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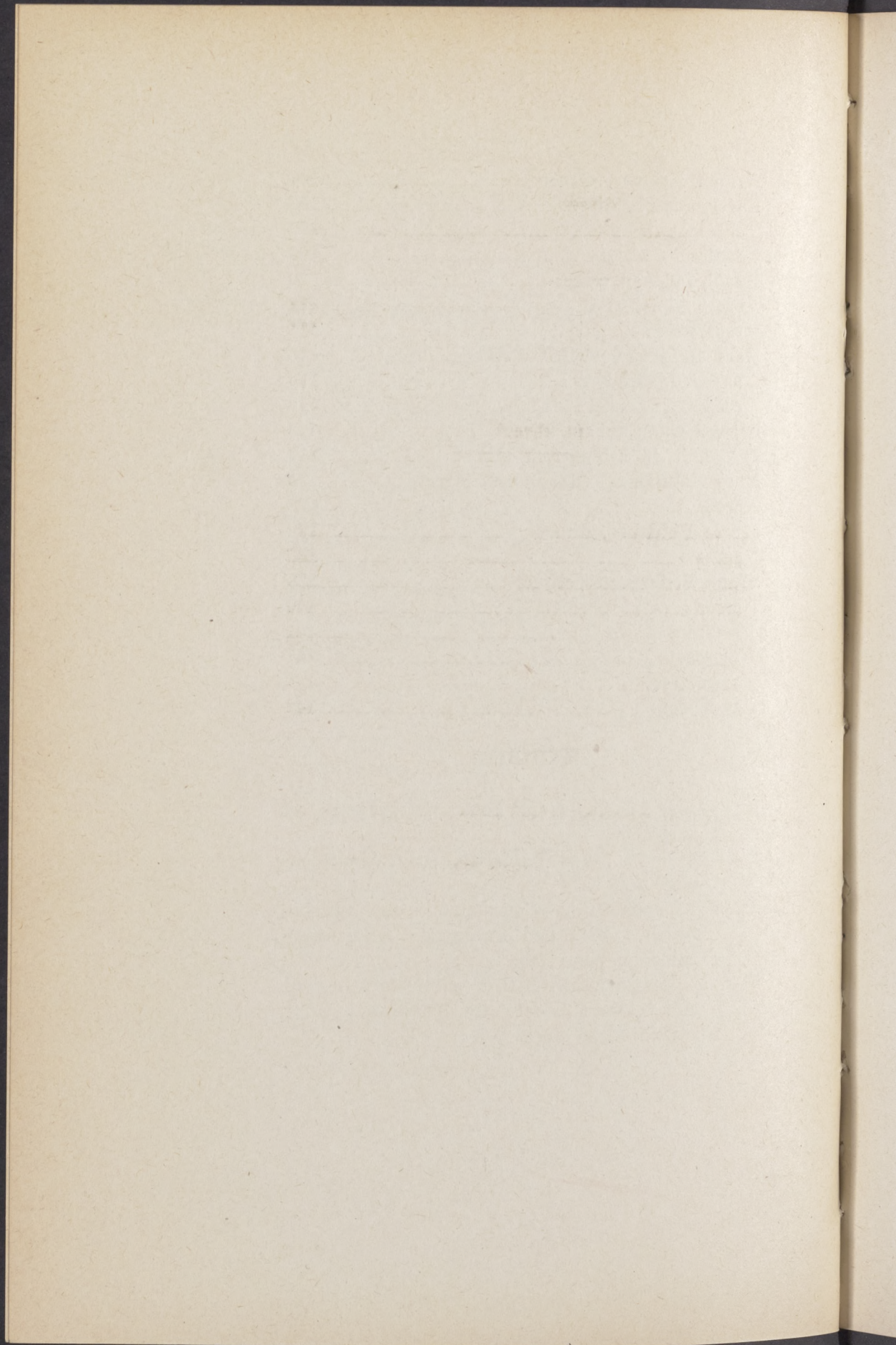
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### EXHIBITS

- S-1—Anna Lacota's bank book. In evidence on page 23.
- D-1—Diary of Louis Baldanzo. In evidence on page 100.
- D-2 for Identification—Complaint in civil suit between Lacota and Baldanzo. Offer overruled on page 115.
- D-3 for Identification—Bill of particulars in civil suit between Lacota and Baldanzo. Offer overruled on page 116.



*Certificate of Reasonable Doubt*  
PASSAIC COUNTY COURT OF QUARTER  
SESSIONS

State of New Jersey,	}
Prosecutor,	
vs.	
Louis Baldanzo,	}
Defendant.	

**CERTIFICATE OF REASONABLE DOUBT      10**

A writ of error having been served upon me, in the above stated cause by the attorneys of the defendant, and application being made by the defendant to be admitted to bail, pending the prosecution of the aforesaid writ of error, and the defendant having been convicted of assaulting, and unlawfully and carnally abusing Anna Licata, a woman child under the age of sixteen years, and the Court being of the opinion that there is a reasonable doubt as to the validity of the conviction of the defendant, Louis Baldanzo, therefore,,      **20**

I do, upon this 21st day of May, 1928, allow the defendant, Louis Baldanzo, to be admitted to bail in the sum of  
pending the prosecution of the aforesaid writ of error.

Joseph A. Delaney,  
Judge, Passaic County Court  
of Quarter Sessions.      **30**

*Writ of Error***WRIT OF ERROR**

New Jersey, ss.

The State of New Jersey,  
To: Joseph A. Delaney, Judge of the Pas-  
saic Court of Quarter Sessions.

Greeting:

10 Because in the record and process, and also in  
giving of judgment upon a certain indictment  
against Louis Baldanzo, late of the City of Pas-  
saic, County of Passaic and State of New Jersey,  
for criminal abuse upon the person of one Anna  
Licata, on to wit, the 16th day of February, 1927.

20 (Pro ut the said indictment and the several  
counts therein), whereof before you, he hath been  
indicted, and is thereof convicted by a certain jury  
of the County of Passaic, taken between the State  
of New Jersey and the said Louis Baldanzo, as it  
is said, manifest error hath intervened to the  
great damage of the said Louis Baldanzo, 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 to him, the said Louis Bal-  
danzo, command you that if judgment be thereon  
given, then that you distinctly and openly send,  
under your seal, the record and proceedings afore-  
said, with all things touching the same, to our  
30 New Jersey Supreme Court, to be held at Trenton  
on the eighth day of June, 1928, and this writ,  
that the record and proceedings aforesaid being  
inspected, we may further cause to be done there-  
upon, for correcting that error, what of right and  
according to the laws and customs of the State  
of New Jersey ought to be done.

*Return to Writ*

Witness, William S. Gummere, Chief Justice of our New Jersey Supreme Court, at Trenton, this 19th day of May, 1928.

Fred L. Bloodgood,  
Clerk.

Bernard L. Stafford and  
Ward & McGinnis,  
Attorneys.

Writ of error presented in open court. Let the return be made. 10

Dated May 21, 1928.

Joseph A. Delaney,  
Judge.

(Filed October 21, 1928)

State of New Jersey, }  
County of Passaic, } ss:

20

**RETURN TO WRIT**

I, Joseph A. Delaney, Judge of the Court of Quarter Sessions, in and for the County of Passaic, do hereby in the schedule hereto annexed send to our Justices of our Supreme Court of Judicature of the State of New Jersey, at Trenton, the record and proceeding mentioned in the within Writ of Error, with all things touching the same, as I am within commanded.

30

*Return to Writ*

In Testimony Whereof, I have hereunto set my hand and affixed the seal  
(Seal) of the said Court and County, at Paterson, this First day of June, A. D. Nineteen Hundred and Twenty-eight.

Jos. A. Delaney,  
Judge.

10

## State of New Jersey

Passaic County, to wit: Be it Remembered, That at a Court of Quarter Sessions, held at Paterson, in and for the said County of Passaic, on the Twenty-first day of October, in the year of our Lord one thousand nine hundred and twenty seven, being the day on which the Grand Jury heretofore summoned to come before the Court of Oyer and Terminer and now sitting in and for said County, desires to present Bills and no Justice of the Supreme Court being present at the Court House in said County, before the Honorable Joseph A. Delaney, Judge of the said Court of Quarter Sessions in and for the said County of Passaic, according to the form of the statute in that case made and provided; by the oath of

20

1. Fred W. Wentworth, Foreman
2. Rae Silverman
3. William J. Penney,
4. James Kerwin,
5. Hugh Montague,
6. Ralph E. Bentley,
7. Mary Dutcher,
8. Margaret McGill,
9. Edith R. Habben,
10. Mary C. Duffy,
11. William J. Bridges,

30

*Return to Writ*

12. Ida Young,
13. Louis F. Braun,
14. Walter S. Terhune,
15. William J. Gourley,
16. August L. Sparrenberger,
17. Matthew P. Geene,
18. Nicholas Colacurci,
19. Margaret Murner,
20. Stephen Lupenski,
21. Ida E. Lieblich, 10
22. Joseph G. Martin,
23. Charles F. Berdan,

good and lawful men and women, of the said County of Passaic, duly summoned and then and there sworn and charged to inquire in behalf of the State of New Jersey in and for the said County of Passaic; it is presented in manner and form following, to wit:

The Bills herewith presented are true Bills. 20

Court of Oyer and Terminer in and for the County of Passaic

September Term, A. D. Nineteen Hundred and Twenty Seven.

Passaic County, to wit:—The Jurors of the State of New Jersey, in and for the body of the County of Passaic, upon their oath Present, that Louis Baldanzo, late of the City of Passaic, in the County of Passaic aforesaid, on the Sixteenth day of February, in the year of our Lord nineteen hundred and twenty-seven, with force and arms, at the City aforesaid in the county aforesaid, and within the jurisdiction of this Court, in and upon one Anna Licata, who was then and there a woman child under the age of sixteen years, to wit, of the age of 30

*Return to Writ*

fourteen years, unlawfully did make an assault and her, the said Anna Licata, then and there did unlawfully and carnally abuse, he the said Louis Baldanza, being then and there over the age of sixteen years, to wit, of the age of forty-five years, 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.

10 And the Jurors aforesaid, upon their oath aforesaid, do further present that the said Louis Baldanzo, on the Sixteenth day of February, in the year of our Lord nineteen hundred and twenty-seven, with force and arms at the City of Passaic aforesaid, in the County of Passaic aforesaid, in and upon the said Anna Licata, who was then and there a woman child under the age of sixteen years, to wit of the age of fourteen years, unlawfully did make an assault and her, the said Anna  
20 Licata, then and there, with her consent, did unlawfully and carnally abuse, he, the said Louis Baldanzo, being then and there over the age of sixteen years, to wit, of the age of forty five years, 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.

30 And the jurors aforesaid, upon their oath aforesaid, do further present that the said Louis Baldanzo, on the Sixteenth day of February, in the year of our Lord nineteen hundred and twenty-seven, with force and arms at the City of Passaic aforesaid, in the County of Passaic aforesaid, in and upon the said Anna Licata, who was then and there a woman child under the age of sixteen years, to wit, of the age of fourteen years, unlawfully did make an assault and her the said Anna Licata, then and there without her con-

*Return to Writ*

sent did unlawfully and carnally abuse, he the said Louis Baldanzo, being then and there over the age of sixteen years, to wit, of the age of forty five 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.

J. Vincent Barnitt,  
Prosecutor of the Pleas.

10

Witness:

Anna Licata.

Thereupon the said Court of Quarter Sessions did receive such Indictment and the Clerk of the said Court of Quarter Sessions did file the same in the said Court, and also did thereupon make entry thereof in the Minutes of said Court at the then session of said Court, and afterwards, to wit, at the same term of said Court of Quarter Sessions, holden at Paterson, in and for the County of Passaic aforesaid, to wit: on the Third day of November, A. D. Nineteen Hundred and Twenty-seven, at a session thereof before the Honorable Joseph A. Delaney, Judge of said Court, in and for said County of Passaic, according to the statute in such case made and provided came the said Louis Baldanzo, in his own proper person, and now touching the premises in said indictment above specified and charged against him, being him, being asked in what manner he will acquit himself, says, he is not guilty and of this he puts himself upon the country, etc., and J. Vincent Barnitt, Esquire, who prosecutes for the State of New Jersey, in this behalf, doth the like.

20

30

Therefore, let a jury come here before the Judge aforesaid, at Paterson aforesaid, in the

*Return to Writ*

County of Passaic aforesaid, at a session of the Court of Quarter Sessions aforesaid, on the Thirtieth day of April, next ensuing, being of the Term of April, A. D. Nineteen Hundred and Twenty-eight, of twelve good and lawful persons, each of whom shall be a citizen of this State, and a resident within the County of Passaic aforesaid, above the age of twenty-one years and under the age of sixty-five years, by whom the truth of the matter may be better known, and who are not of kin to the said Louis Baldanzo to recognize upon their oaths whether the said Louis Baldanzo be guilty as in the said indictment specified, or not guilty, because as well the said J. Vincent Barnitt, Esquire, Prosecutor of the Pleas for the said County of Passaic aforesaid, who prosecutes for the State of New Jersey aforesaid, in this behalf, as the said Louis Baldanzo have put themselves upon the said jury, and the same day is given to the parties aforesaid, at the same place.

And the trial on this Indictment having been continued until the First day of May, A. D. Nineteen Hundred and twenty-eight, being of the Term of April of said Court, at which day before the Court aforesaid, at Paterson aforesaid, come as well the said J. Vincent Barnitt, Esquire, Prosecutor of the Pleas aforesaid, who prosecutes as aforesaid, as the said Louis Baldanzo, in his own proper person, and the jurors of said jury, by the Sheriff of the County of Passaic aforesaid, for this purpose empanelled and returned, to wit:

*Return to Writ*

- |                      |                       |
|----------------------|-----------------------|
| 1. Robert M. Sharp   | 7. August Knothe      |
| 2. John Flynn        | 8. Josephine Ballan   |
| 3. John Sweetman     | 9. James McGuire      |
| 4. Charles R. Newman | 10. Daniel Van Putten |
| 5. Charles Ering     | 11. William Glenney   |
| 6. John Cordner      | 12. Marco A. Perini   |

also come, who to speak the truth of the matters within contained, being chosen, tried and sworn upon their oaths, say that the said Louis Baldanzo is guilty of the premises in the within indictment named and specified, in manner and form as by the indictment is charged against him.

10

And thereupon, on the Eighteenth day of May A. D. Nineteen Hundred and Twenty-eight, it was demanded of the said Louis Baldanzo if he hath or knoweth anything to say wherefore the Court here ought not upon the premises and verdict proceed to judgment against him, who nothing further says, unless as he has before said.

20

Wherefore, all and singular, the premises being seen and by the Court here fully understood, it is considered by the Court, and the sentence of the law is, that the said Louis Baldanzo shall be confined in the State Prison at hard labor, for the term of five years.

Jos. A. Delaney,  
Judge.

30

*Return to Writ*

State of New Jersey }  
 County of Passaic } ss:

10 I, John McCutcheon, Clerk of said County and Clerk of the County Courts thereof, do hereby certify that the foregoing is a true transcript of the record and proceedings in the case of Louis Balzano, convicted of Rape upon a Woman Child under the age of Sixteen Years, in our Court of Quarter Sessions, as the same is taken from and compared with the original record now remaining on file and of record in my office.

(L. S.) In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Courts and County, at Paterson, this First day of June, A. D. Nineteen Hundred and Twenty-eight.

John McCutcheon,  
 Clerk.

20

By Lloyd B. Marsh,  
 Deputy.

30

*Indictment*COURT OF OYER AND TERMINER IN AND  
FOR THE COUNTY OF PASSAIC

September Term, A. D. Nineteen Hundred and  
Twenty Seven.

Passaic County, to wit:—The Jurors of the  
State of New Jersey, in and for the body of the  
County of Passaic, upon their oath

Present, that Louis Baldanzo, late of the City 10  
of Passaic, in the County of Passaic aforesaid, on  
the Sixteenth day of February, in the year of our  
Lord nineteen hundred and twenty-seven, with  
force and arms, at the City aforesaid in the county  
aforesaid, and within the jurisdiction of this  
Court, in and upon one Anna Licata, who was then  
and there a woman child under the age of sixteen  
years, to wit, of the age of fourteen years, unlaw-  
fully did make an assault and her, the said Anna  
Licata then and there did unlawfully and carnally 20  
abuse, he the said Louis Baldanzo, being then and  
there over the age of sixteen years, to wit, of the  
age of forty-five years, 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.

And the Jurors aforesaid, upon their oath afore-  
said, do further present that the said Louis Bal-  
danzo on the sixteenth day of February, in the  
year of our Lord nineteen hundred and twenty- 30  
seven with force and arms at the City of Passaic  
aforesaid, in the County of Passaic aforesaid, in  
and upon the said Anna Licata who was then and  
there a woman child under the age of sixteen  
years, to wit of the age of fourteen years, unlaw-  
fully did make an assault and her, the said Anna

*Indictment*

Licata, then and there, with her consent, did unlawfully and carnally abuse, he, the said Louis Baldanzo, being then and there over the age of sixteen years, to wit, of the age of forty-five years, 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.

10 And the jurors aforesaid, upon their oath aforesaid, do further present that the said Louis Baldanzo, on the sixteenth day of February, in the year of our Lord nineteen hundred and twenty-seven, with force and arms at the City of Passaic aforesaid, in the County of Passaic aforesaid, in and upon the said Anna Licata, who was then and there a woman child under the age of sixteen years, to wit, of the age of fourteen years, unlawfully did make an assault and her the said Anna Licata then and there without her consent did unlawfully and carnally abuse, he, the said Louis Baldanza, being then and there over the age of sixteen years, to wit, of the age of forty-five years, 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

J. Vincent Barnitt,

Prosecutor of the Pleas.

Witness:  
Anna Licata.

*Motion to Direct Verdict*

## PASSAIC COUNTY QUARTER SESSIONS

<p style="text-align: center;">The State vs. Louis Baldanzo, Defendant.</p>	}	On Indictment
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Paterson, N. J., April 30, 1928 10

Appearance:

Alexander Moskowitz,  
Assistant Prosecutor,  
For the State.  
Bernard L. Stafford, Esq.,  
For the Defendant.

Mr. Moskowitz—Indictments 564, 565 and 566 of the September Term 1927 against Louis Baldanzo, charged with rape. 20

Mr. Stafford—When the Prosecutor moves three indictments for rape I suppose it means rape.

The Court—I understand it is not rape but carnal abuse.

Mr. Stafford—If the Court please; no panels have been served in this case.

The Court—I take it, it is not necessary.

Mr. Stafford—I ask an exception, if the Court please.

The Court—An exception is noted. 30

(A jury being empanelled and found satisfactory they were sworn.)

(Mr. Moskowitz opens for the State.)

Mr. Stafford—I move for a direction of

*Anna Lacota—direct*

verdict on indictments number five hundred and sixty-four of the September Term, and five hundred and sixty-six of the September Term, nineteen hundred and twenty-seven, on the State's opening.

The Court—In what respect?

10 Mr. Stafford—The State has opened simply on indictment five hundred and sixty-five of the September Term.

The Court—I shall deny the motion.

Mr. Stafford—I ask for an exception.

The Court—An exception is noted.

ANNA LACOTA sworn for the State.

Direct Examination by Mr. Moskowitz:

Q. How old are you today? A. Fifteen.

20 Q. When were you fifteen? A. January fourteenth, nineteen hundred and twenty-eight.

Q. Where are you living today? A. Twenty-eight State Street.

Q. Where? A. Passaic.

Q. Passaic, New Jersey? A. Yes, sir.

Q. In January nineteen hundred and twenty-seven where were you living? A. Twenty-eight State Street, Passaic.

Q. New Jersey? A. Yes, sir.

30 Q. With whom were you living? A. With my mother and father.

Q. How many children in your family, that is brothers and sisters? A. Nine.

Q. Are you the youngest? A. No.

Q. Do you know the defendant, Mr. Baldanzo, sitting at the counsel table here? A. Yes, sir.

*Anna Lacota—direct*

Q. Do you know where he lives? A. Yes, sir.

Q. Where does he live? A. Twenty-four State Street, Passaic, New Jersey.

Q. Next door to your place? A. Just a door.

Q. On the same side of the street? A. Yes, sir.

Q. How long had you known Mr. Baldanzo? A. Ever since I am living on that street.

Q. How long have you been living on that street? A. Fifteen years. 10

Q. Do you go to school now? A. No.

Q. When did you stop school? A. When I graduated in June, nineteen hundred and twenty-seven.

Q. What school were you attending at that time? A. Woodrow Wilson School No. 12.

Q. Passaic? A. Yes, sir.

Q. Do you know what kind of business Mr. Baldanzo is in? A. He was connected with a baker and grocer. 20

Q. Did you do any work for Mr. Baldanzo? A. I took care of his little girl.

Q. How old was his little girl? A. His little girl is three now, she will be four.

Q. How long had you been doing that? A. For several years.

Q. Did you get pay for doing that? A. Later on I received a dollar a week.

Q. What time would you go into the house there? A. When school was open I would come home for dinner but lately I have been staying in school. When I am out of school I work and deliver bread. 30

Q. You deliver bread for who? A. Mr. Baldanzo.

*Anna Lacota—direct*

Q. Did he pay you? A. Yes, sir, gave me a dollar a week.

Q. He personally? A. Yes, sir.

Q. Did you ever have any meals in his house?

A. Yes, sir.

Q. About how many times? A. Several times.

Q. About how many? A. Almost every day.

Q. For how long a time? A. For about a

10 year.

Q. During the month of January nineteen hundred and twenty-seven did anything unusual happen to you? A. In January nineteen hundred and twenty-seven I was at his home when I came out of school. It was twelve o'clock so his daughter asked me to go get—

Q. Just a moment, do you remember the date?

A. January, nineteen hundred and twenty-seven.

Q. Do you remember the date of the month?

20 A. The twenty-seventh, on a Thursday.

Q. January twenty-seventh, nineteen hundred and twenty-seven? A. Yes, sir.

Q. Tell us what happened to you? A. I was in school so at dinner hour I came home so I didn't have anything to eat so I went by Baldanzo's so his older daughter asked me to go downstairs—

Mr. Stafford—I object to any conversation.

30 The Court—I shall sustain the objection.

Q. As a result of some conversation you had with his older daughter you did something, didn't you? A. Yes, sir.

Q. What did you do? A. She asked me—

*Anna Lacota—direct*

Mr. Stafford—I object.

Q. After she had asked you something, in furtherance of her request you did something, didn't you? A. Yes, sir.

Q. You went somewhere? A. Yes, sir.

Q. What did you do after this conversation with his older daughter? A. I went downstairs and got the wine.

10

Q. Just tell us what happened when you went down the cellar. Whose cellar did you go down?

A. Mr. Baldanzo's cellar.

Q. What time of the day was this? A. Twelve o'clock.

Q. Noon-time? A. Yes, sir.

Q. What happened? A. I went down to get the wine so when I finished filling up the bottles he came through the back way and he attacked me.

20

Q. When you say he, who do you mean? A. Mr. Baldanzo.

Q. The defendant right here? A. Yes, sir.

Q. Tell us what happened? A. I finished filling the bottle and was about to start up when he came through the back way and he attacked me and he told me not to tell anybody otherwise he would kill me so I was overpowered and I didn't say anything.

Q. Just what did he do to you, just tell the jury here what he did to you? A. He attacked me. He placed me against the wall standing up and he attacked me.

30

Q. Did he have any relationship with you? A. No, I was just over to his house every day as if nothing happened.

*Anna Lacota—direct*

Q. Did he have intercourse with you? A. Yes, sir.

Q. After such action what happened then? A. Nothing, I wiped myself and went upstairs again.

Q. You went upstairs and what did you do when you went upstairs? A. I sat down to the dinner table and started eating just as if nothing happened.

10 Q. Did you go back to school? A. Yes, sir.

Q. And then was there anything that happened that same day with Mr. Baldanzo, did you have any conversation with him? A. No.

Q. Do you remember if he gave you anything that particular day?

Mr. Stafford—I object to that if the court please.

The Court—It is leading.

20 Q. Did anything else happen this particular day? A. No.

Q. Did you tell your mother anything about this? A. No, I didn't tell her anything.

Q. Why not? A. Because I was afraid.

Mr. Stafford—I object to that, that is cross examination, this is the State's witness.

30 The Court—That is correct.

Q. Did you continue to go to his store—

Mr. Stafford—I object to it as leading.

*Anna Lacota—direct*

Q. After these advances did you still do work for Mr. Baldanzo? A. Yes, sir.

Mr. Stafford—I object to that as leading.  
The Court—She said yes.

Q. Did you receive any pay or money for your work? A. A dollar a week.

Q. Did anything happen after this occasion to you? A. No, nothing. 10

Q. What? A. Nothing.

Q. Was this the only time Mr. Baldanzo had intercourse with you? A. No.

Q. When was the next time? A. February sixteenth.

Q. What year? A. Nineteen hundred and twenty-seven.

Q. Where did this happen? A. A few blocks away from Hughe's Lake.

Q. Where is Hughe's Lake, do you know? A. 20  
On Bloomfield Avenue.

Q. Passaic? A. Yes, sir.

Q. How did you get there? A. Walking.

Q. Did you meet Mr. Baldanzo there? A. I met him a couple of blocks before you get to Hughe's Lake.

Q. How did you happen to meet him there? A. He told me to meet him there.

Q. Tell us the conversation you had with Mr. Baldanzo in reference to this occasion. A. He 30  
gave me a note and on the note it read "Meet me at Hughe's Lake at two-thirty" and he wrote and told me to make up some excuse so I could get away from school, so I made up an excuse that my mother was sick and got away from school.

*Anna Laceta—direct*

Q. Speak a little louder. A. He told me to make up some excuse to get away from school so I made up an excuse that my mother was sick so that is why I got away from school. So I got excused from the teacher and I went and met him.

Q. Where did you meet him? A. A couple of blocks before you get to Hughe's Lake.

Q. About what time was that? A. Two-thirty.

10 Q. Tell us in your own words what he said and what happened after you met him? A. After I met him there he was in his car and he told me to get in so I got in the car and drove to the place where he thought best, that was several blocks away from Hughe's Lake, so we went there and he got out of the car and told me to follow him, first I hesitated and he said hurry up if you want to get back to school, so I got out of the car and followed him and went in some shrubbery and he placed some newspapers and some of the rags he had for cleaning his car on the ground and he attacked me then.

20

Q. What did he do then? A. Just attacked me, didn't even wipe me or anything. Told me to hurry up and get back into the car.

Q. Did he have intercourse with you? A. Yes, sir, and left me off several blocks away from the school so I went back to school but didn't go into the building, I just stayed there.

30 Q. Did he say anything else to you? A. No, didn't say anything.

Q. On the way home did he speak to you? A. He didn't say anything.

Q. Did he say anything when he left you or you left him? A. He just said don't say anything.

*Anna Lacota—direct*

Q. Tell us that conversation? A. In the car going back he said, don't say anything to anybody about this affair so I didn't say anything, I kept my mouth shut.

Q. After this affair did you still continue working for Mr. Baldanzo? A. Yes, sir.

Q. What was the nature of your work? A. Just delivering bread and taking care of his little girl.

Q. Up to this time had you told your mother about anything that happened? A. No, I just told her—

10

Mr. Stafford—I object to that if the Court please.

The Court—She said no.

Q. Was this the last time you had any relationship with Mr. Baldanzo? A. No.

Q. When was the next time? A. July twenty-fifth, nineteen hundred and twenty-seven.

20

Q. Where did that happen? A. At the Armory Park.

Q. Passaic, New Jersey? A. Yes, sir.

Q. How did you happen to meet him there? A. He gave me a note.

Q. Where did he give it to you? A. In front of his store when nobody was looking.

Q. What did it say? A. It said to meet him at nine o'clock at the Armory Park.

30

Q. Did you meet him there? A. Yes, sir.

Q. What time about did you meet him? A. It was about five after nine when I got there.

Q. Did you have any conversation with him when you met him? A. He says in case anybody

*Anna Laceta—direct*

asked me, to say it was a fellow from East Rutherford by the name of Joseph.

10 Q. Tell us in your own words what happened from the time you met him on this particular night until the time you left him. A. He first told me not to tell anybody it was him but to tell my mother or father that it was a fellow from East Rutherford by the name of Joseph, so I didn't say anything, then he told me he wished two years would be up and he would marry me but I didn't want to believe anything because I knew he was married. Then he took me behind some shrubbery and placed some newspapers on the ground and attacked me and then he said after to say nothing. He said, remember what I said.

Q. How did you get home that day? A. I walked home.

20 Q. Together with Mr. Baldanzo? A. He took another road and I took the Main Avenue street.

Q. How did he get home, do you know? A. No.

Q. Did he meet you there with an automobile? A. No, he was there without any car.

Q. You went directly home? A. Yes, sir.

Q. Did you see Mr. Baldanzo after that? A. No, I went straight home.

Q. After that day did you see Mr. Baldanzo? A. Yes, sir, because I got to work for him.

30 Q. Did you have any conversation with him after that? A. No.

Q. When did you quit working for him? A. When I sent out a warrant for his arrest.

Q. Do you remember Mr. Baldanzo giving you anything at any time? A. Money.

*Anna Lacota—direct*

Q. In addition to money. A. That is all, money.

Q. You had a bank account, didn't you? A. Yes, sir.

Q. Who started that bank account? A. Mr. Baldanzo.

Q. Did he give you anything? A. Just gave me the bank book.

Q. Do you remember when it was started? A. 10  
January twentieth, nineteen hundred and twenty-seven.

Q. When was the first attack, do you know? A. January twenty-seventh, nineteen hundred and twenty-seven.

Q. Do you remember when the bank account was opened? A. January twentieth, nineteen hundred and twenty-seven.

Mr. Moskowitz—I ask that this be 20  
marked for identification.

Bank Book marked Exhibit S-1 for the State for identification.

Q. I show you exhibit S-1 for identification and ask you if you have seen that before? A. Yes, sir.

Q. Is this the book you refer to in your testimony that you say Mr. Baldanzo gave you, a bank book? A. Yes, sir. 30

Mr. Moskowitz—I offer this in evidence.

Admitted in evidence and marked Exhibit S-1 for the State.

*Anna Laceta—direct*

Q. Did you go down to the bank together with him? A. No.

Q. Did you have a conversation with him at the time he gave you the bank book? A. He gave me the bank book and said I am starting you a bank account so you can't spend your money foolishly so I accepted the bank book.

10 Q. Before your relationship with Mr. Baldanzo, did you ever have intercourse with anybody at any time?

Mr. Stafford—I object to that as a self-serving statement.

The Court—I shall sustain the objection.

Q. After the last time you had intercourse with Mr. Baldanzo when was the last time you saw him? A. August 14th, 1927.

20 Q. What was your condition at that time? A. Pregnancy.

Q. How did you know that you were pregnant? A. My sister took me to the doctor.

Q. Which sister? A. My big sister, Rose.

Q. To which doctor did she take you? A. Dr. Simon.

Q. In Passaic? A. Yes, sir.

Q. Were you examined? A. Yes, sir.

30 Q. Up to this time had you told Mr. Baldanzo about your condition? A. No, I didn't say anything to him.

Q. Do you know whether he knew anything about your condition? A. I suppose he ought to know—

*Anna Lacota—direct*

Mr. Stafford—I object to that as a conclusion and ask that it be stricken out.

The Court—Strike it out.

Q. After the examination by Dr. Simon did you see Mr. Baldanzo? A. Yes, sir.

Q. Did you have a conversation with him? A. No.

Q. Did he speak to you? A. No.

Q. Do you know if any member of your family spoke to him? 10

Mr. Stafford—I object to it as calling for a conclusion.

The Court—She may answer yes or no.

A. No.

Q. Do you know? A. No.

Mr. Stafford—I object to that. 20

Q. After your examination by Dr. Simon did you do anything? A. No, I just went home.

Q. When was your child born? A. November 4th, 1927.

Q. Where was it born? A. St. Mary's hospital, Passaic, New Jersey.

Q. Who was the attending physician, do you remember? A. Dr. Joyce.

Q. The child was a boy, was it not? A. A boy. 30

Q. And it that the child you have in your arms? A. Yes, sir.

Mr. Moskowitz—I offer the child in evidence.

*Anna Lacota—direct*

Mr. Stafford—I object to that. This is not a bastardy proceedings.

The Court—I shall sustain the objection.

Q. Do you remember having a conversation with Mr. Baldanzo at the park? A. He just gave me two one dollar bills and told me to get a dress so my sister put the rest of the money in and got me a dress.

10 Q. What was the conversation he had with you at the Armory Park? A. He told me in case anybody asked me who had intercourse with me to say it was a fellow from East Rutherford by the name of Joseph and he said he wished two years was up and he would marry and I didn't want to believe him because I knew he was married and then he gave me two one dollar bills and told me to get myself a dress so when I went home my sister put the rest of the money to it and got me a dress.

20 Q. Did you tell Mr. Baldanzo that you were in a delicate condition? A. No.

Q. Did you ever tell him that you were in a pregnant condition? A. I didn't tell him anything at all.

Q. Did he ever talk to you about it? A. Once when I was in front of his store when nobody was there he said in case it is a boy what are you going to name him, so I said Louis.

30 Q. Who said that? A. Mr. Baldanzo.

Q. You did have some conversation then? A. In front of the store.

Q. Did he tell you anything else? A. No, that is all.

*Anna Lacota—cross*

Q. Who started that conversation? A. He did.

Q. When was this conversation? A. Before he attacked me the second time.

Q. Do you remember about when it was? A. Towards the beginning of February.

Cross Examination by Mr. Stafford:

Q. Miss Lacota, when did you first start to work for Mr. Baldanzo? A. About four years ago. 10

Q. And your work consisted of what? A. Delivering bread and taking care of his little girl.

Q. And you only did this when you were not at school? A. After school.

Q. For doing that kind of work Mr. Baldanzo paid you a dollar per week? A. Yes, sir.

Q. That dollar a week went into a Christmas fund, did it not? A. Yes, sir. 20

Q. Had you had a Christmas fund before January 20th, 1927? A. No.

Q. This was the first time you started to save money? A. Yes, sir.

Q. Mr. Baldanzo had not attacked you then? A. He attacked me on January twenty-seventh.

Q. He had not attacked you on January 20th, when he opened up the bank account? A. No.

Q. He had always acted right towards you? A. Yes, sir, he just gave me the bank book. 30

Q. He never made any attempts to attack you before January 27th? A. Yes, sir, he didn't make any attempt to attack me before January 27th.

Q. He did not? A. He did not.

*Anna Lácota—cross*

Q. So at the time the Christmas fund was opened for you by Mr. Baldanzo he told you he wanted you to save your money and not spend it foolishly? A. Yes, sir.

Q. That was the reason for opening the bank account? A. Yes, sir.

Q. Did you sign a card? A. No, I didn't sign anything.

10 Q. Did you ever go to the bank? A. No.

Q. At no time? A. To make deposits for Mr. Baldanzo I did.

Q. And to make your deposit of one dollar a week? A. After he deposited the first dollar a week after I deposited.

Q. Every dollar that Mr. Baldanzo gave you every week you went to the bank and put in the bank? A. Yes, sir.

20 Q. Prior to the opening of this bank account you had been very friendly with Mr. Baldanzo's family? A. Yes, sir.

Q. You used to go out riding with them in their automobile? A. Yes, sir.

Q. You were friendly with Mr. Baldanzo's daughters? A. Yes, sir.

Q. And with Mrs. Baldanzo? A. Yes, sir.

Q. On this 27th day of January 1927 you had been to school had you not? A. I was in school and I came home for dinner.

30 Q. At twelve o'clock? A. Yes, sir.

Q. You didn't go to your own home? A. I went to my own home first but I seen there was nothing to eat so I went to Baldanzo's home.

Q. Wasn't your mother home? A. Yes, sir, she was home.

*Anna Lacota—cross*

Q. Were your sisters home? A. Yes, sir.

Q. There was nothing to eat in your house? A. Nothing to eat.

Q. So you went to Mr. Baldanzo's for dinner? A. Yes, sir.

Q. They have always been kind and nice to you? A. Yes, sir.

Q. And you felt if you went to his house you would surely get your dinner? A. Yes, sir. 10

Q. You went upstairs in his house? A. I went in his house.

Q. Mrs. Baldanzo was there? A. Yes, sir.

Q. Mr. Baldanzo was there? A. Yes, sir.

Q. At the table? A. Yes, sir.

Q. Eating? A. Yes, sir.

Q. With the sisters? A. Yes, sir.

Q. With the daughters rather? A. Yes, sir.

Q. And you sat down and had your dinner didn't you? A. Before I sat down I went for the wine. 20

Q. What time did you arrive at Mr. Baldanzo's house? A. Quarter after, twenty after twelve.

Q. Did you go in the house or the store? A. I went into the store and then the kitchen leads into the store.

Q. Is the apartment on the same floor as the store? A. Yes, sir.

Q. Right off the street? A. Yes, sir.

Q. When you went into the store who was in the store? A. Mr. Baldanzo. 30

Q. Who else? A. That is all that was in the store.

Q. Did you go through the store into the kitchen? A. I went into the store and he says have dinner with us, so I went to the kitchen.

*Anna Lacota—cross*

Q. Who was in the kitchen? A. Mrs. Baldanzo and her daughters.

Q. How many? A. Three of them.

Q. What are their names? A. Josephine, Mary and Jennie.

Q. How old are they? A. One three years old and the next one sixteen, I think the other one twenty-one.

10 Q. Is this kitchen right over the cellar? A. Yes, sir.

Q. When you got into the kitchen did you speak to Mrs. Baldanzo? A. I didn't say anything to her.

Q. Did she act as though she was surprised to see you? A. No, because I always used to eat there.

Q. You were practically like a member of the family, were you not? A. Yes, sir.

20 Q. You sat down at the table? A. Yes, sir.

Q. Started to eat your dinner? A. Yes, sir.

Q. You finished your dinner? A. Yes, sir.

Q. Then what did you do? A. I went back to school.

Q. When did you go to the cellar? A. That was before I started to eat. His older daughter—

Q. Which daughter said that? A. Jennie.

Q. How old is she? A. Sixteen.

30 Q. Do you have to go through the store to get into the cellar? A. No, on the side there is an entrance into the cellar.

Q. Mr. Baldanzo was not in the kitchen when she said something to you? A. No, in the store, but he could overhear it.

Q. Did she tell you what kind of wine to get?

*Anna Lacota—cross*

A. I knew which kind of wine to get because I used to go down with his daughter often.

Q. You used to go down regularly for the wine for the meals regularly? A. Yes, sir.

Q. You went down alone on this occasion? A. Yes, sir.

Q. Was there a light? A. Electric.

Q. Did you turn it on? A. Yes, sir.

Q. It was very bright? A. The cellar is dark, I only had one electric switch on. 10

Q. You could see to go to the wine barrel or cask to get the wine? A. Yes, sir.

Q. How long were you down there before Mr. Baldanzo came? A. About five minutes.

Q. It took you five minutes to get a bottle of wine? A. I had to go down the steps and then by the time I had the bottle filled because the barrel was almost empty.

Q. Had you filled the bottle from the barrel? A. Yes, sir. 20

Q. You were down there five minutes before Mr. Baldanzo came down? A. Yes, sir.

Q. Did he come down the same way you did? A. No, the back way.

Q. You went down the back way? A. No, I went down the side, the side entrance leads from the kitchen, one goes down to the cellar and the other leads down in the alley, you go out the back way.

Q. And what door did he come in? A. The back way. 30

Q. From the back yard? A. Yes, sir.

Q. Is there a door leading from the kitchen to the back yard? A. Yes, sir.

Q. When he got down into the cellar did you see him as he came into the door? A. I was just putting the cork on the bottle.

*Anna Lacota—cross*

Q. Did you say anything to him? A. No, then he attacked me.

Q. Did you say hello Mr. Baldanzo? A. No, because I seen him in the store.

Q. When he came in did he say anything to you? A. No, just grabbed me and put me against the coal bin.

Q. Didn't he say a word to you? A. No.

10 Q. He had never done this before? A. No, that was the first time.

Q. Were you surprised? A. Yes, sir.

Q. Had you had it done to you before? A. No.

Q. Did you scream? A. I tried to scream but I couldn't because he had his hand against my mouth.

Q. Which hand did he have over your mouth? A. The left hand.

20 Q. Where was the bottle of wine? A. He took it off my hand and laid it on the ground.

Q. You had nothing in your right hand? A. Nothing at all.

Q. What did he do with his right hand? A. He lifted up my dress and had intercourse with me.

Q. He had his left hand over your mouth and used his right hand to lift up your dresses? A. Yes, sir.

30 Q. Did you struggle? A. I tried to but I couldn't.

Q. Couldn't you break away from him? A. No, because he is stronger than I am.

Q. He didn't throw you on the floor? A. No.

Q. Did you have bloomers on? A. Yes, sir.

*Anna Lacota—cross*

Q. Did he take the bloomers down? A. Yes, sir.

Q. Off? A. No.

Q. He still had his left hand on your mouth when he did this with his right hand? A. Yes, sir.

Q. And you couldn't say a word? A. No.

Q. And you couldn't get away from him? A. No, I couldn't get away from him.

10

Q. When he was having intercourse with you did he have his left hand on your mouth? A. He took it off and said don't say anything or I will kill you.

Q. He kept it there until when? A. He started having intercourse with me.

Q. You could have run away couldn't you? (No answer.)

Q. Couldn't you? A. No, because—

Q. Why? A. Be was pressed against me.

20

Q. He was pressing against you? Q. Yes, sir.

Q. When he had his left hand on your mouth, Miss Lacota, were your bloomers down then? A. He pulled them down.

Q. With his right hand? A. Yes, sir.

Q. Was his left hand still on your mouth? A. Yes, sir.

Q. Was his left hand still on your mouth when he started having intercourse with you? A. When he started having intercourse he took his hand off my mouth.

30

Q. When he took his hand off your mouth was any part of his body in your body? A. Yes, sir.

Q. Did he still have his hand on your mouth when part of his body entered your body? A. He took his hand off.

*Anna Lacota—cross*

Q. You knew his wife was over head? A. Yes, sir.

Q. And his three daughters were there? A. Yes, sir.

Q. You knew the slightest outcry would bring them down to you?

10 Mr. Moskowitz—I object to that it calls for a conclusion.

Q. Didn't you, Miss Lacota?

Mr. Moskowitz—I object to that, it calls for a conclusion.

20 The Court—I did not get the question but if the examination is to affect the credibility of the witness and the question is not to show she did consent or did not consent, because consent counsel understands is not material. If it happened with her consent it makes the defendant guilty if he actually did it just the same as if he did not have her consent, counsel understands that thoroughly.

Q. You knew if you made the slightest cry or scream it could be heard in the kitchen, didn't you? A. Yes, sir.

30 Q. You knew the man's wife who was attacking you was there? A. Well, they might have gone.

Q. You had just left them? A. Yes, sir.

Q. Why didn't you scream, Miss Locota? A. Because first he had his hand against my mouth but then took it off and told me not to say anything so I didn't say anything.

*Anna Lacota—cross*

Q. When he took his hand off your mouth you didn't struggle? A. I tried to but I couldn't.

Q. How far was the stairway from where you were standing? A. The back stairway was four feet away.

Q. Was the door open? A. Half open.

Q. Was that the door that led to the kitchen?  
A. No, the door into the back yard.

Q. The door you opened when you got down into the cellar? A. That was several feet away, that was closed. 10

Q. How many feet? A. About fifteen feet away.

Q. You knew what Mr. Baldanzo was doing was wrong, didn't you? A. Yes, sir.

Q. Didn't you understand it was wrong for you not to scream out? A. He told me not to say anything or he would kill me, so I didn't say anything. 20

Q. How long were you in the cellar with Mr. Baldanzo? A. Just about four minutes.

Q. You were down there five minutes before he got there, were you not? A. Yes, sir.

Q. Then this thing took place within a period of four minutes? A. Yes, sir.

Q. You were there for about nine minutes, weren't you? A. Yes, sir.

Q. Did you stay in the cellar with Mr. Baldanzo after this was over? A. After it was over I went upstairs. 30

Q. Did he go up with you? A. He went through the back way, the way he came.

Q. When you went upstairs did you go into the kitchen? A. Yes, sir.

*Anna Lacota—cross*

Q. Did you bring the bottle of wine up? A. Yes, sir.

Q. And give it to Mrs. Baldanzo? A. I laid it on the table.

Q. Mrs. Baldanzo was there still at the table? A. Yes, sir.

Q. Did you tell her what had happened? A. No.

10 Q. Why? A. Her husband told me not to say anything so I didn't say anything.

Q. You knew this man had committed a serious offense against you? A. Yes, sir.

Q. You were old enough to appreciate what he had done was wrong? A. No.

Q. You didn't know it was wrong? A. I knew it was wrong for him to do it to me because he is a married man.

20 Q. Was it alright for a single man to do it? A. No.

Q. Why? A. Because I am not married.

Q. You knew it was wrong for Mr. Baldanzo to do it because he was a married man. A. He has his wife, why didn't he do it to his wife?

Q. When you got upstairs and put the wine on the table did you sit down and have your dinner?

A. Yes, sir.

Q. As though nothing had happened? A. Yes, sir.

30 Q. Never mentioned it? A. No.

Q. Why didn't you tell Mrs. Baldanzo what had happened in the cellar? A. Because I didn't want to say anything, he told me not to say anything.

Q. You knew Mrs. Baldanzo would not have

*Anna Lacota—cross*

liked that affair, didn't you? A. Well, she might have and might not, I don't know.

Q. You didn't say anything to the older sister, Jennie? A. Nothing.

Q. Or the girl who is twenty-one? A. Nothing.

Q. How long did you stay in the kitchen eating dinner after you came from the cellar? A. I went back to school about a quarter to one.

10

Q. You didn't go home in the meantime? A. I went home and got my books and went to school again.

Q. You went home after you had dinner at Mrs. Baldanzo's? A. Yes, sir.

Q. Who was home? A. My mother and sisters.

Q. How old are your sisters? A. All different ages.

Q. Did you tell your mother what had happened? A. No.

20

Q. Why didn't you? A. He told me not to say anything.

Q. Didn't you think your mother would be interested in knowing how a man had so seriously wronged you? A. He told me not to say anything so I didn't want to say anything.

Q. He didn't attempt to strike you? A. No, he threatened to kill me.

Q. You didn't want to tell your own mother, did you? A. I didn't want to say anything.

30

Q. Had you ever been out with any young man before this? A. Never.

Q. You used to go out with your sister and get—keep late hours, didn't you?

*Anna Lacota—cross*

Mr. Moskowitz—I object to the question. Objection sustained.

Mr. Stafford—This charge is for carnal abuse as a result of which the State charges a child was born.

10 The Court—The child is not an issue. If counsel desires the State to accept that position I shall permit the child to go in evidence. This is carnal abuse which I understand it does not require its penetration as distinguished from—

Mr. Stafford—The State has introduced evidence that as a result of this abuse the child was born.

The Court—If counsel desires to permit that to be made an issue.

Mr. Stafford—I say the evidence is in the case.

20 The Court—What is the question pending?

(Question repeated by stenographer.)

The Court—That may be answered yes or no.

Q. Did you say yes? A. I certainly went out with my sister to see respectable people.

Q. You used to go out in automobiles and come home late? A. No.

30 Q. Now on this particular date, Miss Lacota, January 27th, 1927, you went back to school? A. Yes, sir.

Q. You didn't tell the school principal what had happened? A. Nothing.

Q. Or your school teacher? A. Nothing.

Q. When you left school at three o'clock, I presume school closed? A. Four o'clock.

*Anna Lacota—cross*

Q. Where did you go? A. First I went to my house and put the books down and then went to Mr. Baldanzo's house to deliver bread.

Q. Was your mother there when you went to put your books away? A. Yes, sir.

Q. But you didn't tell her? A. No.

Q. Then you came back to Mr. Baldanzo's where this affair had happened noon-hour? A. Yes, sir.

Q. Where did you go? A. I took my daily route delivering bread. 10

Q. Was Mr. Baldanzo there? A. Yes, sir.

Q. Mrs. Baldanzo? A. Yes, sir.

Q. Did you go into the kitchen? A. Yes, sir.

Q. Did you talk to her? A. After I talked to her daughter.

Q. Did you talk to her? A. Yes, sir.

Q. To Jennie? A. Yes, sir.

Q. That is the one twenty-one? A. No, sixteen. 20

Q. What is the one who is twenty-one? A. Mary.

Q. Was she there? A. No.

Q. You didn't tell Josephine what her father had done to you, did you? A. No.

Q. You continued to work there every day after school, did you not? A. Yes, sir.

Q. Then you say some time in February Mr. Baldanzo said to you what are you going to call the baby and you said Louis, is that so, when was that? A. During the beginning of February. 30

Q. Do you remember the date? A. No.

Q. You were not pregnant? A. I started pregnant then.

*Anna Lacota—cross*

Q. Was it the first week in February? A. I suppose so, yes, sir.

Q. Is that the time—did you tell him you were pregnant? A. No, I didn't know anything about pregnancy then.

10 Q. This first attack happened on the twenty-seventh of January and then in the first week of February, a week later, you spoke to Mr. Baldanzo about naming the child Louis. A. That is what he told me. I didn't know anything about pregnancy but I suppose he knew because he said in case you get a boy what are you going to name him, so I said Louis.

Q. You knew as a matter of fact a child might be born as a result of this attack? A. After he told me so.

Q. You are of Italian birth are you not? A. Yes, sir.

20 Q. You went there daily until the second attack which took place on the sixteenth of February? A. Yes, sir.

Q. From January twenty-seventh until the sixteenth of February he had never made any improper advances towards you? A. No.

Q. Even though you had been every day in the store? A. No, sir.

Q. The sixteenth day of February, was that a school day? A. Yes, sir.

30 Q. Are you sure about the date being January twenty-seventh? A. Yes, sir.

Q. Did you mark it down? A. No, but I know January 20th and a week later he attacked me and two days after he attacked me they started and he gave me a dollar to deposit in the bank and that was my first dollar I deposited.

*Anna Lacota—cross*

Q. You say it was a Thursday, you are sure of that? A. Yes, sir.

Q. How do you fix February sixteenth as a date?  
A. Three days later I made another deposit.

Q. Was the sixteenth on a Thursday? A. No.

Q. What day was it? A. Wednesday.

Q. Did you make a note of these dates, any memorandum? A. No.

Q. This February sixteenth was a school day, 10  
was it, Miss Lacota? A. Yes, sir.

Q. You say you received a note from him? A.  
Yes, sir.

Q. Where did you get that note? A. He gave  
it to me in the morning.

Q. What time? A. Early in the morning.

Q. What time? A. Before I went to school at  
eight o'clock.

Q. Where was he? A. In front of his store.

Q. Standing on the sidewalk? A. Yes, sir. 20

Q. This was a school morning? A. Yes, sir.

Q. Was it snowing? A. Yes, sir.

Q. Was snow on the sidewalk? A. Yes, sir.

Q. You had been in there the day before, had  
you not? A. Yes, sir.

Q. You would probably be there for dinner that  
day? A. That is what I thought.

Q. You expected to be there twelve o'clock for  
dinner? A. Yes, sir.

Q. And return after three o'clock? A. Four 30  
o'clock.

Q. Had you been there for dinner the day be-  
fore? A. The day before the attack you mean?

Q. Before February sixteenth? A. Yes, sir.

Q. Still he gave you a note before nine o'clock  
this morning, did he? A. Yes, sir.

*Anna Lacota—cross*

Q. And that note said what? A. Told me to meet him at Hugh's Lake at two-thirty.

Q. You were going to be back at his place for dinner at twelve o'clock, isn't that a fact? A. He thought if I go back—

Q. You were going back for dinner? A. Yes.

Q. And did go back? A. Yes.

Q. You were there at twelve o'clock? A. Yes.

10 Q. Was Mr. Baldanzo there? A. Yes.

Q. Did you talk to him? A. Yes.

Q. Did you ever say anything to Mrs. Lacota from January 27th to February 16th about what happened in the cellar? A. My mother or Mrs. Baldanzo you mean?

Q. Did you talk to Mrs. Baldanzo? A. Never mentioned it.

Q. Did he? A. No.

20 Q. You never discussed that situation? A. Never discussed it.

Q. Did he make any more threats from January 27th to February 16th? A. No.

Q. Never said anything? A. No, sir.

Q. On February 16th when you arrived there at noon-hour for dinner did he tell you about the note? A. He didn't say anything because he gave it to me in the morning.

Q. Did you say anything to him about the note? A. No.

30 Q. Where is the note? A. Torn up.

Q. Who tore it up? A. I did.

Q. Where, in school? A. Yes, sir.

Q. Why? A. He told me to.

Q. What did he say? A. He told me in the morning, he said I should read it and tear it up.

*Anna Lacota—cross*

Q. Did he stand talking to you at nine o'clock any length of time? A. He had his little girl with him.

Q. How old is that little girl? A. Five years old.

Q. About how long did he stand talking? A. We only talked about three minutes.

Q. In meeting you at twelve-thirty, did he tell you what was in the note? A. No, didn't say anything that was in the note, just gave me the note. 10

Q. Never mentioned about going out with you again? A. No.

Q. What did you talk about, do you remember? A. I didn't talk nothing.

Q. What did he talk to you about? A. Nothing I was just playing with the little girl.

Q. Playing with the little girl? A. Yes, and her father was right there.

Q. After you had come home for dinner and had your dinner at Baldanzo's? A. Yes, sir. 20

Q. You went out? A. Yes, sir.

Q. What time? A. Quarter to one, as usual.

Q. Where did you go? A. Back to school.

Q. Did you stay in school? A. I asked permission from the teacher if I could be excused two-thirty and she sent me down to the principal and I got excused by the principal and they said alright.

Q. What did you tell them was the reason you wanted to leave school? A. My mother was sick. 30

Q. Did n't you know that was telling a lie? A. Yes, sir.

Q. You didn't care, did you? A. I didn't care. He told me to make up some excuse so I made up an excuse.

*Anna Lacota—cross*

Q. You knew you were lying? A. Yes, sir.

Q. And you didn't care, did you? A. I didn't care.

Q. Some times there are occasions that you will lie, isn't that true, Miss Lacota? A. Yes, sir.

Q. You knew it was wrong to lie? A. Yes, sir.

Q. Why did you lie? A. Because he told me to make up some excuse.

10 Q. Did you ever make up some excuse in class before to go out to meet someone else? A. No, that was the first excuse I made up.

Q. That was the first one? A. Yes, sir.

Q. Have you made up any since? A. No.

Q. Did you leave school at two-thirty? A. Yes, sir.

Q. And you went to Hughe's Lake? A. Yes, sir.

Q. How far is the school from Hughe's Lake?

20 A. About a mile and a half.

Q. Had you been to Hughe's Lake before? A. I been to Hughe's Lake before.

Q. You knew where it was? A. Yes, sir.

Q. When you left school at two-thirty where did you go? A. I walked up before you get to Hughe's Lake.

Q. When you read this note what did the note read, what did it say? A. Meet me at Hughe's Lake at two-thirty.

30 Q. That was all? A. And was signed Louis.

Q. Signed Louis? A. He wrote his name in Italian.

Q. Was his name written in Italian Louis Bal-danzo? A. Just the first name.

Q. You left school at two-thirty to walk to Hughe's Lake? A. Yes, sir.

*Anna Lacota—cross*

- Q. It was a cold day? A. Yes, sir.
- Q. Snow on the ground? A. Yes, sir.
- Q. It had been a stormy night the night before?
- A. It had started to snow the night before.
- Q. The streets were all covered with snow? A. Yes, sir.
- Q. The sidewalks were covered? A. Yes, sir.
- Q. You walked a mile and a half to Hughe's Lake? A. Yes, sir. 10
- Q. Did you walk a mile and a half? A. I didn't take any bus or nothing to get there.
- Q. Did you walk? A. Yes, sir.
- Q. A mile and a half? A. Yes, sir.
- Q. When you got there was anybody there? A. Several blocks away from Hughe's Lake I met Mr. Baldanzo in his car.
- Q. In his car? A. Yes, sir.
- Q. When you got to Hughe's Lake with Mr. Baldanzo did you see anybody there? A. Nobody. 20
- Q. Was there any ice on the lake? A. A thin coat of ice on the lake.
- Q. Nobody skating on it? A. Nobody.
- Q. Nobody playing on it? A. I didn't see anybody.
- Q. Nobody walking around on the lake? A. I didn't see anybody because I was in the car.
- Q. You got out of the car after you got at Hughe's lake, you got out of the car? A. Yes, sir.
- Q. Did he get out? A. He got out first. 30
- Q. Then you got out? Did you see anybody around? A. No, nobody.
- Q. When you met his car Miss Lacota a block or a block and a half from Hughe's Lake did you

*Anna Lacota—cross*

ask Baldanzo what he wanted? A. He just said get in and I got in.

Q. Did you ask him what he wanted? A. No.

Q. Why didn't you? A. I didn't know what to say.

10 Q. Didn't you think it was strange for a married man to give you a note at nine o'clock in the morning when you ate there every day at twelve o'clock and have that note read meet him at Hughe's Lake at two-thirty, didn't you think that was strange? A. Yes.

Q. When you got back at twelve o'clock why didn't you give the note to Mrs. Baldanzo? A. When he attack me the first time he says not to say anything.

Q. He didn't say anything about not showing her the note, did he? A. I thought that included the note too.

20 Q. All future happenings come under that first threat? A. That is what I thought.

Q. So you didn't inquire what he wanted over at Hughe's Lake at two-thirty? A. I don't know.

Q. When you got in the car and drove along did you talk to him? A. No.

Q. Did he talk to you? A. No.

Q. Didn't either one of you say anything?, A. No.

Q. Just sat there? A. Just sat there.

30 Q. When you got to Hughe's Lake did he get out of the car immediately or did you sit in the car? A. I sat in the car and he got out.

Q. Did you sit in the car any length of time talking before he got out? A. No.

Q. When he got out did he say anything to you? A. He told me to follow him.

*Anna Lacota—cross*

Q. Did you? A. I didn't follow at first and then he told me the second time and said hurry up if you want to get back to school.

Q. Did you ask him what he wanted? A. No.

Q. Did you know what he wanted? A. No.

Q. This is the man that had attacked you some time prior, two weeks prior? A. Yes, sir.

Q. Didn't you anticipate he wanted intercourse again? A. I thought maybe he wanted to tell me something. 10

Q. At Hughe's Lake? A. Yes, sir.

Q. Didn't you anticipate he wanted intercourse with you? A. I didn't know what he wanted. I didn't know he wanted intercourse with me then.

Q. When you got out of the car, after you got out, where did you go? A. Behind the shrubbery.

Q. When you got behind the shrubbery did you know what he was looking for? A. I didn't know what he was going to do. 20

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

Q. What did he say to you? A. Nothing, I seen him lay newspapers on the floor, on the ground.

Q. There was lots of snow on the ground, wasn't there? A. He had some cloths from in his car too.

Q. You saw him do all this? A. He had newspapers in the back.

Q. You saw him throw these cloths on the ground? A. Yes, sir. 30

Q. Did the thought strike you then what was going to happen? A. I knew then what was going to happen but there was no chance to escape.

Q. No chance to escape? A. No, because he had the car, he would get me.

*Anna Lacota—cross*

Q. You were afraid he would chase you with the car? A. Yes.

Q. So you resigned yourself and didn't run? A. I couldn't run.

Q. He didn't have a hold of you when he was spreading the papers. A. No.

Q. You could have run away if you wanted to? A. I could have.

10 Q. Are there any public streets around there? A. Yes, sir.

Q. Any houses? A. Yes, sir.

Q. How far was the nearest house to you? A. Block away.

Q. How far was the next house? A. Right next to it.

Q. Were there any automobiles or wagons around the streets? A. No.

20 Q. Any street cars, merchandise wagons, coal wagons, bakers' wagons? A. Nothing.

Q. Did you see any people go in or out of the houses? A. Nothing.

Q. You knew people lived there, didn't you? A. Yes, sir.

Q. You could have run over to their house if you had wanted to? A. He would have caught me before I reached the block.

Q. How deep was the snow there? A. Just a few inches.

30 Q. Well, when he spread these cloths and newspapers on the ground did you say anything to him? A. No.

Q. Did you ask him what are you doing that for? A. I knew right away what he meant that for.

*Anna Lacota—cross*

Q. You knew right away what you were there for, is that it? A. Yes, sir.

Q. Well, when he put the papers on the ground what did you do? A. Nothing, I stood standing there.

Q. Well what did you do? A. He told me to get down on the paper. First I hesitated and finally he says hurry up if you want to get back to school.

10

Q. He didn't hold his left hand over your mouth this time? A. No.

Q. He didn't make any threats? A. He just said don't say nothing.

Q. Outside of that he didn't say anything? A. No.

Q. Who took your bloomers down that day? A. He did.

Q. How long were you there? A. About ten minutes.

20

Q. Did anybody come around while you were there? A. Nobody.

Q. So he said hurry up so you could get back to school. A. Yes, sir.

Q. You were not going back to school, were you? A. I wouldn't want to go home then.

Q. You were not going back to school? A. Certainly I was going back to school.

Q. Didn't you tell the principal your mother was sick? A. Yes, sir, but I didn't want to go home so I thought I better play around the school, play until it was time to go home.

30

Q. Where did you go after you left Hughe's Lake? A. He took me several blocks from the

*Anna Lacota—cross*

school and I got out and started playing around the school.

Q. Around the school building? A. Yes, sir.

Q. What time was this? A. About three o'clock.

Q. You left at two-thirty? A. Yes, sir.

Q. And walked practically within two blocks of Hughe's Lake, isn't that true? A. Yes, sir.

10 Q. And Hughe's Lake is a mile and a half away.  
A. Yes, sir.

Q. Then you rode with Mr. Baldanzo? A. Yes, sir.

Q. You stayed out there for how long? A. About ten minutes.

Q. And you got back to school about three o'clock. A. Yes, sir.

Q. You didn't go into the building did you? A. No.

20 Q. Why didn't you? A. I didn't want to go in.

Q. Why? A. I figured I might get caught then.

Q. Caught lying? A. No caught going into the building when I was supposed to be home.

Q. You were afraid they would catch you in a lie, isn't that it? A. Yes, sir.

30 Q. Where did you go, did you stay around the school until school closed? A. I always walked around the building and stayed in close to it.

Q. All alone? A. Yes, sir.

Q. How many times did you walk around the building? A. Several times.

Q. Couldn't the teacher see you out of the school window? A. No.

*Anna Lacota—cross*

Q. You walked around the building did you several times, then what did you do? A. Nothing. Waited until four o'clock rang.

Q. Where did you wait? A. I was waiting around until four o'clock rang.

Q. You walked around from three to four? A. Yes, sir.

Q. Did you go any place else? A. I stopped near the brook. 10

Q. How far is the brook from the school? A. Alongside of the building.

Q. Where did you go at four o'clock? A. Four o'clock I went back home.

Q. To your own house? A. Yes, sir.

Q. Did you go to Mr. Baldanzo's? A. I went home first to see what was there.

Q. Was your mother there? A. Yes, sir.

Q. Did you tell her what happened? A. No.

Q. Why didn't you? A. I didn't want to say anything. 20

Q. Why? A. Because he told me not to say anything.

Q. Is that the only reason you didn't tell your mother? A. He told me not to say anything so I didn't want to say anything.

Q. You went back to Mr. Baldanzo's store? A. Yes, sir.

Q. Was Mrs. Baldanzo there? A. Yes, sir.

Q. Did you tell her what had happened? A. No. 30

Q. Why? A. Because he told me not to say anything.

Q. Was that your only reason? A. That is the only reason.

*Anna Lacota—cross*

Q. Then did you go out on your route? A. Yes, sir.

Q. Now from February sixteenth nineteen hundred and twenty-seven Miss Lacota until the twenty-fifth day of July nineteen hundred and twenty-seven— From February 16th, 1927 until July 25th 1927 you had been going to Mr. Baldanzo's store every day? A. Yes, sir.

10 Q. Taking care of the children? A. Yes, sir.

Q. And getting a dollar a week to put in your Christmas fund? A. Yes, sir.

Q. And going on the bread route at four o'clock? A. Yes, sir.

Q. And during that time Mr. Baldanzo had made no—, A. No remarks.

Q. No remarks and no indecent attacks? A. No.

20 Q. During that time you had never spoke to his wife about what he had done to you? A. No, sir.

Q. Nor to your mother or your sisters. A. No, sir.

Q. When did you first discover Miss Lacota that you were in a delicate condition? A. August the eleventh.

Q. August the eleventh? A. Yes, sir.

Q. When was your child born? A. November 4th.

30 Q. Now on the twenty-fifth day of July you were in a delicate condition then, were you not? A. Yes, sir.

Q. It was noticeable, noticeable on your person? A. Not very much.

Q. It could be observed by people passing by? A. Well, if they had good eye-sight I suppose they could.

*Anna Lacota—cross*

Q. In your condition then you say Mr. Baldanzo had intercourse with you on the twenty-fifth of July? A. Yes, sir.

Q. What time was that? A. Nine o'clock.

Q. In the morning? A. At night.

Q. How did you happen to meet Mr. Baldanzo that night? A. In the morning he gave me a note.

Q. At nine o'clock? A. Before that.

Q. Where was he, standing outside of his store? 10  
A. Outside in front of his store.

Q. What did that note say? A. To meet him at the Armory at nine o'clock.

Q. Was it written in English or Italian? A. English but his name was always written in Italian.

Q. You were there for dinner that day? A. Yes, sir.

Q. And back again at four o'clock? A. Yes, sir.

Q. You saw Mr. Baldanzo? A. Yes, sir. 20

Q. You saw his wife? A. Yes, sir.

Q. Did you speak to him about the note? A. No.

Q. Did you mention it to him? A. No.

Q. Did he mention it to you? A. No.

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

Q. That note said to meet him at the Armory?  
A. Yes, sir, Armory Park.

Q. Armory Park, is that right? A. Yes, sir. 30

Q. At nine o'clock? A. Yes, sir.

Q. You had never met him at night before had you? A. No.

Q. How far is Armory Park from your house?  
A. Several blocks.

*Anna Lacota—cross*

Q. How far? A. About four blocks.

Q. There are public streets along by the park?

A. Yes, sir.

Q. How many? A. Main Avenue on one side and River Drive on the other.

Q. Is that the new armory in Passaic? A. Yes, sir.

10 Q. On the Main road that runs down toward the river, is that it? A. Yes, sir.

Q. That was a very prominent street? A. Yes, sir.

Q. There was plenty of vehicles on it? A. Yes, sir.

Q. Plenty of people walking around the park? A. Yes, sir.

Q. Did you go to meet him? A. Yes, sir.

Q. Where was he? A. On Main Avenue near the park.

20 Q. In his automobile? A. No.

Q. Standing? A. Yes, sir.

Q. When you met him at Armory Park where did you go? A. We sat on a bench first.

30 Q. Yes. A. Then he told me in case anybody asked me who had intercourse with me to say it was a fellow from East Rutherford and he gave me two one dollar bills and told me to get myself a dress. He said he wished two years would be up so that he could marry me and I knew that wasn't true because he had a family to take care of.

Q. You knew he had a wife alive? A. Yes, sir.

Q. You say that you sat on the bench, is that all that happened? A. That is all that happened.

Q. Did anything out of the ordinary happen?  
A. No.

*Anna Lacota—cross*

Q. No intercourse? A. Not on the bench. Then I walked with him until we came to some shrubbery.

Q. Yes. A. And we had intercourse there.

Q. When you arrived at the shrubbery did he have anything on the ground this time? A. Papers, newspapers.

Q. You didn't raise any outcry then? A. No.

Q. There were lots of people or machines going down or up? A. Yes, sir. 10

Q. You had lots of opportunity to run away and run over to other people? A. Yes, sir.

Q. You didn't scream out? A. In the beginning he said not to say anything or he would kill me.

Q. You thought the same warning covered all subsequent transactions? A. Yes, sir.

Q. He didn't put his left hand on your mouth this time? A. No. 20

Q. Isn't there any policeman goes around the park there? A. I didn't see any.

Q. Anybody walking down that park that night? A. I didn't see any.

Q. Nobody sitting on the benches? A. They might have been on the other side of the park but not where I was.

Q. No people sitting on benches when you went in there? A. On the side where we was there was nobody. 30

Q. On the other side? A. I couldn't see because there is a building.

Q. This happened at night, did it not? A. Yes, sir.

Q. Behind shrubbery? A. Yes, sir.

*Anna Lacota—cross*

Q. Did you talk to him about your condition then? A. No.

Q. You knew you were in a delicate condition. A. Well, no.

Q. You knew you were in a delicate condition on July 25th didn't you? A. Yes, sir.

Q. Did you talk to Baldanzo about it? A. No.

Q. Why not? A. I didn't want to say anything.

10 Q. Why? A. He knew it, he must have known it.

Q. You had never told him? A. No.

Q. Even on this occasion of your last act of intercourse with him when it was noticeable you didn't tell him about it. A. No, sir, I didn't say anything to him.

Q. Who took your bloomers down that night? A. He did.

20 Q. How long were you there? A. Just about five minutes.

Q. Then where did you go? A. I went home.

Q. Did you tell your mother where you were? A. No, I told her I went for a walk.

Q. You lied again, didn't you? A. Yes, sir.

Q. Why did you lie to your mother on this occasion? A. Because I didn't want to tell her anything about Mr. Baldanzo.

30 Q. You knew your mother would be very much interested in finding out about your condition? A. Yes, sir.

Q. Had you talked to your mother up to July 25th about your delicate condition? A. No.

Q. Why? A. Because I didn't want to say anything.

*Anna Lacota—cross*

Q. You knew something had happened? A. Well.

Q. You knew on July 25th. A. I didn't know I was going to get a baby.

Q. Didn't you notice your physical condition?

A. I noticed it but I didn't know I was going to get a baby.

Q. Why didn't you ask your mother what is the matter with you? A. Because I was afraid she would find out. 10

Q. You didn't want her to find out? A. Because he told me not to say anything.

Q. You didn't want her to find out about it?

A. I didn't want her to find out.

Q. After July 25th did you still continue your meals at Baldanzo's house? A. Yes, sir.

Q. You kept up working around the children?

A. Yes, sir.

Q. And getting your dollar a week? A. Yes, sir. 20

Q. Which you put in the bank? A. Yes, sir.

Q. In the Christmas fund? A. Yes, sir.

Q. And you continued that up to August the eleventh? A. August fourteenth.

Q. After July 25th did you ever tell your mother what your condition was? A. No.

Q. Did you ever tell your sisters? A. No.

Q. Did you ever tell anybody? A. Nobody.

Q. How did you happen to know? A. My sister saw my condition and said she was going to take me some place and she took me to the doctor. 30

Q. When was that? A. August the eleventh.

Q. You did not tell your mother anything

*Anna Lacota—cross*

about this, did you? A. I didn't say anything to her.

Q. When you came back from the doctor's did you tell your mother? A. My sister didn't tell her anything.

Q. Did you tell your mother when you came back from the doctor's that you were in a delicate condition? A. I was afraid to tell her.

10 Q. Didn't your sister tell her? A. No.

Q. Was your sister there when Dr. Simon told you you were pregnant? A. Yes, sir.

Q. How long after August 11th was it if you know that your mother first received information of your condition? A. The fourteenth when I went up to my sister's house, my other sister's. On August fourteenth I went to Pennsylvania because my sister sent a letter to me, my other sister, telling her to send me over there and I went there and I didn't want them to ask me anything but her husband said to tell him who it was.

20

Q. You went to Pennsylvania? A. Yes, sir.

Q. Your sister sent for you? A. Yes, sir.

Q. Your sister was stopping where? A. In Pennsylvania.

Q. At what place? A. Scranton.

Q. What hotel? A. It was no hotel, it was a house.

30 Q. A road house, isn't it? A. No, no road house, just her own.

Q. What is your sister's name? A. Mrs. Sesso.

Q. She is not married? A. Yes, sir, she is.

Q. When did she marry Sesso?

*Anna Lacota—cross*

Mr. Moskowitz—I object to it as immaterial.

The Court—Objection sustained.

Q. How long did you stay in Pennsylvania?

A. A week.

Q. What is the street number where you stayed? A. Now my sister moved.

Q. What was the street number? A. 525 Adams Avenue. 10

Q. That is where you stopped when you were there? A. Yes, sir.

Q. You stayed there how long? A. Just for a week.

Q. Then where did you go? A. Just stayed there and came back home again because my sister came to get me.

Q. When you went down to Pennsylvania you told your brother-in-law what had happened? A. He forced me to tell him. 20

Q. You were not afraid of Baldanzo then? A. No.

Q. And your brother-in-law at your suggestion or with your consent then sent a letter to Mr. Baldanzo demanding ten thousand dollars, didn't he?

Mr. Moskowitz—I object to what anybody else did.

The Court—I shall sustain the objection. 30

Defendant except. Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,

Judge.

*Anna Lacota—cross*

Q. A letter was sent demanding ten thousand dollars—

Mr. Moskowitz—I object to the question.

Mr. Stafford—May I be permitted to ask my question?

Mr. Moskowitz—If she knows of her own knowledge.

10 Q. There was a letter demanding ten thousand dollars sent—

Mr. Moskowitz—I object to it as not proper cross examination.

The Court—There is no question pending that I know of.

20 Q. There was a letter sent by your brother-in-law to Baldanzo demanding ten thousand dollars at your suggestion, with your knowledge and with your consent? A. There was a letter sent by my brother-in-law to Baldanzo.

Q. How do you know that? A. Because my brother-in-law had said my sister had called up three times and said he wanted to know what he was going to do about this case for her sister's support, otherwise they would have to put the law on him.

30 Q. Baldanzo told your sister he hadn't had anything to do with you, didn't he? A. Yes, sir.

Q. Three times? A. Yes, sir.

Q. Now besides the telephone call demanding ten thousand dollars Miss Lacota with your knowledge and consent a letter was also sent demanding money? A. No, no letter was sent

*Anna Lacota—cross*

to Mr. Baldanzo, not that I know of, no letter was sent to him.

Q. Would you know your brother-in-law's handwriting? A. Yes, sir.

Q. What is your brother-in-law's name, Thomas? A. Yes, sir.

Q. Thomas Sesso? A. Yes, sir.

Q. Where is he? A. He went out of town.

Q. When did he go out of town? A. I think it was Thursday. 10

Q. Did he say when he would be back? A. He didn't say anything.

Q. He knew this case is going on? A. He didn't say anything.

The Court—At this point I might suggest to the jurors a recess until two o'clock. I desire also to ask that under no circumstances will we discuss this case with anyone not even among yourselves until you finally take it up for consideration. 20

Court convened at two P. M.

ANNA LACOTA recalled for the state.

Cross Examination by Mr. Stafford:

Q. On this twenty-fifth day of January nineteen hundred and twenty-seven at the time this first attack occurred you didn't go home until four o'clock from school did you after this thing happened? A. Four o'clock I came out of school to Baldanzo's. 30

so I went home and put my books down and went

*Anna Lacota—cross*

Q. This was the first time anyone had intercourse with you? A. Yes, sir.

Q. Who does your laundry? A. My mother sends it to the laundry man.

Q. When you take your clothes off where do you put them? A. In the laundry bag.

Q. Does your mother take them out of the bag and do them up? A. They are sent home in the bag.

10 Q. Does your mother do any washing home at all? A. No.

Q. Do you wash your stockings home? A. Yes.

Q. Do you wash your bloomers home? A. No.

Q. Never? A. Not unless they are silk.

Q. Your mother doesn't do any washing home and didn't on this occasion did she? A. No.

20 Q. When did you put your clothes in the laundry bag, the soiled linen bag? A. The night of January 27th.

Q. You changed all your clothing? A. Yes, sir.

Q. You had a brother, didn't you, Miss Lacota, Edward? A. Yes, sir.

Q. He formerly kept company with one of Baldanzo's daughters, didn't he? A. He used to.

30 Q. How long before August nineteen hundred and twenty-seven did your brother keep company with one of Mr. Baldanzo's daughters?

Mr. Moskowitz—I object to that as immaterial.

The Court—I don't know what the purpose of the examination is.

*Anna Lacota—cross*

Mr. Stafford—To establish a motive for this complaint being made.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

Defendant excepts. Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

Q. Isn't it a matter of fact Miss Lacota that before this August fourteenth arrived your brother was forbidden to enter the house of Mr. Baldanzo?

10

Mr. Moskowitz—I object to the question.

Q. Isn't it a fact that before this complaint Mr. Baldanzo had forbidden your brother to enter his house to see his daughter again?

20

Mr. Moskowitz—I object—

A. I don't know anything about my brother's affairs.

Q. Your brother stopped suddenly from calling on one of the Baldanzo girls.

Mr. Moskowitz—I object to it.

30

A. I know all of a sudden he stopped going because her father refused my brother from meeting with his daughter.

Q. How long before this complaint was made did that happen?

*Anna Lacota—cross*

Mr. Moskowitz—I object to it as immaterial.

Objection sustained.

Defendant excepts. Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

10 Q. Isn't it a matter of fact Miss Lacota that you had never made any accusation against Mr. Baldanzo or mentioned his name in connection with your condition until he had refused to allow your brother to call on his daughter? A. No.

Q. That is not true? A. No.

Q. When did you first mention Mr. Baldanzo's name in reference to your condition? A. August nineteenth when I told my brother-in-law.

20 Q. How long before that was it that Mr. Baldanzo put your brother out of his house? A. I don't know.

Q. You remember the time? A. I remember the time but I don't remember the date.

Q. About how long before that? A. I haven't any idea.

30 Q. And isn't it a fact Miss Lacota that you didn't leave Mr. Baldanzo's home or store or employ in August but that he had told you never to come back in June nineteen hundred and twenty-seven? A. He didn't tell me not to come back in the month of June.

Q. You were not there in July? A. July I was there.

Q. You were not there all the month of July? A. At Mr. Baldanzo's home I was.

*Anna Lacota—cross*

Q. You were there in the month of August?

A. As far as August fourteenth.

Q. When did Mr. Baldanzo stop paying you a dollar every week? A. He gave me the last dollar on July 30th.

Q. What day was that? A. I don't remember the day but I know it was because it was five days after he attacked me.

Q. What time did he give it to you, what time of the day? A. In the morning. 10

Q. Before you went to school? A. I don't know whether I was going to school then.

Q. Were you going to school then? A. There wasn't any school, that was vacation time.

Q. Then you say you worked there until August what? A. August fourteenth.

Q. You didn't get any more money? A. July 30th was the last I got a dollar.

Q. You say do you that you didn't get it in August? A. I got a dollar before August fourteenth, I worked until August fourteenth. I got a dollar but I didn't deposit it in the bank. 20

Q. You didn't deposit it? A. I spent it.

Q. You did deposit it every week up to that time? A. Not exactly every week.

Q. Did you miss some weeks? A. Certainly.

Q. Then he paid you a dollar right up until the time you left, is that true? A. Yes, sir.

Q. Now Miss Lacota after you came back from Pennsylvania, Scranton, I believe it was, wasn't it? A. Yes, sir. 30

Q. You again told your sister to get in touch with Mr. Baldanzo to see if this thing couldn't be settled for money? A. Yes, sir.

*Anna Lacota—cross*

Mr. Moskowitz—I object to that.  
The Court—She said yes.

Q. How long after your return from Scranton was it that you again asked your sister to get money from Baldanzo?

Mr. Moskowitz—I object to the form of the question.

10

The Witness—What is that question?

Q. How long after you came back did that happen? A. I think it was August eighteenth when my sister called up Mr. Baldanzo's brother-in-law and told him to settle up.

Q. That was when you were in Scranton? A. Yes, sir.

20

Q. When you came back from Scranton I asked you if your sister at your suggestion again telephoned to Mr. Baldanzo for money and you said yes. How long after your return from Scranton did this thing happen? A. Just about a day.

Q. Did you tell your sister how much money to ask for? A. I didn't say anything to my sister about money.

Q. It was with your consent and knowledge that she did that? A. The family said ten thousand dollars.

30

Q. Who in the family said ten thousand dollars, your mother? A. My mother—

Mr. Moskowitz—I object to anything her mother said.

The Court—I shall sustain the objection.

*Anna Lacota—cross*

Q. Were you there when the family consented to settle this for ten thousand dollars?

Mr. Moskowitz—I object to that.

The Court—I shall sustain the objection. Defendant excepts. Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,

Judge.

10

Q. You had knowledge that they were endeavoring to settle this case for ten thousand dollars?

Mr. Moskowitz—I object to the question.

The Court—She has already said yes.

Q. Did you have knowledge that your family was trying to settle this for ten thousand dollars?

20

Mr. Moskowitz—I object to that question.

The Court—I will admit it.

Mr. Moskowitz—I object to whatever statement they made. They cannot be binding upon the State.

The Court—Any statement that was made is not binding upon the State and the State is the Prosecutor. The answer is yes or no.

30

Q. Did you? A. Yes.

Q. Did you consent to the compromise to settle this suit to the sum of ten thousand dollars?

Mr. Moskowitz—I object to the question.

*Anna Lacota—cross*

The Court—Objection sustained.

Mr. Stafford—I ask for an exception on the ground that the question tends to affect her credibility.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

10 Q. How many times in your presence and with your knowledge was the money settlement talked of in your family of this case?

Mr. Moskowitz—I object to the question.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception on the ground that it affects the credibility of the witness.

20 Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

Q. You were interested in a money settlement yourself were you not Miss Lacota?

Mr. Moskowitz—I object to that.

The Court—Objection sustained.

30 Mr. Stafford—I ask for an exception on the ground that the question is framed for the purpose of affecting the credibility of the witness.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

*Anna Lacota—cross*

Q. You would not have agreed to a complaint being made in this case had a money settlement been made by Mr. Baldanzo before the complaint was made, would you, Miss Lacota?

Mrs. Moskowitz—I object to it.

The Court—Objection sustained.

Mr. Stafford—I ask for an exception on the ground that the question is framed for the purpose of affecting the credibiliity of the witness. 10

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

Q. Did you go back to Pennsylvania after your first visit? A. I went there another week and then I just went to stay with my sister.

Q. Is this the sister that telephoned about the ten thousand dollars? A. No, my sister from Scranton. It is the other one. 20

Q. Where did she live then, the same place?

A. Yes, sir.

Q. Did she do any more telephoning on that occasion? A. No.

Q. Were any letters written from Scranton with your connivance and consent?

Mr. Moskowitz—I object to that. 30

The Court—The answer is yes or no. Does the witness understand the question?

A. Yes, but I never heard of any letter coming from Scranton.

*Anna Lacota—redirect*

Q. Did you ever hear of any letters coming from Passaic to Mr. Baldanzo for money? A. No. No letters.

Q. Well, what? A. That is all I know about the telephone calls to Mr. Baldanzo's brother-in-law about a settlement.

Q. Was that the occasion when Mr. Baldanzo said he didn't do anything and wouldn't give a nickel? A. Yes, sir.

10 Q. Miss Lacota, I believe you testified on direct examination the last time you saw Mr. Baldanzo, the defendant, before he was arrested was on August fourteenth, is that right? A. Yes, sir.

Q. And your mother didn't know of this until August— A. August eleventh.

Q. What was it that happened on August nineteenth? A. My sister sent out a warrant for his arrest.

20 Q. On August nineteenth? A. Yes, sir.

Redirect Examination by Mr. Moskowitz:

Q. Do you happen to know Mr. Baldanzo's age?

Mr. Stafford—I object to that.

The Court—I shall sustain the objection.

Juror No. 4—You said that the first time the defendant had intercourse with you you were standing up in the cellar?

30

The Witness—Yes, sir.

Juror No. 4—Will you stand up, please?

The Witness—Yes, sir.

Juror No. 4—Will the defendant stand up?

(Defendant stands up) That is all.

*George Eckert—direct*

GEORGE ECKERT, sworn for the State.

Direct Examination by Mr. Moskowitz:

Q. What is your occupation? A. Police business, Passaic, New Jersey.

Q. Detective? A. Yes, sir.

Q. Do you know the defendant, Mr. Baldanzo?

A. I do.

Q. Did you ever have a conversation with Mr. Baldanzo concerning his age? A. I did. 10

Q. Did he tell you how old he was? A. He did.

Q. How old did he say he was? A. Forty-three.

Q. Did the warrant for his arrest come in your hands? A. It did.

Q. What was done with it? A. We served it on Mr. Baldanzo in the detective bureau August 24th nine A. M. 1927. 20

Q. Did you place him under arrest? A. We did.

Q. Did you have a conversation with the defendant concerning these charges? A. I did.

Q. Tell this court and jury what he said to you. A. He came into the Bureau on the twenty-fourth day of August nineteen hundred and twenty-seven. He had evidently known we were looking for him. He came in there in the company of John Chirichella and gave himself up and I read the warrant to Mr. —, to him charging him with rape and he told me he didn't have anything to say, his lawyer would talk for him. He wouldn't answer any of my questions that I asked him. 30

No cross examination.

*John Chirichella—direct*

JOHN CHIRICHELLA, sworn for the State.

Direct Examination by Mr. Moskowitz:

Q. Do you know the defendant, Mr. Baldanzo?

A. Yes, sir.

Q. How long have you known him? A. Oh, about fifteen years.

Q. You are very friendly with him? A. Quite.

Q. Do you know the girl, Anna Lacota, who was on the stand? A. Yes, sir.

Q. How long have you known her? A. About the same length of time, more or less.

Q. Where do you live? A. Number six State Street, Passaic.

Q. On the same street the defendant lives on? A. Yes, sir.

Q. You remember the time Anna Lacota was born? A. I do.

Q. As a matter of fact you were the godfather? A. Yes, sir.

Mr. Moskowitz—I ask that this be marked for identification.

Paper marked Exhibit S-2 for identification for the State.

Q. Did you ever see that before? A. I did.

Q. Is that your signature on there? A. No, that is not my signature, the reverend put that on, the priest.

Q. You saw this before? A. Yes, sir.

Q. And using that to refresh your memory can you tell us when Anna Lacota was born?

*John Chirichella—direct*

Mr. Stafford—I object to that. If it is admissible in evidence it speaks for itself.

Mr. Moskowitz—I will offer it.

The Court—It is handed to the witness for the purpose of refreshing his memory if he finds it necessary to do so.

Mr. Stafford—I object to the witness refreshing his memory unless he says it is necessary.

10

Q. Do you know how old the girl is, Anna?

A. I wouldn't swear. I say she is about fifteen more or less, I wouldn't swear positive.

Q. You say you saw this paper before, would that help you to refresh your memory, you being the god-father at the time? A. Yes, sir, it would.

Q. Look at that. A. It says the eighth, it is written in Italian but it says nineteen hundred and thirteen.

Q. What happened on that day, referring to that paper? (No answer.)

20

Q. What is this date? A. It says the fifteenth.

Q. The fifteenth of what? A. I can't read it. It is in Italian.

Q. You are Italian? A. Yes, sir.

Q. Didn't you read something before in Italian? A. It is more plainer.

Q. Do you remember what month she was born in? A. I do not.

30

Q. Will you read that again? A. It says the fifteenth but I can't read this here.

Q. The date that you gave us before, does that say she was born on that date? A. Baptized.

*John Chirichella—direct*

Mr. Stafford—I object to that. It is a baptismal record..

The Court—I shall sustain the objection.

Q. Do you know Mr. Joseph Fitzpatrick, Secretary of State, sitting at the table here?

A. Yes, sir, I do.

Q. You also know he represents Anna Lacota?

10

Mr. Stafford—I object to that question.

The Court—I shall sustain the objection.

Q. You had occasion to pay a visit to Mr. Fitzpatrick's office, did you not?

Mr. Stafford—I object to it as being immaterial.

The Court—The answer is yes or no.

20

A. Yes.

Q. Did Mr. Baldanzo send you there? A. No, sir.

Mr. Stafford—I object to that, if the Court please.

The Court—He said, no, sir. I understood him to say no.

30

Q. Did Anna Lacota send you there? A. No.

Mr. Stafford—I object to that, if the Court please.

The Court—I shall sustain the objection although the witness says no.

*Dr. Philip H. Simon—direct*

Q. You spoke to Mr. Fitzpatrick about settling this case?

Mr. Stafford—I object to the question, if the Court please. This is a State's witness. What has Fitzpatrick got to do with this case?

Q. Did Mr. Baldanzo at any time tell you to go to Mr. Fitzpatrick's office? A. No, sir. 10

Q. And offer a settlement on his behalf? A. No, sir.

No cross examination.

DR. PHILIP H. SIMON, sworn for the State.

Direct Examination by Mr. Moskowitz:

Q. You are a practicing physician? A. I am. 20

Q. Where? A. In the City of Passaic.

Q. Do you know Anna Lacota, who was on the stand? A. I do.

Q. Do you remember examining her? A. I do.

Q. When was that? A. Some time in August, I am not certain as to the date.

Q. The twenty-seventh? A. That is right.

Q. Who was with her at the time? A. Her sister. 30

Q. What did your examination show? A. My examination revealed a pregnancy, the duration of which was about between six and seven months anyway.

*Maria Lacota—direct*

No cross examination.

(At this point Anthony D. Aquino, official Italian interpreter, was sworn.)

MARIA LACOTA, sworn for the State.

Direct Examination by Mr. Moskowitz (through Mr. Aquino):

10

Q. You are the mother of Anna Lacota, who was on the stand? A. Yes, sir.

Q. How old was your daughter during the year nineteen hundred and twenty-seven? A. Fourteen years.

Q. When was her birthday? A. The fourteenth day of January.

Q. What year? A. On the fourteenth day of January.

20 Q. On the fourteenth day of January nineteen hundred and twenty-eight, this year, how old was she? A. Fifteen years old.

Q. That is in nineteen hundred and twenty-eight? A. Yes, sir.

No cross examination.

Mr. Moskowitz—We have one more witness, a doctor, but he is not here at the present time. With the exception of his testimony the State rests.

30

State rests.

(Mr. Stafford opens for the defendant.)

*Louis Baldanzo—direct*

LOUIS BALDANZO, sworn for the defense.

Direct Examination by Mr. Stafford:

Q. Where do you live? A. Twenty-four State Street, Passaic, New Jersey.

Q. What business are you in? A. Baker and grocer.

Q. How long have you been in Passaic? A. Twenty-one years. 10

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

Q. How many children? A. Three.

Q. Where does your family live? A. 24 State St.

Q. Have you ever been in trouble before? A. No, sir.

Q. Have you ever been arrested? A. No, sir.

Q. Have you ever been convicted of anything? A. No, sir.

Q. When did you first meet Anna Lacota? 20  
A. Six or seven years ago.

Q. Who is Anna Lacota? A. One of the baker's daughters, Joseph Lacota's daughter.

Q. Joseph Lacota's daughter? A. Yes, sir.

Q. Was she ever in your house? A. Yes, sir.

Q. When did she start coming into your house? A. About two or three years ago.

Q. What would she do in your house? A. I had a baby born and she took care of her a little bit.

Q. Was she paid anything? A. A dollar a week. 30

Q. It has been testified that you opened a bank account for her on January 20th, 1927?

A. Yes, sir.

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

*Louis Baldanzo—direct*

Q. How did you come to open that? A. My daughter has a Christmas Club and my daughter suggested she open with that dollar a Christmas Club just the same.

Q. With the dollar you paid her, with the dollar you paid her for minding the baby? A. Yes, sir.

10 Q. Now Mr. Baldanzo, Anna Lacota testified that on January 27th, 1927, you had intercourse with her in the cellar of your building on State Street while down there for a bottle of wine? A. No, sir.

Q. Did you assault her or have any connections with her on that occasion? A. No, sir.

Q. Did you put your left hand over her mouth and pull her bloomers down with your right hand? A. No, sir.

Q. Did you on any occasion follow her down in the cellar? A. No, sir.

20 Q. Did she ever accuse you about what happened on the twenty-seventh before you were arrested? A. No, sir.

Q. She also says on the sixteenth day of February you had her out and had intercourse with her again, for the second time, is that true? A. No, sir.

Q. She accuses you for the third time on July 25th, 1927, in the park behind the shrubbery, is that true? A. No, sir.

30 Q. Mr. Baldanzo, did you ever give Anna Lacota any notes to meet you any place? A. No, sir.

Q. On any occasion? A. No, sir.

Q. Did you ever tell Anna Lacota not to tell anybody what you had done to her or you would kill her? A. No, sir.

*Louis Baldanzo—direct*

Q. Had you done anything to make such a threat? A. No, sir.

Q. How long prior to the month of August did Anna Lacota work there for you? A. Will you say that over?

Q. When did she stop working for you? A. The first week in June.

Q. Did she work there during the month of June at all? A. No, sir.

Q. The month of July? A. No.

10

Q. During the month of August? A. No, sir.

Q. How did she happen to leave your employ during the month of June nineteen hundred and twenty-seven? A. My daughter told me and because we don't like such girls around the house.

Q. Why did you tell her that? A. Because my wife knows she is going out with her older sister.

Q. In the month of June did she stop working for you? A. Yes, sir.

20

Q. Did she come back to work for you again after that? A. No.

Q. Now, Mr. Baldanzo, do you know Edward Lacota? A. Yes, sir.

Q. Her brother? A. Yes, sir.

Q. Did he ever call at your house? A. Yes, sir; he worked for me, he used to work for me.

Q. How long? A. About two years.

Q. Did he call on any one of your daughters?

A. He went on the sly.

30

Q. He went on the sly? A. Yes, sir.

Q. How long was he doing that? A. Well, I just found it out in the last.

Q. When did you find it out? A. August the tenth.

*Louis Baldanzo—direct*

Q. What did you do when you found it out?

Q. I asked my daughter to see if things were true and she denied it.

Q. Your daughter denied it. What did you do about him calling on your daughter? A. I sent for him to prove it if the thing was true.

Q. What did he do, still work for you? A. Yes, sir; that time he still worked for me.

10 Q. Was he discharged? A. Yes, sir; but it is after. I told my brother because he used to work for him. I told him if he tried to leave eyes on my daughter again I would discharge him.

Q. Did he call on your daughter again after that? A. No.

Q. Up to that time, Mr. Baldanzo, was there any accusations made against you as being responsible for the condition of this girl? A. What do you mean?

20 Q. Did anybody accuse you for being responsible for her condition before you had the brother discharged? A. No, sir.

Q. Where was he working? A. In the baker shop.

Q. In whose? A. My brother-in-law's baker shop.

Q. Where was that? A. Twenty-two State Street.

30 Q. After you discharged the brother, Edward Lacota, what happened? A. I had a call from Scranton, Pa., August the sixteenth and he told me—

Mr. Moskowitz—I object to that conversation.

*Louis Baldanzo—direct*

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

The Court—This is not a conversation as I understand it in the presence of the complaining witness.

Mr. Moskowitz—No, sir, it was not.

Q. It has been testified by Anna Lacota that with her knowledge and consent her sister telephoned to you to settle this case for ten thousand dollars? A. It was the brother-in-law. 10

Q. Did you pay them any money? A. No, sir.

Q. What did you tell them? A. I told them I no got any business with them on the telephone.

Q. Did you receive letters? A. Yes, sir.

Q. How many? A. One.

Q. What did you do with it? A. Gave it to Captain Monks.

Q. Of the Police Detective Bureau? A. Yes, sir. 20

Q. Has he been subpoenaed to come here in this case? A. Yes, sir.

Q. What happened after you got the letter?

A. I leave it to the Captain Monks, I leave it to him.

Q. When did you learn that a warrant had been made for your arrest? A. August twenty-first.

Q. August twenty-first? A. Twenty-first. 30

Q. Were you arrested by the police or did you surrender yourself? A. Surrendered myself.

Q. Anna Lacota left your employ in the month of June nineteen hundred and twenty-seven, did

*Louis Baldanzo—cross*

you have any conversation with her after that?

A. No, sir.

Q. Did she ever come back to your home to work? A. Nope.

Q. Did you offer her any money to settle this case? A. No, sir.

Q. Did you give anybody on her behalf any money to settle this case? A. No, sir.

10 Q. Did you ever send anybody to anybody as your agent with an offer of money to settle this case? A. Never.

Q. Did you at any time admit you ever had intercourse with this Anna Lacota on the dates of these three indictments or at any other time?

A. No, sir.

Q. Did you have intercourse with her on these dates or at any other time? A. No, sir.

Cross Examination by Mr. Moskowitz:

20 Q. What time did Ed Lacota leave your place of business? A. About four or five o'clock in the afternoon.

Q. What date? A. The last date?

Q. Yes. A. The last time you mean?

Q. Yes. A. It was on August twenty-third or twenty-second.

Q. Didn't you tell us he left your place of employment on August tenth? A. No, pardon me.

30 Q. Did you say that yes or no? A. No.

Q. Didn't you read from your paper that you had in your hand August tenth? A. They call me and I find out about the love affair of my daughter on August tenth.

Q. Didn't you read from the paper you had in

*Louis Baldanzo—cross*

your hand he left August tenth? A. No, pardon me.

Q. What did you read? A. On August tenth I find out about the love affair of my daughter, the love affair with my daughter.

Q. Have you got that paper with you? A. Yes, sir.

Q. Did you write it down? A. Yes, sir.

Q. May I see that? A. Can I let him see it? 10  
(To Mr. Stafford.)

Mr. Stafford—Yes.

Q. Who wrote that? A. Myself.

Q. When did you write that? A. When they had me arrested.

Q. After you were arrested you wrote that on this piece of paper? A. My lawyer told me to keep all the records of what happened.

Q. Will you read what it says on there? A. 20  
August tenth Ed Lacota called me about my daughter's affair.

Q. You have got ten P. M. A. Nine o'clock, nine P. M. on August tenth.

Q. You remember that it was nine P. M.? A. Yes, sir.

Q. When did Anna start working for you? A. Two or three years ago.

Q. Did you ask her to work for you? A. No, she came herself. 30

Q. Tell the court and jury how she happened to come to your place? A. My baby was born and she took care of my child.

Q. How old was she then? A. Who?

Q. Anna. A. About twelve.

*Louis Baldanzo—cross*

Q. You had known Anna since she was born?  
A. She was five or six years around the same block.

Q. How long have you been living there? A. Fourteen years.

Q. How long has Anna been there? A. I no say for sure, five or six years.

Q. Were you living there when Anna was born? A. No.

10

Q. Was Anna born on that street? A. I can't tell.

Q. Don't you know she was born on that street? A. I don't know whether she was born on that street.

Q. Were you living there before the Lacota's? A. No, after.

Q. Who did she speak to when she first came in your bake shop? A. My daughters.

20

Q. Which daughter? A. Jennie.

Q. How old is she? A. Sixteen.

Q. Did she ask your daughter if she could get a job? A. They go to school together.

Q. She went to school with your daughter? A. Yes, sir.

Q. Was she in the same class with your daughter? A. I don't know. They go together. They was in the same school.

Q. Did you start paying Anna money as soon as she started working for you? A. No.

30

Q. How soon after? A. Five or six months after.

Q. The first five or six months she was working for nothing, is that right? A. Yes, sir.

Q. Later how much did you start paying her,

*Louis Baldanzo—cross*

after the first five or six months? A. Fifty cents.

Q. A day? A. A week for candy.

Q. What is that? A. Just for candy.

Q. Did she deliver bread for you at that time?

A. Yes, but not very much though.

Q. Did she have any special hours she had to work for that fifty cents? A. No.

Q. She could come and go when she pleased?

A. Yes, sir. 10

Q. When did you start giving her a dollar a week? A. In the month of January nineteen hundred and twenty-seven.

Q. That was the first time you gave her a dollar a week? A. Yes, sir.

Q. When you opened this bank account? A. Yes, sir.

Q. Before that you never gave her a dollar?

A. Yes, sir.

Q. You used to give her fifty cents? A. Some- 20  
times, sometimes nothing.

Q. Sometimes nothing? A. Yes, sir.

Q. January nineteen hundred and twenty-seven that was the first time you gave her a dollar? A. Yes, sir.

Q. You continued to give her a dollar every week after that? A. Yes, sir.

Q. What for? A. Minding the child.

Q. Delivering bread too? A. Delivering bread and minding the child. 30

Q. Did you send her out with bread? A. No.

Q. Did you send her out with bread? A. No.

Q. How did she know where to go? A. She go with my daughter.

Q. When was the last time you stopped paying her any money? A. In June.

*Louis Baldanzo—cross*

Q. June when? A. Nineteen hundred and twenty-seven.

Q. How do you remember it was in June? A. Because my wife told her don't come around no more.

Q. That is how you remember? A. Yes, sir.

Q. You haven't got a record have you of what you paid out? A. No.

10 Q. Have you got a record of that on that piece of paper when you stopped paying her? A. No.

Q. Did Mr. and Mrs. Lacota know she was getting a dollar a week? A. I suppose so.

Q. Did you ever tell them? A. No.

Q. You never spoke to them about that dollar a week? A. No.

20 Q. Did you ever tell Mr. or Mrs. Lacota or any member of her family, her brother or sister, that you opened up a bank account for their daughter, Anna Lacota? A. My daughters know.

Q. Did you ever tell her? A. No.

Q. You knew her age? A. Yes, sir.

Q. How old was she? A. Fifteen.

Q. She was fifteen? A. I don't know. I didn't see when she was born.

Q. Why did you say fifteen? A. She say fifteen and I say fifteen.

Q. When did she tell you she was fifteen? A. Now in the court.

30 Q. She said she was fourteen in nineteen hundred and twenty-seven? A. Yes, sir, now she is fifteen.

Q. Didn't you think it was proper to ask her mother or father if you could open up a bank account? A. On account of my daughter having

*Louis Baldanzo—cross*

a Christmas Club I thought she could have one too.

Q. You went to the bank and deposited it the first time? A. Yes, sir.

Q. She wasn't with you? A. No.

Q. Didn't you think it was right to speak to Mr. and Mrs. Lacota and ask them for their approval of opening a bank account for their daughter? A. I thought it was not necessary.

Q. Has anyone ever opened up a bank account for your daughter? A. Not that I know of.

Q. No married man ever did that before for your daughter. No married man ever opened up a bank account for your daughter? A. No, sir.

Q. Did you tell her to tell her mother you opened up a bank account? A. I told her to tell her father whatever she did.

Q. When did you tell her that? A. It was two days after.

Q. Two days after. Did you ask her if she told her father? A. No, I didn't ask her.

Q. You were interested in this girl? A. I told her father once.

Q. When? A. Two or three weeks ago he was in my house and I told him about it.

Q. Two or three weeks ago? A. No, I mean after.

Q. After she left your place in June she didn't work any other place? A. I don't know.

Q. I mean as far as you know? A. I am not interested in that.

Q. I say as far as you know she didn't work in any other place? A. No.

Q. How many times did you bring money down to the bank for her? A. Once.

*Louis Baldanzo—cross*

Q. Was that the most money you ever gave her at one time, one dollar? A. One dollar.

Q. At the time you took her up to the Armory, Armory Place, in Passaic, didn't you give her two dollars and tell her to buy some silk stockings with it? A. No, sir.

Q. You never told her that? A. No, sir.

Q. Never gave her two dollars? A. No, sir.

10 Q. Why did she quit in June, did she quit or was she discharged? A. She was discharged.

Q. Why? A. Because my wife found out she go around with her older sister.

Q. So far as you know was the girl doing anything wrong, Anna? A. I can't tell.

Q. She didn't do anything wrong? A. I don't know.

Q. She had minded the baby for two or three years alright? A. Yes, sir.

20 Q. Did you ever hear of her doing anything wrong? A. No, sir.

Q. That is the reason you say you let her go, because she went out with her older sister? A. Yes, sir.

Mr. Stafford—The witness didn't say that. He said his wife insisted on letting her go.

The Witness—Yes, my wife.

30 Q. Didn't you try to talk to your wife to let little Annie stay with you? A. No.

Q. You were not interested in her? A. No, sir.

Q. Was your wife jealous of Anna? A. No.

Q. You know Mr. Chirrichello? A. Yes, sir.

*Louis Baldanzo—cross*

Q. He is a friend of yours? A. A friend of everybody.

Q. He is a friend of yours? A. I am a friend to everybody.

Q. As a matter of fact didn't you send him to Mr. Fitzpatrick, the Secretary of State's office in Jersey City? A. No, sir.

Q. You knew he was there? A. No, sir.

Q. Didn't you have a conversation with Chirrichello? A. For what? 10

Q. About this case? A. No, sir.

Q. You never spoke to him about this case, to Mr. Chirrichello? A. No, sir.

Mr. Stafford—I object to it unless the State specifies as to time, place and circumstances.

The Court—He says he never had any.

Q. You knew that Anna became pregnant? 20  
A. Yes, sir.

Q. When did you know that? A. After August 20th.

Q. How did you know it? A. The sister called me.

Q. Which sister? A. Rosie.

Q. After August 20th you had a conversation with Mr. Chirrichello about Anna Lacota, about her condition? A. About a day after he called on me. 30

Q. Who called on you? A. Chirrichello.

Q. At your place of business? A. On the street.

Q. You spoke to him about this case? A. He spoke to me.

*Louis Baldanzo—cross*

Q. And you also spoke to him? A. Why, sure.

Q. Wasn't that the time you sent him down to Jersey City? A. No, sir.

Q. What did you say to Mr. Chirrichello? A. I don't say nothing.

Q. What did he say? A. He was in Pennsylvania and they want the ten thousand dollars from me and he says if I don't pay anything they are going to press the complaint against me and he told me to go and make it fifty fifty.

10

Q. Mr. Chirrichello is your friend? A. I have a friend.

Q. Wasn't it then you sent him over to see Mr. Fitzpatrick? A. No, sir.

Q. You never sent him there at all? A. No, sir.

Q. Didn't you ever speak to your brother-in-law about sending Mr. Chirrichello to Mr. Fitzpatrick's office? A. No siree.

20

Q. Did you? A. No siree.

Q. Did you ever talk to your brother-in-law about this case? A. Yes, sir.

Q. What was your conversation with your brother-in-law? A. He tell me what is happened and I tell him what are we going to do.

Q. That is all you said? A. That is all. Let them make complaint, that is all.

Q. You say you found out for the first time Anna is pregnant when? A. August 20th, two p. m.

30

Q. In the afternoon? A. In the afternoon.

Q. Who told you about that? A. Her sister, Rose.

Q. What did you do when her sister, Rose,

*Louis Baldanzo—cross*

told you about that? Did you do anything at all?

A. No.

Q. Do you remember what day that was? A. I believe Saturday.

Q. On a Saturday? A. Friday or Saturday.

Q. You went out of town right after that? A. Yes, sir; I had to call on my mother.

Q. Where does your mother live? A. Long Branch.

Q. How long did you stay there? A. Two days. 10

Q. When was the last time you were in Long Branch? A. A month ago, two weeks ago.

Q. Before August the 20th when was the last time you went to Long Branch? A. Yes, sir.

Q. Before, when was the last time? A. I was July 15th, 14th of July in Long Branch.

Q. To Long Branch? A. Yes, sir.

Q. You went yourself? A. Sometime my family goes. 20

Q. Why did you go? A. My brother called me, he got a union shop, a baker shop, he wants me to go there.

Q. I thought you said you went to your mother's house? A. My brother and mother all one family.

Q. Does your mother live with your brother there? A. Yes, sir.

Q. Where? A. In Long Beach.

Q. What street? A. Gould Avenue and Prospect Street. 30

Q. Your mother lives there? A. Yes, sir.

Q. Positive about that? A. Sure.

Q. What did you have to do there? A. The son can't go visit the mother and brothers.

*Louis Baldanzo—cross*

Q. Why did you go there? A. They called me on Sunday, they are short bakers, wants me to go over to help him.

Q. On Sunday? A. As I went Sunday night.

Q. You stayed there how long? A. Monday and Tuesday, Tuesday night I got a call.

Q. Who took care of your place of business in Passaic? A. My wife.

10 Q. Is she a baker? A. I am not any more a baker.

Q. At that time you had a baker shop? A. No, sir; I got no baker shop four or five years.

Q. What kind of a store have you got? A. Grocery.

Q. Weren't you delivering bread at that time? A. No.

Q. Didn't Anna Lacota deliver bread for you? A. Just around the block.

20 Q. Bread you made yourself or bread you bought? A. My brother-in-law is a baker.

Q. Didn't you have a route where you sold bread? A. No, sir.

Q. Last year? A. No more now.

Q. Last year didn't you have a route where you sold bread? A. No, sir.

Q. You came back to Passaic after being in Long Branch? A. Yes, sir.

Q. Did you do anything about the charge that was made against you? A. No, sir.

30 Q. You went to the Police Station? A. Yes, sir; my wife called me and says detective is looking for me and I go down.

Q. When did you find that out? A. Tuesday night.

Q. When? A. In Long Branch.

*Louis Baldanzo—cross*

Q. You were down in Long Branch? A. Yes, sir; and Wednesday morning I was down to Police Headquarters.

Q. Now from the time Anna's sister called you up until the time you came back from Long Branch you had gone to some lawyer; had you not? A. No.

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

Q. Sure about that? A. Sure.

Q. Well, you went to the police station? A. 103  
Wednesday morning.

Q. And who did you speak to? A. Captain Monks.

Q. Do you remember Officer Eckert on the staff? A. Yes, sir.

Q. You know Officer Eckert? A. Sure.

Q. You remember him asking you about this case? A. Yes.

Q. And he told you what the charges are against you? A. Yes. 200

Q. You didn't deny it to him that you did it, did you? A. Yes, sir.

Q. Didn't you say to him I don't want to say nothing until I see my lawyer? A. I don't know, I know nothing about it.

Q. Didn't you tell him you didn't want to say anything until you see your lawyer, is that right? A. Yes, sir; that is right.

Q. They also asked you to make a statement. Didn't the detective ask you to make a statement? 300  
A. Yes, sir.

Q. You refused to do that? A. Yes.

Q. You didn't deny to the detectives that you committed these acts against Anna Lacota? A. I denied it.

*Louis Baldanzo—cross*

Q. To whom? A. To Eckert.

Q. Was anybody else there? A. Potasniak I think.

Q. On January 27th, 1927, you were home noon-time were you not? A. Yes, sir.

Q. Are you always home noon-time? A. Yes, sir.

Q. You had all your meals home? A. Yes, sir.

10 Q. Does she eat dinner at your place? A. No.

Q. Never? A. No.

Q. Never came there to your home at dinner hour? A. On Saturday or Sunday.

Q. Never through the week? A. On Saturday or Sunday, not through the week.

Q. Have you got any date on that paper about January 27th, that you had? A. No.

20 Q. You are positive she wasn't there on January 27th? A. No, sir; not through the week.

Q. Did she ever go down into the cellar to get wine for the family? A. As far as I know, no.

Q. Can you tell us the exact day Anna left your place of business? A. Sometime around June, the first week.

Q. Have you got that on the paper? A. No.

Q. What makes you so sure she left in June?

A. I remember it was the first week in June.

30 Q. When she was around the house she didn't have any coat on, did she? A. No.

Q. You were able to observe her form? A. Everybody could look at that.

Q. Were you able to observe her form? A. Yes, sir.

*Louis Baldanzo—cross*

Q. Did you notice anything unusual about it?

A. No, sir.

Q. Nothing at all? A. No.

Q. Do you know if your wife did? A. I don't know.

Q. When did you see Anna go out with her sister? A. I didn't see my wife tell me.

Q. Is your wife in court here today? A. Yes.

Q. Do you know when the complaint against you was made? A. Yes. 10

Q. When? A. On Wednesday.

Q. What date? A. August 22nd or 23rd.

Q. And when was Eddie Lacota discharged? A. In June.

Q. Ed Lacota? A. Ed Lacota, he was discharged two days after.

Q. After what? A. After the charge, two days after the charge.

Q. So Ed Lacota wasn't discharged because you didn't want him to go with your daughter, isn't that right? A. I recommended my brother-in-law to discharge him because he was— 20

Q. Wasn't the reason he was discharged was because this complaint was made against you, wasn't that the reason he was discharged? A. He knows, Ed. He had to finish the work.

Q. He was discharged two days after this charge was made against you? A. The day or the day before I don't remember right. 30

Q. Will you take that paper out again and look at it? A. Yes, sir.

Q. Is there anything on there when he was discharged? A. No, sir.

*Louis Baldanze—cross*

Q. But before the complaint was made he still worked for you?

Mr. Stafford—I object to that, the witness hasn't said this man was working for him but for his brother-in-law.

100 Q. Was Ed Lacota working for you or for your brother-in-law? A. My brother-in-law.

Q. On February 16th, 1927, did you give Anna Lacota a note? A. No, sir.

Q. You can read English, can't you? A. Not very good.

Q. You can write English? A. No.

Q. You can't write English? A. Just a little bit.

Q. When you sign your name you sign your name in Italian? A. Louis.

20 Q. You can't write Louis in English? A. It is hard.

Q. You had a car last year didn't you, in 1927? A. Car?

Q. An automobile? A. Yes.

Q. And an open car was it? A. Yes.

Q. As a matter of fact didn't you take her to this place at night or in the afternoon? A. No, sir.

Q. Do you know where Armory place is? A. Yes, sir.

30 Q. Didn't you tell her at a later time when you found out that she was pregnant to blame it on a fellow in East Rutherford? A. No, sir.

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

Q. What? A. No, sir.

*Louis Baldanzo—cross*

Q. When her sister called you up on the telephone and accused you of this charge did you go to see her mother and father? A. No, sir.

Q. You lived a couple of doors away from them? A. Yes, sir.

Q. Did you go up to the house? A. No, sir.

Q. Did you speak to Anna Lacota? A. No.

Q. You didn't do anything, did you? A. No, sir.

Q. As far as you know Anna Lacota was a good girl? A. I can't tell, I don't know. 10

Q. As far as you know? A. As far as she was working for me.

Q. What? A. As far as she was working for me.

Q. Your daughters used to go around with Anna Lacota? A. Not now.

Q. They went to school together? A. Yes, sir; my other girl go together.

Q. As far as you know or any member of your family knows Anna Lacota was a good little girl? 20

A. I don't know.

Q. Did you ever hear anything wrong about her? A. I heard about her going out with her sister.

Q. You heard about her going out with her sister? A. Yes, sir.

Q. Whether she went you don't know? A. I don't know, I no fool nobody. 30

Mr. Moskowitz—I submit we have a right to examine that piece of paper. The witness has used it to refresh his recollection.

The Court—There has not been any objection.

*Louis Baldanzo—cross*

Mr. Dunn—But your honor they took it away from us.

Mr. Stafford—That is true, I don't think counsel has a right to see it. I will offer it in evidence and let the whole jury look at it.

The Court—That is not the question now.

10 Mr. Moskowitz suggests that, he is desirous of seeing the paper.

Mr. Stafford—I object to it at this time, your honor, and ask an exception to the Court's ruling.

The Court—An exception will be noted.

Q. Is this in Italian or in English? A. Some Italian and some English.

Q. So you can read English? A. I can understand it myself.

20 Mr. Stafford—Since it has been used by counsel in his cross-examination I do offer it in evidence.

Q. All this was written at one time? A. I write it whenever I get a call or when I see them.

Q. On August 10th, you wrote this? A. No, two days after that, after they made the complaint.

30 Q. Two days after the complaint? A. Beginning August 20th I start to write every day.

Q. I see you have a date here December 7th. A. Yes, sir.

Q. When was that written? A. 1927.

Q. Then you have have the date September 13th. A. Yes, sir.

*Louis Baldanzo—cross*

Q. When was that written? A. When I got the letter from Scranton, Pa.

Q. As a matter of fact everything written on here written at the same time? A. Everything what has happened I mark it down.

Q. You wrote it all at the same time? A. No, sir.

Q. You kept that same paper from August 10th. A. Yes, sir; I had it in a envelope.

Q. Is that envelope here? A. Yes, sir.

Q. Was that written with the same pencil? A. Yes, sir; sure.

Q. Did you have the same pencil from August to December? A. Yes, sir.

Q. You had the same pencil was that right? A. Yes, sir.

Q. You say you started writing that two days after the complaint? A. Yes, sir.

Q. Don't you know the complaint was made August 22nd? A. Yes, sir.

Q. Don't you know that? A. I started to write this after I see my lawyer.

Q. So you did see your lawyer, when did you see your lawyer? A. After I was arrested.

Q. Before you went to the Passaic Police Station you saw your lawyer? A. No.

Q. Tell us when you wrote this? A. After I was arrested.

Q. When was that? A. After the 13th.

Q. The 13th of what? A. The 20th, I mean.

Q. You have got August 20th. A. I mark it down after I remember that I was called from Scranton, Pa.

Q. You didn't write it down when these things took place?

*Louis Baldanzo—cross*

Mr. Stafford—I object to that.

Q. You didn't come back from Long Branch until August 24th? A. I came back on Tuesday.

Q. You have got dates on there before August 24th? A. I marked it after.

10 Mr. Moskowitz—I object to this. It is a self serving declaration.

The Court—You use it quite generally.

Mr. Moskowitz—It was used for the purpose of effecting his credibility. He refused at first—

The Court—I will admit it in evidence.

Admitted in evidence and marked Exhibit D-1 for the defendant.

20 Q. Will you read that paper so the jury can hear it? A. August 10th, 9 P. M. call from Nancy Lacota.

Court—Wait a moment, is this paper in English?

The Witness—No.

The Court—Our interpreter will read the paper in English.

(Exhibit D-1 for the defendant read to the jury by Anthony D. Aquino, official Italian interpreter.)

30

By Mr. Stafford:

Q. Who told you to keep track of these things on this piece of paper? A. After I see you.

*Louis A. Cowley—direct*

Cross Examination continued by Mr. Moskowitz:

Q. You haven't got on there that you went to Long Branch? A. That is not necessary.

Q. You put on there what you thought was necessary? A. Positive.

Q. You haven't got on there the dates Anna Lacota said you had intercourse with her? A. Because it is not true.

Q. Because it wasn't necessary? A. Because 10  
it wasn't true.

Q. That is the only reason? A. That is the only reason.

LOUIS A. COWLEY, sworn for the defense.

Direct Examination by Mr. Stafford:

Q. What is your occupation? A. Lawyer.

Q. A lawyer how long? A. Twenty-four 20  
years.

Q. You are practicing where? A. In the City of Passaic.

Q. Have you any official position? A. Yes, I am police justice.

Q. Do you know Mr. Baldanzo, the defendant?  
A. I do.

Q. How long have you known him? A. Ten years or more.

Q. Do you know what his reputation is in the 30  
neighborhood where he resides for being a chaste and moral man?

Mr. Moskowitz—I object to it until I have an opportunity to examine him.

The Court—You may examine him.

*Louis A. Cowley—direct*

By Mr. Moskowitz:

Q. Where do you live? A. In Passaic.

Q. What street? A. 97 Ascension St.

Q. How far away is that from where the Baldanzos live? A. I should say about three quarters of a mile.

Q. Do you know where Baldanzo lives? A. Yes.

10 Q. Where? A. On State Street.

Q. What number? A. Number twenty.

Q. How far do you live from Mr. Baldanzo?  
A. About three quarters of a mile.

Q. Do you know the date of these offenses he is charged with? A. I have heard them stated here in court today.

Q. For the first time? A. Except coming before me. I don't remember the dates.

20 Q. Did you have occasion to discuss his reputation concerning his morality with anyone else?  
A. No.

Mr. Moskowitz—I object to it. The witness is not qualified.

30 The Court—I will admit it. He lives about three quarters of a mile from the locality in which this defendant lives and he is asked as to what he knows as to his reputation where he lives for chastity or morality and you think you assume he knows.

Mr. Stafford—Yes, sir.

The Court—Alright, I will admit it.

*Charles J. Monks—direct*

Direct Examination continued by Mr. Stafford:

Q. What is it? A. I don't know as I know his reputation for chastity and morality. I have done considerable work for him—

Mr. Moskowitz—I object to it.

The Court—I shall sustain the objection.

Q. Do you know what his reputation is in the neighborhood where he lives for being a peaceable, quiet and law-abiding citizen? 10

Mr. Moskowitz—I object to it.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,

Judge.

20

CHARLES J. MONKS, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. You are the Captain of Detectives in the Police Detective Bureau? A. I command the Detective Bureau.

Q. Do you know Mr. Baldanzo, the defendant?

A. I do.

30

Q. Do you remember the time he walked into the Police Station and delivered himself up, on a charge made by Anna Lacota? A. I do.

Q. Sometime subsequent to that did he hand you a letter he received through the mails? A. He did.

*Frank Nito—direct*

Q. And you have had it in your possession ever since? A. I have.

Q. Have you got it now? A. I have.

Q. May I see it please? A. Sure.

Mr. Stafford—I offer the letter in evidence if the court please.

10

Mr. Moskowitz—I object to it as immaterial and irrelevant.

The Court—Where is it binding on the State? It is written by whom?

Mr. Stafford—There is no signature attached to it.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,

Judge.

20

FRANK NITO, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. Do you know the defendant, Mr. Baldanzo?

A. Yes, sir.

Q. How long have you known him? A. Fifteen or sixteen years.

30

Q. Where is your residence? A. Passaic.

Q. What is your occupation? A. Salesman.

Q. For whom? A. New Jersey Flour Mills.

Q. How long have you worked there? A. About six years.

Q. Do you know where Mr. Baldanzo lives? A. Yes, sir.

*Frank Nito—cross*

Q. What street? A. State Street.

Q. What number? A. Twenty, I think.

Q. Do you know what his reputation is in the neighborhood where he resides for chastity and morality, do you? A. Yes sir.

Mr. Moskowitz—I would like to examine the witness first.

The Court—Proceed.

10

Cross Examination by Mr. Moskowitz:

Q. Do you know the dates of the offenses charged against Mr. Baldanzo? A. The specific charge, no.

Q. Have you had occasion to discuss his reputation for chastity or morality with anyone? A. Yes, sir.

Q. With whom? A. Oh, several friends in the community.

20

Q. With whom? A. With men.

Q. With whom, what is their names? A. Well, I cannot specify the names.

Q. You cannot specify the names? A. No, no one I remember.

Q. When? A. Oh, two or three months ago.

Mr. Moskowitz—I submit he is not qualified.

The Court—Is this subsequent to the arrest?

30

By Mr. Stafford—Do you know what his reputation was prior to January 25th, 1927 for chastity or morality? A. Yes, sir.

*Frank Nito—cross*

Cross Examination by Mr. Moskowitz:

Q. Before January 27th, 1927, did you have occasion to discuss his reputation with anyone concerning his chastity or morality? A. No.

Mr. Moskowitz—I submit your honor he is not qualified.

10

Mr. Stafford—Did you ever hear anything against him?

Mr. Moskowitz—Now if your honor please, I object to that.

The Court—I shall sustain the objection.

Q. Had you ever heard anything against his reputation prior to January 25th, 1927?

Mr. Moskowitz—I object to that.

20

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

The Court—Exception is noted.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,

Judge.

Q. Do you know what his reputation is in the neighborhood where he resides? A. I do.

30

Q. For being a quiet, peaceful, law-abiding citizen prior to January 27, 1927?

Mr. Moskowitz—I object to the question.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,

Judge.

*Hyman Kramer—direct*

HYMEN KRAMER, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. Do you know Mr. Baldanzo, Mr. Kramer? A. I do.

Q. How long have you known him? A. Twelve to fourteen years.

Q. Do you know where he lives? A. State St.

Q. What number? A. I think twenty-four. 10

Q. What is your occupation? A. The lumber business.

Q. Do you know what the reputation of the defendant, Mr. Baldanzo, is in the neighborhood where he resides for chastity and morality? A. I always thought—

Mr. Moskowitz—I object to it.

Mr. Stafford—Do you know what the reputation of the defendant, Mr. Baldanzo, is in the neighborhood where he resides for chastity and morality? 20

A. Well, I don't know exactly as to chastity and morality.

Q. Did you ever hear anything against his reputation in the neighborhood where he resided?

Mr. Moskowitz—I object to the question. 30

The Court—I shall sustain the objection.

Mr. Stafford—I ask an exception.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

*Harry Joseph—direct*

Q. Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet and law-abiding citizen?

Mr. Moskowitz—I object to the question.  
The Court—Objection sustained.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

10

Jos. A. Delaney.

Judge.

HARRY JOSEPH, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. Where do you live? A. Forty-two Second Street.

20 Q. How long have you lived there? A. I have my place of business there, I don't live there.

Q. How long have you had your place of business there? A. Twenty years.

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

Q. How long? A. I guess about twenty years.

Q. Do you know where he lives? A. On State Street.

Q. What number? A. I think twenty-four.

30 Q. Do you know what his reputation is in the neighborhood where he resides for chastity and morality? A. Yes, sir.

Mr. Moskowitz—I would like to examine the witness.

*Harry Joseph—cross, redirect*

Cross Examination by Mr. Moskowitz:

Q. Do you know the date of the offense charged against Mr. Baldanzo? A. I don't know anything about the offense at all.

Q. Do you know the date? A. I don't know anything about that.

Q. Did you have occasion to discuss his reputation with anyone in the neighborhood in which he resides for chastity and morality? A. Yes, sir, in the store. 10

Q. With whom did you discuss it? A. With people who sometimes come around the store.

Q. Who are the people? A. That buy clothing off me.

Q. When? A. Here of late.

Q. How long ago? A. Two or three months ago.

Mr. Moskowitz—I submit he is not qualified. 20

The Court—There is no question so far. As the situation presents himself presently he is not.

Mr. Stafford—I press my question.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney, 30  
Judge.

Re-Direct Examination by Mr. Stafford:

Q. Do you know what his reputation was prior to January 27, 1927? A. Very good reputation.

*Joseph Delaney—direct*

Q. Do you know what his reputation is in his neighborhood where he resided for being a quiet, peaceful, law-abiding citizen?

Mr. Moskowitz—I object to the question.  
Objection sustained.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

10

Jos. A. Delaney,  
Judge.

Q. Did you ever hear anything against his reputation in the neighborhood where he resided prior to January 27th, 1927? A. No, nothing against him.

Mr. Moskowitz—I object.  
Objection sustained.

20

JOSEPH DELANEY, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. Where do you live? A. Two forty-five Hope Avenue, Passaic.

Q. How long have you lived there? A. About eight years.

30 Q. Do you know Mr. Baldanzo, the defendant?  
A. Yes, sir.

Q. Do you know where he lives? A. Yes, sir.

Q. Where? A. Twenty-four State Street, Passaic.

*Joseph Delaney—cross, redirect*

Q. Do you know what his reputation is in the neighborhood where he resides for chastity and morality?

Mr. Moskowitz—I ask that the question be answered yes or no.

A. Yes, sir.

10

Mr. Moskowitz—Now I would like to cross-examine.

Cross Examination by Mr. Moskowitz:

Q. Did you discuss his reputation for chastity and morality with anyone in the community in which he lives prior to January 27th, 1927? A. I have never discussed it but I have been to his house.

Mr. Moskowitz—I submit he is not qualified to testify. 20

Mr. Stafford—I press the question.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

Re-Direct Examination by Mr. Stafford: 30

Q. Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet, and law-abiding citizen?

*Joseph Delaney—redirect*

Mr. Moskowitz—I object to the question.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

- 10 Q. Did you ever hear anything against his reputation in the neighborhood where he resides for being a chaste and moral man?

Mr. Moskowitz—I object to the question.  
Objection sustained.

Mr. Stafford—I ask for an exception.

The Court—An exception is noted.

Exception allowed and signed and sealed accordingly.

- 20 Jos. A. Delaney,  
Judge.

- Q. Do you know what his reputation is in the neighborhood where he resides for being a truthful witness, a truthful person?

Mr. Moskowitz—I object to that.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

- 30 The Court—An exception is noted.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

*Mary Baldanza—direct*  
*Patrick Cunningham—direct*

MARY BALDANZA, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. You are the wife of Mr. Baldonzo, the defendant? A. Yes, sir.

The Court—I would suggest an adjournment until tomorrow morning ten o'clock and I will repeat again the admonition I gave before the noon recess. You will recall I said we will not discuss this case with anyone, not even among yourselves, until we finally take it under consideration. 10

Second Day, May 1st, 1928.

PATRICK CUNNINGHAM, sworn for the defendant. 20

Q. You are the deputy clerk of the Passaic County Criminal Court? A. Special Deputy Clerk.

Q. Have you in your office as Special Deputy Clerk documents on file in the case of Anna Lacota and Joseph Lacota, her father, in a civil suit pending against the defendant, Louis Baldanza, the first count for seventy-five thousand and the second count for twenty-five thousand? A. Yes, sir. 30

Q. May I look at it please? (No answer.)

Mr. Stafford—I wish to have it marked for identification.

Marked Exhibit D-2 for identification.

*Joseph F. S. Fitzpatrick—direct*

JOSEPH F. S. FITZPATRICK sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. You are a practicing attorney of the State of New Jersey? A. Yes, sir.

Q. And Secretary of State of New Jersey? A. Yes, sir.

10 Q. And the Attorney of Records in a Circuit Court Action instituted by Anna Lacota and her father against Louis Baldanzo in the sum of One Hundred Thousand Dollars? A. I am.

Q. I show you exhibit marked for identification D-2 and ask if that is your signature? A. Yes, sir.

20 Q. As Attorney of Records for Anna Lacota and her father a demand for Bill of Particulars was served on you by Mr. Stafford, Attorney for the Defendant.

Mr. Moskowitz—I object to the question.  
The Court—The answer is yes or no.

A. It was.

Q. Is this the Bill of Particulars that you furnished with your signature? A. Yes, sir.

30 Mr. Stafford—I ask that it be marked for identification.

Bill of Particulars marked for identification D-3 for the defendant.

The Court—The Bill of Particulars and Complaint is offered in evidence.

*Joseph F. S. Fitzpatrick—direct*

Mr. Stafford—Only for identification, that is all.

The Court—Proceed.

Mr. Stafford—Now if the court please I offer in evidence the Bill of Complaint showing the Lacotas, father and daughter, are suing the defendant in the sum of One Hundred Thousand dollars in the Passaic County Circuit Court which is placed on record and produced by those in charge. 10

Mr. Moskowitz—I object to them going into evidence.

The Court—An objection is raised and I shall sustain the objection.

Mr. Stafford—I ask for an exception.

The Court—An exception is noted.

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney, 20  
Judge.

Mr. Stafford—I offer into evidence the Bill of Particulars signed by Joseph F. E. Fitzpatrick, the Attorney of Records, of Anna Lacota, who is the complaining witness in this case. I offer it in evidence for this purpose. The witness testified on the stand, your honor, that the ravishment of January 25th was accomplished with force, the ravishment of February 16th and the other date were not. The Bill of Particulars served upon the defendant by the complaining witness through her attorney says that all assault was accomplished by assault and violence and 30

*Mary Baldanzo—direct*

against her consent. I offer to affect her credibility. I now offer this Bill of Particulars in evidence.

Mr. Moskowitz—I object to it going into evidence.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception.

The Court—An exception is noted.

10      Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

MARY BALDANZO, recalled for the defendant.

Direct Examination by Mr. Stafford:

20      Q. You are the wife of Louis Baldanzo, the defendant? A. Yes, sir.

Q. Do you know Anna Lacota? A. Sure.

Q. How long have you known her? A. Well, give me a man I can't speak English good.

The Court—How long have you been in this County?

The Witness—Twenty-four.

The Court—Where do you reside?

The Witness—I can't talk English.

30      The Court—I asked you where did you reside? I asked where do you live?

The Witness—Twenty-four State Street.

The Court—Twenty-four State Street?

The Witness—Yes.

The Court—How many children have you in the family?

*Mary Baldanzo—direct*

The Witness—Three.

The Court—What are their names?

The Witness—Mary, Jennie and—

The Court—I think she can talk English well enough.

Direct Examination continued by Mr. Stafford:

Q. How long have you known Anna Lacota? A. Seven years. 10

Q. Was she ever at your house? A. Well, sure.

Q. What did she do there? A. Well, play for my kid.

Q. Was she ever paid for that? A. He give her a dollar a week.

Q. Do you know what was done with that dollar a week? A. My daughter put in the bank, on the bank book.

Q. Was that a Christmas Club? A. Yes, sir.

Q. Did you know about that when it was opened up? A. Yes. 20

Q. Did Anna Lacota go to your house every day after school? A. No.

Q. When did she go and have dinner with you? A. After school she come and go with my daughter.

Q. Mrs. Baldanzo, your husband is charged with assaulting this girl in the cellar of your home on January 25th, 1927. Did you ever send her down in the cellar for wine? A. No, sir.

Q. On any occasion did you ever send her for wine? A. I never send. 30

Q. How long did she stay at your home minding the children? A. A couple of months.

*Mary Baldanzo—direct*

Q. When did she quit that, when did she leave?

A. March, no, June.

Q. Which month? A. I don't know.

Q. Did she work right up until the day your husband was arrested or did she leave before? A. She leave before.

Q. Do you remember when your husband was arrested? A. No.

10 Q. How long before he was arrested did she leave your place? A. I don't remember.

Q. Do you know how she came to leave? A. No.

Q. Why did she leave? A. I don't know.

Q. Did you have anything to say to her to cause her to leave? A. No.

Q. Do you understand my question? A. Well, not so much.

20 Q. Do you know when Anna Lacota stopped minding the baby? A. Yes.

Q. When? A. Before this case.

Q. How long before this case? A. Months before.

Q. How many months? A. Well, one month before.

Q. Do you know Edward Lacota, Anna's brother? A. Yes.

Q. Did he ever call on your daughter? A. Yes.

Q. Did any trouble arise out of that? A. Yes.

30 Q. When did that arise? A. I don't know, I can't explain it to you.

Q. Can you explain in Italian? A. Yes, sir.

Mr. Stafford—I am afraid this witness doesn't understand my question.

*Mary Baldanzo—cross*

The Court—There is no objection to having an interpreter if it is necessary.

(Anthony D. Aquino, Official Italian Interpreter, sworn.)

Q. What was the trouble with Edward Lacota?

A. He want my daughter.

Q. Well, what happened? A. We didn't want to give him our daughter because we didn't like him. 10  
We told him not to go with her.

Q. What happened as a result of that? A. He was threatening my girl and he sent to tell us if we didn't give him our girl he would send us bad news.

Q. When was that said? A. In August I think.

Q. How long before your husband was arrested?

A. About a week before.

Q. Where was Edward Lacota working then do you remember? A. My brother-in-law's baker 20  
shop.

Q. Where was that? A. In my house, next door to my house.

Cross Examination by Mr. Moskowitz:

Q. What kind of a place do you have on State Street? A. We have a grovery.

Q. You have got a bakery? A. Yes, my brother-in-law has that.

Q. You are partners with your brother-in-law? 30  
A. No, five years ago.

Q. You sell your brother-in-law's goods in your store? A. No.

Q. You don't sell any of your brother-in-law's

*Mary Baldanzo—cross*

bread in your store? A. Yes, we get it from his oven and sell it in the store.

Q. Just look this way. A. I can't look all that way.

Q. Do you sell your brother-in-law's bread in your store? A. Yes.

Q. Anna Lacota delivers bread, doesn't she? A. Yes, with my daughter together.

10 Q. How much bread does she deliver? A. Two or three loaves a day towards the evening.

Q. How much money did she get for that? A. We gave her a dollar a week.

Q. How long has she been getting a dollar a week? A. As soon as the bank book was opened she was mad because my daughter had one and she wanted one too.

Q. I asked her when? A. As soon as they opened up the bank book that is when she started.

20 Q. Do you know when that was? A. No, I don't know the date.

Q. Before she opened up the bank book was she getting any money then? A. I don't know.

Q. So you say Anna did not get any money before the bank book was opened?

Mr. Stafford—I object to that. She said she didn't know.

30 Q. Do you know? A. No.

Q. You don't know whether she got any money? A. No.

Q. Didn't you ever ask your husband? A. No, he didn't give her any money, the money he gave her was in my presence.

*Mary Baldanzo—cross*

Q. He always gave her the money while you were there, is that right? A. Yes, and in the presence of my children.

Q. Do you know when he opened the bank account? A. Yes.

Q. When did you know that? A. The first day he opened.

Q. When was it opened, do you know? A. I don't know the date. 10

Q. About when? A. When my children opened their bank account she opened her bank account.

Q. Have you got your children's bank account here? A. No, we haven't got them.

Q. You haven't got that here? A. No.

Q. How many bank accounts did you open that day? A. Hers and my children's accounts, too, all three I mean.

Q. Who opened it? A. Him, the children and her. 20

Q. Did you open the bank account? A. For myself?

Q. No, did you open the bank account for Anna? A. Yes, for my children and her.

Q. Did you go to the bank? A. No.

Q. Who went to the bank? A. My kids.

Q. Did your husband go to the bank? A. No.

Q. Your husband didn't go to the bank? A. He don't go to the bank, my kids go.

Q. You are sure about that? A. Sure. 30

Q. How do you know that? A. I know.

Q. How do you know that? A. I know.

Q. Are you sure that your husband didn't go to the bank? A. My kids, two of them go.

Q. So your husband did go to the bank? A. Maybe he go, the kids go.

*Mary Baldanzc—cross*

Q. Do you know— A. My daughter.

Q. Do you know if your husband went? A. I don't know if he go together with my children.

Q. Do you know when your husband was arrested? A. He wasn't arrested.

Q. He wasn't arrested. When did Anna stop working in your place? A. Two months before this thing happened.

10 Q. Two morths before what happened? A. When he was threatening my daughter.

Q. Who was threatenjng your daughter? A. The brother.

Q. When was that? A. I think in August.

Q. In August her brother was threatening your daughter? A. Yes.

Q. And you say that Anna left work in your place when? A. About two months, maybe in the month of May. I don't remember the date.

20 Q. It wasn't June or July was it? A. I don't know, I don't remember.

Q. It wasn't in August, was it? A. No.

Q. You are sure it wasn't in August? A. No, I don't remember. I mind my own business in the store and I don't remember anything.

Q. Isn't this your business? A. Sure.

Q. Isn't this your business to see Anna in the store? A. Yes, when she comes.

30 Q. She used to mind the baby? A. Once in a while.

Q. She would get a dollar a week? A. Yes, sometimes she don't come.

Q. You have got a daughter that graduated from public chool in June in Passaic? A. Yes.

Q. When was graduation? A. I don't know.

Q. June 30th? A. Yes, sir.

*Mary Baldanzo—cross*

Q. Anna was in her class? A. They didn't graduate together.

Q. Was Anna in her class? A. I don't think she was in her class.

Q. They both graduated from school together?  
A. No, not together.

Q. They didn't graduate the same time? A. No.

Q. You remember Anna coming into your house after graduation time, do you remember that? A. Yes, she come. 10

Q. So that you were still friendly with Anna in June, the latter part of June, isn't that so? A. No.

Q. Anna gave you a picture of her graduation—  
A. She give it to my daughter.

Q. In July? A. I don't remember.

Q. She had graduated before she gave her the picture, hadn't she? 20

Mr. Stafford—I object to it. It calls for a conclusion.

Q. Had she graduated?

Mr. Stafford—I object to that question as calling for a conclusion of the witness. Unless she knows.

A. I don't know. 30

Q. Anna used to go down in the cellar for wine every once in a while? A. No, sir.

Q. Never went down in the cellar? A. No.

Q. On January 27th did she go down into the cellar? A. No, sir.

*Mary Baldanzc—cress*

Q. How do you know she didn't go down? A. Because I am all the time home.

Q. How do you know she didn't go down into the cellar? A. I know it.

Q. Did you follow her where she went? A. What?

Q. Where did she go that you followed her? A. I don't understand and I didn't see where she went. She never went down in the cellar.

10 Q. This particular day, January 27th, did you see her go outside of the kitchen or wherever you eat? A. No.

Q. In what room do you eat? A. In the kitchen.

Q. On January 27th did you see her go out of the room? A. No, sir.

Q. Did you go out of the room at all that day? A. No, sir.

20 Q. You were there all the time? A. Yes, sir.

Q. Do you remember when your husband went to Long Branch? A. Yes, sir.

Q. When was that? A. I don't know the date.

Q. About when was it? A. In August I think.

Q. Did you call your husband up from Passaic to Long Branch? A. Yes.

Q. What did you tell him? A. I tell him that there was a complaint made against him.

30 Q. What did he say to you? A. He asked me what this complaint was.

Q. What else was said? A. I told him there was a complaint made and that is all.

Q. Did you tell him who made it? A. I told him that there was a complaint made and that I didn't know.

*Mary Baldanzo—direct*

Q. You didn't tell him who made it? A. I tell him to come immediately.

Q. Did you tell him who made the complaint?

A. No, I tell him to come right away they wanted him.

Q. And did he ask you who wanted him? A. No.

Q. He didn't ask you that? A. No, he came right away.

Q. How soon did he come? A. Two or three hours after.

10

Q. Are you sure about that? A. The time from Long Branch to come home.

MARY BALDANZO, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. You are the daughter of Mr. Baldanzo, the defendant? A. I am.

20

Q. Do you know Anna Lacota? A. I do.

Q. How long have you known her? A. Well, for about three or four years.

Q. Did she ever visit your home? A. She did.

Q. When she visited your home did she ever do any work there? A. No, she didn't do any work, she took care of the baby.

Q. Do you know whether or not she received any money? A. She did. We used to give her a dollar a week or something like that for savings money.

30

Q. Do you remember a bank account being opened in 1927? A. Yes, sir.

Q. Did you open that bank account at that time?

*Mary Baldanzo—direct*

A. I didn't go but someone else went. I didn't open it.

Q. What kind of a bank account was it? A. A Christmas Club.

Q. How much was your account opened for? A. Five dollars a week.

Q. Do you know whether or not it was about the same time Anna Lacota's account was opened up? A. For five?

10 Q. No, about the same time. A. Yes, sir, about the same time.

Q. Were you home during the year nineteen hundred and twenty-seven or at school? A. I was home at that time when the bank account was opened.

Q. Did you come home for dinner every day? A. Yes, sir, sure, I was home.

20 Q. Did Anna Lacota come to your home for dinner every day from school? A. No, never.

Q. When with reference to the beginning or end of the week was it that Anna Lacota would go there and have dinner? A. Maybe some evenings for supper and Saturday and Sunday once in a while for dinner.

Q. Do you recall any occasion when she was at dinner at noon-hour on her return from school? A. She never had dinner with us.

Q. Were you home noon time? A. Yes, sir.

30 Q. Was your sister, Jennie, too? A. Sure.

Q. Miss Lacota, do you recall any occasion when you and your sister and your mother were in the kitchen having your dinner in the month of January 1927 when your mother asked Anna Lacota to

*Mary Baldanzo—direct*

go for a bottle of wine? A. She never went down in the cellar dinner hour.

Q. Did you ever hear your mother on any occasion ask Anna to go in the cellar for a bottle of wine? A. No, sir.

Q. Do you know Edward Lacota? A. I do.

Q. Are you the daughter on whom Edward called? A. Yes, sir.

Q. Did you have some trouble with Edward? A. I did. 10

Mr. Moskowitz—I object to it.

The Court—She has answered it.

Q. When did he stop calling on you?

Mr. Moskowitz—I object to that.

The Court—I shall sustain the objection.

Mr. Stafford—I ask for an exception. 20

Exception allowed and signed and sealed accordingly.

Jos. A. Delaney,  
Judge.

Q. Did Edward make any threats to you about your father? A. He did.

Mr. Moskowitz—I object to the question.

The Court—It has been answered. 30

Q. What were these threats?

Mr. Moskowitz—I object to it. It is immaterial what someone else did.

*Mary Baldanzo—cross*

The Court—I shall sustain the objection.  
Mr. Stafford—I ask for an exception.

Exception allowed and signed and sealed  
accordingly.

Jos. A. Delaney,  
Judge.

Cross Examination by Mr. Moskowitz:

- 10 Q. How old are you? A. Twenty-one.  
Q. What is your occupation? A. I work at dresses.  
Q. Home? A. No.  
Q. What is your first name? A. My first name?  
Q. Yes. A. Mary.  
Q. Have you got a bank account? A. Yes, sir.  
Q. A Christmas Club? A. I have.  
Q. Did you have one last year? A. I did.
- 20 Q. In what bank? A. I think it was the People's bank, I don't remember exactly, I don't remember which bank it was last year but I know we trade with the City now.  
Q. How many Christmas Club books did you have last year? A. I had two, one for my sister and one for myself.  
Q. In the same bank? A. Yes, sir.  
Q. You don't remember the name of the bank?  
A. I don't.
- 30 Q. You remembered everything else that happened in 1927? A. Yes, sir.  
Q. Are you sure it wasn't the City Trust? A. I am not sure, I am telling you.  
Q. Who made the deposits? A. I used to make them.

*Mary Baldanzo—cross*

Q. Don't you know what bank you made the deposits in? A. It was the City Trust if I am not mistaken.

Q. Where is it? A. On the corner of Prospect St.

Q. Prospect and what? A. Main Avenue.

Q. Passaic? A. Yes, sir.

Q. Where is the Peoples' Bank and Trust Co.?

A. On Main Avenue.

Q. Are they quite a distance away from one another? A. Not very far. 10

Q. How far? A. About one or two blocks.

Q. Have you got a picture in your mind which bank it was? A. I have.

Q. And you made deposits yourself last year? A. In my own I did.

Q. And in your own which bank did you go to to the Christmas Club? A. I think I went to the City because I had one at the City and before that I had one at the Peoples. 20

Q. 1927 you went to what bank? A. I think I went to the City but I am not sure.

Q. Why are you not sure? A. Because I am not sure.

Q. How many times did you go to this bank?

A. I went several times but I am not sure.

Q. When was the first time you went to this bank, the City Trust? A. To deposit the money?

Q. Yes. A. Just as soon as the Christmas Club opened. 30

Q. When was that? A. About January.

Q. Did you go there alone? A. To deposit my money?

Q. Yes. A. I certainly did.

*Mary Baldanzo—cross*

Q. Who made the deposits for Anna Lacota?

A. I don't know. I think my father.

Q. Were you there? A. To deposit her money?

Q. When your father deposited the money? A. No.

Q. Who opened up your account? A. Myself. My father went too.

10 Q. Your father was with you? A. When we talked of it.

Q. Who opened up your account? A. I did.

Q. Was your father there? A. Sure he went.

Q. In the bank? A. Not in the bank, I didn't say that. He must have gone before to open his.

Q. Was he with you when you opened up your account in the Christmas Club? A. No.

20 Q. So that both accounts of Anna's and yours were not opened up at the same time? A. It was opened the same time but I didn't go to open hers.

Q. Do you know the date yours was opened up? A. If I had the bank book I would know.

Q. Have you got the bank book here? A. No.

Q. As a matter of fact your Christmas Club at all times if you did have any was in the City Trust of Passaic? A. I think so.

Q. And Anna Lacota's bank account was in the Peoples Bank and Trust Co. A. I don't know.

30 Q. Were you home on January 27th? A. Sure, I am always home.

Q. Always home? A. I was always home at that time.

Q. Were you working that day? A. No.

Q. Were you working the day after that? A. No, I didn't work that time.

*Mary Baldanzo—cross*

Q. Were you working that time? A. I didn't start to work then.

Q. When did you start work? A. In February or March.

Q. Where did you get five dollars a week to put in the bank account if you were not working?

A. My father.

Q. Your father gave you five dollars a week?

A. Sure.

Q. How long was Anna Lacota working for your father? A. About two years I think. 10

Q. Every day? A. Once in a while.

Q. Before January was Anna getting any money? A. I don't think so, I don't know.

Q. You don't know that. When did Anna Lacota leave your house? A. About June, I don't know.

Q. Around June? A. Around the summer time, before the vacation time.

Q. Well, do you know about when she left? 20

A. No.

Q. When was the last time you saw Anna there? A. Over to my house?

Q. Yes. A. She was over to the house about June but I cannot remember that it was last.

Q. You went to your sister's graduation? A. My sister graduated before her.

Q. You went with Anna Lacota? A. Anna Lacota didn't come to my sister's graduation.

Q. Sure about that? A. Yes. 30

Q. Did you go to Anna Lacota's graduation?

A. I did.

Q. When was that? A. The end of June.

Q. Then Anna Lacota came to the house and gave you a picture? A. Yes, but she didn't come around the house after that.

*Jennie Baldanzo—direct*

Q. Where then did she give that picture? A. She gave my sister a picture by the house. I don't know. I wasn't there.

Q. That was in July, wasn't it? A. I don't know, I can't tell you.

Q. You can't remember that at all, can you? A. No.

10 JENNIE BALDANZO, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. You are the daughter of Mr. Baldanzo, the defendant? A. I am.

Q. How old are you? A. I am sixteen.

Q. Where do you live? A. 24 State St.

Q. Do you know Anna Lacota? A. I do.

Q. How long have you known her? A. About  
20 four years.

Q. You were friendly with her when she was at your home? A. Yes, sir.

Q. When did she first start to come to your home, Miss Baldanzo? A. As soon as I had my little sister.

Q. What did she do there? A. She used to take care of the little one.

Q. Do you know whether or not she was paid for that? A. She wasn't paid but she was paid  
30 about a couple of months after.

Q. Do you know anything about a bank account being opened by your father in her name? A. I do.

Q. Do you know when it was opened up? A. Well, after Christmas.

Q. Did you know at the time it was opened up

*Jennie Baldanzo—direct*

that your father was opening it and that your father— A. I don't exactly know the time.

Q. When did you learn that Anna Lacota had a bank account opened up with you and your sister? A. We were all there.

Q. Were you all there when it was discussed? A. I was.

Q. Where? A. In the store.

Q. Who was present? A. My sister and my father and I. 10

Q. How long after Christmas was this? A. When the Christmas Club opened.

Q. Were you home for dinner every noon-hour in the month of January, 1927? A. I was.

Q. What school did you go to? A. Number twelve.

Q. What time did you get home? A. Twelve o'clock.

Q. What time did you leave to go back to school? A. Quarter to one. 20

Q. Did Anna Lacota make a practice of going to your home for dinner? A. No, sir.

Q. To your knowledge did she ever have dinner at your home on a school day? A. She never had dinner at noon hour.

Q. When would she have meals at your house? A. At night for supper and some Saturdays and Sundays.

Q. Do you remember any occasion in the month of January when your mother sent Anna Lacota down into the cellar for wine at noon time, between twelve and one o'clock when she came there for dinner? A. No, sir. 30

Q. Did you ever hear your mother send her in the cellar for wine? A. No, sir.

*Jennie Baldanzo—direct*

Q. You were very friendly with Anna? A. I was.

Q. She used to confide in you quite a lot? Did she ever tell you she went around with boys?

A. She used to tell me she used to go out with her sister, Rose.

Q. Where?

10

Mr. Moskowitz—I object to it if the court please.

The Court—The question is where.

Mr. Moskowitz—It is immaterial and irrelevant.

The Court—She may answer the question.

A. She used to go to Atlantic City, Union City, Jersey City, where her sister used to bring her.

Q. Did you ever have any talk with her about a ring she had on her finger? A. Yes, sir.

20

Mr. Moskowitz—I object to it.

The Court—The question is answered.

Q. Did she tell you where she got it? A. Yes, sir.

Mr. Moskowitz—I object to it. May I ask the witness to stop answering a question when I stand up?

30

Q. Where did she say she got it?

Mr. Moskowitz—Now I object to that as immaterial.

The Court—I shall sustain the objection.

*Jennie Baldanzo—cross*

Mr. Stafford—I ask for an exception.  
Exception allowed and signed and sealed  
accordingly.

Jos. A. Delaney,  
Judge.

Q. Do you remember Edward Lacota, a brother  
of Anna's, calling on your sister, Mary? A. I  
do.

Q. Do you know of any trouble that happened 10  
between your sister and Edward Lacota?

Mr. Moskowitz—I object to it as im-  
material.

The Court—The answer is yes or no.

Q. Do you? A. I do.

Q. When did he stop calling on your sister?

A. About the end of August sometime.

Q. Do you know why he stopped? 20

Mr. Moskowitz—I object to it, if the  
please.

The Court—The answer is yes or no.

Q. Do you know why he stopped? A. No, I  
don't.

Cross Examination by Mr. Moskowitz:

Q. You don't know why your sister stopped 30  
going with Ed Lacota? A. No.

Q. You had been living home all the time?

A. I was.

Q. How long was he going with her? A.

*Jennie Baldanzo—cross*

About a couple of months, a few months.

Q. Your father and mother never discussed why Ed— A. Not while I was home.

Q. At no time? A. Not while I was home.

Q. Did you ever discuss it with your sister? A. No, I didn't.

Q. Have you got a bank account? A. I have.

Q. What bank? A. I think it is in the City Trust.

10 Q. A Christmas Club? A. Yes, sir.

Q. You are speaking about this year or last year? A. Last year.

Q. 1927? A. Yes.

Q. Have you got that book with you? A. I haven't got it here.

Q. How much was your book for? A. Five dollars.

Q. Did you work? A. I do now.

20 Q. In 1927? A. Last year I used to go to school.

Q. Where did you get the money from? A. My father.

Q. Who opened up your bank account? A. My sister and father.

Q. So you were not present? A. No.

Q. Did you sign a card? A. Yes, sir; I did.

Q. You did sign a card? A. That they brought home.

Q. It was for the City Trust Co.? A. Yes.

30 Q. On January 27th was Anna Lacota at the home that day? A. At noon time?

Q. Yes. A. No.

Q. How do you know she wasn't home on that day? A. Because I was home all the time on noon-hour.

*Jennie Baldanzo—cross*

Q. On this particular day you cannot remember, remember she wasn't at your home on that date? A. I am sure I was home.

Q. You are. You say positively Anna was not there that day? A. I know she never came in the afternoon over to my house.

Q. Was there one occasion that she was at dinner at your house for the two or three years she was there? A. No, sir.

Q. You used to deliver bread together with Anna? A. Yes, sir; I used to. 10

Q. When did you first find out that she was getting a dollar a week? A. When she opened the Christmas Club.

Q. When was that? A. Sometime in January after Christmas.

Q. Do you know what bank? A. No, I don't.

Q. What? A. I don't.

Q. How do you know she had a bank account? A. Because we were all there in the store talking about it. 20

Q. Did you see your father give her the book? A. Yes, I did.

Q. You did see that? A. Yes.

Q. You used to go out with Anna different places? A. No.

Q. You used to pal around together? A. We used to pal around but never go out with her.

Q. You were friendly with her? A. Yes, sir.

Q. As far as you knew she was always a good little girl? A. I don't know. 30

Q. Didn't you go with her? A. I used to go with her.

Q. Any time you were with her did you see her do anything wrong? A. Not as far as I know.

Q. You have been with her how many years?

A. About two or three years.

Q. How many times a week did you go with her? A. Every time, sometimes she used to go with her sister, Rose.

Q. I am not asking you that. Please answer the question. When did Anna leave your house?

A. I think it was during vacation time.

Q. Well about when? A. June or July, I just can't remember.

10 Q. It couldn't have been in June because you graduated in June? A. I did not.

Q. When did you graduate? A. In February.

Q. Anna graduated in June? A. Yes, sir.

Q. She was still at your house in June? A. Yes, sir.

Q. Then it could not have been in June? A. I think it was in June, the last of June.

Q. She graduated in June? A. Graduation was I think June 28th.

20 Q. She was still at your house after graduation? A. Yes, sir; she was.

Q. She was still at your house the following month? A. I don't think so.

Q. What makes you say that? A. Because my mother warned me not to go with her any more.

Q. Why? A. Because she used to pal around with her sister.

30 Q. That is the reason why your mother warned you? A. Yes, sir.

Q. When was the last time she was in your house? A. I don't know.

Q. So you didn't go with Anna on account of that what your mother told you? A. Yes, sir.

Q. Anna Graduated in June? A. Yes, sir.

*Frank R. Lomauro—direct*

Q. Did you tell Anna that? A. No, why should I tell her?

Q. Did you tell her why? A. I didn't give her so much confidence and I believe she understood.

Q. You believe she understood. When was the last time you spoke to Anna Lacota? A. I think it was graduation.

Q. You remember the time she went away from Passaic for a week or so and went to Pennsylvania? A. Yes, sir. 10

Q. Do you remember her saying good-bye to you? A. No.

Q. To your mother? A. No, she didn't. I don't know about my mother but I am sure about myself.

Q. Weren't you home? A. I believe I was home but she didn't say good-bye to me.

Q. She came in your house? A. I don't know. 20

Q. Did you see her there? A. No, I didn't.

FRANK R. LOMAURO, sworn for the defendant.

Direct Examination by Mr. Stafford:

Q. Where do you live? A. 262 Brook Ave.

Q. How long have you lived in Passaic? A. Twenty-eight years. 30

Q. What is your occupation? A. Real estate and insurance.

Q. How long have you been in that business?  
A. About ten years.

*Frank R. Lomauro—cross*

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

Q. How long have you known him? A. As long as I live, we come from the same town.

Q. Do you know what his reputation is in the neighborhood where he resides for chastity and honesty of living? A. Yes, sir.

10 Mr. Moskowitz—I would like to have an opportunity of cross examining this witness.

The Court—Alright.

Cross Examination by Mr. Moskowitz:

Q. Do you know the dates when the alleged offenses against Mr. Baldanzo took place? A. When I heard about it, but I don't know the dates.

20 Q. With whom did you discuss his reputation for chastity and morality? A. Well, with a few friends.

Q. Who? A. People who were talking about it after they saw in the paper.

Q. The day after they seen it in the paper? A. That is right.

Q. The day after they saw what in the paper? A. That he was arrested.

30 Mr. Moskowitz—I submit that this witness is not qualified to testify.

*Frank R. Lomauro—redirect, recross*

Re-direct Examination by Mr. Stafford:

Q. Did you speak to anybody before January 1927, about his reputation? A. Yes, sir.

Q. Do you know what his reputation was in 1926? A. Well, it has always been good.

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

Q. Did you discuss it with anybody in 1926?  
A. Yes, sir.

Q. Who? A. A man who lived by me. 10

Re-cross Examination by Mr. Moskowitz:

Q. You discussed his reputation with whom?

A. A fellow by the name of Sylvester.

Q. For chastity and morality? A. Yes, sir.

Q. Do you know what that means? A. Yes, sir.

Q. What does it mean? A. Well, morality means when a man has good standing.

Q. Do you know what chastity means? A. 20  
Yes, sir; I know what chastity means.

Q. What does it mean? A. When a man don't mind his business and tries to do something wrong with other women.

Q. With whom did you discuss his reputation for chastity and morality? A. A fellow by the name of Sylvester. Before he died he lived next door to me.

Q. How long is he dead? A. About six months ago. 30

Q. When did you discuss it with him? A.  
We always—

Q. When? A. I can't remember.

Q. You answered before he died? A. I said that.

*Frank R. Lomauro—redirect, recross*

Q. How soon before he died? A. A couple of months before he died.

Q. Is that the only man you discussed it with? A. I can't remember other men. We were all born in the same town and as soon as I read in the paper we all talk about it.

10 Q. That was the only time you discussed it after you read that in the paper? A. There was no other occasion.

Q. No other occasion? A. No other occasion.

Q. The only time you discussed it was after you read it in the newspaper? A. There was no other occasion before.

Mr. Moskowitz—I submit this witness is not qualified to testify.

20 The Court—I understand the witness to say he did discuss the defendant's chastity and morality prior to the complaint in this case so I shall permit the question.

Re-direct Examination by Mr. Stafford:

Q. What is his reputation for morality and chastity? A. So far as anything I know the whole family—

Q. What is his reputation? A. It has been good so far to this time.

30 Re-cross Examination by Mr. Moskowitz:

Q. You say you discussed it before you read it in the newspaper in 1926, is that right? A. I don't remember if it was 1926 or 1927. It was after we read it in the paper.

Q. Before you read in the newspaper did you

*Anna Lacota—direct, cross*

discuss his reputation? A. We always discuss between friends a man's reputation.

Q. Why did you discuss his reputation? A. Because we knew him and talk about him.

Q. Was he a bad man and did you have to discuss his reputation? A. No, he wasn't a bad man.

Q. Well, why? A. Well, he is in business next door and I ask him about this man, I am in the Real Estate and Insurance business. 10

Q. Did you discuss his reputation about him being a man bad with women? A. We had no cause to.

Q. You had no occasion to discuss it? A. No.

ANNA LACOTA, Recalled for the State.

Direct Examination by Mr. Moskowitz:

Q. Anna, were you discharged or did you leave the home of the Baldanzo's? A. I never heard of Mr. Baldanzo discharging me because I was at the home until August 14th. 20

Q. Did any of Baldanzo's daughters tell you they had a bank account in the same bank you had your account in? A. They had a different bank account in another bank.

Q. And this bank account S-1 that has been admitted in evidence in the Peoples Bank and Trust Co. was opened by whom? A. Mr. Baldanzo. 30

Cross Examination by Mr. Stafford:

Q. When did you discuss the bank account with the girls? A. During Christmas time.

Q. During what year? A. 1926.

*Anna Lacota—cross*

Q. Was it then that Mr. Baldanzo agreed to open up this account for you and the girls? A. I didn't know he was going to open an account for me. I never heard him say he was going to open an account for me.

Q. When you discussed it with the girls where were you? A. In his store.

Q. Who was present? A. His daughters.

10 Q. Who else? A. Her husband and myself.

Q. You, Jennie Baldanza, Mary Baldanza and Mr. Baldanza were in the store Christmas time 1926? A. Yes, sir.

Q. When these bank accounts were discussed. A. Yes, sir.

Q. Was it then he said he would open up a bank account for you? A. He never mentioned it before his children.

20 Q. I thought you said they discussed it? A. The ones of his daughters, not mine.

Q. When was your bank account discussed? A. It never was discussed before then. He just gave me the bank book in January. That is the first time I knew I had a bank account.

Q. Did you talk to the girls about the bank account at all? A. About my bank account?

Q. Yes. A. No.

Q. Why? A. I didn't want to say anything.

30 Q. Didn't you want them to know anything? A. No, their father was going to give me the money on the sly.

Q. He was giving you a dollar a week on the sly? A. Yes, sir, and his wife never knew anything about the bank account until later on.

*Anna Lacota—cross*

Q. Was he giving you your wages on the sly?

A. So far as I know his wife was never present only a couple of times when he gave me a buck.

Q. Gave you what? A. One dollar.

Q. Did you say a buck? A. Yes, sir.

Q. Is that what you usually call it? A. Certainly.

Q. But he didn't give you the dollar you earned for minding the children on the sly, did he? A. In the beginning he would. 10

Q. Didn't he pay you every cent you were due?

A. Yes, sir, but not before his wife.

Q. When did he make the first payment before his wife of the dollar you were to put in the bank account? A. He didn't give any before his wife after the bank account.

Q. You said his wife was present on several occasions when he gave you the dollar to put in your bank account, didn't you say that? A. Yes. 20

Q. How soon after Christmas 1926 was it that she was present? A. About two months after.

Q. From February one she knew that you were getting a dollar? A. Why, certainly.

Q. Did he continue to give it to you on the sly?

A. If his wife and children were not looking he would give me two dollars.

Q. He gave you more than one dollar? A. Certainly.

Q. You didn't tell that on your direct examination, did you? A. It was usually on the sly. 30

Q. How is it that you did not tell that on direct examination that there were occasions when Mr. Baldanza gave you more than one dollar? A. I did tell Mr. Fitzpatrick.

*Anna Lacota—cross*

Q. Why didn't you tell Moskowitz, the State's Attorney? A. Because I didn't remember.

Q. Was these two dollars given you on the sly like the others? A. Yes, sir.

Q. Did you go and put these in the bank? A. Yes, sir.

Q. This discussion you say you had with the two girls in the store was about what bank account? A. About their own bank account.

10 Q. That was Christmas 1926? A. Yes, sir.

Q. Did you ever discuss your bank account with the girls after that? A. No, sir.

Q. You never did? A. They didn't know I had a bank account by their father.

Q. They didn't know that? A. No, sir.

Q. You didn't tell them? A. No, I didn't.

Q. Did you purposely conceal it from them? A. Yes.

20 Q. It was nothing to conceal? A. No, but I didn't want them to know my own affairs.

Q. You were perfectly justified in putting a dollar in the Christmas Fund that you saved, that was correct and proper? A. Yes, sir.

Q. You had nothing to hide? A. No.

Q. Nothing to conceal? A. No, but I didn't want to tell them.

Q. You concealed it from them and he handed it to you on the sly, the same dollar, is that it? A. Yes, sir.

30

State rests.

(Mr. Stafford sums up for the defendant.)

(Mr. Moskowitz sums up for the State.)

**CHARGE**

The Court then charged the Jury as follows:

The Court: Members of the Jury. The defendant is charged in three separate indictments with the commission of the crime of carnal abuse. The indictments refer to it as statutory rape. The State charges the crimes were committed on one Anna Lacota on the twenty-seventh day of January, nineteen hundred and twenty-seven, February sixteenth, nineteen hundred and twenty-seven and July twenty-fifth, nineteen hundred and twenty-seven, in the City of Passaic, in this County and within the jurisdiction of this Court.

10

You have heard the evidence and from the testimony you have heard you are to determine the guilt or innocence of this defendant.

The law makes you the sole judges of the question of fact. That being so, the Court will not advert to the testimony in detail, but will lay down for your guidance rules of law which you will apply to the evidence and which will aid you in coming to your conclusion.

20

The statute says, in substance, that any man of the age of sixteen years or over who shall carnally abuse a woman-child over the age of twelve and under the age of sixteen years, with or without her consent, shall be guilty of a high misdemeanor. Carnal abuse is the assault of debauchery of the female sexual organs by the genital organs of the male. It is immaterial in this crime whether the abuse was with or without the consent of the woman when she is under the age of sixteen and the male sixteen years or over.

30

148  
*Charge*

The burden of proof, of course, is upon the State. By that I do not mean that the State must produce more witnesses numerically than the defendant, but it must produce witnesses whose testimony carries greater weight with you than the testimony of the witnesses produced by the defendant.

10 This defendant, as I have suggested, is accused of the commission of crime and of which the law presumes him to be innocent. That presumption continues until the State establishes his guilt beyond a reasonable doubt.

Reasonable doubt is not a mere possible doubt, it is that state of the case, which after weighing all 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.

20 You may convict the defendant on each of these indictments or you may acquit him.

I have been requested by counsel for the defendant to charge you specially as follows:

1. The jury, in considering the evidence, must start with the legal presumption of the defendant's innocence, which presumption must continue throughout all their deliberations, unless the evidence establishes the defendant's guilt beyond all reasonable doubt.

30 Number two, paragraph two, the Court declines to charge, having already sufficiently covered it.

3. The presumption of innocence attaches to the defendant from the very beginning, and such presumption of innocence must be carried by the jury into their final deliberations.

Paragraph four the Court declines to charge having already sufficiently covered the subject.

*Charge*

5. The defendant is not required to satisfy the jury of his innocence, but the burden is always upon the State, and the State must prove beyond all reasonable doubt that the defendant is guilty of the crime charged.

6. The State must prove every essential element of the guilt of the defendant beyond a reasonable doubt, and if there is an essential element of the guilt of the defendant not proved beyond a reasonable doubt, the defendant should be acquitted. 10

7. The burden of proof never shifts from the State in a criminal trial, but throughout the entire trial, the burden of proof is always upon the State to prove the defendant's guilt of the crime charged beyond a reasonable doubt.

8. If there is, in the mind of the Jury, one or any number of theories consistent with the defendant's guilt, fairly springing from the evidence in the case which the jury believe, and but one theory consistent with the defendant's innocence, fairly arising from the evidence in the case, including the defendant's testimony, which the Jury also believe, the Jury must disregard and put aside all those theories of his guilt and adopt that one theory of his innocence and render a verdict of not guilty. For in such condition of the case there would be a reasonable doubt of the defendant's guilt and the defendant should be acquitted. 20

I so charge you. 30

I will now leave this matter in your hands for your determination.

Swear the officers.

(The Jury then retired.)

*Request to Charge*

Mr. Stafford—I ask a general exception to the Court's charge and an exception to the Court's refusal to charge paragraphs two and four.

## REQUEST TO CHARGE NUMBER TWO

10 2. The law presumes a defendant to be innocent until that presumption of innocence is overturned beyond all reasonable doubt, by evidence in the case.

4. A reasonable doubt is not a mere possible doubt. It is that state of the case, after the entire comparison and consideration of all 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.

20 State of New Jersey }  
County of Passaic } ss.

I, Joseph A. Delaney, Judge of the Court of Common Pleas in and for the County of Passaic, certify that the foregoing is the entire record of the proceedings had before me during the trial of The State of New Jersey vs. Louis Baldanza, defendant.

Dated September 24th, 1928.

Joseph A. Delaney,  
Judge.

30

*Assignments of Error*

## NEW JERSEY SUPREME COURT

<p>The State of New Jersey,          Defendant in Error,          vs.          Louis Baldanzo,          Plaintiff in Error.</p>
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**ASSIGNMENTS OF ERROR**

10.

Afterwards, to wit, on the return of the writ of error in the above cause before the New Jersey Supreme Court, comes the said Louis Baldanzo, by his attorneys, Ward & McGinnis and Bernard L. Stafford, and says, in the record and proceedings aforesaid, and also in the matters recited in the bill of exceptions, and in the verdict and judgment, there is manifest error. to wit:

20

1. Because the Court, on cross examination of Anna Lacota, complaining witness, overruled the following question, asked by counsel for defendant:

“And your brother-in-law at your suggestion, or with your consent, then sent a letter to Mr. Baldanzo demanding ten thousand dollars, didn't he?”

Which ruling of the Court was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness and as testing her credibility, and tending to show a motive for her complaint against the defendant.

30

2. Because the Court, on cross examination of Anna Lacota, complaining witness, overruled the following question, asked by counsel for defendant:

*Assignments of Error*

“How long before August, nineteen hundred and twenty-seven, did your brother keep company with one of Mr. Baldanzo’s daughters?”

10 Which ruling of the Court was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness, in that by previous question asked and answered, it had been established, that the complaining witness’s brother had formerly kept company with defendant’s daughter, and had been forbidden to enter the house by defendant.

3. Because the Court, on cross examination of Anna Lacota, complaining witness, overruled the following questions, asked by counsel for defendant:

20 “Your brother stopped suddenly from calling on one of the Baldanzo girls?

“I know all of a sudden he stopped going because her father refused my brother from meeting with his daughter.

“How long before this complaint was made did that happen?”

30 To which question the Prosecutor objected, which objection was sustained; said ruling of the Court was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness, and as testing her credibility, and as tending to show a motive for her complaint against the defendant.

4. Because the complaining witness, Anna Lacota, having testified that her family were demanding from the defendant the sum of \$10,000. Counsel for defendant thereupon asked her:

*Assignments of Error*

“Were you there when the family consented to settle this for ten thousand dollars?”

To which question the Prosecutor objected, which objection was sustained; said ruling of the Court was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness, as testing her credibility, and as tending to show a motive for her complaint against the defendant. 10

5. Because the Court on cross examination of Anna Lacota, complaining witness, overruled the following question:

“Did you consent to the compromise to settle this suit to the sum of ten thousand dollars?”

Which ruling of the Court was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness, as testing her credibility, and as tending to show a motive for her complaint against the defendant. 20

6. Because the Court on cross examination of Anna Lacota, complaining witness, overruled the following question, asked by counsel for defendant:

“How many times in your presence, and with your knowledge, was the money settlement talked of in your family of this case?” 30

Which ruling of the Court was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias and prejudice of the said witness, as testing her credibil-

*Assignments of Error*

ity, and as tending to show a motive for her complaint.

7. Because the Court on cross examination of Anna Lacota, complaining witness, overruled the following question, asked by counsel for defendant:

“You were interested in a money settlement yourself were you not Miss Lacota?”

10

Which ruling was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness, as testing her credibility, and as tending to show a motive for her complaint against the defendant.

8. Because the Court on cross examination of Anna Lacota, complaining witness, overruled the following question; asked by counsel for defendant:

20

“You would not have agreed to a complaint being made in this case had a money settlement been made by Mr. Baldanzo before the complaint was made, would you Miss Lacota?”

Which ruling of the Court was erroneous, in that said question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness, as testing her credibility, and as tending to show a motive for her complaint against the defendant.

30

9. Because Louis A. Cowley, having been sworn as a witness for the defendant to testify as to his character, and having qualified as such witness, was thereupon asked the following question:

“Do you know what his reputation is in the neighborhood where he lives for being

*Assignments of Error*

a peaceable, quiet and law-abiding citizen?"

To which question counsel for State objected, and witness was not permitted to answer same, which ruling of the Court was erroneous, in that said question was relevant, material and competent.

10. Because the Court refused to permit one Frank Nito, a witness for defendant, to testify as to the reputation of the defendant, as to his chastity and morality, witness having testified that he knew such reputation, the question overruled being: 10

"Had you ever heard anything about this reputation prior to January 27th?" (this date being the day of the alleged offense).

To which question, counsel for State objected, and witness was not permitted to answer same, which ruling of the Court was erroneous, in that said question was relevant, material and competent. 20

11. Because Frank Nito, witness for the defendant, having testified that he knew the reputation of the defendant in the neighborhood where he resided, was then asked the question?

"For being a quiet, peaceful, law-abiding citizen, prior to January 27th, 1927?"

To which question, counsel for State objected, and witness was not permitted to answer same, which ruling of the Court was erroneous, in that said question was relevant, material and competent. 30

12. Because Hyman Kramer, a witness sworn on behalf of the defendant, upon being asked the following question:

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“Did you ever hear anything against his reputation in the neighborhood where he resided?”

To which question, counsel for State objected, and witness was not permitted to answer same, which ruling of the Court was erroneous, in that said question was relevant, material and competent.

- 10 13. Because Hyman Kramer, a witness sworn on behalf of the defendant, upon being asked the following question:

“Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet and law-abiding citizen?”

To which question counsel for State objected, and witness was not permitted to answer, which ruling of the Court was erroneous, in that said question was relevant, material and competent.

- 20 14. Because Harry Joseph having testified that he knew the reputation of the defendant, in the neighborhood where he resided for his chastity and morality, counsel for the State thereupon asked leave to cross examine the witness as to his knowledge of the reputation of defendant, at the close of which the Court ruled that the said witness was not qualified to testify as to the character of the defendant; which ruling of the Court was erroneous, in that said testimony was relevant, material and competent.

- 30 15. Because Hyman Kramer, a witness sworn on behalf of the defendant, upon being asked the following question:

“Do you know what his reputation is in

*Assignments of Error*

the neighborhood where he resided for being a quiet, peaceful, lawabiding citizen?"

Counsel for State objected to said question, and witness was not permitted to answer same, which ruling of the Court was erroneous, in that said question was relevant, material and competent.

16. Because Joseph Delaney, a witness for defendant, who having testified that he knew the defendant's reputation in the community where he resided for chastity and morality, counsel for the State was allowed to cross examine the witness on this subject, and upon witness testifying that he had not discussed the defendant's reputation, the Court ruled that the witness was not qualified to testify, which ruling was erroneous, in that said testimony was relevant, material and competent. 10

17. Because Joseph Delaney, a witness for the defendant, who having testified that he knew the defendant's reputation in the neighborhood where he resided, was asked: 20

"Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet, and law-abiding citizen?"

Counsel for State objected to said question, and witness was not permitted to answer same, which ruling of the Court was erroneous, in that said question was relevant, material and competent.

18. Because Joseph Delaney, a witness for the defendant, in an effort to prove that witness was qualified to give testimony as to the reputation of the defendant was asked the following question: 30

"Did you ever hear anything against his reputation in the neighborhood where he resides for being a chaste and moral man?"

To which question, counsel for State objected,

*Assignments of Error*

and witness was not permitted to answer same, which ruling of the Court was erroneous, in that said question was relevant, competent and material.

19. Because Joseph Delaney, a witness for defendant, in an effort to prove that witness was qualified to give testimony as to the reputation of the defendant, was asked the following question:

10

“Do you know what his reputation is in the neighborhood where he resides for being a truthful witness, a truthful person?”

To which question, counsel for State objected, and witness was not permitted to answer same, which ruling was erroneous, in that said question was relevant, material and competent.

20

20. Because Joseph F. S. Fitzpatrick, having been sworn as a witness for the defendant, and having testified that he was an attorney at law, in an action in the Circuit Court, instituted by the complaining witness and her father against the defendant, for \$100,000, was thereupon shown and identified the complaint filed by him in the cause, also a demand for bill of particulars, in the cause, served upon him, said papers having been marked exhibits two and three for the defendant.

30

Counsel for defendant thereupon offered the complaint in evidence, and counsel for State thereupon objected to the same, which objection was sustained, and said ruling of the court was erroneous, in that the admission of said complaint in evidence, was material, competent and relevant.

21. Because Joseph F. E. Fitzpatrick, having been sworn as a witness for the defendant, and having testified that he was an attorney at law,

*Assignments of Error*

in an action of the Circuit Court, instituted by the complaining witness and her father against the defendant, for \$100,000, was thereupon shown and identified the complaint filed by him in the cause, also a demand for a bill of particulars, in the cause served upon him, said papers having been marked exhibits two and three for the defendant.

Counsel for defendant thereupon offered the bill of particulars in evidence, and counsel for State thereupon objected to same, which objection was sustained. Said ruling of the Court was erroneous, in that the admission of said bill of particulars in evidence, was material, competent and relevant.

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22. Because Mary Baldanzo, having been sworn as a witness for the defendant, testified that she was a daughter of the defendant, and was acquainted with Edward Lacota, a brother of the complaining witness, with whom witness had kept company. Thereupon she was asked by counsel for defendant:

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“Q. Did you have some trouble with Edward? A. I did.”

Thereupon she was asked:

“Q. When did he stop calling on you?”

Objection was thereupon made by counsel for State, and witness was not permitted to answer, which ruling was erroneous, as said question was competent, material and relevant.

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23. Because Mary Baldanzo, a witness for the defendant, testified, that she was a daughter of defendant, and was acquainted with Edward Lacota, a brother of the complaining witness, with whom witness had kept company. Thereupon she was asked by counsel for defendant:

*Assignments of Error*

“Did Edward make any threats to you about your father?”

He did.

What were those threats?”

Objection was thereupon made by counsel for the State, and witness was not permitted to answer, which ruling of the Court was erroneous, as said answer was competent, material and relevant.

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24. Because Jennie Baldanzo, a witness for the defendant, testified, that she was a daughter of the defendant, and was asked about a conversation with the complaining witness. She was asked the following question:

“Did you ever have any talk with her about a ring she had on her finger?”

Yes, sir.

Did she tell you where she got it?

Yes, sir.

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Where did she say she got it?”

To which question, counsel for State objected, and the Court sustained same, which ruling was erroneous, as said question was competent, relevant, and material.

25. Because the Court refused to charge the jury as follows:

“The law presumes a defendant to be innocent until that presumption of innocence is overthrown beyond all reasonable doubt, by evidence in the case.” (2nd request.)

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26. Because the Court refused to charge the jury as follows:

“A reasonable doubt is not a possible doubt. It is that state of the case, after the entire comparison and consideration of all the evidence leaves the minds of the

*Assignments of Error*

jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge." (4th request.)

27. Because by the entire evidence in the cause it clearly appears that the verdict of guilty was against the weight of evidence.

28. Because under the evidence in the cause the jury should have acquitted the defendant, whereas they improperly convicted him. 10

Ward & McGinnis and

Bernard L. Stafford,

Attorneys for and of Counsel  
with Plaintiff in Error.

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*Writ of Error***WRIT OF ERROR**

New Jersey, ss.

(Seal)

The State of New Jersey:  
 To the Justice of the Supreme  
 Court of the State of New  
 Jersey.

Because in the record and proceedings and also in the giving of the judgment upon a certain indictment against Louis Baldanzo, of the City of Passaic, County of Passaic and State of New Jersey, for criminal abuse upon the person of one Anna Licata, on to wit, the 16th day of February, 1927, of woman child under the age of sixteen years (pro ut the said indictment and the several counts therein,) whereof before you he has been indicted, and is thereof convicted in the County of Passaic, between the State of New Jersey, and the said Louis Baldanzo, as it is said manifest error intervened to the great damage of the said Louis Baldanzo, 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 to him, the said Louis Baldanzo, command you that if judgment be thereon given, then that you distinctly and openly send under your seal, the record and proceedings aforesaid, with all things touching the same to our Court of Errors and Appeals in the last resort of all causes of law to be held on the 20th day of May, 1929, and this writ, and that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, for correcting that error, what of right and according to the laws and customs of New Jersey ought to be done.

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*Writ, of Error*

Witness, Edwin Robert Walker, Esq., our  
Chancellor and President Judge of our said Court  
of Errors and Appeals, at Trenton, this 30th day of  
April, 1929.

Ward & McGinnis, Attorneys.

Joseph F. S. Fitzpatrick,  
Clerk.

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*Return to Writ*

## NEW JERSEY SUPREME COURT

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State of New Jersey,	}
Defendant in Error,	
vs.	
Louis Baldanzo,	
Plaintiff in Error,	

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## RETURN TO WRIT

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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 concerning 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.

Wm. S. Gummere, C. J.

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A true copy,

Fred L. Bloodgood, Clerk.

Filed April 22, 1929.

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*Opinion of Supreme Court*

## NEW JERSEY SUPREME COURT

No. 4 October Term, 1928.

State of New Jersey, Defendant in Error, vs. Louis Baldanzo, Plaintiff in Error,	}
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Submitted October Term, 1928. Decided February, 1929. On error to Passaic County Quarter Sessions Court.

For Plaintiff in Error, Bernard L. Stafford, and Ward & McGinnis, of Counsel; for Defendant in Error, J. Vincent Barnitt.

Before Justices Trenchard, Kalisch and Lloyd.

Per Curiam:

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This is a writ of error by the defendant Louis Baldanzo from a conviction for carnal abuse of Anna Lacota, a girl under the age of sixteen years.

The grounds urged for reversal are alleged trial errors in rulings on evidence, and that the verdict is against the weight of the evidence.

The rulings on evidence are of two classes; those on questions asked on cross-examination of the state's principal witness and that the court improperly rejected the record of a civil action and evidence of good reputation. The object of the first series of questions was to show that the complaining witness had knowledge of an effort on the part of her brother-in-law to get money from the defendant in settlement of the charge, and also that she was actuated by revenge because her brother

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*Opinion of Supreme Court*

had been forbidden by the defendant to call upon the defendant's daughter.

Our examination of the record respecting these inquiries satisfies us that the defendant suffered no injury by the rulings of the court thereon. The inquiries directed to the complaining witness Anna Lacota were, in so far as competent and relevant, answered. The effort to introduce the record in the civil action was properly overruled. The complaint in that action which the defendant offered as in some manner contradicting the evidence of the girl was not brought home to her nor was she cross-examined upon it. 10

The efforts of the defendant to establish his good reputation consisted of questions, either directed to witnesses who were not shown to be qualified or the questions, themselves were objectionable in that they were too broad or narrow. The defendant was on trial charged with an act involving his chastity and morality alone. In the recent case of *State vs. Villano*, 142 Atl. 643, it was said by this court quoting from *Wigmore on Evidence*, 2d Ed., 278, "The element of law is that inquiry into character is always adapted to the charge," to which we added that, "Unless character inquiry is restricted to the class of conduct involved in the criminal charge grave injustice would result through the introduction of a damaged reputation in respects alien thereto." 20

Aside from this, other witnesses had testified to the defendant's good character and their evidence stood unimpeached. Cumulation could add nothing thereto. 30

Finally an examination of the entire record in this case brings us to the conclusion that the jury's

*Opinion of Supreme Court*

verdict and the consequent judgment should not be disturbed on the ground that the verdict was against the weight of the evidence. While the state's evidence consisted almost entirely of the testimony of the young girl, Ann Lacota, who was alleged to have been assaulted, her testimony bears inherent evidence of its truth. The jury had the advantage of seeing and hearing the witnesses, their manner of testifying and the inference to be drawn therefrom, and its finding certainly cannot be said to be so at variance with the evidence as to imply improper motives in reaching a verdict of guilty.

The judgment is affirmed.

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*Order of Affirmance of Judgment*

NEW JERSEY SUPREME COURT

State of New Jersey, Defendant in Error, vs. Louis Baldanzo, Plaintiff in Error,	}	On Appeal from the Court of Quarter Ses- sions of Pas- saic County.
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**ORDER ON AFFIRMANCE OF JUDGMENT** 10

This cause having been duly submitted on brief at the October Term, 1928, of this Court by Messrs. Ward & McGinnis, and Bernard L. Stafford, of Counsel for the Plaintiff in Error, and J. Vincent Barnitt, of Counsel for the Defendant in Error, and the Court having considered the same and finding no error in the record or proceedings in the Court of Quarter Sessions,

It is thereupon, on this 24th day of April, in the year of our Lord, One Thousand Nine Hundred and Twenty-nine, Ordered and adjudged that the judgment of the Court of Quarter Sessions, removed by the appeal in this cause, be affirmed with costs, and that the record be remitted to the Court of Quarter Sessions to be proceeded with in accordance with this judgment and the practice of said Court. 20

On motion of J. Vincent Barnitt, Attorney for Defendant in Error.

Entered April 24th, A. D., 1929. 20

A true copy,

Fred L. Bloodgood, Clerk.

*Assignment of Error*NEW JERSEY COURT OF ERRORS  
AND APPEALS

State of New Jersey, Defendant in Error, vs. Louis Baldanzo, Plaintiff in Error,	}
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## ASSIGNMENT OF ERROR

Afterwards, to wit, on the return of the writ of error in the above cause before the New Jersey Court of Errors and Appeals, comes the said Louis Baldanzo, by his attorneys, Ward & McGinnis and Bernard L. Stafford, and says:

80 1. The error is that the Supreme Court affirmed the judgment of conviction in the Passaic Court of Quarter Sessions, whereas the judgment should have been reversed, set aside and for nothing hold-en.

Bernard L. Stafford,  
 Attorney of Plaintiff in Error.  
 Ward & McGinnis,  
 Of Counsel.

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# New Jersey Court of Errors and Appeals

The State of New Jersey,  
Defendant-in-Error,  
vs.  
Louis Baldanza,  
Plaintiff-in-Error.

On Writ of  
Error to  
Supreme Court

## Brief of Defendant-in-Error

### STATEMENT OF FACTS

The Plaintiff-in-Error, Louis Baldanza, was charged by indictment with being over the age of sixteen years, to wit, of the age of forty-five years, with having unlawfully and carnally abused Anna Lacota, a woman child over the age of twelve years and under the age of sixteen years, to wit, of the age of fourteen years. Upon a trial of the indictment the plaintiff-in-error was found guilty by a jury and sentenced to be confined in State Prison at hard labor for the term of five years. From this conviction he sued out of the Supreme Court a writ of Error to the Quarter Sessions Court seeking a reversal of the conviction. The conviction was affirmed by the Supreme Court. 147 Atlantic Rep., 734. The complainant, the said Anna Lacota, testified that on three distinct occasions, the plaintiff-in-error had intercourse with her in the City of Passaic. The first time, January 27, 1927, in the cellar of the home of the plaintiff-in-error (S. of C., p. 16-17). The second time on February 16, 1927, at a place a few blocks away from Hughes Lake on Bloomfield

Avenue in the City of Passaic (S. of C., p. 19), and a third time on July 25, 1927, at a place called the Armory Park in Passaic, New Jersey (S. of C., p. 21).

Dr. Philip Simon, produced as a witness for the States testified (S. of C., p. 75) that he was a practicing physician of the City of Passaic and that he knew Anna Lacota and that he had examined her on August 27, 1927, and that from his examination testified that her condition revealed a pregnancy, the duration of which was about six or seven months away.

George Eckhardt testified that he was connected with the Passaic Detective Bureau as a Detective and that on August 24th, 1927, he served a warrant upon the defendant for his arrest and that Baldanzo came into the Detective Bureau on the 24th of August, 1927, accompanied by one John Chirichella, and gave himself up, and that Detective Eckhardt read the warrant to Baldanza charging him with rape and Baldanza told Detective Eckhardt that he didn't have anything to say, that his lawyer would talk for him, and Detective Eckhardt further testified that Baldanza wouldn't answer any of the questions that were asked of him by Detective Eckhardt. (S. of C., p. 71.)

John Chirichella, a witness produced by the State, testified that he knew Baldanza and was quite friendly with him and he also knew Anna Lacota and that he, Chirichella, had occasion to pay a visit to Mr. Joseph Fitzpatrick at his office.

That he, Mr. Baldanza, didn't send him there, neither did Anna Lacota send him there. Upon being asked by the State as to whether Mr. Baldanza, at any time, told Mr. Chirichella to go to Mr. Fitzpatrick's office, he answered he had not and he also denied that Mr. Baldanza had ever suggested to him that he offer a settlement on his behalf.

This witness was not cross examined by the defense.

Maria Lacota, the mother of Anna Lacota, testified (S. of C., p. 76) that Anna Lacota was her daughter and that during the year 1927 her daughter was fifteen years old.

The plaintiff-in-error, Louis Baldanza, testified among other things that he denied having sexual relations or intercourse with Anna Lacota at any time. Various other witnesses were produced by the plaintiff-in-error and attempted to prove the good character of the plaintiff-in-error.

The jury had before it for determination the sole point as to whether the plaintiff-in-error did commit the carnal abuse which the State charged him with having committed on Anna Lacota. The only evidence which particularly dealt with this point was the testimony of Anna Lacota and the testimony of the plaintiff-in-error, and the jury determined that the plaintiff-in-error was guilty and from this conviction the plaintiff-in-error has sued out a writ of error to the Supreme Court to review the conviction.

The State maintains that the conviction was proper and that there were no errors committed during the course of the trial which were prejudicial to the plaintiff-in-error, or which manifestly prejudiced the case of the plaintiff-in-error. The State further maintains that the weight of the evidence and the conviction of the plaintiff-in-error was proper.

#### POINT ONE

#### NO ERROR WAS COMMITTED BY THE COURT IN EXCLUDING THE EVIDENCE REFERRED TO UNDER THIS POINT OF THE BRIEF OF THE PLAINTIFF-IN-ERROR.

In the case of *Axel vs. Kramer*, 75 N. J. L., 688, on page 692, it is stated:

“Inasmuch as evidence, in order to be relevant, must be directed and confined to the matters in dispute between the parties, as shown by the pleadings—*Crosby v. Wells*, 44 Vrom, 790, 805 (1906)—it is, however, our place to inquire that the issue which the defendant conceived that he had tendered by the plea, and which the plaintiff accepted as sufficiently tendered in the court below.”

In the opinion in which the above was quoted, the Court of Errors and Appeals considered the illegality of the exclusion at the trial of certain evidence offered by way of cross-examination by the party plaintiff to the cause, and also, certain evidence offered by way of direct examination by the

defendant and the illegality of such exclusion was averred by the plaintiff-in-error and denied by the defendant-in-error. It seemed that the Court, in dealing with this question, considered the point raised by ascertaining what the issue in existence was. So, it seems, without question, that the assignments of error referred to assignments 1 to 8 and 20 to 24 inclusive, as treated upon under Point One, all have to do with the sole point for consideration and that is, whether or not questions which were presented and, as referred to in assignments one to eight, inclusive, where questions were asked of the complainant witness upon cross examination were relevant in the sense that that were directed and confined to the matter in dispute, the matter in dispute being that the plaintiff-in-error did commit a criminal assault upon the complainant witness, a girl under the age of sixteen years, to wit, fourteen years.

The defendant-in-error maintains all of such questions were properly overruled by the Court as not being relevant to the issue. Another point which the defendant-in-error submits in this connection is that the questions referred to were not a part of the necessary facts in the case. It is interesting to note, that in this connection, from the testimony of the plaintiff-in-error (S. of C., p. 78), upon being asked on direct examination as to whether he ever assaulted or had any connections with Anna Lacota on January 27, 1927, (the date on which Anna Lacota testified was the first date that the plaintiff-in-error had intercourse with her) (S. of C., p. 16, l. 18-19), he answered by

stating that he did not. The testimony as follows: (S. of C., p. 78, l. 13-14.),

“Q. Did you assault her or have any connections with her on that occasion? A. No, sir.”

and later on, on page 78, commencing on line 20

“Q. Did she ever accuse you about what happened on the twenty-seventh before you were arrested? A. No, sir.”

and continuing

“Q. She also says on the sixteenth day of February you had her out and had intercourse with her again, for the second time, is that true? A. No, sir.

Q. She accuses you for the third time on July 25th, 1927, in the park behind the shrubbery, is that true? A. No, sir.”

and continuing on the same page, line 33,

“Q. Did you ever tell Anna Lacota not to tell anybody what you had done to her or you would kill her? A. No, sir.

Q. Had you done anything to make such a threat? A. No, sir.”

It will be further observed in this connection and particularly with reference to the action of the Court in overruling questions on cross examination having to do with the matter of dismissing or settling the affair for \$10,000.00. On page 81, the plaintiff-in-error was asked on direct examination as follows. (S. of C., p. 81, line 8):

“Q. It has been testified by Anna Lacota that with her knowledge and consent her sister telephoned to you to settle this case

for ten thousand dollars? A. It was the brother-in-law.

Q. Did you pay them any money? A. No, sir.

Q. What did you tell them? A. I told them I no got any business with them on the telephone.

Q. Did you receive letters? A. Yes, sir.

Q. How many? A. One.

Q. What did you do with it? A. Gave it to Captain Monks.

Q. Of the Police Detective Bureau? A. Yes, sir.

Q. Has he been subpoenaed to come here in this case? A. Yes, sir.

Q. What happened after you got the letter? A. I leave it to the Captain Monks, I leave it to him.

Q. When did you learn that a warrant had been made for your arrest? A. August twenty-first.

Q. August 21st? A. Twenty-first.

Underhill on Criminal Evidence, 2nd Edition, Section 222, says:

"It is never permissible to cross examine on matters wholly irrelevant and collateral to the crime merely for the purpose of contradicting the witness on those points about their evidence. If the cross examiner shall happen to bring out irrelevant facts, he is concluded thereby and cannot contradict them."

Referring to assignments 20 and 21 in which reference is made to the action of the Court in refusing, upon objection of the State, to permit the introduction into evidence of the bill of particulars served upon the defendant and which offer and objection and the action of the Court is referred to in (S. of C., p. 115-116) it surely cannot be said that the action of the Court in this respect was improper, for, how can it be said that the introduction of a bill of particulars which had been served upon by the defendant in an action at law commenced against the defendant by the complainant and her father and as referred to (S. of C., p. 114), have any effect on the point in issue at the trial of the criminal charge, for it will be seen from the statement of counsel for the plaintiff-in-error (S. of C., p. 115) when offering the bill of particulars in evidence, that the purpose in offering the bill of particulars in evidence was to affect the credibility of the complaining witness in this respect, that, during the trial of the cause which resulted in the conviction of the plaintiff-in-error, the complaining witness testified, as counsel for the plaintiff-in-error states, that the ravishment of January 27th, 1927, was accomplished with force, the ravishment of February 16th, 1927, and other date were not, and continuing, he states the bill of particulars served upon the defendant by the complaining witness through her Attorney says that all assaults were accompanied by assault and violence and against her consent. It would make no difference whether all of the ravishments which the plaintiff alleged occurred took place with or without the complaining witness' consent, the fact is that she was under the age of sixteen

on the occasion of each ravishment, to wit, of the age of fourteen years, therefore, it was immaterial what the bill of particulars set forth aside from the fact that the bill of particulars had to do with a distinct matter and not with the matter in controversy. Referring to the 22nd assignment of error, the objection made as to the action of the court in sustaining the objection of the State to a question put to Mary Baldanza, a witness called for the defendant, the question being overruled by the court being, (S. of C., p. 177, l. 10-15.)

“Q. Did you have some trouble with Edward?”

(the Edward referred to being Edward Lacota, a brother of the complainant), and the answer,

“A. I did.

Q. When did he stop calling on you?”

to the latter question the counsel for the State objected and the court sustained the objection.

The State maintains that there was no error in the action of the court in overruling this question as it was absolutely immaterial when Edward Lacota, if he did at any time, stop calling on the complaining witness. This subject, that is, of whether or not Edward Lacota called on Mary Baldanza, the witness, or did stop calling on her was not a point in the issue at the trial.

## POINT TWO

**THE COURT DID NOT ERR IN REFUSING TO RECEIVE THE TESTIMONY WHICH IS THE BASIS OF THE ASSIGNMENTS REFERRED TO UNDER THIS POINT.**

Dealing with the 9th assignment the objection being that the Court erroneously sustained the ob-

jection of the State to a question put to Louis A. Cowley, a witness produced by the defendant to prove the good character of the defendant. The question is referred to (S. of C., p. 103, commencing line 10),

“Q. Do you know what his reputation is in the neighborhood where he lives for being a peaceable, quiet and law-abiding citizen?”

It will be observed upon referring to questions put to this witness (S. of C., p. 101, l. 30).

“Q. Do you know what his reputation is in the neighborhood where he resides for being a chaste and moral man?”

This question was objected to by the State until the State had an opportunity to examine the witness which the Court granted and the examination of the State continued on (S. of C., p. 102) as follows:

“Q. Did you have occasion to discuss his reputation concerning his morality with anyone else? A. No.”

Then the State objected to the witness testifying in answer to the question referred to above and printed on page 101. The Court overruled the State's objection, the witness was permitted to answer and then the question was put to the witness (S. of C., p. 103, l. 4):

“Q. What is it?”

The question, referring back to the question on (S. of C., p. 101, l. 30),

“Q. Do you know what his reputation is in the neighborhood where he resides for being a chaste and moral man?”

and then the answer on (S. of C., p. 103) to the question,

“Q. What is it? A. I don't know, as I know his reputation for chastity and morality. I have done considerable work for him.”

This question was objected to and the Court sustained the objection and then the question which is the subject matter of the 9th assignment of error, reads,

“Q. Do you know what his reputation is in the neighborhood where he lives for being a peaceable, quiet and law-abiding citizen?”

This was objected to by the State and the objection sustained and exception allowed.

The State maintains that the ruling of the Court was correct. The witness was first asked as to whether he knew the reputation of the defendant in the neighborhood in which he resided for being a chaste and moral man, without stating whether or not he did he was asked what it was and his answer was that he did not know. It will be observed that the question of chastity and morality was the subject matter of the issue involved in the trial and when the witness stated that he did not know the reputation of the defendant for chastity and morality, it cannot be said that it was error on the part of the Court to exclude the witness from testifying what the reputation of the defendant was in the neighborhood where he lived for being a peaceable, quiet and law-abiding citizen.

In the case of State vs. Brady, 71 N. J. L., p. 362, the following two questions were considered by the Court on appeal. The court dealt with the questions as quoted below.

“Q. Do you know what his reputation is in the neighborhood where he resides?

Q. Do you know what his, (the defendant's) reputation is among his fellow workmen as to his chastity and morality?”

This question was objected to, overruled and exception taken and allowed. In our judgment it was properly excluded for the reason that it was too narrow. The defendant was entitled to give evidence as to his reputation in the community in which he lived as to chastity and morality but not his reputation from a selected number in his community. The next question asked the witness was this:

“Q. Do you know hat his, (the defendant's), reputation is in the community in which he lives and works?”

This question was overruled on objection, and exception taken and allowed. We think it was properly overruled because it was too broad, calls for his general reputation and not his reputation as to chastity and morality. The foregoing taken from the case of State v. Brady, 71 N. J. L. page 362.

The 10th assignment has to do with the testimony of Frank Nito, referred to in the brief of the plaintiff-in-error as Frank Nile. The objection made by the defendant, which is the basis of the assignment, has to do with a question put to Frank

Nito, a witness produced by the defendant to prove the good character of the defendant and referred to (S. of C., p. 106, l. 26).

"A. I do.

Q. For being a quiet, peaceful, law-abiding citizen prior to January 27, 1927?"

The State objected, the Court sustained the objection which has been made the basis of the assignment referred to. It will be observed upon referring to page 13 of the brief of the Plaintiff-in-Error in which discussion was made of this assignment that the question has not been fully printed. The question as referred to in the brief is as follows:

"Q. Do you know what his reputation is in the neighborhood where he resides?

A. I do.

Q. For being a quiet, peaceful, law-abiding citizen?"

It will be observed upon referring to (S. of C., p. 106, l. 28-29) the real question is:

"Q. For being a quiet, peaceful, law-abiding citizen prior to January 27, 1927?"

In other words, "prior to January 27, 1927" is part of the question for consideration by the court.

Now, it will be further observed upon referring to (S. of C., p. 106, l. 3).

"Q. Before January 27th, 1927, did you have occasion to discuss his reputation with anyone concerning his chastity or morality?

A. No."

It will be observed in this connection that the issue in question was that which had to do with the chastity and morality of the defendant in view

of the character of the charge against him, and the witness said that he did not discuss the defendant's reputation as to chastity and morality, before January 27th, 1927.

The 12th and 13th assignments have to do with Hyman Kramer, a witness produced by the defendant to prove the good character of the defendant. The first exception taken to the objection of the court to a question put to the witness had to do with the following question: (S. of C., p. 107, l. 28.)

"Q. Did you ever hear anything against his reputation in the neighborhood where he resided?"

No question but that the question itself is too broad. It calls for his general reputation and not his reputation as to chastity and morality. *State v. Brady*, 71 N. J. L., page 362.

The next question which is the subject of an assignment (S. of C., p. 108, l. 3).

"Q. Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet and law-abiding citizen?"

It will be observed that (S. of C., p. 107, l. 25) the witness answered to the question put to him and referred to on the same page, commencing on line 14:

"Q. Do you know what the reputation of the defendant, Mr. Baldanza, is in the neighborhood where he resides for chastity and morality? A. I always thought—"

and then after an objection the question was again put to him by Counsel for the defendant:

“Q. Do you know what the reputation of the defendant, Mr. Baldanza, is in the neighborhood where he resides for chastity and morality? A. Well, I don't know exactly as to chastity and morality.”

Then the question to which objection has been raised and which is the subject in the assignment of error, was put to the witness and it would seem that the question was too broad. The reputation to be inquired into had to do with chastity and morality. The witness already testified that he could not answer as to that phase of the reputation of the defendant. To again ask the witness the reputation of the defendant for being a peaceable, quiet and law-abiding citizen seems to be, without question, improper, because chastity and morality was the point to present with respect to the reputation, and this the witness did not know as he so testified.

The next assignment of error had to do with the testimony of Harry Joseph and is referred to as the 14th assignment. The first question regarding character put to Harry Joseph, who was also produced by the defendant as a character witness, was asked (S. of C., p. 108, l. 29):

“Q. Do you know what his reputation (meaning the defendant) is in the neighborhood where he resides for chastity and morality? A. Yes, sir.”

Then the State requested permission of the court to cross-examine the witness and this cross-exam-

ination is referred to (S. of C., p. 109) and it developed from this cross-examination that the witness had discussed the reputation of the defendant with people who sometimes came around the store as long ago as two or three months prior to the trial, the trial having taken place on April 30th, 1928. It will be remembered that the offenses charged against the defendant commenced on January 27th, 1927, and continued over to July 25th, 1927. The indictment upon which the defendant was standing trial charged the defendant as having committed the offense on February 16th, 1927. Then the witness was re-examined by counsel for the defendant, (S. of C., p. 110, l. 3).

“Q. Do you know what his reputation is in the neighborhood where he resided for being a quiet, peaceful, law-abiding citizen?”

The objection was made, the court sustained the objection and exception was taken. The point is now raised that the court was in error in overruling the question. It will be observed that the only time the witness discussed the reputation of the defendant for chastity and morality was long after the alleged offense was committed, in fact, as he testified, just two or three months before the trial.

It is the reputation one has in the community up to the time of the commission of the offense only that is admissible. *State v. Sprague*, 64 N. J. L., page 423. *Foulkes v. Stallway*, 3 Esp. N. P. 236.

The State maintains that the evidence with respect to the general reputation of the defendant

in the community in which he resides as to his morality and chastity must be confined to the defendant's reputation prior to the time of the alleged commission of the crime, and further, "a character witness for the accused is not competent unless it is first shown that he knows the general reputation of the accused in the neighborhood in which the latter lives in respect to the trait involved in the charge." *State v. Unger et al.*, 134 Atl., page 888.

The next objection under this subject has to do with the 16th, 17th, 18th and 19th assignments and refers to the testimony of Joseph Delaney offered as a witness by the defendant to prove his good reputation. At the outset (S. of C., p. 111, l. 3), it will be observed that the following question was put to the witness by Counsel for the defendant:

"Q. Do you know what his reputation is in the neighborhood where he resides for chastity and morality?"

His answer was "Yes." Then the Counsel for the State was permitted to cross-examine the witness and he was asked the following question: (S. of C., p. 111, l. 15.)

"Q. Did you discuss his reputation for chastity and morality with anyone in the community in which he lives prior to January 27th, 1927? (The latter being the date of the first offense which the complaining witness charged defendant with.) A. I have never discussed it but I have been to his house."

Then the Counsel for the State suggested to the Court that the witness was not qualified to testify and the Court sustained the objection.

Notwithstanding the witness' testimony that he never discussed the reputation of the defendant for chastity and morality in the community in which the defendant lived prior to January 27th, 1927, he was asked by Counsel for the defendant (S. of C., p. 111)—

“Q. Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet, and law-abiding citizen?”

This was objected to and the court sustained the objection and an exception was asked. That is the basis of one of the assignments of error.

The State maintains that it certainly was not improper for the court to overrule the witness in answering the question put to the witness as to the reputation of the defendant in the neighborhood where he resided when the witness previously had testified that he never discussed the reputation of the defendant for chastity and morality, the latter having to do with the subject in issue. Then continuing on with respect to this witness' testimony the witness was asked (S. of C., p. 112)—

“Q. Did you ever hear anything against his reputation in the neighborhood where he resides for being a chaste and moral man?”

This was objected to, the court sustained the objection and an exception was taken and is the basis of an assignment of error.

The State again states, with reference to the question objected to, that the witness had previously testified (S. of C., p. 111) that he had never discussed the reputation of the defendant for chastity and morality with anyone in the community in which he lived prior to January 27th, 1927. Then the witness was again asked by Counsel for the defendant:

“Q. Do you know what his reputation is in the neighborhood where he resides for being a truthful witness, a truthful person?”

Objection was made to the question and the court sustained the objection and exception was taken. The witness did not know the general reputation of the defendant in the community in which he resided for chastity and morality and so testified and it was not improper for the court to overrule the question put to the same witness in which the witness was asked to testify as to whether he knew the reputation of the defendant in the neighborhood where he resided for being a truthful witness, or truthful person.

On page 16 of the brief of the Plaintiff-in-Error he states that the ruling with respect to the witness, Hyman Kramer, raised under the 14th assignment, is clearly error under case of State v. Bloom, 89 N. J. L., page 418, the first syllabus reading as quoted on page 16 of the brief of the plaintiff-in-error maintains that the action of the court in refusing to permit Hyman Kramer to testify was clearly error. It will be observed upon a reading of the syllabus which

has been quoted by the plaintiff-in-error in his brief on page 16, that the court very definitely stated that it was the right of the accused to prove his reputation for morality current in the neighborhood where he resided, and where it appears that a witness resided in the same neighborhood, it was error injurious to the accused to exclude the testimony of such witness as to whether he knew such reputation and what it was. The reputation being that of morality in the neighborhood where he resided.

Hyman Kramer testified (S. of C., p. 107) in answer to the question as to whether or not he knew the reputation of the defendant in the neighborhood where he resided for chastity and morality that he did not know exactly as to chastity and morality. The question being, (S. of C., p. 107, l. 13)—

“Q. Do you know what the reputation of the defendant, Mr. Baldanza, is in the neighborhood where he resides for chastity and morality? A. I always thought—”

Then there is an objection and then the Counsel for defendant continues—

“Q. Do you know what the reputation of the defendant, Mr. Baldanza, is in the neighborhood where he resides for chastity and morality? A. Well, I don't know exactly as to chastity and morality.”

How can it be said therefore, as the plaintiff-in-error states in his brief under this point that the court was in error in excluding the testimony of Hyman Kramer and that the court's action in this respect was directly in conflict with the

opinion of the court in *State v. Bloom*? The action of the court was clearly in accord with the court's ruling with respect to what testimony may be introduced in connection with the good character of the defendant in the case at issue.

It is a general rule of law that the general reputation of the defendant is admissible upon a specific indictment and the specific reputation of the defendant with respect thereto is relevant *but the specific reputation in other respects is irrelevant*. *State v. Snover*, 63 N. J. L., page 383.

The State further maintains that the law is that the general reputation to be offered by the defendant in connection with the trial at issue should be germane to the issue in question determined upon sexual laxity.

Further on page 16 of the brief of the plaintiff-in-error, and in discussing the point last mentioned, the plaintiff-in-error refers to the testimony of Hyman Kramer and refers to this testimony as being on page 109, lines 1 to 20; the State calls attention to the fact that this testimony referred to is not that of Hyman Kramer but that of Harry Joseph. The point is made in the brief with respect to Harry Joseph's testimony that the action of the court in refusing to permit this witness to testify as to the reputation of the defendant in the community in which he resided as to the defendant's reputation for chastity and morality was error because the point is made that the court should have considered what the plaintiff-in-error refers to in his

brief as the proper rule in that reputation does not unnecessarily arise from people discussing it. Why this phase of the matter enters into the assignment of error referred to the State does not understand. The question which is the subject matter of the assignment of error was referred to (S. of C., p. 108, l. 29)

“Q. Do you know what his reputation is in the neighborhood where he resides for chastity and morality? A. Yes, sir.”

Then going on further (S. of C., p. 109) the witness was asked by Counsel for the State as to whether he had discussed the reputation of the defendant with anyone in the neighborhood in which the defendant resided for chastity and morality and he answered he had and he was then asked how long ago he had discussed the matter and he testified (S. of C., p. 109, l. 18)—

“Q. How long ago? A. Two or three months ago.”

and on this phase of the matter the court considered that the witness was not qualified to answer the question.

Two or three months ago meant two or three months before the trial. The trial took place April 30, 1928. The indictment charged the defendant with the commission of the crime, February 16th, 1927.

### POINT THREE

#### THE VERDICT IS NOT AGAINST THE CLEAR WEIGHT OF THE EVIDENCE.

The defendant was charged by indictment with having in the City of Passaic, on the 16th day of

February, 1927, of unlawfully making an assault upon Anna Lacota and unlawfully carnally abusing her, defendant being over the age of sixteen years, to wit, of the age of forty-five years, and the age of Anna Lacota being charged as being under the age of sixteen years, to wit, of the age of fourteen years.

At the trial, she testified among other things, to the circumstances surrounding her having been employed by the defendant to take care of his little girl and that she had been doing that work for the defendant for several years and that later on she received for her wages, one dollar a week. She carried on this work after school hours and in addition delivered bread for the defendant, the defendant having been in the bakery business, (S. of C., p. 15 and 16). She further testified that on January 27th, 1927, she had been to school and at dinner hour came home and as she didn't have anything to eat she went to Mr. Baldanza's house and that his oldest daughter asked her to go downstairs. As a result of the conversation with the older daughter, she went downstairs to get wine in the cellar. This was at noon time. She further testified that when she got downstairs, and when she had finished filling the bottle of wine, the defendant came through the back way and he attacked her. She further testified that as she finished filling the bottle and was about to start up, defendant came through the back way and attacked her and told her not to tell anybody and threatened he would kill her, so she was overpowered and did not say anything. She further testified that he attacked her and then placed her against the wall, stand-

ing up, and he attacked her and that he had intercourse with her and that after that she wiped herself and went upstairs, sat down to the dinner table and started eating just as if nothing happened. After dinner she went back to school. (S. of C., p. 17 and 18.)

Her testimony further discloses that on February 16, 1927, the date charged in the indictment upon which the defendant was tried, she met the defendant a couple of blocks before you get to Hughes Lake, on Bloomfield Avenue in the City of Passaic. That she had walked to the point where she met the defendant by reason of a pre-arranged plan suggested by the defendant, he having given her a note and on the note it read: "Meet me at Hughes Lake at 2:30" and he wrote and told her to make up some excuse so she could get away from school, so she made up an excuse that her mother was sick and got away from school. It was about 2:30 in the afternoon. That after she met him he was in his car and he told her to get in and he drove to a place where he thought best, several blocks from Hughes Lake, that they went there and he told her to follow him. At first she hesitated and he said "Hurry up if you want to get back to school," so she got out of the car and followed him and went in some shrubbery and he placed some newspapers and some of the rags he had for cleaning his car on the ground and he attacked her then. She further testified that he just attacked her and he didn't wipe her or anything and told her to hurry up and get back in the car, and that he had intercourse with her and that she got in the car and he left her off several

blocks from the school (S. of C., p. 19 and 20).

She further testified that the next time she had relations with the defendant was on July 25th, 1927, the relations having taken place at Armory Park, Passaic, N. J. She met the defendant as the result of his having given her a note in the front of his store when nobody was looking and the note said: "Meet me at 9:00 at the Armory Park." That she met him there about five after nine and when she got there, she testified that he said in case anybody asked her to say it was a fellow from East Rutherford by the name of Joseph. That he first told her not to tell anybody it was him but to tell her mother and father it was a man from East Rutherford by the name of Joseph. Then he told her he wished two years were up and he would marry her but she didn't want to believe anything because she knew he was married. Then he took her behind some shrubbery, and placed some newspapers on the ground and attacked her and then he said after to say nothing and further said: "Remember what I said." That she walked home, the defendant taking another road and she taking the Main Avenue street. (S. of C., p. 21 and 22.) But she continued to work for Mr. Baldanza until she sent out a warrant for his arrest. Mr. Baldanza had previously started a bank account for her and had given her the bank book. The account started about January 20th, 1927, and that the first attack had been about January 27th, 1927, (S. of C., p. 22 and 23).

George Eckhardt testified that he was connected with the Passaic Detective Bureau as a Detective

and that on August 24th, 1927, he served a warrant upon the defendant for his arrest and that Baldanza came into the Detective Bureau on the 24th of August, 1927, accompanied by one John Chirichella, and gave himself up, and that Detective Eckhardt read the warrant to Baldanza charging him with rape and Baldanza told Detective Eckhardt that he didn't have anything to say that his lawyer would talk for him, and Detective Eckhardt further testified that Baldanza wouldn't answer any of the questions that was asked of him by Detective Eckhardt. (S. of C., p. 71.)

John Chirichella, a witness produced by the State, testified that he knew Baldanza and was quite friendly with him and he also knew Anna Lacota and that he, Chirichella, had occasion to pay a visit to Mr. Joseph Fitzpatrick at his office. That he, Mr. Baldanza, didn't send him there, neither did Anna Lacota send him there. Upon being asked by the State as to whether Mr. Baldanza, at any time, told Mr. Chirichella to go to Mr. Fitzpatrick's office, he answered he had not and he also denied that Mr. Baldanza had ever suggested to him that he offer a settlement on his behalf.

This witness was not cross examined by the defense.

Dr. Philip H. Simon, produced as a witness for the State, testified that he was a practicing physician of the City of Passaic and that he had examined Anna Lacota sometime in August, 1927.

To be exact, August 27th, and that her sister was with her at the time of her examination. The examination revealed a pregnancy the duration of which was six or seven months away. He was not cross-examined. (S. of C., p. 75.)

Maria Lacota, produced as a witness for the State, testified that she was the mother of Anna Lacota and that her birthday was the 14th of January. On the 14th of January, 1927, Anna Lacota was fourteen years old and would not be fifteen until the 14th of January, 1928, (S. of C., p. 76).

The defendant denied any of the attacks which Anna Lacota testified to and there was no evidence produced to show that the girl had any other reason for charging the defendant of the commission of the crimes which she had testified to. He admitted that Anna Lacota had worked for the family, that he had had a baby born and that she took care of the child a little bit and he paid a dollar a week and that he opened a bank account for her on January 20th, 1927, all of which Anna Lacota had testified to, (S. of C., p. 77).

He further testified that Anna Lacota had never accused him of what happened on the 27th of January, 1927, before he was arrested, although an attempt was made on the part of the defendant to offer in evidence a situation which would show that Anna Lacota and her family were trying to get money from the defendant before he had been arrested and that he would not submit to their demands.

It is admitted, however, that Joseph F. S. Fitzpatrick, a practicing attorney of the State of New Jersey and Secretary of State of New Jersey, testified (S. of C., p. 114), that he had instituted a suit by Anna Lacota and her father against Louis Baldanza in the sum of \$100,000.00.

The question of fact was whether or not the defendant did or did not commit upon Anna Lacota the offenses and particularly the offense which the indictment charged him with having committed on the 16th of February, 1927. With the foregoing evidence substantially and briefly stated, the point is raised by the plaintiff-in-error that the verdict was against the clear weight of evidence. The State maintains that the verdict was not against the clear weight of the evidence but was clearly presented as a subject matter of fact for the jury's consideration and the jury determined the facts in favor of the State and against the defendant.

In the case of *State v. Karpowitz*, 120 Atl. Rep. page 40, this case was decided by the Court of Errors and Appeals of New Jersey. In this case, the defendant was convicted by the Essex County Court of Quarter Sessions. The judgment was removed to the Supreme Court by writ of error. The entire record was certified to the Supreme Court under Section 136 of the Criminal Procedure Act (2 Comp. St. 1910, page 1863). One of the specifications of causes for reversal was that the verdict was contrary to the weight of the evidence. The Supreme Court reversed the

judgment upon this ground. From the judgment of the Supreme Court the State took a writ of error and sought a reversal of the judgment of the Supreme Court and an affirmance of the judgment of the Essex Quarter Sessions. The Court of Errors and Appeals reversed the Supreme Court.

Justice Katzenbach, writing the opinion for the Court of Errors said:

"In the case of *State v. Knight*, 96 N. J. Law, 461, 115 Atl. 569, 19 A. L. R. 733, this court upheld the constitutionality of the act of April 12, 1921 (P. L. 1921, p. 951), which provides that in criminal cases, courts of appeal may review the question whether a verdict of guilty is against the weight of the evidence. In the case of *State v. Morehouse*, 117 Atl. 296, this court said:

"This statute (referring to the act of April 12, 1921) requires that an assignment of error be made that the verdict is against the weight of the evidence. The effect of such an assignment is the same as that on a rule to show cause where the reason assigned is that the verdict is against the weight of the evidence. The competency of the evidence is not to be considered. The evidence is not to be weighed after eliminating such testimony as the court upon review may feel was improperly admitted, but to be weighed as it was presented to the jury in its totality."

The rule of weighing evidence has thus

been pronounced in this court to be the same in a criminal case as in a civil case.

To justify a court in setting aside in a civil case a verdict of a jury on the ground that it is against the weight of the evidence, it must so clearly appear as to give rise to the inference that it is the result of mistake, passion, prejudice or partiality. *Floersch v. Donnell*, 82 N. J. L., 357, 82 Atl. 733; *Queen v. Jennings*, 93 N. J. Law, 353, 108 Atl. 379.

The fact that the witnesses for the defense outnumbered those of the plaintiff does not in itself establish the weight of the evidence. *Baumann v. Hamburg American Packet Co.*, 67 N. J. Law, 250, 51 Atl. 461; *Goldman v. Central Railroad Co. of New Jersey*, 79 N. J. Law, 205, 74 Atl. 261. The credibility of a witness and the weight to be given to his testimony involve the consideration of many other matters, such as his personal interest in the subject matter in controversy, his opportunity of observation or knowledge of the subject about which he is testifying, the influence under which he may be testifying, his demeanor on the witness stand, etc., all of which are circumstances for a jury, who see the witness, to consider in determining what credit and weight should be given to the witness and his testimony. *Floersch v. Donnell*, *supra*.

In the case of *Clark v. Public Service Electric Co.*, 86 N. J. Law, 144, 91 Atl. 83,

this court held that that credibility of witnesses was for the jury.

This court said, in *Schmidt v. Marconi Wireless Telegraph Co.*, 86 N. J. Law, 183, 90 Atl. 1017, Ann. Cas. 1918B, 131, that the uncontradicted testimony of a man whose character for truth and integrity is universally known should nevertheless be submitted to the jury.

These cases establish that it is the province of a jury to pass upon the questions of the credibility of witnesses and the weight to be accorded to their testimony.

It is perhaps unnecessary to say that those who have the opportunity of personally seeing and observing the demeanor of witnesses are best qualified to judge of the credibility of witnesses and the weight to be accorded their testimony. Testimony which seems convincing in print would often be unconvincing if heard in court from the lips of witnesses.

APPELLATE COURTS SHOULD BE CAUTIOUS IN SETTING ASIDE A VERDICT OF A JURY UPON THE GROUND THAT THE VERDICT IS CONTRARY TO THE WEIGHT OF THE EVIDENCE. IT SHOULD ONLY BE DONE WHEN IT IS CLEAR THAT THE VERDICT IS THE RESULT OF MISTAKE, PASSION, PREJUDICE OR PARTIALITY." (The unscoring is mine.)

From the foregoing, the State feels that there is no question but that the judgment should be af-

firmed as it will clearly appear from the facts of the case that the verdict is not the result of mistake, passion, prejudice or partiality.

It is respectfully submitted from all of the foregoing, that the conviction of the plaintiff-in-error was proper and that he had a fair trial and there was nothing in the case which in any way prejudiced the plaintiff-in-error in maintaining his defense, on the merits, and for the reasons pointed out, the State maintains that the conviction of the plaintiff-in-error should be sustained.

Respectfully submitted,

J. VINCENT BARNITT,

Prosecutor of the Pleas of Passaic County  
and Attorney for Defendant-in-Error.

## New Jersey Court of Errors and Appeals

The State of New Jersey, Defendant-in-Error, vs. Louis Baldanza, Plaintiff-in-Error.	}	On Appeal from Supreme Court.
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### Brief on Behalf of Plaintiff-in-Error

The writ of error brings up for review the conviction of Louis Baldanzo, on the charge of having committed a criminal assault upon one Anna Lacta, a girl under the age of sixteen years, to wit, fourteen.

Defendant is a business man of the City of Passaic, conducting a butcher, bakery and grocery business on State Street; the complaining witness lives next door.

The complaining witness attended a local public school, from which she graduated; after school hours it had been her custom to care for one of the small children of the defendant (P. 15, L. 20-25). According to the complaining witness on the 27th day of January, 1927, she came to the Baldanzo house at noon for dinner. She says that the defendant, Baldanzo, sent her downstairs to get some wine (P. 17, L. 1-40), and while she was engaged in filling the bottles, he came down the cellar, attacked her, and told her not to tell anybody, if she did that he would kill her (P. 17, L. 20-30); that he had intercourse with her, after which she cleaned herself (P. 18, L. 1-5), and went upstairs and in her own

language, "I sat down to the table and started eating just as if nothing happened. Q. "Did you go back to school?" A. "Yes, sir." (P. 18, L. 5-10). She did not tell anyone about this.

On the 16th of February following, she made an excuse and remained from school. She says she met the defendant by appointment, at Hughes' Lake, where they again had intercourse (P. 20 entire); that on the 25th day of July, they had intercourse for a third time in a park known as Armory Park in Passaic (P. 21, L. 15-25; P. 22, L. 1-15).

The indictment under review is that which was charged in the indictment No. 564, and which may be referred to as the intercourse of February, 1927. Under this conviction he was sentenced to five years in the State's Prison.

The Supreme Court at the October term affirmed the conviction, for the reasons set forth in the opinion *per curiam* (P. 166). From the judgment affirming the conviction, this review is taken. There were twenty-six assignments of error in all, argued before the Supreme Court. They were grouped into three classes and argued. It is proposed in this brief, to present substantially the same argument and along the same lines. Point 1, covering assignments one to eight inclusive and twenty to twenty-four inclusive of the Supreme Court, all deal with the error of the Court in overruling questions on the part of counsel for the defendant and directed to the complaining witness or other witnesses; and in an effort to prove by these questions an attempt upon the part of complaining witness and her father to collect \$10,000 from the defendant. All efforts along this line were overruled by the Court.

The second point covers assignments from nine to nineteen of the Supreme Court, and relates to efforts on the part of counsel of defendant to establish the reputation of the defendant, all of which questions were overruled.

Point three will cover assignments twenty-seven and twenty-eight of the Supreme Court, which relate to the weight of evidence.

Thus, grouped under these three points, these questions will be now considered.

#### **POINT I.**

#### **THE COURT COMMITTED ERROR IN EXCLUDING EVIDENCE WHICH WOULD IMPEACH THE CREDIBILITY OF THE COMPLAINING WITNESS OR SHOW HER INTEREST, PREJUDICE AND BIAS.**

*(See assignment one to eight, and twenty to twenty-four inclusive of the Supreme Court.)*

It was the contention of the counsel for the defendant, that the relations between the defendant's family and the Lacota family, while once friendly, had become estranged, because the defendant objected to the calls of the complaining witness's brother on his daughter; further that defendant had forbidden his daughter to meet her brother and refused her brother permission to enter defendant's home. That following this, the father of the complaining witness, had attempted to extort \$10,000 from the defendant; that this matter was discussed in the complaining witness's family from time to

time, and finally an action was brought in the Supreme Court by the complaining witness, and her father as next friend. Every effort to prove these facts as overruled on objection by counsel for the State.

That these questions were fairly presented to the Court may be seen from the following questions, all of which are covered by the assignments of error.

“And your brother-in-law, at your suggestion or with your consent, then sent a letter to Mr. Baldanzo demanding ten thousand dollars, didn't he?”

(P. 59, L. 23-26—First assignment.)

Counsel for the State objected to this question and the objection was overruled.

The second assignment arose as follows:

“How long before August, 1927, did your brother keep company with one of Mr. Baldanzo's daughters?”

This question was relevant, material and competent, as going to show the interest, bias or prejudice of the said witness; counsel for the State, however, objected to this question, and the objection was sustained (P. 62 at bottom; P. 63 at top).

The third assignment dealt with the matter covered by the second assignment, and arose as follows:

“Your brother stopped suddenly from calling on one of the Baldanzo girls?”

“I know all of a sudden he stopped going because her father refused my brother from meeting with his daughter.”

"How long before this complaint was made did that happen?"

Thereupon counsel for State objected, which objection was sustained (P. 63, L. 3-35).

The fourth assignment dealt again with the question of money and arose as follows:

Witness had testified that her family had discussed a settlement of \$10,000, then she was asked by counsel for defendant:

"Were you there when the family consented to settle this for ten thousand dollars?"

Counsel for State objected and the Court sustained the objection (P. 67 at top.)

The fifth assignment was:

"Did you consent to the compromise to settle this suit to the sum of ten thousand dollars?"

The State's objection to this was sustained. (P. 67 at bottom.)

The sixth assignment arose as follows:

"How many times in your presence and with your knowledge was the money settlement talked of in your family of this case?"

The State's objection to this was sustained (P. 68 L. 10-15.)

The seventh assignment also dealt with the question of money, and arose as follows:

"You were interested in a money settlement yourself were you not Miss Lacota?"

The State's objection to this question was sustained (P. 68, L. 25.)

The next question is covered by the eighth assignment, and was as follows:

"You would not have agreed to a complaint being made in this case had a money settlement been made by Mr. Baldanzo before the complaint was made would you Miss Lacota?"

State's objection was sustained (P. 69, L. 1-5.)

Assignments twenty and twenty-one arose out of the testimony of Mr. Fitzpatrick, a member of the bar of the State of New Jersey, who testified he was attorney of record for the plaintiffs in an action at law, wherein the complaining witness and her father, as next friend, are plaintiffs and Louis Baldanzo is defendant. He testified about the complaint where the ad damnum clause is \$100,000.00 and about the bill of particulars that he had furnished to the defendant, in the civil suit, which was important because it would have served to contradict the complaining witness in certain material matters (P. 114, L. 15-25).

The said complaint and bill of particulars were offered in evidence, the court, on objection by counsel for the State, refused to permit said papers to be admitted (P. 115).

The twenty-second assignment arose in the course of testimony of Mary Baldanzo, a daughter of the defendant, who had kept company with Edward Lacota, a brother of the complaining witness, and

whose attentions the defendant had objected to. (This same question had come up in the course of the examination of complaining witness, as shown by the second and third assignments.) The said Mary Baldanzo had been asked:

“Did you have some trouble with Edward?”

“I did.”

“When did he stop calling on you?”

To this question Counsel for State objected and the Court sustained the objection (P. 127, l. 10-15).

This question was material, because it would have shown that trouble existed between the Baldanza family and the Lacota family, and that defendant had refused to allow the Lacota boy to pay court to his daughter, Mary, but the ruling of the Court was such as to foreclose all inquiry along this line. Surely testimony along this line would be closely connected with interest, bias and prejudice of the complaining witness.

It is respectfully submitted that the court committed grave error in ruling out all of this testimony. The complaining witness was absolutely without corroboration as to the alleged assault committed upon her. This will be readily ascertained by an examination of the State of Case. Anna Lacota, the complaining witness's testimony begins at page 14 and ends at page 71; John Chirichella at 72 to 74; Dr. Philip H. Simon at page 75, and Mary Lacota, mother of the complaining witness, at page 76. The remaining witnesses for the State, all were called solely for the purpose of proving the age of the complaining witness.

Her story as to the first assault committed upon her would seem almost unbelievable. That this girl, at noontime, with other members of the defendant's family enjoying their noon-meal, would go down the cellar, there be assaulted by the defendant, without making the slightest out-cry, that after to use her expression, "wiped herself off," went upstairs, ate her dinner, said nothing about it, never after made any complaint, is certainly to say the least, unreasonable.

She, however, had become pregnant by someone, and with her condition thus, she had to name somebody as the father of her child. It was a case, perhaps, of naming some person unknown in the community or without means, or of naming Baldanzo, the defendant. The question naturally would be asked by the jury why would she blame defendant, if he were not guilty. Hence there would immediately arise the question of motive, her motives are necessarily elements tending to show her interest, bias and prejudice thereby affecting her credibility and by these overruled questions two motives were urged to the court:

(a) That the defendant had forbidden the complaining witness's brother from calling on his daughter, Mary; (b) that Baldanzo, apparently a man of some property and means, had been told that he must pay \$10,000, as a condition from withholding a complaint against him; (c) that the bill of particulars and the complaint in the civil action, brought by the complaining witness against Baldanzo, might have thrown further light on her motives, not only with respect to her demand for money, but also as to the facts set up by her in her

complaint, and in her bill of particulars furnished the defendant.

The proposition of the defendant was substantially this: "The complaining witness has made this charge against me, because I have refused to allow her brother to pay court to my daughter, and therefore estranged relations have existed between her family and mine; she has become pregnant by someone, and has followed out her thoughts for revenge. As a means of extorting money from me, she has wrongfully charged me with being the father of her child, and of committing this assault." Testimony to this effect would certainly affect the credibility of complaining witness.

This proposition could have been proven by direct testimony of defendant, or his witnesses, if he had such testimony, and by admissions out of the mouth of the complaining witness; such admissions of course, would have been highly relevant. Inquiry as to these motives fall squarely within the definition of relevancy and we refer to the following:

The following quotation in 22 Corpus Juris P. 158, expresses the thought that counsel is urging to the court:

"Logic is the controlling force in the modern law of evidence. An offer by a party to prove a fact in evidence involves an assertion by him that such a relation exists, in reason, as a matter of logic, between the fact offered and a fact in issue that the existence of the former *renders probable or improbable the existence of the latter, and the relation thus asserted is termed relevancy.*

It is therefore a basic rule of evidence that whenever facts are logically relevant they are legally admissible."

The following appears in Note 52 to above quotation:

"Whatever evidence is offered which will assist in knowing which party speaks the truth of the issues in an action is relevant, and when, to admit it does not override other formal rules of evidence, it should be received. *Prior Oglesby*, 50 Fla., 248, 39 S. 539."

22 Corpus Juris, P. 159.

In the case of *Robbins v. Lewiston*, 77 Atl. Rep. P. 537, syllabus 4 reads:

"Whatever to the ordinary reasoning mind is logically probative of a fact in issue is prima facie admissible, and should not be excluded, unless its admission violates a rule of law or policy."

There is a very good discussion of the subject at page 540.

In the case of *Locke v. Kraut*, 83 Atl. Rep. P. 626, it appears from the opinion that there was a conflict between the parties as to the contract price for certain work, each side contending that the price agreed upon had been a certain specific sum. The plaintiff contended that the contract price was \$1,600.00, and produced witnesses to prove same, and the defendant contended it was \$1000.00, and likewise produced witnesses.

From the opinion:

"The plaintiff offered the testimony of three expert witnesses as to what the work in question was reasonably worth, so as to enable the Court to determine which contention was probably true."

Again:

"There would seem to be no good ground for holding that the reasonable price for a contractor to offer to perform a work should not be admissible as tending to show the probability or improbability of the alleged agreed price. This Court has heretofore said, unless excluded by some rule or principle of law, any fact may be proven which logically tends to aid the trier in the determination of the issue. *Belden v. Lamb*, 17 Conn. 441; *Plumb v. Curtis*, 66 Conn. 166, 33 Atl. 998."

"On an issue as to whether or not a contract was made as claimed, any evidence which tends to *render that fact probable or improbable is relevant, provided, of course, the evidence is not otherwise objectionable*. 3 Encyclopedia of Evidence, p. 516-518; *Trull v. True*, 33 Me. 367; *Nickerson v. Gould*, 82 Me. 512, 20 Atl., 86; *Upton v. Winchester*, 106 Mass. P. 330."

83 Atl. Rep. P. 627.

More directly in point is the following quotation from 40 Cyc. P. 2651, where the general rule is stated as follows:

"The fact that a witness is interested in the result of the action or proceeding in

which he testifies, or is based or prejudiced in favor of or against any of the parties thereto, is proper to be shown and considered as bearing upon the credit which should be accorded to his testimony.

“Where the witness, although not a party, is interested in the result, this goes to his credibility.”

40 Cyc. P. 2654.

Amplifying this principle, it has been held:

“As bearing upon credibility, it may be shown and considered whether the relations of a witness with or his feelings toward a party are friendly or the reverse, but it is as a rule immaterial whether the feeling is or is not justifiable.”

40 Cyc. P. 2658.

Again:

“Independently of any prejudice or feeling as to the parties, the feeling of a witness in respect to the cause which is being tried may be brought out to affect his credibility.”

40 Cyc. P. 2658.

The principle has been recognized in this State in the case of Delaware, Lackawanna & Western R. R. v. Dailey, 37 N. J. L., P. 526; State v. Panelli, 81 N. J. L., P. 346.

*POINT II.**THE COURT ERRED IN REFUSING TO RECEIVE TESTIMONY AS TO THE GOOD CHARACTER OF THE DEFENDANT.*

*Under this point will be considered assignments nine to nineteen inclusive.*

The ninth assignment deals with the effort to prove defendant's good character through Louis A. Cowley. Mr. Cowley was asked if he knew what the defendant's reputation was in the neighborhood where he resided for being a chaste and moral man. A preliminary examination was conducted by the Prosecutor who objected to witness's testimony on the ground that he lived too far away from the residence of the defendant, viz., three quarters of a mile. The Court overruled the objection (P. 101 at bottom).

Witness was further asked:

"Do you know what his reputation is in the neighborhood where he lives for being a peaceable, quiet and law-abiding citizen?"

This was objected to and the objection was sustained. (P. 103.)

Frank Nile was next called as a character witness, and testified that he knew what the defendant's reputation was prior to January, 1927 (the time of the alleged offense). The Court allowed the Prosecutor to cross examine witness, and because witness testified that he had not discussed defend-

ant's reputation with anyone concerning his chastity and morality before January 27th, 1927, his testimony was objected to by the Prosecutor, and the Court sustained the objection (P. 106).

Then witness was asked:

"Do you know what his reputation is in the neighborhood where he resides?"

"I do.

"For being a quiet, peaceful, law-abiding citizen?"

This question was objected to by Counsel for State and the objection was sustained (P. 106 at bottom).

This is covered by the tenth assignment.

Hyman Kramer, whom the court allowed to testify, and covered by the twelfth and thirteenth assignments, was asked; if he knew what the reputation of the defendant was in the neighborhood for chastity and morality. The witness answered that he never had heard anything against his reputation in the neighborhood where he resided, and thereupon the court sustained the Prosecutor's objection, on the ground that the testimony was of a negative character (P. 107).

The next question asked of witness, and which is covered by the thirteenth assignment was:

"Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet and law-abiding citizen?"

This question was objected to by counsel for the State and the Court sustained the objection (P. 108 L. 1-10).

It will be noted that the question asked of Mr. Kramer was similar to the questions asked of Mr. Cowley and Mr. Nito, viz., with respect to the defendant's reputation for being a peaceful, quiet and law abiding citizen.

Harry Joseph having testified that he knew the reputation of the defendant, in the neighborhood where he resided for chastity and morality, counsel for State asked leave to cross examine the witness as to his knowledge of the reputation of defendant, at the close of which the Court ruled that the said witness was not qualified to testify as to the character of the defendant, which ruling of the court was erroneous.

This is covered by the fourteenth assignment.

Joseph Delaney, was likewise not permitted to testify as to defendant's reputation.

The Court's rulings are raised through the sixteenth, seventeenth, eighteenth, and nineteenth assignments. The entire testimony of Mr. Delaney begins at the bottom of page 110 to 112 inclusive. He was asked:

"Do you know what his reputation is in the neighborhood where he resides for chastity and morality?"

"Yes, sir.

"Did you discuss his reputation for chastity and morality with anyone in the community in which he lives prior to January 27th, 1927?"

"I have never discussed it, but I have been in his house."

Thereupon the court refused to admit his testimony. Then he was asked:

“Do you know what his reputation is in the neighborhood where he resides for being a peaceful, quiet and lawabiding citizen?”

Again the Court sustained the Prosecutor's objection to this question. (P. 111 at bottom, 112 at top.)

This question likewise falls within the same category as the questions asked of Cowley, Nito and Kramer.

Mr. Delaney was then asked:

“Did you ever hear anything against his reputation in the neighborhood where he resides for being a chaste and moral man?”

Objection was made by Counsel for State, and witness was not permitted to answer this question. This is raised by the eighteenth assignment. (P. 112, L. 10-20.)

Then he was asked:

“Do you know what his reputation is in the neighborhood where he resides for being a truthful witness, a truthful person?”

The Court sustained the State's objection. This is raised by the nineteenth assignment. (P. 112, L. 25-30.)

We respectfully submit that the Court's rulings were erroneous.

The ruling with respect to the witness, Hyman Kramer, raised under the fourteenth assignment is

clearly error under the case of *State v. Bloom*, 89 N. J. L., P. 418. The first syllabus reads as follows:

“Upon the trial of an indictment for the carnal abuse of a female child, it is the right of the accused to prove his reputation for morality current in the neighborhood where he resides, and where it appears that a witness resides in the same neighborhood, it is error injurious to the accused to exclude the testimony of such witness as to whether he knew such reputation and what it was.”

Apparantly the Court's ruling was based upon the fact, that witness had testified that he had discussed defendant's character with people in his place of business and elsewhere, some few months before the trial, which would be after the commission of the offense. (P. 109, L. 1-20.)

We think the proper rule is that reputation does not necessarily arise from people discussing it. Reputation may be the state of mind, in which a person is held in the community where he resides. It may be emphasized by talks, but it may also be emphasized by acts and by the demeanor of the community towards an individual. In other words, a person may for instance, enjoy a high reputation for honesty, which had been created by honest dealing with his fellow citizens, and yet not once during all that period did a single person discuss the question of his honesty. On the contrary, a person may obtain a bad reputation for honesty, by the fact that he had in the course of years, engaged in dishonest practice with members of the community, and that the community never discussed these facts, never-

theless the state of mind of that community would be such, when the occasion would arise to say what that reputation was.

The following quotation is in point:

"The great weight of authority now is, that character can be established by negative testimony, so that one who has never heard the reputation of the defendant assailed, but who has been in a position where he probably would have heard it if it had been a subject of comment, may testify to the good character of such person, upon the very wise and logical theory that, if a person's reputation is never a subject of discussion in the community, it is more likely to be good than where it is the subject of discussion and comment. So that the best evidence of good reputation is where the witness testifies that he has never heard it discussed, questioned, nor talked about. The more unsullied and exalted the character is, the less likely it is ever to be called into question."

3 Enc. Ev., p. 43, note, 34; *People v. Adams* 137 Cal. 580, 582, 70 Pac. 662; *Powell v. State*, 101 Ga. 9, 17, 65 Am. St. Rep. 277, 29 S. S. E. 309; *Cole v. State*, 59 Ark. 50, 53, 26 S. W. 377; *Cockburn, Ch. J., Reg. v. Rowton, Leigh & C. C. C.* 536, 10 Cox, C. C. 34, 34 L. J. Mag. Cas. N. S. 57, 11 Jr. N. S. 325, 11 L. T. N. S. 745, 13 Week. Rep. 436; *Turner's Case*, 6 How St. Tr. 630; *Gandolfo v. State*, 11 Ohio St. 114, 115; *State v. Lee*, 22

Minn. 407, 21 Am. Rep. 769, 2 Am. Crim. Rep. 61. See *Coxwell v. State*, 66 Ga. 309, 315. 3 Enc. Ev. pp. 43, 44, note, 34.

Wharton's Criminal Evidence Vol. 1, page 240.

### *POINT III.*

#### *THE VERDICT WAS AGAINST THE CLEAR WEIGHT OF THE EVIDENCE.*

This point is raised by the twenty-seventh and twenty-eighth assignments of the Supreme Court.

This point was argued before the Supreme Court, and the Court there said:

“While the State's evidence consisted almost entirely of the testimony of the young girl, Anna Lacota, who was alleged to have been assaulted, her testimony bears inherent evidence of its truth.”

We respectfully submit, that the Court was in error in the use of the word “almost,” as we submit the evidence discloses that the entire testimony with regard to the assault came from the mouth of the complaining witness. As to her story bearing “inherent evidence of its truth.” It is because we believe that the reverse of this is true, it is alleged that the verdict is against the weight of the evidence.

The story as to the assault came from Ann Lacota. It was absolutely uncorroborated. She was the first witness called, the other two witnesses was one John Chirichella, called to establish her age, viz., that she was fourteen years, and the third, Dr. Simon, who testified that she was pregnant; the

fourth her mother Mary Lacota, who testified as to her age. Hence the story as to the alleged assault we repeat is absolutely uncorroborated, and comes not "almost," but "entirely" from her.

Anna Lacota, at the time of the alleged intercourse was between fourteen and fifteen years, of age (P. 14, l. 20); she was of Italian parentage, and like all women of southern climes, much more developed at that age, than ordinarily amongst American girls. She attended Public School No. 12, and was about to graduate (P. 15, l. 15). She therefore was in the 8th Grade of Grammar school at the time of the alleged assault. So, at the outset, we are dealing not with an ignorant girl, or with a child of very tender years, but to all practical purposes, a young woman. With this in mind, let us examine her story.

Keeping in mind that the Supreme Court said her story bore "inherent evidence of its truth," we respectfully ask the Court to consider her story as follows:

She had, as we have pointed out elsewhere, been working for the defendant. She places the first of the alleged assaults in January, 1927, at noontime. The family were gathered together for their mid-day meal (P. 16, l. 20-25), and the defendant's oldest daughter asked her to go downstairs to get some wine (P. 16, l. 25-30), she did so (P. 17, l. 10). She filled up the bottles and came through the back way when she was attacked by the defendant (P. 17, l. 15-20). To the question as to what happened she answered, "I finished filling the bottle and was about to start up when he came through the back

way and attacked me, and he told me not to tell anybody otherwise he would kill me, so I was overpowered and I didn't say anything.

"Q. Just what did he do to you, just tell the jury here what he did to you? A. He attacked me. He placed me against the wall standing up and he attacked me. (P. 17, l. 15-33.)

Q. Did he have intercourse with you? A. Yes, sir.

Q. After such action what happened then? A. Nothing, I wiped myself off and went upstairs.

Q. You went upstairs, what did you do when you went upstairs? A. *I sat down to the dinner table and started eating just as if nothing happened.*

Q. Did you go back to school? A. Yes, sir.

Q. And then was there anything that happened that same day with Mr. Baldanza, did you have any conversation with him? A. No.

Q. Did you tell your mother anything about this? A. No, I didn't tell her anything.

Q. After these advances did you still do work for Mr. Baldanza? A. Yes, sir." (P. 18, l. 1-15; l. 20-25; P. 19, l. 1-3.)

Notwithstanding this alleged attack or intercourse, she made no complaint to anybody, and continued to work for him as before. (P. 22 at bottom.)

On the second occasion, which occurred on February 16th, or about three weeks after the first of-

fense, they met by appointment and went to Hughes' Lake, and had intercourse (P. 19 entire). She related how they got to the lake, and how he had told her to hurry if she wanted to get back to school, and then they got out and went into the woods, and then she was asked what he did, and she answered

"Just attacked me, didn't even wipe me or anything. Told me to hurry up and get back into the car." (P. 20, l. 10-20; l. 23-28.)

We may say in passing that Hughes' Lake is a Park in the City of Passaic, and not as may be inferred, that it is some country district.

The next occasion was in July, 1927, and happened at a place called Armory Park in Passaic, where she met him by appointment (P. 21, l. 15-35). On this occasion she evidently must have felt herself pregnant, because he asked her according to her story, to say, that a man from East Rutherford by the name of Joseph was responsible (P. 22, l. 1-10). This is her story on direct examination.

According to her the intercourse on this occasion took place after she told him of her condition (P. 22, l. 15-18). She made no complaint about this, and continued to work for him until the very day he was arrested. She testified on this being as follows:

Q. When did you quit working for him?

A. When I sent out a warrant for his arrest (P. 22, l. 30-35.)

It eventually developed also at this point in her story that she collected money from the defendant.

On cross examination it developed that she had worked for the defendant for four years, and he had never made any advances of any kind to her before January, 1927 (P. 27 at bottom). That when she went to the Baldanzo house on that day Mr. Baldanzo was there, Mrs. Baldanzo was there together with their children (P. 29, l. 12-18). There were three children, Josephine, Mary and Jennie. The oldest was twenty-one, the next sixteen years and the youngest three years (P. 30, l. 1-10). She went downstairs for wine, she was not told what kind to get, but she had been accustomed to going down and knew what to get (P. 31, l. 1). In going downstairs, she turned on the electric light, so as to see where the barrel was (P. 31, l. 10). There were evidently two entrances to the cellar, because she said she went down one way and Baldanzo came down the other way (P. 31, l. 20-30). He didn't say anything to her when he attacked her, and she didn't say anything to him, when he came in

“just grabbed me and put me against the coal bin.

Q. Didn't he say a word to you? A. No.

Q. He had never done this before? A. No, that was the first time.

Q. Did you scream? A. I tried to scream but I couldn't because he had his hand against my mouth. (P. 31, l. 5-15.)

Q. Which hand did he have over your mouth? A. The left hand.

Q. Where was the bottle of wine? A. He took it off my hand and laid it on the ground.

Q. You had nothing in your right hand?

A. Nothing at all.

Q. What did he do with his right hand?

A. He lifted up my dress and had intercourse with me.

Q. He had his left hand over your mouth and used his right hand to lift up your dresses? A. Yes, sir.

Q. Did you struggle? A. I tried to, but I couldn't.

Q. Couldn't you break away from him?

A. No, because he is stronger than I am.

Q. He didn't throw you on the floor? A. No.

Q. Did you have bloomers on? A. Yes, sir. (P. 32, l. 15 to bottom.)

Q. Did he take the bloomers down? A. Yes, sir.

Q. When he was having intercourse with you, did he have his left hand on your mouth? A. He took it off and said, don't say anything or I will kill you. (P. 33, l. 1-5; l. 10-14.)

Q. You knew his wife was overhead? A. Yes, sir.

Q. And his three daughters were there? A. Yes, sir.

Q. You knew if you made the slightest cry or scream it would be heard in the kitchen, didn't you? A. Yes, sir.

Q. You knew the man's wife who was attacking you was there? A. Well, they might have gone.

Q. You had just left them? A. Yes, sir." (P. 34 entire.)

She testified that she was down the cellar about nine minutes.

She then came upstairs, delivered the bottle of wine to Mrs. Baldanzo, putting it on the table, and sat down and ate her dinner. She didn't tell Mrs. Baldanzo. To her mind the evil of the wrongdoing was that he was a married man. She ate dinner as if nothing had happened, and didn't mention a word about what had happened to Mr. Baldanzo or his daughters (P. 36 entire; P. 37 at top); she went back to school, and never mentioned a word about what had taken place to her mother (P. 37, l. 20-25); and she had never been out with any young men before, and had never kept late hours. (P. 37, l. 20-30.)

Is this story believable? If, what she says took place, it was not seduction of a girl under the age of sixteen years, but rape, and in opening to the jury the Prosecutor so termed it (P. 13).

Summarized, the story of this girl is, that she came to this house noon-time, sat down to the table with the entire family, four of whom were adults, went downstairs for a bottle of wine, and while there was deliberately assaulted. During all this time she didn't make the slightest outcry or protest; made no protest or complaint afterwards. Took the bottle of wine upstairs and gave it to Mrs. Baldanzo. Sat down at the table with the family and ate her dinner. Went to school as usual, and when she went home said nothing to her mother. She continued to go to work for Mr. Baldanza, and by appointment went to a lonesome place deliberately with this man who had committed this terrible assault upon her, if she is to be believed.

This is the story where the Supreme Court says, bears "inherent marks of truth."

We respectfully submit that this story is uncorroborated, yet it was the only story before the jury. How must this story be measured? What should have been the guide of the jury in view of the uncorroborated evidence of this girl, and how should this court in considering this point look upon this evidence? The test answer is the language of Vice Chancellor Van Vleet, in the case of *Daggers v. Van Dyck*, 37 N. J. Eq., P. 130, which is as follows:

"Evidence, to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself—such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous, and is outside of judicial cognizance. Evidence is generally improbable when it imputes to the parties to a transaction, occurring in the ordinary course of business, conduct inconsistent with the principles by which men, similarly situated, are usually governed."

Conceding for the purpose of argument that he had assaulted her, would it not have been the most natural thing for her to either struggle, scream, immediately upon going upstairs tell the daughter, or tell her mother and father. She did none of these things. Is it probable had she been assaulted, that

she would have calmly sat down and ate her dinner and returned to school? Would she thereafter deliberately arrange another meeting with this man who had assaulted her, for the purpose of further intercourse? What are we to think of a witness, who, following the two so-called assaults, makes as her principal comment of the affair after the attack, "He didn't even wipe me or anything" (P. 20, l. 23-28)?

It may be argued, however, that her failure to cry out, or to struggle and the like were acknowledgments that she had given her consent to this intercourse. (This would make the defendant guilty anyhow, as consent is not an element of the crime.) If we take this position, does it not still stamp her as committing willful and deliberate perjury? Considering the serious nature of her charge, and the fact that she is not corroborated in the slightest degree, should the story of this sole witness, thus reeking with perjury be accepted as establishing the defendant's guilt beyond all reasonable doubt?

Against her sole testimony, is the denial of the defendant, who is supported by members of his family. It may be asked, what would be the girl's motive for telling this story? We have answered this in a sense, in our discussion of the assignments under point one. To again touch upon the motive, we have as far as we were allowed, brought out the fact of bad feeling having developed between the Baldanzo family and the Lacota family. The refusal of Mr. Baldanzo to allow the complaining witness's brother to pay court to his daughter was the reason for this. We have further, the fact that she

was pregnant, and somebody had to be blamed. Was it a case of blaming some known person, or some unknown person from whom little could be expected in a financial way, or was it an opportunity, not only to satisfy the desire for revenge, but at the same time to mulct defendant of thousands of dollars? These motives, however, were offered only slightly, due to the rulings of the trial judge in excluding counsel's every effort to cross-examine complaining witness on this point.

In the opinion of the Supreme Court, that tribunal seemed to take the view that, so long as there was some evidence to support the State's case, the Court should not give any serious consideration to the quantity or quality of the evidence. It has been repeatedly held in our Courts under Chapter 349 of the Laws of 1921, that "The verdict is against the clear weight of evidence," should in these criminal cases be considered as a reason assigned as in a rule to show cause, in a civil case; in a civil case on a rule to show cause, our Courts have repeatedly set aside verdicts as against the weight of evidence, notwithstanding that some evidence had been offered in support of the plaintiff's case in the trial below.

We concede in this case that there was some evidence, but our contention is that the evidence is unbelievable, that no normal person would have acted as this complaining witness says she acted after this assault had been committed upon her; that it is unbelievable that she would have acted in the manner she said she acted immediately following this assault, no screams, no resistance, no complaint, even resuming an unfinished meal and continuing re-

lations with a man and remaining in his employment, until the very day she had him arrested.

We are not dealing with a mentally deficient person, or with a child, but with a fully developed young woman, between the age of fourteen and fifteen years, with sufficient intelligence and schooling to be in the 8th Grade of grammar school. If our Courts in civil cases will set aside verdicts as against the weight of evidence, where the plaintiff is only required to prove his case by a fair preponderance of the evidence, surely more consideration should be given an appellant-defendant, who in urging that the verdict in his case was against the weight of the evidence, asks that that evidence be weighed in the light of the rule in criminal law, that he must be convicted by evidence which established his guilt beyond all reasonable doubt.

### CONCLUSION

It is respectfully urged that the judgment of the Supreme Court affirming the conviction in the Passaic County Quarter Sessions, should be reversed. October term, 1929.

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