

of six next morning, Thursday morning.

Q Stayed there all night, did he? A Yes.

Q Your brother often visited you at your home, did he? A Yes.

Q Will you give us the names of some other people that were there that night? A Mrs. Emma Brooks, Mr. Joe Campbell, Mr. Charley Randall, Miss Randall, Miss Martha Randal and Mr. Moses Slaughter.

Q Was there any unusual occasion, that so many people were there that night? A Yes, sir, I gave a whist party.

Q You had a whist party at your house that night? A Yes, sir.

Q And your brother was there? A Yes, sir.

Q You identify the night? A Yes, sir.

Q From what fact? A Wednesday night.

Q Wednesday night? A Yes.

Q The day after election? A Yes.

BY THE COURT:

Q What time did your brother get to the house that night? A A quarter of nine.

Q He got to your house at a quarter of nine in the evening? A Yes, sir.

The Court admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until two o'clock P.M.

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AFTER RECESS.- TRIAL RESUMED -

The witness Sarah Frederick, called on behalf of the defense, resumes the witness stand.

## CROSS EXAMINATION BY MR. APPLETON:

Q Mrs. Frederick, you are a sister of this defendant, are you not? A Yes, sir.

Q And you say that he came to your house on the night of the 7th of November, at 8:45 o'clock? A Yes, sir.

Q That you are positive of, are you? A Yes, sir.

Q You cannot be mistaken? A No, sir.

Q You are sure you cannot be mistaken? A No, sir.

Q You are not sure, or you are sure? A I am sure he was there at a quarter of nine.

Q And that is the time he arrived there? A Yes, sir.

Q Did you look at the clock? A I certainly did.

Q When your brother came in you looked at the clock?

A Yes.

Q And you saw it was a quarter of nine? A Yes, sir.

Q That you swear to? A Yes.

Q There cannot be any doubt in your mind about it whatsoever? A No, sir.

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BY THE COURT:

Q What clock did you look at? A At my dining room clock.

BY MR. APPLETON:

Q Are you sure it was the 7th of November? A Yes, sir.

Q Because you had a whist party? A Yes, sir.

Q Now, your brother was not arrested until the 18th of December, was he? A I think it was the 18th.

Q And that was the first time you knew your brother was in trouble? A Yes, sir.

Q But notwithstanding that, over a month had elapsed since the 7th of November, you are still positive in your mind that it was the 7th of November that your brother was at your house? A Yes, sir.

Q And the reason for that is that you had a whist party? A Yes, sir.

Q And you knew that you had a whist party on the 7th of November? A Yes, sir.

Q Now, who was there at that whist party? A Miss Randall, Mr. Randall, Mrs. Thomas and Mr. Campbell.

Q Miss Thomas? A Mrs. Thomas and Mr. Campbell.

Q Yes. A And Mr. Slaughter.

Q Mr. what? A Slaughter.

Q What? A S-l-a-u-g-h-t-e-r.

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Q Mr. Slaughter? A Yes, sir.

Q You testified in the Police Court, didn't you?

A Yes, sir.

Q At the Police Court examination, did you mention the name of Campbell as being present at your apartment? A They did not ask me.

Q Was Campbell present when your brother arrived?

A No, sir, he came in after wards.

Q Was Slaughter present when your brother arrived?

A Yes, sir.

Q Was Mrs. Thomas present when your brother arrived?

A No, sir.

Q Was there anybody else there except Campbell, Randall, Mrs. Randall, Mrs. Thomas and Mrs. Slaughter? A No, Mr. Slaughter.

Q Was there anybody else there besides yourself and your brother? A No, sir.

Q That made eight, didn't it? A Yes, sir, it made eight.

Q Now, I again call your attention to this question I have just asked you: Was there anybody else present at your apartment on the night your brother was there, the 7th of November, except yourself, your brother, Joe Campbell, Mrs.



Randall, Mr. Randall, Mrs. Thomas and Mr. Slaughter? A There was not.

Q You are sure of that? A Yes, sir.

Q Do you remember that you were asked in the Police Court this question: "When he arrived there, who else was present in your apartment? A Mr. C. H. Randall". Is that true? A Yes, sir.

Q "Any one else?" A Mr. Slaughter.

Q "A Kaing"? A Mr. Kaing, Johnny Kaing.

Q Well, was he there? A Yes.

Q Now, I went over this very carefully with you, and you did not mention Kaing? A Kaing.

Q Have I refreshed your recollection? A Well, there was eight in all.

Q Did I refresh your recollection? A Well, yes, there was eight in all.

Q Did you mention anybody else's name in the Police Court besides Randolph and Kaing, and Mrs. Randolph? A Miss Randall and Mr. Slaughter.

Q Did you mention Slaughter's name in the Police Court? A I did.

Q What is his full name? A Moses.

Q Do you mean to say that you mentioned the name of Moses Slaughter in the Police Court? A I didn't call him

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Moses. I said Mr. Slaughter.

Q Did you say the name "Slaughter"? A Yes, sir, Mr. Slaughter.

MR. APPLETON. It is conceded that the defendant's witness did not mention the name of Slaughter in the Police Court, by counsel for the defendant.

Q Now, was your brother at your apartment any other time during the month of November? A Yes, sir, he was there.

Q Can you mention any other particular night he was there? A He was there on election night too.

Q What time did he get there election? A A quarter of three.

Q In the morning? A Yes, sir.

Q Can you mention any other particular time? A (No answer).

BY THE COURT:

Q Talk a little louder, so that counsel and the jury can hear you? A Yes, sir.

BY MR. APPLETON:

Q Can you mention any other particular night, during the month of November, that your brother was at your apartment? A He was at my house on Thanksgiving day.

Q Can you mention any other time? A And the Sunday after Thanksgiving.

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Q Can you mention any other time? A No, sir.

Q Did he go in other nights during the month of November? A Well, not as I can remember the date, but he used to come to my house quite often.

Q He was there at your house a great many nights in the month of November? A Not only November, but all the time.

Q But all the time? A Yes, sir.

Q Well, do you know whether he was there at your house on the 10th of November? A I do not.

Q Was he there on the 20th of November? A That I couldn't say.

Q Was he there on the 27th of November? A That I couldn't say.

Q Was he there on the 29th of November? A That was Thanksgiving.

Q Was he there then? A Yes, sir.

Q Was he there on the 27th? A That I can't say.

Q Was he there on the 22nd? A That I can't say.

Q Was he there the day before Thanksgiving? A That I can't say. I don't know, because I was out at work.

Q You do not work all day, do you? A Yes, sir, I certainly do.

Q Every day? A Every day in the week.

Q And what do you work at? A I do day's work.

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Q As a maid? A No, sir, washing and ironing.

Q You go out doing washing and ironing by the day?

A Yes, sir, and cleaning.

Q And how long were you gone from your house? A I leave home as a general thing about six o'clock, and I try to get home at half past three in the afternoon.

Q Now, I am talking about evenings; was your brother at your house the evening before Thanksgiving? A Not as I can remember.

Q Was your brother at your house on the 3rd of December? A I don't remember.

Q Was he there on the 6th? A That I don't remember.

Q Now, you say he came to your house at a quarter of three on election night? A Morning.

Q That is, the morning of the 7th of November? A Yes, sir.

Q How long did he stay at your house? A He left there about twenty-five minutes after six, or after five.

Q Twenty-five minutes after five in the morning? A Yes, sir, as near as I can guess.

Q And did you look at the clock then? A No, sir, but I alarmed the clock at five o'clock for him.

Q Did he go to bed? A Yes, sir, he went to bed.



Q Did you testify he went to bed in the Police Court?

A Why, certainly I did.

Q You did? A Yes, sir, I did.

Q Did he undress himself? A Yes, sir.

Q And went to bed? A Yes, sir.

Q At a quarter of three, and was called at five? A Yes, sir.

Q And left about twenty-five minutes after five?

A Yes, sir.

Q And he came back again at 8:45 that same night?

A Wednesday night, yes, sir.

Q That is, the 7th? A Yes, sir.

Q The same night; the other was the morning, and this was the night? A Yes, sir.

Q How long did he stay then? A He stayed all night.

Q What did you do? A We played whist.

Q Did this defendant play whist? A Yes, sir.

Q And what time did you stop playing whist? A Well, about half past one I served lunch, that is, I served lunch at twelve o'clock, and then him and a few others played a few games after that.

Q What time did you stop? A We went to bed about half past two.

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Q On the morning of the 8th you went to bed about half past two? A Yes, sir.

Q How many slept at your house that night? A Three.

Q Who were they? A Miss Randall and my brother.

Q Miss Randall and your brother? A Yes.

Q Where Miss Randall's husband go? A Miss Randall, not Mrs.

Q Miss Randall? A Yes.

Q Miss Randall? A Yes.

Q Is she the one that is called Martha Randolph and Miss Randall, is that correct? A Well, it is d-a-l-l.

Q R-a-n-d-a-l-l? A Yes.

Q Is she married? A No, sir.

Q And is this Mr. Randall her brother? A No, sir, no relation.

Q Miss Randall stayed all night? A Yes.

Q And the defendant stayed all night? A Yes, sir.

Q And who else? A And I, myself.

Q Where was your husband? A My husband is working nights.

Q Your husband works nights? A Yes, sir.

Q What does he do? A He works in a stable.

Q What stable? A He was working in Cohen's, in ~~24th~~ 24th



street.

Q Cohen's stable? A Yes, sir, in 24th street.

Q So that you and this defendant and Miss Randall were the only ones in your apartment? A Yes.

Q Miss Randall also goes by the name of Martha Randolph also, doesn't she? A Not Randolph, but people pronounce it different. It is d-a-l-l.

Q Well, there is a mistake in the pronunciation? A Well, it is R-a-n-d-a-l-l.

Q Well, in the Police Court the name was given as Randolph wasn't it? A That I couldn't say, but it is Randall.

Q What time did the defendant leave on the morning of the 8th? A About twenty-five after five.

Q About the same time he left the other morning?

A Yes, sir, whenever he stayed I always alarmed the clock for him at five o'clock in the morning.

Q And you cannot give any other specific times except the Sunday after Thanksgiving, Thanksgiving night, and the 6th and 7th of November? A No, sir.

Q But he came pretty near every other day, didn't he, during the month of November? A Well, he was by my house pretty near every day.

Q And nothing transpired that caused you to remember any other day? A No, sir.

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M A R T H A     R A N D A L L, being called and duly sworn  
as a witness on behalf of the defence, testified as follows:

DIRECT EXAMINATION BY MR. HOCHSTADTER:

Q Miss Randall, where do you live?    A 61 West 99th street.

Q Speak loud, so that these gentlemen can hear you?  
A 61 West 99th street.

Q Are you a single woman?    A Yes.

Q What do you do for a living?    A I work at domestic work.

Q Do you know Mrs. Frederick?    A I do.

Q Do you know this gentleman here, this defendant?  
A I do.

Q How long have you known Mr. Page and his sister, Mrs. Frederick?  
A Nine years.

Q Was there any occasion that you visited Mrs. Frederick's house in the month of November?    A Yes.

Q Do you remember a whist party?    A I do.

Q Do you know when that took place there?    A I do.

Q Tell us when?    A The 7th of November.

Q How do you remember it to be the 7th of November?  
A Because I was there.

Q And you remember that day distinctly?    A I do.

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Q Will you tell us who else was present? A I will.

Q Please? A Charley Randall, Johnny Kaing, Mrs. Thomas, and Mr. Slaughter.

Q And this defendant? A Yes, and Joseph Page.

Q What time did you get to Mrs. Frederick's house?

A Nine o'clock.

Q And when you got there was the defendant there?

A He was.

Q And when did Mr. Randall arrive? A He was there when I got there.

Q Is he related to you? A No.

Q The other parties were there and Mr. Slaughter was there? A Yes.

Q When did Mr. Slaughter get there? A They were there when I got there.

Q What time did you leave Mrs. Frederick's apartment that night? A I didn't leave that night.

Q What time did Joseph leave that night? A He didn't leave that night.

Q Who else remained there that night? A I remained all night, and he remained all night, Joseph.

Q What time did the rest of the company leave there?  
A One o'clock, about.

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Q What were you doing there that evening? A Playing cards.

CROSS EXAMINATION BY MR. APPLETON:

Q Who was there when you got there? A Johnny Kaing.

Q How do you spell his last name? A I don't know.

Q Is it K-i-n-g? A King, K-i-n-g.

Q John King? A And Charley Randall.

Q Yes. A Mr. Slaughter.

Q Yes. A Mrs. Thomas.

Q Miss or Mrs. A Mrs.

Q Yes. A And Joseph Page.

Q And anybody else? A That's all.

Q Sure? A That's all the names I know.

Q Was there anybody else there? A There was one young man there, but I don't know his name.

Q Was it Campbell? A Yes, a little fellow, Campbell.

Q Campbell? A Yes.

Q He was there, was he? A Yes.

Q Anybody else? A Mrs. Frederick.

Q Anybody else? A That's all.

Q Now, when you got there it was nine o'clock, was it?

A Yes.

Q Were they all there then? A Yes.

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Q Sure of it? A Yes.

Q No doubt of it? A Yes.

Q Nobody came in after you did? A No.

Q What were they doing when you arrived? A Playing cards.

Q Were they all playing cards? A Four at the table.

Q What four were playing cards? A Joseph and Mr. Campbell and Charley Randall.

Q Those three were playing cards? A Yes.

Q I thought you said there were four playing cards?  
A (No answer).

Q Well, that is three; who was the fourth? A Mr. Slaughter.

Q So that when you got there, Slaughter and Page and Charley Randall, and who else was the other one there at the table playing cards? A Joseph Page.

Q We have got Joseph Page, Slaughter and Charley Randall; who else? A And Mr. Campbell.

Q That makes four. You are sure they were there in the house playing cards when you got there at nine o'clock?  
A Yes.

Q No doubt in your mind of that? A No.

Q Did they have their coats on? A Yes.

Q Their hats on? A No.



Q What were they playing? A Whist.

Q Those four men were at that table playing whist?

A Yes.

Q When you arrived at nine o'clock? A Yes.

Q And that you are sure of? A Yes.

Q Do you know how long they had been there? A No, I don't.

Q Do you know what time Campbell came? A I don't.

Q Do you know what time Slaughter came? A I don't.

Q But they were there at the table playing cards when you arrived? A Yes.

Q Were they in the midst of a game? A I couldn't tell that. They were playing.

Q Don't you play whist? A Yes.

Q You went there to attend a whist party, didn't you? A Yes.

Q And they were playing? A Yes.

Q Did they have cards in their hands, were they in the midst of a game? A Yes, playing.

C H A R L E S   H .   R A N D A L L, being called and duly sworn,  
as a witness on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. HOCHSTADTER:

Q Now, where do you live? A I live in New York.

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Q I know, but what part of New York? A 136th street.

Q What number? A 16.

BY THE COURT:

Q East or West? A West.

BY MR. HOCHSTADTER:

Q What do you do for a living? A Shoe store.

Q Where is that? A Smith's, Seventh avenue, between 125th and 126th street; the Alhambra.

Q You mean you work there? A Yes, sir.

Q You work there? A Yes.

Q How long have you worked there? A November; in November, or September, I think. I am not positive.

Q That is on Seventh avenue and 125th street? A Between the two streets, yes.

Q You know Mrs. Frederick? A Yes.

Q How long have you known Mrs. Frederick? A I got acquainted with her last summer.

Q Do you know Joe Page? A I met Joe Page; I was introduced to him.

Q Did you visit Mrs. Frederick's house? A Sometimes I did, yes.

Q Were you there in November? A I was there in No-

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vember.

Q What part of November? A Well, I am not positive. It think it wa s somewhere near the 7th; the 6th or 7th.

Q Well, Election Day was on the 6th; do you remember that? A I remember that all right.

Q Was it that day? A No, it was not that day, because I wasn't in New York that day.

Q Were you in New York on the next day? A I was.

Q Was that the day you went up to Mrs. Frederick?  
A Well, to be very positive, I ain't quite sure.

Q Well, were you to a whist party at Mrs. Frederick's house? A I wa, yes, sir.

Q Who else was there? A Miss Randall; Mrs. Frederick and a lady by the name of Mrs. Thomas; a gentleman by the name of Mr. Slaughter, and Campbell, and Johnny Kaing.

Q Did you play whist yourself? A Yes, sir.

Q Did you play with Joe? A Joe was my partner.

Q Were you there when Joe came there that night? A I was there when he came in.

Q What time did he come in? A What time he came in? I can't say, because I was in the front room.

Q What time did you get there? A I got there between sevenand eight o'clock.

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Q Were you there ahead of Joe? A I was; I was the first one there.

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

Q Do you remember her coming in there that night?

A Yes, sir.

Q You saw her come in? A I didn't see her come in, but I know she was in when I went into the dining room.

Q In other words, she came after you got there? A Yes.

Q What did you, or what time did you leave there?

A Between twelve and one o'clock.

Q You have no particular personal interest in this case?

A No, sir.

Q You do not come here to commit perjury, to help this man, do you? A No, sir.

CROSS EXAMINATION BY MR. APPLETON:

Q You were playing with Joe; you were Joseph Page's partner? A Yes, sir.

Q Do you remember when Miss Randall came in? A No, I don't.

Q How many were playing whist that night? A There was only four of us.

Q Only four played whist? A That was playing then.

Q When do you mean by "then"? A Well, you know they



had another game afterwards. I went out and came back, and they had another game when I came back.

Q What time did you go out? A Well, I can't say positive. I know I went to the corner of Columbus avenue and 99th street to get some beer, and when I came back they were playing.

Q Well, you were playing as Joe's partner? A I was playing as Joe's partner.

Q When was that? A That was the first part. That was the first game.

Q How many games did you play with Joe as his partner? A Only one.

Q How many points did you play for a game? A Seven.

Q Seven points for the game? A Yes.

Q And you played just one game as Joe's partner?

A What I mean, it only finished, I mean, one sitting.

Q One hand? A Not only one hand.

Q One sitting? A One sitting; that's what I mean.

Q Well, how many points did you make for the sitting?

A Well, you make seven points.

Q What does seven points count? A It counts a game; the one that gets the most out of thirteen.

Q Then you mean there are seven points of the thirteen?

A Yes.

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Q That is just one hand, isn't it? A Yes, that is just one hand.

Q How many hands did you play? A I can't say that.

Q How did you keep track of the score? A By the tricks that you turn.

Q And did you keep any other track of the tricks you made; did you keep tally on a separate piece of paper?

A Well, we had a gentleman keeping tally for us, a man by the name of Slaughter.

Q Mr. Slaughter was around there with a pencil and paper, to keep tally for you other four gentlemen while you played? Now, what was the object of Mr. Slaughter keeping tally?

A Just to see who was the winner.

Q How did you determine who was the winner? A Joe and me were the winners.

Q How did you determine you and Joe were the winners?

A The reason we were the winners was because we said, "Just play one more game", and we said, "the loser buys beer".

Q And you remember that somebody else got stuck; you were not the loser? A I was not. I am not sure; I don't know now. I am not sure whether I was loser or not, but I know there was some beer bought afterwards.

Q And you went out to buy it? A I went out to buy the beer.



Q And you don't know whether you were the loser?

A Joe gave me the money to buy the beer with.

Q He was the moneyed man of the crowd, was he? A I don't know about that.

Q I would like to get at how you determined that you won a game of cards; were you playing straight whist or bridge? A I don't only know one game of whist.

Q You only know one game, and that is a straight game of whist? A That is all.

Q Then, how do you tell who wins the game? A Well, the one that turns the most tricks.

Q How many tricks count for a game? A Seven.

Q I thought you said that is just one hand? A I mean when seven tricks are turned, the one that gets the odd trick.

Q There is no doubt about that, the one that gets the odd trick wins that hand on that deal, but you do not need anybody to keep tally to find out who makes the most tricks on one deal, do you, because you take them in right there in front of you? A Well, suppose we get a trick this time, and somebody else gets a trick next time, we have somebody to tally and see who gets the tricks.

Q Now, that's just what I am trying to get at. Now, how many of these points were necessary before somebody had to



treat to the drink? A Well, I can't say. That I don't know, who got the game, as I said before.

Q I thought you said you and Joe were the winners?

A I didn't say me and Joe --

BY THE COURT:

Q About how many minutes did you play from the time you began until you went out for the drinks? A I can't say. I know we played one game.

BY MR. APPLETON:

Q Now, did anybody come into the room while you were there playing that game? A I don't think they did. I am not positive.

Q Did Miss Randall come in while you were playing that game? A No, Miss Randall was there.

Q Was she there when you began playing? A Yes.

Q You did not start to play before she came in? A No, sir, we did not.

Q You are sure of that?, A What I mean, in that room, Johnny King and myself were playing in the front room.

Q Johnny King and you started in the beginning; now, I am talking about the time you and Page were playing partners; who were your opponents? A There was Johnny King and Martha Randall.

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Q Johnny King and Martha what? A Martha Randall.

Q Johnny King and Martha Randall, and you and Page were playing there together, were you? A Page was my partner.

Q Was that the first game of whist that was played there that night? A To my recollection, yes, sir.

Q You are sure of that? A I know it. I didn't see no other there.

Q You know it because you were there first of all the visitors? A I was there first.

Q And that was the way the game was made up; they were all the people that were playing; you are sure of that? A Yes, sir.

Q What time did Miss Randall come in? A I can't say, because I don't know when she came in. She was in the dining room.

Q Did she come in before Page or after Page? A That I can't say, because Martha Randall and Page and this fellow Slaughter were in the dining room when I went in there.

Q You were with Johnny King in front? A Johnny King and myself were in the front.

Q And when you went out in the dining room you found Page there and Miss Randall, did you? A Yes.



Q And who else? A A man by the name of Slaughter.

Q And who else? A That's all I can remember.

Q What were they doing? A They wasn't doing anything.

Q Just sitting there talking sociably? A Yes, sir.

Q That you are sure of? A Yes, sir.

RE DIRECT EXAMINATION BY MR. HOCHSTADTER:

Q Now, were you at Mrs. Frederick's house on the night of the 7th of November --

MR. APPLETON: I object to that as improper re-direct examination. He has answered that question on his direct and on his cross-examination.

THE COURT: I think I will sustain the objection, counsel.

Q What time did you say you left there? A Between twelve and one o'clock.

Q Did you leave there alone? A I left there alone, yes, sir.

Q Did you leave before or after you had lunch there?

A I beg pardon?

Q Did you leave before or after the lunch? A After the lunch.

Q Who served the lunch? A Mrs. Frederick.

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## RE CROSS EXAMINATION BY MR. APPLETON:

Q You were having refreshments all during the evening, weren't you? A No, sir, we only had refreshments once.

Q Then, did you have that beer only at the time you were eating lunch? Is that all you drank that night?

A That's all I drank, and that's all I seen anybody else drink.

Q And you had, at that time, you were eating lunch?

A Yes.

Q And what time did you eat lunch? A I don't know.

Q How long before you went away was it that you had your lunch and beer? A Well, it was a pretty good while before I went away.

Q And you played cards after you had your lunch again, didn't you? A I did not.

Q Didn't you say they had another game after you had the beer? A I said some one else had a game, but I didn't play. I told you I only had one sitting in the game.

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J O S E P H   E .   P A G E , being called and duly sworn as  
a witness on behalf of the defense, testified as follows:

DIRECT EXAMINATION BY MR. HOCHSTADTER:

Q Mr. Page, at the time of your arrest where did you reside? A Dobbs' Ferry, for Mr. Di Verastegui.

Q You are a married man? A Yes, sir.

Q And at the time of your arrest were you living with your wife? A I was, sir.

Q By whom are you employed? A By Mr. Albert Di Verastegui.

Q At Dobbs' Ferry? A At Dobbs' Ferry.

Q How old are you, Joe? A 28.

Q And where do you come from? A North Carolina.

Q How long have you been here in this part of the country  
A Since 1896, ten years.

Q Always worked since you have been here? A Always.

Q Have you, prior to this trouble, ever been arrested or charged with any offense? A Only for automobile speeding.

Q Speeding; well, you have never been arrested for assaulting anybody or shooting anybody or threatening anybody's life, have you? A Never, sir.

Q The complainant in this case, when did you first become acquainted with her? A In March, 1906.

Q And did you as an employee of her brother-in-law's

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have reason to visit her on many occasions?

MR. APPLETON: I want that word qualified. I object to the word "visit".

MR. HOCHSTADTER: I withdraw it.

Q Well, call upon Mrs. Martinto?

MR. APPLETON: I think that is objectionable also.

MR. HOCHSTADTER: I will qualify it, Mr. Appleton, in any way you mean.

THE COURT: You mean go to the house where she was.

MR. HOCHSTADTER: That is all I want.

Q Did you have occasion to go to the house of Mrs. Martinto on many occasions prior to the 7th day of November, 1906?

A I visited there quite often.

Q You do not talk loud enough? A Yes, sir.

Q And on those occasions did you bring messages from your employer? A I did sometimes.

Q Did you ~~xxxx~~ at any time ever ask Mrs. Martinto to loan you \$300. to go into the restaurant business? A I did not.

Q Did you ever receive any money from Mrs. Martinto?

A I received a check for \$50.

Q For what purpose? A To pay for two suits of clothes that I had ordered.

Q Did you ask her for the money? A I did, sir.

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Q And she gave it to you? A She did.

Q When was that, Joe? A The 29th day of August, I think.

Q 1906? A 1906.

Q Did you see Mrs. Martinto on the night of the 6th of November, Election night? A I did, sir.

Q Where did you see her? A At the St. Nicholas Inn.

Q Where is that? A 110th Street and Lenox Avenue.

Q What kind of place is that St. Nicholas Inn?

MR. APPLETON: I object to any characterization of that place.

THE COURT: You may state the business, what business is carried on there.

Q What kind of place is it? A They have a saloon and serve drinks and lunches.

Q And music there? A Yes, sir.

Q You saw Mrs. Martinto there in company with some ladies and gentlemen? A She was not in company with any one when I saw her; she passed the doorway.

Q She passed the doorway? A In the aisle, there.

Q And where were you? A I was standing at the bar.

Q That meeting was accidental, was it? A Yes, sir.

Q Did you speak to her there? A I did not, sir.

Q And on the night of the 6th of November, where did you

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go? A The night of the 6th?

Q Yes. A I went to my sister's.

Q That was Election night? A Yes, sir.

Q Now, at that time, on the 6th and 7th of November, where did you live? A At Dobbs' Ferry.

Q And did you come down from Dobbs' Ferry daily? A I did, sir.

Q You recollect the following day, do you, the 7th of November? A I do, sir.

Q Where did you spend the 7th of November, the day? A I was driving the automobile.

Q For whom? A Mr. Albert Di Verastegui.

Q Your employer? A Yes, sir.

Q What time did you leave your work on that day? A I left time enough to catch the 7.44 train.

BY THE COURT:

Q That is to say, you are driving the automobile for your employer, whereabouts? A Well, I had come down from Dobbs' Ferry during the day, and drove wherever I had orders to, around the city, and shopping and so on; then I would meet Mr. Di Verastegui in the afternoon; I generally met him--

Q Well, on this day, you met him in the afternoon?

A On this day in the afternoon.

BY MR. HOCHSTADTER:

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Q What time? A At 125th Street and St. Nicholas Avenue, at his apartment.

Q That day? A Yes, sir, at a quarter past five he came.

Q Where did you drive him? A To Dobbs' Ferry.

Q Did you do that every day? A Every day; very seldom missed.

Q You did not on Election Day? A On Election Day I did not, because I was off.

Q But you are sure you did on the 7th of November? A I did, sir.

Q And what time did you arrive at Dobbs' Ferry? on the 7th of November in the automobile? A In the automobile, about seven o'clock or a little after seven.

BY THE COURT:

Q What kind of weather was there on the 7th of November; was it clear or stormy? A Very nice weather, clear.

BY MR. HOCHSTADTER:

Q Clear? A Yes, sir.

Q What time did you leave for New York? A 7.44.

Q Was that the train schedule? A That is the train, 7.44.

Q Is that the train you took to come to the city? A Yes, sir.

Q What time did you arrive, and where did you arrive on

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the 7.44? A Well, it is due in at 125th Street at 8.23.

Q 125th Street and Park Avenue? A Yes, sir.

Q Did you arrive there? A Yes, sir.

Q What time? A Well, it is due there at that time, but sometimes, most times the trains are late.

Q Well, you came down on the 7.44? A Yes.

Q Where does your sister live? A No. 6 West 99th Street.

Q How did you go to your sister's house? A By taking a crosstown 125th Street car, and transferred at Eighth Avenue.

Q Is that what you did that night? A Yes, sir.

Q What time did you arrive at your sister's house? A A quarter to nine.

Q Now, we will go back to the night before; what time did you leave your sister's house on the morning of the 7th of November? A I set the clock, the alarm at five o'clock, which gave me time enough to get dressed and get up to 125th Street, time enough to catch the 6.15 train in the morning.

Q Did you get that? A Yes.

Q On the morning of the 7th? A Yes, sir.

Q Now, Joe, you heard the testimony here of the witnesses in regard to some whist party? A Yes, sir.

Q Were you there that night at your sister's house? A I was.

Q Were you at Mrs. Martinto's house on that day or that

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night? A No, sir, I was not.

Q Did you know anything about her moving on that day?

A No, sir, I did not.

Q Did you know just where she did live on the 7th of November? A On the 7th? Well, she was supposed to be living at the Balmoral.

Q That is where she did live? A Yes.

Q Did you know she had moved from the Balmoral on the 7th of November? A I did not, sir.

Q You heard the testimony of Mrs. Martinto and the colored girl Louise? A Yes, sir.

Q Was that testimony true or false? A It was false.

Q Was there ever any occasion or any time that you held a pistol to Mrs. Martinto's head and threatened to kill her if she did not give you three hundred or five hundred dollars or some other amount? A Never, sir.

Q Did any such thing ever occur? A No, sir, never.

BY THE COURT:

Q Did you ever hold a pistol to her head? A No, sir, never.

BY MR. HOCHSTADTER:

Q Did you ever carry a pistol? A No, sir.

Q Did you ever own one? A Yes, sir, I have owned one.

Q Where is that pistol? A Well, I haven't it now.

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I got rid of it.

Q How long ago? A Some time ago; I don't know just when.

Q Did you have a pistol with you in the month of November? A In the month of November, I don't think so.

Q Well, did you have a pistol on the night of the 7th of November? A I did not. I never carried a revolver.

Q Did you ever carry a pistol in one pocket and cartridges in the other? A No, sir, I did not.

Q You did not stop and undo a pistol, and fill it with cartridges while you were threatening to kill this woman, did you, as she testified? A No, sir, I did not.

Q Now, when did you first see Mrs. Martinto in the premises in West 140th Street in the month of November? A When did I first see her?

Q I asked you when you first saw Mrs. Martinto in the apartment in 140th Street in the month of November? A I first met Mrs. Martinto on Saturday night, November 10th.

Q November 10th; and what brought you there on that night?

MR. APPLETON: I object to that; that has nothing to do with this assault.

MR. HOCHSTADTER: Well, the complainant testified she had not seen him.

THE COURT: I think I will allow it.

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MR. APPLETON: It is just this, if your Honor please, the complainant testified on direct examination only to what happened on the 7th. It was on cross examination that she testified to what happened after that. The question is whether this assault was committed on the 7th of November; his defense to that is an alibi.

THE COURT: Well, he may possibly testify that it was the occasion of the pictures. I allow it simply for that.

MR. APPLETON: All right.

Q Did you call at Mrs. Martinto's house on the 10th of November? A I did not call there on the 10th of November.

Q Did you see Mrs. Martinto? A I saw her, I did.

Q How did you fix the 10th of November as having seen Mrs. Martinto? A (No answer)

MR. APPLETON: I object to how he does it.

Q Well, did you see her? A I did.

Q Where? A At 112th Street and Manhattan Avenue.

Q And did you accompany Mrs. Martinto at that time?

A Yes, sir.

Q Did you speak with her? A I did.

Q Tell the Court and jury just where you met her and where you went with her? A I met Mrs. Martinto at 112th Street and Manhattan Avenue at twenty minutes of twelve Satur-

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day night, November 10th.

Q Where did you go with her? A Over to a little market, a butcher shop, the second door from the corner of 112th Street and Eighth Avenue, on Eighth Avenue.

Q Well, to be brief, did you take her up to her house?

A Yes.

Q You went there, did you? A Yes, sir.

Q Now, on what other occasion after that, or when did you next see Mrs. Martinto? A On Sunday, the 11th.

Q The next day? A Yes, sir, Sunday night, rather.

Q Where did you see her? A At her apartment.

Q Was this colored girl there at the time? A She was.

Q And did you bring any message from your employer on that night to her? A No, sir, I did not.

Q Was anything ever mentioned to you about having attacked her or assaulted her; was any such ever broached to you?

A Never, sir.

Q When, after the 11th of November, did you see Mrs. Martinto? A I was there Sunday night, November 25th.

Q That was when? A Sunday night, November 25th.

Q Thanksgiving? A No, sir; Sunday night, November 25th.

Q Is that the night you brought the pictures up? A That was the night I brought the pictures.

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Q Now, tell us about these pictures? A I telephoned on Sunday morning, either Sunday morning or Saturday night; I don't remember which, but I telephoned to Rockwood's Studio, that is on Warborton Avenue, Yonkers.

Q At whose request did you telephone? A She asked me to bring the pictures.

Q When did she ask you to bring the pictures? A When did she?

Q Do not repeat my questions. I ask you when did Mrs. Martinto --- A (Interrupting) On Sunday, the 11th.

Q Was it on that day she requested you to bring her pictures? A Yes, sir.

Q Now, then? A And on Saturday night or Sunday morning, I disremember which, but I know I telephoned down to the Rockwood Studio, I think it was Saturday night, because I asked him if he would be open Sunday morning, that I was coming down to get Mrs. Martinto's pictures that he had taken of the children, and he said he would.

Q That was the 25th of November? A The 25th of November, on Sunday, and I told him I would be down before 12 o'clock, and I did; I went down and got the pictures, and I paid the balance of \$15. for the pictures.

Q You did? A Yes, sir, I did, and I came back and I stopped at the drug store, where the telephone office is, and

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I sent a telegram to Mrs. Martinto stating I would be down on Sunday night to bring the pictures down to her, and the man that has the drug store there, he told me that he sent a telegram down by his son, and on Sunday night I took the pictures down. Mrs. Martinto was sick at the time, so Louise said; I heard Mrs. Martinto talking to Louise, and I gave the pictures to Louise in the dining room, and I sat there a few minutes. I talked to Louise, and I asked her was there anything I could do for Mrs. Martinto; did she want me to telephone for a doctor or anything, and she said no, and Mrs. Martinto called Louise at the time I was there, talking to her, the night that I carried the pictures there, and she came out and wetted a cloth, I think, to put on her head. Then I did not go to Mrs. Martinto's any more.

Q She brought the money out, did she? A She did not give me any money that night.

Q That was the night of the 25th? A That was the night of the 25th.

Q Now, when did you ever go to the house again? A The Sunday after Thanksgiving.

Q What day was that? A December 1st.

Q What time was that? A Well, I judge it about two o'clock, somewhere around there.

Q In the afternoon? A Yes, sir, on Sunday.

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Q Whom did you see there? A Mrs. Martinto and the four children were sitting at a table eating lunch, and the cook --- I guess it was the cook; it was not Louise --- she opened the door; I rang the bell in the vestibule, and the front door was open; then, when I walked in the vestibule, I rang their bell at the door, and the girl opened the door. Mrs. Martinto was sitting on the side of the table, and the three children was at the table, and she asked me in. I went in and I sat in the parlor or sitting room, whichever you call it. Louise came in at the time; she had been out, I think, after some ice cream, and Louise came in after she put this little package down, about that size (indicating) that she had in her hand; she came in and talked to me until Mrs. Martinto finished eating, and Mrs. Martinto came in and asked me how I felt. I told her I felt all right, and asked her how she felt; she said "All right", only that she had fever blisters on her lip at the time.

Q She had fever blisters on her lip? A On her lip. She said she had been sick since the following Friday.

Q Well? A And I said to her "Well, I have a receipt for you". She says "Yes, I owe you for the pictures, don't I?" I said "Yes, ma'am", and I had two bills; one was wrote on yellow paper and the other was wrote on white; one was a receipt for the \$5. which she had paid when she went to have the

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children sit for the pictures.

Q A deposit? A Yes, sir, and the other bill was the \$15. which I had paid, and I gave them to her, and I sat in the rocking chair and talked with her for, I guess, an hour or more. She gave me \$15. herself. She said --- her bedroom was right off the parlor, or sitting room, whichever you call it, right to the right; she sat on the side of her bed and I sat in the rocking chair, and she gave me \$15.

Q Now, whether that was the 25th of November or the 1st of December, you are sure that was after Thanksgiving? A It was the Sunday after Thanksgiving.

Q And that conversation with Mrs. Martinto was pleasant? A Yes, sir.

Q Was there anything in Mrs. Martinto's behavior that was in any way antagonistic ~~in~~ to you? A No, sir. When I got ready to leave ---

Q Now, tell us when you first heard of this assault charge? A I didn't know anything about it until I got to the station house.

Q Well, how did you come to be arrested on the 18th of December? You continued to work all this time, didn't you, for her brother-in-law? A Yes, sir.

Q You were driving to the city every day? A Yes.

Q How often had you seen Mrs. Martinto in the meantime?

A Not since that Sunday.

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Q Sunday the 1st of December? A The first day of December.

Q Tell us how you became to be arrested? A When I went up to the house after Mrs. Di Verastegui, the day I was arrested, when I drove the auto up to the door, I always went in and got the robes, and Mr. Di Verastegui's heavy overcoat; Mrs. Di Verastegui was sitting in her writing, her library, I should call it; she says "Who do you think telephoned?" I said "I don't know, who, Mrs. Cochran?" She says, "No".

BY MR. APPLETON:

Q Who, Mrs. Cochran? A She said to me "Who do you think telephoned?" I said "I don't know, who, Mrs. Cochran?" She said "No", and I said "Who, Mrs. Martinto?"; she said "Yes, and she wants to see me, and I had to have a big cry, she says, over the telephone, and I asked her where did she live, and she said you knew". She said "We will go down and I will stop there and see her, but drive me down to the apartment first, at 125th Street and St. Nicholas Avenue". Then I drove Mrs. Di Verastegui down there, and afterwards, after she made a visit there at her own apartment house, then she came out and told me to drive her up to Mrs. Martinto's, ~~xx~~ 202 West 140th Street, and I did; and her little niece went along with us. Then Mrs. Di Verastegui went in and left her little niece sitting in the machine, and they called her in and told her to

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tell me to go back to the apartment house and wait there for Mr. Di Verastegui, and if she wanted me she would telephone, or else she would go down on the car; and I did, I drove the little niece back to the apartment, and I waited there until Mr. Di Verastegui came. Mr. Di Verastegui came, I guess, about twenty minutes after five, somewhere around there.

Q After five in the evening? A After five in the evening. Mr. Di Verastegui came, and he asked me, was Mrs. Di Verastegui there. I says "No, sir, she is up to Mrs. Martinto's". He says "Up to Mrs. Martinto's?"

Q You had taken her there? A No, sir; he says to me "Is Mrs. Di Verastegui here?" I says "No, sir, she is up to Mrs. Martinto's". He says "Where does Mrs. Martinto live?" I says "202 West 140th Street". About twenty minutes after that, he went on into the apartment and began to talk to talk to the superintendent of the apartment house there, and in about twenty minutes, or in fifteen minutes, something like that, Mrs. Di Verastegui and Mrs. Martinto came from towards Eighth Avenue, up 125th Street, and came over to the apartment. I was standing at the door, and they went on in and they called Mr. Di Verastegui around the little alcove, like, going in the elevator, and they all stood and talked, well, I guess, for five or ten minutes. Then the three of them came out and went toward Eighth Avenue on 125th Street. Well, I waited, I

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guess, half an hour, and a special officer came around.

Q Well, a man came there; you don't know who he was, did you know who he was, did you know that then? A Well, I didn't know who he was then. He came in the front door of the saloon which is attached to Mr. Di Verastegui's apartment house; the first floor is a saloon; he came in the front door, I judge, because he came out the side door and says to me "Are you driving the machine?" I says "Yes". He says "I got a warrant for you". I says "A warrant for me?" He says "Yes". I says "Let's see the color of your paper". He says "I don't have to have a paper". Well, I says "You will have to have a paper to take me". Well, he says, "Come on to the corner here and see if you know this man on the other side of the street". I goes to the corner with the man and he says "You know that man on the other side of the street?" I says "Yes, that's my boss", and he says "Well, he has been up to the station house and made some kind of complaint against you, I don't know". I says "All right, I will go up with you". I went up, went up to the station house, and Mrs. Di Verastegui, Mr. Di Verastegui and Mrs. Martinto came in, and the Sergeant asked who was the complainant and Mrs. Martinto stepped up, and he says "What is the charge against this man?" She says "Blackmail", and she handed him a letter. We read the letter and he says "This is no evidence against this man".

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Q Was that in the presence of Mrs. Martinto? A In the presence of Mrs. Martinto, Mrs. Di Verastegui and Mr. Di Verastegui. He says "This is no evidence against this man". He read the letter and he says "This is no evidence against this man", and her sister says to her "Why, didn't he threaten your life?" She says, "Yes, he did, he threatened my life too." Then the Sergeant says "Lock him up." The Sergeant says "Lock him up, and they took me back and I left them standing there."

Q Now, in regard to the letter, did you ever write any letter to Mrs. Martinto? A I did not.

CROSS EXAMINATION BY MR. APPLETON:

Q You know who did write the letter though, don't you?

A I do not, no, sir.

Q What? A I don't know.

Q Didn't you go over that very day that you were arrested and try to get that letter back again? A I did not.

Q You heard Louise say that you did, didn't you? A I did.

Q Don't you know who wrote that letter? A I do not. I know who they say wrote it.

Q Where is your wife now? A I haven't seen her since the day I was arrested.

MR. HOCHSTADTER: Why don't you arrest this woman?

Don't bring this man up on the assault charge. Why don't

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you arrest her for blackmail?

Q Do you know where your wife is? A I do not. I haven't seen her since the day I left home, the day I was arrested.

Q Do you know where your wife is? A I do not; I haven't seen her.

Q Was that woman living with you in Dobbs' Ferry, your wife? A She is my lawful wedded wife.

Q Did you have another woman that you lived with before you met her? A Before I have another one?

Q Did you live with another ~~one~~ one before you met the woman you were living with in Dobbs' Ferry? A Why, no, sir.

Q What? A Why, no, sir.

Q Didn't you live with another woman before you were living with the one you lived with in Dobbs' Ferry? A I lived with my wife in Dobbs' Ferry.

Q Well, now, before you went to live with the woman you call your wife, in Dobbs' Ferry, didn't you live with somebody else? A No, sir, when I came from Philadelphia, my wife came with me; when I went to work for Mr. Di Verastegui, my wife went with me.

Q Didn't you live with another colored woman, and didn't she have two children by you, and you deserted her to go and live with this other woman? A No, sir, I have not a child in the world.

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Q Do you mean to tell me that? A I do. I have not a child in the world, not one.

MR. APPLETON: May the Court have the record of these side remarks of counsel?

MR. HOCHSTADTER: Well, I have no objection, but I do not see why this man's history of his life should be brought in here.

THE COURT: Well, it might affect his credibility.

MR. APPLETON: Well, I do not like to be interrupted by somebody behind me constantly mumbling.

THE COURT: Mr. Hochstadter, if you have any objections, if you will make your objections, I will rule upon them.

Q Now, you have quite a habit of borrowing money, haven't you? A No, sir.

Q Didn't you borrow money from a good many people in Dobbs' Ferry? A Never borrowed from any one, from any one.

Q Didn't you borrow money enough to pay your fare from Dobbs' Ferry to New York from a newsboy, and give him your license to run an automobile in pledge for the security of that money? A I never did.

Q You never did? A Never.

Q You realize you are under oath? A Yes.

Q You ~~will~~ realize that if you tell an untruth here ---

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A (Interrupting) I know what the consequence is.

Q Now, you say that you had already ordered these two suits of clothes before you went to Mrs. Martinto to borrow \$50.? A I had, sir.

Q And after you ordered them did you find out that you did not have money enough to pay for them? A I did.

Q Then it was that you went to Mrs. Martinto and asked her to lend you the \$50. to pay for those two suits of clothes you had previously ordered? A Yes, sir.

Q And she was kind enough to you to lend you the money? A She gave it to me.

Q Gave you a check for it? A Yes, for \$50.

Q With your name written in the check? A My name --- she said "To bearer \$50.".

Q And you endorsed your name on the back of it? A Yes.

Q And it went back through Mrs. Martinto's bank to Mrs. Martinto? A Yes, sir.

Q Now, you say you never carried a pistol? A No, sir.

Q Wasn't there some trouble about a dog or cat up there at Dobbs' Ferry, one day, didn't you shoot a dog or cat? A I shot Mr. Di Verastegui's blind dog, right on his own premises.

Q Didn't you pull a pistol right out of your pocket when you did the shooting? A Did I?

Q Yes. A Why, Pat, the yard man, Pat was ordered to

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kill the dog.

Q Well, I know that. A Pat was ordered to kill the dog; he was the yardman. He says "I can't knock the dog in the head with an axe", he says, "If you will shoot the dog it will be much better". I says "All right; tie her to a stick". He did that on the side of the garden, and I was in the automobile house at the time; I went upstairs; I lived there, over the automobile house, and I went upstairs and got my revolver, and came down and shot the dog.

Q Didn't you pull that revolver right out of your pocket and shoot the dog then and there? A I did not, sir. Why, I was working right there in the automobile house.

Q Where did you get the money that you paid for these pictures; did you pay for the pictures before you got the money from Mrs. Martinto? A I did.

Q Where did you get the money? A With my own money.

Q With your own money? A Yes.

Q You are sure of that? A Why, yes, sir.

Q Now, did not Mrs. Di Verastegui give you the \$15. and tell you --- A (Interrupting) She did not.

Q Will you wait until I finish the question? A Yes, sir.

Q Did not Mrs. Di Verastegui give you the \$15. and tell you to go and get these pictures from Rockwood's, and take them down to Mrs. Martinto? A No, sir, she did not. Mr. Di Veras-

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tegui paid me on Saturday, and I paid for the pictures on Sunday, November 25th.

Q Did not Mrs. Di Verastegui give you \$15. out of her own pocket, not your salary, but money out of her own pocket, to pay for those pictures from Rockwood? A She did not, sir.

Q And after Mrs. Di Verastegui gave you the \$15. to pay for them, didn't you go and get the pictures? A No, sir, she did not.

Q And then, after you had received the money from Mrs. Di Verastegui, and had been and got the pictures and paid for them, you got a receipt for them, and then was it not that you took the pictures and the receipt, all at one and the same time down to Mrs. Martinto's house? A No, sir.

Q That is all untrue, is it? A Yes, sir.

Q And if Mrs. Di Verastegui comes here and says that she did give you the money she also testifies falsely, as you say--

A Yes, sir.

Q She does? A Yes.

Q The same as you said Mrs. Martinto, that she testified falsely to-day against you? A Yes, sir.

Q Now, weren't you in the habit of taking Mr. and Mrs. Di Verastegui down to the St. Nicholas Inn on occasions? A Not Mr. Di Verastegui.

Q Hadn't you taken Mrs. Di Verastegui there? A Mrs.

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Di Verastegui.

Q And Mrs. Martinto? A Mrs. Martinto.

Q And they were friends of Mrs. Cochran, weren't they?

A yes, so I believe.

Q And it was not anything unusual for Mrs. Martinto to be with Mrs. Cochran on the night of election? A Not as I know of.

Q I just wanted to know what peculiar stress there was laid on that. You did go to Mrs. Martinto's house on the Sunday after Thanksgiving, didn't you? A Yes, sir.

Q At about two o'clock in the afternoon? A yes, sir, I judge it was about that time.

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RE DIRECT EXAMINATION BY MR. HOCHSTADTER:

Q Just one word about the pictures; tell us again how you knew that there were any pictures at Rockwood's?

A How did I know?

Q Yes? A The day that the children all sat for the pictures --

Q When was that? A Well, I can't remember.

Q Well, how long before Thanksgiving Day was it that the children sat for those pictures? A Oh, some time.

Q Well, tell us how you came to go for those pictures at Rockwood's? A Because I was -- before I got those pictures, Mrs. Di Verastegui sent her maid, at least, the nurse down with the little girl to have some pictures taken there, and when I went down, Mr. Rockwood asked me did I know where Mrs. Martinto lived.

MR. APPLETON: I object to that. That is immaterial on this case here; any conversation this defendant had with Rockwood.

MR. HOCHSTADTER: Well, I withdraw it.

A (Continuing): Well, he gave me the bill; I was going to explain --

MR. APPLETON: Now, you are not to explain.

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BY MR. HOCHSTADTER:

Q At the time you received or got \$50. from this lady, you did not use any weapon? A Not at all, sir.

Q It was entirely voluntary, wasn't it, on her part?

A Yes, sir.

BY THE TWELFTH JUROR:

Q At the time you met the lady on Manhattan avenue, what time did you say it was? A Twenty minutes of twelve.

Q At night? A Saturday night.

Q Was that by appointment or just by accident? A By appointment.

BY MR. HOCHSTADTER:

Q Appointment of whom? A By telephone.

Q To where? A Mrs. Martinto telephoned it to Mr. Di Verastegui's house, and the colored maid came to the back and hollered down to me, "There is some one on the telephone to see you", that wanted to talk to me.

Q And did you come down that night from Dobb's Ferry?

A I did.

Q And you met her where? A 112th street and Manhattan avenue.

Q Now, tell us just what happened there at twenty minutes

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to twelve on that night? A When I met her, she went to the market, a little market and fruit store.

Q Where is that market and fruit store? A It is the second door from the corner of 112th street, on Eighth avenue; a saloon is on the corner, and the second door is just a little fruit market and stand.

Q What did you do there? A She purchased some little marketing and some fruit.

BY THE COURT:

Q You say this was what time? A About twenty minutes of twelve, and Saturday night.

BY MR. HOCHSTADTER:

Q On the tenth of November? A Yes, sir, the tenth of November.

BY THE COURT:

Q At twenty minutes of twelve o'clock? A Yes, sir.

BY MR. HOCHSTADTER:

Q When you got that fruit, who carried it? A I did.

Q How was it put up, in a basket or what? A In a paper bag.

Q Who carried the bag? A I did.

Q Where did you go? A We got on the car.

Q What car? A On an Eighth avenue car. Mrs. Martinto

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went in the front door of the car, and I stayed on the platform.

Q You did not sit down inside with her? A No, sir, I did not.

Q How far did you go? A Up to 140th street, 202.

Q To her apartments? A Yes.

Q And what did you do with the bag? A What did I do with the bag? Put it on the dining room table there.

Q Did you go upstairs? A There is not any upstairs; it is on the first floor.

Q You mean to say to the Court and jury you went there that night? A I did, sir.

MR. APPLETON: If your Honor please, in this case now, the testimony as it is, leaves the prosecution in a very erroneous sort of position. The evidence is absolutely incompetent. At the time defendant's counsel commenced the examination as to the alleged happening of November 10th, I objected to it, and your Honor said you would receive it. They have nothing at all to do with the robbery or alleged robbery of November 7th; they are absolutely collateral to this issue; they in no way are relevant to the question as to whether or not this defendant, on the 7th of November, threatened

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Mrs. Martinto with a revolver and demanded money.

There are other things in connection with this that I know about, and it is, therefore, that I say it leaves the Prosecution in a very unpleasant position before the jury at the present time, and the only way I can see to rectify that is for that evidence to be stricken from the record, as to everything that happened on the 10th of November, or is alleged to have happened. I know it did not happen -- anything that is alleged to have happened by this defendant on the 10th of November, 1906, between this defendant and the complaining witness, Mrs. Martinto. I objected to its reception in the beginning. I am not too late in making this motion.

THE COURT: I think I will allow it.

RE CROSS EXAMINATION BY MR. APPLETON:

Q When you came back to the house of Mrs. Martinto, as you claim, on the night of November 10, 1906, did you go into her apartment? A I did, sir.

Q Where did you go in her apartment? A Where did I go?

Q Yes? A In her dining room and in her sitting room, and in her bed room.

Q And did you go into the bed room with Mrs. Martinto?

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