

I did not know whether the room I went to was in the same building with this court, but now I know.

LENA GROSSMAN, a witness for the people, sworn, testified:

I am a sister of Miss Mary Grossman. I live at 171 East 105th street. I live with my sister up there. I have known Lillie Schlosser five years. I am an intimate friend. I know the Freedmans. I know Max Krakauer. I remember talking to Krakauer on one occasion about Lillian up in his house, when only himself and I were present. I went to see him at his house 601 Water street I went to see him about why he was not going to marry Lillian. He said that he needs money and then, if she had money, he would marry her yet. I couldn't tell you the exact time that happened, around election it was, last election. I first saw him at my house; my whole family was there; first she came up alone and then she came up with him; she brought him up. I really don't remember exactly when that was but it was in the summer time, I think last summer. It was last summer. We had talks up there. He was telling the way he met his young lady and how he loves her and all like this. He

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told how he met her. I saw the ring.

CROSS-EXAMINATION:

I do not remember speaking about this case to anyone. I was here all day Tuesday and all day to-day. I did not speak to anybody about what I was going to say to-day in court, not to a living soul, not that I remember to Lillian Schlosser, not to the Freedmans and not to my sister. Yesterday and to-day I didn't speak to anybody. I know Mr. Freedman the lawyer. He was in court to-day. I don't know if he is in court. I saw him but I did not speak to him. I positively did not tell him and he did not talk with me as to what I was going to say, and the District Attorney when he called me did not know what I was going to say.

I said it was just before election time that I went to Krakauer's house. I know that I was before Election up there, a couple of days, I guess, I don't exactly know.

I do not know as a matter of fact that he was arrested and gave bail about four weeks before Election. When I heard that they did not keep company I went up there myself. When I heard this case I was surprised and I went up there myself without any asking. I was

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to both friends. I am his friend now; certainly now.  
I do know he is married now.

Q You know he cannot marry your old chum Lillian Schlosser? A Why did he go with her then? He was not married then.

Q You know that he cannot marry your chum Lillian Schlosser, don't you, because he is married?  
(Objected to.)

IDA FROHLINGER, a witness, for the people,  
sworn, testified:

I live at 2015 Third avenue. I am married.

I have known Lillian Schlosser since 1904. I know the defendant Krakauer. I met her in Krakauer's office corner of Third Street and Avenue B. It was in July, this summer, 1904. Krakauer's partner, Dr. Styles, was on the same floor. I did not go there to have my teeth fixed. I only came there because Dr. Styles was my neighbor and I came there to visit him. I always seen Krakauer there. He brought Miss Schlosser there on this particular occasion and introduced me to her as his intended; he said, "This is my intended, Lillian

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Schlosser." He brought her under his arms-- he escorted her and then he brought her to me and introduced me to her as his intended wife. He always used those words "My Lillian." I seen a ring on her finger."

I said to Lillian "Oh what a nice ring you have got and he answered "I bought her that for an engagement." About one or two weeks after the day I was there in the same month Krakauer closed his dental parlors, but I can't remember. I cannot recollect being there the last day that the offices were open, whether it was Wednesday or Thursday. It was the last day that the shop was open. Krakauer was there.

Q What was he doing and what did he say?

A I was very sorry that he tore his hair off his head and I asked him "What is the matter with you?" I says, "Does it hurt you because you are leaving that girl," his intended. "Sure," I said, "you are a man and you ought to keep your wits together; when you get married you will have luck and you will live happy together."

He looked very downhearted and I asked him will he marry the girl. He said, "Oh, Mrs. Frohlinger, what do you think, if I would not marry that girl she could shoot me on the street at anytime." Those are exactly

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the words, because I only spoke German.

I invited the couple to dinner at my house, but they did not come. They promised to come sometime. Only in that month I seen them often together, and her I never knew before.

CROSS-EXAMINATION:

I am acquainted with both of the defendant's very well; they never injured me. When the District Attorney called me I told him the truth and I will always say it. I can't recollect when that was.

I am a married woman. I am living with my husband. I know Dr. Stiles very well; I think he is a good friend.

When my husband allowed me I went to the dental parlors of Dr. Styles. Alone I never, and I could not go there without my husband's permission. He gave his permission for me to take a bath there once and he was there once himself. I was locked up in a room and nobody but myself went in that. He was in his room and I was in the bathroom.

Q Is it not a fact that the reason you told the District Attorney and Lillian Schlosser that you would testify in this case against this defendant, was because Dr. Styles and this defendant had warned you to keep away from their dental parlors? A I don't know. I

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never heard of it.

RE-DIRECT EXAMINATION BY MR. TRAIN:

Dr. Styles was by my confinement; he delivered me of a child; his office was on the same floor in the same house at that time. My suite of apartments did not have a bath. The doctor told me at the time he took the apartment in that building that anytime you want to you can come down and take a bath in my bath room. At that time this was the house in which Dr. Krakauer had his office with Dr. Styles.

I know a Doctor Cohn who is also a dentist; I do not know him well, but I know him by sight. He came to my house and he wanted to borrow a rug of me with Dr. Styles; he is Doctor Styles' partner.

ROSIE FREEDMAN, a witness for the people, sworn, testified:

I am the wife of Mr. Freedman who testified this morning. I live at 233 Stanton street; I have lived there twenty years. I knew the parents of Lillie Schlosser in Hungary before I came to America. I am a stranger to them, I mean as far as relationship is concerned.

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Mr. Schlosser, Lillian's brother, brought Lillian Schlosser to my house and put her to board with me; that was about five years ago.

BY THE COURT:

Q Did Lillian go out in the evenings? A No, never.

BY THE DISTRICT ATTORNEY:

In the evenings she used to help me in the house and a very good girl. During the day she was away at work. I first met Krakauer the first time that Lillian got the toothache. I cannot recollect the date. The first time I seen Mr. Krakauer he stood in front of my door talking to Lillian. I looked out the window and went down. She came up and told me that was Mr. Krakauer the dentist.

The second night he came again, he came down in front of the door, and I came downstairs and then she introduced me that that is Dr. Krakauer. Then I invited him upstairs, and I don't want anybody to stand in front of the door. Then he came upstairs and then I asked him what he is coming upstairs for, and then he says he wants to keep company with the girl, and then my husband asked him what he meant and he said I come up for an

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intention to marry the girl, and I don't come up for no bluff. Then he came steady at the house. He came there for a long time. Then he asked me could he take her out. Then she asked me with my permission, if she could go out with him. Then I told her she better wait a while she should not go out and I did not consent to it. He came there often and bothered me and showed her tickets to take her to a theatre or ball, I don't recollect-- cannot recollect what it was. He bothered us and he gave me the hand and Mr. Freedman the hand, that he means to marry the girl and that he will do nothing dishonorable, and then I give her my consent to go.

On Thanksgiving, 1903, at my house there was an engagement party; there was an engagement party at my house; he gave her a diamond ring and there were people there, and we were eating and drinking. There was congratulations and so forth. They wished each other luck and they kissed each other to marry. Mr. Schlosser, Miss Schwartz, Freedman and my children in the house, and that is all, because they came late; other people came late after the engagement was over.

I am about to be confined; I expect it. I saw Edward Schlosser there; Max Schwartz came later; she had

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the ring already. Lena Schwartz was there; Mary Grossman had been invited.

I remember the night that Krakauer and Lillian went out to the ball; I think it was after Christmas. I can't recollect how long after.

It was about two or half-past two and she was not in and I lit a candle and went down in the hall and I found Lillian at the hall and crying and he was standing aside of her begging her something and I said to him what a shame it is to stand in the hall as late as this; he said, "Don't bother about this, this is my blame, blame it on me", and that was what he said to me to my eyes-- looked at my eyes and said that to me. He said, "I will bring her right up." He took her upstairs and then said good night.

I noticed something the next morning; she told me she felt very bad. She laid on the lounge. I looked in the bed and saw the bed clothes. I saw blood on them; on her shimmie; she said there was some blood; on the bed there was some blood. I saw the defendant Krakauer that morning. Lillian Schlosser was sick eight days before this time.

I saw Krakauer that morning about ten o'clock. I

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said to him, "What did you do to this girl?" He said, "Don't blame this girl anything, it is my fault, she is a decent girl." "Why did you do this to ruin this girl," and he said, "I will marry her anyhow."

-Q Did he say why he had done it? A He tried it before, as he wanted to see if she was a decent girl. He stayed the whole day in the house by her. Lillian never was unwell after that. Not that time, from the time, that night that he committed that, she was not unwell from that time on.

When the time for the next period came on and she was not sick I said something to the defendant. I said to her, "I don't know why you are not unwell," and she said she don't feel well. Krakauer then said he would take her to a doctor; he didn't tell me for what. I saw him go away from the house with Lillian; they were gone about an hour; she looked like half-dead when she came back. She sat in a rocking chair and had her head hanging back; Krakauer stood by her side.

I talked to him about what had been done at the doctor's; he said she had a bad stomach and that is what he said to me. Max Krakauer said she had a bad stomach. When she came home and sat with her head back

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she was very sick; she could not pick up her head, hold her head up. I did not notice any stains on her clothing right away, but about an hour afterwards she had kind of cramps and then she commenced to pull her skirts, and then he told her to be quiet and easy, she will be all over it; Max Krakauer said that.

Afterwards I asked her what did the doctor do; Krakauer was present. He took her to the doctor and Krakauer held by the mouth and the doctor operated upon her. She said he took some instrument and he done something inside; he put something in her privates, an instrument and he held-- the defendant held Lillian's mouth, and he put an instrument in her privates and it pained her there. Lillian said that the doctor had given her something to drink. She said that when she began to scream Krakauer begged her and kissed her and he said she should not holler.

Lillian was sick for two weeks after this visit to the doctor's, the first time eight days sick.

I can't recollect, but a couple of months after I noticed something about her condition. I was present on the occasion when Krakauer left the house with Lillian; I was there when they came back. Lillian was sick again on their return. Krakauer was with her.

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She laid so dangerously sick, she was thinking she was dying. Krakauer was there and Krakauer was laying all night that night beside her on the floor like a dog.

I was very angry about the visit to the doctor's office. I asked Krakauer what he is going to do with this girl and he said I am going to get married very soon, anyway, don't be angry. He did not say nothing to me about what had been done at the doctor's office. She told me. He was by and he heard when she told me. She said he took her to the doctor and he had it done the same as he had the first time, operated with an instrument and held her by the mouth. Lillian was sick two weeks on her return home.

Krakauer went away the morning after he slept on the floor. He came back in about an hour afterwards and spent the rest of the day there; he was not there the next night. Lillian's condition became worse during the day and evening. The doctor came about eleven o'clock; he stayed the whole night; he went and operated upon her inside with instruments; he squirted some kind of water in the inside, into her private parts. I let her lie in my bedroom and she was lying there alone. Krakauer was not there when the doctor arrived. There



was some kind of a meat, fleisch, that he took out. He took it from inside of her privates, the doctor did. I took it out of the dish-- of the basin, and showed it to the doctor; he put in different kind of drops in her private parts; with an instrument he looked around and she began to holler; there was some blood and some meat discharge from her private parts. This was discharged into a basin and then she seen it and she said to the doctor, "Oh, look at this," and he put it in cotton and in his satchel he laid it. That is what I have described by the word fleisch. After that the doctor came two and three times a day. He squirted something.

Krakauer came to the house the next day after the doctor had been there and done what I have described; he came every house after that for about four weeks after that time, from the time she got sick about four weeks, more, I can't tell.

Krakauer stopped coming to the house a little before election. After that he did not come and I went to his house. I could never see him.

I saw Lillian give the defendant money she borrowed

off me. I told the defendant how dare he to take such a change with the girl, to have her operated upon-- that he then said "You don't need to worry, I will get married to her and I will work to earn a good living for her.". He said something about his diploma; he asked to loan money; he said he did not get his diploma yet at that time. I used to save the money which Lillian earned; I used to save it for her. On certain occasions I saw her give money to Krakauer which I gave her, \$25. once and \$10. and the \$5. she earned a week she used to give to Krakauer. Krakauer did not say nothing about how the doctor was paid, but Lillian told me it. He was present and she said that he paid \$15. Krakauer was present when Lillian told me that Krakauer paid the doctor \$15.

I gave up \$2. once to the doctor. I can't recollect when. I paid him \$2. to the doctor, but I can't recollect when it was; he came to visit Lillian.

I know a man named Lubliner. I can't recollect when I saw him but Max Krakauer brought him up to my house at 233 Stanton Street. Krakauer came there long before that, long before he brought Lubliner.

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## CROSS-EXAMINATION:

I don't recollect what month it was when I took the candle in my hand and went down in the hall and found Max and Lillian, I can't think. It was in the winter; it was after Christmas.

I said I had a talk with my husband as to why Lillian was out so late, and I would go down and see maybe if he was around, and I went downstairs. Before then I did not know she was in the hallway. She was crying in the hallway and I heard it; it woke me up.

In the hallway I found her drawers, and that was where I found blood on her drawers. I asked what was the matter. She would not tell me right away what happened; she told me for the first time early in the morning. She told me in the hall where the blood came from. She said, "He was begging me and begging me and he gave me something to drink and he came begging me and then he ruins me." She did not say that in the hallway. She cried downstairs, but she told me upstairs.

In the hallway she stated nothing to me. That was after Christmas. I can't recollect well.

I don't know what they said to me at my examination

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before Magistrate Cornell on the 18th of November, last. They only spoke English and I cannot talk English well enough.

BY THE COURT:

I do not know what they said to me because it was all English and I didn't understand it, and I said I couldn't talk English and they would not speak nothing but English.

BY THE DEFENDANT'S COUNSEL:

Q Do you remember this question, were you asked this question and did you answer as follows: "Q. What time was it on the 15th of October that you saw him? A. At three o'clock in the night." A No, I don't recollect anything.

Q Were you asked this question: "Q. Where was he, with this complainant (meaning Lillian Schlosser) when you saw him? A. Yes." A No, I don't know nothing.

Q Did you make this answer: A "At about three o'clock in the night I had some presentiment that something was wrong?" A I don't know, and I cannot recollect.

Q. "And I came down with a candle in my hand and found both the complainant and defendant down in the hall." A I don't know what they said to me at that

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time in English.

Q "The complainant cried and the defendant cried to pacify her?" A I don't know what they said. They said all in English and I don't understand.

Q "The complainant had a handkerchief in her hand which was bloody. I asked her what about this; he said that she bled on her nose and she said that he cut his finger." Did you answer that, yes or no? A No, I don't know nothing and I did not understand it.

BY THE DISTRICT ATTORNEY:

Q In regard to the examination on the 18th of November last, did you understand what was going on?

A I did not understand nothing. They was talking English to me and I don't understand it. I was not asked any questions in German or Yiddish, only English.

BY DEFENDANT'S COUNSEL:

I have five children. I cannot speak English.

My name is Freedman. I have five children. I cannot talk English. I can only talk German. I am only among German people. I thought I said five children I have got. I didn't know what language I spoke to the

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judge in on the 18th of November.

Q What language did you speak? A I spoke whatever they asked me, I said, yes, yes-- I didn't know what they said.

Q Who said that in the hallway Krakauer told you that he had his nose bleeding, and she said to you that he cut his finger-- who said that on the trial. I don't know nothing; I can't tell. I don't recollect saying it.

D E F E N S E:

W I L L I A M L U B L I N E R, a witness, for the defendant, sworn, testified:

I live at 5 Avenue C. My business is that of a photographer. I have been a photographer eight years. I know this defendant Max Krakauer. I know him since 1903. I first met him at my studio; he called there in the early part of the year; he called there for business purposes; he had his pictures taken; I kept some of the pictures myself. I placed them for a show. I kept my customers' pictures up for a sort of an advertisement of the business; if prospective purchasers came in I showed them to them.

I know the first name Lillian; I don't know the se-

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cond name; I know Lillie. I have seen her in court. The young lady you point at now is the young lady I know as Lillie. The first time I ever saw her was at my studio, the month of July, 1903, in the middle part of July. The first time she came up was between seven and eight in the evening; she came up for the purpose of having her pictures taken; she said she would like to have her pictures taken. I told her it is now too dark, now isn't the time to take it. I showed her some samples at the same time, I didn't want to lose no customers, I am in business and I told her to call the next day; she was there that night till eight o'clock; she stayed there till eight o'clock with me.

I showed her some samples, told her the price of my pictures and everything and I could not remember exactly every word what I spoke to her; she did not leave then. I showed her some samples, the price of all my pictures; she spoke to me; I saw that she didn't come up for the purpose of pictures.

When I showed her samples and the price she sat down on the sofa that I have there, my reception room. Well, I sat down next to her and we had a little conversation together; I don't remember what was spoken, but

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then, you know how it is, a lady, when she is in a place. When she sat down there were a few words spoken and then I had connections with her. I have a sofa, a lounge, there. My business was open then for customers, after it gets dark; I am always till eight o'clock in the place. No one else was there at that time. I had connections with her on the lounge. I am sure of its being in the month of July, 1903. I met her the next day; she called again, the same time of the day, between seven and eight o'clock; she came in again; I told her why she didn't come any earlier; she did not answer me; she looked around at the pictures and asked me, "Who is that, who is that;" and I told her if I know the name of the party; she just struck a picture in the centre of the frame I had, Dr. Krakauer; she asked me, "Who is that;" and I said, "That is a customer of mine, a dentist;" she says, "Where does he keep his place;" I said, "On Avenue C near 2nd Street." I always had his cards displayed on my counter; he used to send me trade and I used to send him trade. She asked me could I give her one of his cards; I did, and I marked on the other side of the card O.K. Well, that means, you know, when we have at the place a

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young lady coming up and she is kind of too lively, she shows herself up too much I give a customer of mine a chance.

I told her to call upon him; she said she would like to fix her teeth; I told her, "That's the man who will fix it for you."

I met her in a couple of days around. I said the first night I met her I had sexual intercourse with her; the first time I paid her no money; the second time she came to my place and I gave her Dr. Krakauer's card I had something to do with her; I had sexual intercourse with her. I gave her one dollar.

The next time I met Lillian Schlosser after I gave her the card to go to Dr. Krakauer was in my studio, in the two days around; it was between six and eight earlier.

I did not take her picture; I never took her picture. She called a third time; we had a little conversation; you know I was more acquainted with her already and I had connection with her again on the lounge. I did not pay her anything. I did not remind her of the card at all. I did not mention Krakauer's name; she did not

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mention it. In four days around I saw her again at my studio also, at the same time in the evening; the same thing as before took place then. I had connections four times. I did not pay her. She was four times at my studio. Each time she came up I had connection; that was in the month of July, 1903.

I did not pay her anything the fourth time.

Q In any one of the four times in that month that you say you had connection with her, did you ever, outside of the time when you gave her the card that you speak of, did you ever talk about her having gone to Dr. Krakauer? A No, sir. His name was not mentioned except on the one time I referred to.

The next time that I spoke with Lillian Schlosser was at my studio 57 Stanton street; I had moved by that time. When she came up the first, second, third and fourth times my studio was 314 East Houston street, then I moved to Stanton street. I don't know if that is near where she lived, 57 is my place. I don't know about her living on Stanton street also.

She came up the fifth time in November, of 1904; it was over a year ago, 1904, three months ago. I mean

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it was over a year between the time of her fourth visit and my fourth intercourse with her and her next visit. I could not exactly remember the date, but I know it is in the middle part of the, the last part of November. It was around Thanksgiving holiday; that was toward the end.

First she came in November, between 6 and 7 o'clock; I had not seen her for a long while already and I asked her how is it, "where have you been;" she said, "In the city;" then she was well-dressed, nicely, black velvet dress; I looked upon her-- the one she has on now. I looked around and was very suspicious anyhow. I said, "How is you getting along;" she said, "It's all right;" she sat down also on the lounge; well, I sat next to her again; we spoke something; I couldn't remember what we spoke; it was in the month of November and then my brother always comes into the place, he finished his pictures inside of my gallery; he makes his work outside and finishes them at my gallery. He takes pictures in the street and finishes them at my studio; he saw me sitting next to her.

Q Now, up to the night that you speak of was any one ever there when she was there in the month of July, 1903? A No, Sir.

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My brother goes away in the morning; he comes back after four, and he leaves for the day at six; I leave at eight.

She said after she sat down on the lounge that evening and I said things to her; there were chairs in the room besides the lounge; the chairs were unoccupied, everything. I said things to her; we had a little conversation with her and I had connections with her again, in November, 1904. I did not pay her any money.

We had no talk about Krakauer at that time.

Q Any mention of anything else that you wish to state was done or said then? A No, sir.

I saw her a couple of days around after that in November. It was on Thanksgiving Day, because I remember very well the day; I was very busy, a holiday; taking a lot of pictures; she called four o'clock in the afternoon; I was too busy; I could not speak to her so much; she sat down herself in the reception room; she had been there until 8 o'clock in the evening from four on Thanksgiving Day last, until 8 o'clock that night. I spoke to her not much because I was very busy; after eight o'clock she went home. I did not speak to her at

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all, I told her to go home.

Two days around after that I again saw her, two days after Thanksgiving; she was there in the evening between 6 and 8, at my studio; she sat down again in the same place where she was before, in the reception room on the lounge; I had a lounge there. I had with her connections on that night, two days after Thanksgiving. I did not pay her any money; after that she was at my place again, the next night, the next evening; that would be also in November, the same month. Well, she was there between 7 and 8 o'clock; she came later; she was there till 8 o'clock and then she went home; she was there until 8 o'clock at my studio from seven. We were sitting there talking and then she went home. I did not have any connection with her that evening.

She never called after that. It was about four weeks ago that I next saw her; I met her in Grand street with a friend of hers. I didn't speak to her. I did not meet her since. She subpoenaed me to appear in the court

Q Now, you spoke of Mr. Krakauer's pictures having been in your studio. Did you ever give them to her, any pictures? A It was in the month of July, the first time.

Q What did you give her? A The second time when

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she was in my place she saw the pictures were displayed on the counter; I usually keep one picture of every position of I have of my customers; she said she would like to have a couple of pictures of me; she asked for it and I gave it to her.

I made those pictures exhibits 2, 3 and 4. I can state now of my own recollection whether or not I ever gave one of those pictures to Lillian Schlosser; I gave all three of them to her myself. I made that picture people's exhibit 5. I could not remember how did she get that picture. I gave her several pictures, but I never gave her that one; I did make it.

I came to your office on Tuesday afternoon, at your request, at 5 o'clock. I had never in my life seen you before that day. Last week a subpoena from the District Attorneys office was served upon me at my studio. I came to the District Attorney's office. I seen Mr. Vandiver there, the assistant. He asked me what I knew of the case. I did tell him what I knew. I talked with him. I signed a statement. I swore to a statement. That was February 9th.

I am not friendly with the defendant's father or

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mother. My relations with the defendant are simply those of a customer at my gallery; he would send customer to me and I would send customers to him, that is all. I never went out to theatres, balls or picnics with him. I am not socially intimate with him.

Lillie Schlosser was not in the District Attorney's office at the time I was examined. I never called at the home of the defendant's father and mother in my life.

CROSS-EXAMINATION:

I have known Krakauer since 1903, the first part of the year; I could not remember exactly the month; it was cold days, in the cold weather the early part of the year, of 1903. I met him at my studio, he came to have his pictures taken; just came to have his pictures taken. I gave him two sittings on the same day, two sittings on the same day. I mean I took two plates of him. This visit of his was merely a matter of business with him; I formed his acquaintance in that way. Before that I had never known him. On this day when he had two sittings he left me his card with his occupation and

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his place of business; so I knew his place of business. That was the winter of 1902-3. It is not two years ago yet; it was 1903, the first part of the year; 1904-5 it is two years ago. It was something like this part of the year; I think it was about this time; there was no snow then; I don't remember whether there was snow or not; it was cold weather. Krakauer came to my place of business about four times to have his picture taken.

Q About the same time? A No, sir; twice the first time when he called; that was the first day; he came the second time later on in a couple of months; about a month and a half or two. I could not tell you what month it was. It was before I saw Lillian Schlosser I think between his last photographs he came up, that is what you mean, I think it is about two months; I could not exactly tell you; I only imagine about two months; it was before she came up. I think it was two months before, because I know I didn't take any pictures after.

I closed my studio at 8 o'clock in the evening. I am still in the photographic business.

Q You took no photograph of Krakauer after Lillian Schlosser came up into your place of business? A After that?

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Q After she came? A I took it in the second place in Stanton street. I certainly mentioned that place before; I said I sold out and I made another place of business in Stanton street. It was about Christmas time, 1903, that I sold out.

I am speaking now of my first acquaintance with Krakauer; the place where I took these photographs which I said I gave to Lillian was 314 East Houston Street. I did not take any pictures of Krakauer at my place in Houston street after Lillian Schlosser called.

The picture shown me is not one of my works of art. the plate from which that was made is. I took that in Sh Stanton street; that is a crayon.

I took that photograph. This I took the first time when he came. This is the first photograph that I took. This photograph there is made from a plate that I exposed the first time he came there. I remember the order in which these pictures were taken; this is the same as the large one; this was made from the same plate, this exhibit No. 2, was the next one made; exhibit No. 4 was the next one made; this was made when he called for that; not exactly the second sitting, but the third sitting, which I think was about

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two months before July; that is the fact, two months before July. I object to that sign there.

During this time that Krakauer was coming to my studio our acquaintance did not ripen into intimacy; we did not become familiar. We called each other by name; I called the defendant Dr. Krakauer; he called me Mr. Lubliner. I never had to go to his place of business. He never came to my place of business except to have his pictures taken.

I said that we entered into some little arrangement for the exchange of courtesies in the matter of young ladies that came to my office; that is correct. We entered into this little scheme of reciprocity when he was at my studio, about the third time, a couple of months before Lillian Schlosser came up, early in the winter; when he had his picture taken, at the same time.

He asked me if any young ladies-- he said he supposed nice young ladies have their pictures taken in my place; I said, "Yes;" he said, "Well, can you send me some if you have some chance;" I said, "I will;" he said, "How will I know which one they are;" and I told him, "I will mark 'O. K.' on the other side so

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that he will know what it is." I said he asked me if fine young ladies didn't come to my place some times to get pictures taken, and I told him if there was anything doing I was to write something on the card and send it over.

Q Now, what was the arrangement, why were you going to send them over, what were you going to tell them?

A Tell them? This is the one that he is looking for, he has got it now, I sent him.

Q Explain that a little more, will you? A I saw that young lady that he could have a good time with her and so I sent him.

Q What were you going to tell the young lady when you sent her away to Krakauer? A She said she wanted to fix her teeth. I gave generally a card. I gave her generally a card.

Q Do you mean you were going to tell these girls that Krakauer was a desirable person and would have sexual intercourse with them? A I don't know about that; I only gave them a card.

Q Were you going to tell them to have their teeth fixed? A They asked me for that; I says, "Here is a man who can fix teeth."

Q Was this arrangement only to be applied to young

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ladies who asked to be referred to a dentist? A If they wanted a dentist I had the card that is all.

Young ladies who have their pictures taken don't tell me that they have trouble with their teeth; sometimes they have trouble. This arrangement was in regard to such of these young ladies as did have trouble with their teeth and did ask me who was a good dentist; that is right.

One of these young ladies turned up before July and was turned over to Krakauer; that was that young lady, Lillian Schlosser. This arrangement entered into between me and Krakauer early in the winter did not bear any fruit until Miss Schlosser came along.

I could not tell you how many young ladies I had intercourse with during the year 1903.. I could not exactly tell you. About two or three girls had come in between January 1st and the time I made this arrangement with Krakauer with whom I had sexual intercourse. They did not ask to be referred to a dentist, not all. One asked to be referred to a dentist; that was Lillie Schlosser. I didn't have any girls in my studio before the time that Krakauer came up and made that arrangement

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with me; I didn't have any dentist cards in my place.

It is not a frequent thing for young ladies to come up to my photographic studio and have intercourse with me. I couldn't exactly tell you how many, but sometimes they come in; every customer is not in the same way; I know how to act to a customer. I don't make a reduction when this takes place; I charge a lady just as much; the same thing as everybody.

I first went into the photographic business eight years ago. I was about 19 at that time: I didn't have no studio then; I was working in street work, outside view work, in the street work. I would take a picture when somebody asked me to take their house and stores; I would go and take it, and stores. I first had a studio in 1900; I had then been a street photographer for four years. I had no opportunities for sexual intercourse as a street photographer; this commenced when I had a studio of my own. I did not always anticipate having these opportunities when I had a studio, sometimes I expected I would get a chance once in a while. I did not supply a lounge for that purpose. I certainly had a lounge there.

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When Miss Schlosser arrived so opportunely in July and offered herself for the purpose of sexual intercourse of which I availed myself, this was the first occasion which I had had an opportunity to make use of this arrangement of Krakauer's.

Q Now, was this arrangement mutual, was he to send ladies who had trouble with their teeth to you, or were you only to send ladies to him? A No, sir; not with trouble with their teeth; I just asked them if they want to have a dentist and I would give them his card.

Q I ask if this was the arrangement, if a girl came to your studio and you had sexual intercourse with her and she was satisfactory-- I will put that in-- and you thought Krakauer would like her, did you then ask her if her teeth were all right, or if she wanted to go to a dentist? A No, sir.

Q How many girls did you pass on this way? A Maybe about two or three; I could not exactly tell you. The others were before Lillian Schlosser. I did not say that Lillian Schlosser was the only one I passed on the Krakauer; I did not say that, yes, sir, this is the only one.

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Q I thought you said there were two or three?

A I said it was in my place, didn't you ask me that question, how many at my place before her?

Q How many did you send to Krakauer? A One; that was the complainant in this case. I had sexual intercourse with about two or three. I didn't pass them on to Krakauer because they were not suitable; I seen they don't ask for a dentist. They did not ask for a dentist. I don't know if they were unsuitable in any other way.

I don't remember the day exactly when Miss Schlosser came to my place of business on East Houston street; I don't remember the day of the week; it was the end of the month, the middle part of the month, about the middle part of the month. There was nobody at my studio at the time. The front door was open; she opened the door and walked in; she didn't knock or anything like that; I have on the door "walk in." No one else was in the studio. My brother was out; Jacob was out; I don't know where; out for business; he went out in the daytime; he goes out in the morning; he had not come in yet that day. Jacob was not there in July on the subsequent visits of

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Miss Schlosser to your place of business in East Houston Street. Jacob never saw her there at all.

When Miss Schlosser came in there to my studio the first time she said she wants to have her pictures taken; she said she would like to have her pictures taken. I said, "It is too dark, it is too late, it cannot be taken." She said that she is very sorry, she would like to see some samples, and I showed her some samples. I showed her all the pictures I had in the place; those four pictures were lying on the counter at the time on exhibition, all the four; not all the four these three. People's exhibits 2, 3 and 4 were lying on the counter. I showed them to her. She didn't say nothing; she asked the price of them. I told her the price of them; I told her how much a dozen. \$2. a dozen, six for half a dollar and \$1. a dozen, different sizes. She said the price was satisfactory, but it was too late to take a picture; the next thing she spoke to me; I could not exactly remember every word that was spoken.

I don't know what she talked about; she talked about pictures. Then she sat down on the sofa; well, I seen she sat down and spoke to me also about she liked this picture, this is nice in that position and all kinds

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of samples. I sat down next to her.

Q That is the way you usually did? A Yes, sir; that is I only-- not usually with every customer. I didn't sit down with every girl; I seen the way she spoke to me, the way she was kind of too lively. I say Miss Schlosser was too lively; I seen the purpose she came up wasn't pictures; it was a different purpose altogether. That was after she sat down on the sofa.

I first began to guess that her purpose in coming up there was not for pictures when we spoke about the samples and the price. She didn't tell me she didn't want pictures; she wanted pictures. I couldn't remember what there was about what she said-- something, foolishness; then she sat on the sofa; I sat there next to her. I just took her hand into mine, you know, that way, just that way, one hand with the other. I took hold of her left hand, the right hand with my left hand, her right hand. I sat on the right. After I had taken her right hand she didn't object to it. Now I had a good time with her, that's all; I had connection. I took her around and I had connection with her and she didn't say a word. She didn't say a word; she didn't object that

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I should. I took her right hand in my left; she did not object; the next thing I did I took her around the waist. I was sitting beside her. I did not change my position. I put my left arm around her waist; then I had my right arm the other way, the other side and she didn't object. I don't know whether she had ever seen me on the street; I never saw her before.

She came up for a different purpose on this evening. I don't think I had ever seen her before. After I placed both arms around her person I laid on top of her on the lounge. I did not remove any of my clothing; she did not remove any of her clothing; she was fully dressed. I was in my sack coat; I was in a sack coat and vest; I was in the vest without the sack coat. I didn't have my coat on but I had my vest on. I altered some portion of my apparel. I had on all my clothes except the coat. I was fully dressed except the coat.

Q Now when, as you say, you lay on top of this young lady in your office on that evening, did you do anything to your trousers or clothes? A Yes, sir. I buttoned up my clothes; I opened them. During all this time there was no opposition at all; there was nothing said; it all took five minutes. I had no difficulty

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about the thing at all. When it was over she got up and she said; "I think I will go home;" that was all. I let her go like that, just passed out.

The next time she called again, the same evening, between 7 and 8. These little passages occurred on several occasions, four times.

Nothing further was said on these occasions; only said that she wants to have a picture; the second time, the next time she called she saw those pictures and she asked me for them.

On the first occasion she didn't say anything about the persons who photographs appeared there; she didn't say she had anything the matter with her teeth; I didn't ask her if she had anything the matter with her teeth. I didn't think of whether or not she would be a suitable person for Krakauer to operate upon. I didn't think of that. The first time I enjoyed myself. I did have a good time. It was all right. I didn't think of Krakauer at all at the time; I thought only of myself.

The second occasion was the following night. She came up; I asked her why she didn't come earlier.

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I told her to come back, certainly, to call again the next day, going to take it the next day. She was going to get her picture taken. I told her to call again, for the purpose of having her picture taken.

Q I thought you said you knew she didn't want her picture taken? A But I mustn't tell her what I know. I must keep up appearances. I told her to call early the next day, between one and five o'clock. I had it in my mind if she called again to have sexual intercourse with her a second time. She turned up between 7 and 8 o'clock, at the same time. She said, "It is now time to have the pictures taken," I said "No, ma'am, if you would call earlier;" she looked around the pictures again and you know I had Dr. Krakauer's picture in the centre of the frame, the same as this, a large picture, this large one was made and a small picture too was made in Stanton Street.

Q These three pictures were still lying there, People's exhibit 2, 3 and 4, still lying in the place?  
A I had one in the frame.

She asked me "Who is that," every picture; I says, "This I do not know and this I do," you know

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you can't exactly remember every customer. She struck this picture and she asked me, "Who is that?" She was pointing to Dr. Krakauer's picture, not the third one, this one, people's exhibit No. 2. I told her it was Dr. Krakauer; I told her this was a friend of mine, Dr. Krakauer. She said, "Where does he keep his place?" I said what kind of a doctor he was; he was a dentist. She asked me, where does he keep his place. She didn't ask me that before I told her he was a dentist, after I told her he was a dentist. She said, "Have you his card?" She asked me for his card. I had a little pile on the counter; I had Krakauer's cards. I said, "Certainly, here is one of his cards." I gave it to her. She did not ask me if Krakauer would be a good man to have sexual intercourse with. I did not think she would let Krakauer have sexual intercourse with her, never thought of it.

Q Well, how long did this occur before you had sexual intercourse with her the second night-- that she got his card from you-- before you had sexual intercourse with her on the second visit? A Yes, sir.

Q After she had gotten Krakauer's card, and after you O. K'd her, then you had sexual intercourse with

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her again? A Yes, sir. I didn't say anything about it.

The second time she called and she asked for the pictures. She asked me, "Who is that picture;" I told her, "That is Dr. Krakauer;" she asked me for his card, it was lying on the counter, and I amrked on the other side of the card "O. K.;" she took the card; I don't know if she read it or not; she took in the hand the card she looked around again at the samples of buttons, button pictures, I had them in the show case, small buttons in frames; she said if I could make one for her of those buttons; I told her I will; she asked me how much they will cost; I said, "That is all right;" I didn't tell her no price on them; she sat down on the same sofa again; I sat next to her, the same as I done the first time. I had sexual intercourse with her again. That was the very next day.

It was on the second visit that I formed the charitable purpose of giving Krakauer a chance. She next came two days around, two days alter. I gave her the photographs the first time. I gave her them the third time at my place. The first visit wasthe first time

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she came there; in July she didn't get any pictures at all. I had sexual intercourse with her, the second was the night following when she got Krakauer's card. I had sexual intercourse with her again.

Q Two days later, still in July? A Yes, sir; still in July.

Q She came and got from you these three pictures? A Yes, sir.

Q Did she say why she wanted those three pictures people's exhibits 2, 3 and 4? A No, sir; she didn't tell me that. I gave them to her because she asked me for them.

I am accustomed to give away my pictures that I keep, in my show case, to anybody who asked for them; I will sell it also. I didn't charge her anything. I had sexual intercourse with her the third time, just the same.

I gave her money on the second occasion, when she got Krakauer's card.

Krakauer never came to my house in his life, never.

Q Never? A No, sir; in his life. Yes, sir, he was there once.

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Q When did he begin to come to your house? A In my house, he was in Houston Street, when I had in Houston street a place, once was up to my house. I could not exactly tell you the date he was there. He was not there more than once. There was present a couple of fellows and girls, when he was there; we had there a kind of a little racket in the house; we had a little party in the house.

I did not have any of my lady customers there at this little racket; Lillian Schlosser was not there.

She did not visit me again in July, the fourth time. The fourth visit was a couple of days after the third time, the last of the month of July, the last part of July. All these four visits occurred within a week and a half. The next time after July that I saw Lillian Schlosser was in November, I could not exactly tell you the date; two days before Thanksgiving. That was in 1904. From July, 1903, until November 1904 I never laid eyes on Lillian Schlosser.

I don't know the Freedmans at all. I don't know them. I have never been in the premises 233 Stanton Street, New York City for any purpose; I never went

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there with Krakauer. I did not see Mr. and Mrs. Freedman here on the stand. I don't know them by sight now. They have never been pointed out to me; I have never been introduced to them.

When she came to see me last Thanksgiving she came for the same purpose as before; the same thing; that was over a year later; she came to 57 Stanton street, to my studio. In November, 1904, she came up there; I have not seen her for a long while already; I said, "Hello, how have you been," she says, "All right;" she sat down on the sofa; I had a little talk with her, foolishly, just where was she all the time; she said, "In the city;" then I sat next to her and we spoke that way; just the way I was sitting alongside of her. I don't remember what I said to her; I couldn't exactly tell you what I said; I don't keep it in a memorandum what I said; I don't know. We were sitting that way until it got late and dark. We sat that way about an hour. I was talking that way. I don't know what we were talking about, just foolishness, don't amount to much that stuff.

We never mentioned about Krakauer. I did not ask her why she wanted those pictures a year before; did not mention the pictures at all. I did not ask her why

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she didn't turn up to have her pictures taken. I did not ask her at all if Krakauer was a good dentist.

After an hour of this foolishness I had connection with her again. When I say "connections" I mean connection once. It was about two days before Thanksgiving last; she came up on Thanksgiving. I did not have intercourse with her Thanksgiving Day; I was very busy. I was too busy to have sexual intercourse; I had too much work to do. That was the only time that Lillian Schlosser came to my place of business that I did not have sexual intercourse with her; there was another time also.

I did not see her then until two days after Thanksgiving. I saw her then in the same place, in my studio. She came four times last November; she came in November 1904 four times and in July 1903 four times.

Q Four times in November 1904? A She was six times, she was four times, I couldn't tell you exactly the number in November. I had intercourse with her twice out of the six.

I next saw her on Grand street four weeks ago; I could not tell whether four or five weeks ago; it was in the evening. There was lots of friends with her.

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There were one fellow and two girls. Nobody was with me. I did not say anything to her.

Q Didn't you say to her then, "Miss Schlosser, I have received half a dozen letters from Krakauer asking me to testify at the trial that I gave you those photographs?" A No, sir; I did not tell her nothing of the kind; I had no conversation with her at all. Krakauer did not ask me to testify at the trial that I had given Lillian these photographs. He has never spoken to me at all as to what I was to say at the trial. I have not spoken to him about what I was to say; I have not seen him. I have not seen Krakauer at all; have not seen Krakauer since the first part of December.

That is my signature to people's exhibit 2. That is the affidavit that I signed. People's exhibits 6, 7 and 8 are also parts of the affidavit.

After I sent Lillian Schlosser to Krakauer in 1903, July, I saw Krakauer after that and I asked him about her; that was in August. I said, "How is that patient" I sent him over; he said, "It is fair." He said, "it is all right;" the same thing.

Q What did you mean by the words "How is that patient I sent you?" A Because I sent him a patient;

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she wanted to have the teeth fixed. I had sent her to the defendant as a patient for the teeth. For the purpose of teeth fixing I sent her, not for the purpose of having sexual intercourse.

Q What did "O. K." refer to? A "O. K." refers to between me and him, what he knows what he should do.

Q What do you mean by that? A That is a sign he should try if he could do it if he had the chance all right, if not he should let go; it might be she didn't want to have anything to do with him. The printed part of the card referred to the dental business? A Yes, sir.

Q And the letters "O. K." in your handwriting on the back referred to the merits of the young lady who carried the card for the purposes of sexual intercourse? A No, sir.

Q What did the "O. K." mean? A That I sent her; it means my sign, I sent him, he should know who recommended the patient.

Q A gentle patient or the candidate for the purpose of sexual intercourse? A As a dental patient.

The O. K. meant something about the girl being easy.

Q Tell us about that? A Well because I saw that I could, I had a good time with her, let him try he

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should know what the means, "O. K." that all.

He said she was fair. I never knew her name. I never knew where she lived. She never told me anything about whether she had parents or not; I did not ask her. She did not tell me whether she had relatives or not, nor where she worked; the last time she told me where-- I asked her about working; I did not ask her the first time, in July, but the last part of November, when she was at my studio, 57 Stanton Street, she was well dressed, black velvet dress, and I asked her, "Are you working," and she said no.

Q How do you fix the date and the time of this young woman's visit to you as last Thanksgiving? A Because I remember it was last Thanksgiving only a few months-- I sold my place in December. I sold my place in December, one month after that.

Jacob, my brother, never saw Lillian Schlosser come into my place of business in the month of July, 1903 .

57 Stanton street was where I went after I left East Houston Street in December.

Q Then, how do you account for the fact that you told Mr. Vandiver that during the month of July you had

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intercourse with this girl and that your brother saw her coming into the place? A I didn't tell Mr. Vandiver in Houston Street. I don't know if she knew my name; I didn't tell her. I never told her my name. I said she came with a subpoena server to my house lately. On that occasion she called me Mr. Dubliner.

Q I show you a photograph, People's Exhibit No. 10 for identification, and I ask you if that is a photograph made by you from the same plate as People's exhibit No. 3? A From the same plate.

Q Is it a photograph which you gave to Mr. Vandiver on the 9th of February, 1905? A Yes, sir.

Q Your name and date appear on the back? A Yes, sir.

Mr. Vandiver had it; I marked it and told him about it. I saved the plates from which I made these photographs and then I sold them. I kept these plates a year; I kept it in a place of mine. I kept the plates of exhibits 3 and 10 and then when I sold my place I sold the plates. I kept my plates in my place, in the gallery on the floor. I kept that plate in my gallery, on the floor, lying in a pile on the floor in piles. I sold the plate eventually. I did not sell it for a pane of

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glass; I don't know what purpose I sold it for; I sold the plates, it is used over again for glass. I sold this plate. I did not destroy it at all. I did not have this plate when I was in Stanton Street; I had it when I sold the place in Houston street; I sold it then with all the plates I had. I did not destroy the plates or scratch them, never scratched anything, sold them just as it is. Any man in the glass store bought them. I sold this particular pile of plates to a man who goes around from gallery to gallery and asks for plates. I don't know the man; I can't tell you.

Q Did you-- if you took this photograph, exposed this plate in your gallery in East Houston Street in the early part of the year 1903, made a reproduction from that plate, and gave them to Lillian Schlosser in July, how do you account, Mr. Lubliner, for the fact that in that photograph, in both of these photographs, People's Exhibits 3 and 10, is clearly discernible a sheet of paper bearing date October 15th and the words "My dear Lillian?" A Well, I didn't place that; I objected about that little sign, I didn't make that.

Q What do you mean by that? A Because it is impossible that on the plate should come that color.

Q You see to what I refer; you see that piece of

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paper there, don't you? A No, sir.

Q What do you mean by that? A I didn't-- it wasn't on.

Q Don't you see it in the picture? A Yes, sir; when I took the picture it wasn't

Q Well, that is what we want to find out. You saw it? A Yes, sir; now I seen it.

When I took this photograph in the early part of 1903 that table that I see in the photograph was in my place of business, also the pile of books on it; there was a couple of newspapers and an ink bottle. There was a pile of books; everything in the picture was in my studio and arranged as it appears in the photograph except for the slip of paper bearing date October 15th and the words "My dear Lillian." That was not there.

Might be it was a piece of paper on that pile of books, white, plain; nothing written on it; I could not exactly tell you what was there at that time. I could not imagine how that came because it is impossible on a plate should come that.

Q Will you swear there were no words on a sheet of paper such as appears in this photograph, "October 15th, My dear Lillian?" A Yes, sir; I will swear to

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that; any expert could tell it. I swear to it.

Krakauer sat for his picture with a cigar in his mouth and a paper in his hand, just as appears in this picture. I don't know that that paper bears date Thursday the 15th of October, 1903. This copy of the New York Tribune is Thursday October 15th, 1903. I have no difficulty with that. I cannot see the newspaper that Mr. Krakauer is holding. I cannot see the date on the paper. I recognize the paper; I recognize the paper but I cannot see here the date.

ARTHUR CAMNITZER, a witness for the defendant, sworn, testified:

DIRECT EXAMINATION:

My profession is that of a physician; I live at 79 St. Marks Place. I have been admitted to practice about ten years.

I know this defendant maybe about two or three years. I am not very friendly with him; I met him in his parents' house; I am the family physician of his parents. I think once I called to treat him.

I am not socially friendly with him. I never went out with him in my life, so that my only intimacy with

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this defendant is that of physician and patient, to his family and once to him.

I was called as a witness for the people by the District Attorney in the case of the People on the complaint of Lillian Schlosser against Max Krakauer on the 18th of November, last, and I was called to testify in behalf of Lillian Schlosser, or the people, by Assistant District Attorney Krotel. I remember that examination; I know Lillian Schlosser. I know the lady interested in this case; the first time I met her in the middle of March, last year, 1904, the middle of March in my office. She came with Mr. Krakauer.

Mr. Krakauer came with this lady in my office and introduced to me Miss Schlosser, "Dr. Kamnitzer, this is Miss Schlosser, will you kindly examine Miss Schlosser, she complains of some pains in the belly." So I examined the lady and I didn't find anything. So I asked her some questions, asked her, "How about your monthlies?" She said, "I didn't have it for the last couple of weeks then I put her on the examination chair, examined her inside, I found a bloody discharge and the womb open; I told right away to Krakauer and the lady, "This is a

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beginning abortion and the lady should better go home and lay down."

BY THE COURT:

I do not mean to say that I discovered that an abortion had been performed on her.

BY DEFENDANT'S COUNSEL:

There is such a thing as is generally called a criminal abortion; there are also natural abortions; they are pretty frequent. An abortion means an interruption of a pregnancy. An abortion could be caused by a weakness of the constitution, by weakness of the womb, by overwork, by excessive sexual intercourse, by stretching the body, and so forth. I mean by stretching the body, if a lady tries to get something from high up then she stretches the body like this and this in a weak constitution causes an abortion; she stretches the whole body and by this the womb gets stretched too. Then there comes from the womb a discharge. When I examined her a natural abortion had commenced. I can't tell exactly the cause of that.

I told her to go right away home and lay down. I told her in case the flow should start very strong she

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better let me know and I will attend to her.

Then I think the second day I was called and I examined her and she had another very strong flow of blood; she had a flow of blood and I prescribed, I think, some powder against the fever and then everything went naturally over. That is all I know about the illness that took place in March. I think I called one or two times at her house in March. A lady by the name of Mrs. Freedman was present when I called at the house first; she introduced her as Mrs. Freedman. I don't remember anybody else.

Dr. Krakauer was not there. I can't tell if Mr. Freedman was there; I don't remember this; she was ill a couple of days at this time, about a week.

In my experience as a physician I have frequently come across such cases. It is generally understood among other physicians that a natural abortion may take place through something unusual, such as a weak constitution, a stretching of the body, cold or inflammation and without any serious results and the party immediately becomes well.

The next time I met Lillian Schlosser was in the end of August, the same year, at my office again. Mr.

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Krakauer was with her. I put her upon an examination chair. I examined her fully on the lounge and I did not find anything; I asked her about her blood, as I stated, and then I put her on the examination chair, and I examined her inside, first with my finger; I had a bloody discharge and then I put the speculum in the privates and I saw that there was a discharge from the womb, from the opening of the womb was a little open. That is all I did I inserted no instruments except the speculum which is a short instrument which is used to open the outside genitals and cause a freely look at the inside. It is a sort of an instrument like this which separates so that you may examine the inside, and it is used in all cases where the inside of a woman's privates are to be examined.

I said that Krakauer and the girl called again in August, the latter part of August. They came again and Miss Schlosser said, "Doctor I complain of some cramps again;" so I put her in the chair, examined her in the same way, I did not find any discharge there, but the womb seems to be a little open; I told her to go home.

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I did not find anything which caused me to say it was not a natural opening. From my observation it was a natural opening. I told her to go home, lie down and put cold lotions on the belly, cold rags, cold applications to the belly; by this I tried to keep any abortion that may come there back; she did as I told her and she felt better the next day. Against my advice she went to work. A couple of days later she came back to my office. She came with Mr. Krakauer, as she came before, to my office.

I examined her again; I found a discharge again; I told her she would have to go home and lay down again and she should call me as soon as there was a stronger flow: This time she was very severe; I attended to her about two weeks and then she got all right. I did not operate upon her in my office at either time. Dr. Krakauer at either time in my office did not assist me; he was in the room when I examined her. He did not hold his hand over her mouth. He did not aid or assist me in any way whatsoever.

Q When you called there in August, when she felt unwell, after she had gone to work for a couple of days against your advice, then what did you do to her if anything? A I syringed the womb as it is the duty daily

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to get any discharge or any pieces that there are in the womb; to clean it out. I had a basin with some blood in it. That came from the womb from an interruption of the pregnancy; that is what is ordinarily called a miscarriage. I took that basin into the kitchen; I examined if there are some pieces and then I poured it in the sink. I did not take a piece of meat that had been discharged by her and wrap it up in a piece of cotton and place it in my pocket.

At no time from the time I first met her until to day have I used any other instruments upon her except the speculum and my finger and the syringe.

I know what a criminal abortion is; I know it is contrary to law and indictable by the County Grand Jury. I never in my life performed upon this woman what is known as a criminal abortion. She was pregnant the first time she called and pregnant the second time.

He introduced me as "Miss Schlosser, this is my lady friend Miss Schlosser, kindly examine her, she complains of pains in her belly."

#### CROSS-EXAMINATION:

Krakauer brought this girl to my place twice; each time she was pregnant; each time I told him so; and told

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her so; each time I examined her, used a speculum; laid her on the examination chair; each time visited the house afterwards after she called me to visit her in the house.

I was called by telephone about 11 o'clock at night. I spent most of the night there, working over her. There was this discharge from her person which was caught in a basin and I threw it away. I thought I would see if there was some pieces of miscarriage in it. I found a little piece; it was thrown away; I gave the basin, with all the contents, to Mrs. Freedman; she threw it in the sink; I asked her if she got the piece, I wanted to examine it to see if it is from a miscarriage or onoy from inflammation of the womb and so we could not find the piece anymore; I gave the basin and its contents to her; she throwed it away; after this I asked her if she got it yet, I wanted to get a good look at it, to see whether from a miscarriage or whether from inflammation. I did not take it out of the basin. I gave the basin with the whole contents to her. I saw something floating in that blood; it looked like a piece of skin. Not like a foetus, not at all, like a piece of skin. My best impression is that

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there was the beginning of a pregnancy that was interrupted. I think she paid me because the money was put on the table; I think she put it there. I did not see. It was \$15. That was both times the same. I told them she would have to stay under a physician's care for about two weeks, and then I was asked how much it will be, the whole treatment, and so I told them I will charge \$15, and then the \$15. was put on the table. It was put on the table at the first visit, before they left. I was writing something and it was put on the table. This \$15. was for the after treatment of this miscarriage. Any interruption of pregnancy is a miscarriage.

There is a little difference between what we call an abortion when it happens the first time of the pregnancy; we call it a miscarriage when it happens in the latter part of the pregnancy and so it was really an abortion.

I say an abortion or miscarriage may be natural or produced, and there are many causes for both miscarriages and abortions. Abortions are rather less frequent from natural causes than miscarriages, very much so.

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Q What is the proportion, would you say, between natural abortions and natural miscarriages? A Well, it is about--

Q It is a very small percentage, isn't it?

A No, sir; it happens much oftener an abortion than a miscarriage, from natural causes; because an abortion is an interruption in the first part of the pregnancy, and the first part of a pregnancy is more liable to be interrupted than the last part.

Q Now, when a woman conceives and before the foetus begins to form there is a very little disarrangement of the womb and internal organs, isn't there? A Yes, sir, it is. She is in a very natural condition, she is able to ride, swim and walk. It is a fact that in the end this violent exercise is much more harmful later on. The same as in the beginning; the dangerous months of a pregnancy is the first two months and the last month. Then I would say that exercise, slipping on a step, reaching to a shelf, excitement, sorrow, grief or what-not, is more likely to cause a natural abortion than a miscarriage.

I learned how to bring on a miscarriage; every physician ought to know this because there are causes

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where we got to bring on a miscarriage. Well, in these cases the patient has got to be chloroformed and put on the operating chair; the inside has got to be cleansed good, with all antiseptic means; the contents of the womb then have got to be taken out. If it is in the very earliest stages of the pregnancy a very slight touch will not bring on a miscarriage, you have to use a curette; a curette is a long instrument that is shaped like a little spoon at the end and the edges of the spoon are sharp, by this I have to scrape the womb. If it is so far that there is a foetus, that is about the third month, the second or third month, I first have to put in a dilator, the patient has got to be chloroformed because inside it is very tight, so I got to put in a dilator, making a good opening, a fair opening, and then I got to take out the inside contents of the womb by the curette.

Q Do you take it out with the curette, or do you merely start it and it comes out by itself? A I did nothing of this kind.

Q I am not suggesting that you did, doctor. We are talking about how it is done. Now, when you take

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curette and have distended the vagina, isn't that the proper term? A Yes, sir; I distend the vagina-- not the vagina, the vagina is extended by the speculum. First I extend the vagina with the speculum, then I distend the column, or the neck of the womb; then I insert the curette; scrape the womb; the foetus will come out then. It will come out of itself, after the scraping we make an injection, we syringe the womb and the flow will bring the contents out; it will come out naturally.

In scraping the womb I scrape off the part of the conception that is connected with the wall of the womb, that has adhered to the wall of the womb, and as a result of that scraping there is a flow of blood usually, and this stuff that I inject is antiseptic fluid. It does not tend also to stop the flow of blood.

Q You could put something in it to stop the flow of blood? A No, sir; I would not do it.

Q Don't they do it in hemorrhages? A That is something different, in hemorrhages they make a tampon knot.

Q You don't do that in this operation? A No, sir.

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Q It isn't customary in this operation? A To put something in the fluid-- no, sir.

Q Having started the thing with the curette it comes out with the flow from the injection?

A It comes out right away.

Q Now, let us go back to an abortion. Do you know how to bring on an abortion? A In the same way. It is done in just the same way. If the thing were to be done at all, it would be done under the same circumstances. Forceps are a pretty big instrument ; it looks like a scissors with a very big handle. There are different kinds of forceps; they vary in size, and the ends of the blades vary in size.

I know who invented the forceps; last night I read it. In a confinement I used it. I invent it myself in a confinement case. I did not invent the forceps. I don't know who did. I have one kind of forceps.

I don't know how many kinds of forceps I have; I had different kinds of forceps; I have about three or four different kinds; they are called forceps; there are different shapes; the first shape is a straight one. The thickness of the straight forceps is like the little finger, about as big as the little finger. I have an-

other the same thickness only more shaped, more bent; that is for a different position. I have two or three other kinds; they all look more or less like scissors.

I have heard of a person using a pencil to start a miscarriage, but that aint the medical way; that is not the proper way but it could be done; all you have to do is to start it and it comes; a catheter is too thick; you could not use a catheter; you could use most anything that was long and sharp and had a point, if you knew how. You could not use a pair of scissors, because they are too thick.

I said it was customary to give some sort of an anesthetic before performing a miscarriage. There is no drug that could be used that could be drunk; that is not possible. An operation of this sort is very painful. Hemorrhage and blood poisoning are apt to be the symptoms following the operation, and of course weakness on the part of the patient on account of the hemorrhage, waekness caused by the hemorrhage, and the patient is usually confined to his bed for some time.

A speculum is a short instrument that is shaped like a little tube with a hole here, and if you press that hole then there is a part of the tube that opens and gives you a free look at the privates inside; some-

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thing like a short scissors.

BY THE COURT:

The speculum I used was a tube, a tube which opens- when it is closed it looks like a flat tube; if it is opened, it opens in two or three parts like a fan; this was a collapsible tube.

BY THE DISTRICT ATTORNEY:

It looks like a pair of scissors when open and used but when being used it cannot be seen because the most part of the speculum is inside of the womb.

Q You could open your speculum without putting it inside of the womb and then it would look like a short pair of scissors? A No, sir. . If it is closed it looks like a pair of short scissors closed.

When this young lady came to my office in March I first placed her on a couch and examined the outside of her belly, didn't find anything, and then I asked her about her monthlies; then I inserted the speculum; I put her on the examining table, first examined her with my finger and then I inserted the speculum. I did nothing else; there was a bloody discharge; blood on my finger; then I inserted the speculum and had the same bloody discharge at the opening of the womb. She had pains by my examining with the finger; she did not cry,

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a little she cried, but not loud. She cried to herself Krakauer was standing next to me. He did not say anything when she cried. He did not kiss her; I did not see anything like that.

There was not a little discharge at the second visit in August; the first day she came there was no discharge at all. When she came with Krakauer in August I examined her with my finger. I put in the speculum; but there was no discharge yet; she only complained of cramps; she cried on that occasion. Krakauer did not do anything on that occasion.

Q But it was in the night when you came that there was this large discharge of blood? A No, sir; in August, the first time, I told her to go home and put cold rags on her belly; by this I intended to keep any miscarriage that may be coming back by cold applications; she went to work the next day and about two days later she came again, in August, she came twice to my office and the second time in August, then she had a discharge.

The first time she came with Krakauer was in March. In August she came twice. The first time she came in March there was a discharge. The first time when she came in August there was no discharge, but two or three days later, in August, she came the second time, in Au-

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gust, it was altogether three times. Krakauer was with her both of those times in August; each time she was there.

I did not see Krakauer at any time the night I was at Freedmans. I did not see him at all. I did not see him at their house at all. Mrs. Freedman did not tell me what Lillie Schlosser told her about what had been done in my office; not at all. Mrs. Freedman asked me; she suspected something. Mrs. Freedman said if there is a miscarriage; I did not use this word; she used this, if there is something wrong between Mr. Krakauer and Miss Schlosser. She asked me if there was; if there was something between them two; she suspected something between them; Miss Schlosser talked to me, in my office, if I happened to come to the house I shouldn't tell anything because the people she stays with should not know; so I did it as a favor; I told Mrs. Freedman there was only a cold and a little inflammation. To satisfy Miss Schlosser I told her she had only a cold; the first time and the second time. Each time she asked me not to tell Mrs. Freedman. I told her she had a cold and the blood was kept back; I don't know what excuse I made.

According to my diagnosis of this case this young

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woman had two natural abortions in the same year. I have had a similar case where there were two natural abortions in the same year.

RE-DIRECT EXAMINATION:

Q Now, Doctor, is there any relationship, so far as an act of sexual intercourse is concerned, between the first pregnancy and the second, that one act of sexual intercourse could have produced both? A No, sir.

Q When the March episode was finished, that ended that? A Yes, sir; that ended that, and the August one was absolutely a new one. Professionally the last time I saw her was in August. Since this case she has seen me and I have talked with her. She came to me in my office; it was, I think, the end of September. She came in my office in the afternoon; I was just ready to go away; I was dressed with my coat and hat, I remember that exactly and she came to me and said-- She did not say anything to me in my professional capacity as between me as a physician and her as a patient.

PAUL KROTEL, a witness for the defendant, sworn testified:

I am a lawyer; one of the assistant District Attor-

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neys of this County, attached to the staff of District Attorney Jerome. I was such on the 18th of November, 1904, and for some months prior to that. It is right that I was the Assistant District Attorney in charge of a certain proceeding known as the People on the complaint of Lillian Schlosser against Max Krakauer.

Q As such officer you appeared at an examination held in the First Magistrate's Court before Magistrate Corbell, on the 18th of November, 1904? A I assume your dates are right, sir. I don't remember the date. I am reading now the date upon the original record, that is upon the transcribed record.

I heard what Mrs. Freedman said on that occasion. I mean before the Magistrate. I also heard what Lillian Schlosser said on that occasion. Those two women were the only persons examined that day.

Lillian Schlosser was put under oath and Mrs. Freedman. I don't remember what was said without consulting the minutes of the hearing. If it appears upon the stenographic minutes probably it occurred. What I have read is correct.

I had a conversation with Lillian Schlosser before I went to the Police Court with her. I had a conversa-

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tion with her as to what took place between her and this defendant. I heard her testimony in the Police Court when she was under oath. I asked the questions in this transcript to which you refer "What is your name, Lillian Schlosser; where do you live." I spoke to her in English; she answered me in English. She answered my questions when I spoke to her in English. I think that Mrs. Freedman spoke through an interpreter. My recollection is that she spoke through an interpreter; she spoke in answer to questions put to her through an interpreter. I do not know what language the interpreter spoke in. I could not understand it myself.

BY THE DISTRICT ATTORNEY:

Without reading the printed record to refresh my memory I have no personal recollection. I have a very good recollection. If my attention is brought to the fact as to what took place a day, or a month or a year in the past I would know. I did not have a pretty good reason for remembering this case. I did not make the statement that it was because these people did not tell me the same story they once told me that I gave up the case. I did not tell that to Judge Cornell in your presence that these people were not telling the same

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story in the police court as they told me in my office; not that I recollect.

I do not remember your cross examination of that girl Lillian Schlosser. I don't believe your reading of the minutes would in any way help my recollection, except in a general way, not as to the specific questions and answers. If I read the questions and answers I could recollect that you put those questions, although I could not be positively sure of it. I do not remember what you have read.

I cannot say I remember what you have read. You could not in any way refresh my recollection if you handed me those minutes. I also remember Mrs. Freedman. I examined her that day. I suppose the the interpreter was the police court interpreter. I do not remember his name. I don't recollect who called him, whether it was I or Judge Cornell. I don't know whether it was the defendant or his attorney or not. I probably would not have permitted you to call an interpreter.

CROSS-EXAMINATION :

I think I saw Miss Schlosser twice before this examination in the police court. It was Mr. Marks who asked this question which I say I recall. As I understand it Mr. Marks asked this question: "Isn't it a

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fact that the first time that you ever had sexual intercourse with him it was coming home from a ball?" I do not know how Mr. Marks knew that Lillian Schlosser had sexual intercourse with the defendant after a ball.

I don't know whether this interpreter was a good interpreter or not.

BY DEFENDANT'S COUNSEL:

I have been down in the First Magistrate's Court representing the District Attorney's office, I guess, on an average of three times a week ever since I have been in the office, since 1902. I don't know how many times the interpreter who acted in this case on the 18th of November acted in cases as interpreter where I was interested. I told you that I did not know who the interpreter was; that is what I told you, sir. I would not identify him if I saw him; I don't know who the interpreter was on that occasion.

JOSEPH SILVERMAN, a witness for the defendant, sworn, testified:

I live at 29 Attorney street. I know Max Krakauer about 17 years. I am no relation of his, nothing at all. I am not a cousin; I am not related, simply a friend; a friend, that is all.

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The first time I saw you was when this case was up in the court here. I know Lillian Schlosser; that is the girl over here. I lived at 34 Attorney street between the 1st of July and the 1st of January, 1904, or the 31st of December, 1904. After he opened the office, then I slept with him there, at 8 Avenue C; it was a dentist's office. I slept there all the time, every night.

The first time I ever saw Lillian Schlosser was October, 1903. I came in one night from work and I found here there. I remember it. That was about eight o'clock in the evening when I met her. I sometimes saw her in the daytime outside of seeing her in court. I have seen her more than fifty times there, in the office there of Mr. Krakauer; first was the parlor when you come in and after was the bedroom and in the bedroom was a bed there. I found her there pretty near every night. The first time Max Krakauer introduced me to her. I came in and he said that lady is Lillian Schlosser, my lady friend. After that I seen her pretty near every night there. I remember a certain Friday night in October when Dr. Krakauer was absent; it was about a quarter after eight when Lillian Schlosser came there that night.

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I came home there; it was a quarter after eight; and Max Krakauer was not home; I was sitting there reading the paper there; Lillie Schlosser came in; knocks on the door there, opened the door and she came in there she says, "Is Max Krakauer in there?" I says, "No." I says, "Come in, in the office here;" she came in there; she says "Max Krakauer promised to be eight o'clock here;" I says, "Sit there, maybe he is coming back, I don't know, because I didn't find him when I am coming home." She was sitting there yill about nine o'clock; so after you know like I told her so and so and she went with me to bed. I was talking to her from a quarter to eight until about nine o'clock, talking to her so. I was talking to Lillie Schlosser. I don't remember what I said to her, but I was talking with her, fooling with her there; I don't remember; I was fooling there.

I don't know where Krakauer was that night; he was out; he came home about two o'clock. She knew my name. She said the first time, Hello; she asked me if Max Krakauer was at home. I told her he aint home; she said, "He promised to be eight o'clock here;" I said "You can wait for him; maybe he is coming back." She stayed there until nine o'clock. I don't remember what I said to her. I was talking to her something about

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foolish and so forth. I don't remember what I was talking, but I was talking something about you know. I am not afraid to tell you; I don't remember what I was talking; I know I was talking about foolish things. I was talking about going to bed. That is what I spoke to her about. It was talking there about half an hour there. Then she went with me to bed there in the room next to that room. I don't know what sexual intercourse is. I know what staying in bed with a woman is. I had sexual intercourse with her that night; I did not pay her anything at all; she left about ten o'clock.

After that I stayed with her again in the same place in the same dental parlor, in the same room; three times altogether. I never paid her a cent.

CROSS-EXAMINATION:

One time was Sunday, the next week; that was on a Sunday; the next time that was a Wednesday; Max Krakauer he wasn't home. She took me.

I never knew about the arrangement between Lubliner and Krakauer of sending ladies over from the photographic studio. Krakauer never told me how he got acquainted with Lillian Schlosser. He didn't tell me how she didn't come to call on him. He didn't tell me

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how he got acquainted with Lillian Schlosser. He had no other lady friend, never brought any other girl there; lots of girls comes patients to him, but not for that purpose. I was not employed there. I only was sleeping with him there. I slept with him because he was afraid to sleep alone by the night time and I was staying there. He was afraid to sleep there alone, so he asked me to come down. I was sleeping in the same bed with Max; there was an iron bed there. I used to sleep with Maxey. This bed was in the third room, first was a parlor, then next a bedroom and then another bedroom; a parlor and two bedrooms; the chair was in another room; there were six rooms in all; there was a parlor and a bedroom, another bedroom and another room there. There was five bedrooms, and one chair for patients. About five girls came there; I know there was six rooms; I don't know how they call them bedrooms or what. One bed and five bedrooms. I occupied it with the defendant. It was one of those beds that you fold them up. One of them beds that you take out, you know. You pulled it out. In the day time you shove it in; it is shoved in in the night time. It was in the same room there. We didn't

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Use it for nothing in the daytime; it was in the same room there; it was in the room. There were no bedclothes on it. There was another bedroom and every night he took it in there; another bedroom, not another bed; another bedroom and everything he took it in there. I say only a bedroom not a bed.

There was one bed and five bedrooms. The thing we slept on was a lounge. We had to pull it out, pulled it in during the daytime. By night it was bedclothes on this lounge. I don't understand what bedclothes means. I speak Jewish. It was about wide enough for two fellows to sleep there. It was so wide.

I say that that young lady standing there came to the place where I was at night and allowed me to have sexual intercourse with her on more than one occasion.

JAMES A. RUSSELL, a witness for the defendant, sworn, testified:

My occupation is that of a stenographer, City Magistrate's Court, First Division. I am one of the officials of the city. As such stenographer I was present on the 18th day of November, 1904, in a proceeding entitled, "The People on the complaint of Lillian Schlosser

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against Max Krakauer." As such I took the minutes of the examination. I took them on the 18th of November. I have my original minutes here under subpoena. I have been a stenographer for fifteen years at least. I was present and I heard each question and I put down each answer. These minutes which you hold in your hand contain a true and correct statement of each and every word of the proceedings transcribed from shorthand by me and afterwards typewritten by me. To the best of my recollection Mrs. Freedman testified partly in German and partly in English.

CROSS-EXAMINATION:

There was an interpreter down there. Some of the examination of Mrs. Freedman was through an interpreter. Some was not; she spoke partly in English and then when she could not understand the question she would ask to have it repeated in German and then the interpreter would do so and then repeat her answer.

My recollection is that Miss Schlosser testified entirely in English.

ARTHUR ERDOF Y, a witness called for the defendant, testified:

I am an assistant clerk in the City Magistrate's Court.

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I am called upon to act as interpreter at time. I was such police court clerk on the 18th of November, last year. I remember the case or a proceeding of the People on the complaint of Lillian Schlosser against Max Krakauer. I acted as interpreter in some of the questions asked. I believe Mrs. Freedman is the name, some of the witnesses. I could not state if that is the lady; I do not remember the face. I was the only one that interpreted in the case. I do not remember the testimony in the case verbatim. Mrs. Freedman testified in a vernacular of Hebrew, German vernacular. She answered several questions in English; at times she had difficulty to express herself and then the Magistrate asked me to put the questions and she answered that. I cannot recollect verbatim.

Q "Q. What time was it on the 15th of October that you saw him? A Three o'clock in the morning." Do you remember that? A I don't remember that.

Q "Q. Was he with this complainant when you saw him? A Yes, sir." Do you remember that? A Yes, sir.

Q The next question is, "Where?" and this answer was given, do you remember this: "At about three o'clock in the night I had some presentiment that something was

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wrong and I came down with a candle in my hand and found both the complainant and the defendant in the hall. The complainant cried and the defendant tried to pacify her. The complainant had a handkerchief in her hand which was bloody. I asked her what about this and he said that she bled from her nose and she said that he cut his finger." A I believe that was the last answer in the testimony given at that trial. I do remember that

Q "Q. For thirteen long months he called upon you almost every day? A Why, I said fifteen months." Do you remember that? A I believe that question and answer was put in English. I believe I did hear her say that.

Q Do you remember this question "Q. During the fifteen months how many times did he have sexual intercourse with you? A Always, every night?" A Yes, sir; I heard that.

Q "Because he didn't want to go with strange women, he didn't want to bring any sickness to me because we were going to get married." Is that correct? A I heard this that you have read testified to.

Q "Q. So that for fifteen long months every night? A He was with me. Q. He stayed with you and had sexual intercourse with you? A Yes, sir." Do you remember that?

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A I remember words to that effect being testified to; I was present.

CROSS-EXAMINATION:

Q Mrs. Freedman you said had difficulty in expressing herself? A At first in English; I was called after the Magistrate saw that he could not get along. I believe that she had a corresponding difficulty in understanding the questions. The last question was answered entirely by her in the vernacular, in the German vernacular; I translated it into English. I believe it was at the beginning of the examination only a few questions being asked by the District Attorney. I could not tell you if the question referred to was five or six questions beyond a reference to a date; I don't remember that.

I was told on Saturday by Mr. Krotel that I was wanted here. I did remember about this testimony before to-day. I did refresh myself by looking over Mr. Marks' copy of the minutes a minute ago in the courtroom. I did not hear Miss Schlosser testify here. I am not entirely familiar with Yiddish; I could not say that I am; I am not a Hebrew myself, but I can understand the vernacular the Hebrew-German vernacular freely; this woman does not

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speaks Yiddish; she speaks a fairly good German.

Q What is the Hebrew vernacular for presentiment?

A I think that was not testified in the Hebrew vernacular; she said that in German I believe. I don't remember what word I used to express that word presentiment but I can give you the translation of presentiment now. I appreciate that I am testifying in an important case on an important matter. I have answered Mr. Marks that the witness testified to certain specific things which I translated. She did not speak in a language; I think she spoke in the vernacular that might be a mixture of Jewish and German; it is usually called Yiddish. It differed in this way from regular Yiddish, that the greater part of the words she spoke and pronounced were good German. In other words it was Yiddish with a preponderance of German over Hebrew. I do not understand the Hebrew language. I understand the Yiddish dialect, some parts. This examination was not entirely in Yiddish it was as I said before a mixture of German and Yiddish with German preponderating in it; partly Yiddish and German. Yiddish is not Hebrew; it is spoiled German, but it is German and a person who speaks German must understand it. It is not a language. Papers are printed in



Yiddish, and there are plays acted in Yiddish. It isn't a language because it hasn't a grammar. You can find out from those people who print the newspaper how a newspaper is printed in it; I know it is not a language; it has no grammar. I know because I know the language. I speak it ungrammatically as it is. I think this witness spoke the word presentiment in German; I can't remember; she used the word "anung" or something like that.

BY THE COURT:

I remember she used the word. I cannot answer the question. For the word complainant she mentioned the name of this woman; that was the complainant; that was my interpretation of it; she could not say complainant. If I would have testified or translated her words nobody could have understood her. This woman don't know what the word defendant is.

I wont say that there are four words in my translation that she did not use at all. The word complainant and the word defendant appear there. She did not use them at all; she said for complainant, "The woman that stands here as accuser," and for the defendant she pointed to the defendant and said "this man" and as this man was the defendant I concluded it was proper for me to testify that she meant the defendant. I did

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not give the gist of what she said in good English; it is not exactly the gist it is what she said. If I used the exact language she used nobody could understand it in English. What she said translated into English verbatim nobody could have understood. It is just like a deaf mute, if he would point at this man, point at him I would understand what she meant but I could not translate that, her language into English.

She used the word handkerchief in German. I could not say which words in this examination she used in Yiddish and which in German. I could not do it. I remember that she testified (Miss Schlosser) to something that happened in the hallway; I did not know the name. I did not hear her testify here. She had difficulty with English at this examination.

WILLIAM LUBLINER, a witness for the defendant, recalled:

I sent word to you that I desired to be recalled as a witness in regard to People's Exhibit 3, that is the picture of the defendant reading a newspaper and the cigar in the mouth. This is the one I have seen here the last time. I have made three positions with a newspaper and a cigar in the mouth of Mr. Krakauer, I have made. I made one the month before July with the paper;

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one picture I made in July, one after, I don't remember the date when I made after.

I did not examine this picture closely the other day when I was on the stand. I believed that this is a picture I made in July; I swear to that picture that I made in July; I think this was the picture. Now, I seen it is not the picture I made. I have had no consultation or communication with this defendant, yourself or anyone representing him since Thursday last; I did not see anybody. The other pictures were also with the newspapers, cigar in the mouth, sitting by the table with the book, the same picture, the same kind of a picture, but in July I took it; sure I took it in July. I believed I was testifying to the truth when I swore this was the picture I took; that is what I thought.

BY DISTRICT ATTORNEY:

This picture I don't remember if I took it after July. I did take this picture; I could not tell when I took it; the way you said it was in October. I did take this picture but I don't remember the date. I did take this picture; it is my work but I don't remember exactly the month, I mean the date. I said I took a picture like it a month before July and another one in

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the early part of the year. He liked the position with a newspaper and with a cigar; he liked that. The first picture I took he looked straight; he didn't look in the paper, and he waited until July to have the other taken. He liked that one; then he had this one taken again. The one in October differed from the one in July because the newspapers were different in date; he wants to have more positions yet; I took more positions; I took some more.

Q I think you said on last Friday that when you took this picture you remembered that there was a sheet of paper in the book? A The same thing.

Q But there was no writing on the paper?

A No, sir; no writing on the paper. I still say that in regard to this picture; there was no writing, no words or no writing on this; no writing on the piece of paper.

I remember when I took this picture, in October; when I took it there was a sheet of paper hanging out of the pile of books. There was nothing on that paper at all; when I took it there was nothing on it at all. I can't tell what evil disposed person secured that plate and wrote in "To my dear Lillian, October 13th." On that plate it is impossible, on the picture to come so clear

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on the picture those words. I don't know who did this thing; I couldn't have that in my handwriting; it is not my handwriting. I could not tell you if it is in the defendant's handwriting. I don't know his handwriting; I never saw it. I don't know really who could have gotten into my studio and altered that plate without my knowing it, if I would know I would tell you; I am sure I didn't see him write it/ I didn't write it myself; this is not my handwriting; it is on the plate impossible to make. Some one must have gotten it. It wasn't on the plate; it is impossible to be on the plate. Now, it is in the picture. My name is on the back of the picture. I mounted that photograph on that cardboard; when I mounted the picture the words "To my dear Lillian, October 13th were not on it. I suppose they have been inserted on the photograph since I mounted it on the cardboard, and about the same on this one too. I would like to know who done it. On the plate it is impossible; the lens can't strike it so plainly; any expert photographer will tell you that that this could not be taken; if any words on it it would be write.

Q Don't you suppose that somebody has gone and written in this newspaper too; that is pretty clear, is-

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n't it? A Well, on the paper; not all the words. The newspaper isn't so white as a white piece of paper. It is very hard to read; a newspaper from white paper is different from paper; you can take it, any white piece of paper, plain white paper, and see if you can see the letters; I like to see any photographer that can do that. I can read three words "The old reliable" because it is on the white. I cannot read them. If I were to read them I would tell a lie. My eyes are not good, not very good. I can read "To my dear Lillian" on the other paper. I suppose I could see where the pen had written them on the photograph if it had been done.

Q See if you can see where any pen has written those words? A I cannot find or imagine it, but I am sure it was not on the plate, never, if I were to have it on the plate it was impossible the lens should strike so white.

I don't know a man named Silverman. I don't know him. I don't know this gentleman you are pointing at. I seen him from here. I might have seen him once but I can't recollect. I have no recollection of having seen the gentleman before; I have not seen that man. Here

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I have seen him, since here in the corridor.

Q Now, I will repeat my question. I want no misunderstanding of the question. Did you ever in your life before this moment see the man standing at the bar (Referring to the witness Silverman)? A Yes, sir; in the corridor here before, Friday, when I was here. I did not have much of a talk with him. He asked me what I am doing here; I said I was called by the District Attorney's office, that is all; we didn't have any more talk. That is all I said to him. I never seen him before the corridor. Never had any drinks with him at a saloon outside the building. I never saw him in Krakauer's place; when I was there he was not there, I did not see him. I never saw him; I was there in the day time always. In the morning nine o'clock I was in Krakauer's place about nine o'clock in the morning, some morning; I could not remember the date; I was some morning there. I never had any arrangement with Silverman about O. K'ing young ladies. I did not expect that any of these girls that I sent over to Krakauer would fall to the lot of Silverman or anybody else.

Q When you came to the District Attorney's office you were shown these photographs, weren't you, and you examined them with great care, didn't you? A I was

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seated on the desk, you saw me, you had those pictures in the desk and you told me that is a photograph and I said, "Yes;" you didn't examine it for me-- not very carefully. He showed me People's Exhibit 3 and I said "Yes." He showed People's Exhibit 10 to me and I said "Yes." I just took them the way it is now. I thought it was the picture and I said "Yes." He didn't ask me about any other photograph similar in character, like it, taken at other times. If he asked me if I took any more positions about the same I would have answered him.

I never was in consultation in Krakauer's office a week from last Saturday, or some Saturday prior to this time, with this man Silverman and Krakauer, never in my life. Never saw Silverman at Krakauer's office. I did not know that a man named Silverman lived with Krakauer. I don't if he lived with him. I don't know if anybody slept with Krakauer in the evening; never asked Krakauer about that.

I remember when I came down to the District Attorney's office in February, the 9th. I got down here at 11 o'clock, about 11 o'clock, I think, after 11 o'clock; I could not exactly remember it might have been half-

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past twelve. I had a Grand Jury subpoena, calling for my appearance at 10:30 o'clock. I didn't go no place that morning before I came to the District Attorney's office, came right from home, right down here. I had not seen Krakauer that morning. I saw him when it was last November or last September when he called for pictures. I didn't talk nothing about these pictures with him. I never told anybody that I was going to testify here that People's exhibit 3 and People's exhibit 10 had been taken by me in the early part of 1903. The one who took it is the one who knows. I am the man and noone knew I was going to testify to that until I came here on the stand, except Mr. Vandiver who heard my statement in the District Attorney's office. I never told Krakauer after I had been down to the District Attorney's office what I was going to testify to. Mr. Krakauer did not know anything at all about it, and Mr. Marks didn't know anything at all about it until Tuesday afternoon; Mr. Marks called for me. He said, "What did the District Attorney ask you?" He called me and I said he called me to make a statement what I know. I answered, "Have I to tell you what I say, must I tell you?" "I want you to tell me, it is very important." Well, I told him all about it, just what I made in my affidavit

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It was the same thing I told you before. He didn't speak nothing in reference to the photographs; I told him the whole story. He asked me if I gave her any pictures; I told him I gave her pictures. He said, "You gave her pictures?" and he didn't ask me anything more. I did not say anything about where I procured the pictures; nothing at all. I did not see any pictures in Marks's office. I told him I saw several pictures.

I told him I had taken the pictures which I had seen in the District Attorney's office in the early part of 1903; I told him all the pictures where I had been taking pictures, I had taken for Mr. Krakauer and you had them in your possession; I was sure you had all the pictures I took, that is, I was sure of it. . I told Mr. Marks all the pictures I had taken of Krakauer I was sure you had, and that I had seen them in Mr. Vandiver's office, and that I had taken all the pictures not only in the early part of 1903, but all through the year, not only in the early part, not only the early part of 1903. I said all the pictures I was taking of Mr. Krakauer you had them in your possession. I didn't tell Mr. Marks then when I took the pictures. Mr. Vandiver says, "This is the picture you took," and I told him "yes."

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Q You told him when you took them? A I told him the early part of the pictures; I told him as much as I took the picture; he asked me how many positions of him I took with the paper.

Q You took the photograph and you marked the back of it with your name and date? A Yes, sir; he showed me. I marked it to identify it so that there could not be any mistake that I took that picture, that is the way it is.

Q So that there could not be any mistake about that picture you say you marked it so that there could not be any mistake? A The picture which I took; I didn't think that was the picture. I swear that the July picture.

That is my handwriting on People's Exhibit 10.

Q You marked it so that you would know the picture the next time you saw it? A That is what I swore before, the July picture.

Q Then you told Mr. Vandiver that you took that before you met Lillian Schlosser, didn't you?

A I thought this was the July picture. I told the jury that last Friday; but always to the July picture; I didn't think of the October picture; I was swearing to the July picture.

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## R E B U T T A L:

WILLIAM J. KINSLEY, recalled.

I have examined the paper which appears hanging out of a pile of books in the picture People's exhibit 10. The following is on that paper in the photograph "October 15th, 1903," in the first line. On the next line "My dear" on the third and last line "Lillian." From my examination it is quite difficult to state if that is written in pen or pencil; I did not examine it for that point before. I have compared the writing on that piece of paper, in the photograph, with People's Exhibit 1 and with my recollection of People's Exhibit 5 and People's Exhibit 6 for Identification, one being the signature of the defendant upon the marriage certificate dated 1904, and the other being his signature upon the back of another paper. It is the same handwriting on all these papers that you have shown me.

Q The same hand that wrote People's exhibit 1 and the signature of Max Krakauer, Milton Krakauer on the back of People's Exhibit 5, the certificate of marriage, dated 1904, and the signatures upon the back of the other papers? A Yes, sir.

Q And People's exhibit 1? A Yes, sir.

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Q Also wrote the words upon the paper in the photograph?

A There is absolutely no disguise; it is the perfectly normal, natural handwriting of the person who has written all these things.

Q And who wrote People's Exhibit No. 1?

A Yes, sir; there is no disguise at all.

Q There is not any question of any disguise in any of these? A When it is magnified the same florid, flourishing style shown in the capital M that was shown in the "Milton," as I recall, and the extra flourishes on the first part of the end; it is a perfectly plain matter to see; anybody with a glass can see it as well as an expert.

Q Now, you are able to state from your examination whether the words "October 15th, 1903. My dear Lillian" have been written on to that photograph or not? A My experience with photographs and with handwriting shows me to to be an utter impossibility. In the first place, there are two photographs and they are identical; you could not write that way no matter how expert you are and produce two that would be exactly the same and put them on a photograph. In the first place, any one to write this must have used a microscope, if it was written on the photograph and the ink would flow and blur;

MISSING PAGES  
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It is an utter impossibility from any point of view to produce this effect.

BY THE COURT:

In other words that is a photograph of the writing and not writing put on the photograph. I have examined the copy exhibit 11.

BY THE DISTRICT ATTORNEY:

I have referred to the picture, the photograph of the paper. I was not able to make out the date with the microscope because the paper was folded in such a way that the light struck, unfortunately, right on the date line. I can read the heading "New York Daily" I could not make out "Tribune" or the rest of it. I can make out a Royal Baking Powder advertisement and also some about ship building trouble and something about ship-building trouble being wrecked by Schwab.

CROSS-EXAMINATION:

I believe it is absolutely impossible for a person to write so exactly alike on the different papers or upon that photograph.

Q It is possible that if that sheet upon people's exhibits 3 and ten had been a blank piece of paper to write on a sheet of paper, have it photographed and throw onto that, isn't that a fact, they could do that, could-not they?

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