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New Jersey Supreme Court

Writ of Error.

New Jersey, ss:

10

To HON. HARRY RUNYON, Judge of the
(Seal) Court of Quarter Sessions in and
for the County of Warren.

Because in the record and proceedings and also
in giving of judgment upon a certain indictment
against Owen Hughes, late of the County of War-
ren, for incest and for making an infamous pro-
posal to Catherine Hughes, child of his own flesh
and blood, with intent then and there to commit 20
fornication with her (*pro ut* the said indictment)
whereof before you he has been indicted and is
thereof convicted by a certain jury of the County
of Warren, taken between the State of New Jer-
sey and the said Owen Hughes, as it is said, mani-
fest error hath intervened to the great damage
of said Owen Hughes as from his complaint we
have received information, we being willing in
his behalf, to correct the error in due manner if
any there shall be, and that speedy justice be done 30
to him, the said Owen Hughes, command you that
if judgment be thereon given, then that you dis-
tinctly and openly send under your seal the rec-
ord and proceedings aforesaid, with all things
touching the same to our Justices of our New
Jersey Supreme Court, at Trenton, on the 28th
day of December, next, and this Writ that the
record and proceedings aforesaid being inspected,
we may further cause to be done thereupon for 40

Return to Writ of Error

correcting that error, what of right and according to the law ought to be done.

Witness Honorable William S. Gummere, Chief Justice of our New Jersey Supreme Court at
10 Trenton this 8th day of December, 1927.

EDWARD J. KELLEHER,
Clerk.

CLARK C. BOWERS,
Attorney.

Return to Writ of Error.

20

The answer of Harry Runyon, Esquire, Judge of the Court of Quarter Sessions, holden in and for the County of Warren, and whereof mention is within made, the record and proceedings of the indictment and the record of the proceedings on the trial within named, with all things touching and concerning the same, I send to the Justices of our Supreme Court of Judicature of the State of New Jersey, at Trenton, the day and
30 year within mentioned, in a certain schedule to this writ annexed, as within I am commanded.

HARRY RUNYON,
Judge.

40

Indictment.

Presented and handed down to the Court of
Quarter Sessions.

WARREN OYER AND TERMINER

DECEMBER TERM, A. D. 1926.

10

Warren County, to wit:

THE GRAND INQUEST for the State of New Jersey, and for the body of the County of Warren, upon their oaths PRESENT, That Owen Hughes late of the Township of Lopatcong in the said County of Warren, on the 1st day of June in the year of our Lord Nineteen Hundred and twenty-six at the Township aforesaid, in the County aforesaid, and within the jurisdiction of this Court, being then and there the father of one Catherine Hughes, in the Township of Lopatcong, did commit fornication with his said daughter Catherine Hughes and did then and there have carnal knowledge of her the said Catherine Hughes contrary to the form of the statute in such case made and provided, and against the peace of this State, the Government and dignity of the same. 20

And the Grand Inquest on their oaths further present that the said Owen Hughes, at the Township of Lopatcong aforesaid, on the tenth day of December, 1925, being then and there the father of one Catherine Hughes, did make an infamous proposal to said Catherine Hughes, child of his own flesh and blood, with intent then and there to commit fornication with the said Catherine Hughes, contrary to the form of the Statute in such case made and provided, and against the 30 40

Plea

peace of this State, the Government and dignity
of the same.

SYLVESTER C. SMITH, JR.,
Asst. Atty. Gen'l.,
to Prosecute the Pleas.

10

A True Bill
E. W. Kilpatrick
Foreman.

Plea.

20 And afterwards that is to say, at a Court of
Quarter Sessions, held at the Court House, in
the town of Belvidere, in and for the said County
of Warren, on Wednesday the 12th day of Janu-
ary, in the year of our Lord one thousand nine
hundred and twenty-seven, before the Honorable
Harry Runyon, Judge of the Court of Quarter
Sessions of said County, the said Owen Hughes
cometh, and forthwith being demanded of and
concerning the premises in the said indictment
30 above specified and charged upon him, how the
said defendant will acquit himself thereof, the
said Owen Hughes, protesting that he is not guilty
of the premises charged in the said indictment;
and therefore, Owen Hughes puts himself upon
the country, and Sylvester C. Smith, Jr., Assis-
tant Attorney General, to Prosecute the Pleas of
the said County, who prosecutes for the State of
New Jersey in this behalf, doth the like.

40

Venire.

Wherefore let a jury come, to wit: on Monday, the 21st day of November, in the year of our Lord One Thousand Nine Hundred and Twenty-seven, to which day the trial of the above stated indictment had been continued from day to day, before the Honorable Harry Runyon, Judge of the Court of Quarter Sessions of said County of Warren, of good and lawful men and women of said County, by whom the truth of the matter may be better known, to recognize upon their oaths whether the said Owen Hughes be guilty of the premises aforesaid or not, because as well the said Sylvester C. Smith, Jr., Assistant Attorney General, to Prosecute the Pleas aforesaid, as the said Owen Hughes has put himself upon the said jury, and the same day is given as well to the said Sylvester C. Smith, Jr., Assistant Attorney General, to Prosecute the Pleas as aforesaid, as to the said Owen Hughes.

Record of Trial and Verdict.

At which time, to wit: on Monday, the 21st and 22d days of November, in the year of our Lord one thousand nine hundred and twenty-seven, at the said Court of Quarter Sessions of the said County of Warren, before the Honorable Harry
10 Runyon, Judge of the Court of Quarter Sessions of said County, cometh as well the said Sylvester C. Smith, Jr., Assistant Attorney General to Prosecute the Pleas as aforesaid, as the said Owen Hughes, by Clark C. Bowers, his attorney, and the jurors of the jury, by Levi C. Mackey, Esquire, Sheriff of said County of Warren, for this purpose empaneled and returned, agreeably to the statute in such case made and provided, to
20 wit: Homer E. Rush, Philip Amendt, Myrtle Ackerman, Laura Schooley, Annie Stone, William Hamlin, Vasser O. Perry, James Jenson, Charles S. Myers, William H. Young, Raymond Huff, and Elizabeth McLaughlin, being called, who, being chosen, tried and sworn to speak the truth of and concerning the premises in the indictment above specified, do say, upon their oath, that the said Owen Hughes is guilty of the premises in the
30 said indictment on it above charged, in manner and form as in and by the indictment aforesaid is alleged against him.

Judgment.

And afterwards, to wit: on the second day of December, in the year of our Lord one thousand nine hundred and twenty-five, at a Court of Quarter Sessions of the County of Warren, before the Honorable Harry Runyon, Judge of the Court of Quarter Sessions of said County of Warren, com- 10
 eth as well the said Sylvester C. Smith, Jr., Assistant Attorney General, to Prosecute the Pleas of said County of Warren, as the said Owen Hughes, by Clark C. Bowers, his attorney as aforesaid, and all and singular the premises being seen and by the Court as aforesaid fully understood, the Court doth order and adjudge that the said Owen Hughes stand committed to the State Prison, Trenton, at hard labor, for a term 20
 of eight (8) years.

Judgment signed the nineteenth day of December, nineteen hundred and twenty-seven.

HARRY RUNYON,
 Judge.

Certificate.

State of New Jersey,
Warren County Clerk's Office.

I, RAMSEY REESE, Clerk of the County of Warren, and also Clerk of the Court of Quarter Sessions in and for said County, said Court being a Court of Record,

Do HEREBY CERTIFY, That the foregoing is a true, full and correct copy of a certain judgment of said Court in the case of The State of New Jersey against Owen Hughes, on indictment for incest, as the same is taken from and compared with the record thereof, in Book of Quarter Sessions.

20

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, at Belvidere, this nineteenth day of December, in the year of our Lord one thousand nine hundred and twenty-seven.

(Seal)

RAMSEY REESE,
Clerk.

Case.

WARREN QUARTER SESSIONS COURT

BEFORE HON. HARRY RUNYON, JUDGE

Belvidere, N. J., November 21, 1927.

10

THE STATE

vs.

OWEN HUGHES,

Defendant.

Sur Indictment.

Appearances:

Sylvester C. Smith, Jr., Assistant Attorney 20
General.

Clark C. Bowers, Esq., Egbert Rosecrans, Esq.,
Attorneys for Defendant.

(Mr. Smith opened for the State.)

KATHARINE HUGHES, sworn.

Direct-examination by Mr. Smith:

Q. What is your name? A. Katharine May 30
Hughes.

Q. How old are you? A. Eighteen.

Q. When were you born? A. May 24th.

Q. What is your father's name? A. Owen
Hughes.

Q. Is your own mother living? A. No, sir.

Q. When did she die? A. When I was seven
years of age.

Q. Is your father married? A. Yes, sir. 40

Katharine Hughes—Direct

Q. Where were you living in 1926? A. I was living at home and I left in 1926 and lived on College Hill, Easton, Pa.

Q. Where was your father's home? A. Morris Park, Phillipsburg.

10 Q. Who else was in the family? A. My oldest brother for a time and my two youngest sisters, my stepmother and step brother.

Q. What is your sisters names? A. Mildred and Anna.

Q. How old is Mildred? A. I think she is twelve years old.

Q. And your other sister? A. I think she was fourteen on October first.

20 Q. Where did you sleep in your father's home? A. In the side bedroom with Anna and Mildred.

Q. Did you all sleep together? A. There were two beds.

Q. Which did you occupy? A. I was in the cot and my two sisters in the bed.

Q. Where was your father? A. In the front bedroom.

Q. How long had you been living in Morris Park? A. I do not know when we moved in that house, I think about four years.

30 Q. Where have you been staying the past few months? A. At Trenton, N. J.

Q. Where in Trenton? A. At a Home for Girls.

Q. When did you go there? A. January 4, 1927.

Q. Now then, have you a child? A. Yes, sir.

Q. When was it born? A. April 7, 1927.

40 Q. Where was it born? A. At that Home.

Katharine Hughes—Direct

Q. Where is the child now? A. In the court room.

Q. What is his name? A. John Edward Hughes.

Q. Prior to September, 1926, did you occupy that same room and bed in your father's home? 10

A. Yes, sir.

Q. On any occasion did you have any trouble with your father? A. Yes.

Q. Will you tell us anything that happened at any time around December, 1925? A. I think it was in December that he tried to get near me.

Q. Where were you at that time? A. I don't remember where I was, I think I was in the car.

Q. Where had you been prior to that time? A. 20
I do not know the place.

Q. Was it on the road along the turnpike? A. It was on a very long road. He took me to a barber and then over to Easton.

Q. How did you go to the barber? A. In his car.

Q. What kind of a car was it? A. It was a Ford.

Q. What kind of curtains had it at that time? A. Curtains that fastened on the side. 30

Q. Was it a touring car? A. No, sir; it was a Ford truck, a small one with one seat.

Q. Did he go beyond Phillipsburg? A. I do not know anything about that place.

Q. Did he leave the bridge at North Main Street? A. Yes, sir.

Q. Did he go straight on up? A. Yes, sir.

Q. About how far did he go? A. I could not say. 40

Katharine Hughes—Direct

- Q. About ten minutes ride? A. Yes, sir.
- Q. Were there trains on both sides? A. Yes, sir.
- Q. How did you happen to go up there? A. I do not know.
- 10 Q. Was there anything said about him going there when he got in? A. No.
- Q. What did he do? A. He ran in the side of the road and stopped the car.
- Q. What happened? A. He grabbed hold of me and wanted intercourse with me and fought with him.
- Q. What did he do? A. He didn't say anything and tried to do it.
- 20 Q. What did he try to do? A. He tried to have intercourse with me. He grabbed me and tried to pull my clothes up.
- Q. Did he do anything with his own clothes? A. I do not know.
- Q. Anything else? A. I told him I would tell on him and he said never mind I would be all right.
- Q. What then? A. He had intercourse with me.
- 30 Q. What did you do then? A. We started home.
- Q. Did you stop anywhere on your way home? A. When he was going home that night he stopped at my grandmother's home on Davis Street, Phillipsburg.
- Q. You were crying? A. Yes, sir.
- Q. Did he say anything else to you? A. No, sir.
- 40 Q. Did you say anything to him? A. No, sir.

Katharine Hughes—Direct

Q. Did that happen on any other occasion? A. Yes, sir.

Q. When? A. The first time was in the Morris Park woods and the second at home and the third in the car and the fourth and fifth times at home. 10

Q. What do you mean by the fourth and fifth times? A. He came in my bedroom at night.

Q. Where were the other children? A. They were in the same room in bed.

Q. Did your stepmother come after him? A. Yes.

Q. What would happen then? A. She would take him back to their room.

Q. How many times did this happen? A. He 20 had intercourse with five times.

Q. What was the first thing he would do? A. He tried to pull off the covers and I would wrap them around me and then he would try to pull my night dress up.

Q. What would then happen? A. He had intercourse with me.

Q. Did you make any outcry? A. I did not make much of a noise.

Q. Why? A. I was afraid of them. 30

Q. Were your sisters awake? A. Yes.

Q. Had they ever said anything about it before, that is, your father and stepmother? A. No, sir.

Q. This was the last time you just described. How long before this had he had intercourse with you? A. I do not know when it was.

Q. Where did that take place? A. In the same room.

Q. What did you do? A. I did the same thing 40 as before.

Katharine Hughes—Direct

Q. Just tell us what happened, when did you learn your father was there? A. He was in the bedroom at the side of my bed. He pulled my covers off of me. We were fighting for a long time.

10 Q. After this time, what was your condition?

A. I became pregnant.

Q. Has anyone else had intercourse with you?

A. No, sir.

Q. Is this the only person who had intercourse with you? A. Yes, sir.

Q. You continued to live at the house? A. Yes, until September 8th.

20 Q. What did you do then? A. On September 7th I wrote a letter to my father and mailed it to his works. I was home and I took it to the Smith's home and George Sigafos, Nellie Masterson and Mrs. Kehoe.

Q. Did you show it? A. Yes, sir.

Q. Did they read it? A. Yes, sir.

30 Q. What did you write in that letter? A. I told him I was in a family way and did not know what to do and if my mother was living it would not have happened. I told him of a woman who charged \$50.00 who could help me out of trouble and I had to go to work to get clothes. I did not tell him where I was going. I told him how he always came in my bedroom nights.

Q. Tell what else you wrote. Was anything written in the letter about any particular incident? A. I mentioned each time he had intercourse with me.

40 Q. Did you put all that in the letter? A. Yes, sir.

Katharine Hughes—Direct

Q. You showed this to these people? A. Yes, sir.

Q. Did you keep a copy? A. No, sir.

Q. When did you mail it? A. I mailed it September 7, 1926.

Q. Where? A. At the Phillipsburg station. 10

Q. Who was with you? A. Bessie Taylor and George Sigafos.

Q. Did they see you put it in the box? A. Yes, sir.

Q. Where did you go after that? A. I left home and I went direct to Mrs. , stayed with her and I called up Mrs. Thompson and she told me to come up and see her.

Q. Where did she live? A. 126 Way Avenue. 20

Q. Where was Mr. Thompson employed? A. Warren Foundry.

Q. What is his business? A. I think he is a boss.

Q. How long did you stay there? A. Until January 4, 1927.

Q. Did you see your father after that? A. Yes, on November 26th.

Q. In 1926? A. Yes, sir.

Q. What did he say to you? A. He called me 30 on the phone and wanted me to come down and meet him at eight o'clock. I told him I could not come. Three or four days later he came up one afternoon. I was in the kitchen and Mrs. Thompson let him in. "How are you making out," he said, and wanted me to come back.

Q. What else happened? A. That evening after he left, Mrs. Joiner came to see me.

Q. After that, did you see him? A. I think 40 it was once after that.

Katharine Hughes—Direct

Q. And he wanted you to come home with him?

A. Yes.

Q. When did you next see him? A. In your office.

Q. When was that? A. Sometime in December, 1926.

Q. Who else was present? A. Yourself, my father, Mrs. Joiner, Constable Reh fuss and myself.

Q. At that time was anything said to your father? A. I accused him of being the father of my child.

Q. Did you tell him about sending him a letter? A. Yes.

Q. What did he say? A. He denied receiving it at first and later he admitted that he had received a letter.

Q. What had he done with the letter? A. He did not let anyone see it.

Q. Was anything asked by anybody in reference to the contents of the letter? A. It was asked if he received a letter.

Q. What did he say? A. He admitted receiving it but did not show it to anyone.

Q. What was in the letter? A. I told him I was pregnant and I needed money. Later on he admitted all that was in it.

Q. That was at night around six o'clock? A. I went to your office in the afternoon, but came out about six o'clock.

Q. You were there for some time? A. Yes, sir.

Q. It was after that conversation that he was placed under arrest? A. Yes, sir.

Katharine Hughes—Cross

Q. On any of these occasions did you want to have intercourse with him? A. No, sir.

Q. I understand that no one has ever had intercourse with you, is that right? A. Yes, sir.

Q. Who is the father of your child? A. My father, Owen Hughes. 10

Q. Had you been examined prior to that? A. Yes, sir.

Q. When? A. I had an X-ray taken by Dr. Barber and an examination by Dr. Lyon in Phillipsburg. That was taken prior to the time my father was brought to your office.

Q. How did your father treat you on these occasions? A. He just acted normal. He did not act out of the way or anything. 20

Q. State whether or not he made any threats against you? A. No, sir; he just told me not to say anything.

CROSS-EXAMINATION by Mr. Rosecrans:

Q. You slept in the room with your sisters? A. My two youngest sisters.

Q. Did they always sleep in the room with you? A. Yes, sir.

Q. Where did your father and stepmother sleep? A. In the front bedroom. 30

Q. Is that near your bedroom? A. Yes, sir.

Q. There is a door leading out from your bedroom to the hall? A. Yes, sir.

Q. Is the door leading into your father's room a few steps from your bedroom? A. Yes, sir.

Q. Did your stepmother and father always sleep together in this room? A. As far as I know. 40

Katharine Hughes—Cross

- Q. Was there another bedroom in that house?
 A. Yes, sir.
- Q. Who occupied them? A. My stepbrother and my oldest brother.
- 10 Q. When did your oldest brother leave? A. Sometime in the summer of 1926.
- Q. After the summer of 1926 that bedroom was not occupied? A. I left home in September, 1926, and just before that it was empty.
- Q. The first time you say your father had intercourse with you was the time he took you to the barber? A. Yes, sir.
- Q. What time did you get to the barber? A. It was at night.
- 20 Q. What time at night? A. After we had our dinner.
- Q. Who was the barber? A. On South Main Street.
- Q. Did you ever go there before? A. I do not remember of going there before.
- Q. Did you ever go there without your father? A. Yes, sir.
- Q. How many times did you go after? A. I went two or three times.
- 30 Q. When? A. Once I was alone and another time with my sisters.
- Q. Did you go with your father? A. Yes, sir.
- Q. After you went to the barber with your father, did you go home? A. Before he bought his car and he forced me to have intercourse and when he took me the first time to the barbers.
- Q. Did you walk home through the woods once? A. Yes, sir.
- 40 Q. Where did you get off the trolley car? A. By the Morris Turnpike.

Katharine Hughes—Cross

Q. What time was it? A. I do not know.

Q. What time did you get home? A. When we got home my folks were in bed.

Q. How long were you in the woods? A. About ten minutes.

Q. You objected strongly and fought him? A. 10
Yes, sir.

Q. And cried out? A. Yes, sir.

Q. Any one hear you? A. No, sir.

Q. Are you sure you weren't in the woods longer than ten minutes? A. No, sir.

Q. How long does it take to go through the woods? A. About three or five minutes.

Q. It took him ten minutes to force you to have intercourse? A. Yes, sir. 20

Q. What did you do when you got home? A.
I went to bed.

Q. Were your clothes torn? A. Yes, sir.

Q. Did you show them to any one? A. No,
sir.

Q. Were they soiled? A. Yes, sir.

Q. Were you going to school then? A. Yes,
sir.

Q. Did you go to school the next day? A. Yes,
sir. 30

Q. What day was it? A. I do not know what day it was.

Q. Did you tell anyone about it? A. I did not tell anyone about it.

Q. When did you tell about this attack the first time? A. I told Mrs. Smith and her two daughters.

Q. When did you tell them? A. Right after it happened, the next day. 40

Katharine Hughes—Cross

Q. And that was in December? A. I do not know.

Q. 1924? A. I do not know whether it was 1924 or 1925.

Q. When did this happen? A. I told you it
10 wasn't in the winter time.

Q. Was it in the summer time? A. There wasn't any snow on the ground. I do not know what time it was.

Q. Was it in the spring? A. I could not say.

Q. Was it in the fall? A. I could not say.

Q. No snow on the ground? A. No, sir.

Q. How long did it take? A. It took all of ten minutes.

20 Q. You think it took all of ten minutes? A. Yes, sir.

Q. That was the first time he succeeded, had intercourse with you? A. Yes, sir.

Q. Did you make any complaint to your step-mother? A. No, sir.

Q. Oldest brother? A. No, sir.

Q. Your stepbrother? A. No, sir.

Q. Are you friendly with the other children?
A. Yes, sir.

30 Q. But you went over the next day or a few days after and told Mrs. Smith? A. I do not know just when.

Q. When was the next time? A. The second time it happened in my bedroom.

Q. Was that the time he tore the covers? A. Yes, sir.

Q. Were you going to school then? A. Yes, sir.

40 Q. Did you go to school the next day? A. Yes, sir.

Katharine Hughes—Cross

Q. What date was it? A. I do not know when it happened, it was in the summer time.

Q. What year was that? A. I do not know whether it was in 1924 or 1925.

Q. How long did it take him to force you then? A. He tried and came back the second time. 10

Q. How long did he try? A. My stepmother came after him and he came back the second time.

Q. How long did it take the second time? A. I do not know.

Q. You made the beds? A. Sometimes I did, and sometimes I didn't.

Q. Did you make the beds after these occasions? A. Sometimes I did.

Q. What time did you get up? A. My step- 20
mother called me at 6:30 every morning.

Q. Did you usually make the beds? A. No, she usually made the beds.

Q. Who made the bed after this second occasion? A. I think she made the bed.

Q. Did she say anything to you about the covers being torn and spots on them? A. She asked me what it was.

Q. What did you tell her? A. I do not know.

Q. Why did you not tell her about it? A. I 30
was afraid of both of them.

Q. You think she liked it that your father came in to see you? A. No, sir.

Q. Didn't you realize what would happen to your father? A. Yes, sir.

Q. Still you were afraid of her? A. Yes, sir.

Q. You were afraid your stepmother would be angry with you? A. Yes, sir.

Q. When he came in and tore the covers, you 40
cried out? A. Yes, sir.

Katharine Hughes—Cross

- Q. Did you wake up your sisters? A. Yes, sir.
- Q. Were you afraid of your sisters? A. No, sir.
- Q. Were your sisters afraid? A. Yes, sir.
- 10 Q. Why were your sisters afraid? A. I do not know.
- Q. Your father came into your room on several occasions, didn't he? A. Yes, sir.
- Q. And the covers were torn? A. Yes, sir.
- Q. Were they ever badly torn? A. The top covers were.
- Q. You mean the sheets? A. Generally the sheets.
- 20 Q. Were your night clothes torn? A. No, sir.
- Q. Did you tell anyone about this second attempt? A. Yes, sir.
- Q. How soon after? A. I do not know.
- Q. Who did you tell? A. I told the Smith family.
- Q. Where do they live? A. Next door.
- Q. Who lived in the Smith family? A. Mrs. Kehoe and her husband and child and Mrs. Smith and her mother and father and some others.
- 30 Q. You told these people about it? A. Yes, sir.
- Q. About the first and second attacks? A. Yes, sir.
- Q. When was the third attempt? A. Right after he bought his car.
- Q. When was that, and what year? A. In the summer time of 1924 or 1925.
- Q. Where did that happen? A. He took me to
- 40 the barber shop in the car and afterwards drove along some road where it happened.

Katharine Hughes—Cross

Q. Who was with you when you went to the barber shop? A. Just my father.

Q. The same barber shop? A. Yes, sir.

Q. Have you seen the barber since? A. No, sir.

Q. Not sure whether 1924 or 1925? A. No, 10
sir.

Q. Where did the attack take place? A. I do not know where it was.

Q. Was it in some house? A. It was along the road side, we had to turn around to go back home.

Q. How long did it take to accomplish his purpose? A. About ten or fifteen minutes.

Q. Did you fight that time? A. Yes, sir. 20

Q. Why did you go to the barber shop? A. My stepmother sent me, and he wanted to take me. I did not want to go.

Q. When you left the barber shop you knew he was going to attack you; why didn't you tell the barber about it? A. I was afraid to tell him.

Q. Why didn't you tell the police about it? A. I was afraid of both of them.

Q. Why were you afraid of them? A. I did not think they would believe me. 30

Q. Did you tell Mrs. Smith about the third time? A. Yes, sir.

Q. How soon after? A. Mrs. Smith wasn't home at the time it happened and I told Mrs. Kehoe and Mrs. Taylor.

Q. Was this at night? A. Yes, sir.

Q. When did you get home? A. After we came back from my grandmother's.

Q. Were your clothes torn? A. Yes, sir. 40

Q. Were they soiled? A. Yes, sir.

Katharine Hughes—Cross

Q. Could it be seen? A. No, sir.

Q. Were they badly soiled? A. Not very much.

Q. Were they badly soiled the first time? A. Not so very much.

10 Q. Who does the washing at your house? A. My stepmother.

Q. Did your stepmother say anything to you about it? A. Yes, sir.

Q. What did she say? A. She asked me the cause of it.

Q. What did you say? A. I said I didn't know.

Q. She didn't press you any further? A. No, sir.

20 Q. What did she tell you? A. To keep my fingers to myself and it wouldn't be there.

Q. Every time she asked you why they were soiled, and this was always after your father was in your room? A. Yes, sir.

Q. And your stepmother knew your father came to your room on these occasions? A. Yes, sir.

Q. She just asked you why your clothes were soiled? A. Yes, sir.

30 Q. She knew you were with your father every time and she knew your father was in your room? A. Yes, sir.

Q. Did you say anything to your grandmother the third time? A. No, sir.

Q. Why? A. Because he was there.

Q. Did you ever visit your grandmother's? A. Yes, sir.

Q. Was it frequently? A. Yes, sir

40 Q. Did you trust your grandmother? A. Certainly.

Katharine Hughes—Cross

Q. Why did you not tell her about it? A. I was afraid.

Q. You always told the Smiths, Mrs. Taylor or Mrs. Kehoe? A. Yes.

Q. All these people knew then? A. Yes.

Q. Did they ever ask you to tell the police 10
about it? A. Yes, sir.

Q. Did you do it? A. No, sir.

Q. When was the next time it happened? A.
In the bedroom.

Q. Were the covers torn? A. Yes, sir.

Q. How long did it take your father to accomplish it? A. I do not know, he tried to force me and I fought him.

Q. Did you fight hard? A. Yes, sir. 20

Q. How much do you weigh? A. I do not know. I think I weighed 112 pounds a year ago.

Q. Have you been sick very much? A. No, sir.

Q. Did you fight him very much? A. I fought hard and did not cry out loudly.

Q. Did you roll around on the bed? A. Sometimes I got out of the bed and got between my two sisters for the night.

Q. Then your two sisters heard you fighting?
A. My oldest sister heard me fighting. 30

Q. Did she know it was your father in the room? A. I should think so.

Q. Did she cry out? A. She did not make any outcry.

Q. Did you talk to her about it? A. No, sir.

Q. You wasn't afraid to tell her about it? A.
No, sir.

Q. She didn't say anything to her mother about it? A. No, sir. 40

Katharine Hughes—Cross

Q. Your sister is going to high school now?

A. Yes, sir.

Q. When was the next time? A. That happened in the bedroom last summer.

Q. That was around the first of June? A. Yes,
10 sir.

Q. Do you remember that time? A. I do not remember.

Q. About the first of June? A. Yes, sir.

Q. But you have a distinct recollection that it was about the first of June, 1926? A. Yes, sir.

Q. That is the time you became pregnant? A. Yes, sir.

Q. Were you at home when you wrote this letter to your father? A. Yes, sir.
20

Q. When did you leave? A. The next day.

Q. Did you see him at home after he received the letter? A. No, sir.

Q. But you were at home when you sent the letter? A. I wrote the letter in the house and it came the next day on the 8th.

Q. What kind of paper did you write this on? A. On writing paper.

Q. Folded sheets? A. It was plain sheets, tab-
30 let paper.

Q. How many pages? A. Two or three pages.

Q. Did you mention each of these times he had intercourse with you? A. Yes, sir.

Q. When they happened? A. Yes, sir.

Q. Did you think he forgot about it? A. I wanted to let him know.

Q. Didn't you think he cared about it? A. I do not know.

Q. Did you mention any months or years? A.
40 No, sir.

Katharine Hughes—Cross

Q. When the last one happened? A. Yes, sir.

Q. What time? A. Last two days in May or the first of June.

Q. You wrote in detail each of the occasions? A. Yes, sir.

Q. What was the reason for writing the letter? 10

A. I wanted to let him know that I was in a family way.

Q. Where did you write it? A. I wrote it at home.

Q. What time of the day was it you wrote it, about what time? A. Before five o'clock.

Q. Are you sure it was that time? A. Yes, sir.

Q. What date did the letter bear? A. Septem- 20
ber 7, 1926.

Q. You remember that date? A. Yes, sir.

Q. Did you keep a copy? A. No, sir.

Q. After you wrote the letter you showed it to George Sigafos, Mrs. Kehoe, Mrs. Taylor and Nellie Masterson? A. Yes, sir.

Q. Did they make any comments about it? A. They said he should be ashamed of it.

Q. You weren't ashamed to show this letter? A. No, sir. 30

Q. But you didn't tell your stepmother or grandmother about it? A. No, sir.

Q. Were you ashamed? A. I was afraid.

Q. For about two years on several occasions you told these neighbors about it? A. Yes, sir.

Q. You left home the day after you sent this letter? A. Yes, sir.

Q. You met your father after you left his house? A. Yes, sir. 40

Katharine Hughes—Cross

Q. You never mentioned to your father during these meetings that you were pregnant? A. I didn't say anything.

Q. He never made any attacks since? A. No, sir.

10 Q. That was the last time? A. Yes, sir.

Q. You stayed at home during June, July, August and the first week in September and he did not attack you? A. No, sir.

Q. Do you know a young man by the name of Bullock? A. Yes, sir.

Q. When did you know him, was it in the spring of 1926? A. Yes, sir.

20 Q. Did he stay around during May? A. He went away in April, 1926.

Q. Did you ever see him after April? A. No, sir.

Q. Did you ever see him at Mrs. Stamets house in June, 1926? A. No, sir.

Q. Did you ever meet him there? A. Yes.

Q. Did you ever have him at your house when your father or stepmother were out, in May or June, 1926? A. No, sir.

30 Q. Did you ever receive any money from a man about May or June, 1926? A. No, sir.

Q. Did you ever go out with boys at night? A. Sometimes.

Q. You went to a party on one occasion, in a car? A. Yes.

Q. What time was it when you got home? A. I went over to Delaware Park and stayed there at a friend's.

40 Q. Why didn't you come home? A. I was afraid they would beat me.

Katharine Hughes—Cross

Q. Do you know when it happened? A. No, sir.

Q. Did it happen before the time when you went up to the barber shop on this road? A. I do not know.

Q. Did you carry any clothes with you to this place? A. No, sir. 10

Q. How do you happen to recall when the last attack took place? A. I was supposed to be well along the 6th or 7th of June, 1926.

Q. Why did you write this man Bone for money? A. I was pregnant and wanted to go to a doctor.

Q. Why didn't you ask your father? A. I was afraid to ask him. 20

Q. Who was—

Q. Where did he live? A. With his grandmother in Morris Park.

Q. Do you know where he lives now? A. I think with his grandmother in Morris Park.

Q. Who is his grandmother? A. Mrs. Moore.

Q. Did he ever have any intercourse with you? A. No, sir.

Q. What was the attitude of your stepmother towards you and the other children? A. She was mean towards us. 30

Q. Why didn't you tell her why it happened? A. I was afraid.

Q. Did she on any occasion punish you? A. Yes, sir.

Q. How? A. She used to beat me.

Q. How were you treated in the Smith family? A. All right.

Q. How long ago was it that you went to Mrs. Joiner? A. Before 1922. 40

Katharine Hughes—Cross

Q. About how old were you? A. About ten years old.

Q. Was it as long as eight years ago? A. It was a long time before any of this happened. It was just before we moved in our new home.

10 Q. Why did you go to Mrs. Joiner? A. I did not have the proper clothing.

Q. Did anybody meet your father? A. He had to go direct before the Red Cross.

Q. You testified that the underclothing was soiled? A. It had blood stains on it.

Q. Did it have any on it on any other occasion? A. No, sir.

Q. What time was it that your stepmother
20 spoke to you about these stains? A. The following day, I think.

Q. What did your mother say when your underclothing was soiled? A. She said the same thing, that I was fooling with myself.

Q. What is Bullock's first name? A. I think it is John.

Q. Where did he come from? A. He said he came from Alabama.

Q. Where did he work? A. As a truck driver.

30 Q. What kind of a truck? A. An auto truck.

Q. When did he leave? A. In April.

Q. How do you know that? A. It was around Easter time.

Q. Did you see him after that? A. No, sir.

Q. Have you ever seen or heard from him? A. He wrote a letter.

Q. Did he write more than once? A. He wrote one letter.

40 Q. Where was it postmarked? A. It came from Alabama, Atmore, I think.

Katharine Hughes—Cross

Q. What became of that letter? A. I tore it up.

Q. Did you ever see this little yellow piece of paper before? A. No, sir.

Q. Who was that letter from? A. Isaac Janney. 10

Q. Did he ever have any immoral relations with you? A. No, sir.

Q. Did you ever answer that letter of John Bullock? A. No, sir.

Q. Did any one else see that letter? A. I do not know.

Q. At any time did any one of the gypsies have any relation with you in 1925? A. No, sir.

Q. What time of the year was it when the 20 gypsies were there? A. In May.

Q. How far is the woods to the Morris Turnpike? A. It is right off the highway.

Q. Is there a field next to the highway? A. Yes, sir.

Q. Is it in Phillipsburg? A. Yes, sir.

Q. Ordinarily, how would you go to your home? A. Through the woods for a short cut.

Q. Was it a short walk through the woods? A. About five minutes walk. 30

Q. Is the woods thick? A. Yes, sir; in the summer.

Q. On June 6, 1926, you missed the first time? A. Yes, sir.

Q. About June first or second was the last time he came in your room? A. Yes, sir.

Q. Is this child with you at the home in Trenton? A. He is in the court room.

Q. Did you say to John Bullock in the home 40

Katharine Hughes—Re-direct

of Mrs. Castner in the summer of 1926 that he had disgraced you? A. No, sir.

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

10 Q. At her home you never accused him of disgracing you? A. No, sir.

Q. Is this your paper? A. Yes, sir.

Q. Is this in your handwriting? A. Yes, I think it is.

Q. Is that the envelope you sent to this boy so that he could send you mail? A. I guess I did send it in a letter.

Q. Is that your handwriting, "Love to you"? A. I do not think it is.

20 Q. Is that your handwriting? A. Yes, sir.

Q. You did send that to him? A. I sent it to him.

RE-DIRECT EXAMINATION by Mr. Smith:

Q. Who was it that gave you the information that you could get helped out of it for \$50.00? A. I went to a doctor, a woman on Morris Street who would help me out for \$50.00.

Q. Did you go to this woman? A. I did.

30 Q. What was her name? A. Mrs. Moore, 228 Morris Street.

Q. Did she attempt to do anything? A. No, sir.

Q. Why? A. I did not have the money.

Q. How much money? A. \$50.00.

Q. When was it that you went to this woman? A. When I was a month pregnant.

Q. Did you know her first name? A. No, sir.

40 Q. Anyone go with you? A. Yes sir.

Katharine Hughes—Re-cross

Q. Who? A. Ruth Veun.

Q. Where does she live? A. Morris Park.

RE-CROSS EXAMINATION by Mr. Rosecrans:

Q. Did your father complain about your going out at night with boys? A. He never said anything. 10

Q. Did your stepmother complain? A. No, sir.

Q. Were you always home at night? A. Not every night.

Q. Were you out with other boys late at night? A. Yes, sir.

Q. Do you know Isaac Janney? A. Yes, sir. 20

Q. Where does he live? A. I don't know what street.

Q. Does he live in Phillipsburg? A. Yes, sir.

Q. Did you get any letters from him? A. No, sir.

Q. Do you recall about a letter that you didn't get? A. My sister said she got a letter and gave to my father and he locked it in his desk.

Q. You got this letter? A. No, sir.

Q. Did you go out with him? A. He came around to the house but I never was with him. 30

Q. Your father and mother complained? A. Yes.

Q. Because he wasn't any good? A. I do not know.

Q. Didn't you have Bullock at the house in the spring of 1926? A. I think it was after Easter time.

Q. Did your father about that time catch you in a car with a boy at night? A. No, sir. 40

Katharine Hughes—Re-cross

Q. Did he come up to a car and get you out?

A. No, sir.

Q. Were you ever out in a car at night? A. I was to Bushkill Park once and we came home about eight o'clock.

10 Q. Did this boy run away from his father? A. I do not know.

Q. Did he get out of the car? A. I left the car and I do not know what he did.

Q. Didn't you complain about your father not giving you proper clother to wear? A. Yes, sir.

Q. Were you taken to the Red Cross? A. Yes, sir.

Q. Didn't you insist on wearing silk stockings?

20 A. No, sir.

Q. Do you know Mrs. E. Shuler? A. Yes, sir.

Q. Where does she live? A. Morris Park, Phillipsburg, N. J.

Q. Did you ever direct anyone to send mail to her? A. Yes, sir.

Q. Why didn't you have it sent to your house? A. I asked Mrs. Shuler if I could and I left her read them.

Q. Do you know Lyle Bone? A. Yes, sir.

30 Q. Did he ever send you any money through the mail? A. Once he send me \$2.

Q. Did you ever take any rides with him? A. Yes.

Q. When did he come to your house? A. He came to my house with my uncle, my father's uncle.

Q. Where did he go later? A. He went to Chicage, I think.

40 Q. Did he send the money from there? A. Yes, sir.

Katharine Hughes—Re-direct

Q. What was he doing when he was here? A. He came with my uncle as a chauffeur.

Q. How old was he? A. I do not know.

Q. Did you tell him you were pregnant? A. No, sir.

Q. Why did he send you money if you were pregnant? A. I needed clothes. 10

Q. He came around the last of May or last of June? A. I do not know if after or before.

Q. Did you receive any money from your other boys? A. No, sir.

Q. Do you remember when there were gypsies in the woods in June, 1926? A. Yes, sir.

Q. Did you ever go there alone when they were there? A. No, sir. 20

Q. Do you know Mr. Radus? A. Yes, sir.

Q. Were you ever out with him? A. I never went out with him.

Q. He took the family out once? A. Yes, sir.

Q. Never out with him alone? A. No, sir.

RE-DIRECT EXAMINATION by Mr. Smith:

Q. What is Mr. Radus' name? A. William.

Q. Where does he live? A. On Dana Street in Morris Park. 30

Q. Is he here? A. I do not know.

Q. Have you seen him in the court room? A. No, sir.

Q. How old is he? A. He is around fifty.

Q. Who was Lyle Bone? A. He came with my uncle from Chicago.

Q. How old a man was he? A. Around 21.

Q. Is he any relative of yours? A. No, sir.

Q. When was he here? A. In the summer 40 time.

Katharine Hughes—Re-direct

- Q. Where does he live? A. I think in Chicago.
- Q. Did you ever see him before? A. No, sir.
- Q. How long was he here? A. It wasn't for long.
- Q. How long? A. One or two weeks.
- 10 Q. He stayed at your father's house? A. At my grandmother's house.
- Q. Did you go out with him? A. Yes, he took me to a show with two other friends.
- Q. When did he ask you if he could write? A. I do not know.
- Q. What did you tell him? A. I told him to send the letters to Mrs. Shuler and I would get them.
- 20 Q. What is Mrs. Shuler's name? A. Mrs. Anna Shuler.
- Q. Did you see the letter in which the money came? A. Yes, sir.
- Q. What has become of these letters? A. I tore them up.
- Q. Did Lyle Bone have any immoral relations with you? A. No, sir.
- Q. Who is Anthony Prall? A. I do not know him.
- 30 Q. When did your father catch you in a car with a boy? A. I do not know when.
- Q. That happened sometime before this? A. About a year before.
- Q. What did your father do after that? A. He made arrangements after that with Squire Weiss.
- Q. Where did you go after that? A. He took me to the doctor.
- 40 Q. What doctor? A. Doctor Cline.
- Q. Was your father there? A. Yes, sir.

Bessie Taylor—Direct

MRS. BESSIE TAYLOR, sworn.

Direct by Mr. Smith.

Q. Mrs. Taylor, where do you live? A. Morris Park, Phillipsburg.

Q. Do you know where Owen Hughes lives? A. 10
Directly in front of my house.

Q. And his wife? A. She is there.

Q. How many children? A. Three home now.

Q. In 1926 before September where was Katharine Hughes making her home? A. She was at her father's home.

Q. Did you know her? A. Yes, sir.

Q. How long? A. About three or four years.

Q. That house was bought by Mr. Hughes? A. 20
Yes, sir.

Q. How long ago? A. Three or four years ago.

Q. In September did you receive Katharine at your home? A. Yes, sir.

Q. Before she left home, did she show you a letter written to her father? A. Yes, sir.

Q. Did you read it? A. I did.

Q. Did you mail it for her? A. No, sir.

Q. What date was it? A. September 7, 1926. 30

Q. Was any one else there at the time? A. My sister and my mother.

Q. What is your sisters name? A. Mrs. Kehoe.

Q. Any one else there who read the letter? A. I could not say, I was in the other room.

Q. Was Mr. Sigafos there? A. He was, he read it after supper.

Q. Do you remember the contents therein? A. 40
I can recall some things.

Bessie Taylor—Direct

Q. What time was it at night? A. After Mr. Sigafoos came home from work, about 5 o'clock.

Q. On what kind of paper was it written? A. I am not sure, what kind

10 Q. How many sheets? A. Three or four sheets.

Q. On both sides of the paper? A. Yes, sir.

Q. It was a long letter? A. Yes, sir.

Q. What was in that letter? A. She said—

Mr. Rosecrans: I object to the letter being described.

20 Q. Have you observed the relations between her stepmother and Katharine? A. Practically nothing, as far as I know.

Q. What was the attitude of the father? A. I do not know.

Q. Were you present when Katharine mailed the letter? A. Yes, sir.

Q. Who else was present? A. George Sigafoos.

Q. Did you see the letter addressed? A. I did.

30 Q. To whom was it addressed? A. Owen Hughes, c/o Vulcanite Cement Company, Alpha, N. J.

Q. You saw her actually put it in the box? A. Yes, sir.

Q. Was there a postage stamp on it? A. Yes, sir.

Q. Where was it mailed? A. At the Pennsylvania Railroad station.

Q. Where did Katharine go then? A. She started home and next morning left home.

40 Q. Has Katharine been at your house since she

Bessie Taylor—Cross

left? A. I never saw her at the house after she left.

Q. How did Katharine act towards her mother?

A. She seemed to be a good girl.

Q. Was there any fear? A. She was always afraid of both. 10

CROSS-EXAMINATION by Mr. Rosecrans:

Q. The letter was mailed at the Pennsylvania Railroad Station? A. Yes, sir.

Q. Where did you first see it? A. In my house.

Q. Who was with you when it was mailed? A. George Sigafos, Katharine and myself.

Q. Did Katharine tell you she was going to mail it? A. Yes, sir. 20

Q. Did you mail it? A. I did not.

Q. Did you know that she was going to write it? A. Not until I saw it.

Q. Did you discuss it with any one? A. I never talked to any one about it afterwards.

Q. Did you suggest to her to write this letter? A. I did not.

Q. Any one know of it? A. I do not know.

Q. Did you ever advise her in any way? A. I told her to see a lawyer. 30

Q. You do not like the Hughes family? A. I never had anything against them.

Q. Was Katharine to your house often? A. Quite a bit.

Q. Did you let her entertain boy friends at your house? A. No, sir.

Q. Do you know this Bullock? A. No, I do not.

George Sigafos—Direct

GEORGE SIGAFOOS, sworn.

Direct-examination by Mr Smith:

- Q. Where do you live? A. 233 Washington Street.
- 10 Q. What is your position? A. Silk worker.
Q. Where have you been located? A. A silk mill in Plainfield.
Q. Did you in 1926 around September, visit at the home of Mrs. Smith? A. Yes, sir.
Q. Do you know Katharine Hughes? A. Yes, sir.
Q. How long have you known her? A. Almost three years.
- 20 Q. Do you remember on September 7, 1926, being at the Smith home? A. Yes, sir.
Q. Did you see Katharine? A. Yes, sir; I did.
Q. What time? A. About 5:30 or 5:45.
Q. Who else was there? A. Bessie Taylor, Mrs. Kehoe and Nellie Masterson.
Q. Katharine had a letter she was going to mail to her father? A. Yes, sir.
Q. What kind of paper? A. It was tablet paper.
- 30 Q. Written on both sides? A. Yes, sir.
Q. How many pages? A. Two or three.
Q. Envelope addressed? A. Yes, sir.
Q. Did you see how the envelope was addressed? A. It was addressed to Owen Hughes, c/o Vulcanite Portland Cement Co., Alpha, N. J.
Q. Did you read the contents of this letter? A. I did.
- 40 Q. Did any one else read the contents of the letter? A. Everybody, Nellie Masterson, Bessie Taylor and Mrs. Kehoe.

George Sigafos—Cross

Q. After they had read the letter, what was done? A. I was taking Bessie Taylor to the dressmaker.

Q. What then? A. Katharine went with us and at Union Square Katharine got out at that time and mailed the letter at the Pennsylvania Railroad Station. 10

Q. Was that the same letter? A. Yes, sir.

Q. Was that the same letter and envelope? A. That was the only letter she had.

Q. There is a post office box at the corner of the station? A. Yes, sir.

Q. About what time was that? A. Between 8 and 8:30.

Q. Do you know Mr. Hughes? A. Only to see. 20

Q. Did you have any interest in the matter? A. No, sir.

Q. Where are you employed? A. I am employed at Plainfield.

CROSS-EXAMINATION by Mr. Rosecrans:

Q. What time of the day did you read this letter? A. I quit work at four forty-five and I read it when I come home.

Q. The letter was mailed between eight and eight thirty? A. Yes, sir. 30

Q. September 7th? A. Yes, sir.

Q. Where did you go then? A. We went home to Mrs. Smith's house in Morris Park.

Q. How old is her daughter, Bessie Taylor? A. Twenty-eight years old.

Q. After you mailed the letter you went to Morris Park? A. Yes, sir.

Q. Did you do anything else after you mailed the letter? A. No, sir. 40

Anna Shuler—Direct

Q. Where do you live? A. 233 Washington Street, Phillipsburg.

Q. Did you see Katharine frequently at the Smith home? A. I did not.

Q. Did you ever see her before? A. Yes, sir.

10 Q. How often did you go there? A. I went there every day.

Q. Is Bessie Taylor married? A. Yes, sir.

Q. Was she married at that time? A. Yes, sir.

ANNA SHULER, sworn.

20 Direct-examination by Mr. Smith:

Q. Where do you live? A. Morris Park, Phillipsburg.

Q. How far away is your home from the home of Owen Hughes? A. Quite a distance.

Q. Do you know Katharine Hughes? A. I do.

Q. How long? A. Since they came there.

Q. How long ago was that? A. It may be three years or more.

30 Q. Did any letters come to you? A. Yes, sir. Three.

Q. To whom were they addressed? A. They were addressed to me.

Q. What did you do with them? A. I gave them to Katharine and she opened them and she showed them to me.

Q. Did you read them? A. I did not pay any attention to them, she read them to me.

40 Q. What kind of letters were they? A. Ordinary letters, about the boy moving back home and it was warm and he continued to go to school.

Anna Shuler—Cross
Mary Kehoe—Direct

- Q. One time you opened one letter by mistake?
 A. I opened the letter by mistake.
 Q. Do you recall now who signed these letters?
 A. No, I do not.
 Q. Do you know the attitude of Katharine towards her stepmother? A. All I know was that the child had no good home. 10
 Q. State whether or not she appeared to be afraid of her stepmother? A. Yes, sir, she was.
 Q. How did Katharine appear towards her father? A. She was afraid of her father.

CROSS-EXAMINATION by Mr. Rosecrans.

- Q. Did you ever know of Katharine receiving any money? A. I do not know that. 20
 Q. Did you tell anybody that letters were mailed to you for Katharine? A. I did not tell anybody of that.
 Q. Didn't you think it was wrong for Katharine to receive letters through you? A. I did think it was odd to have her letters come to me. I told her she would have to stop.
 Q. Why did you tell her? A. I wanted no ill feelings. 30

MRS. MARY KEHOE, sworn.

Direct-examination by Mr. Smith:

- Q. Where do you live? A. Morris Park.
 Q. Whom do you live with? A. My mother,
 Mrs. Anna Smith. 40

Mary Kehoe—Direct

Q. How far do you live from Owen Hughes?

A. I do not know what the distance is.

Q. Where is Owen Hughes' house? A. It is right in front across the street.

10 Q. How long has it been since Mr. Hughes' wife lived there? A. I do not know.

Q. Did he build that house? A. Yes, sir.

Q. About how long ago has it been? A. I do not know whether it is three or four years.

Q. When they first came to live there how many were in the family? A. All of them, two big boys, John and Linford, Katharine, Anna, Mildred and Sylvester.

Q. How old was Sylvester? A. I do not know.

20 Q. How long did John live in the house? A. I do not know.

Q. He was the first to leave? A. Yes, sir.

Q. Was it prior to Katharine's leaving? A. Yes, sir.

Q. Did Katharine come to your house often? A. Yes, sir.

Q. How often? A. Whenever she got a chance.

30 Q. Do you know her attitude towards her father?

Mr. Rosecrans: I object to her testifying as to her attitude towards her father.

The Court: I will allow it.

Defendant excepts.

HARRY RUNYON (Seal)

Judge.

40 Q. Did you ever see Katharine and her father together? A. Go in and out of the house.

Mary Kehoe—Direct

Q. Do you know the attitude of the stepmother towards Katharine? A. Only what Katharine said.

Q. How did Katharine appear to you in reference to her father?

Mr. Rosecrans: Objected to as a conclusion. 10

Defendant excepts.

HARRY RUNYON (Seal)

Judge.

A. She always seemed to be afraid.

Q. Were you home on September 7th? A. Yes, sir.

Q. What time did you get home that day? A. 20
I stayed home, I kept house.

Q. What time did Katharine come over? A.
About four-thirty or four-forty.

Q. Did she have a letter? A. Yes, sir.

Q. What did she do? A. She gave the letter to me to read.

Q. Did you read it? A. I did.

Q. Was it in an envelope? A. Yes, sir.

Q. What kind of paper? A. I do not know.

Q. Was it written on both sides? A. Yes, sir. 30

Q. How many sheets? A. I cannot tell.

Q. How many other people read that letter?

A. The two that were here and Nellie Masterson.

Q. How was the envelope addressed? A. I did not take notice of the envelope at all.

Q. You didn't know when the letter was mailed?

A. No, sir.

Q. Did you see the letter placed in the envelope?

A. Yes, sir. 40

Mary Kehoe—Cross
Margaret Stamets—Direct

Q. Was the envelope stamped? A. Yes, sir.

Q. Do you know how the stepmother treated these children? A. Only what they said.

10 Q. Did they come to your house? A. They did quite often.

Q. Why did they come? A. To see the other children.

Q. Did Katharine come there very often before she went away? A. She did because I was always at home.

CROSS-EXAMINATION by Mr. Rosecrans:

20 Q. Did Mr. and Mrs. Hughes object to her coming to your house. A. They did.

Q. Did Mr. Taylor live with you in the house? A. No, sir.

Q. Where does he live? A. I could not tell you.

Q. He wasn't living with you then? A. No, sir.

Q. Bessie Taylor's husband wasn't living with you then? A. No, sir.

30

MRS. MARGARET STAMETS, sworn.

Direct-examination by Mr. Smith:

Q. Where do you live, Mrs. Stamets? A. Morris Park, Phillipsburg.

Q. How long? A. Four years last month.

Q. How long have you known Mr. Hughes? A. Three and one-half years.

40 Q. Is that about how long he has lived there? A. He lived there ahead of us.

Margaret Stamets—Direct

Q. Where is his house? A. He lived on First Street and we lived on Second Street.

Q. Do you know Katharine Hughes? A. Yes, sir.

Q. How long have you known her? A. Ever since we moved there. 10

Q. Prior to her leaving, did she visit you? A. Very often.

Q. Did you know her attitude toward her father and stepmother? A. I do not know.

Q. How did Katharine appear to you in reference to her father? A. She always said she was afraid.

Q. How did she act? A. She acted as if she was afraid of him. 20

Q. After June 1926 did she come to your house? A. Not for quite a while, not until from June to the last of August.

Q. At that time did you give her anything? A. No, sir.

Q. Did she try to borrow any money? A. No, sir.

Q. Did you ever pay her any money? A. Yes, sir, she used to work for me.

Q. How long has she been working for you? 30
A. On Saturdays and over the week ends.

Q. Why did she work for you? A. I work at the Standard Silk mill and she helped me out at home. I paid her for working for me.

Q. Did her parents know about it? A. I think they did.

Q. Was there any ill feelings? A. There was nothing between the two families, nothing on my part. 40

Annabelle Hughes—Direct

Q. After June, 1926, did she work for you? A. No, I don't believe she did.

Q. At that time did you give her any presents or clothes? A. No, sir.

10 Q. State whether or not she complained to you about her father? A. She never mentioned her father.

Q. Did she tell you about herself? A. She told me about her condition.

ANNABELLE HUGHES, sworn.

20 Direct-examination by Mr. Smith:

Q. How old are you? A. Fourteen.

Q. When was your birthday? A. October 1st.

Q. You go to school? A. Yes, sir.

Q. Where? A. High School.

Q. What year? A. Freshman.

Q. Your father is Owen Hughes? A. Yes, sir.

Q. Is your mother dead? A. Yes, sir.

Q. Where do you live in Morris Park? A. At First and Dana Streets.

30 Q. And Dana Street is the fourth street in from Morris Street. A. Third street.

Q. Where do you sleep in your home? A. In the same bedroom as before.

Q. In the back bedroom? A. Yes, sir.

Q. How many bedrooms are there? A. Four bedrooms.

Q. Where did your father and stepmother sleep? A. Up the hall about three feet.

40 Q. Who slept in your bedroom? A. Mildred and I slept in one bed and Katharine on the cot.

Annabelle Hughes—Direct

Q. Where was the cot in the bedroom? A. The cot was against the wall.

Q. Where was the door? A. At the foot of the bed.

Q. How many other rooms are there upstairs? A. Four bedrooms, a bath and a sewing room. 10

Q. Who slept in the other bedrooms in 1926? A. Father and mother slept in one, brother and sister-in-law slept in another, and my youngest brother in the other.

Q. What is your youngest brother's name? A. Sylvester.

Q. How old is he? A. Twelve.

Q. Is he your actual brother? A. Stepbrother.

Q. Your stepmother's son? A. Yes, sir. 20

Q. Who slept in the other bed? A. My brother and sister-in-law.

Q. What is his name? A. Linford.

Q. When did they leave? A. I can't recall.

Q. When was your brother Linford married? A. Around January 1st, I do not know what year.

Q. It was 1926, wasn't it? A. I think so.

Q. When did you first move to Morris Park? A. Just before Labor Day, 1923.

Q. Was this house built by your father? A. Yes, sir. 30

Q. When did Katharine go to High School? A. I do not know.

Q. Do you know when she left the school? A. It was either the latter part of 1925 or beginning of 1926.

Q. Your father slept in the front room and he slept with your stepmother? A. Yes, sir. 40

Annabelle Hughes—Direct

Q. On any occasion did you see your father in your room? A. Yes, sir.

Q. When? A. Different times.

Q. After he had gone to bed? A. Yes, sir.

Q. How did you happen to know he was there?

10 A. I often woke up.

Q. Did he ever tear your covers? A. Never did.

Q. Where was your father when you woke up?

A. He was laying across Katharine's bed.

Q. You have been living home up to the present time? A. Yes, sir.

Q. You remember talking to Mr. Reh fuss? A. Yes, sir.

20 Q. What did he ask you? A. He asked me different questions.

Q. And you answered? A. Yes, sir.

Q. When did your father wake you up? A. I woke up several times in the middle of the night.

Q. You say sometimes you saw him laying across Katharine's bed? A. Yes, sir.

Q. Have you ever seen him come in the bedroom? A. Yes, sir.

30 Q. Did you see him get in the bed? A. He didn't get in, he got on the bed.

Q. The room is dark? A. Yes, sir.

Q. How long would he stay? A. He would stay until mother come over and got him and made him go to the other bedroom.

Q. What did your father do? A. He was always laying on the bed.

Q. Was he any other place? A. Sometimes he was on the floor.

40 Q. What part of the floor? A. Different parts.

Annabelle Hughes—Direct

Q. Near what place? A. The bottom of the beds.

Q. Do you remember one time when your step-mother came after him he jumped in your bed?

A. I do not.

Q. Didn't you say to Mr. Rehfuss, at one time when your stepmother was coming, your father jumped over into your bed. 10

A. I don't recall.

Q. What did you see? A. He was just starting to lay down at the foot of our bed.

Q. On several occasions you have seen your sister's bed torn up? A. No, sir.

Q. When your mother came in was Katharine in bed? A. Yes, sir. 20

Q. You say that you woke up several times during the night? A. Yes, sir.

Q. Why did you wake up? A. I do not know what made me wake up.

Q. On one occasion did Katharine come and sleep with you? A. Yes, sir.

Q. And on any of these occasions was your father in the bedroom? A. I do not know.

Q. How many times was your father in the bedroom? A. I can't tell you how many times. 30

Q. It was more than once? A. Several times.

Q. Her cot was empty in the morning? A. Yes, sir.

Q. Do you know when she came to sleep with you? A. After I woke up.

Q. Do you know what time it was? A. I do not.

Q. It was during the night? A. Yes, sir.

Q. When your mother came in the room, did your father walk around? A. Sometimes he did. 40

Annabelle Hughes—Direct

Q. How would he walk? A. I can't describe it.

Q. Were his eyes open or shut? A. They were shut.

Q. When you saw him coming in the room what was he doing? A. He was feeling along the walls as he went along.

Q. How often have you seen him do this before Katharine went away? A. Several times.

Q. Did he ever walk along with his hands straight in front of him? A. I could not say.

Q. It was dark in your room? A. Yes, sir.

Q. Did you see him when the light was turned on? A. No, sir.

Q. Did you ever see him any where else? A. He was in our bathroom.

Q. Was you in your bedroom? A. Yes, sir.

Q. Was you asleep? A. Not always.

Q. Did you see him in the hall? A. I often woke up and went to the bathroom and I seen him in the hall and mother got up and brought him back.

Q. Do you recall how often he came in your bedroom? A. I do not know.

Q. When he was laying across Katharine's bed where was Katharine? A. In the bed.

Q. You never noticed any bedclothing torn? A. I never looked in particular, only at the seams once.

Q. You sleep pretty sound? A. I always wake up in the night.

Q. Do you recall in June before your sister went away, your father being in the bedroom? A. I do not recall the particular time.

Q. Do you recall your sister talking to you at

Annabelle Hughes—Cross

the time, in the morning. A. She told me he was in the bed.

CROSS-EXAMINATION by Mr. Rosecrans :

Q. What did she tell you? A. She told me he was in the bed. 10

Q. Did I hear you to say that your father was found lying on the floor in the hall and in the bathroom? A. Yes, sir.

Q. How did it happen? A. I do not know.

Q. Did you ever hear what was the matter? A. He was doctoring with a doctor.

Q. Didn't they tell you you the cause? A. It was supposed to be nervousness and he always got up and walked around nights. 20

Q. Sometimes your stepmother found him on the floor of the bathroom and in the hall? A. Yes, sir.

Q. Did she ever find him in your brother's bedroom? A. Yes, sir, in my brothers' bedroom.

Q. Was he walking in his sleep? A. I could not tell you for sure.

Q. How often did this happen? A. He often did it.

Q. He sometimes was at the foot of your bed? 30
A. Yes, sir.

Q. In your brother's room? A. Yes, sir.

Q. He often started to go down the steps? A. Yes, sir.

Q. Did your mother always get up and get him? A. She always missed him.

Q. When he was across the foot of your bed did your stepmother come right after that? A. I do not know whether it was right after. 40

Annabelle Hughes—Re-direct

RE-DIRECT by Mr. Smith:

Q. You weren't there when she found him in your brother's room? A. No, sir.

Q. Then it was only told to you? A. I got up and saw him being brought out of my brother's
10 bedroom.

Q. How often was that? A. More than once.

Q. In the bathroom? A. I didn't see him in the bathroom.

Q. Did you see him when he was going down the steps? A. No, sir.

Q. You don't know when your stepmother missed your father? A. No, I don't.

Q. You know that on occasions your stepmother
20 had come in and turned on the light? A. I often woke up and saw my father and she always was there.

Q. Did you ever know of your father coming in your room and going out? A. I don't know, I think once.

Q. Do you remember Mrs. Heller who lived in Morris Park? A. Yes, sir.

Q. Did you ever talk with her about this? A.
30 No, sir.

Q. Were you up there? A. No, sir.

Q. Has your father been in your room since Katharine was there? A. Yes, he has.

Q. How many times since Katharine left? A. I could not say.

Q. More than once? A. Yes, sir.

Q. More than twice? A. Yes, sir.

Q. About how many times? A. About five or
40 six times.

Q. Has he been in there as often as before Katharine went away? A. Not so often.

Annabelle Hughes—Re-direct

Q. When was the last time he was there? A. I do not know.

Q. How long ago? A. Two weeks ago.

Q. How long before that? A. I do not know.

Q. Did you know then that this case was coming up? A. Yes, sir. 10

Q. Do you know Isaac Janney? A. Yes, sir.

Q. Do you know where he lives now? A. He is in the navy.

Q. How long has he been in the navy? A. I do not know.

Q. Where did he live before? A. Fourth and Baltimore Streets.

Q. Where did he live after he moved? A. I do not know. 20

Q. Did he give you a letter for Katharine? A. Yes, sir

Q. Where was you at the time? A. I was going home towards the afternoon.

Q. Where was your sister, Katharine? A. She was home, she was living home.

Q. What did you do with the letter? A. I gave it to my mother.

Q. Your mother took it? A. Yes, sir.

Q. Did you tell Katharine? A. Yes, sir; I told her about it. 30

Q. You heard her testify? A. Yes, sir.

Q. Did she tell what you told her? A. Yes, sir.

Q. Did she say what you had said to her? A. As far as I know.

Nellie Masterson—Direct

NELLIE MASTERSON, sworn.

Direct by Mr. Smith:

Q. Where do you live? A. South Main Street, Phillipsburg.

10 Q. Do you know Mrs. Smith? A. Yes, sir.

Q. Who is she? A. She is a very good friend of mine in Morris Park.

Q. Do you know Katharine Hughes? A. Yes, sir.

Q. Do you know her father, Owen Hughes? A. Just by sight.

Q. On September 7, 1926 were you visiting at Mrs. Smith's house? A. I was staying there for
20 the week.

Q. Did you see Katharine Hughes that night? A. Yes, sir.

Q. When was it? A. After supper.

Q. Did she have anything at that time? A. She left a letter.

Q. What kind of paper? A. I do not know.

Q. Was it written on both sides? A. Yes, sir.

Q. Did you read it? A. Yes, sir.

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

30 Q. How was it addressed? A. Mr. Owen Hughes, c/o Vulcanite Cement Co., Alpha, N. J.

Q. Was there a stamp on the envelope? A. Yes, sir.

Q. What was done with the envelope after you read it? A. I do not know.

Q. Was the letter placed in the envelope? A. Yes, sir.

Q. The envelope sealed? A. Yes, sir.

40 The Court: The court will stand adjourned until 10:30 o'clock tomorrow morning.

Mary G. Joiner—Direct

November 22, 1927

The court convened pursuant to adjournment of November 21, 1927.

MARY G. JOINER, sworn. 10

Direct-examination by Mr. Smith:

Q. Mrs. Joiner, where do you live? A. In Phillipsburg, N. J.

Q. What is your position? A. The Executive Secretary of the Red Cross and Community Welfare.

Q. How long have you occupied that position? A. Since April 1921. 20

Q. As secretary in 1923 did you meet Katharine Hughes and her step-grandmother? A. Some-time in the year 1923; yes, sir.

Q. When was that? A. In May of that year.

Q. At that time did you have any conference with Mr. Hughes, the defendant in the case? A. Yes.

Q. That was after your talk with the grandmother and Katharine? A. Yes, sir.

Q. What was said to him and by him? A. He 30
came to my office and I showed him the clothes that the grandmother had brought to the office which she had taken from Katharine when she ran away to her stepmother and I told him they were not the proper clothes for a girl in her standing to wear to school. He looked at them and admitted that. Was surprised at the condition of them and stated that he would take the matter up with his wife and would prevent a repetition of 40
it in the future.

Mary G. Joiner—Direct

Q. Tell us the exact date? A. I have a record here.

Q. What is the date in your record? A. May 14, 1923 is the date of the record here.

10 Q. Did you see Mr. Hughes after that on any occasion? A. I do not remember until the day of meeting him in your office.

Q. What time in the afternoon was that that you remember coming to my office? A. It was after 4 and very close to 5.

Q. Who came with you? A. Katharine.

Q. Where did you and she go when you came to my office? A. We went into a room leading to the left of the entrance hall.

20 Q. Then did you come into my office? A. Yes.

Q. Who was also there? A. Mr. Reh fuss and Mr. Hughes.

Q. Before Mr. Hughes came in was Katharine examined and questioned by me? A. No, sir.

Q. When Mr. Hughes came in where did he sit? A. By the window and then you asked him to sit opposite you.

Q. Where did Mr. Reh fuss sit? A. Mr. Reh fuss and you were right there.

30 Q. Where did Katharine sit? A. At your left.

Q. Where did you sit? A. At your left a short distance away.

Q. What was said? A. There was so much said that I cannot repeat it all. There was reference to the main question.

Q. The first thing said was what? A. I don't recall any conversation previous to that about the letter.

40 Q. Did Katharine make any statement against her father at that time? A. She did.

Mary G. Joiner—Direct

Q. What did she say? A. She told about her experience with her father.

Q. What did he say? A. He denied it.

Q. Just tell us the conversation in reference to the letter? A. As I remember you asked if he had received a letter from Katharine written at the time she left home and as I remember he denied it. Then after further questions were produced and asked him, he finally admitted that he had received a letter. You asked him what he had done with the letter and he said he had destroyed it. Then you asked him why he did that and as I remember, he said he didn't realize but that he had destroyed it. 10

Q. Do you recall about the contents of the letter? A. Yes. 20

Q. Tell us what you can? A. I recall that she charged him in this letter with the improper relations with her.

Q. What did Mr. Hughes say? A. He looked at Katharine and said, "Katharine, you know that is not true."

Q. Was anything said about any attack, in the letter, by Mr. Hughes? A. I recall that Katharine referred to several happenings in that letter, to the one in the woods and another in the car. 30

Q. What did Mr. Hughes say? A. He denied it.

Q. You mean to say he denied it? A. He denied the fact and when he did that Katharine said that she had proof of the contents of the letter, that she had shown it to friends before it was mailed.

Q. What did Mr. Hughes say then? A. He couldn't say anything. 40

C. H. Rehfuss—Direct

Q. What was his attitude and expression when Katharine charged him with these offenses? A. To me it was the attitude of a guilty man.

10 Mr. Rosecrans: I object and ask that it be stricken out.

The Court: Stricken out.

Q. Tell what his attitude was? A. He was pale and nervous.

Q. What was Katharine's attitude at the time she spoke? A. Just what it had been before.

Q. Just tell us what it was? A. Of a girl apparently who knew what she was doing and telling the truth.

20

C. H. REHFUSS, sworn.

Direct-examination by Mr. Smith:

Q. Mr. Rehfuss, you are a constable of the County of Warren? A. I am.

Q. In December 1926 were you called to the Prosecutor's office? A. I was.

30 Q. Who did you meet? A. The Prosecutor, Mrs. Joiner, Katharine Hughes and Katharine.

Q. Where were you at first? A. I was in the hall, afterwards in the lodge room.

Q. Where did you go? A. To the Prosecutor's office.

Q. Where was Mr. Hughes? A. Sitting in the reception hall.

Q. Did he come into my office? A. Later.

40 Q. Tell us just where he sat? A. I don't know

C. H. Rehfuess—Direct

where he sat at first but later he sat across from your desk.

Q. Was you in a position to observe Mr. Hughes and Katharine. A. I was.

Q. How did you come to do that? A. A suggestion of mine. 10

Q. Do you recall what was said by Mr. Hughes and Katharine? A. I do.

Q. State what Katharine said to her father? A. She said she was pregnant about six months and accused her father of the child and stated the attacks on two occasions, one in the woods and the other in the car. She afterwards told of the attacks in the house.

Q. What did her father say? A. Didn't say 20 much of anything.

Q. What did he say? A. Later on he said, "What did I ever do to you, Katharine."

Q. Was anything said about a letter? A. There was a letter mentioned at the time and he said he didn't receive the letter.

Q. Did he say anything else later? A. He afterwards said he did get the letter and destroyed it.

Q. What was the contents of the letter? A. 30 About the same as I have told.

Q. What did he say as to that? A. He denied that.

Q. He denied that was in the letter? A. He did.

Q. Was anything said later in reference to that? A. I do not remember.

Q. What was his appearance and attitude? A. He seemed very nervous, twisting his fingers all the time. 40

C. H. Rehfuß—Cross, Re-direct

Q. What was Katharine's attitude? A. Calm.

Q. Anything else take place? A. He was taken to Squire Weiss's office and a warrant sworn out for his arrest.

10 Q. Was anything said there? A. Just about the same thing.

CROSS-EXAMINATION by Mr. Rosecrans:

Q. You mean that he denied the accusations?

A. Yes.

Q. For about five years you have been constable of the county assisting the Prosecutor? A. I have.

20 By the Court:

Q. When reference is made whether he denied that these accusations were in the letter or against himself, which did he mean? A. In the first place he denied receiving the letter, he afterwards made a remark of some kind that he received the letter and the Prosecutor questioned him on that and he came back and said he did receive the letter.

By Mr. Rosecrans:

30 Q. Did he say that later on that he received the letter? A. He said that it didn't contain the accusations.

RE-DIRECT by Mr. Smith:

Q. Do you recall at Squire Weiss's office any question asked Katharine in reference to the time? A. I don't remember that, I know she was questioned.

40 Q. Do you remember Mr. Hughes asking Katharine any questions in reference to the time? A. I do not remember.

C. H. Rehfuess—Re-cross

RE-CROSS by Mr. Rosecrans:

Q. Do you remember that before this matter at the Prosecutor's office, that Mr. Hughes went to the Prosecutor himself? A. I do not know.

Q. Do you know whether he did or not? A. Only that I heard it. 10

Q. Did the Prosecutor tell you that? A. Some one mentioned that.

The State rests.

Mr. Rosecrans: I desire to move for a verdict of acquittal on the ground that the uncontroverted evidence tends to show that the crime if any, was due to force committed by the defendant and that the crime of incest can only be committed by consent and that if force is an element then the crime, if any, coming by force is rape only and not incest. I think the force has been clearly shown and that the crime is not incest. 20

The Court: What is your authority for that? 30

(Discussion)

The Court: Motion denied.
Defendant excepts.

HARRY RUNYON,
Judge (Seal)

Owen Hughes—Direct

THE DEFENSE

Mr. Bowers opens to the jury.

10 OWEN HUGHES, sworn.

Direct-examination by Mr. Rosecrans:

Q. How long have you lived in Warren County?

A. Since 1917.

Q. Where were you born? A. In North Wales, Great Britain.

Q. Where are you employed now? A. The Vulcanite Portland Cement Company.

Q. How long? A. Since March 1919.

20 Q. Where was your home in 1926? A. Morris Park.

Q. Did Katharine live with you there? A. Yes, sir.

Q. Who else was in the family during 1925 and 1926? A. Me and my wife, my oldest son, his wife, Katharine, Anna, Mildred and Sylvester.

30 Q. Will you describe the arrangements of the upper floor where the bedrooms are located? A. Well, as you go up stairs there is at the head of the stairs one room at the left and the next room is right in line on the right next to the bathroom and in front is my bedroom and on the right is the other room where Katharine, Anna and Mildred slept.

Q. Where did you always sleep? A. I slept in the northwest room.

Q. Who occupied that room? A. Me and my wife.

40 Q. Did you receive a letter from Katharine charging you with this conduct? A. Yes, sir.

Owen Hughes—Direct

Q. When did you receive that? A. I can't tell you the exact date, it was two or three days after she left home, I think it was September 9th.

Q. 1926? A. Yes, sir.

Q. Where did you receive that? A. At the plant, Vulcanite Portland Cement Company plant. 10

Q. What did you do with it? A. I opened the letter, read it and tore it up right there.

Q. Why did you do that? A. I felt it was an unfit letter in my possession.

Q. Did you tell any one about that letter? A. I told my wife only.

Q. When? A. I told her when I got home.

Q. Same day? A. Yes, sir.

Q. What did she do? A. — 20

Mr. Smith: I object.

The Court: Objection sustained.

Defendant excepts.

HARRY RUNYON, (Seal)

Judge.

Q. Did you go to the Prosecutor of this county at any time after receiving that letter? A. Yes, sir. 30

Q. What was the occasion of your going there?
A. I heard remarks around to the same effect as was in the letter and I had a little conversation with a lawyer and I told him I would go and see the Prosecutor and see what all this talk was about and see if I couldn't straighten things out.

Q. Did you go? A. Yes, to his house.

Q. You went to see Katharine when she was in Easton, Pa.? A. After the Prosecutor ordered 40

Owen Hughes—Direct

me to go and see her, take her home and report back to him.

10 Q. Did you follow instructions? A. I did, I went up there and found out where she lived and tried to get her to meet me in Phillipsburg the following day and the lady living in the house told me I should call up about 6 o'clock and I did and I think Mr. ——— couldn't get away that evening and let me know later but I am not positively sure whether we did go up that evening, I think it was the same evening that she said I couldn't see her.

Q. Did she go with you? A. She did not, I did not see her.

20 Q. Did Katharine ever accuse you of any such crime before this letter? A. No, sir, nothing about any crime.

Q. Did you ever take Katharine to a barber shop and through a woods alone? A. I have taken her to a barber shop once.

Q. Along in the fall of 1924? A. About that time.

Q. Was any one else with you? A. Anabelle was along.

30 Q. How old is she? A. Fourteen years old on October 1st.

Q. Was she with you? A. Yes, sir, we walked down.

Q. Did you ever take Katharine into the woods anywhere near Phillipsburg on your way home? A. No, sir, Katharine was never out with me alone, except once.

40 Q. When was that? A. Just before she started in high school.

Owen Hughes—Direct

Q. What was the occasion of that? A. When we went after her papers to go to high school.

Q. Where did you go? A. Mr. Dewitt's house.

Q. What year was that? A. September 1925.

Q. You mean last September? A. September 1925. 10

Q. That was the year before she left home? A. That was 1925, yes, sir.

Q. Did you ever go into Katharine's bedroom and get in bed with her? A. No, sir.

Q. Did you ever make any improper proposals to Katharine? A. No, sir.

Q. You hear Katharine say she was afraid of her father? Can you give any reason for that? A. The only reason was when she had done 20 wrong. She was afraid I might punish her for going out and staying out until two and three in the morning and not coming home until the following day.

Q. What years did that take place? A. The first summer we lived there she was pretty good and since that time we did know where she was at times.

Q. Did it happen during 1923 or 1924? A. Yes, 30 sir.

Q. Did it happen during 1925 or 1926? A. Yes, sir.

Q. Did you talk to Katharine at that time? A. Yes, sir.

Q. What did she say to you? A. She didn't say much of anything just denied this and that.

Q. Was your wife present? A. Yes, sir, in the parlor.

Q. Was your wife always present? A. Yes, sir. 40

Owen Hughes—Direct

Q. You know of Katharine going with a man by the name of Bullock? A. I didn't see her with this fellow.

10 Q. Did you know of Katharine going with Lyle Bone in the summer of 1926? A. Yes, sir, she went with Lyle Bone with my consent and this Lyle Bone came with my uncle and he was a chauffeur for my uncle and the evening before my uncle left, it was on Tuesday night in June 1926, on June 22, 1926, she came to me and asked me if she could go out and go the new theatre that night. I didn't say anything to her and she came back and asked the same question but, of course, I didn't deny her the request. How are you going
20 over, you and Lyle alone. She said Aunt Jenny is going. I said if Aunt Jenny is going you can go but come back with them but be sure to come back right away or the house will be locked. We went home and we got there about 10:45 and nobody was there, so we waited until 11 o'clock. So about 11:15 I went up in the bathroom and finally looked out the bathroom window down the road looking for this car and saw it coming from Washington and stop in front of the house and
30 I walked down the stairs and Katharine stepped out of the car. She was all alone, except Lyle, I asked him in the house and he said he had to get back.

Q. Is Lyle Bone any blood relation of Katharine? A. No, sir.

Q. What relation is he to your uncle? A. His nephew.

Q. By marriage only? A. Yes.

40 Q. Describe this Lyle? A. He is a tall, slim

Owen Hughes—Direct

young man, light complexion, about 24 or 25 years old.

Q. What color hair? A. I could not say, I think light.

Q. Did you on any other occasion see Katharine out alone during that period with any other young man? A. No, not during that year. 10

Q. When you went down to the Prosecutor's office and Mrs. Joiner and Mr. Rehfuss was present, did you deny receiving this letter? A. No, sir, I didn't deny receiving the letter.

Q. Did you tell the Prosecutor that you received the letter? A. I did, he asked me if I received a letter from Katharine and I said yes.

Q. Did you deny anything? A. No, sir. 20

Q. Did you admit the charges? A. I only denied the charges in that letter.

Q. Were you afflicted with any ailment that caused you to walk in your sleep? A. I had been doctoring with Dr. Cline for two years for my back and nerves.

Q. What was the result of this ailment? A. It made me nervous and I would walk in my sleep.

Q. Did you know that you were found in these places? A. No, sir. 30

Q. Were any blood relatives affected in the same way? A. I have a brother and sister and my oldest son is affected with it.

Q. Who was the brother and sister? A. Hugh and Katharine.

Q. Is your father affected that way? A. I do not think so.

Q. Any other relatives? A. Not that I know of. 40

Owen Hughes—Cross

Q. Have you had any of these spells since September 1926? A. Yes.

Mr. Smith: I object.

The Court: Stricken out.

10

Defendant excepts.

HARRY RUNYON, (Seal)
Judge.

CROSS-EXAMINATION by Mr. Smith:

Q. How old are you Mr. Hughes? A. 44.

By Mr. Rosecrans:

Q. Did you ever at any time have any immoral relations with Katharine? A. No, sir.

20

By Mr. Smith:

Q. Do you remember about 2:30 one morning you found your daughter and a young man in a car? A. Yes, sir.

Q. Do you have the number of the car license? A. No, I do not have the number.

Q. Did you take his name? A. Yes, sir.

Q. What was his name? A. His name was Paul.

30 Q. Did you ask him his name and address that night? A. No, sir.

Q. Don't you know what he wanted to do? A. No, sir.

Q. What did you ask him? A. I asked him if Katharine was in his car.

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

Q. When did you see this fellow again? A. Two or three days later I had a talk with him.

40 Q. Didn't you go to Squire Weiss's office first? A. No, sir.

Owen Hughes—Cross

Q. When did you go there? A. Two or three days after.

Q. Was that in the year 1924? A. No, 1925.

Q. On that occasion didn't Squire Weiss tell you that he couldn't take any action against this young man unless she was examined by a physician. A. 10
Yes, sir.

Q. Didn't he, after talking to the Prosecutor, say that you would have to take her to be examined? A. Yes, sir.

Q. Did you take her to Dr. Cline's? A. Yes, sir.

Q. He called up Mr. Weiss? A. Yes, sir.

Q. Did you go back to Squire Weiss? A. Yes, 20
sir.

Q. What did he say to you? A. As long as Doctor Cline couldn't find anything, we couldn't place any charge against this young man.

Q. Didn't he tell you that Dr. Cline said that nothing was wrong with the young girl. A. Yes, sir.

Q. You say it was 1925? A. About July 1925.

Q. Sure of the year? A. Yes, sir.

Q. What makes you sure of it? A. Because 30
Katharine had passed her sixteenth year.

Q. Didn't you one time have a little book with "Tillie the Toiler" which you showed to your daughter Katharine? A. No, sir.

Q. You denied that you have showed her anything? A. Yes, sir.

Q. Didn't you go to the drug store and attempt to show her something and said to her "whenever you go out with the boys use this"? A. No, sir.

Q. Now you came to my office on a snowy night? 40
A. I couldn't tell.

Owen Hughes—Cross

Q. And didn't you say to me, you wanted to know whether a father could make his daughter stay at home? A. Yes, sir.

Q. I asked you how old your daughter was? A. Yes, sir.

10 Q. You said at that time that she was seventeen years old and I asked how she happened to leave? A. Yes.

Q. What did you say? A. I do not know.

Q. I asked you then whether you tried to find her? A. Yes.

Q. What did you say? A. We didn't try to find her at first.

20 Q. Now then, didn't I ask you why you wanted her to come back now? A. I told you the circumstances.

Q. That you had heard from your father that she was in the family way and you were the cause of it? A. Yes, sir.

Q. Didn't I ask you then when you heard that? A. Yes, sir, when I heard that.

Q. And you answered "Just heard it the day before at father's"? A. Yes, sir.

30 Q. When you came to my office didn't I ask when you first heard of it and you told me the day you heard it first from your father and didn't I ask you then whether you got a letter. A. Yes, sir.

Q. Did you say that at first you hadn't? A. Yes, sir.

Q. Didn't you say, "Well now perhaps I did get a letter"? A. No, sir.

40 Q. Didn't I ask you, "Now why don't you tell me the truth about that letter"? A. I do not know.

Owen Hughes—Cross

Q. What did you do with that letter? A. I tore it up in the spot where I got it.

Q. When you were in my house you wanted to take her to a doctor? A. I don't recall that.

Q. Didn't I say to you you should take her to a good one? A. Yes, sir. 10

Q. You went to Mrs. Thomas's that night? A. Yes, sir.

Q. And Katharine couldn't go out that night? A. That was what she told me over the 'phone.

Q. Now do you recall what took place in my office that night in December? A. I do pretty near.

Q. Katharine sat next to me on the left? A. Yes, sir. 20

Q. And I asked Katharine, "Are you sure you are telling the truth"? And she answered, "Yes, sir, I did" and then I told her "It is not too late to change your story," what did she say? A. I don't know the exact words.

Q. Didn't she say this is the truth I have told you nothing but the truth? A. Yes, sir.

Q. Didn't she also say this "And I know it is my father and I am sorry for the other children"? A. Yes, sir. 30

Q. Now, Mr. Hughes, remember that you denied that she had written accusing you in the letter about the attack in the woods? A. I do not know.

Q. Didn't you deny that was in the letter? A. I do not know.

Q. Are you sure? A. I do not remember.

Q. Didn't you deny that there was anything in the letter about walking through the woods? A. No, sir. 40

Owen Hughes—Cross

Q. Didn't you finally say there was something in there about the woods but you didn't say I had done anything to you there? A. I do not recall.

10 Q. Did or didn't you say that in my office? A. I couldn't say.

Q. Was that in the letter? A. Yes, sir.

Q. That night I talked to you about it for quite a long time at my office. A. You talked to me some time.

Q. Didn't you tell me about the times you had taken Katharine to the barber shop and returned home? A. I had her to the barber shop once.

20 Q. How often? A. Once, that was what I told you.

Q. Did you ever take her in your automobile out to Mr. DeWitt's house on the Belvidere Pike? A. Yes, sir.

Q. Take her any where else? A. No, sir.

Q. That is the only time, the first week in September 1925? A. Yes, sir.

Q. You always took the other children? A. Yes, sir.

30 Q. Only once alone with her? A. Yes, sir.

Q. That night in my office didn't I ask you whether you knew of any other young man that was the father of this child if you weren't the father? A. Yes, sir.

Q. What did you say? A. I didn't know of any other.

Q. You knew that Bullock was around? A. I heard he was around.

Q. You heard that? A. Yes, sir.

40 Q. Didn't I also say to you is there anyone else

Owen Hughes—Cross

around Morris Park who might have got your daughter in trouble? A. No, I do not remember.

Q. You didn't mention anybody's name? A. No, sir.

Q. Was Lyle Bone there at this time in June 1926? A. Yes, sir. 10

Q. You know that he was there about the 22d of June? A. Yes, sir.

Q. What time did they leave for the movies that evening? A. I think about 8 p. m. in the evening and Aunt Jenny went with them.

Q. Didn't Katharine ask you to go and you said "I don't know ask your mother"? A. Yes, sir.

Q. She asked you first? A. Yes, sir. 20

Q. Did you expect her to come back to your father's house? A. No.

Q. But she didn't return there but her other family had gone out with her? A. Yes, sir.

Q. This young man had been around for some time before this? A. He was around the biggest part of two weeks.

Q. Had she seen him before? A. She seen him the Sunday before.

Q. Only two times? A. Yes, sir. 30

Q. He conducted himself in a proper way? A. Yes, sir.

Q. Your daughter was there? A. Yes, sir.

Q. So far as you know, this night she went to the movies? A. As far as I know.

Q. This man appeared to be a nice young fellow? A. Yes, sir.

Q. You know his present address in Chicago? A. Yes, sir. 40

Owen Hughes—Cross

Q. What is it? A. 4460 Shields Avenue, Chicago, Ill.

Q. Now, you say that your wife found you on different times walking in your sleep.

10 Q. Where were you found? A. I was found in different places, in different rooms.

Q. Where did you walk more often? A. No particular place.

Q. When you were waken up were you ever in the bed with the other children? A. No, sir.

Q. You were never on the bed when you were awaken? A. No, sir.

20 Q. Now, you say that you have been doctoring with Dr. Cline and since with Dr. Barber for nervous trouble? A. Yes, sir.

Q. Do you recall being at Squire Weiss's office after being arrested? A. Yes, sir.

Q. Was your daughter there? A. Yes, sir.

Q. Did you ask her there when was the last time I had to do with you? A. I had nothing to say to her.

Q. Did you speak to your father? A. I admitted nothing to father.

30 Q. You denied that you said that to her? A. Yes, sir.

Q. Now, in my office didn't you tell me that the contents in the letter was the truth? A. No, sir.

Q. Didn't you tell me that the workman at the plant had seen it? A. No, sir.

Q. Do you remember when she told her story that time she had kicked a hole in the curtain? A. Yes, sir.

40 Q. Was there a hole in the curtain and that a young man, a workman at the plant was the cause of it, didn't you say that? A. No, sir.

Owen Hughes—Cross

Q. Now, your daughter left before you got this letter? A. Yes, sir.

Q. How many days was she gone before it was delivered to the plant? A. Two or three days, about the 9th of September.

Q. Some delay? A. Yes, sir. 10

Q. Did you try to make any inquiry about her?
A. I did not.

Q. Did you try to find out where she was? A.
No.

Q. Did you make any inquiry until you came to my office? A. Only when I went to my father's.

Q. Outside of that, did you make any inquiry?
A. No.

Q. Did you report the fact to the police? A. 20
No, sir.

Q. Of course, you knew then that she had accused you of being the cause of her being pregnant? A. When?

Q. After you had received the letter? A. After the letter, yes.

Q. You know that at that time you didn't make any effort? A. I didn't make any effort.

Q. That was in December? A. In November.

Q. What time in November? A. Right after 30
election a short time.

Q. Wasn't it about ten days before you were placed under arrest? A. It might have been.

Q. You were placed under arrest on the 7th day of December 1926? A. I do not recall the time.

Q. Now, you say that this fellow Bullock was around there? A. I heard the children say that there was a fellow called Bullock around.

Q. Your wife was home? A. Yes. 40

Owen Hughes—Cross

Q. When did he leave? A. I do not know when he left. It was after the 21st of May.

Q. Why? A. The children seen him with Katharine on May 21st.

10 Q. Did you make any memorandum of that date? A. No, sir.

Q. Now then, how frequently have you had these spells and brought back to your room by your wife? A. I couldn't just say how frequently.

Q. Two weeks ago were you awakened by your wife? A. Yes.

Q. Where was you? A. In the hallway.

Q. When was the last time before that? A. I can't just recall that.

20 Q. About how long? A. About a week or ten days previous to that.

Q. Where were you? A. In the girls' room.

Q. In Katharine's room? A. Yes, sir.

Q. Where were you before that? A. I don't remember.

Q. You have never been awakened when you were laying on the bed, she always got you on your feet? A. Yes, sir.

30 Q. How many children have you? A. I have two girls and two boys home.

Q. When were you married to the present wife? A. July 6, 1918.

Q. Tell us the ages of these various children? A. The oldest boy, John, is twenty-two; the next girl, Anna, is fourteen; the other girl, Mildred, is eleven and the youngest boy, Sylvester is twelve.

Q. Is he by your present wife? A. No, sir, all mine.

40 Q. Her step-son? A. Yes.

Owen Hughes—Re-direct

Q. You say that you never took Katharine out in your car alone? A. Only once, as I told you.

Q. When you went to Squire Weiss's office, did she go with you? A. Yes, sir.

Q. So that was more than once? A. That was in the day time. 10

Q. Any other time? A. No, sir, not that I know.

Q. Not that you can recall? A. Yes, sir.

Q. That is the only time? A. Yes, sir.

Q. Didn't you tell me in my office that the reason why you went through the woods was the short-cut? A. Yes, sir, because it was a short cut.

Q. You said you never walked through the woods with her? A. No, sir. 20

Q. Have you ever walked through the woods with the other children? A. Not that I can recall, unless my wife was along with me.

RE-DIRECT by Mr. Rosecrans:

Q. You were married in 1881 to your former wife? A. Yes, sir.

Q. These children you have are not of the present marriage? A. No, sir.

Q. Is she dead? A. She died February 16, 1916. 30

Q. Is this Lyle Bone that you testified about the same that Katharine testified about receiving money from in Chicago? A. It is the same Lyle Bone.

Q. Was there any other Lyle Bone? A. No, sir.

Q. What hour was it that Lyle Bone and Katharine returned? A. 11:25.

Owen Hughes—Re-cross
Eva Hughes—Direct

RE-CROSS by Mr. Smith:

Q. What time did you get home? A. The same night about ten minutes past ten.

10 Q. What time did you tell Mr. Rosecrans that Katharine got home? A. 11:25 that night.

Q. You got home about quarter after ten? A. About that time.

Q. Where did they go? A. They went to Easton, Pa.

Q. Left about 8 o'clock? A. Yes, sir.

Q. Might have been later? A. Not much later, not more than 8:30.

20 Q. They were going to the movies? A. They were going to the State Theatre to see it.

Q. They didn't go to the first show did they? A. I don't believe so.

The Court: The Court will stand adjourned until 1:20 o'clock this afternoon.

EVA HUGHES, sworn.

30

Direct-examination by Mr. Rosecrans:

Mr. Rosecrans: I would like to ask the Prosecutor to clear up one point that the child was born on April 1, 1927 at 10 o'clock in the morning and that it was a normal child.

Mr. Smith: That is right.

40 Q. You are the wife of the defendant, Owen Hughes? A. Yes, sir.

Eva Hughes—Direct

- Q. Married in 1918? A. Yes, sir.
- Q. Living together? A. Yes, sir.
- Q. Living near Phillipsburg? A. Morris Park, Phillipsburg.
- Q. Did you ever notice any covers that were torn on Katharine's bed? A. No, sir. 10
- Q. Never did? A. No, sir.
- Q. Did you ever notice that it was soiled? A. No, sir.
- Q. Did you ever notice that her bedding was soiled? A. No, sir.
- Q. Did you ever hear Katharine make any outcry? A. No, sir.
- Q. Did you ever hear any disturbance in Katharine's room? A. No, sir. 20
- Q. Was your husband afflicted with nervous trouble? A. Yes, sir.
- Q. What was it? A. Working too hard, he was broken down for working too hard.
- Q. How did it affect him? A. He would walk in his sleep.
- Q. How long did that last? A. Two or three years the worst part.
- Q. Does he still do that? A. Yes, sir.
- Q. Did you ever find him that way? A. Yes, 30
different places in the house, in the children's room, the bathroom, on the floor, at the foot of the bed, in the hall, in the living room on the floor.
- Q. Did you go to him? A. Yes, sir.
- Q. What kind of a bed did you sleep in? A. Double bed.
- Q. Any other bed in the room? A. No, sir.
- Q. When he got out of bed did it disturb you? A. Yes, because he might fall down the stairs. 40

Eva Hughes—Direct

Q. How soon after he got out of the bed did you actually follow? A. Hardly out of the room before I was after him.

Q. When you would find him what was his condition? A. Always asleep.

10 Q. What would you do? A. I would wake him up and put him back in the bed.

Q. Did Katharine make any complaint to you about improper relations with her father? A. No, sir.

Q. In September 1926, did your husband tell you anything of a letter he received from Katharine? A. Yes, sir.

20 Q. Tell us what he said? A. He came home and told me that Katharine had written him a letter and then told me what was in it.

Q. Was there anything further said about it? A. Not at the present time.

Q. Had Katharine left the house then? A. Yes.

Q. You heard Katharine say that she was afraid of you? A. I heard her say so.

Q. Of your husband? A. I heard her say so.

30 Q. Did you know that she was afraid of you? A. I did not know it.

Q. Did you ever punish her? A. Only at reasonable times.

Q. On what occasions? A. When she went out and stayed out and wouldn't listen.

Q. Do you know whether she went out with boy friends in 1926? A. She was out with one from Chicago.

40 Q. Did she go out with any others that caused your husband to complain? A. We left her to go away on a visit on the Fourth of July.

Eva Hughes—Direct

Q. Who made the beds? A. I did most of the time, except when she soiled the beds.

Q. Did you ever notice at any time that any covers were torn? A. No, sir.

Q. Did Katharine say anything to you when she left the house? A. I had gone to her oldest brother's to finish cleaning house and she was gone when I come home. 10

Q. Did she give any reason? A. No, sir.

Q. Did you ever find Katharine in the bed of the other two children in the room? A. I did, because her bed was wet and she didn't want to lay in it.

Q. Was she subject to that? A. She had been.

Q. How often would you find that? A. Some- 20 times every morning in the week.

Q. How long ago was that? A. Right up until she left home.

Q. Did you ever complain to Katharine about her clothes? A. In what way.

Q. About the clothes she wore? A. No, sir.

Q. Did you ever have any arguments about dresses? A. She thought her clothes were not good enough.

Q. Did she wear heavy stockings in the winter? 30
A. Until last winter, she wanted to wear silk stockings.

Q. Was that part of the argument? A. Yes, sir.

Q. Did you ever go away from home overnight during the years of 1924, 1925 and 1926? A. No, sir. I was never away from home but once before we moved to Morris Park and Katharine was with me. 40

Eva Hughes—Cross

Q. You say that you are a light sleeper? A. I am.

Q. Did you ever hear any commotion in any of the other rooms? A. No, sir.

10 Q. Could you have heard them if they had happened? A. Certainly.

Q. You were impaired in your sight? A. Yes, sir.

Q. How old are you? A. 38.

Q. Have you been married before? A. That is not a proper question.

Q. You were supposed to be? A. Yes, sir.

Q. Are you normal in every way? A. Yes, sir.

20 CROSS-EXAMINATION by Mr. Smith:

Q. You say you are a light sleeper, where did you find your husband? A. Different parts of the house, on the floor, in the bathroom.

Q. What part of the floor? A. Different parts of the floor.

Q. What was he doing? A. Lying down.

Q. How long had he been laying there? A. Why, I know he had just laid down.

Q. Where else? A. In the hall.

30 Q. How far was he in the hall? A. Near the steps.

Q. How many steps before he got there? A. Four or five or six.

Q. Where else? A. In the bathroom.

Q. Do you know how long he had been gone? A. Not long.

Q. How long? A. I do not know.

40 Q. You don't know how long? A. It wasn't ten minutes.

Eva Hughes—Cross

Q. It might have been five minutes? A. Well I am a light sleeper and always heard him.

Q. Where else did you find him? A. Several times in the children's room.

Q. How many times? A. I do not know.

Q. Forty times? A. I could not say. 10

Q. Thirty times? A. I could not say.

Q. Was that about the number of times? A. I do not know.

Q. Ten times? A. That would cover it.

Q. Where did you discover him in the children's room? A. On the floor, across the foot of the beds.

Q. Which bed? A. Both beds.

Q. Was he asleep? A. Yes, sound asleep. 20

Q. His eyes shut? A. Yes.

Q. You turned on the light? A. Yes, sir.

Q. When did he wake up? A. Sometimes it was for quite a time.

Q. When would he have such a hard time? A. At different times.

Q. When he was in the children's room? A. All over.

Q. Did I understand he was downstairs? A. Yes, sir. 30

Q. You didn't hear him until he was downstairs? A. I heard a commotion and didn't realize what was going on.

Q. When was the first time he got out of bed? A. About three years ago.

Q. He woke you up? A. Yes, sir.

Q. You woke up and he was gone? A. Yes.

Q. When did you miss him? A. I missed him as soon as he got up. 40

Eva Hughes—Cross

- Q. You are sure that as soon as he got up you missed him? A. Nearly every time.
- Q. Did you ever hear any commotion? A. No.
- Q. You say that you found him on the foot of the bed of the two children? A. Yes, sir.
- 10 Q. He was asleep then? A. Yes.
- Q. Where was he when he went downstairs?
A. In the living room.
- Q. He was laying on the floor? A. Yes.
- Q. Asleep? A. Yes.
- Q. Was he ever standing up? A. Yes, sir.
- Q. He doctored for this and it helped him? A. Yes.
- Q. Did he continue to work? A. He continued
20 to work but not over time.
- Q. About these bed clothes on this cot of Katharine's, was it regular covers? A. They were good covers.
- Q. They were in pretty bad shape? A. It was for the reason that she wet her bed.
- Q. It was torn that way when you put it there?
A. The way I put it there.
- Q. Wasn't it torn? A. The cover was torn but
I put it there.
- 30 Q. Was it torn in many places? A. No, sir.
- Q. How many places? A. Seven or eight places.
- Q. You say when you first put it there it was torn? A. It was worn thin.
- Q. You found one of the sheets that was torn at the seam? A. Never showed a sheet to me.
- Q. You heard your daughter, Anna, testify that a sheet was torn. A. She didn't say a sheet.
- 40 Q. You say that you had some trouble with

Eva Hughes—Cross

Katharine about the clothes she wore? A. That was what I said.

Q. You recall that her grandmother made a complaint about the clothes? A. Yes, sir.

Q. Her clothes were in not very good? A. 10
When she lived in our house they were all right.

Q. After that you got her some more? A. No more than usual.

Q. When was this first trouble about the clothes she wore? A. When we left the Valley View.

Q. When was this last trouble that you spoke to her about? A. Just shortly before October.

Q. In the winter time? A. Yes, sir.

Q. Did she wear clothes that were patched? A. 20
Not to school.

Q. She quit school in 1925? A. Yes, sir.

Q. Did she wear clothes that were patched, in the house? A. Yes.

Q. Did you keep the clothes in the dresser locked? A. Yes, sir, I did.

Q. She went away on July 4th on a visit? A. Up to her mother's cousin.

Q. Where is that? A. Along the pike going to Tatamy.

Q. And that was with the consent of yourself 30
and Mr. Hughes? A. Yes, sir.

Q. You knew she was going? A. Yes, sir.

Q. The only other time was when she was out with the boy of Chicago? A. All that I know of.

Q. You consented that she go that night? A. Yes, sir.

Q. You and Mr. Hughes had been down to Mr. Hughes's father on Davis Street? A. Yes, sir.

Q. They were going to the theatre? A. Yes, 40
sir.

Eva Hughes—Cross

Q. Ever go to the State Theatre? A. No.

Q. When does the last show leave out? A. I do not know, I don't know anything that happened, only know of the time she came home.

10 Q. What time did she come home? A. 11:25, I was up when she came home.

Q. You say that you punished her, punished her pretty badly? A. No.

Q. There wasn't any reason for it? A. Yes, sir.

Q. How did you punish her? A. I slapped her.

Q. Did you ever bite her? A. No, sir.

Q. Ever strike her with a stick? A. No, sir.

Q. Throw anything at her? A. No, sir.

20 Q. That was the only time you slapped her? A. Yes, sir.

Q. Did she work around the house? A. Yes, sir.

Q. Take care of the other children? A. Once in a while.

Q. You and she never got along very well? A. If she had obeyed me, everything would have been all right.

30 Q. Ever since Delaware Park days? A. Yes, sir.

Q. There was some trouble in Delaware Park when you lived there? You had punished Katharine? A. I do not recall.

Q. You don't remember that? A. I do not know anything about it.

Q. A complaint was made to the authorities? A. That is what they said.

Richard Hughes—Direct

RICHARD HUGHES, sworn.

Direct-examination by Mr. Bowers:

Q. Mr. Hughes, you are the father of Owen Hughes, the defendant. A. I am proud of it, sir.

Q. Do you know whether he provided for Katharine and his children? 10

Mr. Smith: I object.

The Court: Objection sustained.

Defendant excepts.

HARRY RUNYON (Seal)

Judge,

Q. Are you the person who told him the story concerning he and his daughter? A. Yes, sir. 20

Q. What did Mr. Hughes say at that time? A. He denied it, sir. He said he had had a hard time to know what to do with her, from one place to another all the time, I have done all in my power to keep her clean and I asked him where she was and he said I cannot locate her but some people say she was on College Hill and other places. I do not know where to get her I am going to get busy and find out where she is, I am going to take her case to Prosecutor Smith and I says to go to Prosecutor Smith and so he did. 30

Q. Did Katharine ever visit you? A. Never came to my house but once with her father when he took her to the High School to get papers.

Q. There has been much talk about Mr. Hughes walking in his sleep, did he walk? A. He was walking in his sleep when a young man. My son, Hugh Hughes, walked in his sleep, too, and my other daughter walks, also. 40

Richard Hughes—Direct

Q. Do you recall in June 1926, that you had occasion to go to Mr. Hughes' home through the woods to his home? A. I went to my son's home on Monday, June 14, 1926, to see my son about seven o'clock in the evening. When I got there
10 he wasn't home. I was sitting on the back porch and the two grandchildren Anna and Mildred, said, "Grandpa lets walk over and see the gypsies." So we went over.

Q. Did you see Katharine Hughes in that woods at that time? A. We walked through the woods and I asked the two little girls, "Where is Katharine?" and they said, "She is down with the gypsies." I didn't think any more of it and
20 when we were about there they ran to the camp and left me, the two little girls, and I walked on. I saw Katharine sitting under a tree with some gypsie. When I come up I said, "Katharine what are you doing?" and the gypsies got up and went in a tent.

Q. In what month was this? A. June 14, 1926, on Monday night.

Q. About that time did you have visitors from the west? A. On the following Thursday in the
30 same week my brother from Chicago and his wife and some man that he raised.

Q. What was that man's name? A. Lyle Bone, he was the chauffeur.

Q. Did he go out with Katharine while at your place? A. Yes.

Q. Did Katharine ask her father to go to a show with this Lyle Bone? A. Yes, sir.

Q. Where did they go when they returned? A.
40 My son went home a little after ten o'clock, they

Richard Hughes—Cross

came back about ten-fifteen and they left my daughter Jenny and this young lad from Chicago was there with Katharine.

Q. What happened then? A. They had about ten minutes ride back from my place to my son's place. 10

Q. When did they leave your presence?
A. They left at ten-fifteen.

Q. What time did Lyle Bone come back? A. We were looking for him at ten-thirty but I don't know when he come back.

Q. Did Katharine ever tell you an untruth? A.

Mr. Smith: I object.

The Court: Objection sustained. 20

Defendant excepts.

HARRY RUNYON (Seal)

Judge.

CROSS-EXAMINATION by Mr. Smith:

Q. You went away and left Katharine to the gypsies? A. I did, sir.

Q. And the two little girls were there? A. Yes, sir.

Q. You didn't think they were safe there? A. 30
Yes.

Q. You wouldn't have left them there? A. No, sir.

Q. Did you think they were safe there? A. I don't know about that.

Q. Would you have left them there if they were safe? A. I don't know.

Q. You love your grandchildren? A. Yes, sir.

Q. You would have looked after them if there 40

Richard Hughes—Cross

was nobody else to do so? A. They have a father and mother.

Q. Now then, you first learned about this from Katharine's own brother? A. I did, sir.

Q. That was the first rumor you had of it? A. 10 Yes, sir.

Q. When was that? A. I do not remember.

Q. Can you tell that date? A. I didn't put that date down.

Q. Did you put down any other date? A. I did.

Q. How? A. I marked the same night I say what I told you now, I put on 14th of June, 1926.

Q. Why did you put that down? A. I mis-trusted something.

20 Q. Where were you on the 14th of June, 1926? A. I was up in my son's house in the evening.

Q. Did you mark any other dates down? A. I marked the day when Katharine went out with Lyle Bone.

Q. Did you mark down when your son was arrested? A. No, sir, I did not.

Q. You said that your son and your daughter Katharine never came to your house except on one occasion. Sometimes you go out from your 30 house? A. Mr. Smith, I never go out after I come home, I lived in Phillipsburg ten years and you can always find me home.

Q. Never call on anybody? A. Unless there be sickness.

Q. They do the same with you? A. Yes, sir.

Q. Where are you working? A. I was working for seven years in a silk mill.

Q. What doing? A. As a janitor.

Richard Hughes—Cross

Q. Were you working there in 1926? A. Yes, sir, for the past seven years.

Q. Did you ever work nights? A. Yes.

Q. When was the last time you worked nights for the silk company? A. The last time, four or five years ago. 10

Q. Are you sure? A. Yes, sir.

Q. Might it not have been three and one-half years ago? A. I worked three years in the day time.

Q. It couldn't possible be more than four years? A. No, sir.

Q. Of course, if while you were nights your father and daughter might have come to your house and you not know anything about it? A. 20
My son and other relatives were there

Q. Would they tell you? A. I can trust my wife to tell me.

Q. You are not sure about it? A. But I tell you you can't get me on that.

Q. I am not trying to get you, don't misunderstand me, it is the purpose of this cross-examination. On this night when Lyle Bone and Katharine went to the theatre, did they start out together? A. They did. 30

Q. Do you know about what time? A. About eight o'clock P. M.

Q. Could it have been a little later? A. Just eight.

Q. It was daylight then in the evening? A. Yes.

Etta Hughes—Direct

MRS. ETTA HUGHES, sworn.

Direct-examination by Mr. Bowers:

Q. You married the son of Mr. Owen Hughes?

A. Yes, sir.

10 Q. When was that, what time did you marry?

A. On June 2, 1926.

Q. Where did you take up your residence? A. Up with my mother's place for a short time and then to my husband's father's place.

Q. About how soon? A. In February I came down to my husband's home.

Q. Did you stay there long? A. We were there until the middle of July.

20 Q. What room did you and your husband occupy? A. When we first came there, the first front room coming up the stairs and moved across the hall opposite the bedroom occupied by Katharine.

Q. Where was the head of the bed? A. Against the wall.

Q. Where is Katharine's cot? A. Against the same wall.

30 Q. How were the doors left in the rooms at night time? A. After we undressed they were opened.

Q. Is this a small upper floor? A. All are large, two larger than the others.

Q. Did you ever see Mr. Hughes walking in his sleep? A. He was in our room once, once or twice.

40 Q. Did you ever hear any outcry in Katharine's room that a struggle was taking place? A. No, sir.

Etta Hughes—Direct

Q. Did Katharine ever talk to you about any relations with her father? A. No, sir.

Q. Did she tell you about relations with other men? A. She used to tell about dates with other men and keeping them.

Q. Have you ever heard her talk over the telephone? A. I have heard conversations with other boys over the telephone. 10

Q. What was said? A. She used to talk about different things, ask them to meet her different places.

Q. Did Katharine ever say that she would like to leave home? A. She said she was going to leave as soon as she was of age.

Q. Did she ever tell you of any actions in improper houses where she was involved? A. She used to say something about two houses they were to. 20

Q. Were you home on June 1, 1926, Owen Hughes' home? A. Yes, I think I was, I was up home on Decoration Day and came home at night.

Q. You were home on June 1, 1926? A. Yes, sir.

Q. Do you know the reputation of Katharine in the neighborhood in which she lived at that time? A. Yes. 30

Q. Do you know what reputation means? A. Whether she does the right thing or not.

Q. Do you mean just what you think, or do you mean what others think about it? A. What others think about it.

Q. Did you, prior to this happening, hear anybody discuss her reputation? A. I don't recall.

Q. Prior to September 1926? A. I really don't know. 40

Etta Hughes—Cross

Q. You have never discussed until after this accusation was made, isn't that that the truth? A. Yes, sir.

Q. You never heard her reputation for truthfulness discussed? A. No.

10 Q. Did you hear it discussed? A. Her mother said she didn't tell the truth.

Q. Only what her mother and children said? A. Yes, sir.

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

Q. You have heard it discussed since this accusation was made? A. Yes.

20 CROSS-EXAMINATION by Mr. Smith:

Q. You didn't know Katharine but a short time before you were married? A. I was there only a few times.

Q. At the time you lived there from February until sometime in July, didn't you? A. Yes, sir.

Q. You were away over Decoration Day? A. Saturday, Sunday and Monday.

Q. Was your husband away too? A. Yes, sir.

30 Q. You had been away how long a time before that? A. I went up home several times.

Q. Did you often come up? A. I used to come up Saturdays and Sundays.

Q. Of course, you are not sure you could hear a cry through the walls from Katharine's room? A. No.

Q. You didn't hear any commotion at any time? A. Except when they went to bed.

Q. That is the only time? A. Yes, sir.

40 Q. Did you ever hear Mrs. Hughes go after her

Linford Hughes—Direct

husband? A. She came after him once in our room.

Q. On any other occasion? A. On the way to the bathroom once.

Q. On any other occasion? A. I can't recall, I just don't remember. 10

Q. Katharine liked the boys that year? A. Yes, sir.

Q. She sort of felt anxious to make a date now and then? A. Yes, sir.

Q. Just like other girls? A. No.

Q. Some do? A. Yes.

20

LINFORD HUGHES, sworn.

Direct-examination by Mr. Bowers:

Q. Are you the son of Owen Hughes? A. I am.

Q. Were you at the home of Owen Hughes before you were married? A. I always lived home.

Q. Were you home when your mother died? A. I was away when my mother died in 1916.

Q. You have been there continually since? A. Back in September, 1918, and lived there ever since up until September 18, 1926. 30

Q. Your beds is situated how in your bedroom as to Katharine's room? A. The head of the bed faced north.

Q. Could you hear any outcries on the outside? A. Yes, sir.

Q. Did you ever hear anything in the other rooms? A. Never.

40

Linford Hughes—Cross

Q. The only time the bedroom doors were closed was when they were dressing? A. Yes.

Q. Did you ever see your father walking in his sleep? A. My mother got me out of bed when he was downstairs.

10 Q. Recently? A. While I was home.

Q. Were you subject to those spells? A. I am.

CROSS-EXAMINATION by Mr. Smith:

Q. Have you ever walked into any bedrooms in your home? A. I have.

Q. Lately? A. I don't know just when.

Q. How long ago? When you were small? A. I wasn't very small.

20 Q. Pretty big? A. Yes.

Q. How long ago? A. In the year 1926 after I was married.

Q. You were married in January? A. January 2, 1926.

Q. You lived in your father's place until September 18th? A. Yes, sir.

Q. When did your wife leave your father's place? A. I think she left in July.

30 Q. Have you any children? A. Yes, one.

Q. When was that child born? A. August 7, 1926.

Q. You stayed there after your sister left? A. I stayed there until after September 18th.

Q. When did you live next door to your grandfather? A. After September 18th.

Q. On the 22d day of June were you living next door to him? A. No.

40 Q. You weren't living there in that house on the 7th or 8th day of September? A. The house

Lizzie Castner—Direct

wasn't furnished then, my furnishings were home.

Q. You heard your mother testify that she was cleaning the house? A. Yes, sir.

Q. Not furnishing it? A. No, sir.

10

MRS. LIZZIE CASTNER, sworn.

Direct-examination by Mr. Bowers:

Q. Mrs. Castner, where do you reside? A. Morris Park.

Q. Near Mr. Hughes' home? A. Three houses from it.

Q. Do you know Katharine? A. Yes, sir. 20

Q. Did she call at your house often? A. Yes, sir.

Q. Did she ever have any boy friends at your home? A. She came there and a fellow came in.

Q. What was his name? A. I never knew his full name, he was called Bullock.

Q. Did you ever hear any conversation between Katharine and Bullock? A. Yes.

Q. What did Katharine say to Bullock? A. She came up there one morning and after she came in she seemed to feel sore at him and began to complain of the experience the night before. 30

Q. What time of the year was this? A. 1926.

Q. What part of the year? A. First part of the summer.

Q. What month? A. The first part of June, 1926.

Q. What did she say? A. She began to pick at him of what had happened. I can't explain it any more. 40

Lizzie Castner—Cross

Q. What did she say? A. She didn't just say, she said to him that something had happened.

Q. What did he say? A. If you don't care, then I don't, I will be gone in a few days.

Q. Did Katharine accuse Bullock of disgracing
10 her?

Mr. Smith: I object.

Mr. Bowers: I asked her whether she had complained whether he had disgraced her.

Mr. Smith: She has testified the conversation and I don't see any reason, for she said first she didn't know.

The Court: Objection overruled.

20 Q. (Question repeated.) A. Yes, sir.

Q. Did you ever see a letter she had from a boy friend? A. She had?

Q. Did she show it to you? A. She took it out and said it was from a friend.

Q. Did it have any money in it? A. Yes, she took that out.

Q. When was that, what date? A. Could not tell you.

Q. Was it about June? A. Along in June, 1926.

30 CROSS-EXAMINATION by Mr. Smith:

Q. You said that she accused him of disgracing her? A. Yes, sir.

Q. Who was the first person you told? A. I do not know.

Q. When did you tell it? A. I told it shortly after she went away.

Q. Did you know Mrs. Heller? A. Yes, sir.

40 Q. Did you see her the other day? A. I haven't seen her since last week.

Q. You received a subpoena in this case at that time? A. The next day.

Lizzie Castner—Cross

Q. Didn't you tell her that Mr. Hughes had subpoenaed you and you didn't know anything about this case? A. No, sir.

Q. Talk to her about this case? A. Yes, sir.

Q. Where do you live in regard to Mr. Hughes' house? A. The third house away from it. 10

Q. Did you know that Bullock was meeting Katharine at your house? A. Katharine came up and Bullock came there and talked to her.

Q. Did they ever come and visit her? A. Only when she was there.

Q. He was a perfect stranger to you? A. Yes, sir.

Q. Why did you let him talk to her? A. They were our neighbors and lived in the back. 20

Q. Why didn't you let her entertain him in her own home? A. I didn't think anything was wrong.

Q. Did she show this letter to him? A. Yes, and said it was from her fellow.

Q. Do you know when that was? A. No, I do not.

Q. When Katharine came up that morning, shortly after he came in and she complained to him, what was said? A. I couldn't tell you just exactly the words she said, she seemed to be mad at him. 30

Q. What did he say? A. He told her that he wasn't telling anything that if she didn't care, he didn't care either.

Q. Was anything said later that day? A. No.

Q. Then she didn't use the word "disgrace?" A. She only—

Q. She didn't use the words "disgrace me?" A. No. 40

Anna Shauger—Direct
Harry H. Baker—Direct

MRS. ANNA SHAUGER.

Direct-examination by Mr. Bowers:

10 Q. Where do you live? A. 578 Arlington Street, Phillipsburg, N. J.

Q. Do you live near Mr. Hughes? A. Not at the present time.

Q. Where did you live before? A. Valley View.

Q. How long? A. Seven and one-half years.

Q. In 1925 did you live there? A. Between 1924 and 1925 I moved away.

Q. Do you know her reputation for truthfulness or not? A. No.

20 Q. What was her actions then? A. I have known her seven and one-half years and when her mother was out of the house, she was racing around the streets.

Q. How old was she then? A. Past ten years old.

MR. HARRY H. BAKER, sworn.

30 Direct-examination by Mr. Bowers:

Q. Mr. Baker, where do you reside? A. In Morris Park.

Q. How long? A. Since 1920.

Q. You know the defendant, Owen Hughes? A. Yes, sir.

Q. How long? A. Since about October 1918.

Q. Do you know his reputation for morality and clean living in the neighborhood that he resides?
 40 A. Yes.

Q. What is his reputation? A. Good.

Henry Harrison—Direct

MR. HENRY HARRISON, sworn.

Direct-examination by Mr. Bowers:

Q. Mr. Harrison, where do you reside? A. Easton, Pa.

Q. What is your position? A. I am assistant 10
to W. R. D....., of the Vulcanite Portland
Cement Co.

Q. Do you know the defendant, Owen Hughes?
A. I do.

Q. How long? A. Six and one-half years.

Q. Do you know his reputation for morality
and clean living? A. I only know his reputation
at the mill.

Q. Do you know his reputation among the men? 20
A. I do.

Q. Prior to this charge, did you discuss it? A.
I did then.

Q. You had no reason for doing so? A. No,
sir.

Q. So at that time you never knew his reputa-
tion? A. No, sir.

Q. You did not know his reputation prior to
this charge? A. When was the charge?

Q. When he was arrested in 1926? A. No, 30
sir.

Q. Did you hear it discussed? A. I never
heard it discussed.

Q. You never heard any one else talk about
him? A. No, sir.

Q. You always was just a business man with
him? A. Yes.

Q. He was a good, faithful employee? A. Yes,
sir.

Q. You know nothing about his private living, 40

Walter B. Simpson—Direct, Cross

prior or otherwise? A. I never heard his private living discussed.

Q. As a matter of fact, you do not know his reputation for morality and clean living by reason of not hearing it discussed? A. No, sir.

10 Q. Do you know his reputation as to morality, clean living and decency? A. I do not.

Q. Does your concern enter into the reputation of its employees before employing them? A. We try to find who they are.

MR. WALTER B. SIMPSON, sworn.

20

Direct-examination by Mr. Bowers:

Q. Mr. Simpson, where do you reside? A. Morris Park, Phillipsburg.

Q. Near the defendant? A. Yes, sir.

Q. How long have you been a resident of Phillipsburg? A. I have lived in Phillipsburg proper until seven years ago I moved to Morris Park.

Q. Where do you work? A. Vulcanite Portland Cement Co.

30 Q. How long employed? A. Six years.

Q. Know the defendant? A. I do, since 1917.

Q. Do you know his reputation for clean living and morality in the community in which he lives? A. I do.

Q. What is it? A. Good.

CROSS-EXAMINATION by Mr. Smith:

40 Q. You have been a very close friend of Mr. Hughes? A. I am.

William C. Morris—Direct

Harry J. Libby—Direct

Q. He is one of your close friends in the cement plant? A. I have been working with him the last eight years.

10

MR. WILLIAM C. MORRIS, sworn.

Direct-examination by Mr. Bowers:

Q. Mr. Morris, where do you reside? A. Morris Park.

Q. How long have you been a resident of Phillipsburg? A. In Phillipsburg about twenty-one years.

Q. Where do you work? A. Ingersoll, Rand Co.

Q. Do you know the defendant? A. I do.

Q. How long? A. About three or four years.

Q. Do you know his reputation for morality and clean living in the community in which he resides? A. I do.

Q. What is it? A. Excellent.

30

MR. HARRY J. LIBBY, sworn.

Direct-examination by Mr. Bowers:

Q. Where do you reside, Mr. Libby? A. Morris Park, Phillipsburg.

Q. How long a resident of that vicinity? A. Fourteen years.

Q. Where do you work? A. Taylor, Wharton Co.

40

Harry J. Libby—Cross
James Shock—Direct

Q. Do you know the defendant? A. Yes.

Q. How long? A. About three or four years.

Q. Do you know his reputation for morality
and clean living in the vicinity in which he re-
sides? A. Yes.

Q. What is his reputation? A. Good.

CROSS-EXAMINATION by Mr. Smith:

Q. Mr. Libby, you are a very close friend of
Mr. Hughes? A. Yes, sir.

Q. You have been closely associated with him
in the past few years? A. Yes, sir.

20

MR. JAMES SHOCK, sworn.

Direct-examination by Mr. Bowers:

Q. Mr. Shock, where do you reside? A. Mor-
ris Park, Phillipsburg.

Q. How long have you been a resident there?
A. Past four years.

Q. What is your position? A. Draftsman for
30 Ingersoll, Rand.

Q. Do you know the defendant, Owen Hughes?
A. Yes, sir.

Q. For how long a time? A. Four years.

Q. Do you know his reputation for morality
and clean living in the community in which he
lives? A. Good.

40

Mr. Garner Woolf—Direct, Cross

MR. GARNER WOOLF, sworn.

Direct-examination by Mr. Bowers:

Q. Mr. Woolf, where do you reside? A. Huntington, Phillipsburg.

Q. How long have you resided in Phillipsburg? 10
A. About two and one-half years.

Q. What is your work? A. Engineer.

Q. Do you know the defendant, Owen Hughes?
A. Yes, sir.

Q. How long have you known him? A. Four years.

Q. Do you know his reputation for morality and clean living in the neighborhood in which he resides? A. Yes.

20

Q. What is it? A. Good.

CROSS-EXAMINATION by Mr. Smith:

Q. You live some distance away from Morris Park? A. Yes, sir.

Q. You live on the other end of Phillipsburg?
A. Yes, sir.

Q. You work with Mr. Hughes? A. Yes, sir.

Q. You only know from working with Mr. Hughes, his general character? A. I visit back and forth. 30

Q. When did you start visiting? A. Four years ago.

Q. Did you visit anyone else in Morris Park?
A. No, sir.

Q. You don't know what the people think in that vicinity? A. No one but Mr. Simpson.

Q. That is the only person? A. Yes, sir.

Q. That is the only reason for his reputation in the community where he lives from what one man told? A. Yes, sir. 40

Dr. William C. Albertson—Direct

DR. WILLIAM C. ALBERTSON, sworn.

Direct-examination by Mr. Rosecrans:

Q. You are a physician authorized to practice in New Jersey? A. I am.

10 Q. Presuming that the child was born on April 1, 1927, when would conception take place? A. Conception is supposed to take place 280 days before. I have a chart here. I have taken 280 days, it would have been June 25, if the child was born on April 1st.

Q. Then the menstruation period would have first stopped after June 25th? A. Yes, if conception has taken place.

20 Q. How long would it be probably if conception took place on June 25th, that the menstruation period stopped? A. If conception takes place on June 25th, the first menstruation period would stop after that.

Q. If the first period stopped on June 6th before that, how long and on what date? A. We generally go back a month to the previous one before if the menstruation period stopped first on June 6th. About six or eight days we would
30 expect to count from that date upon the probable conception, eight or ten after the first period ceased on June 6th.

Q. What would be the result of conception of close relationship between father and mother as between father and daughter? A. Ordinarily any disease in the parent is apt to make the child abnormal in some way or other.

40 Q. Is it probable that the child of a father and daughter would be normal or abnormal? A. There is no absolute rule.

Dr. William C. Albertson—Cross, Re-direct

Q. Is it probable that if the menstruation period first stopped on June 6th that conception would have taken place on June 1st? A. Not very probable, conception just before the menstruation period is not likely.

10

CROSS-EXAMINATION by Mr. Smith:

Q. There is no fixed rule? A. No.

Q. On first born child it is a fact that the period is longer than 280 days? A. I do not know about that.

Q. You have no way of knowing that? A. No.

Q. You often have them when the period is less than 280 days? A. Yes.

Q. There is a wide range? A. About twenty 20 days is the range.

Q. That would make it between 270 and 290 days from the first day? A. Yes.

Q. And there is no fixed rule? A. No.

Q. Have you ever had any cases when 295 days were taken? A. No, I don't believe so. There was one but I believe she was wrong in her dates.

Q. But from the information she gave you she was 295 days? A. Yes, it was 15 days over.

Q. There is no regular rule? A. No.

30

Q. Isn't it a fact that the medical profession does not know the exact time any conception takes place? A. That is right.

Q. It may take place immediately prior? A. It's possible.

RE-DIRECT EXAMINATION by Mr. Rosecrans:

Q. Is it probable? A. It is not probable.

40

Q. The usual period is 9 months? A. Yes.

Defense rests.

Katharine Hughes—Direct

REBUTTAL.

KATHARINE HUGHES:

Direct by Mr. Smith:

10 Q. Did your father ever hand you a book containing indecent pictures in it?

Mr. Rosecrans: I object because it should have been part of the main case and calls for a conclusion.

The Court: Objection overruled.

Defendant excepts.

HARRY RUNYON (Seal)

20 A. Yes. June.

Q. Did you take notice of the name on the first page? A. Tillie the Toiler on it.

Q. On any occasion did your father after coming from the drug store show you something? A. Yes.

Q. What did he tell you that when you went out with the boys you should do?

30 Mr. Rosecrans: I object to it, it should have been brought out in the direct-examination. It was well known to the State at the time of the examination and was part of it. It was part of the main question of the State and cannot be brought out by the State in the rebuttal.

The Court: Objection overruled.

Mr. Rosecrans: I ask an exception.

The Court: Exception granted.

40 HARRY RUNYON (Seal)

Judge.

Katharine Hughes—Cross
Mrs. Christian S. Thomas—Direct

A. He said look here and showed me something and said this will protect you from getting in a family way.

Q. Now then, your grandfather said he found you at the gypsy camp with a young gypsy with his hand on your knee on the 14th day of June, 1926? A. No, sir. 10

Q. Did any young man put his hand on your knee? A. No, sir.

Q. Did you go into a tent? A. No, sir, I do not recall it.

CROSS-EXAMINATION by Mr. Rosecrans:

Q. Didn't you say that there were no gypsies there in June? A. I did not know they were there. I know it was around May. 20

Q. Did you say it was in June? A. I didn't say it was in June.

MRS. CHRISTIAN S. THOMAS, sworn.

Direct-examination by Mr. Smith: 30

Q. Where do you live, Mrs. Thomas? A. 126 Wayne Ave., College Hill, Easton, Pa.

Q. Your husband is employed in the Warren Foundry? A. Yes, sir.

Q. When did Katharine come to your place? A. September, 1926.

Q. What day? A. Saturday.

Q. Were you present in Squire Weiss's office, Justice of the Peace, with Katharine when her fa- 40

Mrs. Christian S. Thomas—Cross

ther was arrested and the complaint read to him?

A. I was there, my husband was also.

Q. Did Mr. Hughes say to Katharine in Squire Weiss's office, "What did you say was the last time I was with you?" A. Yes, I don't recall the exact words. He was privileged to ask a question and that was the question.

Q. Did he ask her any other question? A. No, I recall that distinctly.

CROSS-EXAMINATION by Mr. Rosecrans:

Q. What was the question that was asked and who asked it? A. Mr. Hughes asked Katharine the question, I do not think he asked her any other question. The Squire said to Mr. Hughes, this is a very serious charge, have you anything to say, be careful of what you say it will be used against you.

Q. Did the Squire ask Mr. Hughes any questions? A. I do not recall.

Q. Did anyone ask Mr. Hughes any questions? A. I do not know.

Q. Why were you there? A. We were there to take Katharine home.

Q. When did you talk that over with the Prosecutor? A. I have not mentioned it to the Prosecutor.

Q. Did you tell the Prosecutor or did someone else tell him? A. I suppose Katharine told the Prosecutor.

Mrs. Nellie Heller—Direct, Cross

MRS. NELLIE HELLER.

Direct-examination by Mr. Smith:

Q. Mrs. Heller, do you know Mrs. Castner? A. Yes, sir.

Q. Was she visiting you and have a conversation with you last week? A. Yes, sir, Friday. 10

Q. Did she say she had been subpoenaed in this case and didn't know anything about it? A. Yes, sir.

CROSS-EXAMINATION by Mr. Rosecrans:

Q. Where do you live? A. Right across the street.

Q. Is Mr. Heller living? A. Yes. 20

Q. When were you married? A. The 9th of April, 1926.

Q. How did Mrs. Castner appear to tell you that? A. She came to my house Friday morning and said Mr. Hughes had subpoenaed her and she did not know anything about it.

Q. When did you tell the Prosecutor about it? A. To day.

Q. Why did you tell him? A. Because she said she wasn't going against Mr. Hughes. 30

Q. Are you ill friends? A. No, sir.

Q. You just went to the Prosecutor and told him about it? A. Yes.

Q. Where were you when you told him about it? A. He was taking me home.

Both sides rest.

*Motion for a Directed Verdict
Charge*

Mr. Rosecrans: I move for a directed verdict on the ground that the evidence shows that force was employed in the commission of the crime charged and that consent was not obtained, that
10 since consent is a necessary element, it is not a crime of incest. That the charge, if any, is one of rape and not of incest.

The Court: Motion is denied.
Defendant excepts.

HARRY RUNYON (Seal)
Judge.

20

Charge.

The Court (Runyon, J.): Members of the jury, you have been here yesterday and today listening to the evidence produced before you and this trial has now approached the stage where after instructions by the Court you are to decide the guilt or innocence of the defendant. He has been charged with an indictment returned by the late
30 Grand Jury of this county with violating a section of our crimes act known as incest, or to be exact in the exact wording of the act passed by the Legislature it is in the following language:

“Every parent who shall be guilty of incest, fornication, adultery, or open lewdness with, or any act of indecency towards, or tending to debauch the morals and manners of any child or children of such parent; and every parent who
40 shall make any infamous proposal to any child or

Charge

children of his own flesh and blood, with intent to commit adultery or fornication with such child, shall be guilty of a high misdemeanor.”

There are two counts in this indictment, one that he committed fornication with his said daughter Catherine Hughes and did then and there have carnal knowledge of her the said Catherine Hughes and the second, being then and there the father of one Catherine Hughes, he did make an infamous proposal to said Catherine Hughes, child of his own flesh and blood, with intent then and there to commit fornication with said Catherine Hughes. 10

I might say to you in the beginning in order to make clear to you in reference to the date alleged in the indictment of the commission of the offense, the State is not bound to prove that particular day, if you are satisfied from the evidence brought before you that the crime was committed at any time within two years prior to the date alleged they have accepted the burden passed upon them. 20

This case is very important, not only to the State represented by the Prosecutor but to the defendant as well. This is perhaps one of the most serious charges that can be brought against any person. It has been said of this crime that it is a crime the commission of which it is easy to charge, hard to prove but harder to disapprove by one unjustly accused. Generally crimes of this nature are not committed in public and with a number of witnesses present. 30

You as members of the jury have placed upon you the burden of deciding the guilt or innocence 40

Charge

of the defendant and with that you have been given the duty to determine just what the facts in the case are.

10 You are the sole judges of the testimony, what is true and what isn't true and in determining this you may consider the appearance and demeanor of the witnesses produced on the part of the State and those on the part of the defendant as well and the manner in which all gave their testimony.

20 You may take into consideration the interest the defendant may have in denying a charge of this sort. You may take into consideration the manner the testimony has been given not only of the complainant witness but of all the witnesses whether they have any interest in the outcome. You have the right to weigh all of the facts and they should all be considered by you in determining your verdict. And you will have to reconcile the testimony where possible and where discrepancies occur and in this as in all cases there are portions very conflicting and it is a part of your duty to determine what part you are going
30 to believe.

Before taking up the evidence presented in this case in determining and considering just what the testimony and evidence has been you will begin your deliberations with the thought before you that it is incumbent upon the State to prove the guilt of the defendant beyond a reasonable doubt.

40 This defendant comes into Court with the presumption of innocence thrown about him. He

Charge

stands before you presumably innocent. The law throws about every man in the community this presumption of innocence until he is proven guilty by the State beyond a reasonable doubt. You must be the judges and sole judges of this testimony. In short you must determine who is telling the truth and who isn't. Someone is not telling the truth. Determine that to your satisfaction. You will recall all the evidence on the part of the State and equally as well all the evidence on the part of the defense. 10

In all criminal cases you usually hear a whole lot about reasonable doubt. It is invariably defined by the Court in charging every jury in criminal matters. It is a term that has been variously defined but the definition most usually relied upon and made use of is as follows: 20

“Reasonable doubt” has been defined to be a term often used, probably pretty well understood, but not easily defined. It is not a mere possible doubt, because everything relating to human affairs and depending on moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all of the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. The burden of proof is upon the prosecution. If upon such proof there be reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal. 30

Requests to Charge

I have been requested by the defendant to charge certain requests:

Number One I refuse to charge.

2. The good reputation of the defendant, Owen
10 Hughes, for morality and clean living is an element you should consider and such reputation may in itself be sufficient to acquit him. I so charge you.

3. You may consider the resemblance or non-resemblance of the infant and the defendant. I so charge you.

If after considering the testimony and evidence
20 in this case you are satisfied that the State has proved to you the guilt of the defendant beyond a reasonable doubt you will return a verdict of guilty. If on the other hand you, after deliberation, are not convinced of the guilt of the defendant beyond a reasonable doubt after determining what the facts are and applying the law as given to you by the Court, you will return a verdict of not guilty.

30 You may now take this case and retire to the jury room for deliberation.

Mr. Rosecrans: I desire to take exception to that portion of the charge of the Court in which the Court said if the State satisfied you that the crime was committed at any time within two years the time is immaterial and I further desire to take exception to the refusal to charge the first request.

40 The Court: Your exception will be allowed.

HARRY RUNYON (Seal)
Judge.

Motion to Arrest Judgment

(No. 1—Request to charge was as follows:

“The fact that this girl, Catherine failed to make any outcry at the time or times when the illegal act was alleged to have been committed may be considered by you as affecting her credibility.”) 10

December 2, 1927.

The Court met this day.

Mr. Smith: Court please, I move for judgment in the case of State against Owen Hughes, defendant, found guilty of the crime of incest and also assault upon his own daughter. The facts have all been developed by the trial and I recommend at this time a long prison sentence for this crime of a serious nature. 20

Mr. Rosecrans: I now move in arrest of judgment for the reason that the uncontroverted evidence in the case showed that the alleged crime was committed by the use of force and that in that event the crime, if any, was rape and not incest, which was alleged in the indictment and the defendant is not guilty of the charge in the indictment. 30

The Court: I will deny that motion and allow an exception.

HARRY RUNYON (Seal)
Judge.

The Court: The judgment of this Court is that you, Owen Hughes, be confined in the States Prison at Trenton at hard labor for a period of eight years. 40

Certificate.

NEW JERSEY SUPREME COURT

10	STATE OF NEW JERSEY, Defendant-in-Error, vs. OWEN HUGHES, Plaintiff-in-Error.	}	Sur Indict- ment
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I, Harry Runyon, Judge of the Warren County
 Quarter Sessions Court before whom the above
 case was tried, do hereby certify that the fore-
 20 going is the entire record of the proceedings had
 upon the trial of the case of the State of New
 Jersey v. Owen Hughes, which may be returned by
 the Plaintiff-in-Error with the Writ of Error in
 order, that on the argument such entire record
 shall be considered and adjudged by the Appellate
 Court, as to whether or not the Plaintiff-in-Error
 on the trial suffered manifest wrong or injury
 either in admission or rejection of testimony,
 whether objection was made thereto or not, or
 30 any charge of the Court or any denial of any mat-
 ter by the Court, which was a matter of discus-
 sion.

HARRY RUNYON,
 Judge.

**Assignments of Error and Causes for
Reversal.**

NEW JERSEY SUPREME COURT

STATE OF NEW JERSEY,	}	Sur Indict- ment	10
Defendant-in-Error,			
vs.			
OWEN HUGHES,			
Plaintiff-in-Error.			

Afterwards, that is to say, on the return of the writ of error in the above cause, in the Supreme Court of Judicature of the State of New Jersey, comes the said Owen Hughes, by Clark C. Bowers, his Attorney, and says that in the record and proceedings aforesaid, and also in the matters recited and contained in the bill of exceptions, and also in the giving of judgment aforesaid, there is manifest error in this, to writ: 20

1. The court erred in admitting in evidence the testimony of the witness Mary Kehoe in answer to the question, "Do you know her attitude towards her father?" 30

2. The court erred in admitting in evidence the testimony of Mary Kehoe in answer to the question—"How did Catherine appear to you in reference to her father?"

3. The court erred in refusing the motion of the defendant, at the end of the State's case, to direct a verdict of not guilty. 40

Assignments of Error and Causes for Reversal

4. The court erred in refusing to admit the question to the witness Owen Hughes—"What did she do?"
- 10 5. The court erred in striking out the answer of the witness Owen Hughes to the question—"Have you had any of these spells since September, 1926?"
6. The court erred in refusing to allow the question to the witness Richard Hughes—"Do you know whether he provided for Catherine and his children?"
- 20 7. The court erred in refusing to allow the question to the witness Richard Hughes—"Did Catherine ever tell you an untruth?"
8. The court erred in permitting the question to the witness Catherine Hughes, on rebuttal, "Did your father ever hand you a book containing indecent pictures in it?"
- 30 9. The court erred in allowing the question to the witness Catherine Hughes, on rebuttal, "What did he tell you that when you went out with the boys you should do?"
10. The court erred in refusing to grant the motion of the defendant for a direction of a verdict at the close of the whole case.
11. The verdict was against the weight of the evidence. (P. L. 1921, p. 951.)
12. The court erred in charging the jury:
 - 40 "I might say to you, in the beginning, in order to make clear to you in reference to the date al-

Assignments of Error and Causes for Reversal

leged in the indictment of the commission of the offense, the state is not bound to prove that particular day, if you are satisfied from the evidence brought before you that the crime was committed at any time within two years prior to the date alleged they have accepted the burden passed upon them.” 10

13. The court erred in refusing to charge the jury:

“The fact that the girl, Catherine, failed to make any outcry at the time or times when the illegal act was alleged to have been committed may be considered by you as affecting her credibility.” 20

14. The court erred in refusing to grant the motion of the defendant in arrest of judgment.

Plaintiff-in-error also assigns the foregoing as the causes for reversal of the verdict and judgment of conviction.

CLARK C. BOWERS,
Attorney for Plaintiff-in-Error.

Opinion of Supreme Court

and the other with making an infamous proposal with intent to commit fornication with her. The case is here on assignments of error and under 136th Section of the Criminal Procedure Act.

10 On this review it is contended that there was error in rulings on the admission and rejection of evidence, in the refusal to direct a verdict of acquittal, in the instructions to the jury, and in the denial of a request for charge; also that the verdict was against the weight of the evidence.

Our examination of the rulings on evidence satisfied us that these rulings were not harmful to the plaintiff-in-error and that they call for no
20 special comment.

The portion of the charge which is urgently pressed upon us as ground for reversal reads as follows:

30 "I might say to you in the beginning in order to make clear to you in reference to the date alleged in the indictment of the commission of the offense, the State is not bound to prove that particular day, if you are satisfied from the evidence brought before you that the crime was committed at any time within two years prior to the date alleged, they have accepted the burden passed upon them."

As a statement of the law it is quite clear that the instruction was inaccurate. It is equally clear, we think, that as applied to the facts of the case the plaintiff-in-error was in no wise
40 prejudiced thereby in maintaining his defense upon the merits, and this for the reason that

Opinion of Supreme Court

there was in the case no proof that any illicit intercourse took place between the father and daughter at an earlier date than two years prior to the finding of the indictment, and the charge, therefore, must of necessity have been accepted by the jury as applicable to and within the limitations of the case as presented. 10

It was clearly proved that intercourse took place as a result of which the girl became pregnant in June, 1926, and she said there were other occasions prior thereto but she could not tell whether in 1924 or 1925. There was in this no proof of an offense in 1924. No conviction could be had of an offense on such a date on proofs of this character, and the absolute denial of the defendant (uncontradicted in this respect) established that intercourse did not take place at a time antedating the finding of the indictment beyond that statutory period of two years. In addition, it appeared that the father had the daughter examined by a physician in July, 1925, and that even at that date there was nothing wrong with her. The jury was sworn to try the case according to the evidence, and it is to be presumed that the oath was respected. There being no proof of intercourse prior to the two years antedating the presentment of the indictment, the jury could make no such finding, the instruction complained of could not have been understood as authorizing a conviction of an offense of which there was no proof. As was stated by Justice Garrison, speaking for the Court of Errors and Appeals in the case of *State v. Rombolo*, 91 N. J. L. 563: 20 30 40

Opinion of Supreme Court

“The correctness of an instruction to a jury is to be tested by its practical application to the facts of the case in hand and not by its abstract inerrancy.”

10 The request for instruction which was refused by the Court was predicated on a false assumption of fact and was properly denied.

At the conclusion of the proofs, counsel for the defendant moved the Court to direct a verdict (presumably acquittal, although not so stated), on the ground that force was employed and consent was not obtained. The motion was denied and this ruling is complained of as error.

20 The 46th Section of the Crimes Act of 1898 (C. S. 1760) declares that

30 “Every parent who shall be guilty of incest, fornication, adultery, or open lewdness with, or any act of indecency towards, or tending to debauch the morals and manners of any child or children of such parents; and any parent who shall make any infamous proposal to any child or children of his own flesh and blood, with intent to commit adultery or fornication with such child, shall be guilty of a high misdemeanor.”

40 There were, as stated, two counts upon which the defendant was convicted, one charging that he did commit fornication with his daughter and then and there had carnal knowledge of her; the other that he made an infamous proposal to his daughter with intent to commit fornication with her. While there is a variance in some jurisdictions as to the necessity for the element of con-

Opinion of Supreme Court

sent in the crime of incest, we think the weight of authority is to the contrary (Section 31, C. J., 378, and cases there cited) and that conviction could be had under the first count of the indictment even though force were used. It is the unnatural act that is sought to be reached by the statute; whether that act shall be with or without the consent of the child (presumably subject to the domination of the parent), would seem to be beside the question. Be this as it may, however, with respect to the first count, we think there was evidence from which the jury might have found the defendant guilty under the second count. There was evidence of the forbidden proposal in advance of the actual commission of the offense. 10 20

The last contention is that the verdict is against the weight of the evidence. While no witnesses other than the daughter and the father testified respecting the vital facts of the case, much helpful proof was taken on behalf of the State and on behalf of the defendant from which we think it became fairly a question for the jury to determine the question of guilt or innocence. When the daughter became pregnant she wrote her father a letter charging him with responsibility for her condition. The defendant's action on the receipt of this letter and his equivocal statements later on to the Prosecutor of the County, have an important bearing on the credit to be given his denial of guilt by the jury. Tested by the rule that the jury's finding must have been so at variance with the legitimate conclusions to be reached from the evidence as to imply improper motives, we think this reason, like the others, must be held insufficient. 30 40

The Judgment is affirmed.

WRIT OF ERROR TO SUPREME COURT.

New Jersey, ss.

The State of New Jersey to our Chief
Justice and other Justices of our
(Seal) Supreme Court,

Greeting:

10

Because in the record and proceedings, and also in the giving of the judgment upon a certain indictment which was in our Supreme Court before you, between the State of New Jersey, Defendant-in-Error, and Owen Hughes, Plaintiff-in-Error, on a writ of error issued out of our Supreme Court to our Judges of our Court of Quarter Sessions of the County of Warren, as is said, manifest error has intervened, to the great damage of the said Owen Hughes, as from his complaint we have received information, we being willing in this behalf to correct the error in due form, if any there shall be, and that speedy justice be done to him, the said Owen Hughes, do command you that if judgment be thereupon given, that you send distinctly and openly, under your seal, the entire record, proceedings and indictment aforesaid, with all things touching and concerning the same, to our Court of Errors and Appeals, before the Judges thereof, on the sixteenth day of July, nineteen hundred and thirty-one, and this writ, and that the records and proceedings aforesaid being inspected, we may cause to be done thereupon, what, of right and according to law, ought to be done. 20 30

WITNESS, Edwin Robert Walker, our Chancellor, and President Judge of our said Court of 40

Return to Writ

Errors and Appeals, at Trenton, aforesaid, the
twenty-sixth June, nineteen hundred and thirty-
one.

10 CLARK C. BOWERS,
Attorney for Plaintiff-in-Error.
JOSEPH F. S. FITZPATRICK,
Clerk.

RETURN TO WRIT.

20 NEW JERSEY SUPREME COURT

The answer of the Justices of the Supreme
Court of the State of New Jersey within named.
The record and proceedings whereof mention is
within made, with all things touching and con-
cerning the same, we do certify to the Court of
Errors and Appeals of said State, in a certain
schedule to this writ annexed, as within we are
commanded.

30 WM. S. GUMMERE,
C. J.

**ASSIGNMENTS OF ERROR AND CAUSES FOR
REVERSAL.**

(Filed July 15, 1931.)

NEW JERSEY COURT OF ERRORS AND
APPEALS

10

STATE OF NEW JERSEY, <div style="text-align: center; padding: 5px 0 5px 40px;">Defendant-in-Error,</div> <div style="text-align: center; padding: 5px 0 5px 40px;">vs.</div> OWEN HUGHES, <div style="text-align: center; padding: 5px 0 5px 40px;">Plaintiff-in-Error.</div>	}	Assignments Of Error and Causes for Reversal.
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Afterwards, that is to say, on the return of the Writ of Error in the above cause, in the New Jersey Court of Errors and Appeals, comes the said Owen Hughes, by Clark C. Bowers, his attorney, and says that in the record and proceedings aforesaid and also in the matters recited and contained in the bill of exceptions, and also in the giving of judgment aforesaid there is manifest error in this, to wit: 20

1. That the Supreme Court of Judicature of the State of New Jersey erred in giving judgment for the defendant-in-error instead of for the plaintiff-in-error, and that it so erred for one or more of the assignments of error and causes for reversal filed in the Supreme Court and returned with the record. 30

CLARK C. BOWERS,
Attorney for Plaintiff-in-Error.

40

JOINDER IN ERROR.

(Filed July 17, 1931.)

NEW JERSEY COURT OF ERRORS AND
APPEALS

10 _____
 STATE OF NEW JERSEY,
 Defendant-in-Error,
 vs.
 OWEN HUGHES,
 Plaintiff-in-Error.

20 And thereupon the State of New Jersey, de-
 fendant-in-error in the above stated cause, by
 Sylvester C. Smith, Jr., its attorney, comes into
 Court and says that there is no error either in
 the record and proceeding aforesaid or in the
 giving of judgment aforesaid, and it prays here
 that the Court here may proceed to examine as
 well the record and proceedings aforesaid as the
 matters aforesaid assigned for error and that the
 judgment aforesaid in the manner aforesaid
 30 given may in all things be affirmed, etc.

SYLVESTER C. SMITH, JR.
 Attorney for Defendant-in-Error.

New Jersey Court of Errors and Appeals

STATE OF NEW JERSEY, Defendant-in-Error, vs. OWEN HUGHES, Plaintiff-in-Error.	}	Sur Indictment. Error to Supreme Court.
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BRIEF FOR PLAINTIFF-IN-ERROR.

STATEMENT.

The defendant was indicted for and convicted of the crime of incest. The case is submitted both under authority of Section 136 of the Criminal Procedure Act and upon strict writ of error.

POINT I.

THE COURT ERRED IN CHARGING THE JURY.

“I might say to you in the beginning in order to make clear to you in reference to the date alleged in the indictment of the commission of the offense, the State is not bound to prove that particular day, if you are satisfied from the evidence brought be-

fore you that the crime was committed *at any time within two years prior to the date alleged* they have accepted the burden passed upon them" (Case, p. 115, l. 20).

Exception was duly taken (Case, p. 118, l. 33).

The Criminal Procedure Act (Section 152) provides that no person shall be prosecuted, tried or punished for any such offense "unless the indictment shall be found within two years from the time of committing the offense."

This indictment was found at the December Term, 1926 (Case, p. 3). The dates alleged are June 1, 1926, and December 10, 1925.

Under this charge the defendant could have been convicted on evidence showing the commission of the offense on December 10, 1923, or any date thereafter up to the time the indictment was found. This was clearly erroneous.

It is very probable in this case that the jury convicted on evidence of an offense prior to December, 1924.

The following extracts from the testimony show that evidence was admitted indicating that the crime alleged had occurred before December, 1924:

The complaining witness testified as to the first attack (Case, p. 20, l. 1):

"Q. And that was in December? A. I do not know.

"Q. 1924? A. I do not know whether it was 1924 or 1925.

"Q. When did this happen? A. I told you it wasn't in the winter time."

As to the second attack (Case, p. 21, l. 1):

“Q. What date was it? A. I do not know when it happened; it was in the summer time.

“Q. What year was that in? A. I do not know whether it was in 1924 or 1925.”

As to the third attack (Case, p. 22, l. 34):

“Q. When was the third attempt? A. Right after he bought his car.

“Q. When was that and what year? A. In the summer time of 1924 or 1925.”

POINT II.

THE COURT SHOULD HAVE CHARGED THE FIRST REQUEST.

This request was (C. B. p. 119):

“The fact that the girl, Catherine, failed to make any outcry at the time or times when the illegal act was alleged to have been committed may be considered by you as affecting her credibility.”

Examination of the testimony of the daughter, Catherine, with whom the alleged incestuous act was committed, clearly shows she made no outcry at the times of the attacks by the father, although she was often in a position to do so. Her only excuse for this failure was, “I was afraid.” Surely this attitude on the part of the girl should have at least been submitted to the jury for consideration as affecting her credibility, since the defense was a denial, and there was evidence that she was indiscreet in her relations with other men at the time.

POINT III.

THE CRIME WAS NOT INCEST.

“The crime (incest) can only be committed by mutual consent of the parties. If the intercourse is accomplished by force, it is punishable as rape only.”

Clark's Criminal Law (2nd Ed., p. 364), and cases cited.

Counsel moved for direction of a verdict (C. B. p. 63 and p. 114) and in arrest of judgment (C. B. p. 119) on the ground that the undisputed evidence showed that force was employed and consent not obtained, and that since consent is a necessary element, the crime, if any, was not incest but rape.

The statute defining incest (Secs. 45, 46) refers to the commission and the attempt to commit, *fornication* or *adultery* within the prohibited degrees. In both such crimes force is a necessary element.

POINT IV.

In the examination of Mary Kehoe, the court improperly admitted the question, “Do you know her attitude toward her father?” (p. 44, ll. 28-30). And the question, “How did Catherine appear to you in reference to her father?” (Case, p. 45, l. 5). Both these questions were addressed to a lay witness and called for a conclusion, and were admitted over the objection made by the defendant.

POINT V.

The sixth assignment of error is that the court erred in refusing to allow the question to the witness, Richard Hughes:

“Do you know whether he provided for Catherine and his children?” (Case, p. 89, l. 10).

While this question dealt with a matter immaterial to the issue, the defendant was entitled to have an answer for the purpose of impeaching the testimony of the State's witness, Mary G. Joiner, who had testified (Case, p. 57, ll. 25, etc.) that the defendant had not provided properly for Catherine and his children.

POINT VI.

The eighth assignment of error is that the court permitted the question to the witness, Catherine Hughes, on rebuttal:

“Did your father ever hand you a book containing indecent pictures in it?” (Case p. 110, ll. 1-20).

This is clearly erroneous, first, because if admissible at all, it should have been a part of the State's original case; and second, because it calls for a conclusion. Whether pictures are indecent or not would, in any event, be a jury question, and the witness was certainly not an expert called for that purpose, and had no legal right to characterize the book she saw, at least without a description. No such book was produced before the jury. This evidence defendant believes was seriously prejudicial to him.

POINT VII.

The defendant's ninth assignment of error is that the court erred in allowing the question to the witness, Catherine Hughes, on rebuttal:

“What did he tell you that when you went out with the boys you should do?”

This appears in the Case, page 110, lines 25-40, and page 111, lines 1-20.

The whole testimony appearing under this question is of such a character that it would inevitably prejudice the jury against the defendant. If permissible at all, it should have appeared in the main case; it was in no sense rebuttal.

POINT VIII.**THE VERDICT WAS AGAINST THE WEIGHT OF THE EVIDENCE.**

The evidence showed that the room occupied by Catherine had a bed therein and also a cot. It appears that Catherine used the cot and two of her sisters occupied the bed. Although the acts complained of were committed three times in this bedroom, no one except Catherine had any knowledge of the affair, although the house is of moderate size and the bedrooms of ordinary dimensions and all on the same floor.

The sister, Annabelle Hughes, an intelligent girl of fourteen, occupied this room with Catherine and although Catherine testified that she fought off these alleged attempts, her sister had no knowledge of any illegal acts being committed (Case, p. 13, l. 20, &c.).

Linford Hughes, son of the defendant, testified that he was married and living at home at the time the acts were alleged to have been committed, and that his bed was located against the same wall which Catherine's cot rested against on the other side, and he testified that he heard nothing (Case, p. 97, &c.).

Etta Hughes, wife of Linford Hughes, testified in a similar manner (Case, p. 94 &c.).

The only evidence produced which lends credence to the charge that these acts were committed in the presence of other persons, and in a house occupied by the defendant's wife, is that the defendant was subject to attacks of walking in his sleep. This was explained by the defendant as inherited. Richard Hughes, father of the defendant, corroborated this testimony (Case, p. 89, &c.), and Linford Hughes, son of the defendant, also corroborated the fact of this affliction (Case, p. 98 &c.).

Eva Hughes, wife of the defendant, gave evidence supporting the affliction of her husband (Case, p. 81, &c.).

There was testimony to the fact that Catherine had left her own cot and gotten in bed where her sisters were sleeping, in order to avoid relations with her father, but this was refuted by the testimony of Eva Hughes (Case, p. 83).

Eva Hughes, wife of the defendant, further testified that she had been continuously at home during the periods alleged (Case, p. 83, &c.).

It was further shown at the trial that the girl Catherine had associated with other men and that her father, the defendant, had sought in vain to curb her recklessness (Case, p. 28, &c.).

Catherine Hughes testified that she wrote for and received money from a man with whom she was going shortly before she became pregnant. And the testimony is as follows (Case, p. 29, l. 15):

- “Q. Why did you write this man Bone?
A. I was pregnant and wanted to go to a doctor.
Q. Why didn't you ask your father? A. I was afraid to ask him.”

The evidence failed to show that Catherine Hughes ever made a complaint to any of those to whom she naturally would go for protection. Her grandmother had interceded for her in seeing that her father properly clothed her and went so far as to compel Owen Hughes to appear before the authorities on Catherine's complaint that she lacked sufficient clothing, and although Catherine testified she was in fear of her father, she did not lack the courage to bring this minor charge. She was on friendly relations with her brothers and sisters, the former of whom had grown to early manhood, and did not mention the slightest detail to her grandparents. There was an abundance of testimony produced by the State from the witness Catherine tending to prove the torn condition of the bedding and also the soiled condition of the sheets and her personal effects. But, although the evidence coincided with the dates that the defendant's wife led him back from the bedroom, it never aroused the slightest suspicion on the part of the said defendant's wife. And it would appear from this that the statements made by the complainant Catherine were untrue.

The evidence further showed that as soon as the defendant heard rumors of his alleged rela-

tions with his daughter, which rumors had come from his daughter, Catherine, he immediately sought the advice of the Prosecutor (Case, page 65, line 28) of the County and did his best to have the daughter brought from the State of Pennsylvania where she had taken employment with a family in Easton. There was no testimony tending to prove that he in any way discouraged investigation or tried to cover up the truth. He co-operated in all ways until the day he was arrested. Although there was testimony given that he denied receiving the letter his daughter had written him accusing him of the crime, he steadfastly asserted its receipt, but destroyed the communication by reason of its very audacity. The accusation was not concealed by himself as he testified he informed his wife of the letter as soon as he arrived at home.

The high reputation of the defendant as to clean living and morality was testified to by many witnesses of high repute in the community in which he resided (Case, pp. 102 to 107).

According to the evidence, a child was born to Catherine Hughes on April 1, 1927, presumed to have been the result of the last alleged assault on June 1, 1926, or a matter of ten calendar months. Doctor William C. Albertson, a physician, testified that conception is supposed to take place two hundred and eighty days prior to the birth of the infant, and following this rule, the conception occurred on June 25, 1926. Doctor Albertson's testimony is set forth on page 108 etc., of the State of the Case and the whole is respectfully referred to.

The evidence showed that during the month of June, 1926, Catherine associated with other men, and as there was not the least visible defect in the child, as to its mentality or physical condition, this phase of the case should be given due consideration.

The child was exhibited to the jury and in this connection it is important to note that the State admitted that the child was normal (Case, page 80, lines 30-40).

Respectfully submitted,

CLARK C. BOWERS,
EGBERT ROSECRANS,
Of Counsel with Plaintiff-in-Error.

New Jersey Court of Errors
and Appeals

STATE OF NEW JERSEY,
Defendant-in-Error,
vs.
OWEN HUGHES,
Plaintiff-in-Error.

} Sur Indictment.
Error to Supreme
Court.

BRIEF FOR THE STATE

SYLVESTER C. SMITH, JR.
Prosecutor of the Pleas
For the State—Defendant-In-Error

STATE OF NEW JERSEY, <i>Defendant-in-Error,</i>	}	Sur Indictment.
vs.		Error to Supreme
OWEN HUGHES, <i>Plaintiff-in-Error.</i>		Court.

BRIEF FOR THE STATE

STATEMENT OF FACT.

The defendant, Owen Hughes, was convicted on an indictment (p. 3) containing two counts, the first alleging that being the father of one Catherine Hughes, on June 1, 1926, he did commit fornication with his daughter and have carnal knowledge thereof; second, on December 10, 1925, he did make an infamous proposal to his daughter with intent to commit fornication.

The daughter, at the time of the trial on November 21, 1927, was 18 years of age (p. 9, 1.32) and was at that time at a Home of Girls in the City of Trenton, New Jersey, where a baby had been born to her on April 7, 1927 (p. 10, 1.31; p. 11, 1.4). She accused her father of being the father of this child, alleging that the intercourse took place the last of May or first part of June, 1926. This was the first count which the State alleged.

The girl further testified that on five occasions in all her father had intercourse with her. She classifies them (p. 13, 1.3).

A. The first time was in Morris Park Woods and the second at home and the third in the car and the fourth and fifth at home.

Q. What do you mean by the fourth and fifth times?

A. He came in my bedroom at night."

The first time, she testifies, occurred in 1924 or 1925 (p. 20, 1.3), when there was no snow on the ground, and the other times took place thereafter. The defendant ad-

mitted that in the fall of 1925, he had taken Catherine to a barber shop and through the woods to their home. The daughter claimed that the defendant would come into her bedroom, and there perpetrated the act and that if discovered, he would claim he was walking in his sleep.

The defense was a complete denial. Testimony was offered to show that the defendant walked in his sleep and had been troubled with this affliction for a long period, thus explaining his presence in the bedroom. Evidence was also introduced to show that the period of conception was longer than probable and that the daughter had been with boy friends, incorrigible and stayed out late.

It is respectfully urged there is no error in the judgment of the Supreme Court.

ARGUMENT.

I.

THE CHARGE OF THE COURT WAS NOT PREJUDICIAL ERROR.

The court charged the jury:

"I might say to you in the beginning, in order to make clear to you in reference to the date alleged in the indictment of the commission of the offense, the State is not bound to prove the particular day, if you are satisfied from the evidence brought before you that the crime was committed at any time within two years prior to the date alleged, they have accepted the burden."

Except for the phrase, "prior to the date alleged," the instruction discloses no error.

Time was not the essential of the crime, nor was there any defense suggested to show that the offense charged was not proved to be within the statute of limitations. The first count as proved, charged the father, defendant, Hughes, with being the father of the child by his own daughter. The child was born at Trenton, April 1, 1927 (p. 80, 1.30). The crime took place, according to the daughter Catherine's testimony, the last two days of May or the first of June, 1926 (p. 27, 1.2; p. 29, 1.13; p. 26, 1.15).

The defense set up was a complete denial, not only of any incestuous conduct within the period of two years before the finding of the indictment, but at any time; and in aid of this complete denial, the further defense was that the prosecuting witness, his daughter, was a bad character and has associated with young men under such circumstances as might possibly have explained the reason for her being pregnant and giving birth to this bastard child. Nowhere in the defense did it appear that the statute of limitations was set up (pp. 28, 11. 17-30). Furthermore, the evidence of the defendant himself shows that in 1925, he, as the father, had his daughter examined by a physician, on the suggestion of a justice of the peace, Squire Weiss, and the doctor found nothing wrong with her (p. 71, 11.3-30).

It is significant that the counsel for the defendant took exception to the charge as follows (p. 118, 1.31):

MR. ROSECRANS: I desire to take exception to that portion of the charge of the Court in which the Court said if the State satisfied you that the crime was committed at any time within two years the time is immaterial."

In other words, counsel for the defendant's only exception went to the instruction that time was immaterial. If the offense was not proved to have been committed within two years, he did not point out to the court or take exception at the time the error which is now relied upon.

There was no dispute as to the time on the first count, and the evidence clearly sustains the second count as within the two-year period when the indictment was found.

An instruction must be viewed with regard to the issues raised by the pleadings and the evidence. 12 Cyc. 654; 38 Cyc. 1777, and if a charge when so construed is free from error, it will not be ground for reversal, although wrong as an abstract proposition. *State vs. Jones*, 71 N. J. L. 543-546. *State vs. Eagan*, 84 N. J. L. 701-707. *State vs. Duels*, 97 N. J. L. 43-50; *State vs. Knolls*, 5 N. J. Misc. 1241.

In addition to the existence of error in law, it must be shown that such error was or might have been prejudicial to the defense on the merits, to constitute ground for re-

versal. *State vs. Sage*, 99 N. J. 229; *Lamble vs. State*, 96 N. J. L. 231.

How could this have influenced the jury so as to prejudice the defendant on the first count of the indictment or on the second count? On the first count, the question for the jury was: "Is this defendant the father of the bastard child of his own daughter?" The time on the first count undoubtedly was well within the statutory period.

This appeal is under Section 136 of the Criminal Procedure Act.

The Chief Justice, speaking for this Court, said in *State vs. Brown*, 82 N. J. L. 164:

"We have considered the other alleged errors and reasons for reversal discussed in the brief of the defendant. They all relate to alleged errors contained in the charge to the jury. We are not prepared to admit that there was any inaccuracy in the legal propositions laid down to the jury in the respects stated, but conceding that the inaccuracies did in fact exist, they would not justify a reversal of the judgment upon the review provided by the 136th section of the Criminal Procedure Act for the reason that such inaccuracies, if they do exist, cannot be said to have produced manifest wrong or injury to the defendant, and when a person convicted of crime takes advantage of the liberal review provided by that section, he relinquishes any advantage which might come to him from mistakes made at the trial unless he can show that he has suffered manifest wrong by such mistakes."

As Mr. Justice Garrison said in *State vs. Rombolo*, 91 N. J. L. 560:

"The correctness of an instruction to a jury is to be tested by its practical application to the facts in the case in hand and not by its abstract inerrancy."

The State contends that any error in the charge, if made, produced no manifest wrong or injury prejudicial to the defendant.

II.

THE REFUSAL TO CHARGE THE FIRST REQUEST OF THE DEFENDANT WAS NOT ERROR.

The request if charged would have misstated the evidence.

The request was:

"The fact that the girl, Catharine, failed to make any outcry at the time or times alleged to have been committed may be considered by you as affecting her credibility."

Catharine testified that she did cry out, once in the woods (p. 19, 1. 12) (the first occasion):

"Q. And cried out? A. Yes, sir.

Q. Anyone hear you? A. No, sir."

At home in her bedroom (p. 21, 1.39):

"Q. When he came in and tore the covers you cried out? A. Yes, sir.

Q. Did you wake your sisters? A. Yes, sir.

Q. Were you afraid of your sisters? A. No, sir.

Q. Were your sisters afraid? A. I do not know."

Again at her home in the bedroom (p. 25):

"Q. Did you fight him very much? A. I fought hard and did not cry out loudly."

Requests to charge should be based on facts proven in the case. *State vs. Skillman*, 76 N. J. L. 464. The request assumed a state of facts which did not appear in the case and there was no prejudicial error in refusing to charge the request.

III.

THE CONTENTION OF DEFENDANT-IN-ERROR THAT MUTUAL CONSENT WAS NECESSARY TO CONVICT OF INCEST UNDER THE INDICTMENT IS WITHOUT MERIT IN LAW.

Incest in New Jersey is defined by Section 45 of the Crimes Act:

"Any person who shall intermarry within the degrees prohibited by law, or, being related within such degrees, shall together commit fornication or adultery,

shall be guilty of incest, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding five years, or both."

But section 46 of the Act further enlarges the crime:

"Every parent who shall be guilty of incest, fornication, adultery, or open lewdness with, or any act of indecency towards, or tending to debauch the morals and manners of any child or children of such parent; and every parent who shall make any infamous proposal to any child or children of his own flesh and blood, with intent to commit adultery or fornication with such child, shall be guilty of a high misdemeanor, and punished by fine not exceeding one thousand dollars, or imprisonment at hard labor not exceeding fifteen years, or both."

The crime was not indictable at common law, and is a statutory crime. 31 *C. J.* 374, 14*R. C. L.* 30, *State vs. Tucker*, 174 *Ind.* 715 31 *L. R. A. N. S.* 772.

The gravamen of the crime of incest is the unlawful carnal knowledge, and it is unlawful because of the relationship of the parties, without regard to the means by which the intercourse is accomplished. 31 *C. J.* 375.

The essential fact of the crime of incest is illicit carnal connection. The great weight, reason and authority in the United States holds that force is immaterial. It is a general rule of criminal law that the greater crime always includes the less and this is the rule in regard to incest committed by force as adopted by a majority of cases which maintain that every element of the crime of incest may exist as against one party to the sexual action, though the other did not consent thereto and though the act was accomplished by such force as would render the man also guilty of rape. 14 *R. C. L.* 30, 31.

Michigan and Oregon hold assent of both parties is essential. *DeGroat vs. People*, 39 *Mich.* 124; *State vs. Jarvis*, 20 *Oreg.* 437; 26, *p.* 302.

Holding to the contrary that mutual consent is not necessary are the courts of Alabama, Arkansas, California, Florida, Idaho, Iowa, Illinois, Indiana, Kentucky, Louisiana,

North Carolina, Ohio, Texas, Utah, Washington, Wisconsin and Kansas, and a recent ruling of the court of Montana overruled earlier decisions holding that consent is not necessary: *Smith vs. State*, 108 Ala. 1, 19 S. 306; *Gaston vs. State*, 95 Ark. 233; *Pco. v. Stratton*, 141 Cal. 604; 75 P. 166; *McCaskill vs. State*, 55 Fla. 117, 45 S. 843; *Peo. v. Barnes*, 2 Ida. (Hasb.) 161; 9 P. 532; *Davis v. Peo.*, 204 Ill. 479; 68 N. E. 540; *Norton v. State*, 106 Ind. 163; 6 N. E. 126; *State v. Stalker*, 169 Iowa 396; LRA1915E 1222; *Burdue v. Com.*, 144 Ky. 428; 138 N. W. 296; *State v. Swindall*, 129 La. 760; 56 S. 702; *Strider v. Lewey*, 176 N. C. 448; 97 S. E. 398; *State v. Robinson*, 83 Oh. St. 136; 93NE 623; *Jordan v. St.* 62 Cr. 388, 137 SW 114; *State v. Winslow*, 30 Utah, 403; 85 P. 25; *State vs. Hornaday*, 67 Wash. 660; 122 P. 322; *Porath v. State*, 90 Wis. 527; 63 NW 1061.

The reason for the rule is expressed in *State v. Winslow*, 30 Utah, 403-408; 85 P. 433:

"If the female be not guilty because of a want of consent to the act, it does not change the character of the act so far as the defendant is concerned, if, on his part, it was willingly and knowingly done. He must be held to answer for the consequences of his own act done with his knowledge and consent. When the defendant, with full knowledge of the relationship between himself and the female, willingly on his part, has sexual intercourse with the female, the crime of incest, so far as he is concerned, is complete. His own guilt is not made to depend upon the mental condition of the female. The defendant's guilt here is measured by his knowledge and intent, and not by the knowledge and intent of his daughter, on whom he committed the offense.

It is to be noted that under our statute, it is the relationship and carnal knowledge within the degrees of relationship which constitutes the crime. The mere fact that the girl testified that she did resist the assault of her father, under our statute, does not make the crime any the less incest or the conduct any the less incestuous.

We submit, therefore, the court's refusal to grant the motion for arrest of verdict and arrest of judgment was not reviewable error.

IV.

THE FIRST AND SECOND ASSIGNMENTS OF ERROR, IF ERROR, WERE HARMLESS.

The first assignment alleged error in admitting this testimony of the witness in answer to the question: "Do you know her attitude towards her father?"

The State of the Case, p. 44, 11.30-39, shows that the question was not answered. There could be no error, therefore.

The second assignment alleged error in admitting in evidence the testimony of Mary Kehoe in answer to the question: "How did Catharine appear to you in reference to her father?"

The answer of the witness was, "She always seemed to be afraid" (p. 45, 11. 8-16).

If error, this was not prejudicial. The same question was put and answer made by the previous witness, Anna Shuler, without any objection by defense (p. 43, 11.15-16). Bessie Taylor, p. 39, testified, "She was always afraid of both." Furthermore, Mrs. Margaret Stamets another witness, was asked the question, "How did Catharine appear to you in reference to her father? A. She always said she was afraid. Q. How did she act? A. She acted as if she was afraid of him."

There was no objection by the defendant's counsel.

The State contends that any error in admitting this answer was therefore harmless. The jury had the testimony before it, without objection, and defendant could not have been prejudiced by admission over objection of the same testimony.

V.

THE RULING OF THE COURT COMPLAINED OF BY THE SIXTH ASSIGNMENT OF ERROR WAS PROPER.

Appellant's brief admits the question was immaterial.

There was no offer of proof to show that it was for the purpose of impeaching a prior witness.

VI.

THE EIGHTH AND NINTH ASSIGNMENTS OF ERROR ARE WITHOUT MERIT IN LAW.

These assignments deal with questions asked by the Prosecutor of the complaining witness, Catharine, on rebuttal.

The first objection is that if admissible, it should be part of the state's main case.

"It is within the discretion of the trial judge to admit in rebuttal, or at the time of rebuttal, evidence which is not strictly rebuttal and which should nor might have been offered in chief and the admission of such evidence will not lead to a reversal except in cases of gross abuse of such discretion."

State vs. Unger, 93 N. J. L. 50, 53. *State vs. Skillman*, 76 N. J. L. 464, *aff.* 73 N. J. L. 804. But the State insists both questions were proper rebuttal. The defendant was asked on cross examination if he did not have a book, "Tillie the Toiler", which he showed to his daughter. He denied this (p. 71, 11. 31-35).

To impeach the testimony, the daughter Catharine was called in rebuttal, p. 110.

The same foundation was laid for the other testimony referred to in the ninth assignment of error. On cross examination the foundation was laid (p. 71- 1.36), on rebuttal Catharine testified (p. 110, 1.25).

VII.

THE VERDICT WAS NOT AGAINST THE WEIGHT OF THE EVIDENCE.

The crime of which the defendant was convicted was by its very nature limited in its direct evidence, but the case clearly presented a question for the jury as to whether the father or the daughter was telling the truth.

The daughter accused her father of being responsible for and the father of her bastard child. She swore that her father had in the last of May or first part of June, 1926, visited her bedroom and had intercourse with her, by reason

of which she became pregnant. The evidence is not disputed that the only person she ever accused was her own father, and that in September, 1926, when she was fully aware of her condition, she wrote him a long letter, in which she accused him of being responsible for her condition, and also accused him of having intercourse with her on other occasions. The letter, before mailing, was shown to at least five persons, and at least two saw her mail it. She sent it to her father at his place of employment, the Vulcanite Cement Company, Alpha, New Jersey. After mailing it she left home, and went to work as a domestic for a Mrs. Thomas in Easton, Pennsylvania. Her father, according to Constable Rehfuss, Mrs. Joiner, the Executive Secretary of the Red Cross and Community Welfare, and the daughter, Catharine, at first denied any knowledge of such letter sent by his daughter (p. 61 11. 25-30, p. 59 11. 5.40, p. 16 11. 18-30), then later admitted he had received the letter, but claimed he had destroyed it. Although his daughter wrote the letter accusing him and left home without his knowledge, the defendant admitted on cross-examination he had made no inquiry for her, had not reported her disappearance to the police until about three months later, (p. 77, 11. 1-36). Then he came to the Prosecutor, seeking his help (defendant's testimony, p. 77 11, 28-38), "to see if I could straighten things out."

He admitted on cross-examination (p. 72 11. 10-29) that when he first went to the Prosecutor, he did not know how the daughter happened to leave, that he didn't try to find her at first, that he had heard from his, defendant's father, that Catharine was in the family way and he, the defendant, was the cause of it, and further:

"By PROSECUTOR:

Q. Didn't I ask you when you heard that?

A. Yes, sir, when I heard that.

Q. And you answered, 'Just heard it the day before at father's'? A. Yes, sir."

The defendant's conduct was clearly that of a guilty man. He deceived the Prosecutor and failed to seek his daughter, who had run away, although accusing him of a terrible

crime. It is submitted his cross-examination shows that he was guilty.

The girl's story is corroborated by a sister, who was younger (pp. 48-55), (14 at the time of the trial), and occupied the same bedroom. Before the trial, she was under the control of the defendant and the step-mother, and was not a willing witness. Her testimony was that on several occasions she had been awakened and found her father lying across Catharine's bed. He would stay until "Mother came and made him go to the other bedroom." She did not know what made her wake up and on one occasion Catharine came into her bed and slept. When the mother came, the father would walk around, feeling the wall. She testified the seams in Catharine's bed clothing were torn (p. 52, 11.32-34).

Now the defendant's sole explanation was that he walked in his sleep, and therefore, he happened in Catharine's bedroom. There was no medical testimony explaining this situation. Everyone seemed to hear him as soon as he started to walk in his sleep. All the witnesses were his own family, his father, his wife (the step-mother whom Catharine accused of abusing her), his son and his daughter-in-law, all interested in his acquittal.

The other defense was that Catharine had associated with boys and was bad, but everyone named was living miles away, without the jurisdiction of the court. The only occasion when one Lisle Bone, a chauffeur for an uncle of the defendant, who was visiting in Phillipsburg, was out with Catharine, was when she had asked permission of her father and stepmother, and had gone out chaperoned by "Aunt Jenny", and came back after going to a vaudeville show in Easton (defendant's testimony, p. 68, p. 80).

On the other hand the treatment of this girl, Catharine, by her stepmother, is evidenced by her evasive answers on cross-examination (p. 82), and Mrs. Joiner's testimony as to complaint in 1923, when the defendant was called in. She was afraid of her. She could not confide in her, because as she testified, she was afraid.

Now, lastly, the defense argues on appeal that the period of gestation exceeded the normal period of gestation. But

attention is called to the fact that Dr. Albertson admitted there is no fixed rule, that he had one case which went as long as the present, in which he believed his patient was wrong in his dates, and admitted that the medical profession does not know the exact time any conception takes place. This was a first baby, a very young girl, and no conjecture by a medical man who admits there is no fixed rule should weigh against the verdict. The jury had the benefit of his testimony first hand, with the definition of reasonable doubt, and should not be presumed to have given it little consideration.

Lastly, the revolting crime raises this question: Why would a daughter accuse her own father? If anyone else was responsible she would have been the first to hold him responsible, to seek the refuge of belated marriage to hide her shame or the remedy of filiation proceedings. The daughter accused only the defendant, and he was the guilty one, as the jury properly found.

It is submitted there is nothing to indicate that the verdict was the result of mistake, passion, prejudice, or partiality. *State vs. Santo*, 98 N. J. L. 40.

For these reasons, that there was no harmful error prejudicial to the defendant, nor was the verdict against the weight of the evidence, it is respectfully urged there was no error in the judgment of the Supreme Court.

SYLVESTER C. SMITH, JR.,

*Prosecutor of the Pleas for the
State, defendant-in-error.*

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attention is called to the fact that Dr. Alberson admitted there is no fixed rule that he had one case which went on long as the present, in which he believed his patient was wrong in his dates and advised the medical profession does not know the exact time any conception takes place. This was a first labor, a first pregnancy and no experience by a medical man who admits that he could not tell the date which was the subject. The jury had the benefit of his testimony and found with the defendant of reasonable doubt and should not be presumed to have given a false opinion.

Lastly, the revulsive crime takes this question: Why would a daughter accuse her own father? If anyone else was responsible she would have been the first to hold him responsible, to seek the return of her marriage to take her share in the property of Gordon's creditors. The daughter accused her father, and he was the guilty one, as the jury apparently found.

It is admitted there is nothing to indicate that the verdict was the result of mistake, accident, prejudice, or caprice. *State vs. Scott*, 98 N. J. L. 40.

For these reasons, and that there was no harmful error prejudicial to the defendant, nor was the verdict against the weight of the evidence, it is respectfully urged there was no error in the judgment of the Supreme Court.

WYOMING C. SWAIN, JR.,
*Prosecutor of the Plea for the
 State defendant in error.*