

on the side of the face, which caused her to have a black eye, and she said, "Oh, mama, I got that."

Q Did you strike at her? A No, sir, I didn't strike at her. I was striking at him, but she rushed in to try to save him, and, as she did, she got struck on the side of the head with the broom; and she said, "Oh, mama, I've got that."

Q And, at the time of this occurrence, when you were hitting at the defendant in this little hallway, and your daughter ran in and got it, where was your husband? A My husband was laying on the floor.

Q Near where? A Right ~~back~~ where he had fallen, between the dumbwaiter and the tubs.

Q Right there, about (indicating)? A Yes, sir; his feet were here and his head was here (indicating).

Q And then what did you do after that? A I rushed out into the hall, and I banged on the woman's door right next to my daughter's place, and I --

Q Never mind what you said there. The defendant was in his house then, was he? A Yes, he was in his house; and I--

Q Now wait a minute please. When you ran out, and, as you say, banged on the door of the woman in the next house, now who, if anybody, went out with you? A My daughter.

Q Now, is that Lizzie? A That's Lizzie.

Q Now you say that Lizzie took Gladys out with her?

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A Lizzie --

Q Well now please. Will you listen to me and answer my questions. You say that, when Lizzie went out, at the time that the defendant struck the deceased first with his fist --

A Yes, sir.

Q That she took Gladys with her? A Yes, sir.

Q Now, when she came back, did she bring Gladys with her? Yes or no? A No, sir.

Q Then, when you went out to strike -- went out to knock at the house next to the one theretofore occupied by your daughter, who accompanied you -- I asked you, a minute ago -- went with you? A My daughter.

Q Lizzie went with you; did she? A Yes, sir.

Q Now who did you leave at the house? A I left Otto Lefevre.

Q The defendant? A The defendant.

Q Was there anybody else in the house, at that time?

A No one, but my husband's body.

Q And where was that? A On the floor.

Q Where? As you say you have seen it lying? A Yes; when I went out.

Q Hadn't been changed, then, from the time that he fell prostrate from the blow of that flat iron, the position

of the body hadn't been changed from then, until you went out of the house? A No, sir.

Q Is that right? A Yes, sir.

Q And Lefevre was the only person that you left in the house, when you and Lizzie went out? A Yes, sir.

Q At the time, or just prior to the time, at which you say you knocked on the neighbor's door? A Yes, sir.

Q And, after you had knocked on one neighbor's door, what did you do, if anything? A We ran up to the next floor, and rapped on that lady's door, but no one came out, no one responded.

Q And what did you do after that? A We came downstairs into the room.

Q Into the room? A Into Lizzie's kitchen.

Q Into the same room that this occurrence happened in? A Yes, sir.

Q And who, if anybody, was in the kitchen when you got back there? A There was the defendant, and my husband's body.

Q There was the defendant, and your husband's body? A Yes, sir.

Q And where was your husband's body? A It had been removed from the floor, and brought over, and sat up against the wall, and the blood had been washed up from the floor.

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Q Now, you say, when you went out of the room, your husband's body was about here; do you (indicating)? A Yes, sir.

Q Now take that pencil yourself, and mark the part of the room where you say your husband's body was -- where you saw your husband's body in a sitting posture, when you returned? A Right here (indicating). He was brought from here --

Q Now please. I am asking you simply where you saw his body, when you returned? A His back was leaning up against this wall, leading into the dining room, or bath room (indicating).

Q Well, what wall? Where was it? A Right here (indicating).

Q Well, mark it, please. I can't mark it. You do so.
A Right here (indicating).

MR. ELY: I have marked it "M", if your Honor please.

BY MR. ELY:

Q Is that right? A Well, he was sitting up against the wall.

MR. ELY: Now, please put a ring around that place, and around the cross there, too, Mr. Stenographer, and your initials.

BY MR. ELY:

Q Now, you say that you had seen stains on the floor, before you went out; had you? A Yes, sir.

Q Red stains? A Yes, sir.

Q That came from the head of your husband? A Yes, sir.

Q Before your husband had been hit over the head with this People's Exhibit 1, had there been any red stains on the floor where he fell, and where you say you saw red stains?

A No, sir.

Q Now you say that, when you got back, you saw that the floor had been washed up? A Yes, sir.

Q Was it red anywhere there on the floor? A Yes; you could see the red hue there, through the wood.

Q A red color through the wood? A Yes, sir.

Q Then it was a wooden floor, was it? A Yes, sir.

Q And you say that you saw your husband seated up against the wall? What was he sitting on? A He was sitting on the floor.

Q He was on the floor, but his -- A His back was braced up against the wall.

Q But his back was braced up against the wall?

A Yes, sir.

Q Now where was the defendant, when you came into the kitchen, and saw your husband, as you have stated? A He was

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in the kitchen.

Q The defendant was? A Yes, sir; and my husband's head had been washed, too, while I was out.

Q And you say that your husband's head had been washed?

A Yes, sir.

Q Well, how do you know? A Because there were no blood stains on it, and, when I rushed out, the blood was flowing from it.

Q And, when you came back, there was none on it?

A Yes, sir; when I came back the face and floor was wiped off, and I saw him putting the scrub cloth away, just as I came in.

Q Now what happened when you got back into the kitchen, and found your husband sitting there, with his back up against the wall? Now, did your husband, at any time after he received this blow with People's Exhibit 1, as you have stated, speak to you again? A Never.

Q Did he at any time, in your presence, make any coherent remark? A Not a word.

Q Now, I ask you, when you came back into the kitchen, and saw your husband sitting up against the wall, what happened?? A I screamed, and screamed for some one to get me either a priest or a doctor; I screamed so that some one notified the policeman, or the policeman came up.

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MR. ELY: Now, that is a conclusion, and I will agree to have that stricken out.

THE COURT: Strike it out.

BY MR. ELY:

Q Well, you kept screaming? A Yes, sir.

Q And, eventually, a policeman came in? A Yes, sir.

Q Now did your daughter Lizzie and you go back together?

A Yes, sir.

Q And was there any conversation after you had gone back into the kitchen, and had found the defendant there, until the officer came? A No, sir.

Q And did Gladys, at any time after she went away with her mother, after, as you say, the defendant had first struck the deceased with his hand; did you see Gladys again, on that night? A Well, I can't really remember that, whether she came back into the room or not. That I really can't remember. I was so bewildered.

Q But you know that she hadn't come back, at the time that you had inadvertently hit Lizzie with the stick?

A No, sir; I didn't see her then.

Q Now, then, an officer did come; did he? A Yes, sir.

MR. ELY: Get up, Taggart.

BY MR. ELY:

Q Do you know this officer here (indicating)? A Yes, sir.

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Q And did you see that officer, on the morning of the 29th of April, 1906? A Yes, sir.

Q And who was in the kitchen when this officer came in?
A There was myself, my daughter --

Q Well, is that Lizzie? A Lizzie. I was kneeling, I was holding my husband's head.

Q I am not asking you whether you were kneeling or not. You were there? A Yes, sir.

Q And who else? A My daughter and myself, Lizzie and myself.

Q Where was the defendant? A A Well, I don't know was he in the bed room, or he came just out of the bed room into the little private hall, as the officer came in.

Q Then what did the officer do? What happened when the officer got there? A Well, the officer asked questions.

Q You may tell us -- state whether the defendant was there, and, if he participated in the conversation, the whole conversation, as nearly as you can recollect it? A I can't remember whether he did or not. All that I know is the statement that I gave to him, and my daughter gave a statement to him.

Q Well, was that in the presence of the defendant?
A Yes, sir.

Q Was the defendant there? A Yes, sir.

Q Didn't he say anything to the defendant?

A The defendant said --

Q Did he? Please understand the question. Did Taggart, the officer, as far as you recollect, say anything to the defendant here, when he came into the room? A Well, yes; I believe he did.

Q Well, now, please. According to the best of your recollection, tell me what he said, and what the defendant said; and the whole conversation in which you and Lizzie and the defendant participated. You understand what participated means? A Yes, sir.

Q That is, took part in? A Yes, sir. He asked the defendant how it happened.

Q Well, go ahead. A And I can't remember what the defendant told him, because I was waiting on -- I was watching my husband. I wasn't watching what he was saying to the officer, at all, and I didn't pay any attention to him. I was kneeling at the side of my husband, trying to say a few prayers for him, when the officer came in.

Q Well, of course. But, then, in the presence of the defendant, did you and Lizzie say anything? A Yes, sir.

Q Did the officer ask you and Lizzie anything about it? A Yes, sir; he asked us.

Q Well, go on and tell it? A Well, I told him just how

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it happened.

Q Well, my dear Madam, we were not there, and we want to know, as nearly as you can recollect, what you told the officer, on that occasion; and when you say, "I told him as nearly as I could how it happened," that doesn't convey to us how it happened. A I told him that this man had killed my husband, that he had struck him with the iron on the top of the head.

Q Yes. And what did the defendant say, if anything, at that time? A I really can't tell what he said.

Q Well, do you recollect that he said something? A Yes; I think he said something, but what he said I can't remember.

Q Yes. And then what, if anything, did Lizzie say? A Well, Lizzie said that it was my husband that lifted the iron, to fire at him, and that he struck the iron back, and that the iron fell on my husband's head.

Q Yes. That he struck the iron back? That who struck it back? A Otto Lefevre.

Q Now, will you stand up? Now do you know how tall you are? A No, I don't.

Q Now sit down. Was your husband a tall man?

A No, sir.

Q Now was your husband a tall or a short man? A He was

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a short man.

Q Now, was he a thin or fat or broad or narrow man?

A No, sir, he wasn't; he was a thin man.

Q And do you know how much he weighed? A About 150 or 155 pounds.

Q Now, then, how old was he? A He was 47.

Q And how did he compare in height with the defendant, this defendant (indicating)? A Well, I think he was pretty near a head taller than him.

Q You think that -- A That the defendant is pretty near a head taller than my husband.

Q That the defendant is pretty near a head taller than your husband? A Yes, sir.

MR. ELY: If your Honor please, I am about to ask the defendant to rise in court. Of course, he need not do it, unless he chooses, and I desire to have your Honor so instruct him.

(The defendant stands up)

THE COURT: That is the law, if you give him the privilege of refusing to stand up, well and good. But it has been decided in the case of the People against Gardner, that, if he didn't want to, and the Court wanted him, and he was made to stand up, it was error; and the present District Attorney was

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fined \$250 for advising the contrary.

MR. ELY: And so was the present Recorder.

THE COURT: yes. Well, the defendant stand, and the question does not arise in this case.

BY MR. ELY:

Q Now, do you see this man standing right here (indicating), his name is Daniel Rooney. How did your husband compare with him, in size and build? A He was just about that man's size and build.

Q Now, after the officer had come to the premises, and this conversation that you have stated occurred, why what happened then? A What happened when the officer came?

Q After, after. We have got the officer there, and we have had the conversation that occurred. Now what happened after that? A Well, we were taken to the patrol --

Q Well who were we? A My daughter and the defendant and myself.

Q Yes. You were taken where? A In the patrol, to the 126th Street station.

Q Yes. And then did you see Officer Ward?

MR. ELY: Sergeant, stand up, please.

A Yes.

Q And now where did you see that man that just stood up in court? A Well, as we were brought into the station house,

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at the desk.

Q Yes. He was at the station house, behind the desk?

A Yes, sir.

Q And was there any conversation before this officer, in which the defendant participated, took part, that is, the defendant took part? Do you recollect a conversation?

A No, sir.

Q Don't you remember the defendant being asked by this officer for his pedigree, and how he did it, and why he did it?

A No, sir; I don't remember.

Q Eh? A No, sir.

Q You don't remember that? A No, sir.

Q And did you see this article there, on the Sergeant's desk, People's Exhibit 1? A Yes, sir.

Q And in your presence -- did you address the defendant, if you recollect, at the time you were standing there, in front of the sergeant? A No, sir.

Q Don't you recollect stating, "Why, you did it, and you know you did it?" A In the station house?

Q Yes. A Yes.

Q Well, that's what I am asking, and that was in the presence of the officer, Officer Taggart? A Yes, sir.

Q And that was after the defendant had said that he didn't do it? A Yes, sir.

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Q Now, after that, did you go down -- wait a minute.
Do you know Mrs. Julia Tillman? A Yes, sir.

Q And did you see Mrs. Julia Tillman after this occurrence? A Yes, sir.

Q That is, shortly after the 29th of April, 1906?
A Yes, sir.

Q And was your daughter present? A Yes, sir.

Q When you saw Mrs. Tillman? A Yes, sir.

Q And did you hear -- now, I am not asking for any conversation at all. Please don't give me any conversation.

A No, sir.

Q Now did your daughter say anything to you, in the presence of Mrs. Tillman? A Yes, sir.

Q And did you reply to your daughter? A Yes, sir.

Q In Mrs. Tillman's presence? A Yes, sir.

Q Now, Mrs. Minnough, do you know a man by the name of John Gallagher? A Yes, sir.

Q And who is he? A He is my son-in-law.

Q And he is the man who married whom? A Annie.

Q And Annie is your oldest living daughter? A Yes, sir.

Q When, before to-day, did you last see Gallagher, John Gallagher? A It is, say, from four to six weeks.

Q And, at that time, did John Gallagher say anything to you? Yes or no. A Yes, sir.

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Q At that time, did John gallagher say anything to you about rizzie? Yes or no. A Yes, sir.

CROSS EXAMINATION BY MR. ROSENTHAL::

Q How old are you, Mrs. Minnough? A How old am I?

~~MR. ELY:~~ I object. What difference does it make?

THE COURT: It is preliminary. I will allow it.

BY MR. ROSENTHAL:

Q How old are you? A I am 46.

Q 46? A Yes, sir.

Q You say you married Mr. Minnough, about 15 years ago.

Where were you married to him?
N

THE COURT: I think she told you that.

THE WITNESS: yes, sir.

THE COURT: Then you cannot ask it a second time

BY MR. ROSENTHAL:

Q Were you married in a church?

THE COURT: And it is my recollection that she said she was married in a church, and gave the name of the church.

BY MR. ROSENTHAL:

Q Prior to that, to whom were you married?

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THE COURT: What has that to do with the case?

MR. ROSENTHAL: Well, we may show that this woman had another husband living.

THE COURT: Do you know anything about it? Are you going to prove anything, or are you fishing?

MR. ROSENTHAL: We expect to, if our information is correct.

THE COURT: Then I will allow it.

A I was married to Rinar Coster.

Q And is he still living? A No, sir.

Q And when did he die? A In 1900.

Q In the city of New York, did he die? A Wait.

You will pardon me.

BY THE COURT:

Q Did he die prior to your last marriage?

A Yes, sir; he died a year prior to it.

BY MR. ROSENTHAL:

Q Where did he die?

MR. ELY: I object. It is immaterial.

A He died in a hospital.

THE COURT: Very well. It is answered.

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BY MR. ROSENTHAL:

Q To whom were you married previous to your marriage to Mr. Coster? A Joseph F. Brown.

Q Joseph F. Brown? A Yes, sir.

Q Is he dead? A Yes, sir.

Q When did he die? A Years ago; so long ago that I can't remember.

Q You can't remember? A No, sir.

Q Do you remember where he was buried? A No, sir, I don't.

Q Did you attend his funeral? A No, sir, I didn't.

MR. ELY: Objected to.

BY MR. ROSENTHAL:

Q At the time of your husband's death, you say that he was working for Manson brothers? A Yes, sir.

Q How long had he worked for them before his death?

A Two years.

Q Did he work continually for them? A Yes.

MR. ELY: Objected to.

THE COURT: Objection sustained. Well, it is answered, and the answer may stand.

BY MR. ROSENTHAL:

Q How long were you living at 347 Pleasant Avenue, prior to the time of your husband's death? A From August until April.

Q Have you ever been convicted of a crime, Mrs. Minnough? A No, sir.

Q You have never been convicted of a crime? A No, sir.

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1 Q Were you ever convicted of intoxication? A No, sir.
MR. ELY: I object.

BY MR. ROSENTHAL:

Q Have you ever been in jail?

MR. ELY: I object. Wait a minute.

THE COURT: That is no crime, none whatever.

There are very few honest men who go through the world without that experience, sometime. I will sustain the objection.

BY MR. ROSENTHAL:

Q Do you recollect whether or not, on August 22, 1888 you were in the City Prison or the Workhouse?

MR. ELY: Objected to.

THE COURT: Objection sustained.

MR. ROSENTHAL: Exception.

THE COURT: It does not prove anything in the world, counsellor. It is a waste of time.

BEYMR. ROSENTHAL:

Q Now was it eleven o'clock, that night, when you left your home, with your husband, with your husband and your daughter Lizzie? A Yes; it was between eleven and twelve; it was around eleven o'clock.

Q About how long after eleven was it? A I didn't just exactly look at the clock, to see.

Q Was it as much as thirty minutes after? A Well --

MR. ELY: I object. She says she can't tell.

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A I can't tell.

BY MR. ROSENTHAL:

Q Was it as late as half past eleven? A I can't say; I can't remember.

MR. ELY: Objected to.

THE COURT: Sustained.

BY MR. ROSENTHAL:

Q About what time was it that you arrived at your butcher 's shop, that you went to see? A It was about a quarter after -- between a quarter and half past eleven.

Q And where was that butcher shop? A Where was it?

Q Yes? A On First avenue, near the corner of 19th street.

Q You mean, 119th street; don't you? A Yes.

Q And how long did you stay there? A Quite some time.

Q As much as fifteen minutes? A Probably fifteen, or more.

Q And what time was it that you arrived at 1708 Park Avenue? A I really cannot tell you whether it was twelve, or five minutes before or after.

Q It wasn't as late as half past twelve? A No; I don't think so.

Q Now, you say that you knocked at the door? Is that correct? A I didn 't knock at the door.

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Q Who did? A Mrs. Lefevre knocked at the door, or rather, Lizzie Garry knocked.

Q Why do you call her Lizzie Garry now, and, just now, Mrs. Lefevre? A Well, because she passed under the name of Mrs. Lefevre.

Q Didn't you always consider her as Mrs. Lefevre?
A No, sir.

MR. ELY: Objected to.

THE COURT: Sustained. However, it is answered.

BY MR. ROSENTHAL:

Q Didn't you always call on your daughter, when she lived with Mr. Lefevre? A Yes, sir.

Q How many times? A I can't tell you.

Q At least five times? A Yes, sir.

Q How long had she lived with him, prior to your husband's death? A About three years.

Q About three years? A Yes, sir.

Q It wasn't four years; was it?

MR. ELY: Objected to. He is making the witness his own on the subject.

THE COURT: Objection sustained.

BY MR. ROSENTHAL:

Q Who supported Mrs. -- who supported your daughter while sh

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lived with Mr. Lefevre?

MR. ELY: Objected to.

THE COURT: What is the object of this? To affect credibility?

MR. ROSENTHAL: Why, because we are going to impeach the credibility of this witness.

THE COURT: Then you are asking this question to impeach her credibility? Is that the object.

MR. ROSENTHAL: Yes, sir.

BY THE COURT:

Q Madam, did your daughter live with the defendant?

A Yes, sir.

Q Was she his wife? A No, sir.

Q She lived in an illicit relation with him? A Yes, sir.

Q And he was supporting her? A Yes, sir.

Q And she was living with him as his wife? A Yes, sir.

THE COURT: Now, I think that you have it all.

BY MR. ROSENTHAL:

Q And you went there to visit her? A Yes, sir.

THE COURT: Yes; for a period of three years.

Don't waste any more time on that. You have got all the facts relative to that.

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BY MR. ROSENTHAL:

Q Did you at any time visit her prior to her residence on Park avenue?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Now you say that Mr. Lefevre opened the door for you, that night; is that correct? A He opened it for Lizzie, when she knocked, when Lizzie knocked.

Q Did you notice his condition at that time? Was he sleepy, or did he appear to be awake? A He certainly was awake.

Q He was awake? A Yes, sir.

Q And as soon as you came in, did he go into the kitchen with you? A I don't really know whether he went into the kitchen. I don't believe he did. I believe he walked right straight into the bed room.

Q Now, do you know where he went?

MR. ELY: I object. She has just said that she don't know, and supposes that he went into the bed room.

THE WITNESS: Well, he went in that direction.

THE COURT: No; don't suppose anything, madam.

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You are asked here for facts within your personal knowledge.

BY MR. ROSENTHAL:

Q Who went into the kitchen with you, when you went into the apartment? A Lizzie, her daughter, my husband and myself.

Q The defendant didn't go into the kitchen, at that time, then? A I don't know whether he did or not. He stood at the door, and spoke for a few minutes, and then walked inside.

Q Do you mean to say that you don't know whether he went into the kitchen or not?

MR. ELY: Objected to. She has just said that.

THE COURT: Sustained. If you know, you may answer the question, or any question that is asked; but, if you don't know, say so, please.

BY MR. ROSENTHAL:

Q Now how long were you in the kitchen before your husband left the kitchen? A As I said before, about ten minutes.

Q You were there about ten minutes, before your husband left? A Yes, sir.

Q Do you know what he left for? A Yes, sir.

MR. ELY: Oh, that's a conclusion. But

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she has answered the question.

THE WITNESS: Yes; I know what he left for.

BY MR. ROSENTHAL:

Q How long was your husband gone? A About ten minutes.

Q And did the defendant come into the kitchen while your husband was out of the room? A Yes, sir.

Q He did? A Yes, sir.

Q Did you say anything to him at that time? A My daughter had spoke to me first, and I answered her, and he spoke to me, and I answered him back again.

Q Do you recollect what he said to you? A Yes. He said, "Mother, I am not ignorant, but I am going fishing, to-morrow, and I want all the sleep I can get."

Q And what did you say in response to that? A I said nothing, at all.

Q You said nothing, at all? A No, sir.

Q What did your daughter say, while the defendant and you were in the kitchen? A Well, I don't know really what they were talking about. They were scolding about some little thing. It didn't amount to a terrible lot, I don't suppose; when my husband came up with the can; and, as he opened the door, he said, "Oh, for pity's sake, what are you always quarrelling for? Cut it out."

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THE COURT: Now, counsellor, we have all this in the direct examination. You think it worth while to go all over the ground again?

MR. ROSENTHAL: It might be, on the ground that the witness might tell a different story, when required to repeat it.

THE COURT: Well, if you hope to contradict her, I will allow you the greatest possible latitude.

MR. ROSENTHAL: Well we propose going over the entire ground.

THE COURT: Well, I do not propose to let you. I am not going to have questions asked the witness which have already been asked.

MR. ELY: On cross-examination, sir, I make no objection to this, at all.

BY MR. ROSENTHAL:

Q What was the condition of your husband, when he left that apartment? Sober or intoxicated? A He was perfectly sober.

Q Did he tell you any reason why he wasn't sold any liquor? A Yes; because this was after the hour of twelve o'clock, and he wasn't known in that neighborhood.

Q Wasn't it after one o'clock when he came back? A No,

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sir; it wasn't after one o'clock.

THE COURT: Tell him once more the time, madam.

THE WITNESS: It was between twelve and half
past twelve.

BY MR. ROSENTHAL:

Q It was between twelve and half past twelve? A Yes,
sir.

Q Now, after your husband said, "What's the use of quarrel-
ling, etc.", tell us just what happened?

THE COURT: No. I will sustain the objection.

MR. ROSENTHAL: And I except to your Honor's
ruling.

BY MR. ROSENTHAL:

Q Where was your husband standing, at the time your
husband came into the room? A He was standing in the little
private hall.

Q You mean the little hall leading into the kitchen?

A Yes, sir.

Q When your husband came into the room, did he pass the
defendant? A Yes.

Q And then, when your husband went into the room, where
did he go to? A He put the can on the tubs, and he sat --

THE COURT: Now wait. If there is any special
reason that you have for asking these questions, I

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will give you every latitude; but, if it is merely to see whether the witness will tell the same story, I am not going to take up the time.

MR. ROSENTHAL: Well, sir, this is for a purpose that I will bring out in a moment.

THE COURT: Then you may ask the question.

BY MR. ROSENTHAL:

Q (Question repeated). A He took a chair, and sat down in the centre of the room.

Q Where were you sitting? A I was sitting right near the stove.

Q And you are quite sure that your husband was sitting?

A Yes, sir.

Q And you are sure that there was more than one chair in that room? A There was; yes.

Q About how long was your husband sitting there before any argument arose? A He just came in, when the argument--

Q He had just come in and sat down? A Yes, sir.

Q Now tell us what happened right after he sat down?

THE COURT: No, no. You have been over that. You have got that in once in evidence.

MR. FLY: But he hasn't asked it, you know, sir. I make no objection, your Honor. This is cross-examination, and it is a critical portion of the case.

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I make no objection at all.

MR. ROSENTHAL: Well, I have the defendant standing -- the deceased sitting --

THE COURT: However, you may go on, with the consent of the People.

A Well, as he sat down, my daughter turned to this man, this defendant, and she said, "Otto, if you are going to beat me, to-night, as you did, last Saturday night, I am going home with papa and mamma," and my husband said, "What's that, Lizzie?" And she said, "Papa, I just said to Otto, if he's going to beat me, to-night, as he beat me, last Saturday night, I am going home with you and mamma," and my husband said, "All right, Lizzie." You put on your hat and coat, and come home, where you won't be beat," and this man said, "I'm damned if she will. I am taking care of her," and my husband turned to him, and said, "What do you want to beat her for?" And this man said, "It's none of your damned business," lifting his hand, and striking my husband to the floor.

BY MR. ROSENTHAL:

Q Do you recollect that, in the Coroner's inquest, you testified that your husband said, -- on page 15 --

MR. ELY: Now, there is no proper foundation yet for any question.

THE COURT: Well, there is nothing before me that

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you can object to, Mr. Ely. The question is not finished.

BY MR. ROSENTHAL:

Q Did you testify before the Coroner that the defendant said, "What the hell is it your business?" A Yes, sir.

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ELY: I object, because no proper foundation has been laid for that yet.

THE COURT: I sustain the objection. Hence argument is unnecessary.

MR. ELY: I ask that the answer be stricken out .

THE COURT: " Yes.

BY MR. ROSENTHAL:

Q Now, after this quarrel, where did your husband go to?

A What's that?

Q (Question repeated). After the quarrel started? A He stayed in the kitchen.

Q He didn 't run out to the hall; did he?

MR. ELY: Now, I object. She has just said that he stayed in the kitchen.

THE COURT: Sustained. We will stop here.

Gentlemen of the Jury, to-morrow, it is my pres-

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ent plan to hold court from 10:30 until 2 o'clock, and then to adjourn for the day. So I notify you of it now, so that you make no engagement for one o'clock, but you may make them for 2, if you choose.

In the meantime, do not talk about this case among yourselves, or permit any one to talk with you about it; and do not form or express any opinion as to it, until it is finally submitted for your determination.

The Court will take an adjournment until to-morrow morning, at half past ten o'clock.

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TRIAL RESUMED.

New York, October 26, 1906.

MARY E. MINNOUGH, her cross examination being continued, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. ROSENTHAL:

Q Now what was the condition of your mind at that time, as to your temperament? Were you excited or cool?

MR. ELY: Oh, I object to that.

THE COURT: She may answer.

A I was cool.

BY MR. ROSENTHAL:

Q You were very cool? A Well, I can't say that I was as cool as ice.

BY THE COURT:

Q Well were you excited? Answer the question? A No, sir; I was cool; yes.

BY MR. ROSENTHAL:

Q Were you asked at the Coroner's inquest this ques-

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tion: "Q Whem did you first get excited? A When I seen my husband laying dead"?

MR. ELY: Now, wait, wait. I object to that, because the question that the witness has been asked in is not at all connection with the time that this witness says she grew excited; and, therefore, the question has thus far been directed to the commencement of the misunderstanding which led to the killing of the deceased. Consequently, the time is a different time, and this tends to contradict nothing, and I object.

MR. ROSENTHAL: If your Honor please, the question I propose asking her is the very next question, and, in order to bring it out, I must ask this question. However, I will withdraw it.

BY MR. ROSENTHAL:

Q "Q You were not excited before that? A I certainly was excited, when I saw them come to blows"?

MR. ELY: Now, I object to that, because that in no way tends to contradict or discredit anything that the witness has said.

THE COURT: The trouble with your question is that it is not that the question in the Coroner's Court related to the same time that ~~th~~ your question

here relates to.

BY MR. ROSENTHAL:

Q At any time prior to the death of your husband, at the hands of the defendant, as you claim, were you excited?

A Prior to the death; no, sir.

Q No. You were not? A No, sir; prior to his death.

BY THE COURT:

Q Well, what counsel wants to know, madam, I take it, is this: At the time that you saw the defendant strike your husband, were you excited or not? A Yes; when he struck my husband, I certainly was.

BY MR. ROSENTHAL:

Q Now, when the defendant first struck your husband, was he sitting in a chair, under the gas jet? A No, sir; he wasn't sitting in the chair.

Q Now just tell me exactly what he did? A He had rose to his feet.

Q He was standing on his feet? A He had rose to his feet.

MR. ELY: She said, "he had rose to his feet."

BY MR. ROSENTHAL:

Q Now will you tell me exactly where in the kitchen your husband was, when the defendant first struck him? A He had

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sat -- he was sitting in the centre of the kitchen, and he had rose to his feet, when the defendant said it was none of his God damn business, and struck him down.

MR. ROSENTHAL: I move to strike out what the defendant said. I asked only where the deceased was.

MR. ELY: I have no objection to that, sir.

THE COURT: Strike it out.

BY MR. ROSENTHAL:

Q Now, when the defendant first struck your husband, where did your husband fall in that kitchen? A He fell, as he struck him, he fell in a heap, at my feet.

Q At your feet? A Yes, sir.

Q And where were you standing? A I was standing between the stove and the little hallway.

Q Between the stove and the little hallway, leading into the public hall? A No, sir; in the kitchen, in the kitchen, between the kitchen and the door. We were in the kitchen, near the door, going into this little hallway.

MR. ROSENTHAL: Can I show the diagram to the witness, if your Honor please?

THE COURT: Yes.

BY MR. ROSENTHAL:

Q Will you show me on that diagram, where you were

standing when your husband was struck? A I was standing near the end of the stove here (indicating). My husband stood here (indicating). I was standing about here, and my husband was standing here, and the defendant was standing over there (indicating).

THE COURT: Let her mark on the diagram.

THE WITNESS: I was standing about here, and my husband was standing here, and the defendant was standing here (indicating).

MR. ELY: Well, now wait a minute, and we'll make that 1 and 3, because she has put her husband there all the time, and there is no necessity of marking that again with a 2.

BY MR. ROSENTHAL:

Q, Now where did he fall, when he was first struck by the defendant? A He fell right there; his head fell near the wash tubs (indicating).

Q When your husband was first struck by the defendant, did he run out of the room? A No, sir.

MR. ELY: I object. Did who run out of the room?

BY MR. ROSENTHAL:

Q Did the deceased? A No, sir.

MR. ELY: I call your Honor 's attention to --

THE WITNESS: He didn 't get a chance to run out.

MR. ELY: I call your Honor 's attention to the fact that it is the second time, within five minutes, that that question has been asked.

MR. ROSENTHAL: Well, and I've got an answer to that now.

BY MR. ROSENTHAL:

Q Now, referring to page 15 of the Coroner 's minutes, do you remember having answered, in the Coroner's Court, in reference, -- in reply to a question as to what occurred -- stating: "My husband ran out to the hall door, and this man he gave it to my husband, and my husband dropped, and, in the scruffle to get up, he put over his hand to strike him, and he took the flat iron"? Do you recollect giving that answer in the Coroner 's Court?

MR. ELY: I object. That doesn't contradict the witness in any material point. The only question is as to whether or not the witness accurately remembers whether her husband moved from this position here to a position slightly nearer the door of the hallway, of this little hallway (indicating); and it is absolutely immaterial whether he took a step or so,

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or not, and it is not a contradiction of anything material to this issue.

THE COURT: The rule is exactly as you state, but, it being cross-examination, I ~~must~~ must allow the question. You may answer the question.

A Not out to the outer hall. But, as he was getting up to his feet, it was near the door of the small hall, leading between the rooms; not the outer hall.

BY MR. ROSENTHAL:

Q When the defendant struck your husband, as you say, did your husband rise from the floor? A He was rising to his feet, yes.

Q Did he get on his feet? A He just about got to his feet, when the defendant struck him with the iron.

Q Did the defendant move over to the stove, and grab the iron? A He certainly did.

Q And all this time was your husband rising from the floor to his feet? A He certainly was.

Q Now about how long did it take the defendant to walk over to the stove, and get the iron, and strike him? A He didn't have to walk over to the stove. He was standing close enough to it to reach over, and grab the iron, and strike him.

Q Do you know about how far it was from where you say the

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defendant was standing to the stove? A Do I know?

Q Yes? A Well, I couldn't exactly state just where it might have been. It might have been a foot or two.

Q Was it so close that he could put his hand on the stove, without moving his body? A He certainly could. He could reach right over from where he was standing to the stove; yes.

Q Now, after he took the iron, as you state, did he walk over to your husband, and strike him? A He didn't have to walk; because it was a very narrow space.

Q How long a time would it take him to grab the iron, and strike your husband? A Just about as long as it took, him, just about a second.

Q Just about a second? A Yes, sir.

Q And you were standing alongside of your husband? A I certainly was.

Q Now will you kindly take that flat iron in your hand, and demonstrate to the jury just how, if you know --

A No, I don't like to handle the iron.

Q Just how, if you know, this defendant held that iron, when he struck the deceased? A Well, I don't like to handle the iron.

MR. KELY: No. I object to that, unless it is first shown that this pantomime is necessary, because the witness knows just how the defendant held

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the flat iron, when he struck the fatal blow.

The assumption is that she won't know.

THE COURT: The witness testified that she saw it

MR. ELY: Yes; but a person can see a blow struck, without being able to say just how the impact takes place. I object, if your Honor please. The question told her to take it in her hand. Now, I am willing that she should describe it.

BY MR. ROSENTHAL:

Q Do you know how the deceased was struck with the iron in the hands of the defendant, as you claim; do you know? A I know he struck him on the top of the head with the iron.

Q Do you know how the defendant held that iron, when he struck the blow? A No, I don't. How could I? It happened too quickly.

Q How many times, if you know, did the defendant strike your husband with the flat iron? A I can't really tell that.

Q You can't? A No.

Q Do you know how many times he raised his hand in his attempt to strike him? A I don't; I can't tell you that.

Q You were excited at that time? A I certainly was.

Q What did you do immediately after the defendant struck your husband, as you claim? A Immediately after I seen my husband fall, and the blood stream from his head, I rushed for

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the broom, and I started to beat him. He went into the hall, the little hallway, and I started to beat him with the broom; and with that the woman, my daughter, Lizzie Garry, came into the room, and I struck her with the broom.

Q No. I don't want all that. What did you do with the broom? A I struck her. As she rushed in, the broom struck her. I beat him with the broom, and I struck her with the broom, which gave her a black eye, and she said, "Mamma, I got that."

MR. ELY: No, no. Just answer the questions, Mrs. Minnough, please."

BY MR. ROSENTHAL:

Q Did you attack him with your hands, also? A No, sir; not that I can remember. I may have; I can't remember it, if I did.

Q But you are not sure? A No; I am not sure.

Q Did your husband die immediately after he was struck, Mrs. Minnough? A Well that would be very hard for me to say.

Q You went over to him; didn't you? A I certainly did.

Q You lifted his head; didn't you? A I did.

Q Was there any life in him, at all? A I didn't notice any. I didn't know whether he was dead or not, until the ambu-

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lance surgeon pronounced he was a case for the Coroner.

Q Was there any flush or color in his face to indicate that?

MR. ELY: Objected to. She has already testified on that subject.

THE COURT: Objection sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q What was the relationship, at the time of your husband's death, that existed between him and the defendant? Were they on friendly terms, or not? A They were .

Q They were? A Yes; as far as I knew.

Q You would know if they were not; wouldn't you?

MR. ELY: I object. She said they were, as far as she knew.

THE COURT: Sustained.

BY MR. ROSENTHAL:

Q And, on the very day in question, hadn't the defendant made a gift to your husband of cigars, or something similar?

MR. ELY: I object.

THE COURT: Sustained.

MR. ROSENTHAL: I take an exception, if your Honor please.

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BY MR. ROSENTHAL:

Q Have you ever asked anybody to appear in this court, and testify against the defendant? A No, sir.

Q Didn 't you speak to anybody in that jury room, in that room where you had been with the witnesses, and ask them to testify that the defendant had repeatedly struck Lizzie Lefevre? A No, sir; I just simply said for the party to tell the truth.

Q, You didn 't speak to Mrs. Callahan; did you? A No, sir.

Q You didn 't speak to her about it; did you? A No, only sir; just, as she said, when I went to see her, after she had loaned me a skirt and hat, on the day of the trouble, to go down with the officer to the House of Detention; and, when my daughter and I returned with the hat and the skirt, she said, if she was called as a witness, she would certainly have to testify that the man was always ready with his hand.

Q Did you ask her to testify? A I certainly did not.

Q And when you speak of the man, you mean the defendant? A I mean Lefevre.

Q As a matter of fact, Mrs. Minnough, weren 't you the cause of your daughter leaving this man Garry?

MR. ELY: Objected to.

THE COURT: Allowed.

MR. ELY: Objection withdrawn.

A Me? Why should I be the cause of my daughter leaving her husband?

BY MR. ELY:

Q Were you, were you? That is the question that is asked of you? A No, sir.

BY MR. ROSENTHAL:

Q And didn't you, in regard to that, instruct your daughter Lizzie to procure summonses from a Police Magistrate for the arrest of her husband, Garry, on three different occasions?

MR. ELY: I object to that.

THE COURT: Sustained.

MR. ELY: And, of course, if your Honor please, I desire to call your attention to the fact that this is a collateral matter, and that the counsel will be bound by the answers of the witness, in this collateral matter.

THE COURT: Yes. You cannot contradict these matters at all; and you are bound by what this witness says.

BY MR. ROSENTHAL:

Q Now, on your way to the Station House, on the patrol

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wagon, was anything said by you or by anybody else, in the presence of the defendant? A By me, no, sir; but him and my daughter, Lizzie Garry, sat together, talking all the way. I don't know what they were talking about.

Q Did you hear the defendant, in the patrol wagon, say anything to the police officer, Taggart?

A No, sir.

Q You didn't?

A No, sir; not that I can remember.

Q How near were you to Officer Taggart and the defendant, in the patrol wagon? A The defendant sat right at the front of the patrol, and I sat at the end.

Q Did you see your daughter Lizzie, when you were in the House of Detention?

A I did.

Q Did you at any time say to her, "Well, Lizzie, I have given my testimony before the Coroner, and I can't change it now"?

A No, I did not.

Q Have you always been on good terms with the defendant, Mrs. Minnough? A Yes, sir.

Q Now, during all your life, have you always reared and brought up your children?

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MR. ELY: Why, I don't understand that question.

THE COURT: I do not see how that affects her credibility. I haven't done that myself, yet, but I think that I am a fairly credible person.

Objection sustained.

BY MR. ROSENTHAL:

Q Have any of your children been taken from your custody by law?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q And isn't it true that your children have been confined to the Gerry Society, in New York City?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

MR. ELY: And, in view of your Honor's previous ruling, that was an improper and contemptuous question.

THE COURT: Yes. When I rule you must not ask the same question over again, in another form.

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BY MR. ROSENTHAL:

Q In 1888, will you kindly tell me what your name was?

MR. ELY: I object, as too remote.

THE COURT: She may answer that. It is as to her credibility, I suppose.

A Well, as far as I can remember, I think it was Mary E. Brown, in 1888.

BY MR. ROSENTHAL:

Q Yes. You are sure it wasn't Mary Coster? A Yes. It may have been. I ain't sure. My husband --

BY MR. ELY:

Q Begin when you were born, and figure out. When were you born? A I was born in '59, and I was married in '76. My husband lived for about nine years after my marriage. He was only dead a short while when I married again.

BY MR. ROSENTHAL:

Q How long do you mean by a short while? A I don't know really how long, as I wasn't at his death bed.

Q Now can you recall, after giving that testimony, what your name was in 1888? A Well, I haven't had a chance to figure out yet.

Q Well, we'll give you a chance.

BY THE COURT:

Q What year were you married? A '76.

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BY MR. ELY:

Q And you lived nine years with Brown; you were married to him nine years? A Yes, sir.

BY THE COURT:

Q You were married at the age of 17? A 16 years and some months.

Q When did Brown die? A I don't know; because none of his family knew when he died. From what I learned from my mother-in-law and father-in-law and his brother, I knew that he was dead.

Q And when did you marry? A About a year after I hearing of his death.

Q What year, if you can tell us? What year did you marry Coster? A Well, it was about '87.

Q '87? A Yes, or '88, your Honor; about '87 or '88.

Q Eleven years after your first marriage; is that it?

A About ten years after my first marriage.

Q And that would bring it into '86. Now when did you make the third marriage? A In '91.

Q Four years later; is that right? A Yes, sir; about four years.

Q What was your second husband's name? A Riner Coster.

Q Your second husband was Riner Coster? A Yes, sir.

Q And your third husband? A Michael J. Minnough.

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THE COURT: Now you have it.

BY MR. ROSENTHAL:

Q Now you are not sure of the date of your first husband, Brown's death; are you?

MR. ELY: I object to that. She has already testified fully on that subject.

THE COURT: Yes. I questioned her fully.

Objection sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Have you ever spoken to your son-in-law, Gallagher, and requested him to appear and testify against the defendant?

A No, sir.

Q Have you ever spoken to him about the issue of this death? A Yes.

Q When was the last time that you spoke to him?

A The last time that I spoke to him?

Q Yes. A I was talking to him, yesterday.

Q And about how often since the death of your husband have you spoken to Gallagher about the case? A The first time I spoke to him was, he had been visiting my daughter, Lizzie Garry. My daughter, Lizzie Garry, requested him to come here and make a statement, and he came to my home, and told me about it.

MR. ROSENTHAL: one moment, please. I object, and ask to have that answer stricken out. I don't want what was said at these times.

THE COURT: Go on with the answer, please.

A (Answer continued) He came to my home, and told me what he was requested to do.

MR. ROSENTHAL: I object. I don't want to know that. I want to know how many times she saw him, not what was said.

THE COURT: Finish the answer.

A (Answer continued) Just that once I saw him. Yesterday, that was twice.

BY MR. ROSENTHAL:

Q Do you know a man keeping a saloon, by the name of McPartland, at 118th Street and Park Avenue? A I know him by sight. He was a little grey man.

Q What was the temperament of your husband? Was he a man who became easily excited? A No more so than any other man.

Q Well, would you say he would irritable or not irritable? A No, he wasn't irritable.

Q What is your disposition? Have you an irritable disposition, Mrs. Minnough?

THE COURT: Oh, no, never mind her disposition.

She has testified to her disposition at the time in question. That is enough.

MR. ROSENTHAL: Does your Honor rule against that question?

THE COURT: I have ruled it out; yes.

MR. ROSENTHAL: I take an exception.

BY MR. ROSENTHAL:

Q Didn't you testify, at the Coroner's inquest, at page 26, the first question: "Q You are not of an irritable disposition? A Well, I'm irritable enough; yes".?

MR. ELY: Now, I object. And this question has been ruled out, in a different form, within the last minute.

THE COURT: yes, I exclude the question.

MR. ROSENTHAL: I offer it for the purpose of showing, if your Honor please --

THE COURT: Well, I exclude it.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Did your daughter Lizzie complain to you, on many occasions, that the defendant had beat her? A Yes, sir.

Q On about how many occasions did she complain to you?

A She complained to me, on several occasions; and, one time, she came home to me all beat and bruised.

Q Do you recollect how long before the death of your husband that was? A About six or eight months before the death of my husband, she came to me, and was home with me for about three days. She was all black and blue in the face; she had a black eye, and black and blue all around her mouth, and also around her chest and her limbs.

THE COURT: Now, do you think that you ought to call out this testimony? I do not think it is good policy for you to get in any more of this testimony, but, of course, you are to determine that for yourself. If you are disposed to show the quarrelsome and violent character of your defendant, this is a good way to do it; but I do not think it is good policy for you to do so. He may have had a fight, every day in the week, with the woman that he was living with, and yet it would have no bearing whatever on the killing of the deceased. Now, gentlemen of the jury, do not regard at all what I have just said. It was said for the benefit of counsel only.

BY MR. ROSETHAL:

Q Did you have any quarrel with the defendant, sometime before the defendant killed your husband, as you claim?

MR. ELY: Objected to.

THE COURT: Allowed.

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A Only one time that she came home beat; and he came after her, the next day, and I said to him, if he couldn't live with her without beating her, why didn't he leave her; and he swore that he would kill her, in my home.

MR. ROSENTHAL: Now, I move to strike out that, that he swore that he would kill her.

MR. ELY: Oh, no, I object, I object. This was called out by his question.

THE COURT: The trouble is you bring it out, and, when it does not suit you, you move to strike it out. These things do not relate to the case, in my opinion, but I had to allow the question, under the law.

BY MR. ROSENTHAL:

assault

Q At that time, did you ~~see~~[^] the defendant? A No, sir.

Q Didn't you throw a sugar-bowl, or something, at him?

A No, sir.

Q Do you know a woman by the name of Mrs. Bernessa?

A Yes; I've met her once or twice.

Q Where?

MR. ELY: I object to that, as immaterial, irrelevant and incompetent. I have a very well defined notion of what this is, and it seems to me that it is improper, from the beginning. It doesn't

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in any way affect the case, and it isn't proper for me to state whether I think it affects this witness.

THE COURT: I will allow the question, it being cross examination.

A I met her once in my own home, and once in the defendant's home.

MR. ELY: Do I understand that this witness is exhausted?

THE COURT: I do not know.

MR. ELY: Well, I am asking you to ask the other side, if your Honor please.

THE COURT: Have you finished your examination?

MR. ROSENTHAL: yes; cross examination.

RE-DIRECT EXAMINATION BY MR. ELY:

Q Who is Mrs. Bernessa? A I don't know who she is. She's some woman that this man worked with her husband, I believe, some years. I don't know who she is or what she is.

Q Now, just one minute. There is some question about this -- about the death of Brown, your first husband?

A Yes, sir.

Q And you said that you heard of the death from your mother-in-law and your father-in-law. Now who was the mother-

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in-law and father-in-law that you referred to? A His father and mother, Joseph F. Brown's father and mother.

Q Joseph F. Brown's father and mother? A Yes, sir.

Q And you spoke, also, of a brother? A Yes, sir.

Q And who is he? A Robert J. Brown, a policeman, in the 30th Street Police Station.

Q And all of those three persons, the father, mother and brother of your husband, told you of the death of your husband? A Yes, sir.

Q Before you married your second husband, Riner Coster?
A Yes, sir; they told it in my mother's home.

RE-CROSS EXAMINATION BY MR. ROSENTHAL:

Q Where did they tell you he died? A They couldn't tell me that, because they didn't know it themselves.

Q Did they? A No.

Q Well did they tell you how long he had been dead?
A No.

MR. ELY: Objected to.

MR. ROSENTHAL: Question withdrawn.

BY MR. ROSENTHAL:

Q Do you know where they reside now? A Where they reside?

Q Yes. A His father and mother reside in Calvary Ceme-

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tery.

BY MR. ELY:

Q They are dead, in other words? A Yes, sir.

BY THE COURT:

Q Well, you mean that they are dead?

A Yes, sir.

BY MR. ROSENTHAL:

Q And you say that the brother is statined at the 30th Street Precinct Station House? A Yes, sir.

Q And that he informed you of his brother's death?

A Yes; and his mother and father did likewise.

BY MR. ELY:

Q You say -- quarrels between the deceased and the defendant and Lizzie Minnough -- Lizzie Garry, have been brought out by defendant's counsel, and you say that, six months prior to the death of the deceased, Lizzie Garry came to your house, as you have described? A Yes, sir.

Q And, three days after, the defendant came there?

A Yes, sir.

Q After her? A Yes, sir.

Q Now, do you remember a week before the death of your husband? A (No answer)

Q (Question repeated) A Yes, sir.

Q And now, did your daughter come to you, at that time?

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A No, sir.

Q Do you know of anything -- did you see -- you recollect that you have testified that your daughter stated, in the presence of the defendant, "If you beat me, to-night, as you did last Saturday night, I'll go home," or words to that effect? A Yes, sir.

Q Now, had you seen your daughter just about the preceding night? A Not until she came to my home.

Q I mean, had you seen her since the preceding Saturday night? A When she came to my home.

Q Well, then, you had seen her after the preceding Saturday night? A Yes, sir.

Q And did you notice whether or not she was bruised at all? A No, sir.

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

BY MR. ROSENTHAL:

Q As to the firm of Manson Brothers, was your husband --

MR. ELY: Now, I object to anything about that firm. We are through with that.

THE COURT: Sustained. You had concluded your examination of this witness.

MR. ELY: And that is the People's case.

MR. ROSENTHAL: If your Honor please, we move at this time, that your Honor instruct the jury to

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acquit the defendant, for the reason that there is no corroboration of the crime, no evidence tending to convict this defendant, to hold him guilty of the death of Michael J. Minnough.

THE COURT: Denied.

MR. ROSENTHAL: Exception. I ask your Honor to take from the consideration of the jury the crime of manslaughter in the first degree, for the reason that the evidence isn't sufficient to sustain that crime.

THE COURT: What do you want to submit to the jury, Mr. District Attorney?

MR. ELY: Manslaughter in the first degree. It was in a cruel and inhuman way.

THE COURT: denied.

MR. ROSENTHAL: Exception. I move, if your Honor please -- well, did your Honor deny -- did your Honor deny my motion?

THE COURT: Yes. You may have entered of record whatever motions you wish. The indictment is for manslaughter in the first degree, and I do not feel justified in withdrawing it from the jurors, at this time; and that includes the lesser degrees, and I can hereafter grant the relief, if I see fit.

THE DEFENSE.

O T T O L E F E V R E, the defendant, being duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. ROSENTHAL:

Q How old a man are you, Mr. Lefevre? A 32 years old.

Q Where were you born? A I was born and raised in the
State of Michigan, United States.

Q And, before you came to New York, where did you re-
side? A In Boston.

Q What was your business there? A Lather.

Q Regular workman, or business of your own? A Regular
workman.

Q How long ago was that? A Well, I have been in New
York City since seven years ago, the last of last year.

Q Seven years ago you came to New York? A Yes.

Q And since that time have you been in New York?

A Yes.

Q And what has been your business? A Metallic and wood
lathing.

Q And for whom have you worked? A For several different
bosses in this city.

Q For whom?

THE COURT: I think you have sufficient on that.

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MR. ROSENTHAL: But I will have several of those gentlemen here, large contractors, to testify to the good character of this man.

THE COURT: Well, the People will not dispute that he worked for these people.

MR. ELY: No, I will not dispute that.

THE COURT: And, if they do, I will allow you to recall the witness.

BY MR. ROSENTHAL:

Q On April 29th, 1906, which was Saturday, at what time did you quit work? A I wasn't working, that day.

Q You didn't work, that day? A No, sir.

Q That was on a Saturday? A On a Saturday.

Q And what time did you arrive home? A Well, I had been home twice or three times, that day. I came home, and had my lunch, and went out again, and came back about four; and then I went out again, about five or six, between those hours, along there somewheres, and then I came back about eight o'clock.

Q Before you got back home, the last time, who were with you? A Jim Lahey.

Q Where does Mr. Lahey reside? A 1704 Park Avenue.

Q That is, two doors from your house? A Yes, sir; two doors.

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Q Where had you been -- A It is either 1704 or 1702, one or the other.

Q And did you leave Mr. Lahey and go home, upstairs?

A Yes, sir.

MR. ELY: Now, I object to that. I object to his leading. It is immaterial.

THE COURT: It is already answered. Do not lead.

BY MR. ROSENTHAL:

Q Was eight o'clock the last time you went into the house? A Yes. I went home, and my wife was there, Lizzie, and she had her things on, and she was going out, and she wanted to take her things off, and give me my supper.

MR. ELY: Now, I object to that, to anything about what she wanted to do, or anything between them.

THE COURT: Sustained.

BY MR. ROSENTHAL:

Q Well, she went out? A Yes, sir.

Q And what did you do? A I stayed there, and got my supper.

Q Cooked your own supper? A Yes; and went out again, and came back about a quarter to ten, and went to bed.

Q And did you go right to sleep? A Yes, sir.

Q And were you asleep until what time?

MR. ELY: Objected to as immaterial, whether he was asleep or awake.

THE COURT: Let him answer. It is the quickest way out of it.

MR. ROSENTHAL: I want to show that he was asleep and sound asleep, when the last witness and the deceased arrived there.

THE COURT: Will you ask the question, please?

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BY MR. ROSENTHAL:

Q (Question repeated) A About half past 12, I was wakened up by somebody knocked on the door. I got up and went and opened the door and there was Lizzie, her little daughter, Gladys, and the deceased and his wife.

Q And did you open the door for them? A Yes, sir.

Q And did you leave them in? A Yes, sir.

Q Well then, what did you do? A Well, I went back to my bed, and went to sleep again.

Q Did you have your clothes on at that time? A No, sir; only my undershirt.

Q And did you lay down on the bed?

MR. ELY: Objected to.

A I got in the bed, and went to sleep.

BY MR. ROSENTHAL:

Q Well were you laying down on the bed, or sitting on it?

MR. ELY: I object.

A Laying.

MR. ELY: I object. And I ask that the witness be instructed not to answer, when there is an objection made.

THE COURT: Yes. You must not answer when an objection is made. You may answer the question.

A I was laying in the bed; I lay in the bed, and went to sleep again.

BY MR. ROSENTHAL:

Q How long did you lay there? A Well I couldn't judge

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exactly how long it was. And then Lizzie came in, and woke me up, and she said --

MR. ELY: No; I object to that.

BY MR. ROSENTHAL:

Q And what happened after that? A She said, "Otto, come on, and get up."

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

THE COURT: Objection sustained. Motion granted.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q What happened after that? A She said, "Otto, come on and get up."

MR. ELY: Now, I object again, if your Honor please.

THE COURT: Strike it out.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Did you get up out of bed? A Yes, sir.

Q What happened then? A I got up. Well, my wife went out in the kitchen, and she said to her mother --

MR. ELY: Now, I object to what she said.

BY MR. ROSENTHAL:

Q Now don't tell us what anybody else said, but what did

you do? A I got up and slipped on my pants and went out in the kitchen, and I said, "Mother, I'm going fishing in the morning, and I've got to get up early, and I want to get all the sleep I possibly can, because I'm not ignorant or thick." I also told her that -- she was screaming that at the top of her voice in the kitchen.

Q And then what happened? A Then the deceased came in. He came in with an empty can, and he set it down on the tubs, and he started hollering and yelling, and he says, "I can't get no beer over there, they don't know me," and started a cursing and swearing.

And he says, "I guess they don't know me." Then the deceased's wife spoke up, and said to the deceased, "If Otto was going to slap Lizzie, as he did a week ago, she must put on her things, and go home with us," and he said, "Yes, Lizzie, put on your things, and come home," and I said, "No, she won't. This is her home and her place," and he said, "Well, I've reared her since she was eleven years old, and I have more to say about that than you have, and I said, "No, you haven't."

And then I turned around to look at Lizzie, and he hit me on the jaw, and I staggered against the wall, and both of them run in at me.

Q Who do you mean by both? A The deceased and his wife. And he started to hit me, and she hammered me over the

head with a broom; and Lizzie run in between us, and her mother struck her in the face with the broom.

I pushed the deceased back, with my left hand (illustrating) and, as I done that, my intentions was, as I stepped back--

MR. ELY: I object to that. I object to what his intentions were.

THE COURT: Objection sustained.

BY MR. ELY:

Q You pushed the deceased back? A Yes, sir.

Q Go on.

BY MR. ROSENTHAL:

Q What happened then? A. When I pushed the deceased back, I stepped back into the hallway, the little hallway there, by the toilet, with the intentions, of opening up the door, and ordering them out.

MR. ELY: I object to that. I object to his intentions, and move to strike it out.

THE COURT: Motion granted. You must not state what your intention was at this time. Just state what occurred there.

A (Answer continued) And the deceased, he grabbed a flat iron on the stove, and makes a run for me. As he makes the run for me, to hit me with it, I knocked it out of his hand (illustrating), and he staggered back, and, as he staggered back, the

iron hit him on the head, and he fell down alongside of the tubs.

BY MR. ROSENTHAL:

Q Then what happened? A The deceased's wife stood there, and hollered and yelled, and I went over, when I saw his head was out, and took a towel from the rack, and wet it with cold water, and bathed his head, and washed him.

Q Were you talking to him? A No; I wasn't talking to him. I didn't say nothing.

Q Was he alive or dead, at that time? A He was alive.

Q And who asked -- how did he get close to the wall, in a sitting position? A When -- the deceased's wife and Lizzie went out in the hall, and, when they came back, the deceased's wife said to me, "Pick him up, and carry him over there," which I did, at her command.

Q And did you stay there, at all times, until you were arrested? A Yes, I stood there, and bathed his head, right beside the deceased, until after the ambulance doctor went away.

Q What was the condition of the deceased, at the time he entered your house? A He was intoxicated, staggering all over.

Q And what was the condition of the wife of the deceased?

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A She also was intoxicated.

Q When they arrived at your house, that night? A Yes, sir

Q Are you a drinking man, Mr. Lefevre? A No, sir;

I drank a little but not to ~~know~~ no extent.

Q Are you a smoking man? Do you smoke?

MR. ELY: I object.

THE COURT: Objection sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q On the night of the 29th of April, or the morning, rather, of the 29th of April, Sunday morning, were you intoxicated

A No, sir.

Q Had you drank anything, the night before that, before you went to bed? A I drank two or three small beers. I

was taking cigars all day. I didn't drink anything all day.

Q What did you do with those cigars?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: I want to show what he did with those cigars; that he --

MR. ELY: Objected to.

THE COURT: Sustained.

BY MR. ROSENTHAL:

Q Were you on good terms with the deceased? A Yes, sir.

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Q On how good terms were you?

MR. ELY: I object.

THE COURT: He may answer that question.

MR. ELY: He has already answered that he was on good terms with the deceased, but how good they were is a conclusion.

THE COURT: I will receive it.

A Well, we used to go around together, and go to ball games together, and --

THE COURT: Well, that is enough. You were friendly. Now, go on, please.

BY MR. ROSENTHAL:

Q Did you, at any time, have that flat iron, or any other flat iron in your hand? A No, sir.

Q Did you, at that time, that night, strike the deceased with any weapon of any kind? A No, sir.

Q How big a room is that?

MR. ELY: I object. The diagram is here, and it speaks for itself as to the dimensions.

THE COURT: I must allow the question.

MR. ELY: But the diagram is better evidence.

BY MR. ROSENTHAL:

Q To the best of your ability, how big a room is that?

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MR. ELY: Objected to.

THE COURT: Allowed.

A Well it is a very small kitchen. It is a room, I should judge about 8 by 10, or 8 by 9, or, perhaps, 7 by 9; or something like that. I wouldn't say positively.

BY MR. ROSENTHAL:

Q What was the feeling that existed between Mrs. Minnough and you?

MR. ELY: I object. Oh, no, I won't. I don't object to that.

A Mrs. Minnough never cared for me, never liked me.

BY MR. ROSENTHAL:

Q Can you tell us the reason why?

MR. ELY: Objected to. That is purely speculative.

BY MR. ROSENTHAL:

Q Did she ever tell you why she didn't care for you?

MR. ELY: Yes or no to that.

A Yes, sir.

BY MR. ROSENTHAL:

Q What was it?

MR. ELY: I object.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

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BY MR. ROSENTHAL:

Q Did she at any time assault, or attempt to assault you? A Yes.

MR. ELY: Wait, wait. I object to that.

THE COURT: Sustained.

MR. ELY: And I ask to have the answer stricken out, and the jury told to disregard it.

THE COURT: Yes.

BY MR. ROSENTHAL:

Q Have you ever -- has she ever had any quarrels with you, or you with her, prior to this occurrence?

MR. ELY: Objected to. It is already answered fully.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Did the officer go over to the deceased when he entered the room?

MR. ELY: I object to that, as leading. The question is, what did the officer do? And I desire that you will instruct counsel not to lead the witness.

THE COURT: I will. But I never known these instructions to do any good, unfortunately. I sustain

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the objection.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q What did the officer do, when he entered the room?

A He walked over, and looked at the deceased, and he went out, and went for an ambulance.

Q Meanwhile, what were you doing? A I was right there, beside the deceased all the time, bathing his head.

Q Now did you say anything to the officer, in the patrol wagon, on the way to the Station House? A Not as I remember of; no, sir.

Q Did you hear anything at all said there, to your knowledge? A No, sir.

Q Did you say anything in the Station House, to anybody? A All I said in the Station House --

MR. ELY: Yes or no is the answer.

A Yes.

BY MR. ROSENTHAL:

Q What was it? A The Sergeant at the desk asked me if I had anything to say, and I told him, "No, sir," and he also asked me if I had done it, and I told him, "No, sir," or something to that effect he asked me, and I answered him, "No, sir."

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Q Have you ever been convicted of any crime? A No, sir.

Q Anywheres? A No, sir.

Q Have you ever been in any trouble?

MR. ELY: I object.

MR. ROSENTHAL: I withdraw the question.

BY MR. ROSENTHAL:

Q Did you have any marks on your face? A Yes; my face was scratched up.

Q By whom? A Mrs. Minnough.

Q At what time? A The night of the trouble.

Q What kind of scratches were they, or marks? A Well, I had a big mark here, about the size of a ten cent piece (indicating), and a scratch here (indicating), a scratch away down to my lip; and another small scratch on my cheek.

Q Did you ever have any trouble with Mrs. Minnough?

MR. ELY: Now, we have had that about half a dozen times already, and I must object.

THE COURT: Yes; do not repeat.

BY MR. ROSENTHAL:

Q Has Mr. Minnough ever lived with you?

MR. ELY: I object to that. When and where?

THE COURT: Sustained.

MR. ROSENTHAL: Exception. I want to find out, if your Honor please --

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THE COURT: I must judge what you want to find out from the questions that you ask.

MR. ELY: And that's difficult.

BY MR. ROSENTHAL:

Q Did you, a week prior to this day, April 29th, strike Lizzie Garry, or Lizzie Lefevre? A When I came home, one afternoon--

BY MR. ELY:

Q Now yes or no? A Yes.

BY MR. ROSENTHAL:

Q What was the reason for it?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q What brought it about?

MR. ELY: I object.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

Q Oh, one question. How long have you been in the Tombs, Mr. Lefevre; how long have you been confined in the Tombs?

MR. ELY: Objected to.

THE COURT: Sustained.

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MR. ROSENTHAL: Exception.

CROSS EXAMINATION BY MR. ELY:

Q Lefevre, you say that the deceased, Minnough, was very drunk, the night that he came around, on the 28th or 29th of April; do you? A Yes, sir.

Q Staggering all around? A He was staggering.

Q Now, was he staggering all around, as you said on your direct examination? A Yes, sir.

Q Could scarcely walk? A Well, I don't say he couldn't scarcely walk. He could walk, but he was staggering around.

Q And he was very much under the influence of liquor?

A He had liquor in him; yes.

Q Now was he very much under the influence of liquor?

A Yes.

Q Now, you know that a man is supposed to carry a certain amount of liquor --

MR. ROSENTHAL: I object to the question.

MR. ELY: I haven't got through with the question yet.

BY MR. ELY:

Q Now you know that a man is supposed to carry one or two drinks; and, when you say he had liquor in him, I want to know whether you mean he was seriously intoxicated, or just having

had some drinks? A He had enough in him so that he was staggering.

Q Well was he much intoxicated? A I say, he had enough in him so that he was staggering.

Q Well, can't you answer my question? A He was intoxicated yes.

Q And he was incoherent in talk, as well as unable to walk?

A Yes; he could talk with a good loud voice.

Q But was he intelligent, was he coherent? A Yes. Well, he was a little deaf, but he could hear when he wanted to.

Q Well, I am not asking you about his being deaf. I am asking whether or not he was intelligent in his conversation, or did he run his words all together? A No, sir; he didn't run his words all together; he was intelligent; he spoke plain.

Q Now, Minnough was a little man; wasn't he? A A medium sized man.

Q Well, would you say that he was under the ordinary height, or was he the ordinary height, or was he tall?

A What do you call the ordinary height?

Q I am asking you?, A About the ordinary height; I should judge; about five foot five, or somewhere along there; about five foot six.

Q About five foot five? A I won't say positive.

Q Well, we are asking you about the ordinary height of this man, who is dead. You knew him; didn't you?

A Certainly.

Q Well, now, according to your best estimate, what was the height of the man who is dead?

A About five foot five, or five foot four, or six.

Q About five foot and six?

A Yes, sir.

Q And how tall are you?

A Five foot eight.

Q What do you weigh?

A About 165 or 170 pounds, now.

Q When were you weighed?

A I was weighed about seven months ago. At that time, I weighed more than I do now.

Q Well, I asked you what you weighed, when you were last weighed?

A 196.

Q Stand up, will you? Button your coat up; will you?

That's all. Sit down. Now are you a married man? A No, sir.

Q Aren't you married? Didn't you marry in Boston?

A No, sir.

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Q You have never been married? A No, sir.

Q You have been living in adultery with Lizzie Garry for how long? A I've been living with her three years, the first of last July.

Q And you knew that she was married? A Yes.

Q And you knew that she wasn't divorced? A We didn't know whether her husband was dead or not. Do you want to know whether she was divorced or not?

Q Yes. A No; she had no divorce that I know of.

Q And you didn't know that Garry was alive did you? A Lizzie told me that she heard he was dead; toward the end, I knew that he was alive.

MR. RIX: I object to the answer, as irresponsible, and ask that it be stricken out.

THE COURT: Strike it out.

BY MR. RIX:

Q Now when did you learn that Garry isn't dead?

A Oh, I couldn't state positive as to that.

Q I didn't ask you positively. When did you learn that Garry wasn't dead?

MR. ROSENTHAL: Objected to, as immaterial, irrelevant and incompetent, and not touching on the issue.

THE COURT: Overruled.

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MR. ROSENTHAL: Exception.

A When did I learn?

BY MR. ELY:

Q Don't you understand English? A A couple of years ago.

Q Oh, two years ago you learned it? A Yes, sir.

Q That Garry wasn't dead? A Yes, sir; somewhere around there; yes.

Q Now where were you when the officer -- when Taggart came in the premises, the rooms where you lived, on the morning of the 29th of April? A I was beside the deceased, bathing his head.

Q Do you see Taggart there? Stand up, Taggart (indicating). A Yes.

Q Do you know that officer? A I've known him since the arrest, yes.

Q You have known him since the night of the 29th, you mean? A Yes, sir.

Q Or the morning of the 29th? A Yes, sir; the morning of the 29th.

Q Now, had you ever seen this officer before the morning of the 29th of April, 1906, when he came into your apartment?

A Not that I recollect of.

Q You never had any trouble with that officer, at any

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time; did you? A I never had any trouble with any officer.

MR. ELY: I object to the answer, as irresponsible, and ask that the answer be stricken out.

THE COURT: Motion granted.

A No, sir; I didn't.

BY MR. ELY:

Q Now did you hear the officer state that, when he came into the room, into the kitchen, that you were not there?

A I don't remember him stating that; I don't see how he could state it.

Q I didn't ask you that. I am asking you a simple question. Are you able to answer the question? A I'll try to.

Q Well, now, then answer it. A No, sir; I don't remember him saying that.

Q And you insist that it is a fact that you were in the kitchen when the officer came in; do you? A Yes, sir.

Q When Taggart came in? A Yes, sir.

Q Now, you don't know of any reason at all, why Taggart should come here, and tell anything about you that is not true; do you? A No, sir.

Q Now you say that the deceased, Michael J. Minnough, came back from going to get some beer; do you? A Yes.

Q Now, when he came back with a tin pail in his hand,

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there was nothing in it, was there? A No, sir.

Q Now, you had noticed his condition, had you, before he came back? A No, sir.

Q You hadn't noticed his condition before he came back?
A When I opened the door --

Q Will you answer the question. A No, sir.

Q You opened the door; didn't you? A Yes.

Q And who were there, outside of the door? A There was Lizzie and her little girl, and the deceased and his wife.

Q Now -- A But it was dark.

Q But you knew that they were all there. A I heard them talking.

Q You knew that they were all there; didn't you?
A Yes.

Q Well, now, do you mean to say that the only way you knew that they were all there was that you heard them each talking? A The deceased and his wife.

Q Now, I didn't ask you that. Answer the question.
A What was the question again, please?

Q Witness, if you don't understand the question, don't attempt to answer it. When you do, then answer it.

Q (Question repeated by the stenographer) A That is, the deceased and his wife.

BY MR. ELY:

Q Well, did you hear Lizzie talking? A She was at the door, when I opened it.

Q (Question repeated) A No, sir.

Q Did you hear Gladys talking? A No, sir.

Q And all you heard then was, as you say, the voice of Minnough and the ~~like~~ voice of Mrs. Minnough? A Before they came in.

Q And you admitted -- didn't you know how many you admitted, when you opened the door? A No, sir; because I had no --

Q Now, I only want an answer to my question. I don't want the reasons of the operations of your mind, or anything of that description. Now, then, what did you do, after you opened the door? A I went back, and went to bed.

Q And you say you went to bed, and went to sleep?
A Yes, sir.

Q And do you know what time you admitted them?
A Around half past twelve.

Q And were you -- when did you get up again?
A Well, a few minutes afterwards I was woke up again.

Q How do you know that? A How do I know?

Q Yes. How do you know how long it was afterwards, if you were abed and asleep? A I am not positive how long it was.

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Q And this is purely speculative? You are guessing, are you? A Well, the bed room was dark, and I couldn't see.

Q Well, then, you are guessing at it? A No, I am not positive; I am not guessing.

Q (Question repeated) A Well you can have it, if you want it, guessing, if you call it that.

Q And did you go out of your bed room, when you woke up, as you say? A Yes, sir.

Q And who was in the kitchen, when you came out?
A Lizzie and Mrs. Minnough and Gladys.

Q And anybody else there? A No, sir.

Q And what happened then? A Why, I told Mrs. Minnough that I wasn't ignorant or thick.

Q Ignorant? A Yes; ignorant. As I was going fishing in the morning, and I wanted to get all the sleep I possibly could, as I had to get up early; and she told me that ~~xx~~ it showed nothing else but ignorance, because I wouldn't get up.

Q And that's all that happened; was it? A Yes, about then; yes.

Q And did you notice Mrs. Minnough's condition then?
A Yes.

Q And was she very drunk? A She had several drinks in her, yes.

Q No, I am not asking that at all. I am asking you

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whether or not, from your noticing her, her condition was that of intoxication? A She was under the influence of liquor; yes.

Q Well what do you mean by that? Was she incoherent in her talk, or unsteady in her walk, or what? A Yes; you could tell that she had been drinking.

Q From what? A Well, from her actions.

Q And was she unsteady on her legs, too? A A little; yes.

Q And she reeled as she walked? A A little.

Q And she was unsteady in her talk? A Yes, sir.

Q And all that was said was that it showed ignorance on your part, when guests came, for you to withdraw to the bed, and stay in bed? A Yes, sir.

Q And then you left, and went out? A No, sir.

Q You went back to the bed room; didn't you?

A No, sir.

Q You didn't leave for your bed room, then? A After --

Q Now, I don't want to confuse you, Lefevre. Your testimony, up to this point, is that you opened the door, and admitted four people, and went back to your bed room, and went to sleep and was subsequently waked up, and went to the kitchen, and saw three people there, and had a conversation with Mrs. Minnough, and there is where we have gotten. And

that is the point that I am now directing your attention to.
I ask you whether, then, you went back to your bed room?

A No, sir.

Q You stayed there? A Yes, sir.

Q And Lizzie was there? A Yes, sir.

Q Now you and Lizzie were talking; weren't you?

A Well --

Q Now yes or no. Weren't you and Lizzie talking?

A Yes, sir.

Q And Lizzie did say something about your having beaten or struck or slapped her, a week before; didn't she?

A No, sir, not then.

Q She didn't? A Not then; no, sir.

Q Didn't she say it at any time that night? A Not in my presence; no, sir.

Q But you say that the question of your having beaten, or struck, or slapped Lizzie was brought up in the kitchen, on the morning of the 29th of April, 1906, in your presence, shortly afterwards?

MR. ROSENTHAL: I object to that question.

It is so confusing that I myself don't understand it.

MR. ELY: Well, that's not surprising, at all.

MR. ROSENTHAL: The same to yourself, Mr. Ely.

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THE COURT: I will overrule the objection, and, if the witness does not understand the question, he can say so.

(The question is repeated by the stenographer)

A Yes, it was.

BY MR. ELY:

Q Now Lizzie had her hat and coat on then, did she?

A No, sir.

Q Or her hat on? A Not then; no, sir. I had asked her to take it off, and she did.

Q Now, when you asked Lizzie to take off her hat, didn't you say, "Lizzie, take off your things," and didn't Lizzie say, "I will, provided you don't slap me, as you did last Saturday"? A I don't remember saying that.

Q I didn't ask you that at all. You don't seem to understand the question.

MR. ELY: Repeat the question to him.

(The question is repeated by the stenographer)

MR. ROSENTHAL: objected to, as already answered.

THE COURT: He may answer it, being cross examination.

MR. ROSENTHAL: Exception.

A Yes; I believe that she said something to that effect.

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BY MR. ELY:

Q Yes. And that's the first reference to any fighting or beating or slapping that had occurred in the kitchen, that night, wasn't it, when Lizzie referred to it herself?

A I don't remember that.

Q Well will you swear that anybody had spoken of your slapping, or beating or hitting her, Lizzie, before Lizzie spoke of it herself, on the night in question, or the morning in question? A Not to my knowledge.

Q Then it is a fact that she is the one who spoke of your slapping, or beating or hitting her first; is it?

A I wouldn't say as to that.

Q Well, but you were there. Who did speak of your slapping, or beating or hitting Lizzie, before she did, on that night? A I don't remember whether it was her or her mother, after the deceased came in; I don't remember it.

Q Did you hear Lizzie testify in the Coroner's Court? You were there; weren't you? A Yes, sir.

Q And did you hear her say that you said, "Lizzie, take off your things," and that she said, "I will, provided you don't slap me, as you did last Saturday"? A I believe so.

Q Now you heard that, did you? A Yes.

Q Now, you heard her testify to that, did you? A Yes.

Q Now, who referred to your slapping, or beating, or

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hitting her, before she did, that night? A Who did she refer to?

Q (Question repeated) A Her mother.

Q Was her mother there when you slapped, or beat or hit her, on the preceding Saturday night? A Oh, no, sir; it wasn't in the night. It was in the afternoon, Saturday afternoon.

Q Well was her mother there, when you slapped, or hit, or beat her, on the preceding Saturday afternoon?

A No, sir.

Q And you say that --
A simply

MR. ROSENTHAL: If your Honor please, the testimony in the Coroner's Court simply says slapped her. I object to the form of the question.

THE COURT: There is no question before me to which you can object. It was not completed. You must wait until it is finished.

BY MR. FLY:

Q And you say that Mrs. Minnough referred to your slapping, hitting or beating her daughter first, before Lizzie spoke of it, on the morning in question; do you?

MR. ROSENTHAL: I object to that question, if your Honor please, because he has already answered the question.

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THE COURT: Overruled.

MR. ROSENTHAL: Exception.

BY MR. ELY:

Q Do you say that? A I believe so.

Q No, no. Is it a fact? A To my best knowledge, yes.

Q Well, in what possible connection did that come up, then, the question of ~~xxx~~ your having beat, or slapped or hit, or kicked Lizzie previously; in what connection did it come up? A I couldn't say.

Q And you are perfectly unable to tell us; are you?

A I don't know what she told her mother, or nothing.

Q No, no. I am talking to you about the conversation that occurred in the kitchen, when you were there, on the morning of the 29th of April, 1906, and not anything about what Lizzie may have told her mother, or anything at all of that kind, for a minute. I am asking you whether or not, before Lizzie said to you that she would take off her things, if you would not slap her, as you did, on the preceding Saturday, whether any person there had said anything about your having beaten, slapped, or kicked, or hit her? A Well, I believe, when I asked her if she would take off her things, she said she would, if I wouldn't slap her, as I did the Saturday before, and I told her I wouldn't.

MR. ELY: I object to that. I object to the

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latter part of the answer, the latter part of the answer as to what he said, and move to strike it out.

THE COURT: Motion granted. Strike it out, what he said.

BY MR. ELY:

Q Now I ask you if anybody in that apartment, on the morning of the 29th of April, 1906, had said anything about your kicking, or beating, or slapping or striking her, before Lizzie spoke of it herself? A No, sir.

Q And then you were wrong, when you said that Mrs. Minnough first spoke of your having slapped, beat or struck her? A If I said that, in the first place, I was wrong.

Q And it was then that Lizzie made the statement that, if she was to be maltreated again, that night, she would go home with them? A Yes, sir.

Q And it was after they said that she should go home with them that any blows were struck by anybody; wasn't it?

A That was before there was any blows, anything like that.

Q I say, it was after this was said, namely, that Lizzie should go home with them, if you maltreated her, that blows were struck? A Yes; after.

Q Yes; after? A Yes, sir.

Q Now, the old man, Minnough, this man five feet four, to

six -- oh, how much did he weigh? A He weighed about 160 to 165 pounds to my knowledge, the way I should judge.

Q That's your opinion? A Yes, sir.

Q He was quite a stout man for 5 feet 4 to 6, was he, then? A About the size of my attorney here (indicating Mr. Rosenthal).

Q I didn't ask you that. I don't know anything about your attorney. I am asking you, whether he was a stout man for 5 feet 4 to 6? A Well, he was nothing ordinary; just a medium.

Q He was nothing ordinary? You mean extraordinary; don't you? A Well, nothing ordinary

Q Nothing out of ordinary you mean, don't you?
A Yes.

Q Well, he was -- he didn't strike you as being a large man for his height; did he? A Well, he struck me hard enough so as to stagger me up against the wall, no matter how large he was, or small.

MR. ELY: Well now, I ask to have that stricken out. We are not talking of that, at all.

THE COURT: Strike it out.

BY MR. ELY:

Q He didn't impress you, then, as being a stout man for his height; did he? A No; he wasn't so stout.

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Q Well, he was slight, wasn't he? A Not very.

Q Well, he wasn't -- A Medium, medium.

Q Well, he would strike you as an ordinarily built man, of 5 feet 4 to 6; wouldn't he? A I say, he struck me hard enough to stagger me up against the wall.

MR. ELY: No, no; I move to strike that out.

THE COURT: Strike it out.

The question is not at all as to whether he struck you with his fist,

BY THE COURT:

Q Did his appearance impress your mind? A Yes; my jaw was sore for a week afterwards.

THE COURT: That is not the question at all.

Strike out the answer.

THE WITNESS: Excuse me, please, your honor.

THE COURT: It is a mental striking, not a physical striking, that counsel is asking you about. Put the question more plainly, Mr. Ely.

BY MR. ELY:

Q Didn't he impress you as being a man of ordinary size, considering his height? A Yes.

Q Now, you and Fizzie was then talking about her taking off her things, and she was saying that she would, if you didn't slap her, as you had, the preceding Saturday night --

MR. ROSENTHAL: I object to the question being repeated for the third time, if your Honor please.

THE COURT: Objection overruled.

MR. ROSENTHAL: Exception.

BY MR. ELY:

Q When the deceased came in? Is that right?

A Yes, that's right; except the talk that we had in the bed room, when she asked me to get up.

Q Now I am not asking about that. Now, Lefevre, you remember that Minnough, came in with an empty can of beer; don't you? A Yes.

Q Now, I am asking you if, at the time that Minnough came into the room, the kitchen, with an empty can of beer, you and Lizzie were talking about the subject that I have mentioned, namely, that you were telling her to take off her hat or things, and she was saying that she would, if you didn't slap her again, as you did, the preceding Saturday?

A Yes; he came in.

Q Yes. That's right, is it; he came in at that time?

A Yes, sir.

Q And then it was that he said, "Cut it out. Don't let's have words," or words to that effect?

MR. ROSENTHAL: I object to that.

THE COURT: Overruled.

MR. ROSENTHAL: Exception.

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A I don't remember him ever saying such a thing.

BY MR. ELY:

Q Well, do you swear that he didn't say it? A I don't remember him saying it.

Q Well then he might have said it, and he might not have said it; is that right? A I am not positive.

Q Well, that's right, then? You can't say whether he said it or didn't say it; is that right? A Yes, sir.

Q Then he said to Lizzie, "Well, Lizzie, you can come home with us, if he don't treat you right," or words to that effect?

A No, sir, not then he didn't say that.

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

Q What happened immediately after his coming in, and saying that he couldn't get any beer, it was too late, and they didn't know him around there, and the words that you had with Lizzie? A When he came in, and set the can down, he said, "I can't get any beer."

Q Now, I just said all that. A Well, you asked me what he said.

Q What did he say next, after he said that he couldn't get any beer, that he wasn't known in the neighborhood, and set the can down on the wash tubs? A He started using profane language.

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Q Well, after that? A Well, I don't remember him saying anything just at present, just then.

Q Well what did he next say? A After the deceased's wife had told him --

Q No, no. I am asking you simply what the deceased next said? A Well, as near as I remember, he said, "Yes, Lizzie, put on your things, and come on and come home with us."

Q And, up to that time, nobody had struck a blow, or hit anybody; had they? A No, sir.

Q And just say it in the tone of voice that you say, or that you recollect, his making that statement. Just raise your voice, or lower it, until you reach the tone that he used? A He said, "Yes, Lizzie, put on your things and come on home with us."

Q Well was it as loud as you spoke then? A No, sir; it was louder than that. I can't possibly speak as loud as he did.

Q And how old are you? A 32 years old.

Q And you haven't as much voice as that old man of 47? A Well, when people have drink in them, their voices are pretty loud, louder than others.

Q Well, approximate as well as you can the tone of voice

in which this old man said to Lizzie, "Yes, Lizzie, put on your things, and come on, and come home with us." A (The witness repeats the words as before.)

Q No louder than that? A No, sir; I wouldn't be positive that it was.

Q Well what happened next, after he said that? A I says, "No, she won't. This is her home. This is where she will stay."

Q Well, you knew, as matter of fact, that she hadn't been living with you always, and had been brought up by her step father; didn't you? A She had, when they wouldn't put her out.

MR. ELY: I object to that, and ask to have it stricken out, the latter part of the answer.

THE COURT: Answer the question. Strike out the answer. Repeat the answer. I do not mean to direct you how to answer. You must answer for yourself. Repeat the question.

(The question is repeated by the stenographer.)

A Well, when I first -- your Honor, when I first met her --

THE COURT: No. Just answer the question.

A She was, for a while.

BY MR. ELY:

Q Well, you had been informed, and verily believed, that

she had been brought up by her mother and step father; hadn't you? A No, sir; I hadn't been informed of that, not to my knowledge.

Q Well you knew that she had been living there, with her mother and step father; didn't you? A For a while; yes.

Q Well, now, what happened next, after you say you said, "No, she will not," or words to that effect? A I said, "This is her home. This is where she will stay," and he said, "No, she won't," and I -- he said he had reared her since she was eleven years old, and he had more to say over her than I had, and I said, "No, you haven't." And then I turned around, away from him (illustrating), and that's the time he hit me in the jaw.

BY MR. ELY:

Q Now wait a minute. Now he hit you the jaw; did he?

A Yes.

Q And this old man of 47, of five feet four to six, hit you in the jaw? A Yes, sir.

Q And he was drunk; was he? A He was intoxicated so that he staggered a little.

Q And where was he, when you say he hit you in the jaw?

A He was near the centre of the room, more towards the first

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door leading into the bed room off the kitchen.

Q About the centre of this room, was he, about the centre of the kitchen? A Well about even with the stove there (indicating).

Q And where were you? A I was over near the partition, a little ways from the partition.

Q Well wait a moment. A little ways from what partition? A The corner of the door that leads into the little private hallway, into the bed room.

Q And about how far away from you was the deceased, when you said, "No, she won't. Her home is here; she will stay here," or words to that effect. A He was right close to me.

Q But you say that, when he was talking, he was in the middle of the kitchen? A I didn't say exactly in the middle of the kitchen.

Q Well, I'm not saying exactly either. But he was at a distance of two or three or four feet from you; wasn't he?

A No, sir; he wasn't.

Q Well how far away from you was he? A About a foot and a half, or two feet.

Q Two feet? A Yes; we will say two feet.

Q Well, I don't want to say it. I want you to tell it. I wasn't there, you know. And was he sitting or standing?

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A He was standing.

Q Had he been sitting at all from the time he came in? A No, sir; there was only one chair in the kitchen, and the deceased's wife was in that.

MR. REY: Now, I object to that, and ask to have it stricken out, everything after the answer "No, sir." I asked a simple question.

THE COURT: Strike it out.

BY MR. REY:

Q Now, between the time he said, "Now, Lizzie, you come home with us; I've brought you up, reared you, "etc., and the time that you say he struck you, why, what did Mrs. Minnough say, if anything? A She didn't say a thing to my knowledge.

Q She didn't? A No, sir.

Q You didn't hear any words at all? A No, sir; I don't remember any.

Q Very well. Then the only conversation that you heard was between this intoxicated old man and yourself; is that right? A After he hit me, there was no words, whatsoever.

Q No. Before. I am talking of before? A Well, with the exceptions of what the deceased's wife had told him, when he came in.

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Q No. You don't seem to understand. I am asking you if, from the time that this deceased -- A Hit me?

Q No, no. Came into the room, and told Lizzie to put on her things, and come home, and that he had reared her, etc., up to the time that he hit you, as you say, the only conversation that occurred there had been between yourself and himself? A No, sir.

Q Isn't that right? A No, sir.

Q Well, who else had spoken? A The deceased's wife.

Q Well, I asked you what Mrs. Minnough said, if anything, and you said she didn't say anything. Now, if you want to change that, well, tell it? A I don't remember my saying anything about that.

Q Well, never mind. Go on. The record speaks for itself? A She said to the deceased, when he came in --

Q No, no. I'm not talking of that at all. We have got the deceased in the room, and he has made some remark about the beer, about being unable to get beer, because he was unknown in the neighborhood, and your conversation with Lizzie, at which you told Lizzie to take off her hat, and she said she would, if you didn't slap her as you had, the preceding Saturday; and her father then saying, "Why, if he beat or slaps you, you can come home with us," and your saying, "No, she won't. This is her home," and his saying he had reared her.

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since she was ten years old, and he was going to take her home; and, after that, you say, he came up to you, lurched up to you, and hit you? A Yes, sir.

Q Now I am asking you whether there was any other conversation, after he came into the room, and you and he had gotten into this argument, as to whether Lizzie should go home or not; whether there was any other conversation? A No, sir.

Q Well, then, after you had said -- what was the last thing you said, before, as you say, he came over and hit you? A I said, "No, she won't." That's the time I turned away from him.

Q Well, now, you didn't use any profane language? A No, sir.

Q That evening? A No, sir.

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

Q Not once? A No, sir.

Q And this intoxicated old man swore like a good one; didn't he? A Yes.

Q Well just tell us what the old man said; tell us about that? A Why, he started to saying, "God damn it, I can't get no beer over there. They don't know me, or I guess they don't know me."

Q Well, is that all? A Well, he used the name of Jesus Christ too.

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Q Well what did he say about Jesus? A He said, "Jesus Christ, I don't see why I can't get it; or something to that effect.

Q And what else did he say? A That's about all.

Q "God damn it, I can't get any beer over there", "Jesus Christ, they don't know me over there"? A Yes; something to that effect.

Q And is that all he said? A Yes; as near as I can remember.

Q And that's the only profanity that occurred there, that night, you say? A Yes.

Q And you say that this old man reeled, when he walked? A Yes, a little.

Q Staggered? A Yes.

Q Now how was he standing there? Reeling and staggering, or how? A No, sir, not then. He was standing as straight as anybody was.

Q Oh! And yet you say that he was very much intoxicated? A When he came in there, and set the can down, I said he was staggering, and he was, a little.

Q And you say that immediately after he had set down the can, when he was standing, that he stood up straight, upright? A Well, he stood there the same as anybody else.

Q And he didn't reel or stagger, or his knees didn't give out? A No, sir; his knees didn't give out.

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Q Well, you saw him, didn't you? A Yes; but his knees didn't give out.

Q Now you saw the old man, this intoxicated old man, haul off; didn't you? A No, sir. My head was turned.

Q Oh, was your back turned, too? A I turned sideways. I told you that, I believe.

Q Never mind what you told me. You may have to tell it many times. A Well, excuse me.

Q Well, just get up, if you will. Stand up, please, and turn your head and your body, as you say you had turned it, when this intoxicated old man hit you? A I just turned around a little, like that (illustrating), just to look at Lizzie.

Q To look at Lizzie? A Yes; just shifted.

Q And did he just come up and give you a good biff (illustrating)? A Yes.

Q And that knocked you how many feet? A That staggered me a couple of feet, up against the wall.

Q This old, intoxicated man hit you, and knocked you two feet, up against the wall; is that right? A Yes, sir.

Q Well, didn't that knock him down, the force of that blow? Didn't ~~you~~ that knock this old man, this intoxicated man, to the floor? A No, sir.

Q Not hitting a heavier man than he? Eh? A No, sir; he dug right into me.

Q What's that? A He dug right into me.

Q What did he dig into you? A He started to hit me.

Q Well, you got him hitting you once. Did he start to hit you again? A Well, after I staggered up against the wall, he hit me a couple of more times.

Q One or two more times? A Well, I am not positive.

Q Well, they were stinging blows; weren't they? A Well, he didn't hit me in the face after that. He hit me in the breast.

Q In the solar plexus? A Well, up around the breast here (indicating).

Q Well, were they vicious blows, too; hard blows?

A I didn't feel the effects of those.

Q Then your chest wasn't as sore as your jaw, was it?

A No, sir.

Q And your jaw was very sore, you say? A Yes, sir.

Q For over a week? A About a week.

Q And you didn't -- when you were attacked in this ferocious way by this old man, old, intoxicated man, as you have told us, you didn't do anything? A No, sir; only pushed him back (illustrating).

Q You didn't hit him at all? A No, sir; I wouldn't hit an old man, or nobody else.

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Q No, you wouldn't? And you simply just pushed him back? A Yes, sir.

Q Gently? A Well, I pushed him back out of the way.

Q And then this intoxicated old man, you say, grabbed up an iron? A Yes, sir.

Q And did you see him grab it up? A Yes.

Q You did? A Yes.

Q How far away from you was he when he grabbed it up?

A He was a couple of feet.

Q Yes. And what did he do with the iron? A He raised it up, and went to hit me with it.

Q Here, you take it. Get up and show me? A He picked up the iron, like that (illustrating), and went to hit me with it, and, as he was coming --

Q Now wait. Did he have it in his hand, as you have got it? A Yes, about that.

Q Well, you took particular notice of that? A Well, something like that. I wouldn't say positive.

Q Well, then, go ahead? A And he went to hit me with it, and I hit his hand somewheres there (illustrating), and knocked it up out of his hand.

Q Well, now, he was about as much taller than -- I mean, you were about as much taller than him as I am than you?

A Something like that.

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Q Now take the iron, and strike at me with the iron.
Go on. A (The witness does so). And, when he was raising
the iron, I hit his hand, and knocked it up (illustrating).

Q Now, you don't seem to understand. Now hit at me?

A Yes.

Q And you put up your hand, as I did? A Yes.

Q And then it was that the iron fell out of his hand?

A It went up out of it.

Q It went up out of his hand? A Yes.

Q And then it was that it came up out of his hand?

A Yes; and he staggered back a couple of steps, and the iron
hit him on the head, as far as I saw.

RE DIRECT EXAMINATION BY MR. ROSENTHAL:

Q How far above your head -- his head -- did that iron
go?

MR. ELY: I object. He can describe what
happened.

THE COURT: If he knows, he may answer.

BY MR. ROSENTHAL:

Q Do you know how far above Mr. Minnough's head that
iron went? A I should judge, two or three feet; a couple
of feet.

Q And after the iron hit him, what happened? A He fell

down, aside of the tub.

MR. ELY: I object to this, if your Honor please. This is not a proper re-direct. The only point is that I have left the matter entirely, as you noticed, with the alleged blow; and, therefore, this is not proper re-direct as to what the deceased did, after the alleged blow was struck.

THE COURT: It seems to me that we have this in evidence once, and it is unnecessary to bring it in twice; and, therefore, I sustain the objection.

MR. ROSENTHAL: Exception. Will the Court order Mr. Rooney to stand up? He has been made an exhibit in this case.

THE COURT: Yes.

BY MR. ROSENTHAL:

Q Was Mr. Minnough the size of that young man (indicating Mr. Rooney)? A In my estimation, he was a larger man.

Q Was he heavier than that man? A I should judge so.

Q How many chairs were there in the kitchen, Mr. Lefevre, at that time?

MR. ELY: Objected to.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

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BY MR. ROSENTHAL:

Q You didn 't testify in the Coroner 's Court; did you?

MR. ELY: I object. Nothing has been said to this witness about the Coroner 's Court.

THE COURT: He may answer.

A No, sir; I didn't.

BY MR. ROSENTHAL:

Q Were you acquitted by the Coroner's Court?

MR. ELY: I object. One minute.

A Yes.

THE COURT: Objection sustained. Strike out the answer.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q They have stated something here in reference to Mr. Garry. Did you know that Mrs. Garry was a married woman, when you first went to live with her?

MR. ELY: Objected to.

MR. ROSENTHAL: It is cross-examination.

MR. ELY: Cross-examination?

MR. ROSENTHAL: Re-direct examination, I mean.

THE COURT: He may answer the question.

A Not at first, as I remember of.

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BY MR. ROSENTHAL:

Q How long afterwards did you discover it?

MR. ELY: Well, I object. He is in doubt, apparently, by his last answer.

THE COURT: I sustain the objection. He says that, when he went to live with her, he did not know anything about the marriage.

MR. ROSENTHAL: Well, I want to know how long afterwards he found out.

THE COURT: Well, what earthly bearing has that on this issue?

BY MR. ROSENTHAL:

Q As matter of fact, you gave her all your salary; didn't you?

MR. ELY: I object to that. This is not proper re-direct.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Were you sleepy at the time when you got up out of bed, the second time?

MR. ELY: I object, as not proper re-direct, and as incompetent, immaterial and irrelevant.

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THE COURT: Sustained.

MR. ROSENTHAL: Exception.

BY MR. ROSENTHAL:

Q Was it light or dark in the room, at the time you first opened the door?

MR. ELY: Now, I object to that, as incompetent, immaterial and irrelevant, and not proper re-direct.

THE COURT: Sustained.

MR. ROSENTHAL: Exception.

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L I Z Z I E L E F E V R E, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. ROSENTHAL:

Q What is your marriage name? A My marriage name is Garry.

Q And you have just said your name is Mrs. Lefevre?

A Well, since I was living with the defendant, for the past three years, he has acted as a husband to me, and I went by his name.

MR. ELY: I object to that, that he has acted as a husband to me.

THE COURT: Well, I think we will let it in, and then we will not have to ask it again. It is con-

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ceded that he has been living with her.

BY THE COURT:

Q And since you have been living with him, you have been known as Mrs. Lefevre? A Yes, sir.

BY MR. ROSENTHAL:

Q Where have you been living, the last time, with the defendant? A 1708 Park avenue.

Q When was the last time that you saw Mr. Garry, your husband? A I saw him, a year ago this December.

THE COURT: Now, why do you do this? Prove the facts, now, by this witness. So far as living together with this defendant is concerned, it is conceded and admitted; and it is conceded and admitted that they were not married, but had taken up that relationship. Now there is no use of spending any more time on that branch of the case. Get down to the facts.

BY MR. ROSENTHAL:

Q What was your father's name? A My father's name was Joseph P. Brown.

Q And you had a step father, afterwards? A I had two step fathers, afterwards.

Q What was your second step father's name? A Riner Coster.

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MR. ELY: I object to all this, if your Honor please.

THE COURT: Sustained. Get down to the facts of the case, please. We don't want any more family history or pedigree, or anything of the kind. Now, please get down, now, to the facts in the case, and ask relevant questions.

BY MR. ROSENTHAL:

Q On the 28th day of April, Saturday night, of this year, where were you at about seven o'clock p.m.? A I was home, in my own home, at seven o'clock. I was over to my mother's by eight o'clock. I went over with my little daughter, and I sent her upstairs to ask my --

MR. ELY: Now I object to that.

THE COURT: Strike it out.

BY MR. ROSENTHAL:

Q Did you go upstairs? A I went upstairs, and they had beer, and we finished the beer, and my father went down, and got another pint of beer; and my oldest little girl, came out, and said, "Mamma, I am going to bed."

MR. ELY: I object to what was said there.

THE COURT: Sustained.

BY MR. ROSENTHAL:

Q Well, what happened? A Well, my mother and I and my

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father went out, and went to the store.

Q When was that? A It was around twelve o'clock.

Q Saturday night? A Yes, sir; about a quarter to twelve, we were in the butcher 's.

Q And what did you do in the butcher's? A I bought a chicken, and my mother bought steak.

Q And then what happened? A And then we went over to my house, at 1708 Park avenue.

Q And what time did you arrive there? A Twelve o'clock.

Q I mean, in Park avenue? A Well, about five or ten minutes after twelve.

Q And did you go upstairs? A Yes, sir.

Q To your apartments? A Yes, sir.

Q And what did you do there? A My mother and father come up with me, and I knocked on the door, and the defendant got up, and opened the door, and we went inside.

My mother sat at the window in the kitchen, and my father stood by the tubs, and I went into the bed room, to the defendant. He had gone back to bed, after opening the door, and I said, "Otto, get up."

MR. ELY: No, no, I object to what you said.

I move to strike that out.

THE COURT: Strike it out.

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