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CASE

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0012

Monday, June 9, 1919.

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IN AND FOR THE COUNTY OF NEW YORK

PART SIX

-----X
THE PEOPLE OF THE STATE OF NEW YORK : B e f o r e:
-against- : HON. JAMES T. MALONE,
JOSEPHINE RICHARDSON. : And a Jury.
-----X

New York, Monday, June 9, 1919.

THE DEFENDANT IS INDICTED FOR MURDER IN THE FIRST
DEGREE.

INDICTMENT FILED MARCH 5, 1919.

A P P E A R A N C E S:

NEILSON OLCOTT, ESQ., Assistant District Attorney,
For the People.

W. G. KIRK, Esq.,

For the defendant.

-----X
(A jury is duly examined and sworn on the voir dire.)

THE PEOPLE'S CASE

(Mr. Olcott opens the case to the jury on behalf
of the people, as follows:

If your Honor please, Mr. Foreman and Gentlemen of the
Jury: As you already know, this defendant is charged with
the crime of murder in the first degree.

It appears that prior to the 24th day of February, 1919,

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this defendant had been living for some months with a man by the name of Talmadge Days, at 233 West Sixty-second Street, in this County. They were not married, but they had occupied an apartment together there.

Prior to that time, I understand that this defendant had known Talmadge Days and been intimate with him, but up to some months, three or four, prior to the 24th day of February had not actually lived with him ostensibly as man and wife, as she had been doing at that time.

We will show you by the testimony of an eye-witness that on that evening, the evening of the 24th of February, 1919, late that night, in fact, -

MR. KIER: 1919? 1918.

MR. OLCOTT: 1919, this past February, Gentlemen. That this woman followed the deceased, this defendant followed the deceased out of her apartment. She was seen to be talking with him. We will submit the evidence of the eye-witnesses, and will ask you to come to the conclusion that she was remonstrating with him.

We will show you that after he had gone perhaps the distance of one house towards 225 West 62nd Street, that is, in an easterly direction, she went up to him; that he turned around; that she struck him with her right hand directly in the breast. The witness will not tell you, because it is a fact, that he did not see what, if anything, she had in her hand.

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That immediately thereafter a slight struggle ensued between the deceased and the defendant, and that the deceased fell to the ground, and that the defendant disappeared for a moment.

Other people ran up, found the defendant on the ground, he was bleeding profusely from the chest - the deceased, I mean - an officer was called, and another man who knew this defendant and knew the deceased, a man by the name of Simmons, James Simmons, went to this woman's house, which is just three or four doors away, she lives on the ground floor, knocked on the door, a conversation was had with this woman; she professed surprise.

She was in bed when he opened the door, although she had all of her clothes on, with her shoes off. She had a knife, which she took up, I believe, from the bed in her hand. She put the knife in her pocket. We will show you that there was blood on her clothing.

We will show you that she went out with Simmons, making several remarks, which I am not going to detail to you now, but not indicative of anything that had transpired between her and this deceased man, Talmadge Days.

We will show you that she went out and bent over this deceased, this man Days, and we will show you that the knife that she had in her hand was or must have been deposited by her in back of the deceased, because it was there found in a few moments, when they picked him up to

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put him in the ambulance. We will show you that she admits that this is the fact. We will show you that she admits the life she had been leading with this defendant, the fact of the quarrel, the fact of the stabbing.

Now, gentlemen, the day before, the 23rd day of February, this defendant purchased this knife that she did the stabbing with. She states that this defendant threatened to leave her, that he had been living with her for some time, as I have already told you, that he tried to take the money which she had earned that week away from her, that on the Sunday, the day before, he had threatened that if she did not give him the money that she had earned that week - she gets paid every other week - she gets paid every week - that he would do injury to her. He also said that he was tired of her, and that he was going to live with a woman over in Long Island City. After that conversation, she goes out and purchases a knife.

We are going to ask you gentlemen to come to the conclusion that she purchased the knife after the motive for a killing was furnished by her fear and the threat of this deceased that he was going to leave her. That on this night in question, the night following those incidents, that he did actually leave the house, that he did actually go out, that she followed him, remonstrating with him, and that when apparently the remonstrance was useless and he started to go away with the apparent definite purpose,

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we are going to ask you to find that she stabbed him deliberately, that there was premeditation from the fact that she purchased the knife prior to this time, that there was motive, and that there was the actual stabbing and the immediate disappearance, the various acts of the defendant, all of which we say bears out the fact that this whole matter was premeditated by her, because we find her doing those things which would tend immediately after the crime to conceal the identity of the person who did it, and her own actions in the matter.

That is, gentlemen, in substance, the case of the People. I ask your careful attention. There are things which I have not told you about and which will develop, the actual taking of the man, his identity as the person who was killed after his death, and things of that sort, which, of course, are part of our case and necessary for us to prove.

We will show you all of the events of that night, and we will ask you, after carefully sifting them down, to bring in a verdict against this defendant under this indictment.

MR. KIER: Your Honor, I make a motion that the witnesses be excluded while the examination is proceeding.

THE COURT: Yes.

(All witnesses are accordingly excluded from the court room.)

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J O H N G O L L A N, called as a witness on behalf of the
People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Where do you live? A 1314 First avenue.

Q What is your business? A Pawnbroker.

Q And where is your place of business? A 95 Amsterdam
avenue.

Q And at what street is that? A 63rd and 64th Streets.

Q Do you know this defendant? A Yes.

Q Did you know her before the 23rd day of February? A No.

Q Was she in your place of business that day? A That
evening, yes, sir.

Q The evening of the 23rd of February? A Yes, sir.

Q What day of the week was that? A I don't just remember
what day it was.

Q Do you remember it was the 23rd? A I don't just remember
the date there; I know she was in the evening before this
murder took place.

Q This man being found dead? A Yes, yes, yes.

Q The evening before that? A Yes, sir.

Q You knew of that affair in the neighborhood, is that
right? A Yes, sir.

Q About what time in the evening, do you recall? A Oh,
somewhere around four o'clock, I believe, three or four o'clock.

Q It was in the afternoon? A Well, the afternoon.

Q Did you sell her anything? A Yes, sir.

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Q What did you sell her? A A pocket-knife.

Q I show you a pocket-knife and ask you whether that is the knife you sold her (handing knife to witness)? A It looks like the knife, yes, sir.

MR. OLCOTT: I ask that it be marked for identification.

THE COURT: Mark it for identification.

(Knife marked People's Ex. No. 1, for Identification, of this date.)

Q Did she pay you for the knife? A Yes, sir.

Q How much? A Seventy-five cents.

MR. OLCOTT: You may examine.

MR. KIER: No questions.

H A R R Y A L E X A N D E R, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Will you talk up so we all can hear you? A Yes, sir.

Q I can't hear a word you say. Will you talk up loudly?

A Yes, ma'am, I will talk up.

Q You have got to do better than that. How old are you?

A Sixteen.

Q Where do you live? A West 62nd Street.

Q What number? A 244.

Q How long have you been living there? A I just come out of the home.

Q You were in an orphan asylum? A Yes, my mother put me

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away when I was a little boy. She couldn't take care of me.

Q And then you went back and lived with your mother in 62nd street, is that right? A Yes, ma'am.

Q And do you know this defendant? A I know her name.

Q Did you see her at any time? A Yes, ma'am, I saw her.

Q When did you see her for the first time? A The first time was when that accident happened out there.

Q I don't know when that was. Did you see her coming out of any house? A No, no, I saw the man come out of the house.

Q You saw a man come out of a house? A Yes, sir.

Q Did you see this woman at that time? A No, I aint seen that woman at that time.

Q When did you see her for the first time? A The first time?

Q Yes. A When I went to the court; I don't know the name of the court; when they told me to point her out, about the accident.

Q When was that? A When this case happened.

Q When this case happened? Where was she when you first saw her? A First saw her when the man and this lady coming out of the house.

Q This lady and the man coming out of the house? A Yes.

Q Out of what house? A I don't know out of what house.

BY THE COURT:

Q You saw a man and this woman come out of the house?

A Yes, sir.

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Q Was this woman one of the party? A Yes, ma'am, she
is the woman.

Q Are you sure about it? A Yes, ma'am, I am sure about
it.

BY MR. OLCOTT:

Q What house did they come out of? A I don't know what
house they come out of.

Q Where did they go? A They went to 225, and the man
started -

Q Just answer my questions. Where did they go? A They went
up the block, started to go up the block.

Q And where did they - did they stop at all? A Yes, ma'am.

Q Where did they stop? A 225.

Q In front of 225? A 225.

Q How far away from 225 was the house that they came
out of? A I don't know what house they came out of.

Q You don't know the number of the house? A No, I don't
know the number of the house.

Q Was it very far from 225? A Yes, very far.

Q Well, was it very far? A Not so very far.

Q How many houses away? A About two.

Q About two houses? A Yes, sir.

Q Do you know who came out of the house first? A The man.

Q The man came first? A Yes, sir.

Q And how near was the woman to him, this defendant, when
you first saw her? A About that far (indicating.)

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Q Just following her? A Yes, just following her.

Q And they got up as far as 225? A Yes, sir.

Q West 62nd Street? A Yes, sir.

Q Is that right? A Yes, sir.

MR. KIER: I object to that as leading.

Q What did you see this woman, this defendant, and a man do? A This lady knocked the man, and the man fall down.

Q I don't know what you mean by "knock". Show me just what she did? A Hit him right like this (witness indicates by striking himself on the breast with his clenched fist.)

Q I am the man and you are the woman. Show me just what she did, will you? A Like that (witness illustrates by striking Mr. Olcott in the breast with his clenched right fist.)

Q How far away were you? A I was over by the post, across the street, by the post, I was coming down to go to my house.

Q About how far away were you? A About 225 post, over this side by the post.

Q There is a post in front of 225? A Yes, on the other side of the street.

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

Q So, you were across the street? A Yes, sir.

Q What time of day or night was this? A Oh, it was around late; it was around -

Q What do you mean by "late"? A Around eleven or ten.

Q Ten or eleven o'clock? A Yes, sir.

Q In the evening? A Yes, in the evening.

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Q Do you remember what day it was? A No, I don't remember what day it was.

Q Do you remember what day of the week it was? A The day of the week?

Q Do you remember what day of the week it was? If you don't, say so? A I don't know.

Q Was this the same - I will withdraw the question. What happened after you saw - did you see anything in this woman's hand? A No, I didn't see nothing in the lady's hand.

Q Was there any light there? A Light?

Q Yes. A Some people struck a match and looked at the man's breast.

Q I don't mean afterwards. I mean at the time you saw this occur, were the street lights lit? A Yes, the street lights were lit.

Q And how far away was any street light from where you saw the man and woman in front of 225? A Down the street where they paint pictures at.

Q How far is that, how many houses? A Way down the last house down the block.

Q And is there any light on your side of the street?

A Yes, sir.

Q You were standing under the lamppost? A Yes, sir.

Q And that was just across the way from 225? A Yes, sir.

Q What kind of light is that? A A white light.

Q An arc light that hangs down? A Yes, ma'am, one of the

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round bowls.

Q It hangs down like that (indicating)? A Yes, sir, and a light in it.

Q Was anybody else near these two people, this defendant and a man? A No, nobody near to them.

Q What did you see them do after you saw this woman strike the man as you have indicated? A I saw the man fall down, and the man knocked the lady down, and he fell down.

Q They both fell down? A Yes, ma'am.

Q Both? A Yes, ma'am.

Q Just what did you see them do? Try to describe a little more in detail? A I saw them both fall down, so I went across the street to look to see what was the matter.

Q I want to know if you won't tell us in just a little more detail - do you know what that means - just a little bit more about what you saw each of these people do, immediately after you saw the woman raise her hand and hit this man, as you have told us? A Oh, they fell down.

Q I know, but just how did they fall down? A Like this, the man fell flat on his stomach and the lady fell in the gutter.

Q How did she come to fall, did you see? A No, I didn't see how she come to fall.

Q Did you see whether they had taken hold of each other at all? A No, I didn't see.

Q Then what did you do? A I went across the street and looked and saw -

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Q And where was the man? A The man was flat on the ground.

BY THE COURT:

Q On his back? Did the man fall flat on his back? A On his stomach.

Q Fell on his stomach? A Yes, sir.

Q And did he have his hands on the woman, or did the woman have her hands on him? A The woman had her hands on him.

Q And did she continue to fall on the ground on top of him? A Yes.

Q She did? A No, she fall right in the gutter.

Q She fell in the gutter? A Yes.

BY MR. OLCOTT:

Q She fell at the same time he fell? A No, the lady fell last.

Q When the man fell down, did the woman have hold of him at all? A No, didn't have hold; the man was just going to drop, when I saw them struggle through the street.

Q What do you mean by "struggle through the street"?

A Pushing him, both pushing.

Q They were both pushing each other? A Yes, sir.

Q They had hold of each other? A Yes, sir.

Q And he fell down? A Yes, ma'am.

Q And she fell down near him? A Yes, sir.

Q After he fell? A Yes, sir.

MR. KIER: Now, I object to the leading. He is telling his story, and I object to the leading. I ask that it be

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stricken out, the latter part. He is merely asked for
"yes," or "no."

THE COURT: Strike it out.

Q Well, will you see if you can tell us just what they were
doing when you say they were struggling?

MR. KIER: I object to that. I think he has told it al-
ready.

THE COURT: Objection overruled.

MR. KIER: I take an exception.

Q Just bring your attention to that question, and see if
you can answer it, will you? A I saw the lady come out of the
house, and the man, too, the man was going a little way up the
block, and he got to 225.

Q Were they talking together? A Yes, ma'am, they were
talking together.

Q Did you hear what they said? A I didn't hear what they
said, I was across the street.

Q Were they talking in a loud tone, or a low voice? A Low
voice.

Q And the man was first, you said? A Yes, ma'am, the
man was first.

Q Go on, please; I want you to tellin your own way just
what happened? A The lady - they both struggled together, and
so the man hit the lady, so the lady hit the man, so they both
fell down.

Q Which hit first, do you know? A Which hit first? The

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man.

Q How did he hit her? A Like this (illustrating) by striking self with clenched right fist in the breast).

Q And then she hit him? A Yes, ma'am, so they fell down.

BY THE COURT:

Q The man hit her first? A The man hit her first.

Q Hit her with his fist, did he? A Yes, ma'am.

Q In the breast? A Yes, ma'am.

Q Yes? A Yes, ma'am, so after the man fell down I went across the street -

BY MR. OLCOTT:

Q Wait a minute; you are ahead of your story. Then the woman hit? A Yes, sir.

Q And then you say the man fell down? A Yes, ma'am.

Q Where was the woman when the man began to fall? A The woman, after she got up, she walked away, so another lady -

Q Wait a minute; you are ahead of what I asked you. You say the man fell down that way, is that right? A Yes, ma'am.

Q Now, when the man was falling down, where was the woman? A She was in the gutter.

Q First, before he fell. A No, after he fell.

Q Don't you see, I want to know which one fell first?

A Which one fell first? The man fell first.

Q And then the woman fell? A Yes, ma'am.

Q When the man was falling, where was the woman? A The woman - after the man fell?

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Q The man was in the act of falling? A Yes, ma'am.

Q You saw him, didn't you? A Yes, sir.

Q Now, where was the woman when the man was doing that?

A Doing that? The woman walked away -

Q No, before she fell down, I want to know. A Before she fell down?

Q Yes. A She went down the block a little ways.

Q That is after she fell down, isn't it? A After.

Q I want to know before she fell down. A Before she fell down, I don't know where she went before she fell down; I know she came out of the house.

Q Now listen to me, Harry, you have told us just what you saw, and I want to know how the woman fell down. You tell us just how you saw the woman fall down?

MR. FISK: Wait a minute. I object. I think he has gone over it several times. He has asked him to tell it, and he has told it, and I object.

THE COURT: Objection overruled.

MR. FISK: Exception.

Q Just tell us how she fell down? A She fell flat on the man.

Q How did she come to fall, do you know? A No, I don't know how she came to fall.

Q Did she have hold of the man when he was falling? A Yes, ma'am, she had hold of the man.

Q He fell down and then she fell down? A Yes.

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BY THE COURT:

Q Who struck the first blow between this man and this woman? A This man.

Q The man struck the blow first? A Yes, sir.

Q With his fist? A Yes, sir.

BY MR. GREGG:

Q And how soon was that after they had gotten out of the house? Was that all in front of 225? A Yes, sir, that was all in front of 225.

Q Did you hear anything said while all this was going on? A No, I didn't hear nothing said.

Q There wasn't any shouting, nobody shouting? A No, nobody shouting.

Q What did you do then when you saw these two people fall down? A I went across the street. A lady called me across the street.

Q That is, another lady? A Yes.

Q Not this defendant? A No, not this defendant.

Q She called you and you went across the street? A Yes, sir.

Q And did you see the man then? A The man who fell down?

Q Yes. A Yes, I saw him, he was flat on the ground.

Q And some people were around him? A Yes, some people were around him.

Q Did you see this defendant? A Yes, sir, I saw her.

Q What did you see her do?

MR. GREGG: Now, I object, your Honor. This is the

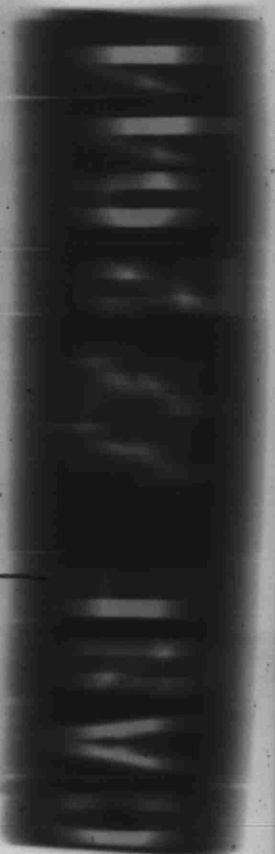


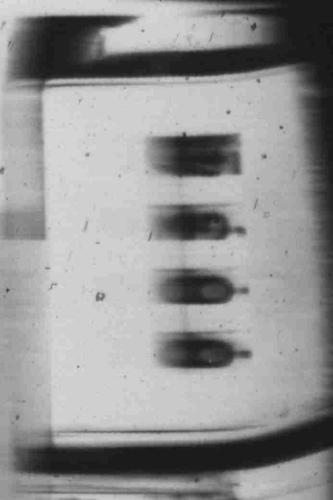
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A Yes, sir.

Q Then did the woman do that? A Yes, and she blowed, too.

Q Did you see where her hand came from? A No, I didn't see where her hand came from.

Q Just tell how she struck him? A She struck like this (witness illustrates by striking with clenched right fist at Mr. Olcott's breast.)

Q You didn't see anything in hand of either one of them?

A No, I didn't see anything in the hand.

Q And how far were you away? A I was across the street there.

Q Across the street, the light was lighted over you? A Yes.

Q The arc light was over where you were, or where they were?

A Where I was.

Q Could you see pretty well across the street? A Yes, ma'am, I could see pretty well.

Q Tell the faces, could you? A Yes, ma'am.

JAMES SIMMONS, called as witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q What is your business, Simmons? A My business at the present time, now, elevator operator.

Q And where do you live? A 223 West 62nd Street.

Q Do you remember the evening of the 24th of February,

A (No answer.)

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Q Do you know this defendant, Josephine Richardson?

A Just by the name of Josephine.

Q By the name of Josephine? A Yes, sir.

Q Do you know where she lived in February of 1919? A 233 West 62nd Street.

Q Keep your voice up? A 233 West 62nd Street.

Q Do you know, or did you know, a man named Talmadge Days?

A I was only acquainted with him.

Q You were acquainted with him? A Yes, sir.

Q You were not a friend of his, you were just acquainted?

A Yes, sir.

Q Did you know his name at that time? A Didn't even know the man's name, only been in his company once.

Q And you knew where he lived? A Yes.

Q Where did he live? A 233 West Sixty-second Street.

Q Do you know who he lived there with? A Josephine.

Q This defendant? A Yes, sir.

MR. KIER: Now, pardon me. I object, unless she knows of his own knowledge. I don't know from the way he answers that. He could be instructed. If he knows of his own knowledge.

THE COURT: Yes.

Q You know that? A I know he lived there, but whether he lodged with her, or whether they was common, or ordinary man and wife, I don't know.

Q All you know is they lived in the same apartment? A Yes.

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Q You don't know what their relations were at all? A No.

Q Do you know whether anybody else lived in that apartment?

A No.

Q Do you mean by "no" that you don't know? A I don't know anybody else besides those two living in that apartment.

Q Those were the only two you knew of? A Yes, sir.

Q Where did you live? A 223 West 62nd.

Q The same apartment house? A No, my house is two doors above that, going towards the east.

Q What is your number? A 225, and his was 233.

Q Your house is five houses away? A Yes, sir.

Q Did you see either of these people, Talmadge Days, or this defendant, that night? A No.

Q When did you see this - did you see anybody lying on the street? A I saw the man who was dead out in the street.

Q Did you recognize him? A I recognized his face by looking at him.

Q Who was it that was lying on the ground? A The man who was dead.

Q What was his name? A I don't know the man's name. Whatever you have got there.

Q Was he the man who lived in 233 West 62nd street? A yes, sir, he was the man.

Q You afterwards learned that his name was Talmadge Days, didn't you? A Talmadge Days.

Q And you saw him lying in front of 225? A 225.

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Q Who was there when you saw him lying there? A There was a crowd of people and an officer.

Q A police officer, is that right? A Yes, sir.

Q What did you do? A I just looked over, and everybody said the man was having a hemorrhage.

Q Did you see any blood? A Yes, I saw blood.

Q Where did you see it coming from? A Down his shirt.

Q Down his shirt? A Yes, sir.

Q What did you do then? A I went down to where this man lived, and I knocked on the door; this woman got up and opened the door.

Q This woman (indicating defendant)? A Yes.

Q You say she got up? A Yes, sir.

Q Did you see how she was dressed? A She had on a blue sweater and a dress and no shoes.

Q No shoes? A No shoes, no overcoat and no hat.

Q Did you see what the condition of the bed was? A No.

Q Did you say anything to her? A I told -

Q Just answer "yes," or "no." A Yes.

Q And did she answer you? A Yes.

Q Will you tell us what you said and what she said when you went to the door there? A She said, "If he had stayed in here -"

Q No, what did you say first? A When I went to the door?

Q Yes. A I told her that her old man is having a hemorrhage out in the street.

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Q yes, and what did she say? A And she said, "If he had stayed in here it all would never have happened."

Q And what did she do then? A She started putting on her shoes.

Q Did you notice the condition of her clothing? A Old blood stains on her clothes.

BY THE COURT:

Q Were they old, or fresh, blood stains? A They were old blood stains.

Q Looked to be old, did they? A Yes, no fresh blood.

BY MR. OLCOTT:

Q You looked at it very carefully? A Yes, because the way she was dressed I could see, and there was old blood stains around the house and on a towel.

Q There were blood stains on a towel in the house? A On a towel hanging up by the washstand.

BY THE COURT:

Q Did it appear to be fresh blood, or old blood? A Old blood.

Q It was black, darkish looking? A Yes, darkish looking.

Q Not bright red? A No.

Q It was not fresh, it was not wet? A No, it was old blood.

Q Can you say that? A Yes, I can say that, because I know fresh blood from old blood.

Q Did you see it distinctly enough to say that to the jury? A Yes, sir, I told the jury that before, that it was old

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blood.

THE COURT: No, you did not tell it to any jury.

MR. OLCOTT: He told the grand jury, Judge.

THE COURT: Yes, go ahead.

BY MR. OLCOTT:

Q Did you touch the towels to see whether they were wet, or dry, or any of the clothing? A No, sir, I didn't put my hand on them.

Q What happened then? A She dressed herself and come on out.

Q Did you see her have anything in her hand or in her possession? A She had a knife.

Q Where did she have it when you first saw it? A Had the knife in her hand.

Q In her hand? A The left hand.

BY THE COURT:

Q In the bed did she have the knife? A Yes, sir; she was sitting on the side of the bed.

BY MR. OLCOTT:

Q Did you see where she got the knife from? A No, I didn't see where she got it from.

Q She opened the door for you? A Yes, sir.

Q She had to get up to open the door? A Yes, sir.

Q Then she went back and sat on the bed? A Yes, sir.

Q And was it then for the first time you noticed the knife?

A That is the first time I saw the knife.

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Q And it was in her hand? A In her hand.

Q Did you know whether it was then, or after she began to fix her shoes, that you first saw it? A At the time she was fixing the shoes, that is the first time I saw it.

Q That attracted your attention to her hand? A Yes, sir.

Q I show you a knife and ask you whether that is the knife she had in her hand (handing witness People's Ex. No. 1, for Identification)? A Yes, it was a brown knife, a brand new knife; it had two blades.

Q Was it opened, or closed? A The small blade was open.

Q The small blade was open? A Yes, sir.

MR. OLCOTT: I am referring to People's Ex. No. 1, for identification.

BY THE COURT:

Q The small blade was open, you say? A Yes, sir.

BY MR. OLCOTT:

Q Did she say anything about that, or did she say anything else while you were in the apartment? A No, sir, she didn't say anything else.

Q What did you see her do with this knife? A She put the knife in her pocket.

Q She put the knife in her pocket? Did you notice whether she closed it, or left it open? A I didn't notice whether she closed the knife, or not, but I saw she put the knife in her pocket.

Q Was it a sweater, or a coat? A A coat, an overcoat.

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Q She put her coat on? A Yes, she put her coat on.

Q What did you do and what did she do? A I came out of the house first, and she locked the door, and she went up the street in front of me, ^{and} I behind.

Q Did you see what she did? A She got down on her knees and opened the man's coat up.

Q She opened the man's coat up? A Yes, sir.

Q Did you hear anything she said? A No.

Q Did you see anything she did except what you have told us? A No, she just opened the coat up.

Q Did you see the knife again? A No, I didn't see the knife until I got up to the station house.

Q Some one showed you a knife in the station house? A Yes.

Q You didn't see her do anything with the knife when she bending over the man? A No.

Q You saw her bend over the man, is that right? A Yes, sir.

Q Did you hear anything she said? A No, I wasn't close enough to hear anything she said.

Q Did you see what happened to her then and what happened to the man? A The man just laid there.

Q Did you see any ambulance come? A Yes, after the man was pronounced dead, the ambulance came, I guess half an hour afterwards.

Q There was a crowd around, is that right? A There was a crowd around.

Q Did you see what happened with this defendant? A Her

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and I was arrested.

BY THE COURT:

Q What is that? A I say her and I was arrested and taken to the station house.

Q You were both arrested? A Yes, sir.

BY MR. OLCOTT:

Q You went to the station house, too? A yes, sir.

Q And you made a statement in the station house? A Yes.

Q Did you see anything except the knife in her hand when she opened the door? A I didn't see nothing in her hand whatsoever.

Q Did you see anything on the body? A No, I didn't take notice.

Q Where was this towel that you say you saw? A This towel was hanging right by the basement, on a nail.

Q And how far from the bed where you say she went to sit after? A How far was what from the bed?

Q How far was the towel from the bed. A Oh, I guess the towel - I can't tell you how far that would be.

Q Was it in the same room? A No, in another room.

Q Now, do you recall anything else that was said to you or that you said to her when you first went to the door? A No more than what I have just said.

Q Do you recall anything being said about bed? A No, she didn't say anything about bed.

Q She didn't say anything about the bed? A No.

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Q How did you come to look at the towel in the other room?

A By it being light, the house being lighted, and I just seen it while I was talking to her.

Q Just glanced at it? A Yes, just took a glance at it.

Q And you saw that there was blood on it? A Yes, there was blood on it.

Q And you say from that one glance at it you were able to tell whether it was old, or new, blood? A Yes, by looking at the towel.

Q Do you remember whether this woman said anything else to you, whether she referred to the man as any kind of a person, or called him any names, when you came to the door?

MR. KIER: Now, I object to that, your Honor, as leading.

THE COURT: Well, he has asked a good many questions, and he is now suggesting a topic to the witness.

MR. KIER: But isn't he going further and suggesting the substance of the topic?

THE COURT: No, I don't think so. Get that question now and let Mr. Olcott have an answer to it.

(Question read by stenographer.)

MR. KIER: Now, I object to that, because it is more than referring to a topic. It is indicating the subject, I mean the language of that topic.

THE COURT: No, it is not suggesting anything of the kind, Mr. Kier. It is bringing him right straight up to the

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question and to the situation, and he has exhausted him,
and for that reason it is allowable. Go ahead and answer.

A She said that if the man had stayed there it never would
have happened.

BY THE COURT:

Q That you have told us.

A Yes, sir.

Q But anything else? A She said, "Son of a bitch," that
is all.

Q What is that? A She said, "The son of a bitch."

Q Speak to the jury. A She said, "If the son of a
bitch had stayed home it never would have happened, as I told
him."

MR. OLCOTT: You may examine.

THE COURT: Mr. Kier, you will take your examination up
at a quarter after two. Meanwhile, gentlemen, (addressing
jury), do not discuss the cause, nor form nor express any
opinion on it, but keep your minds open and free and clear
until the case is sent to you. I will ask you to be in your
places promptly at a quarter past two. Now, make it your
business, gentlemen, to all be here at that time. For one
not to be here would delay us all.

(The Court then accordingly took a recess until
2:15 o'clock p.m.).

- - - - -
A F T E R R E C E S S

J A M E S S I M M O N S, resumes the stand.

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CROSS-EXAMINATION BY MR. KIER:

Q This is Mr. Simmons? A Yes, sir.

Q Mr. Simmons, about what time was this? A At night, when this thing happened.

Q Tell us about what time it was? A It was between half past eight and nine o'clock, as far as I remember.

Q Where were you going to or coming from? Home? A I was coming out of 227 .

Q On the same side of the street? A The same side which I live on.

Q You were going to your home? A No.

Q You were going out of your home? A I was not in my home.

Q Where is your home? A My home is 223.

Q And where did you say you were going to? A Just coming out of a house, that is all, out in the street.

Q Going no place in particular? A I had no particular place where I was going.

Q When you saw this defendant there she was very much excited, wasn't she? A Saw this woman there?

Q Yes. A No, she was not excited.

Q Was everybody excited? Was there much excitement there?
A No, not at the time, only a few people.

Q A few people? A Yes, around.

Q Was there much excitement there? A Yes, there was a crowd of people there, and the officer was there, too.

Q Well, you didn't have much to say to her, did you? A She

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was not there at the time.

Q You were pretty much excited yourself? A Yes.

Q Yes? A Yes.

Q Is that true? A That is true, the same as any ordinary people would be.

Q And you didn't have much to say to her at all even afterwards, did you? A No.

MR. KIER: That is all.

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J O S E P H M A L O N E Y, Police Officer, shield No. 8848, attached to the 28th Precinct, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q You are a member of the Municipal Police Force, Officer?

A yes, sir.

Q And how long have you been such a member? A Six years.

Q Now, on the night of the 24th of February, 1919, where were you stationed? A Amsterdam avenue from 59th to 65th streets.

Q Was your attention called to anything in 62nd street?

A Yes, sir.

Q Did you go at once into 62nd street? A Yes, sir.

Q At or near No. 225? A A Yes, sir.

Q What did you find there, officer? A I found a man.

Q I will withdraw the question and ask you whether any young boy came and got you and brought you down there? A Yes, sir.

Q Do you remember his name? A Harry Alexander.

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Q He has been a witness here this morning? A Yes, sir.

Q And you accompanied him, did you? A Yes, sir.

Q And reached, you have already said, 225 West 62nd Street?

A Yes, sir.

Q Tell us what you saw there, officer? A I saw a man propped up against a railing in the street. I looked and I saw some blood on his chest. I thought it was a hemorrhage, and I went across the street to call an ambulance.

Q Did you call an ambulance? A Yes, sir, I come back from calling the ambulance, and I saw a lady standing in front of this man.

Q Had she been there before? A No, sir.

Q Did you see a man by the name of Simmons, a colored man, before? A Not until after I come back from the ambulance.

Q So that before you went to call the ambulance you saw neither Simmons nor a woman, is that right? A Yes, sir.

Q Do you recognize now the woman that you saw? A Yes, sir.

Q Is it this defendant? A Yes, sir.

Q So, as I understand, when you came back, the defendant was there? A Yes, sir.

Q What was she doing, and in what position was she? A She was half kneeling down in front of the man at the railing.

Q Yes. A She was buttoning his shirt; and I asked the defendant if she was interested in the man, and she said, "Yes," and I asked her in what way. She said, "It is my husband." I struck a match and I leaned down to the man on the street, and I

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noticed that there was no blood coming from his nose or mouth, which I thought was a hemorrhage.

Q You thought - when you spoke of a hemorrhage in the first instance, you thought he was bleeding from his nose or mouth, is that right? A Yes, sir.

Q And you found that was not the case? A Yes.

Q Tell us what you did then? A I looked down on his shirt, and I could see the blood coming through the shirt. I opened the shirt and I found a stab-wound inside on his breast, on his left breast.

Q Could you say whether the man was alive at the time that you did this? A I couldn't say. He was lying. I pushed his head up and down, and it just was limp, no signs of life; I couldn't say whether he was dead.

Q Did you feel any heart action, or were you able to? A I wasn't able to feel any heart action.

Q You felt for it? A I felt for heart action, but there was a cut right down the breast, and I took the man's pulse and I couldn't feel any pulse at all, and I went right over to the telephone again and asked them to please make it a hurry up call.

Q Did you observe anything else that this defendant did? Did you have any further conversation with her? A No, not at the time, no.

Q Did you observe the condition of this man's clothing? A Well, it was dark, and I couldn't say that I did have much

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of an observation of his clothing.

Q Could you tell us about how much blood you were able to observe? A Oh, quite a whole lot of blood; the street was covered, and it was running down in a stream out into the gutter; it made a pool at the curbstone.

Q Would you be able to identify the clothes if you saw them again, Officer, do you think? A I don't think I would.

Q You didn't take charge of them? A No, sir.

Q -Officer Rogers did? A Officer Rogers. I turned the body over to Officer Rodgers, and accompanied the defendant to the station house.

Q Did you find anything at or about or near this man that you saw lying there? A Yes, sir.

Q What did you find? A A knife.

Q Whereabouts did you find it? A Directly in back of the man, on the street, inside the railing.

Q Had you observed anybody putting it there? A No, sir.

Q Did you observe anybody near the body of this man that you saw lying there, except this defendant? A No, sir.

Q There was a crowd there, of course? A Yes, sir.

Q When you got there? A Yes, sir.

Q But no one was at or near the body except this defendant, whom you observed later, is that right? A Yes, sir.

Q I show you this knife, People's Ex. No. 1, for Identification, and ask you if you will look on it for any marks that you may have put there, and tell me whether that is the knife that

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you found (handing People's Ex. No 1, for Identification, to witness)? A Yes, sir.

Q Will you tell us whether it was open or closed, when you found it? A The knife was closed when I found it.

Q The knife was closed when you found it? A Yes, sir.

Q Did you examine the blades of the knife? A Not at the time.

Q Did you at any subsequent time? A Later I did.

Q When? A Well, about ten minutes, five to ten minutes after.

Q Did you notice what condition the blades were in?

A There was some blood stains on the blades.

Q Do you know on which blade? Open the knife, officer. Perhaps that will help you. A (Witness opens blades of knife) There was quite a little blood on the knife when I found it.

Q Was it wet? A Damp.

Q It was fresh blood? A Yes, sir.

BY THE COURT:

Q On what blade was the blood? A (Witness indicates larger blade of knife.)

Q On which blade? A The large blade.

Q On the large blade? A Yes, sir, and some also on the handle, right here (indicating on People's Ex. No. 1, for Identification.)

BY MR. OLCOTT:

Q What did you do with the knife, Officer? A I put it in

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my pocket.

Q And what did you do with it after having it in your pocket? A I turned it over to Officer Rogers.

Q To Officer Rogers? A Yes, sir.

Q That same night, do you recall? A Yes, sir.

Q What happened to this defendant, if you remember? A What happened to her?

Q Yes. A I accompanied her to the station house.

Q She was placed under arrest? A I brought her up there for - to be questioned.

Q What precinct is that in? A 28th Precinct.

Q It is the one to which you are attached? A Yes, sir.

Q And where is the station house there near? A 68th Street.

Q Did you stay with this defendant when she got into the station house? A No, sir, I brought her to the Detective Division.

Q And to what detective? A Detective Golding.

Q He was at the station house? A Yes, sir.

Q And it customary and your duty to turn over matters of this sort to a detective after you have made the arrest, is that right? A For investigation, yes, sir.

Q Because you are on post, and you must, as soon as convenient, return to your post, is that right? A Yes, sir.

Q Did you see this defendant again after turning her over to Officer Golding, except in court of course? A No, sir.

Q Did you go into the apartment at 333 West 62nd Street?

THE COURT: 233, isn't it?

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Q 233; excuse me? A No, sir.

Q You did not? A No, sir.

MR. OLCOTT: You may examine, Mr. Kier.

CROSS-EXAMINATION BY MR. KIER:

Q Mr. Maloney, when you were asked by the District Attorney as to what blade you noticed blood on that night, you took it in your hand and examined this knife now. When you say it was on the larger blade, do you depend upon your examination now, or your examination then? A My recollection then; my memory of the night.

Q I know, but when the District Attorney asked you, you hesitated, and didn't answer, and then you took this knife and very closely examined it, looking where these stains were, if any. Now, wasn't it due to this examination now that you say that it was on the larger blade? A No, sir.

Q It is not, then? A No, sir.

Q When you examined it closely and watched it a minute or two, that had nothing to do with making up your mind as to what blade it was on? A No, sir.

Q If you knew it was on the larger blade, why did you examine it just now? A There were other blood stains on the knife.

Q On what other blades? A No, sir, on other parts of the knife.

Q Isn't it a fact you are not positively sure from recollection as to which blade had the blood on it at that time? You

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are not sure, are you? A The large blade had blood on it.

At the crotch of the handle there was blood also.

Q Why didn't you answer that before examining it just now?

MR. OLCOTT: I object to the question. I asked him to examine the knife; I said, "please examine the knife."

MR. KIER: You asked him, and then he didn't answer you. Well, however.

Q You say the examination now as to which blade the blood was on has nothing to do with your answer, is that true? A Yes.

Q And this examination is of no use as to your memory in relation to that fact? A No, sir.

Q Mr. Maloney, you say - I understand you to say that before you went for the ambulance that the defendant was down kneeling over the deceased, the man? A No, sir.

Q It was when you came back? A Yes, sir.

Q When you came back from the ambulance, she was kneeling? A Yes, sir.

Q You said she was opening his clothes in some way? Buttoning his shirt.

Q Buttoning, or unbuttoning? A Making an attempt to button the shirt.

Q You didn't see her examining to see if there was any wound there? A No, sir.

Q How long was she there, do you think, 10 minutes, 15 minutes, along side of him? A Well, when I left the body and went to telephone the second time, I should say it was anywhere

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from five minutes to seven minutes.

Q That she was there in front of this man? A I don't know how long she was there after I left the body. From the time I left the body until I came back and found the defendant there.

Q Did you notice this eye of the defendant bruised and cut (indicating on defendant)? A No, sir, I did not.

Q You didn't pay any particular attention? A No, sir.

Q It might have been, for all you know? A It might have been.

MR. KIER: That is all.

REDIRECT EXAMINATION BY MR. OLCOTT:

Q Officer, did the defendant complain of her eye or refer to it at all to you? A No, sir.

Q Did she make any statement in regard to her eye or her condition at all to you? A No, sir.

Q Did she make any statement to you other than that which you have already told us about? A No, she didn't make any statement, only she said she was sorry that he was dead, that is all.

BY THE COURT:

Q How did that happen? How did that answer happen? A That was while we were walking to the station house.

Q You and she? A Yes, with another man by the name of Simmons. I think he is a witness here.

Q Yes? A In an offhanded way, she just said, "Well, I am sorry the poor man is dead."

Q That was the language, "I am sorry that the poor man is

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dead?" A Yes, sir.

Q Did you say something to that? A No, sir, I didn't say anything.

Q Or Simmons? A No, sir.

Q Was nothing else said? A I didn't have any conversation with the defendant from the time I left the scene of the crime until I got to the station house.

BY MR. OLCOTT:

Q Were you there, Officer, when the ambulance came up?

A Yes, sir.

Q Do you recall the ambulance surgeon getting out and making an examination? A I recall the ambulance surgeon leaving the ambulance, and Officer Rogers went over to the body with the Doctor; I was standing with the defendant and this James Simmons.

Q Do you know whether at the time the ambulance surgeon got there the deceased was dead at that time? A I asked Officer Rogers, and he said that the doctor pronounced him dead.

MR. KIER: Well, that is incompetent, but I don't object to it.

BY THE COURT:

Q Was that in the presence of the defendant? A Sir?

Q Was she there. A Yes, sir.

Q She was there? A Yes, sir.

Q Within ear-shot? A Within ear-shot of what Rogers said.

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Q Of what was said? A yes, sir.

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C O R R I N E D A Y S, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Where do you live? A 329 West 39th Street.

Q Mrs. Days, you are the wife of Talmadge Days? A Yes, sir.

Q When before the 24th day of February, this year, did you last see your husband? A I don't know. He was down to my house the Sunday before he got killed.

Q You mean you don't know the date? A No.

Q It was the Sunday before the time you say he was killed; is that right? A Yes, sir, but I wasn't there.

Q When did you last see him? A I don't know.

Q How long before, about? A I guess about a month.

Q About a month? A yes, sir.

Q Did you see him on the 25th of February, did you see his body? A Yes, sir.

Q And where did you see his body? A Down at the Morgue.

Q And you identified it there, is that right? A Yes, sir.

Q An the body that you saw was the body of your husband, Talmadge Days, is that right? A Yes, sir.

Q Do you recall who was there when you were there, who you identified the body to? A What did you say?

Q Do you recall who you identified the body to. Was it

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Officer Rogers? A Yes, sir.

Q Do you remember whether any doctors were there at the time, - Dr. Schwartz? A I don't know the name.

Q You remember Officer Rogers? A Yes, sir.

Q He is the one who brought you down there, isn't he? A Yes.

MR. OLCOTT: That is all.

CROSS-EXAMINATION BY MR. KIER:

Q When were you married to Talmadge Days? A August 13, 1917.

Q And where? A At City Hall.

Q New York City? A Yes, sir.

BY THE COURT:

Q August, 1907? A '17.

Q 1917? A Yes, August 13, 1917.

BY MR. KIER:

Q By the City Clerk? A Yes.

Q Not by a clergyman? A No.

Q What was your name? A Corrine Tiernan.

Q How do you spell it? A T-e-a-r-n-a-n.

Q And he was under the name of Talmadge Days? A Yes, sir.

Q Had you been married before? A No, sir.

MR. KIER: That is all.

MR. OLCOTT: Mr. Kier is good enough to concede that Dr. Thompson, who was on the ambulance that night, is now in France and unavailable to us as a witness.

THE COURT: That is your concession, is it, counsellor?

MR. KIER: Yes, your Honor.

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R I C H A R D G O L D I N G, Police Officer, shield No. 567,
attached to the 28th Precinct, called as a witness on behalf
of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q You are a member of the Municipal Police Force, Officer?

A Yes, sir.

Q And how long have you been a member? A About twenty-two
years and a half.

Q And in February of this year to what precinct were you
attached? A Attached to the 28th precinct, Detective Bureau.

Q On the night of the 24th of February, 1919, did you see
this defendant? A Yes, sir.

Q Where did you first see her, Officer? A In the station
house.

Q In whose company was she? A She was with Officer Maloney.

Q And did Officer Maloney turn her over to your custody?

A Yes, sir.

Q And you assumed charge of the case, is that right?

A Yes, sir.

Q Did you have any conversation with this defendant? A I did

Q What did she say to you and what did you say to her?

A She wouldn't talk at all, except one thing. She says, "If
the son of a bitch would stay home this would not have happened."

Q That is all that you recall? A That is all she said that
night to me at all.

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Q Do you recall whether any stenographic statement was taken from her that night, Officer? A Yes, sir, there was somebody else there from the District Attorney's office.

Q And do you recall that a stenographer was present?

A Yes, sir.

Q You didn't hear, or did you hear that? A No, I did not.

Q The District Attorney took charge of that and directed questions and answers to her? A Yes, sir.

Q That much you ^{know,} / don't you? A Yes, sir.

Q Do you recall seeing this defendant again after that night? A The next morning I took her down to the District Attorney's office.

Q Do you recall having any conversation with her about going down to the District Attorney's office? A She didn't have much to say going down at all.

Q Do you recall her saying anything about going down?

A She said she wanted to go down and she wanted to - she was willing to talk and tell all she knew about it; of course, she said, "I don't know much about it," that morning; that was to me.

Q But she said she was willing to go down, is that right?

A Yes, sir.

Q And did you accompany her down? A I did.

Q Was anybody else with her that you recall? A I was with her; I took her and another witness down by the name of Simmons, to Mr. Cardone's office.

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Q In this building? A Yes, sir.

Q On the 4th floor? A Yes, sir.

Q To what is known as the Homicide Bureau? A Yes, sir.

Q And do you recall whether Mr. Cardone and a stenographer were present when another statement was taken from her? A Mr. Cardone was present with a stenographer, but I went out with Mr. Simmons to get him his lunch.

Q And you left this defendant in the Homicide Bureau of the District Attorney's office? A Yes, sir.

Q That was the next morning? A The next morning, yes.

Q That is some possibly - about 12 - A Somewhere around 11 or 12 o'clock.

Q What time was it when you first saw this defendant at the police station on the night of the 24th? A Well, if it I remember right, it was around 10 o'clock. I wouldn't say just the time.

Q It was before midnight, at any rate? A Yes, sir.

Q You are familiar with the location of premises 225 West 62nd Street? A Well, I know where the apartment is, but I was not in it.

Q That is in the City and County of New York, is it? A Yes.

MR. OLCOTT: You may examine.

CROSS-EXAMINATION BY MR. KIER:

Q Mr. Golding, she was brought in there to your detective room, in the back part of the station house, wasn't she? A yes.

Q By one of the officers? A Officer Maloney, yes, sir.

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Q And left with you there to question her? A Yes, sir.

Q And you asked her about the cut she had on her eye, or the bruise, do you remember that? You asked her about that?

A I don't remember any bruise.

Q Some cut or some thing over this eye (indicating)?

A The only cut that I remember she showed was a cut on the side. She said that had happened three or four years before, down South.

Q Don't you remember any cut or bruise that she had over the eye that you asked her about when she was brought in? A I don't remember that.

Q You asked her who did it? A No, sir.

Q Will you think just a minute.

MR. OLCOTT: Oh, I object to that.

Q Are you sure about that? Other people saw her when she was brought in, didn't they, besides you? A There was several of us in there.

Q Is there a matron there? A There is no matron there, no.

Q Who takes charge of the women? A We have to take them to the 26th Precinct, that is West 47th Street, that is where she was kept overnight.

Q Didn't the District Attorney, in your presence, when she was brought down here the next day, look at her eye, Mr. Cardone, and ask her how she got it? A Now, I don't remember that; if he did I couldn't say.

Q You won't say "yes," or "no," will you? A No, sir, I don't

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remember that.

Q And you don't remember whether she had it that night, or not, do you? A That I don't.

MR. KIER: That is all.

REDIRECT EXAMINATION BY MR. OLCOTT:

Q You don't recall any scar? A I don't remeber that, except a scar she had on one side, where she had been cut in a fight three or four years before.

BY MR. KIER:

Q But you don't remember this particular scar? A I don't remember it.

BY MR. OLCOTT:

Q You had ample opportunity to observe her? A I was running a typewriter at the time they were in there, and there was a great many in there, and reporters running in and out, and I was making out some reports, and I don't remember about there being a bruise there; I wouldn't say that.

Q Do you recall the defendant saying anything to you about it? A No, I don't.

MR. OLCOTT: That is all. I wish to recall the officer.

BY MR. OLCOTT:

Q Did you see this defendant again after he returned from lunch with Simmons, or from something to eat with Simmons? A yes.

Q And did you take her up to the pawnshop? A I did.

Q Where was that pawnshop? A At 95 Amsterdam avenue.

Q Do you recall whether that is the pawnshop of John Gollan?

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A The name outside is Rabbit.

Q Did you see a man named Gollan in there? A Yes, sir.

Q Was he the man who was a witness here this morning?

A Yes, sir.

Q A man who walked with a limp? A Yes, sir.

Q Did the defendant say anything to you on the way up to the pawnshop? A She told me -- I had a knife in my pocket and she told me --

Q You were given certain instructions and given a knife, is that right? A Yes, sir.

Q Had you seen that knife before? A The night before, yes, sir.

Q I show you this knife, People's Ex. No. 1, for Identification, and ask you whether that is the knife that you had with you (handing witness People's Ex. No. 1, for Identification)? A Yes.

Q Did you have any conversation with this defendant on the way up? A Yes, sir.

Q What did she say to you and what did you say to her then? A She told me that she did it, that she cut him with that knife; she told me, "I bought that knife the day before, at 95 Amsterdam, and I bought it to use on him, but," she said, "when I used it, I didn't expect to kill him."

Q And you and she went to the Amsterdam Avenue address, is that right? A Yes, sir.

Q And you had a conversation with Mr. Gollan in there; just "yes," or "no," please. A Yes, sir.

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Q And then where did you go with the defendant? A I took her to 54th Street, the Seventh Magistrates' Court.

Q And she was arraigned there? A Arraigned there on a short affidavit.

BY MR. KIER:

Q She had told you that this man had beaten her on different occasions, didn't she? A She said she had had trouble with him; she didn't say anything about being beaten.

Q Didn't she tell you he had beaten her that very morning? A No, sir.

Q At least, on Sunday morning, the day before? A She said he had beat her about two weeks before.

Q Didn't she say he beat her that morning? A No, sir, she did not.

Q She didn't say that? A No, sir.

Q She told you where she bought the knife? A Yes, sir.

Q You wouldn't have known otherwise, only from the information you got from her? A She told me where she bought it.

Q She took you up there and showed you the place? A Yes.

Q Your recollection is that he beat her two weeks before? A She said that.

Q I am not saying what you know about it, but she said he beat her many times, didn't she? A She didn't say many times. She said she had trouble with him two weeks before that.

MR. KIER: All right. That is all.

MR. OLCOTT: I offer the knife in evidence.

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MR. KIER: I object to it, your Honor.

THE COURT: Why? Why?

MR. KIER: Well, there is no evidence that - I withdraw the objection.

THE COURT: Received.

(Knife received in evidence and marked People's Ex. No. 1 of this date.)

BY MR. KIER:

Q Mr. Golding, when you brought the defendant down to this building, you took her to the District Attorney's office, on the 4th floor, the Homicide Bureau? A Yes, sir.

Q Now, then, who was there or what District Attorney, if you remember, was there when you took her in there first? A I believe Mr. Cardone.

Q Mr. Cardone? A Yes, sir, and a stenographer.

Q And a stenographer? A Yes, sir.

Q Anybody else? Any other District Attorney that you know of was there with her? A There were several there whom I did not know. I wouldn't say whether they were District Attorneys, or not.

Q Was it Mr. Cardone who examined her? A He sent out for her, yes.

Q He sent out for her? A I sat outside with her.

Q In an outer room? A In a small room, yes, sir.

Q And Mr. Cardone is the one who sent out for her? A Somebody said to bring her in.

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Q And you did take her in and took her before Mr.Cardone?

A And I stepped out.

Q Who did you leave there besides Mr.Cardone? A I wouldn't say just how many. The stenographer, Mr.Cardone, and there might have been two or three others there; I wouldn't say how many.

Q You didn't remain while the questioning was proceeding?

A No,sir, because Simmons said -

Q never mind "because;" I am only asking you. You did not remain? A No,sir.

MR. KIER: That is all.

BY MR. OLCOTT:

Q You went out with Simmons, you have already testified?

A yes,sir.

MR. OLCOTT: That is all.

B E M J A M I N S C H W A R T Z, called as a witness on behalf of the People, being first duly sworn, testified as follows:

(The witness states that he resides at No. 261 7th Street.)

DIRECT EXAMINATION BY MR. OLCOTT:

Q Dr.Schwartz, you are Chief Assistant Medical Examiner of this County? A Yes,sir.

Q Do you recall having a body identified to you by Officer Rogers and Mrs. Days in February, 1919, February 25th? A Yes.

Q You recall seeing Mrs.Days, the wife or the person who said she was the wife of the deceased? A Yes,sir.

Q You recall her identifying the body to you? A Yes,sir.

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Q Do you remember the name of the man? A Talmadge Days.

Q Did you perform an autopsy on the body, Doctor? A Yes.

Q How long have you been a practicing physician?

MR. KIER: Oh, I will admit his qualifications, your Honor; he is perfectly qualified.

Q Tell us what the autopsy disclosed, Doctor? A The cause of death was a stab wound of the heart.

Q Will you tell us the condition of this wound and just where it was, please? A It was in the left side of the chest, in front, located one inch to the left of the middle line, and the wound was $1\frac{1}{16}$ of an inch in length and $\frac{1}{2}$ inch in width. It penetrated the fourth and fifth costal cartilages and entered the right side of the heart. The left chest was filled with blood and also the heart sac.

BY THE COURT:

Q What was the length of the wound? A The depth of the wound -

Q What was the length of it? A $1\frac{1}{16}$ inches.

BY MR. OLCOTT:

Q That is the length of the cut on the surface? A On the skin, but the depth of the wound measuring from the skin to the wound of the heart was 2 inches.

BY THE COURT:

Q From $1\frac{1}{2}$ to 2 inches? A No, it was 2 inches; and the direction of the stab wound was upwards, backwards and inward. There were two stab wounds of the heart.

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BY MR. OLCOTT:

Q Two stab wounds? A Yes, sir.

Q What was the size of the other stab wound? A They were small wounds in the heart.

Q You mean there were two perforations of the wall of the heart? A Yes, sir, but just one wound in the skin.

Q Apparently coming from the one wound? A Yes, sir.

Q Would that be caused, from your experience, by the knife being moved after it had once gone in? A Yes, sir.

MR. OLCOTT: You may examine.

CROSS-EXAMINATION BY MR. KIER:

Q Just the one wound? A One wound of the skin.

Q That is, on the surface? A Yes, sir.

Q One break? A Yes, sir.

Q Was he a fleshy man? A He weighed 125 lbs; his height was 5 feet 3-1/2 inches.

- - - - -

NATHAN BIRCHALL, JR., called as a witness on behalf of the people, being first duly sworn, testified as follows:

(The witness states that he resides at No. 9 Northern Avenue,)

DIRECT EXAMINATION BY MR. OLCOTT:

Q Mr. Birchall, where are you employed? A District Attorney's office, Homicide Bureau.

Q And how long have you been employed there, in this office?
A Almost 11 years.

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Q And for how long - are you attached to the Homicide Bureau as Stenographer? A Yes, sir.

Q And how long have you been so attached? A About 6 years.

Q Do you recall the night of the 24th of February, 1919?

A It was the 25th of February, the morning.

Q That is, after midnight? A No, sir, it was about noon time of the 25th of February.

Q And did you see this defendant at that time? A I did.

Q Where were you when you saw him? A In the Homicide Bureau.

Q In this office? A Yes.

Q Do you recall what, if any, assistant was present at the time that you saw this defendant? A Mr. Cardone.

Q And do you recall whether he addressed any questions to her? A We did.

Q And do you recall whether she gave answers? A She did, yes, sir.

Q And did you take them down stenographically? A Yes, sir.

Q Have you your original note-book in which you took them down with you at that time now? A I have.

BY THE COURT:

Q Was there anyone else in that room? A Yes, sir, there was an officer by the name of Golding, and part of the time Dr. Gonzales, one of the Medical Examiners.

Q Were they there during this talk between Mr. Cardone and

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the defendant? A They were.

Q Continuously? A Officer Golding was there continuously, and Dr. Gonzales came in during the course of the examination.

Q Other than they, was there anyone present? A No, sir.

BY MR. OLCOTT:

Q Do you recall whether the minutes disclose - you have read the minutes over recently? A Yes, sir.

Q Do you recall whether the minutes disclose officer Golding leaving? A I think not. I think he stayed during the whole examination.

BY THE COURT:

Q Do you have anything in your minutes to indicate whether he did, or not? A I do, as a rule, note when anybody goes in or out of the room.

Q Did these other persons participate in the talk in there between Mr. Cardone and the defendant? A Dr. Gonzales asked one or two questions. Outside of that, Mr. Cardone conducted the whole examination.

Q Does that appear in your minutes? A Yes, sir.

BY MR. OLCOTT:

Q Mr. Birchall, before I ask you to refer to the minutes, will you tell me whether - do you know whether some other stenographer later relieved you? A Only from hearsay. I went out to lunch.

MR. KIER: Anything that he don't know of his own knowledge, I object to, of course.

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MR. OLCOTT: All right, I will withdraw the question.

Q Did you come back after lunch and find that this defendant was still there? A I don't remember.

Q Can you tell the exact questions and answers that were given by her without referring to your notes? A No, sir.

Q Can you by referring to your notes? A I can.

Q Tell exactly the questions that were asked and exactly the answers that were given? A Yes, sir.

Q You say those questions were asked by Mr. Cardone? A With the exception of one or two.

Q With the exception of one or two? A With the exception of one or two.

Q Who is Dr. Gonzales? A He is an assistant medical examiner for the City of New York.

Q And he just happened to be there? A Just dropped in, yes.

Q He is an official, of course? A He is.

Q Will you refer to your notes -

MR. OLCOTT: I have your Honor's permission to have him refer to his notes?

THE COURT: Yes.

Q Will you tell us what was asked this defendant and what she answered? A "By Mr. Cardone: "Q. What is your name?".

MR. KIER: May I make a voir dire examination of this witness?

THE COURT: You may ask him a question or two, if you feel that it was not conducted under fair conditions, you

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may ask him a question or two to clear up that situation,
if it has not been cleared up. Go ahead.

BY MR. KIER:

Q When she was brought in, was she told that it would be better for her to make a full statement of the matter? A No, sir.

Q Did you notice her particularly, how she looked when she came in? A I don't remember how she looked, no, sir.

Q You didn't pay any attention? A Not any more than I do to anyone else' it is sometime ago, and I see a great many; I do not remember how she was dressed, or anything like that.

Q Her appearance or face? Do you remember her appearance? A There was nothing that impressed me out of the ordinary that I would remember.

Q You say you don't pay much attention. Did you pay any attention to her, particularly as to her appearance? A I looked at her the same as I would look at any other witness. I don't remember what she looked like.

Q You were interested in writing your notes and getting her testimony, is that it? A Yes, sir.

MR. KIER: I don't object to the statement going in.

THE COURT: Go ahead.

THE WITNESS: "Q. What is your name? A. Josephine
"Richardson.

"Q. How old are you? A 26.

"Q. Where do you live? A I live in 62nd Street,
"in 233, on the ground floor, back, on the west side.

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"Q. Are you married, or single? A Single.

"Q. What do you do for a living? A I works in a can
"factory, 43rd Street.

"Q. Where? A Near 11th Avenue, a tin can place where they
"make tin cans.

"Q. What is the name of the concern? A Robinson, I
"think' I think it is between 11th Avenue and 12th.

"Q. How long have you been working there? A I have been
"working there about four months, I guess.

"Q. How much do you get a week? A \$11. a week, \$11.
"straight and a dollar bonus.

"Q. Do you know Talmadge Days? A Yes, sir.

"Q. How long have you known Talmadge Days? A I have been
"knowing him I guess about 7 months.

"Q. Where and when did you meet him for the first time?

"A. Over in Long Island, over in the yard.

"Q. Which yard? A Over in the Pullman Yard, over there,
"you know, where the trains run.

"Q. Pennsylvania Station? A Not the station, no; the
"yard over there in Long Island.

"Q. What part of Long Island? A In Sunnyside, I think
"that is what they call it.

"Q. When was this? A When I meet him?

"Q. Yes. A. I don't know what month it was, but I
"met him I reckon, about 7 months ago.

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"Q. How did you meet him? A How did I meet him?

"Well, he just walked and asked me what was my name, see. I told
"him; and he said I favored a girl that he used to go with; and
"then, you know, by talking, going backwards and forwards, I
"used to paint over there, I used to work for the Pullman, he
"worked for the Pennsylvania.

"Q. You were a painter? A Yes, sir.

"Q. And what did you paint? A Brown pipes inside the
"drawing room, the mens drawing room.

"Q. That is how you met him? Is that it? A Yes.

"Q. Then you and he lived together, is that right? A yes.

"Q. When was this? A We started living together I reckon
" about, well, as near as I can say, about three months ago.

"Q. Is that the first time that you and he began to live
"together? A Was that the first time?

"Q. Yes. A Yes.

"Q. Where did you and he live together? A We lived to-
"gether in 212 West 61st Street, didn't live together, but you
"know, he used to come down to see me; he lived uptown; and then
"after he broke up housekeeping he came down and we stayed
"there, well, I reckon about two or three weeks, and then we
"moved into 62nd Street.

"Q. When did you move in 233 West 62nd Street? A We
"moved there about three months ago.

"Q. Then you lived together with him for about three weeks
"at - A At 212.

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"Q. And then after that you moved to 233 West 62nd Street?

"A Yes, sir.

"Q. You are not married to him? A No, sir

"Q. And how many rooms did you have at 212 West 62nd Street?

"A I have three.

"Q. How much rent did you pay there? A Well, he paid

"\$8.50 a month, I think that is what it was.

"Q. He paid the rent? A Yes, sir.

"Q. You did the cooking? A Yes, sir, sometimes, and then

"he did it, see, he got off at 3 o'clock, and he just started

"getting off at 3 o'clock about two weeks ago, and then he would

"have my supper ready when I came, but when I stopped at five

"I would have his supper out there when he came, because he never

"stopped working until along about a quarter to six, I guess.

"Q. When you and he lived together at 62nd Street, did

"you stop working? A I worked for a while, but when I was going

"with him for a little time he let me quit work over in Long

"Island, because he said the work was too hard, and so I went

"over in Long Island and I looked for a job I reckon about three

"weeks, and then I started to work in this tin can place, and I

"have been working there ever since.

"Q. How many rooms do you have at 233 West 62nd Street?

"A. Three.

"Q. What do they consist of? A I don't know what you

"mean.

"Q. Well, have you a bed room there? A Yes, sir.

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"Q. Kitchen? A Yes, sir.

"Q. And what else? A well, a bed room and a kitchen and
"a dining room table you know, in another room, and a dresser
"and a couch; it aint no couch.

"Q. (Interrupting) I know, but how many rooms have you
"got there, three rooms? A yes, sir.

"Q. You have got a kitchen, a dining room and a bed room?

"A. Yes, sir.

"Q. Now, what was the trouble that you had with him yester-
"day?"

THE COURT: Now, are you satisfied with this?

MR. KIER: As to the --

THE COURT: Was there any caution given to this per-
son? This is in the public prosecutor's office,
Mr. Olcott. Was there any caution given?

BY MR. KIER:

Q Did the District Attorney or anyone tell this woman as to
her rights, as to what her rights were as to testifying, or not
testifying, or incriminating herself, or anything of the kind?

A No, sir.

Q Nobody, and you were present and heard all that was said?

A Yes, sir.

Q Nothing of the kind was said to her? A No, sir.

MR. OLCOTT: Now, if your Honor please, as I under-
stand the rule, there must be a voluntary statement given.
The Court of Appeals has held in a number of cases, and un-

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doubtedly your honor is familiar with them, that the formal caution is not necessary, but it must appear that the testimony or statement is voluntarily, and not forced in any way. Officer Golding has taken the stand and said that this woman manifested a willingness to come down to the District Attorneys office and make a statement.

THE COURT: I distinguish very much, Mr. Olcott, between the conduct of a man having police responsibility and learned counsel representing the State, and where the examination is conducted in the office of the District Attorney the rights of the defendant cannot be too carefully protected, they should be protected as much as the person should be protected in court, where they are not obliged to go upon the witness stand, to carry any of the responsibility of the trial, and a police officer has the right, if the conditions are fair and reasonable, in the performance of his work, to make fair and reasonable inquiries and extract a history of the transaction so far as he can; that is his business. But here is the law officer of the County, in his own office, and he ought not to enter upon such an investigation unless every caution be given, and I am not inclined to take this testimony, on principle, unless it was done.

MR. OLCOTT: I think what your Honor says is undoubtedly a fair statement as to what ought to be done.

THE COURT: There is no reason why it should not be done, where the gravity is such, where life is perhaps in the

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balance, it can't be too carefully done.

MR. OLCOTT: May I, however, point out to your Honor this, and state the situation in this case? The woman, the defendant, has expressed willingness to come down. She apparently, so far as I am able to find out, had no objection, and that general statement is borne out by the freedom with which this defendant here is talking, apparently.

THE COURT: Absolutely, I should quite agree with you upon it so far as it goes, but, for that reason I did not stop Mr. Birchall until he came to the transaction that is the subject of our investigation.

MR. OLCOTT: If we have a situation in which a defendant in a case, or one who subsequently becomes a defendant - she is not as yet, I understand it, arraigned - comes into the office and makes - and your Honor is convinced that she is making a free statement - the fact that in your Honor's opinion she should perhaps have been more carefully warned, is it quite enough to exclude the evidence? May we not have the jury hear what this woman who is so apparently making a free statement of what is going on, said?

THE COURT: But the difficulty is that, of course, it comes from a witness who brings to the case the training of his life, and it is such a simple thing, and I think such a necessary thing to do, where a short cut is made to the courts, not in any court, not in the Magistrates' court,

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no place except in the office of the prosecutor, who takes it for the purposes of performing his duty and laying it later before the grand jury and afterwards pressing it here before the trial jury. I quite agree with you that everything seems to have been under fair conditions, but there is that principle which is involved, and I will, unless it is desired, I will exclude it.

MR. KIER: I ask your Honor to exclude it; I move that your Honor exclude that testimony.

THE COURT: Yes.

MR. OLCOTT: Will your Honor hear me just one moment?

THE COURT: Yes.

MR. OLCOTT: I don't want to do any more than just to lay these facts before you. At this time, only recently, the Court of Appeals - I know of what I am speaking now, because -

THE COURT: Give me the case.

MR. OLCOTT: Yes, sir, I can give you the case very easily. People against Randazzo.

THE COURT: Get me the book. Was that a case of murder in the first degree?

MR. OLCOTT: Yes, sir, the Court of Appeals, it the Randazzo case; Mr. Brothers tried it, and there was recently--

THE COURT: I will look at it; I will examine the case. I was in expectation that such an inquiry would be put at the proper moment. It seems that we are getting right to it.

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MR. OLCOTT: I don't think a formal inquiry, sir, and I may as well have it clear before your Honor, so there can be no confusion, I don't think that a formal inquiry such as your Honor is speaking of was ever addressed to this witness, and we may have that clearly before your Honor.

(Mr. Olcott submits authority to Court.)

THE COURT: I think these cases are distinguishable, counsel. In the Randazzo case, the testimony was largely, and was so stated in the opinion, corroborative of statements that were made. It may be that this testimony would show the same thing, but if it should go beyond that I think that, in the view that the Court states, they would perhaps not justify it, because Judge Haight says that they would have been very much better satisfied if the warning had been given. In these cases, where there is the slightest chance of an encroachment upon the rights of the party, great weight must be given to the gravity of the charge, and that that doubt in the Court's mind ought to be resolved, on principle, in favor of the defendant.

MR. OLCOTT: But, if your Honor pleases, isn't the test, the real test in the case, whether this was a free and voluntary statement?

THE COURT: I will exclude it, and I discourage it by my ruling, that it should not be done, it should not be done, and I think that the Court plainly and flatly suggested, for the observance of district attorneys, that it

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was not a judicious thing to do. I will exclude it.

MR. OLCOTT: May I then, your Honor - your Honor referred, just a moment or so ago, to the fact that in the Randazzo case it was corroborative of statements which had evidently been made to others.

THE COURT: Excluded.

MR. OLCOTT: Will your Honor give me an adjournment, so I may have an opportunity of bringing the several police officers, who will testify to what they had to say to this woman on the way down, then perhaps your Honor will receive this?

THE COURT: Yes, then you will come plainly within the scope of the Randazzo case.

MR. OLCOTT: I offered this first because I thought it was more accurate. Possibly those officers are here.

THE COURT: It is such an easy thing to do. The Court plainly says that they were a little strained to sustain the judgment, but that alone would not be sufficient to cause a reversal, but that is about as far as they go.

MR. OLCOTT: I will bring those officers here, if you will give me an opportunity. I hadn't subpoenaed them, because I thought I had sufficient with the statement.

THE COURT: Or anyone who remembers substantially what was said by the defendant at the time with reference to the transaction.

MR. OLCOTT: I will have the officers here, and I think

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I will bring it within the rule that your Honor has just suggested.

THE COURT: Very well. Have you anything else this afternoon?

MR. OLCOTT: I have nothing except the officers.

THE COURT: Then, we will take an adjournment. (To the jury) Gentlemen, do not discuss the case, nor form nor express any opinion on it, but keep your minds open and free until the case is sent to you. Be in your places, please, tomorrow morning at half past ten.

(The Court then accordingly took a recess until tomorrow, Tuesday, June 10, 1919, at 10:30 o'clock a. m.).

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THE PEOPLE, ETC., -AGAINST- JOSEPHINE RICHARDSON

New York, Tuesday, June 10, 1919.

T R I A L C O N T I N U E D

J O H N R O G E R S, Police Officer, shield No. 6273, attached to the 28th Precinct, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Officer Rogers, you are a member of the Municipal Police Force? A Yes, sir.

Q On the night of the 24th day of February, 1919, were you on post somewhere? A Yes, sir.

Q Whereabouts? A 62nd Street between West End Avenue and Amsterdam.

Q Was your attention attracted to what was or had occurred in front of 225 West 62nd Street? A A man laying on the sidewalk.

Q When you got there, the man was laying on the sidewalk, is that right? A Yes, sir.

Q Did you see this defendant there at any time? A She was laying over on top of him when I got there.

Q What do you mean by that? A She was stretched over him, like this (illustrating); he was laying on the sidewalk.

Q Did you see what she was doing? A No, I couldn't see what she was doing.

Q Did she get up? A I touched her and lifted her up and asked her what she was doing there. . She said that was her

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husband.

Q Was Officer Maloney there at the time? A He was there opposite me.

Q He was there a little before you? A He got there a little ahead of me.

Q He had already called the ambulance by the time you got there? A Yes, sir.

Q Where did you go from there, Officer? A I didn't move. I stayed right there.

Q Do you recall an ambulance coming? A What did you say?

Q Do you recall an ambulance coming. A Officer Maloney called it.

Q Do you recall one coming there? A Yes, sir.

Q You stayed there until it got there, is that right?

A Yes, sir.

Q What did you do? Did you go with the body? A I stayed with the body until the doctor came.

Q You observed the clothes? A Yes, sir.

Q That the deceased had on? A Yes, sir.

Q Do you know the name of the man? A Days.

Q How do you spell that? A D-e-y-e-s.

Q D-a-y-s? A I don't know just how to spell it.

Q Did you see his body in the Morgue the next day? A Yes.

Q Did you identify it to Dr. Schwartz? A Yes, sir.

Q Do you recall whether his wife was there, a woman by the name of Mrs. Days? A Yes, sir.

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Q And was the body that you identified to Dr. Schwartz the body of the man whom you saw lying in the street, in 62nd Street, that night? A Yes, sir.

MR. KIER: I object to that.

THE COURT: Now, why, Mr. Kier? Why do you object?

MR. KIER: Because the identification has been made by the wife already, and what occurred some place else as to some identification by some other people, I object to that. He is rehearsing a scene that takes place somewhere else regarding the identification. I don't object as far as he knows about the identification, connecting it with the woman, but the conversation relating to identification taking place in some other place, I don't think it should be a part of this inquiry.

THE COURT: Objection overruled.

MR. KIER: I take an exception.

Q Officer, at any time did you go into the apartment at 233 West 62nd Street? A Yes, sir.

Q When, what period of time? A Right after the body went to the station house.

Q What condition did you find that apartment in? A It was all right, nice.

Q It was not disturbed in any way? A No, sir.

Q Were there some bloodstains there? A I didn't see any bloodstains.

Q Did you see any - I am not speaking of fresh blood

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stains, officer. Did you see any old blood stains? A On the sheets, I did, on the bed, when they were pulled off.

Q They were not fresh blood stains? A No, it was old.

Q Did you get the clothes of this man from - A From the morgue.

Q You marked them and put them in the Police Department?

A I put tags on them.

Q Or brought them down here and put them in our Property Clerk's office? A Yes, sir.

Q Will you look at these clothes and tell me whether they were the clothes you brought and whether they were the clothes that were worn by the deceased that night? A Yes, those are the clothes.

MR. KIER: If your Honor pleases, I object to that, unless he was present.

THE COURT: Now, you withdraw your objection, do you, counsellor?

MR. KIER: Yes, for the present I do.

Q "Yes" is the answer, officer? A Yes, sir.

MR. OLCOTT: I offer the clothing in evidence, identified as the clothing of the deceased.

THE COURT: Do you object to it?

MR. KIER: I object, your Honor. I don't think it is evidence of anything, the clothing, and I object to its introduction in evidence.

THE COURT: Received.

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MR. KIER: Exception. Do you wish me to state any further reasons? I think it is irrelevant, and I don't believe the identification is complete; that is, the following-up of the clothes from the time they were taken from his body until they were here -

THE COURT: He says so.

BY MR. KIER:

Q Did you take these clothes from this man's body? A Yes.

Q Did you strip the body? A The colored man in the morgue stripped the body, and I stayed with him until he handed me the clothes.

Q You did what? A The colored man took them off his body while I was there.

Q Was anybody else there? A His wife was there.

Q Anybody else? A That is all.

Q Did anybody else handle the clothes? A Nobody else.

Q And where did you take them? A Down to the District Attorney's office.

Q To whom did you give them? A (Witnesslocks at memorandum book.)

Q Before you come to the District Attorney's office, did you stop at your station house on the way down? A No, sir.

Q Did you come direct from the morgue to the District Attorney's office? A I did, direct from the morgue.

Q Did you walk, or ride, or how? A Came down in the elevated.

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Q And carried this particular bundle? A Yes, sir.

Q To whom did you give it? A Who did I give them to?

Q Yes. A John E. Keller - John M. Keller.

Q When was this? A That is the 25th of February.

THE COURT: Who is Mr. Keller?

THE WITNESS: In the District Attorney's office.

MR. OLCOTT: He was our Chief Clerk, but has since died, your Honor.

Q Did you give them to Mr. Keller himself, or to one of the clerks? A I give them to Mr. Keller himself. He signed this paper for me. This is his signature.

Q Can you describe the gentleman? A Yes.

Q Describe him? A The man I handed the clothes to, I will describe him.

Q Describe him? A He was a stout man; he was up in the office, the chief clerk.

Q A stout man? What else? A young man? A No, he was an elderly man. He wore glasses.

Q That is all you know of it until you see them here again? A That is all.

Q And what date did you give them to him? A 25th day of February.

Q Sure it was Mr. Keller you gave them to? A Yes, sir.

THE COURT: Now, what do you say, counsel.

MR. KIER: That is all. Mr. Keller was the clerk in

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the office up there. These clothes were given to him. They have not been traded from him. I don't know how they get here, even.

THE COURT: What is the purpose? With regard to the corpus delicti? Hasn't that been established?

MR. OLCOTT: It is simply I don't want to withhold anything from the jury. That is why I offered them.

THE COURT: There might be some question as to the size of the cut there; that might make it necessary to get some more evidence upon the subject - the corpus delicti, I mean. There is not any question about that having been established, is there, counsellor?

MR. KIER: I think I know - I have my own opinion why such things are introduced, but at the same time I won't express it.

THE COURT: Mr. Olcott has given you the reason why they have been introduced. He does not think that it is necessary, but he has them here and I take it that he won't perhaps press the offer if you object to them.

MR. KIER: I do object to them going in evidence.

MR. OLCOTT: I withdraw the offer.

THE COURT: That would be the only thing important, perhaps, the size of the cut there, if there was any question about it. It would seem as though you could agree on the question of the corpus delicti having been established.

MR. OLCOTT: You may examine.

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T H O M A S F. D O N O H U E, Police Officer, shield
No. 17, attached to the 28th Precinct, Detective Division,
called as a witness on behalf of the People, being first duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q You are a member of the Municipal Police Force? A I am.

Q And have been for how long? A Going on sixteen years.

Q In February of 1919 to what Precinct were you assigned,
officer? A I was in charge of the detectives of the 28th Pre-
cinct.

Q Do you recall seeing this defendant on the night, late,
of the 24th, or the early morning of the 25th of February,
1919? A I do.

Q Where did you see her, Officer? A I saw her in the
28th Precinct, in the detective bureau of the station house.

Q That is the room and house in which you had charge of the
detectives? A It was.

Q Did you have any conversation with her that night?
A I did.

Q What did you say to her and what did she say to you?
A I said, "You are charged with a serious offense; you are
charged with the murder of this Talmadge mDays, the man that is
supposed to be your commonlaw husband. Now," I said, "the
evidence against you is very damaging. We got a man here that
saw you in your room with a knife in your hand, open." I said,
"You got blood over your clothing. Now, we want the truth-

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about this case, and the best thing for you to do is to tell the truth;" so she said - I said, "Where did you get the blood from?" She said, "I got that -"

MR. KIER: I object, after that statement and instruction to the defendant, I object to any statement she makes thereafter.

THE COURT: Objection overruled.

MR. KIER: Exception, if your Honor please.

THE WITNESS: I said, "Where did you get the blood from?" She said, "I got a cut on my shoulder." I said, "How did you get it?" She said, "I had a fight with another woman." I said, "Let me see the cut on your shoulder." So she removed her waist, and she pointed. I said, "There is no cut there." And she says, "Well, there is a cut here," and she pulled - we pulled her waist down further, and she had a deep scar from pretty near her navel around to the centre of her back. I said, "That is an old scar." "Well," she said, "that is where I got the blood from." I said, "There is no blood there;" so then she wouldn't say any more about it.

Q Did you notice the condition of her face, Officer? A I did.

Q What was its condition? A Her face was all right.

Q There was no cut on her face? A No, but there was blood on her hand; there was blood on the knife, and there was blood on the blade of the knife; it was a common pocketknife, a big blade

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and a little blade, a two-bladed knife, I think.

Q I show you People's Exhibit No. 1, in evidence, and ask you whether you can say that is the knife, or not. Will you look for any mark (handing People's Ex. No. 1, to witness)? A Yes, sir, that is the knife.

Q Now, Officer, did you see this defendant the next day?
A I did.

Q Where did you see her? A I saw her in the outside office of this building, of the Homicide Bureau.

Q By the outside office, will you just tell us what you mean? A Well, there is a reception room, and then there is two inner rooms; one room was where Mr. Cavone's office is, and Mr. Joyce had an office in there at the same time, a desk.

Q Another room, another private office of one of the assistants; is that right? A Yes, sir.

Q When did you first see her, Officer, and what were the circumstances? A That morning?

Q Yes. A Well, I had a subpoena for Part One of General Sessions with Detective Fitzpatrick, and after the business was transacted in there we went up to the top floor and into the Homicide Bureau, and I saw the defendant.

Q You were not in charge of her case at that time? A I was not.

Q Except that you were generally at the head of the detectives up in that precinct, is that right? A Yes, sir.

Q Who was she sitting there with, if you recall? A I

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think she was with Detective Quinn.

Q Did you see Detective Golding there at that time? A Detective Golding had gone out I think with a witness in this case named Simmons to get something to eat for him and something to eat for the defendant.

Q Did you have any conversation with the defendant at that time? A I did.

Q Who was present? A Detective Fitzpatrick.

Q Do you remember whether Detective Quinn was there or not? A I think he was; I am pretty sure he was.

Q And was anybody else there other than the defendant that you can recall? A When I first had the conversation with her I think the three of us were there, Detective Fitzpatrick, Detective Quinn, myself and the defendant.

Q In this waiting room, is that right? A Yes, sir.

Q Tell us what you said to the defendant and what the defendant said to you then? A I said, "Hello, Josephine, how are you feeling?" She said, "All right." "Well," I says, "have you made up your mind to tell the truth about this." And she said, "Yes," I am going to tell the truth." I said, "Did you do this?", she said, "Yes, I done it," she says, "but I didn't mean to kill him." I said, "How did you come - is this the knife you done it with?" She said, "Yes."

Q Did you have the knife, People's Exhibit No. 1? A The knife was there, yes, sir.

Q Who did you get that knife from? A I got it from

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Patrolman Rogers, and turned it over to Detective Golding; he was the man who was handling the case. She just said she just struck him in a fit of anger, but didn't mean to kill him. I said, "Where did you get the knife". She said, "I bought it in a pawnshop. I said, "What pawnshop?" She says, "The one near 64th Street, on Amsterdam Avenue." I said, "Was it the big pawnshop, or the little pawnshop? There is two pawn shops there. One is Genslinger's and the other is Ravish's; the big pawnshop is Genslinger's; that has two windows."

Q You said all this? A Yes, and she said, "I think it is the one nearest 64th Street"; so we went out and told Mr. Cardone.

Q Wait a minute. Did you have any further conversation with her? A Well, she said she would tell the truth, and we went out and got Mr. Cardone.

Q Mr. Cardone had gone at that time, had gone away from his office? A Yes; we were waiting there until he came.

Q Do you recall her saying anything else? A Where she bought the knife. She said she had a fight with this common law husband of her's about two nights before that.

Q Did she say anything about the reason for buying the knife? A I think she said she got that knife to defend herself against him.

BY THE COURT:

Q Is that clear in your mind, Mr. Donohue? A That is the best of my recollection, your Honor.

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Q You are pretty sure that that is what she told you? A To the best of my recollection.

Q Substantially? A Yes, sir.

Q That she got it for the purpose of protecting herself?

A Protecting herself.

Q Against this man? A Yes.

BY MR. OLCOTT:

Q Do you recall her saying anything else, officer, in regard to this man and his treatment of her? A Yes, sir, she said he had beat her up a couple of nights before that.

Q Do you recall anything else about the treatment of this man, what he expressed as his intention? A Yes, I think she said he said he was going to kill her.

Q Do you recall her saying anything else? A Not now, I can't.

Q Do you recall her saying anything about a woman in Long Island? A That he had a woman, yes, I do.

Q Anything else in regard to that subject? A No, I know that she said he had another woman.

Q Do you recall anything else on that subject? A Not that I can recall.

MR. KIER: I object to that, your Honor.

THE COURT: Objection overruled.

MR. KIER: I take an exception.

Q Do you recall her saying that he, this man --

MR. KIER: Oh, I object to this.

THE COURT: He is asking him about a topic now, and he

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says he does not recall anything, and his purpose is evident; he intends to suggest some topic to the witness and see if refreshes his recollection.

MR. KIER: I object to him giving the substance of that.

THE COURT: He will do it with as much care as the matter will permit of, I have no doubt.

MR. KIER: He is on the danger line.

THE COURT: But he must bring the subject somewhat to his attention; otherwise it would not be at all useful to put it. Go ahead.

Q Do you recall her saying that this man said, "I don't want you any more, because I have got a woman in Long Island"?

A No, I do not.

MR. KIER: That is objected to.

THE COURT: Objection sustained. Strike out the answer.

Q Do you recall anything further that was said by this woman in regard to what the man had said to her as to why he had gone out that night.

MR. KIER: I object to that, your Honor.

THE COURT: Objection overruled.

MR. KIER: I take an exception.

A No, I do not.

Q Now, Officer, do you recall anything else that this defendant said in regard to the actual occurrence or actual stabbing? A Only what I testified to.

MR. KIER: That is objected to.

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THE COURT: The objection is overruled.

Q Nothing else; is that right? A Not that I can recall.

MR. KIER: Will your Honor hear my reason?

THE COURT: He says that is all.

Q Do you recall her testifying as to what this man had said to her and a name that he called her? A No, I do not.

MR. KIER: I object to that.

Q Do you remember her saying that he had said to her when she came in that night, "You yellow bitch, I don't want that no-how"? A I remember that, yes.

MR. KIER: I object, your Honor, and ask that that be stricken out, the question and answer.

THE COURT: Let it stand.

MR. KIER: I take an exception.

BY THE COURT:

Q Now, give us the substance of anything else? A Only that --

Q The substance will be quite sufficient? A Only I asked her was she willing to come up and point out that pawnshop, and she says she was, so I told Detective Golden, I said -

Q Was that in her presence? A Yes, sir; I said, "You go to the pawnshop with her and have her point out where that knife was bought, and get the name of the man that she bought it from."

BY MR. OLCOTT:

Q That was after Goling had returned with Simmons, is that

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right? A Yes, sir.

Q Then was this defendant brought in to Mr. Cardone?

A Brought in to Mr. Cardone, yes, sir.

Q And he had a stenographer there? A Yes, sir.

Q And he addressed questions to her, and she gave answers to them? A Yes, sir.

Q And did you see her again, officer? A Never saw her again until I saw her here in court.

Q You didn't have charge of her, and don't know whether officer Golding took her away, or not, do you? A Only that he told me where he brought her.

MR. KIER: That is objected to.

THE COURT: Strike that out.

Q You left then? A I left.

MR. OLCOTT: You may examine.

MR. KIER: No questions.

J A M E S F. F I T Z P A T R I C K, police officer, shield No. 47, attached to the 28th Precinct, Detective Division, called as a witness on behalf of the People, being first duly sworn, testified as follows:

THE COURT: Why do you say "shield number"? Do you think it is going to add to your testimony?

THE WITNESS: No, sir, it is a rule --

THE COURT: Just answer the questions.

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DIRECT EXAMINATION BY MR. OLCOTT:

Q You are a member of the Municipal Police Force? A Yes.

Q And have been for how long? A Thirteen years.

Q In February, 1919, to what precinct were you attached?

A 28th Precinct, Detective Division.

Q Did you see this defendant on the night of the 24th or the early morning of the 25th? A I did, yes, sir.

Q Did you personally address any questions to her? A No.

Q Did you hear anybody else talking to her? A I did.

Q Who, Officer? A Detective Donohue.

Q The last witness who was called in before you? A Yes.

Q What did you hear him say to her? This is the night up in the Detective Bureau, Officer; what did you hear him say to her and what did she answer - I withdraw the question. You heard some conversation? A Yes, sir.

Q Did you later, the same day, or, if it was before 12 o'clock, the next day, see this defendant? A I did.

Q Where, officer? A In the Homicide Bureau of the District Attorney's office.

Q What occasioned your being there? A I was subpoenaed to another part, and Detective Donohue and myself happened to go upstairs to the Homicide Bureau.

Q And you saw this defendant there? A I did.

Q Do you recall where she was when you first saw her? A Yes

Q Where? A Sitting outside of Assistant District Attorney Cardone's office.

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Q In the waiting room there? A Yes, sir.

Q Who was with her? A Detective Quinn.

Q Did you have any conversation with her personally?

A No, sir.

Q Did you hear anyone talking with her? A I did.

Q Who? A Detective Donohue.

Q Did you hear what he said and what this defendant answered?

A Yes, sir.

Q Will you tell us as much as you remember of it? A As Detective Donohue entered the office he said to the defendant, he says: "How are you feeling, Josephine?" She says, "All right." Detective Donohue says, "Have you told the truth?" She says, "No." He says, "Will you tell the truth?" She says, "Yes." Detective Donohue then went in and informed Mr. Cardone that the defendant, Josephine, was willing to --

Q That was not in the presence of the defendant? A No, sir.

MR. KIER: I object to it, then.

Q Did you hear anything else she said? A Not that I remember, no, sir.

Q Were you present at the time when she went inside the room? A I was.

Q Did you hear what she said in there? A Yes, sir.

MR. KIER: I object to that.

THE COURT: What is that?

MR. KIER: That was in Assistant District Attorney Cardone's presence?

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THE WITNESS: Yes, sir.

THE COURT: You may answer.

MR. KIER: Will you hear my reasons, briefly?

THE COURT: Yes.

MR. KIER: The police officers and this defendant were taken before a district attorney, and it is a quasi --

THE COURT: Do you think he ought to be deaf when he gets before the District Attorney?

MR. KIER: No.

THE COURT: We are not taking what the District Attorney said about it. I don't think the District Attorney should be a policeman or a detective, but what this officer heard in the District Attorney's office.

MR. KIER: It is a quasi court, before the District Attorney.

THE COURT: Oh, no, it is not; you are mistaken about that. He ought to be very jealous of his function and careful of the professional obligations that are upon him, but this man, that is his business.

MR. KIER: I make that distinction, your Honor.

THE COURT: This is not a district attorney. This is a policeman.

MR. KIER: But it is a proceeding before the District Attorney.

THE COURT: No, it is in the District Attorney's room. No proceeding at all.

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BY MR. KIER:

Q Was the District Attorney present? A He was, yes, sir.

Q Was he asking the questions of this defendant at the time you were listening? A Yes, sir.

Q And that is what you heard, his questioning of this defendant? A Yes, sir.

MR. KIER: I object, your Honor.

THE COURT: The objection is overruled.

MR. KIER: I take an exception.

BY MR. OLCOTT:

Q Officer, in answering, will you tell us just what this defendant said in substance, and so much of it as you can remember? A The defendant was shown a knife with two blades and asked where she got the knife. She stated that she had bought the knife the night before in a pawnshop on Amsterdam Avenue near 64th Street. When asked by Detective Donohue what pawnshop she bought it in she says, "One of those shops on Amsterdam Avenue near 64th Street." Detective Donohue asked her was it a pawnshop with two big windows, or was it a small window, so she says it was the pawnshop with the small window. Assistant District Attorney Cardone asked her --

Q Never mind what he asked her. I just want her answers.

A (No answer.)

BY THE COURT:

Q What did you hear this woman say there? A She said that she had bought that knife for the purpose of protecting herself

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against the man that she was accused of killing.

BY MR. OLCOTT:

Q Do you recall what she said in regard to what this man had said to her before on the occasion of a quarrel? A No, sir, I do not.

Q Do you recall any words or names that she used as having been called her by this man - been addressed to her by this man? A No, sir.

Q Do you recall her saying that this man had said to her, "You yellow bitch, I don't want you any more"?

MR. KIER: Don't answer until I get a ruling. I object, your Honor.

THE COURT: I will sustain that, because he ought to have some information upon the subject. It ought not to be necessary to refresh his mind upon it. I will sustain the objection. Tell the substance of what took place there, if you can.

Q Tell us any more about it that you can recall, Officer.

A The defendant stated that if he had stayed in the house that night that he would not have been dead. She stated that the deceased was about to leave her apartment when she grabbed him for the purpose of preventing him from leaving her apartment, and that he put his hands up and that she then struck him with this knife. She stated that she didn't intend to injure him.

Detective Donohue then told Detective Golding --

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Q No, never mind. Detective Golding went up with her? A Yes.

Q He had returned? A Yes, sir.

Q With Simmons? A Yes, sir.

Q And do you recall anything else? A Other than the defendant saying that she would go up with Detective Golding and point out the pawnshop that she bought the knife in.

Q Do you recall her saying in regard to the blades of the knife? A No, sir.

MR. KIER: I object to this line of questioning. He has been asked to tell what she said.

Q Can you recall anything else? A No, sir.

MR. KIER: I object to that.

Q You were not detailed to this case; is that right? A No.

Q And you knew that stenographic minutes had been made of at least part of what you have been testifying to?

MR. KIER: That is objected to.

MR. OLCOTT: I want to bring this out for this one purpose: It is to show that this officer did not make any personal notes on the subject, and that he did not charge his mind with it, because of that fact.

THE COURT: Objection overruled. You may answer.

MR. KIER: I take an exception.

A I did know that there were notes taken.

Q And you did not make any personal notes yourself? A No.

MR. OLCOTT: You may examine.

MR. KIER: No questions.

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MR. OLCOTT: I do not want to burden the record with any insistence, your Honor, and I don't want to take up a moment's time. I understand that your Honor's ruling of yesterday refers to any attempt on the part of this prosecution to introduce the actual questions and answers addressed to this witness by Mr. Cardone?

THE COURT: I do, upon the very high ground of the situation and for the purpose of, in so far as I can, discouraging a practice that is not suited to the prosecution's endeavor and is not to be judicially approved. The functions must be maintained separate and distinct, that between the Police Department and between the professional gentlemen who are charged with very high responsibility at the behest of their profession and the public requirements. It ought to be maintained highly, in the sense of a quasi-judicial position. If it were otherwise done, there would be no claim or desire on the part of anyone for a public defender, because the District Attorney's office, properly adjusted and with the high sense of ethics that have come down from the days of Justinian and Pothier would be to protect even the defendant's rights as much as the great body of people that go to make up society. I will exclude it, for that reason.

THE PEOPLE REST

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MR. KIER: If your Honor please, the defendant moves that the indictment in this case against Josephine Richardson be dismissed and a verdict of not guilty brought in.

THE COURT: Motion denied.

MR. KIER: The motion covers the whole indictment.

THE COURT: Oh, yes.

MR. KIER: I take an exception.

THE DEFENDANT'S CASE

Mr. Kier then opened the case to the jury on behalf of the defendant, as follows:

Gentlemen of the jury, the defendant in this case, Josephine Richardson, will take the stand and testify as to what happened on that unfortunate occasion.

The defense of this defendant, the legal, moral defense, is that she defended herself against an attack by the deceased.

What led up to it and even what followed will be told you from her lips. I don't Purpose to now go over the whole matter, because the likelihood is that if you hear it from her, where I have not said anything to you about it, it will come fresh from her and you will probably - your minds will probably weigh it more carefully, and it will be more interesting to you coming from her own lips, the person who was concerned in this transaction.

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Of course, I will tell you, briefly, that this defendant will prove that she was a young woman, about 22, that she has been all her life, that is, from her girlhood days, a working woman. She is not a woman of the streets, nor is she an idler, because ever since she was thirteen or fourteen she has been employed daily in some decent occupation, some laborious occupation, and up to the very time of this unfortunate occurrence she was working in some factory, a canning factory, I believe, something of the kind, and so she will testify as to her life in that regard.

Furthermore, she will tell you, which is true, that she never has been convicted of any offense in her life; she never has been charged with any crime or offense against ~~the~~ law and order or against the community, against the State.

She, as I say, will tell you all the facts leading up to it and all the circumstances, and I know that you gentlemen, ^{ing} realizing your responsibility and your duty, good citizens that you are, will listen attentively and very carefully what she says, in order that justice might be done as well to the State as to her, and after that, of course, both Mr. Olcott and myself will address you on the whole case.

Of course, I ask you, in considering this woman and considering her story, her account of what happened, the account of her life, I ask you to take into consideration her condition in life. She is a person of little or no education, belonging to the poorer classes, she has had fewer

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advantages, and, accordingly, the way she gives an account of this and the general - her general description of what happened and her language and understanding of things, you must take - I ask you to take into consideration in the case.

I wish to refer to the fact that, of course, she was living with this man, probably some four or five months, improperly, but she did not - it will be proven by her testimony that she did not know that he was a married man; she thought he was a single man; and she herself being single just lived with him as man and wife.

She will also tell you that, I believe, the first time she ever saw this deceased's wife was when she took the stand here yesterday, when you gentlemen saw her; that is the first time she ever saw that woman, although she, I believe, had known later on that he had lived with a woman, but I am informed, and she will so testify and prove, that he had told her that he was unmarried, and that the woman was some woman he had lived with before.

Now, she will go into details in this matter, and if any of you gentlemen feel as though you would like any of the matters cleared up, she will willingly answer any questions that you may propound to her, and I think that after you have heard her testify, after you have considered all she says and compared ^{it} with what you have already heard, take it word for word, that the rehearsal of this occurrence

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that has been given by the People's witnesses, I think you will come to the conclusion that this defendant is telling the truth and is really guiltless of any offense, and should be acquitted on the ground of self-defense, she defending herself against an attack, which the law sanctions.

That is, the law says as your Honor -- I won't repeat it. His Honor will give you the law of self-defense, the law of the State, and it is a rule coming from the court, because that is the proper source, so I will not repeat it, only generally, as you know, as men, that self-defense is almost instinctive, and it is a natural right, born with us, and the law has sanctioned it by a provision of the Penal Code of this State.

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J O S E P H I N E R I C H A R D S O N, the defendant herein,
called as a witness on her own behalf, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. KIER:

Q Where do you live? A 233 West 62nd Street.

Q Now, Josephine, how old are you? A 26.

Q Twenty-six? A Yes, sir.

Q Where were you born? A I was born in Danville, Vir-
ginia.

Q Are you married, or single? A Single.

Q Were you ever married? A No.

Q Were you ever convicted of an offense in your life?

A No.

Q Were you ever arrested for any charge prior to this in
your life? A No.

Q About when did you come to the City of New York, how
long ago? A 1919, in May, I don't know what month.

BY THE COURT:

Q This year? A Yes, sir.

Q In May, this year? A No, no, last year, this May a
year ago.

BY MR. KIER:

Q May, 1918? A 1918.

Q Prior to coming to New York, had you lived all your
life in Danville? A No, I lived there until I was about 18
years' old.

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Q You lived in Danville until you were 18 years old? A Yes.

Q When did you leave school, about what age? A I left school when I was about 13.

Q Then what did you do after that? A After that I went to work in a tobacco factory, in Richmond, Virginia.

Q How long did you work there? A I worked there about five years.

Q Steadily? A Yes, sir.

Q Then when you came North - then did you come North?

A Yes, sir.

Q Then when you came to New York, in May of 1918, where did you commence to work? A In Long Island, Sunnyside.

Q What kind of work did you do there? A I painted pipes in the drawing room.

Q In what? A In the men's drawing room.

Q In cars? A Yes, sir.

Q How long did you work there? A Well, I worked there, I guess, about four months.

Q Was it there that you met Days, Talmadge Days? A Yes.

Q Was he working in that same place? A Yes.

Q After you left there, where did you go to work? A After I left there I worked at the American Can Company.

Q And were you working there at the time of your arrest, when this trouble took place? A Yes, sir.

Q How long were you living with Talmadge Days? A Just about three months.

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Q Three months? A Yes, sir.

Q Did you know he was married? A No, I did not.

Q The lady who says that she was the wife, who was his wife before he died, the lady who took the stand here, had you ever seen her before? A Not until yesterday, when she took the stand.

Q Now, during the time you lived with Talmadge Days, did you contribute to his support? A Yes, sir.

Q The moneys that you earned, where did your moneys go? A He taken it.

Q Now, during the time you lived with him, how did he treat you? A Well, during the time I lived with him he taken the money that I worked for.

Q I mean, how did he treat you physically? Did he ever injure you? A Oh, yes, he beat me, he used to beat me.

Q How often? A Sometimes about twice a month, I guess, something like that.

Q Twice a month? A Yes, sir.

Q Before this occurrence of his death - his death occurred on Monday, didn't it? A Yes, sir.

Q When did he beat you, if at all, the last time before that? A He beat me on the Sunday morning, then he beat me that Monday night.

Q Tell us about Sunday morning, what happened from Sunday morning? A I had money and he asked me to give it to him, so I told him, No, that I was ^{not} going to give it to him; then, after

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I wouldn't give it to him, he called me names, and he knocked me in the head with a glass. After he knocked me in the head with a glass, then he beats me, he draws his pocket-knife on me, and told me he was going to kill me if it was the last thing he done. Then I didn't say nothing to him. He grabs a quart bottle and a vase, and he says, "If you fuck with me I will kill you with this bottle," and then I didn't say nothing to him; I went up stairs, up to a girl's house named Tootsey.

Q Did he hit you that morning? A That Sunday morning?

Q Yes. A Yes, sir.

Q How did he hit you? A He took his fist and knocked me on the bed, after he hit me with the glass he took his fist and knocked me on the bed. Then I got off the bed, and he knocked me on the floor.

Q Did he hit you with a glass? A Yes, sir.

Q Was there anything wrong with your face? A Yes, he cut me twice with the glass.

Q You heard the officer say there were some blood-stains on the sheet? A Yes, sir.

Q Is that where you fell? A Yes, sir, that is where the blood came from my eye, where he hit me with the glass.

Q On the sheet? A Yes, sir.

Q Wel, then what happened? A I went up stairs to the girl named Tootsey and I said, --

Q Then you came back again, did you? A No, he beat me in the room. This was on the Sunday morning.

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Q What happened? Come down to this occurrence on Monday night, when he was stabbed, tell us about that. First begin with him coming in the room, if he did, and tell in your own way just what happened, and tell it loud and distinctly, so his Honor and the jury can hear you.

A Well, this fellow come in the room, and I was in bed, and I got up and he commenced to curse me, called me all kinds of bitches, yellow bitches. After he commenced to cursing me, the knife was laying on the table, so he says, "You God damned yellow bitch, you," he says, "I will kill you." Well, as he opens the knife - and he opens the knife, and he throwed his hand up to cut me. After he throwed up his hand to cut me I knocked the knife out of his hand, and then I reached down to get the knife, I pushed him, and I got the knife, so I took the knife and went out-doors. He came on behind me. I went about a couple of - I don't know exactly, about a couple of doors, so he says, "Aint you going to give me that money?" So I says, "Go away and leave me alone." When I said that, he took his fist and he drawed back and knocked me in the cutter. When he knocked me in the gutter he stood over me until I got up and after I got up he taken - after I got up he went to strike me again, and as he went to strike me again I started cutting at him with the knife; I didn't know that I had cut him. I turned from him and went on in the house, and a fellow named James Simmons came to me and says, "Your old man is out there having a hemorrhage." I said, "If he had stayed in

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here it wouldn't have happened." So I puts my coat and hat on and puts the knife in my pocket, for fear he was fooling me out there, so he could do something to me out there, and after I got out there I leaned over him and unfastened his shirt, to see whether he was cut, or not, or what had happened, and after I had undid his shirt I was arrested and taken to the station house.

Q Were you sorry? A Oh, I was sorry that I did it, because I didn't mean to do it.

Q What did you say to the officer about being sorry?

A What did I say?

Q Yes; did you say to the officer you were sorry? A Yes, sir, I said I was sorry, that I didn't mean to do it, but he was beating me and had been beating me for a right smart little while.

Q You say he followed you out? A Yes, he followed me out.

Q And did you say, "If he had stayed inside and had not followed you out it would not have happened?" A No, sir.

Q You say he was living with you? A Yes, sir.

Q Did he have - what did he have there? A He had shirts, collars, ties, suits, hats and socks and shaving mugs.

Q Did he attempt to take anything of that kind away?

A No, sir.

Q Did he ever tell you he was going to leave you? A No, in no way, state, form or fashion.

Q And he made no attempt to take anything? A No.

MR. KIER: That is all.

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CROSS-EXAMINATION BY MR. OLCOTT:

Q When did you first begin to quarrel with him? A How did I?

Q When did you? A This was on a Sunday morning.

Q No. Did you ever quarrel with him before Sunday morning? A Yes, a couple of weeks.

Q And what was the subject of that quarrel, what was it about? A It was about money.

Q About money? A Yes, sir.

Q He was taking your money from you? A Yes, sir.

Q Did he earn any money? A Yes, sir.

Q How much did he earn? A Well, I don't know.

Q Did he pay for your apartment? A He paid, but the money that I earned I had to take it and give it back to him.

Q He never gave you any money, is that it? A No, he did not.

Q At any time during the time you were living with him, he never gave you any money? A No.

Q You did all the supporting of the household? A Yes, sir.

Q Did you supply him with food? A Yes, sir.

Q As far as you know, he didn't contribute to your support at all? A No.

Q He never bought any food? A No.

Q You must have been very fond of him, weren't you? A Well, what do you mean? I liked him?

Q Yes. A Yes, I liked him, sure.

Q Liked him very much? A Yes, sir.

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Q So much that you were willing to support him? A Yes.

Q What was the quarrel about two weeks before this time?

A What was it about?

Q Yes. A Money.

Q And what was the quarrel about Sunday morning? A Money.

Q Nothing but money? A No.

Q Did he say anything about a girl over in Long Island?

A No.

Q That is not a fact, then? A No.

Q Did he ever say anything about leaving you that morning? A No.

Q Quite sure of that? A Sure.

Q Didn't say, "You yellow bitch, I don't want you no more?" A Did he say that that night?

Q That morning, that Sunday morning. A No.

Q Did he say it at any time? A He said that that night.

Q Is that the first time you had ever heard of his not caring for you or not wanting you any more? A Was that the first time?

Q Yes. A I don't remember.

Q As a matter of fact, hadn't he been telling you for about a week past that he didn't want you any more, that he had a girl over in Long Island? A No.

Q You are quite sure of that? A No.

Q Did you tell that to Tootsey? Do you know who Tootsey is?

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A Did I tell it to her? No, I did not tell her that.

Q Did you go up that morning after you had seen him?

A After we had the fight I went up to her house.

Q And he struck you and caused the blood to form on the sheet? A Yes, sir.

Q As a matter of fact, didn't he throw you on the bed and didn't he say he didn't want you any more? A No, he knocked me on the bed, but he didn't say he didn't want me any more.

Q Didn't he say he was going to a woman in Long Island?

A No.

Q Did you see him again from that Sunday morning until he came home Monday night? A Did I see him? Yes.

Q Did you see him Sunday night? A Yes, sir.

Q Did he come home Sunday night? A Yes, sir.

Q What time? A Well, I guess it was about nine - somewhere about half past eight or nine o'clock.

Q And did he stay in all that night? A Yes, he did.

Q And what time was this the next night that he was - that this affair happened that you have just told us about? A Well, I don't know exactly what time, but as near as I can guess it was about half past eight or nine o'clock.

Q And he came in, did he? A Yes, sir.

Q And started to abuse you? A Yes, sir.

Q Do you know why? A About money.

Q Again about money? A Yes, sir.

Q Hadn't you given him money? A No.

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Q. You kept your money, is that right? A. But I didn't give him none. That was the Sunday night; no, I didn't give him no money, because he followed me out in the street and kept on asking me to give it to him, and I didn't give it to him.

Q. The 24th was Monday night? A. Yes, sir.

Q. What was that fuss about? A. The fuss was about money.

Q. Again about money? A. Yes.

Q. Nothing else? A. No.

Q. He didn't on that night threaten to go out, say he didn't want you any more, and you tried to stop him? A. No indeed.

Q. When was it you bought this knife? A. I bought this knife on a Monday.

Q. Monday morning? A. Yes, sir.

Q. Or was it Sunday? A. It was on a Monday morning.

Q. And it was after you had the quarrel with him on Sunday, is that right, and he hit you? A. No, he -. I bought the knife after, I bought the knife on a Monday.

Q. What did you buy it for? A. Well, I bought it to protect myself, because he had been beating me, and I didn't know what else to do, and I had to buy me a knife to protect myself.

Q. You thought that you could protect yourself from him with that, is that right? A. Yes, sir.

Q. Had he ever used any weapon on you, or threatened to use any weapon on you? A. That Sunday morning he threatened, the same night I used it on him.

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Q No, I mean before you bought the knife. A Oh, before? Well, about - I think it was about a month he drawed his knife on me and told me he would kill me and that it was going to kill me if it was the last thing he done.

Q That was several weeks before? A Yes, sir.

Q And you felt you could protect yourself with another knife, is that right? A Yes, sir.

Q What did you tell Tootsey? A I told Tootsey me and my old man had a few words. She said, "Yes;" so she said to me, "my old man has been out all night and hasn't come in yet." So I didn't say one word to her, I said, "Let's go in the street;" so she says, "All right," and I goes back in my apartment and waits for her.

Q Where did you go from Tootsey's on Sunday morning? A I went on 11th Avenue to get something for breakfast, her and I.

Q What did you get? A Well, I didn't get anything, because he had sold out; I wanted some pork chops, and he had sold out, so I went to 10th Avenue to get something, and he had closed.

Q What did you get finally? A Well, I didn't get anything.

Q Did you go to Van Glahn's and get some gin? A On Sunday?

Q Yes. A Yes, on Sunday morning.

Q Did you get some on Monday, too? A Yes, I had a drink

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on Monday morning.

Q And was it after you had the drink of gin that you went to get the knife? A Yes, sir.

Q You were 'very mad' at him, weren't you, about that time?

A I was mad with him?

Q Yes. A No indeed. My madness had -

Q You were not mad with him after he had hit you on Sunday; you were pleased with him; is that it? A No, I was not mad with him.

Q And you were not mad with him when he came in on Monday night and started - A Not until he started calling me names and drewed this knife on me and I taken the knife and went out.

Q He came right in and just began to take this knife away from you? A When he came in?

Q Yes. A No, he asked me for money when he came in.

Q This is Monday night now. A Yes, sir.

Q Tell us about that? A He asked me on Monday night for to give him some money, asked me was I going to give him money, so I told him, No, and he grabbed this knife off the table, called me names, and grabbed the knife off the table, and he opened the knife, and he drewed back to cut me with the knife.

Q Where did he cut you with it? A What?

Q Where did he cut you with it. A He didn't cut me: He drewed back to cut me, and I knocked the knife out of his hand.

Q Where did he get the knife from? A The knife was on

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the table.

Q This was the knife you were going to defend yourself with? A Yes, sir.

Q Why didn't you have it with you then? A What?

Q Why didn't you have it on your person, instead of on the table, if you were going to defend yourself with it? A I didn't think he was going to say anything to me that night about money.

Q Although you had bought the knife that morning to defend yourself with, you didn't have it with you? A Yes, but I was in the house and the knife was on the table.

Q And he came in and took up the knife, is that right?

A He come in and started cursing at me, and he got the knife before I did.

Q He didn't have a knife of his own, did he? A I don't know whether he did, or not.

Q You spoke of his having a knife before; do you remember that? A That was on a Sunday morning, when he drewed the knife on me, but he drawed this knife on me that Monday night.

Q This was your own knife? A Yes, sir.

Q Then, when he got it away from you, you got it away from him again; is that right? A Yes.

Q And then you went out in the street? A Yes, I taken the knife and went on out in the street.

Q With the knife in your hand? A Yes, sir.

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Q He didn't draw any knife when he followed you, as you say, did he? A He drew the knife in the house.

Q I mean when he got out in the street he didn't have any weapon in his hand? A Well, I didn't see none, but he knocked me down.

Q He knew you had a knife? A Yes, I suppose he did.

Q He is a little man, isn't he? A Yes, sir.

Q Very small? A Yes.

Q 5 feet, 3, is that right? A I don't know.

Q A little smaller than you are, as a matter of fact, wasn't he? A No, he was larger than I am.

Q Not very much? A I think -

THE COURT: The doctor said 5 feet 3-1/2 inches, and he weighed 125 lbs.

Q And you say he followed you out and you had a knife in your hand, is that right? A Yes, sir.

Q And that he came right out and attacked you with a knife in your hand and he had nothing in his, is that right?

A When he attacked me, he attacked me in the house, and I went out in the street to leave him alone, and as I went out in the street he come behind me, and as he come behind me he asked me was I going to give him money, so I says, "No; why don't you go on and leave me alone?" And when I said, "No, why don't you go on and leave me alone," he knocked me down.

Q He didn't have anything in his hand at all? A Not to my knowing.

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Q Then you fell down? A Yes, he knocked me down.

Q And he didn't do anything after you were down, he let you get up again? A He let me get up; he stood over me until I got up, and when I got up he started to strike me again, and I hit him with the knife.

Q You didn't try to run? A No, I just went on in the house.

Q You had the knife in your hand? A Yes, sir.

Q It just happened. So, you didn't have the knife there for any purpose at all, did you, when you took the knife out in the street? A Didn't have it for no purpose? Well, I had it to protect myself.

Q You didn't run away from him at all? A I walked away from him and went in the house, went on back in the house.

Q Now, when you went out on the stoop, you didn't run away from him or call for anybody to protect you? A No.

Q It was not late, was it? A Well, it was about half past eight or nine o'clock.

Q Did you think he was going to follow you and strike you? A Did I think so? Well, I didn't know.

Q When he did come up to you and strike you, and you fell down, he let you get up, you say, and then you stood there, and he started to strike you again, and you stabbed him; is that right? A Yes, sir, I started to cut him, but I didn't know I did it, and didn't do it intentionally, but I just did it just -

Q After you struck him, what happened? Did you struggle

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with him? A No, sir, I went on in the house.

Q Let me ask you to be more careful in answering questions, please. You say you raised your hand and stabbed him, is that right? A Yes, sir.

Q How did you do it? A When he raised his hand to strike me I raised my hand like this (illustrating), to prevent him from hitting me.

Q Your hand went to his chest, and was drawn back, is that right; you drew your hand back? A Well, I don't know - I don't remember whether I drew my hand back, or not. I was scared, and I don't remember.

Q I want to draw your attention to the fact that at that particular moment when you stabbed him - A I didn't know whether I had stabbed him, or not.

Q That is what I want to find out. A No, I didn't know whether I had stabbed him, or not.

Q He fell right down? A I don't know. I went in the house?

Q If you didn't know whether he fell right down, or not, how was it that you so easily got away? A Well, I just walked on away from him and went on in the house.

Q Will you tell me why you couldn't have walked on away from him before you stabbed him, just as well? A Before I stabbed him? Well, he went to hit me again. I just struck him with the knife.

Q When you stabbed him he hit at you? A Yes, sir.

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Q Isn't it a fact after you stabbed him he grabbed hold of you? A That he grabbed hold of me?

Q Yes. A No.

Q And that you and he fell down together? A No.

Q Is that a fact? A No.

Q Did you get any blood on the side of your coat? A I got blood on the side of my coat? There was no blood on my coat.

Q That is not a fact? A No.

Q Do you remember the police officer asking you where you got the blood from? A Got the blood from? I don't remember.

Q In the station house, that very night, when you were taken there? A Do I remember him asking me where I got it from?

Q Yes. A No.

Q Now, you saw him fall down, did you? A No.

Q You did not? A No.

Q You left him before he fell down? A Yes.

Q And you went right in the house? A Yes, sir.

Q Please tell me why? Why did you go right back to the house? A Well, I went in the house because I didn't have no coat and hat, I didn't have nothing on, I just went in the house.

Q Weren't you afraid he would follow you back in the house? A Well, I was scared, and I didn't think; I didn't know whether he would.

Q You said a minute ago you didn't know whether he was stabbed or not. Isn't it a fact you did know he was stabbed? A No, I didn't know. I know I cut at him, but I didn't know I had cut

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him.

Q You didn't know you had cut him? A No.

Q Yet you went right back in the house, the very place you say you were running away from a few minutes before, is that right, not knowing whether the deceased, Talmadge Days, was hurt at all? A Well, I went on in the house. I didn't know whether he was cut, or not.

Q But you went right back in the house. Now, if he wasn't cut, there wouldn't have been anything to prevent him coming back in the house there after you, and then you would have been in the same fix again? A Well, I don't know.

Q Where did you intend going when you went out of your house without any clothes on? A I walked out of the house to keep him from doing anything to me, so he wouldn't say anything to me concerning money no more.

Q And then you got out in the street, and he did start to do something to you, and you walked right back in the house, where he could have come in easily, is that right? A Yes. Well, I didn't have any coat or hat on.

Q Did you have your shoes on? A Yes, sir.

Q Why did you take them off before Simmons came? A Why did I take them off?

Q Yes. A Because I had already had them off.

Q And you took them right off again? A I took them off when I went in the house.

Q And went to bed? A Laid in the bed.

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Q Covered yourself up with your shoes off? A Yes, sir.

Q Why? A Well, I didn't know; I just was in the house alone and just laid across the bed.

Q And you didn't know that Talmadge was hurt at all? A No, not until Simmons came in the house and told me.

Q So, you were not hiding anything away? A No.

Q When you took your shoes off? A No, indeed.

Q What talk did you have with Simmons? A Well, he come in the house and he says, "Your old man out there is having a hemorrhage;" so I says, "Well, if he had stayed in the house it wouldn't have happened."

Q What did you mean by that? A Well, I mean he wouldn't be out there having a hemorrhage, he wouldn't have no hemorrhage in the street, if he had had a hemorrhage, I supposed he would have had it in the house.

Q Didn't you mean if he had not started to leave you that night you wouldn't have followed him out and stabbed him? A He started to leave me?

Q Yes. A No, I didn't.

Q You didn't mean that? A No, because I didn't know that he was going to leave me.

Q Quite sure about that? A Yes, sir.

BY THE COURT:

Q He was fully dressed, was he? A Yes, sir.

Q He had his coat on? A Yes, sir.

Q His waistcoat on? A Yes, sir.

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Q And cold weather, wasn't it? A Yes, sir.

Q And it was in the night time? A Yes, sir.

Q Did he have an overcoat on? A Yes, sir,

Q He had his overcoat and body coat and vest on? A Yes.

Q And you went out without any shoes? A Went out without any shoes?

Q Yes. Did you? A No.

Q I thought you said you did?

MR. OLCOTT: No, she had her shoes on.

BY MR. OLCOTT:

Q Did he have his coat and hat and all the clothes that he had on all the time he was in the house having this fight with you? A Did he have them on that night?

Q Yes.

A Yes, he didn't pull them off.

Q He didn't pull them off at all? A No.

Q How long were you in the house having this fight in which he grabbed a knife and you grabbed it away from him? A How long we were in there? I reckon about fifteen minutes, ten or fifteen minutes.

Q Didn't you think it was strange he didn't take his overcoat off? A No.

Q And didn't he take it off and then put it on again? And start to go over to Long Island City? A No, he didn't pull anything off when he came in the house.

Q Didn't you say that to the police officers when they asked you down in the District Attorney's office here? A Did I say

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that?

Q That he put on his coat and started to go out. A No, indeed, I did not.

Q Quite sure of that? A Sure.

Q Do you remember saying the first thing he said to you when he came in that night was, "You yellow bitch, I don't want you no more," and you said, "You don't?"? A Do I remember?

Q Yes, do you remember his saying that when he came in the apartment on this Monday night, ^{that is} that, the first thing he said when he came in? A I don't remember.

Q Did he say that? A No.

Q Quite sure about that? A Yes, sir.

Q He didn't tell you that that morning before either, did he? A He didn't tell me the morning before? I don't remember.

Q Then do you remember his saying, "I don't want you any more, because I got a woman in Long Island?" A Do I remember him saying that?

Q Yes. A No.

Q And then he hit you in the face? Do you remember his doing that that night? A When he said he had a woman?

Q Yes, in Long Island, and didn't want you any more, and he kept going away from you all the time, do you remember saying that? A Remember saying he kept going away from me?

Q Yes, kept going away from you all the time, saying he didn't want you, and then he turned around and hit you in the

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face? A Oh, no, indeed.

Q Then do you remember saying, "He was running from me, I don't know exactly how it happened, but he turned around, I don't know just how I cut him," do you remember saying that?

A I don't remember, because I was scared; I don't remember.

Q Will you say you didn't say that? A I don't remember.

Q And you are quite sure he never said he didn't want you any more, that he had a woman living in Long Island City and was going to her that night? A Sure, he didn't say that to me.

Q Or anything like that? A No.

Q You say that he followed you out of the house and you didn't follow him, is that right? A No, he followed me.

Q Although you were only partly clothed and he was all dressed, I mean for the street? You were not dressed for the street when you went out, were you? A No.

Q You just had a sweater on? A Sweater and skirt.

Q Just what you wore when around the house? A Yes, sir.

Q You have a coat similar to the one that you have on that you wear when you go out in the street? A A black coat.

Q Did he usually wear his overcoat and all the clothes he had on around the house? A Did he usually wear them?

Q Yes. A No, he pulls them off, and sometimes he keeps them on.

Q Sometimes he keeps his overcoat on around the house? A Keeps his overcoat on? Well, he keeps them all on sometimes,

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and sometimes he pulls them off.

Q He was coming home to you nearly every night? A He was coming home every night.

Q And he wasn't just calling on you; he was living there? A Yes.

Q He had his clothes there and he was sleeping there? A Yes.

Q You say you were surprised when you went out, you didn't know he was so badly hurt? A Yes, sir.

Q But you went out there and you saw him there, is that right? A Yes, sir.

Q What about this knife? Did you have it with you when Simmons came in? A It was in the room when Simmons came in.

Q You brought it back into the room, is that right? A Yes.

Q And you had it in your hand, you had the knife in your hand? A No, the knife was on the bed.

Q And you picked it up from the bed? A You mean when he come in?

Q When Simmons came in. A I had the knife in my hand?

Q Yes. A No, I didn't have the knife in my hand when he came in.

Q Did you pick it up? A Yes, after he told me my old man was having a hemorrhage, I thought he was trying to fool me out there, so this man could do something to me, and I put the knife in my pocket and goes out.

Q You put the knife in your pocket open? A The knife was open? No, the knife was closed.

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Q Did you close it? It had been opened, hadn't it? A Yes, the knife was open.

Q Did you close it? A Yes, sir.

Q And yet you were carrying it as a weapon, because you were afraid he was going to do something to you, is that right? A Yes, sir.

Q Why did you close it? A Because I didn't want to put it in my pocket going out in the street with it open.

Q You didn't want to carry it in your hand, the way you had picked it up? A I didn't want to carry it in my hand, open.

Q You had done it before? You were still afraid he was going to attack you? A Yes, I was afraid, but I could easily put my hand in my pocket and get it; still, I didn't want to go out with it open.

Q What did you do with the knife? A When I had it in my pocket I suppose I let it drop out some place.

Q You didn't put it in back of Talmadge then? A I didn't put it in the back; it was in my pocket, and I suppose I dropped it when I leaned over him to see was he cut.

Q You didn't purposely put it in back of him to hide it? A No, I did not.

Q Quite sure about that? A Yes, sir.

Q It just happened to drop out of your pocket and fall behind him? A It was in this pocket (indicating), and when I leaned over him it must have fell out.

Q You didn't notice it fall out? A No, I did not.

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Q Did you see the officer pick it up? A No, I did not.

Q Were you asked about the knife right there in the street?

A I wasn't asked about the knife until I got to the station - no, I was not asked about the knife.

Q In the station house were you asked about it? A Yes.

Q What did you say about it in the station house? A I said I didn't know anything about it.

Q Do you still want to say - I withdraw the question. You do say that you didn't put the knife in back of Talmadge Days to conceal it? A I did not put the knife behind him.

Q It had blood on it, didn't it? A Well, I don't know; I didn't see the knife; I saw it, but it didn't have no blood on it.

Q Quite sure about that? A Not that I could see any on it.

MR. OLCOTT: I think that is all.

MR. KIER: That is all. We rest, your Honor.

MR. OLCOTT: The People rest.

MR. KIER: Two o'clock to sum up?

THE COURT: You think it will help you if I give you until two o'clock?

MR. KIER: Yes, your Honor.

THE COURT: (To the jury) Gentlemen, do not discuss the case, or form or express any opinion on it, until it is sent to you. Be in your places at 2 o'clock.

(Recess until 2 o'clock p. m.).

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