own statement, affect the competency of his testimony, and inasmuch as his testimony is competent, it is hard to conceive what public policy requires that petitioner because he has it should be punished by a denial of relief.

The requirements of the Nineteenth Canon of Ethics, and of *McLaughlin v. Shields* were fulfilled, because, first, the ends of justice required that Mr. Townsend should testify; and, second, he relinquished his office of counsel. He did not, during the progress of the case, participate in the trial, except to the extent that it was necessary to ask his information with respect to mat-

ters within his knowledge and in very unimportant details to relieve examining counsel.

The case of petitioner was not made upon the evidence of Mr. Townsend; he was not called in petitioner's case. He did not participate to any extent in the conduct of petitioner's case, because knowledge had come to counsel for petition that Mrs. Grundy was going to take the stand and swear to matters involving Mr. Grundy and Mr. Townsend, which would probably make it necessary for Mr. Townsend to take the stand. She did testify to conversations with Mr. Townsend and Mr. Grundy (pp. 464, 467, 468, 471); she testified to Mr. Townsend participating in a scheme to send her to Reno (pp. 554, 555, 558, 559 et seq.; 594, 704).

Mr. Townsend was called as a witness (p. 834) in strict rebuttal. He did not desire to testify and so informed appellant's counsel (p. 948). He said that he had seen Mrs. Grundy on the morning of August 26th at her home; that he could not carry on a conversation with her; Mr. Grundy was with him. He saw her again on September 9th (p. 839); there was present Mr. Grundy, Mrs. Grundy and Park Grundy. He had known the family for some years (p. 839). He said, "George has told me that he has advised you that he is going to get a divorce. He has consulted me about it. He is going to file a petition. He also advised me that you want to have some talk on the matter as to whether there could not be a reconciliation, also as to what your future plans would be so far as your living is concerned, or so far as your maintenance is concerned. She replied that—I don't recall the exact words but the substance of the reply confirmed what Mr. Grundy had told me about her desire to talk the matter over with me—Mr. Grundy and myself. She was badly worked up." Mr. Townsend then says that

he told her that he had been told about the man being found in the closet on the 24th by Park, and she said that Park lied, that the thing absolutely was not true (p. 840).

She told him that the whole matter was a frameup. He told her frankly that Mr. Grundy was through, so far as living with her was concerned. She insisted that the thing was not true. He then related to her the circumstances which had been detailed by Park. She finally changed her attitude and said that the man was there, but that nothing wrong had been done, and that the man had come there for the purpose of delivering liquor. Mr. Townsend asked her in view of all the circumstances did she really expect Mr. Grundy to believe that. She then suggested that there be a separation. Mr. Grundy declined to agree to this. Out of sympathy and pity for her, he said that regardless of any action of the Court, he would provide for her maintenance for the rest of her life, under conditions that she refrain from drinking, and would lead a respectable life (p. 842).

Mr. Townsend saw Mrs. Grundy again on the night of September 15th with Mr. Grundy, going there for the purpose of delivering the agreement, Ex. P-14 (pp. 467-8-9). Mr. Townsend told her that Park had told him what he had seen that day in reference to the man Evans (p. 843); she said that Park lied; she still wanted a reconciliation or separation; and then Mr. Townsend said (p. 843), "Ida, you will recall that when we were here before you said that Park had lied about the other incident, of the 24th; now, after persisting in that for some time you changed your story and eventually admitted that the man was here. How do you expect Mr. Grundy under those conditions to believe you." She then said (p. 843), "Well, there was a man here, he was a real estate agent looking for an apartment for me" (p. 844). Mr.

Townsend said he did not believe it and she then said, "What do you expect if your husband hasn't had anything to do with you for over a year." She was informed that a petition for divorce had already been drawn to file against her, but that it would have to be amended and the incident that happened that day would be inserted in it; and then (p. 844) "She then went over the fact that if Mr. Grundy got his divorce, or Mr. Grundy left her, she was helpless, she couldn't work, that she was not in a physical condition to work, and stated that $100 a month was not sufficient for her to live on and Mr. Grundy then discussed the amount and finally agreed to pay her $125 a month." She was advised by Mr. Townsend to consult a lawyer. She stated during that conversation that she realized finally that there was no hope for a reconciliation and that Mr. Grundy was going to get a divorce. She at that time wanted to know whether Mr. Grundy would not send her to Reno. The question of her maintenance was discussed with Mr. Grundy (p. 846), who stated that "Regardless of the outcome of any divorce case, and in view of the fact that he felt sorry for her, he would be willing to provide for her for the rest of her life, or until she remarried, if she would stop her drinking and lived a clean and respectable life, to his satisfaction, and would not try her case in the newspapers as had been done in the Sargeant case."

Mr. Townsend testified (p. 849) that he did not see any barrels in the room on the night of the 15th; that he was in a position where he would have seen the barrels, had they been there. Likewise Mr. Grundy (p. 998). He was there again on September 17th (p. 849), at which date he saw the barrels. This corroborates the story of Miss Halverson.

Mr. Grundy says that he got Mr. Townsend to go to see Mrs. Grundy (p. 1066); that she requested Mr. Grundy to have Mr. Townsend talk

the matter over with her (pp. 1068, 1070); she had been drinking, "She declined to realize the seriousness of the situation, it was impossible to make her understand", and (p. 1070) Mr. Grundy says, "No, no; you mistake the idea. We wanted to impress upon Mrs. Grundy the seriousness of this situation, to have her realize that she must stop drinking and take care of herself and make some plans for the future; that was all." And (p. 1071) "Q. What were you in the hope of having her talk about while Mr. Townsend was there? A. I had in mind that Mrs. Grundy knew practically no one that she would care to talk to on such a subject, and I had hopes that she would realize the seriousness of the situation and that when she knew that I had engaged counsel that she in turn would take some definite action, some steps to protect her interests, and I wanted to impress that upon her, that the time was coming when we must take some definite action to break up that household. Q. Did you tell Mrs. Grundy that she should go to a lawyer? A. I tried to." And (p. 1072) "Q. Now, isn't it a fact that you had endeavored to obtain from her a confession of guilt, and that she had denied it and offered to take you to the beer man to prove to you that nothing wrong had taken place? A. No. * * * Q. Didn't she tell you the man was there for the purpose of delivering liquor? A. She said that later; she first denied it. * * *" (p. 1073). Q. Isn't it a fact then that you brought Mr. Townsend there on August 26th for the purpose of getting a confession of guilt from her? A. No" (p. 1074). "Q. You requested Mr. Townsend to come there, didn't you? A. At Mrs. Grundy's request. Q. Did you ask Mr. Townsend to come to your house on the 9th of September, or the 8th? A. Yes, at Mrs. Grundy's request" (p. 1075). "Q. Yet you wanted your attorney to come to your wife to advise her about her

rights, is that right? A. You persist in putting it that way. I am telling you that Mrs. Grundy requested Mr. Townsend to come to the house, to accompany me, and I in turn asked him to come, and we would both talk to her and explain the seriousness of the situation; that is all. In the meantime she would do nothing, she had done nothing, she refused to talk on the subject of doing anything to engage counsel or seeking advice, she simply said that she didn't know what to do."

Mr. Grundy says, with respect to the statement called by appellant a "confession" (p. 999) that it occurred on September 15th, and "After admitting that there was a man there but that he was a real estate agent, she said that, to use her own words, 'Well, what can you expect if I don't get affection at home? I am only human'."

The record from pages 1061 to 1087 of Mr. Grundy's cross examination, is devoted to an attempt to make him say that he took Mr. Townsend to the house for the purpose of obtaining a confession. Both Mr. Townsend and Mr. Grundy emphatically deny that there was any such intent in their minds. Counsel, on page 29 of their brief, refer to certain parts of the testimony of Mr. Grundy (p. 1070, l. 10; p. 1071, l. 15; 1076, l. 8) and insinuate that Mr. Grundy in this testimony admitted that he brought Mr. Townsend to his wife for the purpose of obtaining a confession. That is the inference to be drawn from their statement. A consideration of the context will indicate that Mr. Grundy was protesting throughout that this was not his intent. Take for instance the testimony at page 1071, line 15, quoted by counsel. The testimony in full is as follows: "Q. You wanted to have a talk with her and ask her for the facts which occurred on the 24th, didn't you? A. Not with the idea of asking her for the facts; I was hopeful that she would do some talking; she as a rule refused

to talk with me. Q. And you were in the hopes that while Mr. Townsend was there she would do some talking about the incident on the 24th; isn't that so? A. No. Q. That is not so? A. No. Q. What did you want her to talk about; what were you in the hopes that she would talk about? (This question was objected to. The question was allowed, but counsel repeated the question as follows): Q. What were you in the hope of having her talk about while Mr. Townsend was there? A. **I had in mind that Mrs. Grundy knew practically no one that she would care to talk to on such a subject, and I had hopes that she would realize the seriousness of the situation and that when she knew that I had engaged counsel that she in turn would take some definite action, some steps to protect her interests, and I wanted to impress that upon her, that the time was coming when we must take some definite action to break up that household.''**

The reference to page 1076, line 8 by counsel, is wholly unwarranted. Counsel apparently refers to the question: "Q. Now, did your wife tell you to call Mr. Townsend there so that she could discuss the facts of the divorce, or the facts of the adultery with him? A. She most likely did say— Q. Did she ask you to get Mr. Townsend, that she wanted to talk over with him the facts of the incident on August 24th? A. No, sir; she didn't go into any details of that sort." Counsel has apparently unfairly attempted to treat an interrupted answer as an admission of everything contained in the question.

Counsel says (p. 30 of brief) "The question of the value of this alleged confession dwindles into insignificance in the face of the extraordinary conduct by which it was induced."

There was nothing extraordinary in the conduct of the parties at the time the statement was made. There was no duress; there was no

fear; there were no hopes held out. There was no confession. What happened was that in the course of conversation a statement was made by Mrs. Grundy. It was not asked for.

In considering the conduct of this husband and his counsel, Mr. Townsend, the surrounding conditions must be kept in mind. Mr. Townsend was not only counsel for Mr. Grundy, he was a friend of the family. Mr. Grundy had been for years endeavoring to save his wife from herself; he had reached the point in the summer of 1918, when he was obliged to decline to have anything further to do with her physically, unless she stopped drinking. She drank to the point where at times it was disgusting. This is conceded. She declined to take care of herself. Mr. Grundy could not and did not want to throw her on the street. He made up his mind that he intended to get a divorce, after the story that Park had told him. He apparently could not make her understand the situation. She continued to live in the house without bestirring herself to look out for her own interests. As Mr. Grundy says, she refused to talk to him. What more natural than that she should suggest that Mr. Townsend be sent for? And what more natural than that Mr. Grundy should take Mr. Townsend to Mrs. Grundy, in a sincere attempt to get her to understand the seriousness of the situation and to take some steps to look out for herself? And what more natural, after Mr. Townsend had gotten there, than that they should discuss the entire situation?

The statement was not obtained by fraud; or by duress; or by trick; nor was it obtained by hopes held out. On the contrary, and it is not denied, that Mr. Townsend, told Mrs. Grundy at the outset that he represented her husband, that her husband intended to obtain a divorce

from her, and that there was no hope of reconciliation.

Counsel refers to the fact that on the night of September 9th Mrs. Grundy attempted suicide (p. 28 of brief), and to the testimony of Mr. Townsend on page 889 et seq. and that of Mr. Grundy on page 1084 et seq.

It was against the will of counsel for petitioner that a great deal of the life of this woman was brought out; and particularly was it against his will that the matter of suicide was dragged into the case. It was mentioned first by Mrs. Grundy in her direct examination (p. 464). Referring to the night of September 9th she said: "Q. Did you have a talk with him (Mr. Grundy) at that time? A. No, I decided to wait; I felt very badly because of his actions and I attempted—turned on the gas—September 9th. Q. What happened? A. When I came to, Mr. Grundy was in the room with several other people, he didn't talk to me; I think he remained in the house that night and the next morning he told me again he was going to divorce me and he was through, he left and that was the last I saw of Mr. Grundy until he came on the 15th, the night of the 15th of September, with Mr. Townsend."

The purpose of the attempted suicide, and the purpose of her reference to it, was, as clearly indicated by what was brought out on cross-examination, to obtain sympathy; and that apparently is the purpose of counsel injecting it into their brief.

The cross-examination on the suicide episode commenced on page 507. It appeared that she had attempted suicide when they were living with Mrs. Low in 1912, or 1911, by gas. That there were others present to rescue her. That she attempted suicide again in 1914, when they were living at Mrs. Corrigan's, by gas. She was rescued again. When she attempted to commit

suicide by gas on September 9th Miss Halverson was still in the apartment in an adjoining room. She was rescued. When she was living at 57 Clinton Avenue (p. 512) she pretended that she took lysol internally. Each time she attempted suicide it was under such circumstances as that she was bound to be rescued.

Mrs. Grundy would not retain counsel. She asked Mr. Townsend to suggest counsel. He finally gave her the names of several. She went to Judge Carey on October 6th (pp. 859-860). She still continued to bother Mr. Townsend.

II.

The respondent did not connive at the offense.

There is not, in this voluminous record, any evidence which is even suspicious of connivance. Counsel inject (p. 32 of brief) something into the case which is not there. They say: "Park Grundy had undoubtedly told him (Mr. Grundy) of meeting Evans alone in the apartment two or three times in the morning hours. These encounters gave obvious grounds for suspicion whether any improper intimacy existed or not. Park Grundy kept notes in his red notebook of the dates when he found his mother with Levine and Evans" (p. 115, l. 22).

There is not a scintilla of evidence that Park Grundy told Mr. Grundy of meeting Evans alone in the apartment in the morning hours.

The inference that Park Grundy indicated that he kept notes of the meetings with Evans in the morning hours in the red book is wholly unwarranted, as a reference to his testimony on page 115 will indicate. The dates which he referred to are the dates of August 24th and September 15th.

A reference to Park Grundy's testimony will

indicate that at the time he returned from Shackamaxon on August 24th he did not expect to find anybody at the house; he was not sent back by his father; his coming back at that hour of the day was purely accidental. There is no insinuation to the contrary.

Counsel say (p. 31 of brief) that Mr. Grundy is evasive when asked whether his suspicions had been aroused before August 24th, 1919. There is nothing evasive about his testimony. In answer to the question of the Court he said (p. 1002): "Q. Mr. Grundy, during this long period while Mrs. Grundy was taken to drinking prior to August, 1919, you say you had never known of any infidelity on her part? A. No. Q. Had you ever seen or known of anything to suggest infidelity, or the probability of infidelity, at any time? A. No, I can't say that I did. There were times when I heard incidentally about her being away on Summer vacations, and hear, not hear directly, but incidentally, that she might be drinking at the time, but I endeavored to keep in touch with her constantly by letters and to know that she was improving, and I know further that unless she was away during those periods the situation was still worse at home so far as drinking is concerned." Counsel concede (p. 31 of brief) that the rumors which Mr. Grundy heard, as indicated by his testimony, pages 1047, 1048, 1049, were "not very important." Mr. Grundy says (p. 1048): "Q. Then you did have reason to suspect she was guilty of some sort of infidelity before 1919, didn't you? A. No. Q. You had no reason to suspect it at all? A. No."

In 1916 and 1917 Mr. Grundy was in love with his wife, notwithstanding what had occurred up to that time (p. 1047, l. 26). Thorling, who is referred to by counsel (p. 32 of brief) expressly denied that he told Mr. Grundy anything

about the episode of which he had knowledge (pp. 103, 104).

The episode narrated by Mrs. Kruger referred to by counsel (p. 32 of brief) occurred after September 15th, as a reference to her testimony will indicate (pp. 405, 406).

In the face of Mr. Grundy's absolute denial of any knowledge of any facts which would indicate to him that she would be likely to be guilty of adultery, repeated several times, and in the face of the fact that there is absolutely no evidence to the contrary, and that counsel conceded that the rumors, whatever they may have been (p. 31 of brief) were not very important, it is hard to conceive how it can be said that the Levine incident of August 24th was the result of connivance.

It is suggested that, because of the testimony of Mr. Townsend, and of the fact that the petition was not filed at once, the adultery of September 15th with Evans was the result of connivance. Mr. Townsend's testimony (pp. 904, 905, 906 and 901) is referred to.

Mr. Townsend testified (p. 901) that he was satisfied that there was sufficient evidence to institute a suit for divorce upon the episode of August 24th. He denies emphatically (p. 901) that he advised Mr. Grundy that in his opinion the evidence was not sufficient and that it would be better to wait a couple of weeks. He injects the thought (p. 901, l. 26) that "the case would be much stronger; the more evidence you get the stronger your case is." He stated to Mr. Grundy (p. 904) that there was no hurry about filing the petition, "that in my judgment the thing would happen again in the near future." And (p. 905) he was asked: "Q. You told Mr. Grundy, didn't you, that the thing would probably happen again, didn't you? A. That is my recollection. Q. And you told him at that time that it would be

better to wait a couple of weeks and let it happen and catch her? A. Mr. Grundy— Q. Can you answer that? A. No, I didn't tell him necessarily to catch her. Q. Didn't you discuss the question about catching her again if it should happen again? A. No, I did not. Q. Maybe you don't understand my word 'catch.' Do you understand the word 'catch' as I mean it? A. Well, I don't know how you mean it. Q. That she would be discovered in the act of committing adultery again after August 24th. Do you understand that? A. What is the question? Q. You told Mr. Grundy that he perhaps had better wait, that she would do this again; that she would commit adultery a second time and that it would be better to wait until you got evidence of a second commission; isn't that so? A. No; my recollection of the conversation with Mr. Grundy is Mr. Grundy had repeated to me rumors **that he had heard from some of the neighbors, I told him under the facts that he gave me, in my judgment, the thing would happen again,** and that in the meantime, I would go ahead and prepare, and I think I did go ahead and prepare a petition for divorce."

Counsel does not suggest what this husband was obliged to do to prevent the commission of the offense of September 15th; they do not intimate what obligation he was under to prevent the offense of August 24th. This husband had done for his wife all that mortal man could do, and it is not necessary to go outside of her testimony, given on cross-examination, to so indicate (See pp. 598, 599, 600, 601, 602). See the letter written by *her relative* (Exhibit P-8, p. 1175) on December 17th, 1912, to Mr. Grundy: "I hardly know how to advise or what to say I know very well you are at your wits end I am so sorry she does such things for she hasn't any one near to her to help out. I know and feel you have done all you can and even done

more than many a man would do. * * * I know you don't know what to do but if I can do any thing to help you I will be glad to do so. * * * If she were to brace up and go to Lizzies and Warren when here it would do her good but its best to look pretty good and dont let any more in on troubles than necessary. Geo. I don't know what to advise but if I can back you up in any way will do so I know you have done your share and more to get along."

Exhibit P-9, written by *her* cousin to Mr. Grundy on November 26th, 1913 (p. 1177): "I certainly was sorry to hear of you still having trouble think you have more than your share. I dont know what I would do if I were you. I wouldn't blame you for doing almost any thing. I certainly would send her to Sanatarium if it helps you for how can you do your work and have such a worry on your mind. I sure you have been patient and done your part. * * * Park, the poor kid, I feel sorry for him; I will be glad when he goes away to school. It surely is hard for him to see this. I wish he had never seen it but it can't be helped. * * * If you think it alright. I am going to write Ida a letter real soon and I wont mention this. I am certainly sorry for you and will do any thing I can and I am sorry things are just as they are now."

And the letter written by one of her cousins to Mr. Grundy on June 27, 1914 (Exhibit P-7, p. 1174): "While I realize what you are up against I cant see how we can help unless you would put Ida in Sanitarium and let Park come to us for a long visit would be glad to have him and would take good care of him. You know the last time Ida was here she pulled one over on Mary and I in regard to getting the drink and acted very nasty with Mary when she called her * * * Believe me Geo you have my sym-

pathy and I am very sorry that we cant possibly take Ida at present, should you decide to send her some place send Park to us we will treat him right and take care of him."

See also the letter Exhibit P-2, written by Mrs. Grundy to her husband, referred to by Mrs. Grundy in her cross examination (p. 532): "I can say nothing more, only that I am mighty sorry the whole thing occurred & will do my best hereafter."

And the letter, Exhibit P-3, dated July 9th, 1914, from Mrs. Grundy to her husband (p. 1174): "I sincerely regret the past few years have been so unhappy but trust the remaining years your cup of bliss & happiness will be filled to overflowing with one perhaps more worthy."

As referring to these letters, see Mrs. Grundy's testimony (pp. 602, 603). On page 604, referring to one of these letters she says: "Q. You think it (Exhibit P-8) was written as a result of some plan unknown to you to dispose of you in some other way? A. Exactly. Q. It is the result of a conspiracy between Mr. Grundy and the writer of the letter. Mary has always been a friend of yours? A. Yes. Q. Mary has never done anything or indicated anything, so far as you were concerned, which would lead you to believe that she would enter into any such conspiracy as is evidenced in this letter, has she? A. Not that I know of. Q. Up to this moment, until you read that letter, you considered her as a good friend; is that right? A. I thought so. Q. And the statements contained in that letter are unqualifiedly false? A. I don't know what Mr. Grundy and my cousin had between them; I know nothing about it. Q. But the statements in that letter are unqualifiedly false with respect to what you said? A. Yes."

And on page 607: "Q. Isn't it that they were referring to the fact that you had become un-

fortunately an habitual user of liquor to such an extent that you were periodically intoxicated continuously; isn't that what they were referring to? A. I suppose they do refer to it. Q. And it was a fact, wasn't it? A. No, it wasn't a fact."

And on page 608: "Q. Didn't this cousin do the best she could for you? A. I didn't need help. Q. You didn't need help? A. No, I wasn't helpless. Q. Wasn't that your trouble, that you spurned help when it was offered to you? A. I was always able to take care of myself."

See her testimony, pages 606, 607, 608, 609, 610, 611, 612, 613.

Referring to the letter Exhibit P-9 (p. 1177) dated November, 1913, she says (p. 614); it is a conspiracy between Mr. Grundy and May. See her testimony (p. 615): "Q. Wasn't Mr. Grundy worried about your drinking? A. I wouldn't say. Q. You wouldn't say he was worried about your drinking? A. I couldn't say. Q. You didn't think that he was sincerely trying to stop it, did you? A. I won't say. Q. You won't say that he didn't sincerely try to stop it, will you? A. He tried. Q. And he tried sincerely, didn't he? A. That don't show it to me; I would say no. Q. You would say no, because he wrote this to Mary, had this correspondence with Mary without your knowledge; that is the only reason why you say no, isn't it? A. I don't consider that is sincere. Q. I say *that* is not sincere; otherwise he has sincerely tried to stop you, didn't he? A. Well, I can't answer that; I don't know what was in his mind. Q. You won't say that he didn't; so far as evinced to you it was sincere, wasn't it? A. I don't think it was sincere. Q. When did you come to the conclusion that it was not sincere? A. After reading that letter."

And on page 616: "Q. He did try, at any rate, to help you, didn't he? A. Outwardly. Q.

Outwardly, so far as he could, isn't that true? A. Yes. Q. He tried two methods, didn't he; he tried by giving you a free rein and giving you money to spend, and he tried also by keeping you down to hard tack; he tried both methods, didn't he? A. He gave me money to spend for the home, to run my house. Q. Without calling for an accounting, didn't he? A. He never asked for an accounting for the household expenses. Q. That is one way; he also tried the method of confiing you; didn't he? A. He stopped at nothing; he tried everything."

And on page 617: "Q. At times you really did think he was sincere, didn't you, and he did try both methods, didn't he? A. He tried every method, as I said before. Q. Didn't you resent it when he tried some of the methods that he did? A. Certainly I did. Q. You thought that you were able to take care of yourself? A. Certainly. Q. Don't you think now that you are able to take care of yourself? A. I have done it."

On page 626 she testified: "Q. **Isn't it a fact, and didn't you know, that the use by you of liquor to the extent that you used it, was going to have an effect on him; wasn't that inevitable in your mind?** A. **It is possible.** Q. Wasn't it more than possible, Mrs. Grundy? A. I say it is possible. Q. Wasn't it more than possible? A. I can't alter my answer any; it is possible. Q. Didn't he do, so far as you could observe, the very best he could? A. At times. Q. Don't you think, therefore, that he is entitled to some credit for what he did do, in your own mind? A. I can't answer that."

Referring to Mr. Grundy's condition in 1917, Mrs. Mulack testified (p. 241): "Q. You say he was wrectched? A. Yes, he was wretched, miserable. Q. What did you observe that would cause his wretchedness? A. Domestic relations, this condition. Q. What about his domestic relations?

A. To have a home like that, to have no home, no friends, no stability, no nothing that you can call your own. When your wife goes back on you I think it is a pretty wretched state of affairs." And on page 242: "Q. What did he say? A. He said he has tried everything a human being could do to help her, to heal her, to cure her, but it was useless. Q. Did he go into particulars as to what he had done? A. Yes. Q. What did he say? A. Different institutions he had sent her to, he sent her to different institutions, that he has tried to hide drink from her, that he has tried kindness with her, that he has tried everything under the sun. I said, 'Well, I am going to try to see what I can do to help her,' and I did, but I failed."

Mr. Grundy testifies as to what he did on pages 969, 971, 979, 1002.

He says (p. 1002): "Q. Prior to the 24th of August, 1919, did you know, or have any knowledge of any infidelity on the part of your wife? A. I did not. Q. You did not? A. I did not. Q. Did you do anything to lead your wife to commit adultery? A. I did not."

On page 1020 he says: "During the meantime I talked many times with my wife and pleaded with her, that the way she was going, that she was going into the drinking habit, and it would be wise to stop, so she agreed with me and promised to do it; I called on her friends to assist me in trying to correct this excessive drinking, and they all promised to do what they could, and gradually hoped, we all hoped, that it was only a temporory condition and that she would see the error of her ways in a short time."

There is nothing in this case that brings it within any case bearing upon the subject of connivance.

14 Cyc., 644, states the rule as follows:

"Connivance in the law of divorce is the complainant's consent, express or implied, to the misconduct alleged as a ground for divorce. A corrupt intent on the part of the complainant that the guilty party *should commit* the offense is generally considered an essential element of connivance" (*Warn v. Warn,* 59 Eq., 642).

At page 645:

"The husband's failure to protect the wife against temptation will not relieve her from the consequence of adultery unless he actively or passively consents thereto; if he suspects her of the offense he may take measures to secure proof to be used by him in an action for divorce without being guilty of connivance" (*Reisersen v. Reisersen,* 52 N. Y. Supp., 409).

In the case of *Wilson v. Wilson,* 154 Mass., 194 (28 New England 167; 12 L. R. A. 524), the leading case on connivance which has been cited with approval in numerous cases in New Jersey, the Court states among the facts the following (Italics mine):

"Petitioner suspected his wife of infidelity and one day, while watching her, saw her in the company of a man, with whom she proceeded to a hotel. Petitioner summoned the assistance of detectives and went with them into the hotel, where he found his wife, the defendant, in bed with a man, in whose company he had previously seen her. The wife defended the action on the ground of connivance. The Court said:

"Petitioner *had hoped she would commit adultery* so that he could get a divorce and *he gave her plenty of time* and *did not warn her so* that she might do it. He thought before this she had committed adultery.

"We think as a matter of law it cannot be said on this state of facts that the libellant was guilty of connivance. It is true that he *could have prevented* his wife from committing adultery and did not; on the contrary, he *wished she would,* that he might have evidence on which he could get a di-

vorce. But he did not make or aid in any way in making the opportunity. He did no overt act unless keeping still was one, which it clearly was not. *It was not a case where he supposed she was about to commit adultery for the first time,* and where it would have been his duty to have given her the assistance which husband and wife are mutually expected to give to each other.

"It certainly cannot be held that a husband who suspects his wife of adultery can take no means to ascertain the truth of his suspicions without being deemed guilty of connivance. 'There is a manifest distinction,' say the Court in *Robbins v. Robbins,* 140 Mass., 531, 'between the *desire* and *intent* of a husband that his wife, *whom he believes to be chaste,* should commit adultery and his desire and intent to obtain evidence against his wife, *whom he believes already to have committed adultery* and to persist in her adulterous practices whenever she has opportunity.' Merely suffering in a single case a wife whom he already suspects of having been guilty of adultery *to avail herself of the full extent of an opportunity to indulge her adulterous disposition,* which she has arranged without his knowledge, *does not constitute connivance* on the part of the husband, even though *he hopes* he may obtain proof which may entitle him to a divorce, and purposely refrains from warning her for that reason. He may properly watch his wife, when he suspects his wife of adultery, in order to obtain proof of that fact. He may do it with the hope and purpose of getting a divorce if he obtains sufficient evidence. *He is not pledged to throw obstacles in her way.*

"The law does not compel a husband to remain always bound to a wife whom he suspects, and it allows him, as it does other parties who think they are being wronged reasonable scope in their efforts to discover whether the suspected party is or is not guilty without themselves being adjudged guilty of connivance of the crime which they are seeking to detect."

The language of the Court of Errors and Appeals in *Wille v. Wille,* 103 Atl. 74, reversing this Court is apt:

> "A husband is legally justified in using any and all lawful means to procure testimony so as to enable him to get rid of a wife whom he has reasonable grounds to believe is guilty of infidelity. While the motive of a husband suing for a divorce might properly be the subject of inquiry, if he offers himself as a witness, for the purpose of testing his credibility, it cannot of itself bar his legal right to a divorce."

In *Lehman v. Lehman,* 78 Equity 316, the question at issue was whether the wife who was the complainant had connived in her husband's adultery. Vice Chancellor Emery held:

> "* * * The effect of mere watching the actions of the sospected wife, without her knowledge and without directly effecting and encouraging them, was not involved in the Delaney case (71 E. 246), or intended to be passed on. On the facts of the case the Court found that the conduct of the husband toward his wife conduced or contributed as one of its effective causes to the commission of the crime complained of. To extend the bar of connivance to the mere act of watching the movements of a suspected wife could not have been the intention of the Court for the question was not involved. In a previous case—*Warn v. Warn,* 59 Eq. 642—the same Court had unanimously approved the opinion of Vice Chancellor Reed, in which he stated that the facts necessary to constitute connivance must have a direct and necessary tendency to cause adultery to be committed, and this case was approved and not overruled in the Delaney case. And in reference to the express point now involved Chief Justice Gummere in a later case—*Inderlied v. Bullen,* 77 Atl. 469, stated, 'A husband may properly watch his wife whom he suspects of that offense (adultery) in

order to obtain proof of the fact, and such conduct does not constitute connivance,' approving the principle stated in *Wilson v. Wilson, supra.*

"* * * I intend now only to decide that the watching of a suspected husband, and suffering him to avail himself of an opportunity created by himself, without any previous knowledge or encouragement on the part of the wife, is not connivance or consent on her part which would bar the divorce. This was the view taken by Vice Chancellor Pitney in *Brown v. Brown,* 62 Eq. 62, 67, and seems to be the general, if not universal, rule in upper American courts (Citations) *Wilson v. Wilson, &c.*"

In *Warn v. Warn,* 59 Eq. 642, where the question of the husband's the petitioner, connivance arose, the Court said:

"* * * It is undoubtedly true that connivance may consist of a passive assent to the train of circumstances leading to adultery, when the complainant could have prevented the wrong or injury of which he complains. The facts, however, necessary to constitute connivance *must have a direct and necessary tendency to cause adultery* to be committed. Corrupt intent is the very essence of connivance. It cannot be inferred from the husband's great inattention to his family. * * * The gravity of the offense, its infrequency, and the general presumption of innocence requires that this defense should be established by direct and conclusive proof."

It was held in the case of *Dilatush v. Dilatush,* 98 Atlantic 255, that a husband's desire to be rid of his wife, allowing her to pursue her own course, and failing to prevent her from committing adultery, is not such connivance as prevents him from securing a divorce. Backes, V. C., said:

"Though the defendant be guilty, it is argued that the petitioner is not entitled to relief because of connivance at his wife's crime.

Of this, there is no proof whatever. The unholy alliance which sprung up between the co-respondent and defendant, after her separation from her husband, and which has resulted in such dire consequences to her, was in no wise contrived, invited, or encouraged by the petitioner. It was solely the work of the defendant. Suspecting her infidelity, the petitioner set a watch upon his wife to obtain proof. While it was in the power of the petitioner to prevent the crime on New Year's morning by intercepting his wife, he was not called upon to do so by that duty of protection which is ordinarily afforded by husband to wife. He was strictly within his rights in refraining; and culpability cannot be imputed to him for allowing his wife to avail herself of the opportunities she created for indulging her licentious desires. *Warn v. Warn; Lehman vs. Lehman.*

" * * * That the petitioner fell far short in the discharge of his marital obligations; that the marriage ties were irksome and distasteful, and that he wanted to be rid of his wife; that his deportment and attitude toward her, and his shameless disclosures of their bedchamber secrets to his companions were most despicable—cannot be questioned. That he was willing to give his wife a free rein to perdition, if she so chose, I have no doubt. She went her way and sinned, not by his procurement, but of her own volition. His conduct, reprehensible as it was, was not connivance in the legal sense, as laid down by the authorities, and he cannot be deprived of his right to a decree."

The rule is well settled that an innocent party may watch the suspected spouse, and suffer him to avail himself of an opportunity created by the suspect himself without any previous knowledge or encouragement on the part of the innocent one; this is not connivance or consent. Biddle, p. 174, and cases cited.

In the case of *Leavitt v. Leavitt*, 118 N. E. 262 (Mass.), the Court said:

> " * * * But even if as further appears the libellant was fully informed as to her adulterous disposition, and did not remonstrate or warn his wife of her peril and of the consequences which might follow, because he hoped she might go far enough to enable him to obtain a divorce, his conduct did not amount to connivance. Citations."

A reference to the facts in *Delaney v. Delaney,* 71 N. J. Eq. 252, will indicate how little possible application that case has to the case at bar.

What was this husband obliged to do? Believing that his wife was guilty of adultery on August 24th, he desired to leave the house, and he could not get his wife to take any definite stand; he exhausted all methods; he had Mr. Townsend go to see her; he did the best he could. He wanted to leave at once; he finally did leave. What else could he have done?

III.

The granting of a divorce in this case does not depend upon the testimony of Park Grundy, the son, and he is not a discredited witness.

The granting of a divorce in this case depends upon the failure of Mrs. Grundy, Levine, Evans and Miss Halverson to tell a convincing and consistent story. You may exclude completely the testimony of Park Grundy, and the divorce may rest upon the testimony of the defendant and her witnesses.

The criticism of Park Grundy, however, is unfair. Its unfairness is indicated by reference to page 42 of the brief, as to the fact that counsel objected a number of times to his smirking and laughing on the witness stand.

On page 57, lines 2-25, counsel asked the question "What are you laughing at". It was promptly objected to on the ground that the witness was

not laughing, and the whole aim was to get something into the record that did not belong there. The witness replied that he was not laughing.

On page 125, there is not even the suggestion that the witness was laughing. As an example, I desire to quote certain portions of the cross examination (p. 125): "Q. Then you told your father about it (the Evans incident), didn't you? A. Yes. Q. It was unusual enough for that, wasn't it? A. Yes, sir. Q. But it wasn't unusual enough for you to ask Mr. Evans to account for it, was it? A. I was too much disgusted when I came in to say or even think of asking questions; I came in and then went back again. Q. That was your feeling, disgust? A. Yes, sir. Q. You didn't think the young man might have taken your mother's honor, did you? A. No, sir. Q. You didn't think about protecting your mother's honor from this young man, did you? A. I can't answer that. Q. You can't answer; certainly you can't; I know you can't. Q. You didn't think enough about going over to this young man and asking him what he was doing with your mother in your house alone, did you? A. (No answer). Q. Can't you answer this question? A. No. Q. Were you afraid of Mr. Evans? A. I don't know about that he is about six feet four. It seems rather funny— Q. It is very comical to you, isn't it? A. Relying on your last question, it is; yes, sir. Q. It is comical; this whole proceeding is rather comical to you, isn't it? A. No, sir."

And to the cross examination on page 161: "Q. Now, you say you bear no bitter feeling toward your mother at this time; is that correct? A. That is correct. Q. How do you know that? A. Why, I had no bitter feeling, I never had any bitter feeling against her. Q. How do you know that, any more than you know whether you love her? A. How does anyone know? I can't under-

stand how it is. Q. I want to know; how do you know you have no bitter feeling toward her any more than you know whether or not you love her? A. I don't know. Mr. Lane,—I object to that. MR. HEYMAN: I object to the witness smiling."

And on page 162: "Q. You couldn't tell us before whether you loved your mother, could you? A. I did not attempt to answer the question. Q. You couldn't answer it could you? A. No, sir."

And on page 164; he answered counsel's question and said he was not smiling.

As a matter of fact the witness did not, through the entire examination, smile or laugh, and there has been in the case no suggestion, except in counsel's brief, of a smirk. The witness was under the most intense strain during the entire cross examination. The cross examination was prolonged; a great deal of it repetition; much of it without point; most of it on details subsequently admitted. The witness was harrassed from every conceivable angle. The Court below observed his conduct and found nothing which would indicate that he was not to be believed.

Counsel's statement and suggestion (p. 43 of brief) that there were many recesses and that the witness was prompted between hearings is as gratuitous a fabrication in effect as was the insinuation of counsel throughout the cross examination that the witness "was smiling." The direct and cross examination of this witness on petitioner's main case, was completed in one day; there was a recess at noon (p. 51); the witness was withdrawn from the stand to permit the calling of Frank Thorling (p. 97); the examination was continued until well after six o'clock in order to complete it (p. 157).

A point is made of the fact that the witness was told by his father (1143) that he would be

asked whether he had looked for liquor on August 24th. It would be unusual if the witness would not be told what he was to be called to the stand to testify about. As a matter of fact he had testified to this in his examination on the main case on the first day of the trial (p. 149, l. 35) notwithstanding counsel's assertions during the cross examination to the contrary (1138).

Park explained not once but several times that he did not try to find out who the man Levine was because he knew of no way; that he did demand an explanation and did not get it; that he did not know of anything that he could do to protect his mother. Counsel did not and do not suggest what either he or Mr. Grundy could have done.

The criticism on page 5 line 30 and page 42 line 7, of appellant's brief respecting the failure of the son and father to visit the mother while at Morris Plains, is unjust. The son who was then fourteen years old, testified (p. 168) that he was in school at Blair Academy during that period; and the father (pp. 980 and 1046) testified: That they were instructed not to visit her by Drs. Keegan, Assistant County Physician Haskins and Dr. Henachell of the Morris Plains Institution. However, they sent her presents, candy, books, and flowers in order to show her they were thinking of her all the time and trying to get her in the right frame of mind. Exhibit P-12 (p. 1183, l. 24), Petitioner under date of Dec. 18, 1914, wrote her, as follows:

"* * * Park arrived home Thursday, P. M., he is looking splendid and in the best of health. He has gained in weight and is enjoying his school days thoroughly. Of couse he misses you dreadfully, but he knows we are doing best we can under the circumstances and he is hoping you will be thoroughly changed and cured by the times he comes home for his long summer vaca-

tion. If so we can have a truly happy vacation, altogether, somewhere away from this town. **I can't help but think we would both make a serious mistake if I brought Park out to see you at Greystone. It would no doubt make an impression on him that he would never forget.** Do you really want me to bring him out? I am sure it would be best not to do so. I would be very happy to come out Xmas and spend the day with you, if you wish * * *." She ran away from there before Cristmas.

IV.

There was no conspiracy to deceive the Court and to procure a collusive divorce.

It is not contended that the petition was filed as a result of collusion; nor is it pretended that the pending proceedings are collusive. The charge apparently is that the parties conspired to obtain a collusive divorce, whether in this State or in Nevada does not seem clear, but that they abandoned their plan before its consummation. The charge is based upon the fact that Exhibits P-13 and P-14 were prepared, but never signed.

The first agreement, P-14, provides that if a divorce is granted to the husband by any court of competent jurisdiction he will pay to the wife during her life, provided she does not re-marry, the sum of $125 per month. It is agreed by the wife that she will not make application for alimony *pendente lite,* or maintenance or for counsel fees; and that neither she nor her agents will, directly or indirectly, give publicity to or cause, attempt or endeavor to have anything concerning said divorce action or the facts or allegations upon which the same is based or any statement concerning the said husband, in any newspaper;

and she further agreed that she would conduct herself so that she will lead a clean and respectable life, to the satisfaction of the husband.

Exhibit P-13 was prepared to take the place of P-14, as it was considered by Mr. Townsend that the obligation not to pay counsel fees might be considered as militating against a defense.

Neither of these proposed agreements, in the language of counsel (p. 44 of brief) "made a barrier to the defense which was secure at every point." She was not powerless to employ counsel; nor was she bound to absolute silence by either of the agreements.

The reason for the preparation of these agreements was that the petitioner actually desired to take care of the defendant. Mrs. Grundy first wanted a reconciliation. That was impossible. She then wanted a separation. That was impossible. She then wanted to be permitted to go to Reno. As a matter of fact, Mr. Grundy and Mr. Townsend took the Reno suggestion under consideration (pp.859-860-862-870-1-1089 et seq. 1095-1110).

Mr. Grundy testifies (p. 991) with respect to his getting Mr. Townsend up to the house on September 9th: "Q. What was the conversation? A. With reference to the general situation that I had determined to change the situation at home and wanted to ask her if she was prepared to take any definite action, if she had given the thing much thought or consideration, and I wanted to convince her that I was really serious this time; I had great difficulty in making her believe many, many times in the past when she was on excessive drinking bouts, she always knew when she was straightened out that it would be forgiven, and I was quite confident that she felt now that this was simply another repetition of the same old occurrence, if she did not have some other party to convince and prove to her that I

was really in earnest that she would not take it seriously."

And on page 992: "She did not understand why I would consider bringing a divorce proceeding in Jersey, Jersey City, among people we knew, because of the possible notoriety, and she thought it would be much more simple to go to Reno and let her get a divorce. Q. Now, did you ever agree to permit her to go to Reno? A. Never agreed definitely. Q. Did you have it under consideration? A. I did. Q. At whose suggestion was it that some provision was sought to be made with respect to her support in case you got a divorce? A. My suggestion. Q. What was said? A. At that time during the month of September, the early part of September, Mrs. Grundy was in a very pitiable and deplorable condition, she was constantly bemoaning the possibilty of being without any means of supporting herself, and it was impossible to talk with her, to reason with her, to have any clear explanation, because of the fact, it annoyed her, preyed on her mind day and night, and in an effort to ease up this great fear she had, and to put her in a better frame of mind to have her realize that it was not a case of cutting loose and throwing her out on the world, I requested Mr. Townsend to prepare some sort of an agreement that would answer the thing that worried her so greatly. Q. Did you tell her what your obligations were as you considered them, irrespective of whether you got decree for divorce or not? A. I did. Q. What was said? What did you tell her? A. I told Mrs. Grundy that she need not worry about maintenance and support, that so long as she lived I would see that she was not in need. Q. Why did you tell her that? A. Because I could not break clear of the regard and the respect I did have for her in days of old; she was the mother of the boy and had been my wife for a number of years, and I

felt it only right that she should be provided for, no matter what the outcome of her action would be. Q. Was it because of any doubt in your mind with respect to her guilt? A. Absolutely not. Q. Did you tell her that you would do this thing provided she suppressed her defense, or words to that effect? A. I did not."

On page 994 counsel who was then examining and conducting the case for the defense, apparently disclaimed any intent to claim that there was ever any agreement or thought of any to suppress the defense.

Mr. Townsend testified with respect to this agreement on pages 852, 853, 854 and 855. The statement contained in page 43 of the brief putting in the mouth of Mr. Townsend that on September 15th Mrs. Grundy "agreed" is misleading. It is placed in the brief in such corelation as would indicate that what she agreed to was to consent to a collusive divorce. Reference to the testimony (p. 846) will indicate that what was agreed to was that she would attempt to avoid publicity and that she would behave herself with respect to the manner in which she lived.

So the statement that Mr. Townsend said that someone whom he cannot remember, told him that it might be considered as an attempt to suppress the defense (p. 45 of brief) is misleading.

Mr. Townsend says (p. 855): "I had originally drawn P-14 as it is there, but upon reflection, I think I had conferred with some other attorney, I don't know who it was, and I decided that the provision in there respecting counsel fees was vicious, was a bad one, and that it might be construed that Mr. Grundy was attempting to suppress her defense, and in order not to have anything like that, I redrew the petition, leaving out the provision respecting counsel fees."

In the meantime Mr. Grundy and Mr. Townsend had agreed that no agreement would be executed, and Mrs. Grundy was so informed on September 26th (p. 858).

The statement in the brief (p. 45) that the statement of Mr. Townsend that he explained to Mrs. Grundy that the agreement had been redrawn, so that she would be at liberty to engage counsel (p. 856, l. 8) proved positively by the admission of Mr. Townsend that up to that time she had not been free to employ counsel, is absolutely misleading.

A reference to page 856, line 8, will show that what Mr. Townsend testified to was, so that she would be at liberty "to engage counsel and apply to the court for counsel fee." There was no thought on Mr. Townsend's part, and counsel should have known it, of testifying to any admission that she was ever prevented from engaging counsel. In fact, it is apparent that the words that she should not apply for counsel fees, as the agreement originally was prepared, were inadvertently put in. Temporary alimony and counsel fees usually go together, and in drawing the agreement, counsel undoubtedly dictated the provision with respect to counsel fees without thinking of what might be claimed to be its effect.

The statement that Mr. Townsend continued for four months to treat directly with Mrs. Grundy, instead of treating with her only through one of her three counsel is unfair.

Mrs. Grundy retained Judge Carey on October 6th. Much against Mr. Townsend's will she continued to bother him. She herself says, however, that the last time she saw him was in November (p.). She was trying to get him to consent to let her go to Reno (pp. 859-860-2; 870-1).

There is no evidence of weight that the con-

ferences which Mrs. Grundy had with Mr. Townsend were not at her suggestion, and see Mr. Townsend's testimony (p. 858). As Mr. Grundy testified, she apparently would not consider the seriousness of the situation; she insisted upon talking to Mr. Townsend.

On page 959 Mr. Townsend testified to one of the conferences with Mrs. Grundy, "She wanted to go to Reno to get a divorce there, in order to save this litigation and the publicity about the divorce she said that would follow, and at one of those conferences, I had taken the matter up with Mr. Grundy and the matter was under advisement; whether she would go to Reno or not; and on October 6th she telephoned me in the morning from somewhere out on Long Island and she came in the office in the afternoon; I don't know whether it was that date or not; it was one of those times around there; and I told her that Mr. Grundy would not consent to having her go to Reno."

Whether counsel intended on the cross-examination of Mr. Townsend (p. 879) to insinuate that Judge Carey was a party to a conspiracy, it is impossible to say.

No decree was taken against the defendant by the petitioner. Mr. Townsend insisted that Mrs. Grundy obtain counsel and file an answer. Her counsel who had represented her from September 27, wrote her on December 27th, 1919 (p. 1193) that she must do something. Although the petition was filed on September 19th, 1919, the answer was not filed until January 23d, 1920 (p. 6).

V.

The letters between counsel for the respective parties were properly excluded.

Aside now from the question of privilege, the letters are neither material, relevant nor competent. There is cited for their admission Stephen's Digest, Art. 17, p. 119, to the effect that barristers and solicitors are the agents of their clients for the purpose of making admissions while engaged in the actual management of the case or in correspondence relating thereto. An inspection of the letters will indicate that they do not contain admissions of any kind, nature or description; they could not affect the case in any way.

Conclusion.

There was a great mass of testimony taken in this case. The Master saw the witness; he is the best judge of whether the credibility of any is to be affected by the fact that he smirked or smiled, or that his story was sordid. The nature of the case was such that much depended upon the examination of Mrs. Grundy and Mr. Grundy, and the impression they made upon the stand. It is hard to imprint the testimony in such way as to convey a proper impression.

Mrs. Grundy was on the stand for hours, as was Mr. Grundy. The Master had the opportunity of determining, from the manner in which they testified, their good faith. Particularly upon the issue of connivance and collusion was the impression made by Mr. Grundy as to his bona fides important. Did he do everything under the circumstances that he should have done? He said he did. Was he sincere in that statement? As bearing upon whether he was sincere or not,

his words were not so important as the manner in which he testified. So, with respect to Mrs. Grundy. Had she any real complaint of the conduct of her husband? It was not so important with respect to her as to what she said, but as to how she said it. Did she impress the Court as having any real cause of complaint, even in her own mind, with respect to the manner in which she had been treated? Did Park Grundy testify willingly; or was he under strain; and was he doing only the thing which he considered he should do? Here again the impression made by the witness himself was of the utmost importance. The Master was impressed apparently by the testimony of Mr. Grundy, and of Park, upon the issues of bona fides, and by the testimony of Mr. Grundy and Mr. Townsend upon the issue of collusion.

Upon the issue of adultery, it is submitted that there could be but one determination, irrespective of the impression made by the witnesses upon the Court. The determination of this question does not rest upon impressions. The proof of guilt does not rest upon the testimony of Park Grundy, or of Mr. Grundy, or of Mr. Townsend, or of Mrs. Hansen.

It is conceded that on the 24th day of August, on a Sunday afternoon, the man Levine was in the kitchen of Mrs. Grundy's house, in a closet, when her son entered the house after waiting, concededly, some space of time before the door was unlocked; that he went into the house and stated that there was an explanation forthcoming; that the man said, "There is no explanation" and disappeared. Mrs. Grundy does not attempt to make an explanation at the time.

These facts are admitted. They call for an explanation. The explanation given by Mrs. Grundy, Levine and his wife, is preposterous.

Upon their explanation and the admitted facts, the proof of guilt is clear.

So with the Evans incident. It is conceded that on September 15th, about noon, Evans is in the bedroom of Mrs. Grundy; that the door of the apartment is locked, to the knowledge of both; that he had been in the apartment for an hour and a half; that when Park enters with his key he is standing in his shirt sleeves, a foot or so from the bed, upon which she is reclining; that the shades are down to within seven inches of the bottom; that no explanation is made to Park of Evans' presence. It is further conceded that upon another occasion, in the Easter holidays, Park, about noon time, found Evans at Mrs. Grundy's home, alone with her; that Evans, from February to the Easter vacation (at which time Park returned from school) visited Mrs. Grundy's house two or three times a week; that during the Easter vacation he only visited once, when he was found there by Park; that between the Easter vacation and the time that Mr. Grundy returned from Europe, he visited the house again two or three times a week; that after Mr. Grundy returned from Europe he practically discontinued his visits. That after he is caught on September 15th he enlists in the army on October 6th.

This situation calls for an explanation. The explanation made by Mrs. Grundy and by Evans is preposterous. It is not only preposterous, but it is shattered beyond repair by the testimony of Miss Halverson, who is called to support it.

Evans detailed a story with respect to the Easter vacation of having set out with Miss Halverson for a walk; stopping at the Grundy house; and then Miss Halverson being sent on an errand, from which she never returned, although Evans was waiting for her. This was

shattered when Miss Halverson failed to recall the incident, or has "a faint recollection" of it.

The story of Evans with respect to his being telephoned the night before he was found in the Grundy house on September 15th, to help Mrs. Grundy pack, is shattered beyond repair when Miss Halverson's memory appeared so defective. The whole story is given away when Miss Halverson does remember distinctly that on September 17th or 18th, two or three days after the 15th, Evans did go to Mrs. Grundy's home, upon the request of Miss Halverson, and did there assist in packing, which occurrence Evans and Mrs. Grundy translated from the 17th to the 15th. They both deny that Evans was at the Grundy house after the 15th. The testimony of Miss Halverson is destructive of the case of the defendant.

The burden is on petitioner to prove adultery; and it is submitted that he has sustained that burden. In the brief, counsel for appellant does not indicate a serious contention to the contrary.

The defendant being guilty of adultery, the burden is on her to prove either connivance or collusion. As I have already argued, there is no suggestion of connivance with respect to August 24th. As to September 15th, it was not connivance, for Mr. Grundy to withdraw from the home after what he had learned with respect to the occurrence on August 24th. He was not obliged to confine his wife; it is hard to imagine what he could have done unless he forgave her; and he was under no obligation to do that.

With respect to collusion, it was disclaimed throughout the trial of the case that there was any collusion. It is the contention of counsel, apparently, that there was an idea in the minds

of the parties that there might be collusion, and that this idea is sufficient to warrant the court in denying the decree, irrespective of whether the collusive agreement was entered into or not. It is conceded that it was not.

The trouble arises because of a sincere desire on the part of Mr. Grundy and Mr. Townsend, to do the decent thing; they were finally convinced that they could not go forward, because of a fear that it might be charged to be collusive, and the entire matter was dropped, to the manifest injury, it is submitted, of defendant.

It is respectfully submitted that the decree should be affirmed.

MERRITT LANE,
Of Counsel with Respondent.

New Jersey Court of Errors and Appeals.

BETWEEN: GEORGE H. GRUNDY, *Respondent,* *and* IDA MAY GRUNDY, *Appellant.*	On Petition for Divorce. On Appeal from the Court of Chancery.

BRIEF FOR APPELLANT.

1.

Statement of the Case.

George Grundy, the respondent, sued his wife, Ida May Grundy, the appellant, for divorce on the ground of adultery alleged to have been committed on two occasions—August 24, 1919, and September 15, 1919,—the offense of August 24th, 1919, with Jacob Levine, a married man, formerly a wine merchant in Jersey City, the offense of September 15th, 1919, with John Francis Evans, a man of about 21, serving in the army and a social acquaintance.

Both correspondents were examined as witnesses and Evans intervened as a party.

The evidence of adultery was strictly circumstantial, and the principal witness was the son of the parties, Park Alan Grundy.

The petition was verified September 18, 1919, filed September 19, and served September 25; the answer was filed four months later, on January 23, 1920.

The proceeding was referred to an Advisory Master and was heard by him on about fifteen different days during a period of more than two

months, the testimony being greatly protracted and abounding in irrelevant and immaterial matters.

The Master decided against the wife, presumably as to both offenses alleged, but his opinion is so brief as to leave much in doubt which it would be helpful to know in the examination of this appeal. For instance, he finds that the correspondent, Levine, was corroborated "to some extent" by his wife and the defendant, but gives no clue to the bearing of this corroboration upon his finding.

The husband is about 47, the wife about 46 years old. They were married in 1899 and have living the son, Park Alan Grundy, already mentioned. Another child died in infancy. Mr. Grundy held an important position with the Crucible Steel Company, and the life of the family seems to have been of a considerable measure of prosperity and luxury.

The husband has been twice married. He had children by his first wife and is now a grandfather, but he obtained a divorce from his first wife on the ground of her adultery.

At the outset, the respondent's counsel made the following announcement of purpose:

> "We intend to show a course of conduct on the part of the defendant that indicates a condition on her part under which she would be very likely to commit the offenses charged. As I understand this case we are entitled to show the whole family life; we are entitled to show the thing from beginning to end" (p. 186, line 10).

This purpose was carried out so completely that much the greater part of the testimony deals with the addiction of the wife to drink from the year 1905 or 1906 to the beginning of the suit.

Despite some wavering denials by the wife, belief must be accorded to the main facts of the unhappy recital of her habitual and excessive drunkenness during a period of about 13 years before the petition was filed. This recital is from the lips of the husband, the son, the husband's counsel and a number of others.

Mrs. Low, a witness for the husband, gives the following character of Mrs. Grundy:

> "Mrs. Grundy when she is herself, she was most attractive and intelligent and educated and lovely, but when she was under the influence of liquor she was decidedly the opposite; she tried to brace up by herself but it was hard work; you could tell well enough when she was under the influence of liquor; I could tell from the minute I would see her" (p. 818, l. 15).

Mr. Grundy says that his wife began to drink to excess in 1905 or 1906 (p. 967, ll. 15-40; p. 969, l. 1).

In 1909 they were boarding at Mrs. Corrigan's in Jersey City where she was drinking so that she "would be confined to her bed for days at a time" (p. 970, l. 15).

A removal to the boarding house of Mrs. Low brought a brief improvement, but she again started to drink, causing scenes, falling on the floor and "staging" two or three attempts at suicide, as the husband asserts (pp. 970 and 971). She was removed from Mrs. Low's in 1911 to a sanitarium in Irvington (p. 971, l. 1).

In the same year the husband visited her at Savin Rock, Conn., where she was staying, found her "dead intoxicated" and returned home indignant; the wife wrote him a repentant letter (p. 971, ll. 12-40; Ex. P-2).

Returning from a visit to Connecticut in 1912, she got as far as the Grand Central station where

someone telephoned the husband to come and get her. He found her in the hospital at the Grand Central lying down, her face badly cut from a fall and so much intoxicated that she had to be brought home in a taxicab (p. 972, l. 10-30).

About April, 1912, Mrs. Grundy was committed to the Asylum for the Insane at Morris Plains upon the advice of two physicians (p. 974, ll. 30-40).

There, according to the husband, "she improved wonderfully from the treatment they gave her". But he decided that it was not proper to keep her in an insane asylum under those conditions and prevailed on the doctors to release her (p. 975, l. 15). He admits he did this against the advice of the doctors (p. 975, l. 25) and offers a letter from Dr. Britton D. Evans which shows the gravity of the wife's condition.

Dr. Evans writes:

> "My experience has been that if patients addicted to habits similar to those of Mrs. Grundy do not spend at least one or two years in an institution, the permanent effects are little" (Ex. P-15, p. 1188).

After her discharge from Morris Plains the family moved to New York where, Grundy says, the wife

> "became worse than ever; there was a time when we had constant medical attention, nurses day and night; she drank to such excess that it was impossible to govern her actions; we found her in the hall in her night gown, with her hair hanging down, riding in the elevator and running around about the hall when Park and I were sleeping."

Her actions seem to have attracted the attention of the police and on one occasion a policeman brought her home (pp. 976, 977).

In November, 1913, Mrs. Grundy was placed in

the Audubon Sanitarium in New York (p. 977, ll. 16-20) and in December, 1913, in the Oppenheimer Institute for the treatment of alcoholism (p. 977, l. 20). She was again a patient in the Oppenheimer Institute in July, 1914. The husband says he took her out of the Oppenheimer Institute because the doctors and nurses could not control her (p. 977, ll. 1-25).

By August, 1914, her state had grown so much worse that she was again formally committed to the Asylum at Morris Plains by an order of court upon the application of the assistant county physician (p. 980, p. 1045), that being the sixth time in three years that she had been placed in sanitariums by reason of drunkenness to say nothing of more or less constant treatment at home by doctors and nurses.

She remained in Morris Plains four months until the latter part of December, 1914, when her husband suddenly received a telephone message from her in New York. She informed him that she had escaped from Morris Plains and had reached New York with money borrowed from an inmate of the Asylum and she boasted of the fact that "she had spent the last fifty cents in her pocket for a drink" (pp. 983, 984).

During this second stay of four months in Morris Plains the husband did not visit his wife, nor did the son (p. 168, ll. 20-30) but the husband did write to his wife two letters filled with expressions of kindness, affection and deep anxiety for her welfare, and exhorting her to the patience and resolution needed to be "rid of disease that has been her undoing for years" (p. 1181, l. 22; Ex. P-11, P-12, pp. 1179, 1181). These letters the appellant was notified to produce (p. 579, l. 13). She looked unsuccessfully for them and later they were produced by the respondent himself (p. 655, ll. 24-26).

Instead of taking her elsewhere for treatment or sending her back to Morris Plains, Mr. Grundy took her home; but she soon started to drink again. This was in 1915.

> "Her drinking spells became more frequent and we found it again necessary to call in physicians and occasionally have nurses; she was spending an enormous amount for liquor" (Grundy's testimony, pp. 983, 984).

At length, in the summer of 1918, Grundy, "discouraged over her actions, her excessive drink and her waste of money", told her that cohabitation between them would cease (p. 984, ll. 15-40). But there was no change in her conduct, says the husband, and in the summer of 1919 "she was drinking very heavily" (p. 988, l. 38).

On the other hand, the husband seems never to have dealt firmly with his wife's affliction. There appears always to have been drinking both in and out of the home in which he participated to some extent, whereas he had been advised, as already mentioned, that a cure would involve a confinement of one or two years in a sanitarium where it would be "impossible for her to get liquor" (p. 974, l. 35).

This advice was ignored, notwithstanding the constant evidences of the wife's uncontrollable weakness. For instance, Grundy says:

> "When she was in these fits of drinking spells she would arrange for the delivery of liquor to the house by some means or other, it was impossible to prevent it, in wholesale quantities; I have known her to consume *more than, well, two quarts of alcohol in a day.* Whenever she would be out of the house they would find bills thrown in the waste basket showing cash deliveries at the apartments. When she was drinking to excess she would sometimes spend a week or ten days

> or two weeks in bed; doing nothing else but getting up and going for liquor and going back to bed. She didn't do anything else. She would make no attempt to keep her house in order or keep her body clean, her face or her hair or anything, she would just be disheveled for a week or ten days or two weeks" (pp. 1000, 1001; p. 1034, l. 18).

But the husband says: "I had no real objection to her taking a drink occasionally" (p. 1000, l. 10).

They drank when they went out to dinner (p. 1053, ll. 30-40); they drank at home with friends and, on New Year's Day of 1917, the husband recalls that "there was an excessive amount of drinking" at the home (p. 1054, ll. 1-20).

On August 24, 1919, the father and son went to Shackamaxon in the father's automobile; the father to play golf, the son with no purpose, that he has stated. They had been in the habit of spending their Sundays playing golf, leaving Jersey City about 8:30 in the morning and returning about six or seven in the evening (p. 48). The mother seems not to have gone with them on any of these Sundays (p. 48, l. 15). On this occasion they left between eight and nine (pp. 37-25-30). The day was fine, but the son, instead of remaining for the day at Shackamaxon, as he usually did, returned alone at once and reached home between eleven and twelve (p. 37, ll. 30-40). When he opened the front door with his key he found the chain bolt inside the door fastened so that the door opened only about an inch. He says that he rang and knocked for about fifteen minutes. He heard talking in the apartment. When his mother let him in he says:

> "I shoved right in the door, went through the apartment, directly—came to the kitchen door, I opened the kitchen door, which was between me and the closet, and standing

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there was a man with his hat in his hand. I said: 'I think this requires some explanation,' and he says: 'No explanation is necessary,' and he shoved past me, out through the door and went downstairs."

The mother was dressed, he says, in a night gown and kimona, her hair in a disheveled condition. "She went directly back to her room, in the bed", which "showed that it had not been fixed in quite a while" (p. 41).

The son left without saying anything to his mother, went downstairs "and loafed around" until his father returned that evening (p. 42, l. 15).

The mother denies any guilt in the episode and explained that Levine brought some bottles of beer because he had failed to deliver them the day before. That he was on his way to New York with his wife who waited for him downstairs. The wife of Levine corroborated this explanation so far as she was concerned, and Levine accounted for his conduct by saying that the ringing and pounding of the son at the door made him fear that he was about to be made the victim of a deliberate plot to trap him alone in the apartment with Mrs. Grundy. He was fully dressed and prepared to leave. The advisory master found that Mr. Levine had been "to some extent" corroborated. Mrs. Grundy says that the fastening of the chain-bolt was an unconscious and automatic act which had become habitual.

The son says that the mother was half intoxicated when he reached home

> "because that had been going on for, I should say, for two weeks previous to that" (p. 1142, ll. 10-20; p. 1147, l. 10).

The next day, August 25, Grundy consulted Mr. Mark Townsend, Jr., who advised him that he had good grounds for divorce (p. 1062, l. 28; p. 1063, ll. 15-25; p. 1070, l. 1).

Grundy thereupon retained him as his counsel (p. 903, l. 10) and instructed him to file a petition for divorce (p. 907, ll. 20-30). Mr. Townsend was an intimate friend of both the husband and wife (p. 880, l. 30).

The following day, August 26, Grundy brought Mr. Townsend to the apartment for the purpose of discussing the incident of August 24, but Mrs. Grundy was in a "pitiable, deplorable condition", "highly nervous, suffering from excessive drinking and not in a position to talk, listen to reason or do anything at all" (pp. 1065, 1066).

Grundy says that his wife asked him to bring Mr. Townsend to talk to her (p. 1068, l. 21) but the husband admits another motive in bringing Townsend. Denying that he brought his counsel there to obtain a confession, he nevertheless says "I was hopeful she would do some talking; she as a rule refused to talk with me" (p. 1071, l. 15, p. 1076, l. 8).

Likewise, explaining further his object in this matter, he says it was

> "In hopes that she would say something definite, *because she knew Mr. Townsend and because she would be more likely to tell him*, or answer my questions, and I wanted to have her feel we were there *trying to help her*, if anything, we wanted to do what we could to *have her talk and make some definite statement as to what she might do*, and what she proposed to do for the future" (p. 1070, ll. 10-20; p. 1073, l. 10).

When Mr. Townsend called on August 26th he attempted to converse with Mrs Grundy as she lay in bed but she refused to talk with him (p. 895, 896). She was hysterical and intoxicated (p. 990, ll. 20-30).

Pressed to explain why he did not at once file a petition when he had advised the husband that

he had good cause for divorce, Mr. Townsend made the following reply:

> "On August 26th Mrs. Grundy was in that condition (of drunkenness) and she continued in that condition for some days; *I had already told Mr. Grundy* (viz: on August 25th) that there was no particular hurry about filing a petition at that time—I mean that day—*that in my judgment the thing would happen again in the near future*" (p. 904). "I believe I informed Mr. Grundy at that time, although in my judgment that was sufficient evidence for a divorce there would probably be more corroborating evidence *if he would allow the matter to go on for a couple of weeks*" (p. 900, ll. 30-40). "I thought the case would be much stronger; the more evidence you get the stronger your case is" (p. 901, l. 25).

Mr. Townsend being questioned for his reasons for advising Grundy to wait for further evidence, says:

> "*Mr. Grundy had repeated to me rumors that he had heard from some of the neighbors,* I told him under the facts that he gave me, in my judgment, the thing would happen again, and that in the meantime I would go ahead and prepare, and I think I did go ahead and prepare a petition for divorce" (p. 906, ll. 1-12).

What the neighbors told Grundy that caused him to become suspicious and that he repeated to Mr. Townsend was not brought out, but it is possible, from Mr. Townsend's testimony, to fix the time when Grundy heard these rumors. Mr. Townsend testifies:

> "On August 26th Mrs. Grundy was in that condition (of intoxication) and she continued in that condition for some days; *I had already told Mr. Grundy that there* was no particular hurry about filing a petition at

> that time—I mean that day—that in my judgment the thing would happen again * * * " (p. 904, ll. 21-40).

It is thus clear that the rumors which Grundy repeated to Townsend and which caused the latter to give the advice just quoted came to Grundy's ears prior to August 26th.

In striking contrast to the evidence just rehearsed is the repeated assertion of Mr. Grundy on the stand that he did not suspect his wife of infidelity prior to August 24, 1919.

He saw Evans at the house several times and accepted the explanation that he was waiting for his friend, Gertrude Halverson but,

> "thought it strange that the occasion was repeated" (p. 1002, ll. 15-35).

Asked whether he saw or heard anything which indicated the probability of infidelity, he answered, "I never saw or heard anything prior to August" (p. 1003, l. 20; p. 1094, ll. 25-35; p. 1101, ll. 1-30).

(Page 904, ll. 25-30; p. 905, l. 21; p. 906, l. 4). Mrs. Grundy's condition was such at this time that a nurse was sent for August 28th and remained a week, after which another nurse attended her for three days until September 7th, 1919 (p. 1074, ll. 1-15).

Meanwhile, a day or two after the Levine episode, Grundy removed from the door the chain-bolt or swivel-lock which had prevented the son from getting into the apartment on August 24th (p. 44, l. 15; p. 1061, l. 35).

On September 9, two days after the nurse had left and as soon as she was in a "condition to understand what was going on" (p. 1074, l. 28) Grundy again brought Mr. Townsend to see his wife, as he says, at her request (p. 1074, ll. 28-40; p. 1076).

Mr. Townsend called on the wife and conversed with her in the presence of the husband and the son (P.839,L.26). He found her "badly worked up" (P.840,L.15). After mentioning the "em-

barrassment" he felt from his intimate acquaintance with both of them (p. 840, l. 32) he proceeded to inform her that her husband "was through", and was going to bring suit for divorce for adultery. Denials from Mrs. Grundy led to "an argument on the matter of fact" (p. 841, l. 2), which Mr. Townsend closed by summarizing all the evidence as he had heard it and by assuring her that it was "preposterous" for her to expect her account to be believed (p. 841, l. 20).

Mrs. Grundy "talked about reconciliation" (p. 841, l. 31), but Mr. Townsend answered that, in his judgment, "there was no hope of any reconciliation" (p. 841, l. 38). She then asked whether a separation could not be arranged, but Townsend answered that the husband "would not have any separation" (p. 842, ll. 1-6). These decisions were all thus communicated to Mrs. Grundy by Mr. Townsend while Mr. Grundy was in the apartment.

Mr. Townsend continues:

> "She then began to worry and she was very much broken up, her whole demeanor, as to what was going to become of her, she said she had no relatives here, that she was not a woman that could go out and earn her own livelihood and she did not know how she was going to get along; some suggestion was made of some kind for some arrangement by which Mr. Grundy was to pay her a monthly allowance—out of sympathy and pity for her, *regardless of any action of the Court.*"

The conference then ended with Mrs. Grundy "in the hope that there would be a reconciliation" (Tes. of Townsend p. 842).

When Mr. Townsend had departed, after this interview, Mrs. Grundy went into the bathroom and turned on the gas in an attempt at suicide. The attempt may have been "staged", as the husband says of other attempts, but it brought the police and an ambulance and a crowd of 200 people to the house (p. 889, ll. 15-40; p. 1084, ll. 1-30). Mr. Townsend has made very clear the "pitiable" condition of Mrs. Grundy "around the 9th or 10th of September" (p. 935, l. 38; p. 936, l. 1). "She didn't know what she was going to do, what was going to become of her, *she wanted to have a talk about reconciliation or separation*" (p. 928, ll. 25-35).

> "During that time she had been drinking periodically, heavily, and she was greatly distressed for fear that she was going to be a charge on the public" (p. 936, ll. 10-15; p. 992, ll. 30-40).

On September 9th or 10th the father and the son left the apartment for good and moved to Mrs. Corrigan's, nearby, on Crescent Avenue (p. 844, l. 18), but they had occasion to return to the apartment occasionally.

At this time, from September 9 to September 15, Mrs. Grundy was drinking heavily (Test. of Grundy, p. 1084, ll. 28-40; p. 1085, ll. 1-5).

On September 15, six days later, Park Grundy, the son, testifies:

> "I came in and walked through the apartment; the swivel lock on the door had, in the meantime, been taken off by my father; I walked into the apartment and in my mother's room. I saw Mr. Evans standing by the window, with the shades down, buttoning up his pants. Evans said to me: 'Hello, Park', but I didn't make any answer to that at all; I walked through the apartment and he went out. That is all there was to it."

This was about 11 o'clock in the morning. Mrs.

Grundy was dressed in a "night gown and kimona, her hair disheveled, sitting on the edge of the bed, which was in disorder; the double shades were down" (Testimony of Park Alan Grundy p. 44).

The mother's explanation is that Evans was a friend of Gertrude Halverson, who was an intimate friend. Miss Halverson called constantly and often slept with Mrs. Grundy (p. 668, ll. 22-30); that Miss Halverson brought Evans often to the house (p. 753, l. 22) and on the occasion in question had sent for him to carry barrels up from the cellar to the Grundy apartment, (Park Grundy and his father having left on the 9th and gone to Mrs. Corrigan's to live) (p. 1084) in preparation for Mrs. Grundy's moving (p. 464, ll. 23-40; p. 668, l. 35); that Evans had removed his coat while bringing up the barrels and Mrs. Grundy had hung it on the coat rack in her bedroom, that being the only one in the apartment; (p. 674, ll. 20-25) that she was lying at the foot of the bed because she had a headache, and that Evans was waiting the arrival of Miss Halverson and had come into her room to get his coat (p. 465, ll. 25-30).

Meanwhile, on September 10th, Mr. Townsend had drawn a petition for divorce, specifying only the Levine incident (p. 906, l. 15).

With matters in this posture Mr. Townsend again called on Mrs. Grundy on the evening of September 15th, the day that her son had come to the apartment while Evans was there; he says he went there at the request of Grundy (p. 843, l. 5).

He denies that it was his object to obtain a confession (p. 1087) but he again went into an argument with her as to the Levine and the Evans incidents reported by the son. Rejecting her denials, he said:

"'Ida, you will recall that when we were here before you said that Park had lied about the other incident of the 24th; now, after persisting in that for some time you changed your story and eventually admitted that the man was here. How do you expect Mr. Grundy under those conditions to believe you? What reason would there be for Park to come in and tell Mr. Grundy an impossible story such as this when it wasn't true?' I said, 'the thing is preposterous on its face. Mr. Grundy don't believe it; I don't believe it.' She then said 'Well, there was a man here, he was a real estate agent looking for an apartment for me'. I think I made the remark at that time 'It is somewhat strange, if he was a real estate agent looking for an apartment for you, that he would be in your bedroom and you in that semi-disrobed condition.' *I reiterated to her that the thing was so preposterous on its face that she could not expect Mr. Grundy, myself or anybody else to believe her story.* She then said to me, 'Well, what do you expect?' In substance she said to me, 'Well, what do you expect if your husband hasn't had anything to do with you for over a year'. *Mr. Grundy was present at that conversation.* I said 'Ida, he is firmly convinced that you are guilty of adultery with this man'. I said 'I have prepared a petition for divorce to file against you on that ground; now the petition will have to be amended, or have to be changed, and this incident that happened today will be inserted in it'. Mrs. Grundy then went over the facts that if Mr. Grundy got his divorce she would be helpless, that $100 (the amount mentioned at the meeting of September 9th) was not enough. Thereupon it was 'finally agreed to pay her $125 a month" (p. 843).

Mr. Townsend told her she should consult a lawyer; she said she already "had" a lawyer, Mr. Alexander Simpson. But Mr. Simpson was not sent for or spoken to by Mr. Townsend and appears, in fact, never to have been actually consulted by Mrs. Grundy.

The interview of September 15 ended with the statement by Mr. Townsend that he would draw an agreement such as had been discussed (p. 847, ll. 1-5).

Mr. Townsend, asked whether at this interview on the night of September 15th, Mrs. Grundy had been drinking or not, answered "I don't believe I could tell whether she had been drinking *to excess*" (p. 851, l. 5).

The implied confession of her guilt made to Mr. Townsend as above recited on September 15th was corroborated by Mr. Grundy. The language of each was substantially to the same effect. (See testimony of Grundy p. 999, ll. 35-40).

Mrs. Grundy denies the confession (p. 1167, l. 1).

Mr. Townsend drew the agreement Ex. P-14, p. 1186, the salient parts of which were that the husband was about to sue for divorce, that he desired to arrange for his wife's support in case divorce was granted to him, that the wife would not apply for alimony, maintenance *or counsel fees;* that she would do nothing to cause publicity respecting the divorce; that she would lead "a clean and respectable life" to the satisfaction of the husband and that if she should break any of her covenants the husband might, "*at his option, without notice rescind the agreement*".

Mr. Townsend saw Mrs. Grundy the next day, September 17th, at her home (p. 848, l. 17, p. 879, l. 40) and the day after, September 18th, at his office (p. 851, ll. 10-12); where he gave her a copy of the proposed agreement (Ex. P-14) (p. 852, l. 8).

"Upon reflection" Mr. Townsend began to have doubts as to the validity of the agreement (Ex. P-14) which he had handed to Mrs. Grundy. He consulted another attorney, whose name he can not recall, and says:

> "I decided that the provision respecting counsel fees *was vicious, was a bad one, and that it might be construed that Mr. Grundy was attempting to suppress her defense,* and in order not to have anything like that I redrew the petition (agreement) *leaving out the provision respecting counsel fees.*" p855 L25

The agreement thus re-drawn is Ex. P-13 (p. 1184), and it appears never to have been given to Mrs. Grundy (p. 854, l. 20).

Mr. Townsend says that he and Mr. Grundy went to Shawnee to play golf about the 18th and while there decided that the agreement (Ex. P-14) which had been handed to Mrs. Grundy should not be signed (p. 856, ll. 20-40, p. 857, l. 34). But, while Mr. Townsend and Mr. Grundy were at Shawnee, Mrs. Grundy for the first time sought independent legal advice and consulted Mr. Marshall Van Winkle (p. 857, l. 35), who wrote to Mr. Townsend a letter dated September 23rd, 1919, which Mr. Townsend received shortly after his return from Shawnee on September 22nd (p. 858, l. 5). This letter was excluded from evidence on the ground of "privilege" as well as Mr. Townsend's reply thereto (Ex. D-A-D-B for Identification).

In this letter of September 23rd Mr. Van Winkle observed.

> "Certainly, unless Mrs. Grundy is a very guilty woman, no lawyer should advise her to sign the agreement proposed. The agreement assumes a condition of guilt on her part and her signature to the agreement is substantially some admission by her that the husband had some ground for divorce."

Presumably Mr. Townsend received this letter on September 23rd or 24th. It resulted, seemingly, in prompt action for the petition was served the next day (Sept. 25th, 1919).

But Mr. Townsend continued to confer with

Mrs. Grundy. She called at his office in a state of great excitement on September 26th, after the petition had been served on her "and wanted to know what she should do." She said Mr. Van Winkle could not take her case and that she had not retained Mr. Simpson. She asked Mr. Townsend to recommend a lawyer and he gave her the names of several (pp. 858, 859, 860).

At the same time Mr. Townsend asked Mrs. Grundy to return the copy of the agreement (Ex. P-14), which he had given to her and which Mr. Van Winkle had criticised, and she did so (p. 858, ll. 15-20). At the same time also he told her that "Mr. Grundy would not execute any such agreement" (p. 858, l. 11). He wrote to Mr. Van Winkle to the same effect in the letter of September 26th, 1919 (Ex. D-B for Identification), excluded from evidence.

There is some confusion, at this point, in Mr. Townsend's account of the reason why he re-drew the agreement Exhibit P-14 in the form of Exhibit P-13. He says that he told Mrs. Grundy the reason why he was re-drawing the agreement (Ex. P-14), namely, so that she "would be at liberty to engage counsel and apply to the court for a counsel fee" (p. 856, ll. 1-10), but the redrawn agreement was never handed to her, as already observed.

Instead of going to another lawyer Mrs. Grundy continued to call at Mr. Townsend's office. The explanation seems to be that the real hope of Mr. Grundy was that a divorce could be arranged in Nevada. A proposal that Mrs. Grundy should go to Reno, which the husband says was hers and not his, had been under discussion from the first and these talks with Mr. Townsend after service of the petition seem to have been a continuation of this parley (p. 860, ll. 1-25; pp. 861, 862).

But Mr. Grundy admits that he considered permitting his wife to sue and gave her time tables from New York to Reno marked in his own hand with directions and memoranda of expenses (p. 1090, ll. 15-40; pp. 1091, 1092, 1093) (Ex. D-10, D-11, D-12).

A divorce in Florida was also under consideration and he gave her a diagram in his own hand of that state (p. 1091, l. 30; p. 1092, ll. 1-30).

Robert Carey was among the lawyers whom Mr. Townsend recommended to Mrs. Grundy but she seems to have had difficulty in seeing Mr. Carey. Mr. Townsend says:

> "She would come to my office and state that she had an appointment with Judge Carey and went around there and found a number of people in his office; she didn't know what to do; she couldn't wait there all day, and I advised her to go back the follow-day and follow whatever advice he would give her *and that continued for several months* (viz., during October, November, December and January). *She seemed to blame me for Judge Carey not keeping the appointment with her*" (p. 860, ll. 15-40).

The first time that Mrs. Grundy called on Mr. Carey she seems to have gone to see him from Mr. Townsend's office by Mr. Townsend's appointment and Mr. Townsend then seems to have followed her and to have had a talk with Mr. Carey in his private office while Mrs. Grundy was waiting to see him. Mr. Townsend told Mr. Carey all he knew about Mrs. Grundy, about Levine and Evans and her drinking, which he informed Mr. Carey she "still continued" (pp. 879, 880).

Mr. Carey retired from the case. Whether Mr. Townsend's account of Mrs. Grundy's life was given with the same completeness to Mr. Van Winkle when he conversed with him (p. 858,

l. 5) does not appear, but Mr. Van Winkle, like Mr. Carey, withdrew as counsel to Mrs. Grundy after these conversations.

In this irresolute manner matters drifted for four months until on January 23rd an answer was filed for Mrs. Grundy by Mr. Heyman.

In the foregoing abridgment of the case the attempt has been made to rely as far as possible on the testimony in behalf of the respondent.

ARGUMENT.

I.

Adultery has not been proved.

There is proof of suspicious circumstances but not to the measure of certainty required by the settled judgments of this State.

Although suspicion may be justified by circumstances, it cannot avail to dissolve a marriage if the facts upon which it rests are open to a doubtful construction. The high concern of the State in the dissolution of every marriage is one reason for this rule. The danger of placing the reputation and the fate of any person at the hazard of mere appearances is another. Plainly, the preponderance of moral and judicial concern in an examination of this character is toward avoiding an injury to the accused rather than toward satisfying the demand of the accuser, especially where, as here suggested, the accused wife may become a charge upon the State.

The presence of Levine in the wife's apartment was suspicious because the chain-bolt was fastened and because he hid himself, but the Advisory Master seems to have accepted the statement of Levine's wife that she waited for him downstairs, and if that is believed all probability of misconduct ceases. Mrs. Grundy did not act

as if she were guilty. She wore a night-gown and kimona and her hair and her bed were much disheveled, according to the son (p. 41), and "she went directly back to her room, in the bed" (p. 41). But there was, according to the son, a 15 minute interval while he waited admittance; a guilty woman would have made herself and her bed tidy in less time, and would hardly have gone directly back to bed before her son's eyes. The only reason for not opening the door, if 15 minutes really did elapse, as the son says, must have been that Levine might have time to dress. What was Mrs. Grundy dong in this interval? The evidence of misconduct implied by her disheveled condition and that of the bed is nullified by the son himself for he says that his mother was half intoxicated when he reached home and that she had been in that state for 2 weeks before (p. 1142, ll. 10-20; p. 1147, l. 10), and when in that state Mrs. Grundy always kept to her bed and permitted herself to remain in a disheveled condition (pp. 1000, 1001, 1034, l. 18).

Mrs. Hansen, the housekeeper, saw Levine delivering beer every week and the attempt was made to show that she had seen him enter the apartment on one occasion and remain 20 minutes, but her answer is indefinite and vague (p. 410, ll. 1-30; p. 411, ll.1-15); she saw him go in but did not see him come out, which proves nothing; he may have left unobserved Furthermore, she respected Mrs. Grundy, permitted her daughter to visit her "almost every day" and to sleep with her occasionally (p. 423, ll. 20-40) and observed nothing improper "outside of the drinking" (p. 423, ll. 20-40).

On the other hand, the conduct of the son was itself highly suspicious. If he had reason to suspect his mother and had been sent back from Shackamaxon by his father for the express purpose of trapping her, his conduct was perfectly

natural; he sacrificed the pleasure of golf on a fine day, returned home as quickly as he could, went swiftly through the apartment, found what he was looking for, said nothing to his mother, went out promptly and "loafed around" until his father returned at the end of the day.

It is quite incredible that a son, of natural feeling, could have sustained the shock and surprise of a revelation of his mother's guilt in such a manner. To find the door barred, to hear voices, to try in vain to get in, to enter and find his worst fears confirmed, and then to say not a word; not to show a trace of grief or indignation, not to rush back to his father, but, instead, with an automobile at his command, to loaf around all day until his father returned, is proof clear enough in all human probability that he came back expecting to find a man in the apartment.

He was an unnatural son, whichever way his conduct is viewed. To play the spy, cool and unconcerned, in an affair so vital to his own character and reputation; to bear witness without reluctance against his mother, and to smirk on the witness stand while doing so; or, if he did not play the spy, then to accept the result of such a disclosure with so little emotion, argues him a young man untouched by ordinary human feeling and therefore to be distrusted.

The greatest suspicion attaching to the Evans episode arises from the testimony of Evans himself. He came voluntarily from New York and intervened as a party to protect his reputation and answered questions with noticeable candor. He says that when Park Grundy greeted him he was in Mrs. Grundy's bed-room where he had gone to get his coat which she had removed from the kitchen table where he had left it (p. 257); he greeted Park Grundy as he came in and says: "I stood there waiting so that if he came back

to demand an explanation I was ready to give him an explanation" (p. 259, ll. 30-40). "I was in his own mother's room and I thought he might certainly ask why I was there; that is the reason why I was ready to give him an explanation, which was proper and right".

Evans had gone to the apartment by request of his friend, Gertrude Halverson, to assist Mrs. Grundy in moving (p. 252, l. 38; p. 253, l. 1).

Miss Halverson says that Evans had helped Mrs. Grundy pack some time before (p. 728, l. 38; p. 729, ll. 1-20). She says she either telephoned or told him on September 14th (p. 728, l. 25; p. 728, ll. 23-40; p. 733) to go to Mrs. Grundy's on September 15th; she told him she intended to be there the morning of the 15th (p. 733, ll. 25-40) and explains that she failed to go because she overslept (p. 734, l. 10). Her recollection is faint and her replies often evasive (p. 736). Evans asked her if she believed the story against him and she answered "No" (p. 731, l. 25; p. 732, ll. 15-20).

She seems willing to attest the good conduct of Evans, who had been her intimate friend, and yet she probably feels doubtful and unhappy over the whole affair. It should be noted that she was subpoenaed but not called by the respondent (p. 729, l. 22; Ex. D-5).

Evans fared badly on cross examination, especially in his explanation of why he was alone with Mrs. Grundy in the apartment on the other occasions when Grundy and his son had returned there, and the result of his testimony is that his acquaintance with Mrs. Grundy is surrounded with suspicion, if Park Grundy is believed. But it is a suspicion which cannot, under our cases, be decisively resolved into proof of misconduct such as our practice in divorce requires. Mrs. Grundy's own testimony as to both incidents is clear and straightforward.

Again, there is an inherent improbability of guilt in the Evans episode. Mrs. Grundy had been charged with adultery with Levine but a few days before; she was in a state of great depression and had been until about September 7, six days before, under the care of nurses for the illness caused by drinking; the lock had been removed from the door and her husband and son, although they had moved away, continued to visit the apartment more or less frequently; the son coming in almost every day after Aug. 24, (p. 467, ll. 1-10); most important of all Mr. Townsend had informed her on Sept. 9 that her husband was "going to institute a suit for divorce on the ground of adultery" (p. 840, l. 39; p. 841, l. 1).

Would a woman in such a situation, whose hope was that something by way of reconciliation or peaceful separation might be arranged to save her from the consequences threatened by her husband, again deliberately repeat her offense? (p. 842, l. 25). The answer would seem to be that such a repetition is incredible unless she had reached a condition, physical and mental, in which she was not responsible for her actions.

The indications of guilt required by a settled course of adjudication in New Jersey are not present here.

In *Osborn vs. Osborn,* 44 N. J. E., 257, the intimacy of the wife with the co-respondent was very close. She took him driving; he boarded with her and her husband, although it would have been obviously more convenient for him to board elsewhere; her husband exacted a promise that she would not see the co-respondent any more, but she broke the promise and took him again to board with her in New York; he continued to board with her for years. They traveled together to Philadelphia, to Niagara and the

Catskills (p. 258). The wife did not deny adultery on the stand at first, but later asked leave to do so after final decree. The Vice Chancellor reached a "strong conviction of her guilt" (p. 260). Nothwithstanding, the decree against the wife was reversed unanimously in the Court of Errors & Appeals.

In the opinion Justice Garrison said (p. 261):

> "I have carefully examined the testimony for evidence of adultery, but have failed to discover any. Adultery is not shown, nor are the elements of lust, lewdness, depravity or secrecy, the invariable concomitants of criminal conversation, to be found in the proofs. If we give to the testimony the construction most unfavorable to the defendant, a decree based upon adultery must rest upon one of two grounds: either that opportunity is tantamount to guilt, or that a decree may rest upon a crime half proven, even though the half it rests upon is the half that is not proven.
>
> "Applying to the evidence in this cause the doctrine of the decided causes in this State upon this subject, the decree below cannot be sustained. *Berckmans vs. Berckmans,* 2 C. E. Gr., 453; *Larrison v. Larrison,* 5 C. E. Gr., 100; *Marsh v. Marsh,* 1 Stew. Eq., 196; *Franz v. Franz,* 5 Stew., Eq., 483; *Whitenack v. Whitenack,* 9 Stew., Eq., 474; *Belton v. Belton,* 11 C. E. Gr., 449; *Tate v. Tate,* Id., 55; *Palmer v. Palmer,* 7 C. E. Gr., 88; *Woodworth v. Woodworth,* 6 C. E. Gr., 251; *Mount v. Mount,* 2 McCart., 162; *Mayer v. Mayer,* 6 C. E. Gr., 246; *Culver v. Culver,* 11 Stew., Eq., 163.
>
> "If the circumstances in proof taken singly and together admit of two interpretations, that which favors innocence should be adopted."
>
> *Hurtzig v. Hurtzig,* 44 N. J. E., 329.

"To prove adultery by circumstances a criminal desire and an opportunity to gratify it must be shown. Criminal desire may be enforced from

strong expressions of attachment, stolen interviews and a clandestine correspondence." Per VanFleet, V. C. in *Black v. Black,* 30 N. J. E., 228, where he says further:

> "A guilty love generally precedes adultery. A wife never commits it until after she is depraved in mind and heart. Her affections must be debauched before she will allow her person to be. In cases of this class, where infidelity is charged against a wife, it is always important to inquire whether the evidence shows she has so far suffered herself to be alienated from her husband as to allow criminal love or desire for another man to enter her heart."

Mrs. Grundy never lost her affection for her husband, and never bestowed it upon Evans or anyone else. Mr. Townsend has shown how desperately she continued to hope for reconciliation. Mrs. Mulack testifies that Mrs. Grundy told her "that no woman would ever get him away from her" (p. 212, l. 10).

When Mr. Townsend handed her the proposed agreement P-14 she said, "Why this is strange—I don't want to sign this paper until I study it more." I said "Oh, this thing must not happen, this is real tragedy, this separation" (p. 569, ll. 10-18).

The suspicious facts in this case are insignificant in comparison with the deeply compromising evidence brought out in well known cases where a divorce has, nevertheless been denied.

In *Brown v. Brown,* 62 N. J. E., 29; 63 N. J. E., 348, Vice Chancellor Pitney was convinced of the wife's guilt; she was constantly with the co-respondent and there was direct testimony that she and her paramour had been seen in *flagrante delicto.* But there was a unanimous reversal of the decree.

In *Miller v. Miller,* 2 N. J. E., 139, there was

a confession and direct testimony to the act of adultery, but divorce was denied.

In *Derby v. Derby,* 21 N. J. E., 36, the wife occupied a stateroom with the co-respondent on a boat from Albany to New York and signed a confession of guilt, but a divorce was denied.

In *Berckmans v. Berckmans,* 16 N. J. E., 122; 17 N. J. E., 453, in the Court of Errors & Appeals, there was a long and close intimacy and direct testimony to the act of adultery; the Court admitted the perplexity of the case, but decided the doubt in favor of the wife and denied a divorce, 16 N. J. E., at page 140. In the opinion below Chancellor Green said:

> "Mere imprudence, indiscretion or folly is not conclusive evidence of guilt. * * * While there is much in her conduct to regret and censure as indiscreet and ill-advised I do not find in the evidence satisfactory proof of guilt. Where the conduct of a party admits of two interpretations equally consistent with probability, the one involving guilt and the other consistent with innocence the rule of evidence as well as the dictates of justice require that the interpretation should be favorable to innocence."

See also

Rector v. Rector, 78 N. J. E., 401;
Reid v. Reid, 17 N. J. E., 101;
Larrison v. Larrison, 20 N. J. E., 100;
Letts v. Letts, 79 N. J. E., 630;
Pullen v. Pullen, 46 N. J. E., 318;
Bray v. Bray, 6 N. J. E., 506.

II.

The alleged confession was obtained under duress and is not entitled to belief.

Mr. Townsend's testimony covers 133 pages of the record, almost all of which is taken up with his account of the alleged confession and the circumstances under which it was obtained.

On September 15, 1919, in the presence of Mr. Grundy and of his counsel, Mr. Townsend, Mrs. Grundy is alleged to have said "Well, what do you expect if your husband has not had anything to do with you for over a year?" (p. 844, ll. 5-10).

Mr. Grundy enlarged this confession by adding "I am only human" (p. 999, ll. 30-40).

Mr. Townsend says of Mrs. Grundy's condition on the night when this alleged confession was obtained: "I do not believe I could tell whether she had been drinking to excess" (p. 581, l. 5).

This statement by Mrs. Grundy followed a sharp exchange of arguments between her and Mr. Townsend, in which he assured her that her story could not be believed. He says, "I reiterated to her that the thing was so preposterous on its face that she could not expect Mr. Grundy, myself or anybody else to believe her story" (pp. 843-844).

Mr. Townsend had subjected Mrs. Grundy to a similar argument six days before on September 9th (pp. 839-840-841-842-843-844-845-846).

It was after the interview of September 9th, in which Mr. Townsend had likewise assured Mrs. Grundy that her story was so preposterous and that no one could be expected to believe it (p. 841, ll. 20-25), that Mrs. Grundy attempted suicide (p. 889, ll. 15-40; p. 1084, ll. 1-30).

Mr. Townsend gives a vivid picture of the deplorable condition of Mrs. Grundy during the time of these conversations:

"She was very much broken up." "She said she had no relatives here. She was not a woman that could go out and earn her own livelihood, and she did not know how she was going to get along" (p. 842, ll. 8-20). "She was helpless, she could not work, she was not in a physical condition to work. She spoke of conducting a rooming house or taking boarders. She realized that there was no hope of reconciliation" (p. 844, ll. 20-40).

Although Mrs. Grundy told Mr. Townsend that Mr. Alexander Simpson was her lawyer (p. 845, ll. 5-10) on September 9th, and although he did not learn that Mr. Simpson was not her lawyer until September 26th or 30th (p. 858, ll. 30-40), Mr. Townsend made no effort to protect her by permitting her to consult the counsel whom she said she had retained. At no time did she have independent advice while these conversations were proceeding. She was in despair and feared that she might "become a charge on the public" (p. 936, l. 14; p. 992, ll. 30-40). Her "hope was of reconciliation or of separation" (p. 841, l. 31).

Mr. Townsend swept all hope of reconciliation from her mind in a decided manner. He told her that her husband was convinced of her adultery, that there would be no reconciliation, that on the contrary there would be an immediate suit for divorce, but that she would be taken care of for life "regardless of any action of the Court" (p. 842, ll. 20-25).

Both the husband and Mr. Townsend deny an intention to procure the confession, but Mr. Grundy admits that he brought Mr. Townsend to his wife (p. 1070, l. 10) "because she knew Mr.

Townsend and because she would be more likely to tell him or answer my questions and I wanted to have her feel that we were trying to help her. If anything, we wanted to do what we could to have her talk and make some definite statement as to what she might do and what she proposed to do for the future" (p. 1070, ll. 10-20; p. 1073, l. 10).

Further he said: "I was hopeful she would do some talking; she as a rule refused to talk with me" (p. 1071, l. 15; p. 1076, l. 8).

Mrs. Grundy had been under the care of nurses from August 28th to about September 7th (p. 904, ll. 25-30; p. 905, l. 21; p. 906, l. 4; p. 1074, l. 115). The first interview with Mr. Townsend was two days after the nurses had left and "as soon as she was in a condition to understand what was going on" (p. 1074, l. 28).

During the time covered by both of these conversations with Mr. Townsend, Mrs. Grundy "had been drinking periodically, heavily, and she was greatly distressed because she was going to be a charge on the public" (p. 936, ll. 10-15; p. 992, ll. 30-40).

The question of the value of this alleged confession dwindles into insignificance in the face of the extraordinary conduct by which it was induced. Although the Advisory Master has not seen fit to make any allusion to this confession, it is of course worse than worthless. With the other circumstances in the case it is impossible not to believe that advantage was taken of this unhappy woman with the intent to force her by means of this confession to consent to a collusive divorce.

Confessions in divorce cases have always been looked on with disfavor in New Jersey:

Miller v. Miller, 2 N. J. E., 139;
Summerbell v. Summerbell, 37 N. J. E., 603;

Howard v. Howard, 77 N. J. E., 186;
Kloman v. Kloman, 62 N. J. E., 153;
Perkins v. Perkins, 59 N. J. E., 515;
Derby v. Derby, 21 N. J. Eq., 36.

The clearest examination of the question is that set forth in the opinion of Mr. Barker Gummere, given as Advisory Master in the Summerbell case supra.

III.

If the appellant committed adultery the respondent connived at the offense.

The part of the record dealing with the two offenses alleged is small; the remainder of it deals with the wife's drinking habits and, to some extent, with her character, the intent being to show: "a course of conduct * * * that indicates a condition * * * under which she would be very likely to commit the offenses charged" (p. 186, l. 10).

Touching the appellant's character, Mrs. Mulack, of New York, a friend of both parties and testifying without subpoena, gives a considerable amount of vague gossip (pp. 197-202). She tells of a man "Charlie", who telephoned that he wished to marry Mrs. Grundy, and of liberty bonds which Mrs. Grundy showed to her saying they were gifts from "Charlie"; of seemingly harmless dinners with a Mr. and Mrs. Clyde, and of some other trifling matters.

Mrs. Mulack informed Grundy about "Charlie" and his gift of liberty bonds.

Grundy is evasive when asked whether his suspicions had been aroused before August 24, 1919, but he does admit that he had heard the most serious of these rumors in 1918 (p. 218, ll. 20-40; pp. 1047, 1048, 1049). They seem to be, perhaps, not very important.

A man Thorling, an acquaintance of both husband and wife, and an intimate friend of the husband came over from New York and testified, without subpoena, that Mrs. Grundy made an improper proposal to him at the Hotel Martinique in New York in 1915 (p. 100, ll. 9-14; p. 104, ll. 3-12).

A Mrs. Kruger narrates that on one occasion Mrs. Grundy asked her to say, if anyone asked for her, that she had stayed at Mrs. Kruger's house (p. 406, ll. 10-40).

It is Mr. Townsend who makes clear that the rumors, whatever they were, which Grundy had heard on or before August 25, 1919, were such as to lead him and Mr. Grundy to expect the commission of a second offense (p. 906, ll. 1-12).

If the gossip just referred to be left out of consideration, these rumors point plainly to Evans. Grundy had seen him at the apartment, and it had been explained to him that Evans was waiting for Miss Halverson, but when Grundy met him again and received the same explanation he "thought it strange that the occasion was repeated" (p. 1002, ll. 15-35). Park Grundy had undoubtedly told him of meeting Evans alone in the apartment two or three times in the morning hours, and these encounters gave obvious ground for suspicion whether any improper intimacy existed or not. Park Grundy kept notes in his "red note book" of the dates when he found his mother with Levine and Evans (p. 115, l. 22); he was asked "You knew your father wanted such evidence and you wanted to be sure you would have it when the time came; isn't that so?" and he answered "Possibly" (p. 117, l. 10; p. 118, ll. 1-4).

No argument need be labored as to the duty of Mr. Grundy from the moment he heard any rumors touching his wife's conduct. In brief, he

owed to her the duty of prompt protection against the danger of which he was warned. Her health and self-control were impaired by thirteen years of excessive indulgence in liquor. He admits that he thought Evans' presence "strange", which meant that he thought it suspicious. His counsel at the hearing professed to show "a continuous course of conduct which indicates a condition on her (the wife's) part under which she would be likely to commit the offense charged" (p. 186, l. 10). Grundy more than anyone else was fully apprised of the possibilities of such a condition.

The law is stern with a husband thus put on his guard, for it is intolerable that a man under such circumstances should quietly await the commission of an offense, and then seek the aid of the law to save him from the consequences of an act for which he has been passively responsible.

It is laid down that:

> "If a husband sees what a reasonable man could not see without alarm, or if he knows that his wife has been guilty of ante-nuptial incontinence, or if he has himself seduced her before marriage, he is called upon to exercise peculiar vigilance and care over her, and if he sees what a reasonable man could not permit, and makes no effort to avert the danger, he must be supposed to see and mean the result" *Hedden v. Hedden,* 21 N. J. Eq., 61.

In *Delaney v. Delaney,* 71 N. J. Eq., 252, it was said:

> "It is not necessary to find words or statements of the husband indicating connivance or consent. If his conduct indicates an intent, or even a willingness that the act of adultery may take place, or even culpable negligence in not preventing it, the maxim *volenti non fit injuria* applies, and the decree will be denied.

"Consent, or willingness, on the husband's part that his wife should commit adultery is a mental state, and is to be inferred from his conduct, just as the willingness of the wife to yield her person to a paramour is to be inferred from her conduct."

In 2 Bish. Mar. & Divorce, Sec. 5, it is declared:

"It is a well established principle that conduct on the part of the plaintiff amounting to a conniving at the act urged as a ground for granting a divorce, will be a good defence to the action."

Cane v. Cane, 39 N. J. E., 148;
Woodward v. Woodward, 41 N. J. E., 224;
Warn v. Warn, 59 N. J. E., 642;
Graham v. Graham, 55 N. J. E., 701.

The testimony of Mr. Townsend carries the proof of connivance to the point of finality. Acting upon the "rumors" which Mr. Grundy repeated to him, he deliberately advised him to wait, because he believed that "the thing would happen again in the near future" (p. 904, l. 30; p. 905, l. 20; p. 906, ll. 1-15). He "thought the case would be much stronger; the more evidence you get, the stronger your case is" (p. 901, l. 25).

Mr. Townsend made an astonishingly accurate estimate of the time within which the offense would "happen again." Speaking on August 25th, when he first advised Mr. Grundy, he says that he told him "although in my judgment that was sufficient evidence for divorce" (the Levine affair), there would probably be more corroborating evidence if he would allow the matter to go on for a couple of weeks" (p. 900, ll. 30-40). The second alleged offense occurred September 15th, which was only five or six days later than Mr. Townsend had calculated.

In the meantime, in order to make certain that the "corroborating evidence" should be forthcoming, Grundy and his son moved out of the apartment and went to board on Crescent Avenue at Mrs. Corrigan's, thus leaving Mrs. Grundy quite alone and still drinking heavily.

IV.

Public policy requires the denial of a petition for divorce supported, as here, by the testimony of petitioner's counsel as a witness to the essentials of the proof.

The counsel's testimony went to every fundamental of the case. He denied, on his direct examination, that there were barrels in the kitchen on September 15th, as the appellant and Evans had sworn (p. 848, l. 20); he swore that there was no china piled up as if for packing (p. 849, l. 22); that the appellant was intoxicated on August 26th (p. 837, l. 20), and on September 15th (p. 851, l. 5). He described her condition at length and repeated, with graphic detail, his accusation, her replies, her evasion and her final confession. This confession was of double import; it implied guilt as to the particular offenses charged, and it implied an adulterous disposition, which counsel for the petitioner professed it was the object to show by the great mass of testimony to drinking habits and character (p. 186, l. 10).

The Advisory Master appears to have accepted the confession without comment, and, considering the extreme meagreness of the proof of misconduct, he must have relied upon it.

The petitioner's counsel was competent to testify for his client, but for him to do so was an impropriety deprecated by professional opinion.

> "The rule in England seems to be that an attorney is incompetent as a witness for his client" 49 L. N. S., 425, note (1914.)

In the United States and in Canada the attorney is held to be competent, but this is done in reliance upon the restraint imposed by the opinion and custom of the Bar.

The note last referred to is one of the valuable and comprehensive notes of the L. R. A. Series and deals with the topic exhaustively.

In *Spencer vs. Kinnard,* 12 Tex., 180 (referred to in the aforesaid note), 49 L. N. S., page 428, the Court said:

> "The ends of justice sometimes makes it necessary that an attorney should give evidence for his client, but it should always be regarded by counsel as a misfortune to be placed in such a position; and the Court should extend no countenance to the practice, and tolerate it only in cases of pressing necessity."

In *Ross vs. Demoss,* 45 Ill., 447, 49 L. N. S., 428, it is said:

> "It is of doubtful professional propriety for an attorney to become a witness for his client without first entirely withdrawing from any further connection with the case; and an attorney occupying the attitude of both witness and attorneys for his client subjects his testimony to criticism, if not suspicion. While the profession is an honorable one, its members should not forget that even they may so act as to lose public confidence and general respect."

In *McLaughlin vs. Shields,* 12 Pa., 283; 49 L. N. S., 428, it is said:

> "The practice of assuming the office of a witness without relinquishing that of counsel cannot be too much discountenanced."

In *Flood vs. Bollmeier,* Iowa, 138 N. W., 1102;

49 L. N. S., 424, it was said:

> "But it is not in accordance with any fairly sound code of professional ethics to retain, as an additional counsel in a case, one who is already recognized as likely to be an important witness; and it is equally against sound principles of professional ethics for one who knows that he is to be called as a professional witness in a case, to accept the retainer as lawyer in that case."

The subject is dealt with in the Canons of Ethics adopted in 1908, by the American Bar Association. See *Annual Report Am. Bar Ass'n,* 1919, page 11, in the 19th Canon, as follows:

> "Except when essential to the ends of justice a lawyer should avoid testifying in court in behalf of his client."

Garrett v Garrett 86 N.J.E. 293, 299

There must be ordinarily, difficulty and embarrassment in dealing with a species of evidence thus permitted by the law and discountenanced by an organized and authoritative opinion, but there need be neither difficulty nor embarrassment in dealing with the testimony of counsel in this case.

Mr. Townsend has, by his conduct and by the contradiction in his testimony respecting vital matters, shown the wisdom of the unofficial restraints upon such evidence. He declares that he did not go to Mrs. Grundy for the purpose of obtaining a confession (p. 948, ll. 28-30) or to obtain her consent to a divorce (p. 937, l. 15). In the face of this statement he testifies to the confession which he did in fact obtain, and he deliberately and actively attempted to have Mrs. Grundy sign an agreement which he himself admits to have been collusive and "vicious" (p. 855, ll. 20-35).

In his statement that on September 15th there

were no barrels in the apartment (p. 848, l. 20) he is contradicted not only by Evans (p. 256, ll. 35-40; p. 257, ll. 1-10) and Mrs. Grundy (p. 465, ll. 9, 10, 25), but by Park Grundy, testifying in the petitioner's behalf (p. 28, ll. 1-20).

Another grave contradiction in Mr. Townsend's testimony related to the collusive agreement (Ex. P-14) which he had given to Mrs. Grundy on September 18th, it being dated September 16th (p. 1186, l. 14).

It should be noted that the first agreement drawn was P-14 and that the second agreement drawn was P-13 (p. 855, l. 10-20; p. 853, l. 36-40; p. 854). P-13 differed from P-14 in two respects: it omitted the prohibition against application for counsel fees, and, being drawn after the commencement of the proceedings, it recited that Mr. Grundy had filed a petition for divorce, viz., on September 19th (p. 1184, l. 15; p. 4, l. 12), whereas P-14 (being drawn September 16th) recited that Mr. Grundy was about to file a petition.

Mr. Townsend swears that although he had never given P-13 (the second and later agreement) to Mrs. Grundy (p. 854, l. 19), he "communicated the contents" of the paper to her on September 18th (p. 855, l. 13), which, as hereinabove shown, it was impossible for him to have done if the recital in the paper is correct.

On the other hand, he swears (no doubt correctly) that he did give the original paper (Ex. P-14 dated September 16th) to Mrs. Grundy on September 18th (p. 914, l. 21-30); thus testifying that he gave P-14 and communicated the contents of P-13 to Mrs. Grundy before leaving for Shawnee on September 18th (p. 856, l. 23-30). Mr. Townsend testifies that he drew both agreements before going to Shawnee, because he says, speaking of Exhibit P-14, the original,

"I think it was *redrawn* (as Ex. P-13) that morning and that afternoon Mr. Grundy and several other men and myself went to Shawnee and remained until the 22nd." That he had not "communicated the contents" of Exhibit P-13 to Mrs. Grundy on September 18 is unwittingly revealed by him in his testimony (p. 913, l. 15-40), where he declares that he "communicated the contents" of the paper to Mrs. Grundy on September 26th, "which was after we had returned from Shawnee" (p. 913, l. 30).

The obvious conclusion is that when Mr. Townsend went to Shawnee he had not drawn the second agreement (Ex. P-13), as is indicated by its recital, but that after he returned from Shawnee on the 22nd he received the letter of Mr. VanWinkle (D-A for Identification), dated September 23d, in which, for the first time, the manner in which the proceeding was being carried forward, was subjected to criticism (p. 858, l. 1-5). Realizing the damaging effect of the existence of such an agreement as Exhibit P-14, Mr. Townsend, after he had received Mr. VanWinkle's letter, got Mrs. Grundy to give up the copy of the agreement (Ex. P-14) which he had previously given to her (p. 858, l. 15-20).

In Mr. Townsend's letter of September 26, replying to Mr. VanWinkle's criticisms (Ex. D-B for Identification), he assures Mr. VanWinkle "that it was determined last week by Mr. Grundy, upon my advice, that the agreement referred to (Ex. P-14), although drawn, should not be executed."

It is incomprehensible why this second and less "vicious" agreement (Ex. P-13) was admitted in evidence, because it was never given to Mrs. Grundy; it was simply a paper which Mr. Townsend had drawn in his office. This incomprehensibility is not at all lessened by reading the colloquy and objections incident to its admission

(pp. 854-855). Counsel for the appellant, after inquiring how it could possibly be revelant, asked: "I would like to know for what purpose he offers it, then?" The Court: "I do not know yet; I will take it" (p. 855, l. 1-10).

V.

The granting of a divorce in this case depends upon the testimony of Park Grundy, the son, and he is a discredited witness.

Apart from the consideration arising from the fact that he was a son testifying against the character of his mother, Park Grundy stands out as a prejudiced witness, whose testimony was not only exaggerated but deliberately false.

Mrs. Grundy tells of an occasion in 1918 when she was the guest of a Mr. Clark at Blue Point, together with his daughter and a number of others, on his yacht. The boat became stranded and the party were not released until the coast guard had pulled them off, so that they all got home about two in the morning. Mr. Grundy did not think enough of this episode to mention it himself, although his wife had told him of it (pp. 445-446). But the son has deliberately misrepresented the facts of the incident. He says, speaking of Mr. Clark and his mother:

> "They would go out all afternoon and night * * *. Well, not all night, but a good part of the night—with this Mr. Clark; the three of them would go out on a yacht. It didn't strike me as right; one case, that was explained to me, where she stayed out all night." (P. 147, l. 20-40; pp. 159-160.)

But he forgot himself and when, on cross-examination, he was asked whether he thought it of sufficient importance to talk to his mother about it he said: "No not at the time. I was

too young at the time to realize anything about it" (p. 166, l. 10-20; p. 165). He also admitted his mother had not been out all night (p. 159, l. 2).

Again, the father tells of an illness which overtook Mrs. Grundy on the train from Pittsburgh to Newark in 1907, when Park Grundy was six or seven years old, he being 19 years old at the time of the hearing in 1920 (p. 27, l. 22). The father said that he "thought" Mrs. Grundy was under the influence of liquor on that occasion in 1907, because they had to go to a hotel, but he said his recollection was "very hazy because it had occurred some 13 years before." He added: "But my impression is that she had a drink at one time and she was not over it" (p. 967, l. 40; p. 968, l. 30-40).

There is nothing hazy in the recollection of Park Grundy, who was six or seven years old at the time of these events. He recalls the incident, the name of the doctor and his mother's condition. Speaking of his mother's drinking in connection with this episode, he says: "And it has continued ever since, growing worse from that time on" (p. 144, l. 30-40; p. 145, l. 1-20). He says that he no longer loves his mother (p. 137, l. 15; p. 143, l. 15). And he frequently mentions the disgust caused by her conduct (p. 64, l. 1-25). He feels it his duty to do whatever he can for his father (p. 64, l. 38). When he found Levine in the apartment he immediately assumed her guilt (p. 79, l. 1-10). He asked no explanation. He did not think it worth while to find out who the man was (p. 74, l. 21). He was interested only in finding out whether somebody was in the apartment and telling his father (p. 77, l. 1-9). He knew of no way of protecting his mother on the two occasions when he found the men in the house (p. 170, l. 1-10), and didn't try to protect her

(p. 170, l. 32). His mother's welfare didn't occur to him at the time (p. 78, l. 35). He took written notes of the occasions when he found his mother with the two men (p. 115, l. 20-40). He knew his memory was going to be tested (p. 115, l. 30).

While the mother was in Morris Plains for four months he never went to see her (p. 168, l. 20-30).

Counsel objected a number of times to his smirking and laughing on the witness-stand (p. 57, l. 5-25; p. 125, l. 35; p. 161, l. 30; p. 64, l. 28).

His unnatural zeal to degrade the reputation of his mother is best shown on his redirect testimony; he was asked:

> "What happened in Clinton Avenue with respect to drinking?"

And he answered:

> "Why, she bothered the neighbors very much for a good many years, during my father's absence in Europe she had very many parties there *of which we have witnesses to that effect.*"

He was compelled to admit that he knew nothing of these parties of his own personal knowledge (p. 146, l. 22-38).

His account of seeing Evans in his mother's room is peculiarly suspicious. He says that the double shades were down (p. 44, l. 35). He said nothing to either his mother or Evans, but passed on. "I did not stand; it was a passing glimpse" (p. 131, l. 13). He admitted that Evans had on all his clothes except his coat (p. 129, l. 40). And yet he could observe in this passing glimpse that his mother's hair was disheveled; that she wore a night-gown and kimona; that the bed was very much mussed up, and that Evans was buttoning his trousers, although entirely dressed except for his coat. When Evans

greeted him he did not reply because "it was too self-evident what was going on there" (p. 132, l. 20-40).

There were many recesses and he was prompted between hearings. It is difficult to avoid the conclusion that his testimony was all carefully rehearsed, and that he testified to whatever facts he thought were necessary to assist his father to obtain a divorce (p. 59, l. 1-10; p. 57, l. 28-30).

He admitted that his father had told him that he would be asked whether he had looked for liquor on the day when he found Levine in the apartment (p. 1143, l. 20-28).

It is believed that the closest examination of the entire testimony of this young man will disclose nothing to mitigate the conclusion that his conduct, in everything connected with this affair was false and sordid.

VI.

The petition for divorce should be denied because by the admissions of the respondent and his counsel they conspired to deceive the Court and to procure a collusive divorce.

Every step in this plan is clear. First, with the evidence as to Levine in hand it was agreed on counsel's advice to wait for further evidence.

On September 9 Mrs. Grundy was visited and the agreement was discussed (pp. 852, 853). On September 10, the petition was prepared (p. 906, l. 15). On September 15 Mrs. Grundy was again visited and, as Mr. Townsend says, "agreed" (p. 846, l. 23). "I told both of them that I would draw an agreement embodying those terms and they could call at my office or I would send it to them" (p. 847, ll. 1-10). The next day, September 16, he drew the agreement. This instrument did not, in express terms, declare that the wife should refrain from a de-

fense, but it required her to refrain from all the acts necessary to a defense.

It begins by reciting that the husband is about to file a petition for divorce and that he desires to provide for her support "in the event that a divorce is granted." It next stipulates for a payment of $125 monthly during the life of the wife or until her remarriage "in the event that a divorce is granted" to the husband. The wife was then to agree "in the event a petition for divorce is filed against her"

a. "That she would not apply for alimony, *pendente lite,* or maintenance or for counsel fees."

b. "That neither she nor her agents or representatives will either directly or indirectly give publicity to or cause, attempt, or endeavor to have anything concerning said divorce action or the facts or allegations upon which the same is based or any statement concerning the (Husband) published or printed in any newspaper or publication wheresoever situate" (pp. 1186, 1187).

In this manner the barrier to a defense by the wife was made secure at every point. If she had performed such an agreement a divorce must almost inevitably have been granted. She was powerless to employ counsel and was bound to absolute silence while the suit progressed.

Next, on September 18 the husband verified the petition which had been originally drawn on September 10, but had been newly drawn to include the charge as to Evans. On the same day the agreement was given by counsel to Mrs. Grundy at his office (p. 851, ll. 20-40; p. 852, ll. 1-10; p. 855, ll. 37-40; p. 914, ll. 20-30). The affidavit to the petition for divorce taken by the respondent runs: "that his petition is not made by any collusion between him and defendant but in truth and good faith for the causes set forth in the petition." The petition was filed September 19.

This closes the circle of proof of a plan by husband and counsel, acting together, to bring about a divorce by collusion.

That the plan was not carried out and that an uncollusive contest thereafter ensued is immaterial. The suit is shown, by what has been stated, to have been begun not in good faith, as the respondent swore in his verification, but in bad faith.

The developments subsequently show the promptness with which Mr. Townsend attempted to withdraw from the plan when, after his return from Shawnee, on September 22, he got Mr. Van Winkle's letter of September 23 criticizing the proposed agreement (Ex. P-14).

Some one whom he cannot remember told him that it might be construed as "attempting to suppress her defense" (p. 855, l. 30). He then asked Mrs. Grundy to give him back the agreement and she did so (p. 858, ll. 10-20). The agreement which he drew, as he says, in place of it, and which left out the provision respecting counsel fees, was never given to her and should not have been admitted in evidence. He says that he explained to Mrs. Grundy that the agreement had been redrawn so "that she would be at liberty to engage counsel" (p. 856, l. 8), which is proof positive, by the admission of Mr. Townsend, that up to that time she had not been free to employ counsel. It was necessary to the plan that she should not have counsel, which explains why Mr. Townsend continued for four months to treat directly with Mrs. Grundy in an effort to arrange matters in Nevada instead of treating with her *only* through her three counsel—Mr. Simpson (as he supposed from September 15th to September 26th), Mr. Van Winkle, and Mr. Carey.

VII.

The letters between counsel for the parties should have been admitted.

Mr. Van Winkle's letter to Mr. Townsend, dated September 23, 1919, and the latter's reply thereto dated September 26, 1919, Exhibits for Identification D-A and B, are relevant for reasons that appear from the foregoing argument. They were excluded on the ground that, as to Mr. Grundy, the letter from Mr. Townsend was "a confidential communication" and "privilege" was pleaded (p. 921, ll. 30-40; pp. 922, 923). On these objections both letters were excluded (p. 923, l. 28; p. 1155, ll. 20-30; p. 1156, l. 40; p. 1157). Why the privilege that protects the communications between client and attorney should extend to exclude letters written to third persons is not apparent. The letters were subsequent to the filing of the petition and there was no stipulation that they were made without prejudice. Clearly they were admissible. The general rule applicable is this expressed in Stephen's Digest (N. J. Edition), Article 17, p. 119:

> "Barristers and solicitors are the agents of their clients for the purpose of making admissions whilst engaged in the actual management of the cause, either in court or in correspondence relating thereto."

It is respectfully submitted that the decree should be reversed.

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