28695-B

STENOGRAPHIC RECORD

IN THE MATTER OF

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY.

WILLIAM V. TABELING,

vs.

SARAH L. TABELING.

BEFORE: ULMAN, J.

Docket B-587, 1927.

(INDEX INSIDE)

Dear Mr. -
will you please put the answer in
this Record? Figures there which shows
that Tabeling only makes $75.00 week

W. Purnell Read

TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

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IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY.

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vs.

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CROSS BILL.

BEFORE: ULMAN, J.,

Docket B-299, 1927.

(INDEX INSIDE)

No 28695 B.
(26)

Fd 14. February 1928

TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

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EQUITABLE BUILDING
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INDEX OF WITNESSES.

WITNESS	DQ	XQ	RDQ	RXQ
Tabeling, William V.	2	35		
Kennedy, Geo. L.	69	105		
Brown, John R.	114	149	164	
Tabeling, Sarah L.	165	200		
Sloane, Geo. F.	216	218		
Stokes, Ralph	219	231		
Small, John M.	268	280		
Dempsey, Claire F.	300	309	315	317
Gorsuch, Chase,	318	322		
Schidiger, Marie,	323	328		
Berger, Alphonse Jr.,	338		340	
Sayler, J. Abner,	341	342		
Pfannkuchen, Otto,	342			
Tabeling, William L.	344	348		
Brown, Helen,	350	352		
Nagel, Clarence D.	359	361		
Sarah L. Tabeling,	293	297.		

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY.

WILLIAM V. TABELING,)
)
vs)
)
SARAH L. TABELING and)
CROSS BILL.)

BEFORE: ULMAN, J.,

Docket B-279, 1927.

Wednesday, January 18th, 1928.

The above entitled cause came on for hearing before his Honor, Judge Joseph N. Ulman, on Wednesday, January 18th, 1928, at 1.50 P. M.

Mr. J. Abner Sayler appeared in behalf of the plaintiff.

Messrs. William Pinkney Whyte, Jr., and A. K. Rifman appeared in behalf of the defendant.

Thereupon - - -

WILLIAM V. TABELING,

the plaintiff under the original bill, produced on his own behalf, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Sayler:

Q Now, give your full name, sir?

A William V. Tabeling.

Q Where do you live, Mr.Tabeling.

A 1619 Harford Avenue.

Q With whom do you live?

A With my father.

Q You are the plaintiff in this case, are you not?

A Yes, sir.

Q When were you married, Mr.Tabeling?

THE COURT: Well, that is admitted in the answer, February 7th, 1924 and he separated June 23rd, 1927.

MR. SAYLER: All right.

Q' It has been stated in your bill of complaint that you left your wife on June 23rd,1927, is that correct?

A Yes, sir.

Q Where were you living at the time you left your wife?

A 1731 Harford Avenue.

Q Why did you leave your wife?

A For adultery.

Q How do you know that?

A I caught her.

Q Now, where did this adultery take place?

A At a shore at Rock Creek.

Q When did the adultery take place?

A On June 23rd, 1927.

Q Was it day or night time?

A Night time.

Q Now, tell in your own way just what occurred?

A Down to the shore?

Q No, you start out from some place. Now, tell how you started?

A My detective come and picked me up where I hang out at a cigar store and went to Brooklyn in a cab. From there we got in Mr. Brown's machine and from there we went down to this shore.

Q Had you ever been to this shore before?

A No, sir.

Q Where is this cigar store that you speak of?

A At 1619 Harford Avenue.

Q You went to a shore and where was that shore?

A At Rock Creek.

Q Do you know who owns the shore?

A No, sir.

Q Had you ever been there before?

A No, sir.

Q What time of the night did you arrive at the shore?

A Nine or nine thirty.

Q Now, what happened? Who were with you at the time, how many people were with you?

A Mr.Brown, Mr. Kennedy and myself.

Q Now, you were in an automobile?

A Yes, sir.

Q When you got to this shore what did you see?

A There were two men, another lady and my wife.

MR. WHITE: I did not hear that.

THE WITNESS: Two men, a lady and my wife.

Q (By Mr.Sayler): Where were they?

A They were sitting around when we came to the place drinking and smoking cigarettes.

Q First tell us what this place looked like, was there a house on this property?

A Yes, sir.

Q What did the house look like?

A A regular bungalow.

Q Do you know how many rooms it had?

A Four or five rooms.

Q Now, when you got there did you walk right into the house?

A No, sir.

Q What did you do, peep in the window?

A Yes, sir.

Q You looked through a window, and was the house lighted?

A Yes, sir.

Q Just tell what you saw, you have told us you saw four people, one of whom was your wife, in a room in the house?

A Yes, sir.

Q Were they sitting or standing or what?

A They were sitting around this table and we went in the front of the building, the door was opened, and I sat there in the grass.

Q Well?

A Mr.Brown, he was a little distance away from me.

Q Where was the other man?

A Mr. Kennedy was under the window where these people were, right at the building.

Q What went on inside of the house?

A About fifteen or twenty minutes time this one lady and a man got up and went out---

Q Right there, did you know any of the people in that party other than your wife?

A No, sir;

Q A man and woman went out you say?

A Went out, yes, sir.

Q Where did they go?

A I don't know, sir.

Q Did they come out of the house?

A Out of the house, yes, sir.

Q That left your wife and some man there in the house?

MR. WHYTE: Don't lead him, let him tell what happened.

Q What happened?

A My wife and this man were sitting there and they

were drinking and she was smoking and he had his arms around her making love to her and kissing her. I reckon around about fifteen minutes time they got up.

Q All right.

A When they got up I seen my wife go into this room

Q What kind of a room was that?

A Bedroom.

Q All right.

A Then came the man along, he went into the bedroom We got closer to the building.

Q Go right on in your own way?

A We were in the front of the building-- this was the front I seen them from, this was the back part we came to (indicating). Then we came in in a little time, about five or ten minutes, then we came in.

Q Came into what?

A Into this room where they were sitting first.

Q You entered the house?

A Yes, sir.

Q All right.

A Then we went into this room.

THE COURT: Which room?

THE WITNESS: The big room. Then as the floor cracked, out came my wife all excited.

Q Tell us what was her condition as far as you could see at that time, was she dressed?

A Yes, sir.

Q What was her condition?

A Her condition was, when she come out she looked like that there (indicating), she stood there talking to Mr. Brown.

Q What was the condition of her hair?

A Her hair was not messed up or anything.

Q It was not?

A No, sir.

Q Did she have a hat on?

A I can't recall.

Q Well, now, your wife came out and talked to Mr. Brown. Where was the man?

A The man was in the room. Then in the meanwhile--

Q In what room?

A In this bedroom.

Q Was there a light in the bedroom?

A No, sir, the room was dark.

Q Was there a light in the bedroom when you saw your wife and this man in that room?

A No, sir.

Q Was there a light in the main room of the bungalow when your wife and this man went into the bedroom?

A A dim light, yes, sir.

Q What kind of a light was it?

A What kind of a light, dim like; a large oil lamp.

Q You say the man went into the bedroom and your wife came out first. How long after that was it before the man came out of the bedroom?

A A few minutes after that he came out pulling up his trousers.

Q What was the condition of his trousers?

A The condition of his trousers was just like pulling them up and all rumpled up there.

Q Will you tell us whether or not you noticed whether his trousers were unbuttoned?

A Yes, sir, they were unbuttoned, he was pulling them up from his knees.

Q What is the next thing you observed?

A Out he came. He wanted to start a fight.

Q Who wanted to fight?

A This man that came out of the room.

Q Yes, sir?

A And Mr.Brown says to me, "Do you want to have him locked up?" I says, "No, sir, I don't want to have him locked up." Then Mr.Brown-- I says to my wife, I says to her, "I says, "This is a nice place for you to be."

Q Well, what did she say?

A She says to me, "There wasn't going to be any harm, Bill."

Q Well, what is the next thing that happened?

A Through the excitement why then I says,"I am going." I goes out. She says to Mr.Brown, she says, "I am going home with my husband." I says, "No, you didn't come down here with me."---

Q Go on?

A Then, they had a tussel there, Mr.Brown and her.

Q Who started that?

A My wife seemed to start that, she made a pass at Mr.Brown.

Q You mean trying to hit him?

A Yes, sir.

Q Well?

A I goes down toward the machine of Mr. Brown to get in it. I was down there, then Mr. Kennedy and Mr. Brown came down and we came on home.

Q All right. Now, had your wife said anything to you in the early evening about going out that night?

A Yes, sir.

Q What did she say?

A She told me, she says, "Bill, Claire and I are going out bathing." I says, "Yes?" She says, "Yes." She says, "But I expect a call, if I get the call, I won't go bathing."

Q What time did she tell you that?

A After supper, seven o'clock.

Q Did she say where she was going bathing?

A She said at the park.

Q Had you ever known her to go bathing before?

A No, sir.

Q Did she take her bathing suit with her when she left?

A No, sir.

Q What time did she leave?

A About 7.30, the house.

Q Were you home at that time?

A No, sir.

Q Where were you?

A I had left, after she told me what she was going to do, I had left.

Q So you don't really know what time she left the home, do you?

A She passedme on the street in front of the cigar store around 7.30 and went down to the beauty parlor.

Q Did you tell us who this Claire is you referred to?

A Claire Dempsey.

Q Who is Claire Dempsey?

A Her sister.

Q Is she married?

A No, sir.

Q Where did she live?

A 1501 East Lafayette Avenue.

Q How far is that from your home?

A Just right around thecorner.

THE COURT: What is the number?

THE WITNESS: 1501 East Lafayette Avenue.

Q (By Mr. Sayler): You say you left that shore after you witnessed with you have told us about, and then where did you go?

A I came home and got my clothes out at 1731 and went down to my father's, 1619.

Q Have you lived there ever since?

A Ever since, yes, sir.

Q Did you talk to your wife after that?

A On several occasions she had met me on the street.

Q Did you say anything to her about why you left home?

A No, sir.

Q Did you ever tell her why you left home?

A No, sir.

Q Did she say anything to you about it?

A No, sir.

Q Well, when you met her on the street, did you talk?

A She was talking to me. She says to me on one occasion, she says she is sorry for what she did and pleaded

if I would take her back she would be a better wife, she knows I did not treat--- she did not treat me right while she was living with me.

Q How many times did you have such a conversation with her?

A Oh, four or five occasions.

Q Did those conversations take place on the street?

A On the public thoroughfare.

Q When was the last time you had a conversation with her?

A About three months ago, two or three months ago.

Q Did you talk to her on the street?

A Right on the corner of Harford Avenue and Federal Street.

Q Has your wife ever telephoned you sinceyou left?

A Yes, sir, she has called me up a number of times. There for a while I answered the phone thinking it was someone calling up for something else. I talked to her over the phone and she pleaded with me and different things and I told her, "I didn't do it, if you had treated me right and led a good life with me, you would have been with me."

Q Have you ever forgiven her for her alleged adultery?

A No, sir.

Q Did your wife in any of her conversations admit she committed adultery?

A No more than she just said she knew she wasn't a truthful wife and to give her another chance to prove herself to me that she would.

Q What kind of business are you in, Mr.Tabeling.

A Meat business.

Q Have you a place of business?

A Yes, sir.

Q Where is that?

A Stall 75, Belair Market.

Q THE COURT; Wasn't the testimony on January 13th taken down by the stenographer?

MR. SAYLER: No, sir.

MR. WHYTE: Your Honor took notes.

THE COURT: I was wondering whether we could save time.

MR. SAYLER: I just want to establish his home, your Honor.

THE COURT: I thought you were going into the question of his earnings.

MR. SAYLER: No.

Q Mr. Tabeling, you have this stall in the market?

A Yes, sir.

Q Do you attend there every day?

A Yes, sir.

Q When you attend there every day what time do you generally get there?

A Tuesdays and Fridays are the regular days. I stay later than I do other days and if there is no business then I leave around twelve or half past twelve and then go to my meat place and buy meats in.

Q Are you home during the day at your residence?

A No, sir, out at my business.

Q You are either in the stall or out attending to your business?

A Buying meats.

Q How about on Saturdays, are you home at all on

Saturdays?

A No, sir, never home on Saturday, I am in the market from half past five in the morning until midnight.

Q What night of the week was this performance down at Rock Creek, I believe you said, wasn't it?

A Yes, sir.

Q What night of the week was that?

A Wednesday, Wednesday, June 23rd.

Q 1927?

A Yes, sir.

Q Well, that is one occasion that you followed your wife, did you ever follow her on any other occasions?

A Yes, sir.

Q Well, now, when was that, sir?

A On one occasion I followed her---

MR. WHYTE: When, sir?

THE WITNESS: Sir?

MR. WHYTE: When?

THE WITNESS: When?

Q (By Mr.Sayler): Yes, give us the dates?

A June 7th.

Q What year, sir?

A 1927.

Q Now, tell us about that?

A I followed her from a building her on Calvert street, the Calvert Building---

THE COURT: Do you mean a building on Calvert street or the Calvert Building?

THE WITNESS: Calvert Building.

Q How did you go down to the Calvert Building?

A Mr. Brown called me.

Q Mr.Brown, the detective?

A Yes, sir.

Q He called you?

A Yes, sir, he sent for me.

Q Where were you at that time?

A In front of this cigar store, 1619 Harford Avenue.

Q You went with someone, and where did you go?

A We went down-- they sent a cab for me and left me out here at Baltimore and Light Streets.

Q Now, tell us about that?

A We came up and met Mr.Brown, he was there, and then I got-- he put me in his car, which was parked on

on this side of Fayette Street.

Q What do you mean by this side of Fayette Street, Fayette Street runs east and west and has a north side and south side?

A North side.

Q On the north side of Fayette?

A Yes, sir.

Q Just tell us where on the north side of Fayette?

A Right here.

THE COURT: At the Court house do you mean?

THE WITNESS: Yes, sir.

Q What time of the night was this?

A About nine o'clock.

Q All right?

A Mr. Brown put me in his car. I stayed in his machine. About a half hour or three quarters of an hour afterwards my wife came out.

THE COURT: Out of where?

THE WITNESS: Came out of the Calvert Building.

Q (By Mr.Sayler): Was she alone?

A No, sir, she was with her sister. Her sister came

out first and came across the street and got in the automobile.

THE COURT: What automobile?

THE WITNESS: In an automobile parked about three cars above us, which was an out of town car, a Washington car.

Q (By Mr.Sayler): How could you tell that?

A By the license.

Q What is that sister's name?

A Claire.

Q Yes?

A And then my wife came out of the building, coming across the street, and this man was with her put his arms around my wife's neck and kissed her right here on the street.

Q All right, what is next?

A Then, they came across the street, he was hugging her coming across the street, had his arms around the bottom part hugging her, and they got in the car---

Q In whose car did they get in?

A In this Washington car.

Q Who else got into the car?

A Her sister and a man was with her. My wife sat up front with the driver.

Q Did you get a good look at either of those men?

A One of them, yes, sir.

Q Which one?

A The man that was with my wife was a dark complected man.

Q Can you describe him?

A No, sir, I cannot, because as I says to Mr. Brown---

MR. WHYTE: Never mind what you said to him.

THE COURT: Ido not want hearsay.

Q Was he a short man or tall man?

A Tall man.

Q A dark complected man I understood you to say?

A Dark complected.

Q How was he dressed?

A Neatly dressed.

Q Do you know whether he had a derby hat or straw hat?

A A straw hat.

Q Where did your wife sit in this car?

A In front with the chauffeur, with the man that drove the car.

Q With the driver?

A With the driver.

Q What did you do after that?

A We followed them.

Q Did you see what your wife was doing in the car?

A No, sir, I could not see. We followed them to North Avenue and Charles Street, which we lost them there, the light broke us up.

Q After that did you speak to your wife about it? you were living with your wife at that time, were you not?

A Yes, sir.

Q Did you say anything to your wife about that?

A I asked her where she went when she came home. The next morning I asked her, I said, "Where have you been?"

Q What did she say?

A She said, "I told you where I went."

Q Well, did she say where she had gone?

A She said she went--- "I am going to the Auditorium," she said she is going to the Auditorium and she came out after the first act and came home-- came out and went in this sandwich shop and got a sandwich. She told me, she says, she had to wait thirty minutes for a Harford avenue car and then she says on the street car a man tread on her foot.

Q Well, what else?

A She said he ruined her shoe. I made an examination of the shoe and the shoe had no mark on it. It was a brand new pair of shoes.

Q This is the next morning you are talking about?

A Yes, sir.

Q Did she tell you what the performance was at the Auditorium?

A She said she did not like the show, that is the reason why she came out after the first act.

Q She said she went to the sandwich shop and then waited thirty minutes for a car and someone stood on her foot?

A Yes, sir.

Q What time did she get home that night?

A 12.30 or 1 o'clock.

Q You were home at the time she arrived?

A Yes, sir.

Q You said you examined her shoe, did you examine her other clothing?

A Her petticoat Icould not find. I was after an examination of that but I could not find it.

Q Did you examine any other part?

A Her stockings I examined, and seen a hole in it right about here (indicating).

Q Across the instep?

A Yes, sir.

Q Did you look at any other part of the clothing?

A Sir?

Q Did you look at any other part of her clothing?

A I examined her dress and her dress was kind of rumpled up, it was light silk.

Q Where did you find this clothing you are now talking about?

A The dress?

Q Where did you find the clothing you are now talk-

ing about?

A The dress was hanging on the hanger but where the petticoat was, I don't know.

Q Did you say anything to your wife about a hole in her stocking?

A No, sir.

Q I forgot to ask you one thing about that occasion down at the shore at Rock Creek. Did you see any of your wife's clothing down there that was not worn by your wife?

A No, sir.

THE COURT: Did you understand that question?

THE WITNESS: Did I see any other clothing worn by my wife.

Q Did you see anyclothing hanging on a line down there?

A No, sir, I did not.

Q You did not see that?

A No, sir.

MR..SAYLER: I have a witness who knows about some other clothing, your Honor.

MR. WHYTE: Don't lead him.

MR. SAYLER: You can't lead this fellow.

Q Now, on the night of June 7th, when you say your wife came out of the Calvert Building, you have told us about a man kissing her and so forth. Did you notice anything else about her condition when she left the building?

A Well, it seemed like they were drinking, they had a little spirit in them.

Q Just tell us how they acted?

A Flushed, they came across the street with his arms around her waisteand when we were following on behind them this fellow that was driving was zig-zagging up the street.

Q Did you notice whether or not the man drove over any curbs?

A He come near hitting a curb, your Honor.

Q Where was that?

A That was on the corner of John Street and Cathedral, kind of going-- I don't know whether he was going to take John Street or whether he was going to take that street that crosses John Street right there at Cathedral.

THE COURT: John Street?

THE WITNESS: John Street runs this way and Cathedral this way (indicating), then there is a street that

runs this way (indicating).

THE COURT: I suppose he means Brevard street.

THE WITNESS: Right where the Yellow Taxi cab Company is.

Q (By Mr.Sayler): That is Preston Street?

A No, Preston Street is below.

Q You say there were four people coming out of the building and they appeared to be drinking. Can you tell us how you came to that conclusion?

A Their actions, the way he was kissing my wife right out on the street and---

Q That is one thing, what else?

A And the actions, the way he was driving the automobile.

Q Yes?

A It put me under the impression that he was that way.

Q How about the other two people, what did they do that attracted your attention?

A They were sitting in back of the car. They came out, Claire and the man that was with her came out and got in the machine first and they sat there and as we followed

them along they were both sitting there, the man was sitting on one side and the woman on the other side.

Q Do you know what time they entered the Calvert Building?

A No, sir.

Q Do you know what time they left the Calvert Building?

A Near ten o'clock.

Q Did you follow your wife on any other occasions?

A No, sir.

Q Did you know either of the men that came out of the Calvert Building with your wife on the occasion that you have just spoken about?

A I suspicioned one of them.

Q Did you know them?

A One of them---

Q What is his name?

A No, sir, I didn't know that. I suspicioned that man being at my house about a year ago and telling me when I came into the house-- I asked my wife who--- I met him in the hall way as I came up and they were talking and I asked my wife, I said, "Who is that man?"

She said, "Claire sent him around here, he is a stocking salesman."

MR. WHYTE: Now, your Honor, I move to strike that out.

THE COURT: I will strike it out, it is too vague to mean anything.

MR. SAYLER: Yes.

Q When was this occasion you just spoke about that you met a man coming out of your house?

MR. WHYTE: Objected to; he has not said that.

MR. SAYLER: He said he did.

MR. WHYTE: He has not said he met a man coming out of the house.

THE COURT: He said he met him in the house, didn't he, did you see him in the house?

THE WITNESS: There was a stairway as you come in between the bedroom and the dining room. He was standing there talking to my wife.

MR. WHYTE: You saw the man in the house?

THE WITNESS: Yes, sir.

MR. WHYTE: When was it?

THE WITNESS: About a year and a half ago.

Q (By Mr.Sayler): What did the man look like?

A He looked like the man that was in Calvert Building.

Q Do you know the man's name?

A No, sir.

Q In other to get into the record something about what happened in the house on that day, you saw the man in the house; what did you say to your wife when the man was there?

A I asked my wife, I says, "Who is that man?" He said, "Claire sent him around, he wants to sell some stockings."

Q What time of the day was that?

A Around two o'clock.

Q In the afternoon?

A Yes, sir.

Q Well, did the man go out?

A They stood there for a while-- I took my hat to go and put it on a hanger and went past them and went to the kitchen and stood back there waiting for my wife to come back and give me something to eat.

Q Yes?

A She came back a little time afterwards and got me something to eat. That is when I asked her, I said, "Who is that, Lillian?" She said, "Claire sent him around here, he is a stocking salesman."

Q Did you follow your wife on any other occasions?

A Yes, sir.

THE COURT: You asked him that about five minutes ago and he said no.

THE WITNESS: No, I did not follow her. I came out of the house, it was on Tuesday about two years ago--

THE COURT: Is that an essential part of your case, Mr.Sayler?

MR. SAYLER: I don't know what he has in mind.

THE COURT: Well, you had better consult him before he tells about that.

MR. WHYTE: Objected to.

THE COURT: Sustained.

Q Did you see a man in company with your wife about two years ago?

(Question objected to; objection sustained).

Q Can you tell us the time this thing occurred that you have in mind now, something which happened two years

ago?

(Question objected to; objection sustained).

Q Well, did you accuse your wife of committing adultery two years ago?

(Question objected to; objection overruled; exception noted).

Q Do you understand the question?

A No, sir.

Q We will have it read to you in a moment.

(Question here read by the reporter).

A No, sir.

Q What has been the conduct of your wife in your home since your marriage as far as taking care of the house is concerned?

A In taking care of the house she did not attend to her house duties. The house was kept in dirty shape, dirty, I have taken a glass and put it on the edge of the bed and on Sunday afternoon it was still there I threw away a mattress and a rug, the mattress was buggy and I threw that away.

Q When was that?

A About a year and a half ago.

Q MR. WHYTE: I move to strike it out.

THE COURT: I am just wondering what relevancy it has on the allegations of the bill.

MR. SAYLER: Well, it is relevant on the cross bill. I think you have stated in the cross bill she has been kind, affectionate and above reproach.

MR. WHYTE: That is right.

MR. SAYLER: We want to show the lady has not been a good housekeeper and has been neglecting the home and running around.

MR. WHYTE: Objected to.

THE COURT: I do not know as that has anything to do with it. I will strike it all out.

MR.WHYTE: Sometimes the worst housekeepers in the world are the best wives.

MR. SAYLER: I did not hear what you said. If you are talking to me, I did not hear you.

THE COURT: I am sure you and Mr. Whyte are going to confine your remarks to the Court. Therefore, what you say to each other is unimportant.

MR.SAYLER: The witness is with you, Mr.Whyte.

CROSS EXAMINATION.

By Mr.Whyte:

Q Mr.Tabeling, you took your things out ofthe house on June 23rd?

A Yes.

Q What time did you take them out of your house?

A After I came home from down the shore.

Q What time was that?

A Around about eleven o'clock, sir.

Q So around eleveno'clock at night---what did you take out?

A I took all my clothing.

Q What else?

A My clothing.

Q Just your clothing?

A Yes.

Q Did you take any silverware or anything like that?

A No, sir.

Q Did you break up any of the china or crockery that night?

A No, sir, I taken a picture of my stall.

Q Now, you say that was eleven o'clock at night?

A Yes, sir.

Q How do you fix on that, how do you know it was eleven o'clock?

A I judge around about that time, sir.

Q You judge around that time?

A Yes, sir. Through the excitement, to tell you the truth I don't know what time it was.

Q Now, what time did you leave Baltimore to go down to that shore? You were tracing your wife, what time did you leave Baltimore?

A Around about nine o'clock, nine or ten; something like that.

Q You say nine or ten?

A Between nine and ten.

Q Now, which is closest, nine or ten that youleft Baltimore?

A It would be about ten o'clock, closest to ten.

Q Where is this Rock Creek, do you know where it is?

A No, sir, I do not.

Q Do you know how many miles it is from Baltimore?

A From Baltimore to Rock Creek,no, sir.

Q Do you know how long it took you to go there?

A There were two ways to go there, sir.

Q Which way did you go?

A The short way.

Q Which is the short way?

A Down here to Brooklyn, over across through that little town---

Q Glenburnie?

A I don't know, sir.

Q You don't know the name of it?

A No, sir.

Q What is the other way?

A Down around the Annapolis way, around that way.

Q Is it below Annapolis?

A Going toward Annapolis, it is this side of Annapolis.

Q That is the long way?

A That is the long way.

Q And the short way is down through Brooklyn and Glenburnie, isn't it?

A Over those bridges.

Q And that goes straight down to Annapolis, don't it?

A No, that goes down to those shores.

Q You have to go to Glenburnie before you get to where the shores are, don't you?

A Yes, sir.

Q You got past Glenburnie and then go on another road?

A Yes, sir, turn to your left.

Q What is the name of that road?

A I don't know, sir.

Q Is that what they call the mountain road?

A I don't think so.

Q What kind of a road is it?

A It is a road macadamized.

Q Isn't it a dirt road?

A Part of it is and part macadamized.

Q Is this Rock Creek you are talking about nearest to Annapolis or nearest to Baltimore?

A Nearest to Baltimore, I think.

Q How long did it take you to do it?

A How long ago I went down there?

Q That night how long did it take you to go down there?

A We were not losing any time.

Q But even so you have certain kinds of roads to go over, I am still asking you how long it took?

A About fifteen or twenty minutes.

THE COURT: From where?

THE WITNESS: From Brooklyn.

Q (By Mr.Whyte): From Harford Avenue?

A No, from Brooklyn.

Q You said you left Baltimore, that you were up on Harford Avenue, weren't you?

A Yes, sir, on Harford Avenue.

Q Well, didn't you tell your counsel you got in a taxi that was sent to you on Harford Avenue?

A Yes, sir.

Q I am asking you how long it took you to go from Harford Avenue down to this place and you say fifteen or twenty minutes?

A Oh, no, it took me about a half hour.

Q That is, to go from Harford Avenue down to Rock Creek?

A Yes, sir.

Q Now, that puts you down there then about 10.30 that night at that rate. You say you left close to ten o'clock and you were down there about 10.30?

A Close to what?

Q You left Baltimore near to ten o'clock than nine and you got in a taxi and then you transferred to Mr. Brown's automobile and you went down to Rock Creek and you went to Glenburnie and you went over a road that is partly dirt and partly macadam?

MR. SAYLER: I object to that, the man has not said he went through Glenburnie.

THE COURT: I so understood him.

MR. SAYLER: No, he said he took the short route.

THE WITNESS: Took the short route, yes, sir.

THE COURT: Did you go through Glenburnie or didn't you?

THE WITNESS: I don't know where Glenburnie is, sir. I took the short way down, I did not go around to Annapolis.

Q (By Mr.Whyte): How do you know it is the short way?

A I have been down there on several occasions, I

bought lots at Riviera Beach.

Q Do you know where Glenburnie is, have you been down there several times?

A No, sir.

MR. SAYLER: You don't have to go through Glenburnie to go to Riviera Beach?

THE COURT: You do not?

MR. SAYLER: No, sir, you go through Curtis Bay it is the long way around to go through Glenburnie.

Q (By Mr.Whyte): I have you down there at 10.30, anyway you went.

THECOURT: Now, Mr.Whyte, that is hardly a question It may be very important argument when you come to argue the case but it isn't a question to the witness.

MR. WHYTE: Well, I will askit this way.

Q What time did you get down there then?

A After ten o'clock.

Q You arrived there about ten?

A About that time, sir?

Q You just told his Honor you left Baltimore nearer to ten o'clock than nine and it took you a half hour to get down there, now, you tell him you got there ten?

A I said closer to ten.

Q Now, you got there ten o'clock?

A Yes, sir.

Q Had you ever been there before?

A No, sir.

Q Never been to that bungalow before?

A No, sir.

Q Never been down in that neighborhood before?

A Only these lots at Riviera Beach, which is located in that territory.

Q How close is Riviera Beach to this bungalow?

A I guess about a mile.

Q Then you knew that this Beach was down there?

A It is Rockaway Beach?

Q Yes?

A I have heard of it.

Q But you don't know where it is?

A No, sir.

Q This bungalow is a frame bungalow, isn't it?

A I am going to tell you, it was so dark that night I could not tell you whether it was frame or brick.

Q You don't know whether it was frame or brick?

A No, sir, it was so dark that night.

Q Has it got a porch on it?

A Yes, sir.

Q Small porch?

A Yes, sir, in the front; there is a large porch in the back.

Q How many stories to the bungalow, just one story?, no upper story at all?

A Just one story.

Q Now, how long were you outside that bungalow before you went in it?

A About ten minutes.

Q Then you went in it?

A Yes.

Q Who did you go in it with?

A Mr.Brown and Mr. Kennedy.

Q Had they been in it before you went in it?

A I don't know, sir.

Q Who told you to go in it?

A Who told me, Mr.Brown.

Q Where was Mr.Brown when he told you to go in?

A With me.

Q Standing in the door, was he inside and asking you to come in?

A I followed Mr.Brown, I followed Mr. Brown.

Q Had he been in there until you went in with him?

A No, sir, I followed Mr.Brown in.

Q You followed him in?

A Yes, sir.

Q Where was Mr. Kennedy?

A Back of me.

Q All three of you had been together, had you?

A Yes, sir.

MR. SAYLER: Oh, he said that.

Q Then all three of you went in?

A Yes, sir.

Q Who went in first?

A Mr.Brown.

Q How long were you down there inside of this bungalow?

A We were not in there long.

Q Well, how long?

A Between five and ten minutes.

Q Ten minutes inside there?

MR. SAYLOR: He said between five and ten and you say ten minutes, Mr.Whyte.

MR. WHYTE: Between five and ten minutes, all right.

Q Did you leave your wife down there?

A Yes, sir.

Q Did she want to go home in your car?

A Yes, sir.

Q So you would not let her?

A No, sir.

Q So you left her down there and you started off first, did you?

A Yes, sir.

Q Now, you say you got back to your house at eleven o'clock?

A Yes, sir, it may have been after eleven. Just as I say, through the excitement the time was not bothering me.

Q And when you got back there she was not there?

A No, sir.

Q Then you took what you wanted out of the house and

left?

A Only my clothing.

Q Only your clothing and then you left?

A Yes, sir.

Q And you have not been back since?

A No, sir.

Q Now, what was your wife wearing that night?

A Black dress.

Q What kind of hat?

A I don't think she had a hat.

Q No hat?

A I don't think so. It was in June and I don't think she had a hat.

Q Do you recollect what kind of shoes and stockings she had on?

A Yes, sir.

Q What kind?

A She had on dark shoes--- black button leather shoes and light colored stockings.

Q When you went in there and saw her she didn't have a hat on, did she?

MR. SAYLER: He said she did not wear a hat.

MR. WHYTE: He is under cross examination.

THE COURT: He said he did not think she had a hat.

THE WITNESS: I don't think she had a hat on.

Q But she had a dress on?

A Yes, sir.

Q You saw her go into that room?

A Yes, sir.

Q Where were you when you saw her go into that room?

A On the side of the window, I had come across the building to the side of the window.

Q Well, was that room open to the other room?

A Yes, sir, the door in between the big room and the small room.

Q Did you see the door open or was it already open when you looked?

A I saw my wife go into this room.

Q Did you see her open the door?

A Yes, sir.

Q Now, you were outside of the building looking in, were you?

A Yes, sir.

Q No blinds on those windows?

A I didn't see any. I won't say.

Q Do you mean to say you had an unobstructed view through the glass?

A The window I was looking through there was a blind.

Q Andyou looked through the blind?

A No, sir, the blind was not down.

Q No shutters to those windows?

A I cannot recall.

Q Was the window up?

A Yes, sir.

Q The window was up?

A Yes, sir.

Q You saw her open the door?

A Yes, sir.

Q The room was dark?

A Yes, sir.

Q You couldn't have seen it if the door had been shut, could you?

A No, sir.

Q Now, did she leave the door open?

A No, sir.

Q She closed it?

A Yes, sir.

Q Then you couldn't see anything?

A No, sir.

Q What?

A I couldn't see anything.

Q Now, your wife went in, you saw her open the door and you saw her close the door and you couldn't see anything. Where was the man?

A The man followed her-- she went in first-- the man was in first, the man was.

Q How do you know that?

A I saw him go in, then my wife followed on in.

Q Did you see the man open the door?

A Did I see the man--- the door, yes, sir.

Q You saw the man open the door?

A Yes, sir.

THE COURT: Do you mean when he went in or to let your wife in, do you mean?

THE WITNESS: To let my wife in.

Q (By Mr. Whyte): Then your wife did not open the door, what do you mean, either one or the other; your wife

either opened the door to go in or she did not.

A The man opened the door and he went in, then my wife came on in behind.

Q Then she did not open the door?

A No, sir, the man did.

Q Now, you have the man in there and you have her in there and you say she shut the door?

A The door was shut from the inside-- I don't know who because the room was dark, I could not see.

Q Well, somebody shut the door?

A Yes, sir.

Q You don't know anything that happened after they got into that room, do you?

A No, sir.

Q Now, you say in five minutes you went in, did you?

A Yes, sir.

Q What?

A Between that time.

THE COURT: I would like to know about that.

THE WITNESS: Five or ten minutes, sir.

Q Between five and ten minutes you went in the house?

A Yes, sir.

Q Did you go in the room?

A No, sir.

Q Didn't you see anybody else go in the room?

A Mr.Brown.

Q How did he go in the room, open the door?

A The door was open.

Q They left the door open?

A Yes, sir.

Q You just said a few moments ago your wife closed the door.

A That is coming out. This is going in now.

Q But you have them in there with the door closed and you testified your wife closed the door. Now, you testify in five or ten minutes you came around and Mr.Brown walked in there and opened the door, is that correct?

A From the porch, from the back.

Q Oh, another door?

A Yes, another door.

Q Then he goes in, does he, through another door?

THE COURT: Well, when he goes in, what are you talking about, the living room or bedroom?

THE WITNESS: The living room, and that is what I

would like to make an explanation of.

Q (By Mr.Whyte): Well---

MR. SAYLER: Let him explain it.

MR. WHYTE: He has testified Mr.Brown went in there through the door to the living room.

Q What is it you want to explain about it?

A You are putting it in the bedroom and about Mr. Brown opening the door and you don't say what room.

Q All right, sir. I have you opening the door--- Mr Brown opening the door to go into the bungalow?

A Yes, sir. from the rear.

Q Now, I want to ask you who opened the door to where your wife and this man were?

A My wife came bursting out and we got to the door and there was Mr.Brown and I. Then she was all scared up and she said, "There ain't no harm, mister."

Q Did she say that to you or Mr.Brown?

A To Mr.Brown.

Q Then none of you opened the door, did you?

A No, sir.

MR. SAYLER: Oh, let us be specific.

Q So your wife came bursting out five minutes after

she went in the room, is that right?

MR. SAYLER: He did not say that.

MR. WHYTE: He said from five minutes from the time he saw her go in with the man they went into the bungalow and then she came bursting out of the bedroom.

MR. SAYLER: My objection is that he did not say that at all, your Honor. Let us be accurate.

THE COURT: It isn't of any great moment. The witness said very clearly on his direct examination after his wife and this unknown man entered the room which he described as a bedroom, and five or ten minutes later he and Mr.Brown went into the large room where they first sat and the floor cracked and then his wife came out of the other room, she was excited and so on. In spite of the vigorous cross examination, I have not observed any modification of that. To tell you the truth, I am not listening very closely. Mr. Whyte's vigorous remarks do not impress the Court a great deal.

MR. WHYTE: I am trying to get out of him what he did, I will have to ask him all over.

THE COURT: No, I am not going to let you ask him all over again.

MR. WHYTE: I want to ask him if he did not testify that five or ten mimutes elapsed from the time he saw his wife go into this room with this other man before she came bursting out of the door of that room.

THE COURT: He did.

MR. WHYTE: Your Honor understands that he testified to that.

THE COURT: Yes, he did that about a half hour ago.

MR. WHYTE: All right, sir, I have that.

Q Who is Mr. Kennedy?

A Mr. Kennedy works for Mr.Brown.

Q Mr. Kennedy is a detective, all right.

MR. SAYLER: He has not said that.

THE COURT: Well, I suppose he is.

Q Is Mr.Brown a detective?

A Yes, sir.

Q How long have these detectives been following your wife for you, sir?

A Five months.

Q Do you know how many of them have been on this case for you?

A No, sir.

Q You only know of these two?

A Yes, sir.

Q Do you know of any others at all?

A No, sir.

Q Did they give you sheets from time to time showing what they saw?

MR. SAYLER: I object.

THE COURT: Do you want to have them produced?

MR. WHYTE: Yes, sir.

THE COURT: Do you want to examine them and put them in evidence.

MR. WHYTE: I want to know what sheets the detectives have.

THE COURT: Have you got them here?

MR. SAYLER: Yes, sir.

THE COURT: You can ask the other side for them and look at them and put them in evidence.

(Papers were thereupon produced, handed to Mr.Whyte, and then submitted to the Court).

MR. SAYLER: Those are my sheets, your Honor, I am sorry I have marked them up so much. I have some others which are not marked.

(Thereupon, at three o'clock p.m., an adjournment was taken until ten o'clock tomorrow morning).

Thursday, January 19th, 1928.

Hearing in the above entitled cause was resumed on Thursday, January 19th, 1928, at 10.20 A. M.

Present: Counsel for the respective parties.

NOTE: The Court, having examined the papers handed to solicitor for the defendant by the solicitor for the complainant in response to demand for same in open Court, rules that the same are not a compliance with said demand and therefore they are not properly introduced in evidence here.

Thereupon - - -

WILLIAM V. TABELING,

whose examination was suspended for the purpose of adjournment, resumed the stand for

CROSS EXAMINATION (Continuing).

By Mr.Whyte:

Q Mr.Tabeling, on the night of June 23rd, 1927 were you telephoned by your detective?

28675 B
368-237

Answer

February Oct. 31 1887

William V. Tabeling
vs
Sarah L. Tabeling

In the Cir. Ct. #2 B'City.

The Answer of (2) shows:

1. She admits the matters stated in the 1st & 2nd paragraphs of sd Bill

2. She denies the matters stated in the 3rd par. of sd. Bill.

3. She denies the charge of adultery made in the 4th par. of sd. Bill & says she has never committed adultery.

4. She admits the 5th par. of the Bill.

And having answered sd Bill she prays that it may be dismissed.

A. K. Rifman
Solicitor

A No, sir.

Q How did your detective know where you were?

A They knew where I was at all times.

Q How did he know where you were that night?

A I told him where I was at, he knew where I was at all times.

Q Well, now, wait a minute. Did you tell him that night where you were going?

A No, sir, I hang out at this cigar store.

Q I know, but I want to know how he knew you were at the cigar store?

A He knew I was there at all times, that was my hanging out place.

Q What do you mean at all times?

A After supper.

Q After seven o'clock.

A From supper time until I would leave, half past ten and so on.

Q Were you there the night before this?

A Yes, sir.

Q At that cigar store?

A Yes, sir.

Q Who occupies the cigar store?

A A fellow by the name of Nicholson, he isn't there now.

Q What was his first name?

A Jewey Nicholson.

Q Do you know where he lives now?

A He lives on Eden Street, in the 1600 block.

Q You say the cab came up there?

A The cab came down the road.

Q Did it come to the tobacco place?

A The cab came down the road and the man hung outside the cab and beckoned for me and the cab went down Federal Street in back of Eden Street and I goes down there and gets in the cab.

Q Then the cab did not come to the cigar store?

A No, sir.

Q How far from the tobacco store did the cab go before you got in it?

A Just on Eden Street.

MR. SAYLER: Does it make any material difference, your Honor?

THE COURT: I do not think so, but let it go in.

Q A whole square, do you mean it went a whole square.

A A whole square.

Q Who was in that cab?

A Mr. Kennedy.

Q And where did you go?

A We went down to Brooklyn--- not Brooklyn, on the other side of Hanover Street bridge.

Q And there was Mr.Brown?

A In a car, yes, sir.

Q In a car there?

A Yes, sir.

Q What kind of a car does he drive?

A Oldsmobile.

Q Did you leave the cab there?

A Yes, sir, I released the cab.

Q And then you got in Mr.Brown's car?

A Yes, sir.

Q With Mr. Kennedy?

A And Mr.Brown.

Q Who else was in the car with those two?

A Mrs.Brown.

Q And who else besides Mrs.Brown?

A That is all.

Q What time did your wife leave you that evening, the 23rd?

A When, from home?

Q Yes.

A To go down to the beauty parlor?

Q Yes?

A She left about 7.30.

Q Did she tell you she was going down to Rock Creek?

A No, sir.

Q She did not tell you that?

A No, sir.

Q Now, Mr.Tabeling, you have testified--- that is the 23rd of June, you have testified about that and you testified about an occurrence that happened on June 7th of the same year across here on Fayette Street?

A Yes, sir.

Q Who were the men that came out of the Calvert Building with your wife and her sister, do you know?

A No, sir.

Q You never saw them before?

A As I said yesterday-- I think I met him at the house as a stocking salesman.

Q But you didn't know his name?

A No, sir.

Q You never made any effort to find out who he was?

A Not me, sir.

Q Did you ask your wife who it was?

A No, sir.

Q You didn't say anything to your wife at all about that night, did you?

A No, sir.

Q Now, this stocking salesman-- or at least you call him that-- you saw him kiss your wife out here on Fayette Street?

A Yes, sir.

Q In the middle of the Street?

A On the pavement, and coming across the street he had his arms around her waist.

Q Nine o'clock?

A Between nine and nine thirty.

Q Between nine and nine thirty, June 7th?

A No, sir-- yes, sir, June 7th is right.

Q Did these four people come out of the building together?

A No, sir.

Q Who came out?

A When I saw them Claire and her friend came across the street first and got in the car and then my wife and this man came out afterwards.

Q Well, they got in the same car?

A Yes, sir.

Q Who was driving the car?

A The man who was with my wife.

Q He drove the car?

A Yes, sir.

Q Did you get the number of the car?

A No, sir.

Q Do you mean to say the detectives did not get the number of that car?

A The detectives got it but not I.

Q Did they tell you what the number was?

A Yes, sir.

Q What is the number?

A I can't remember.

Q They know it, do they?

A Yes, sir.

Q Now, in testifying before his Honor here on the 13th day of January, on the hearing for alimony pendente lite, I just want to direct your attention back to that so we can get the record straight, sir. I understood you to testify at that time that your business as a butcher at 75 Belair Market pays you a net profit of between twenty and twenty five dollars a week, is that correct?

A Yes, sir.

Q In addition I understood you to testify that you bank with the Baltimore Trust Company?

A Yes, sir.

Q And that you had a deposit-- you had a balance remaining in that trust company of about $25.00 is that correct?

A At the Baltimore Trust Company?

Q Yes, sir.

A Where is the Baltimore Trust Company?

Q The Baltimore Trust Company absorbed the Atlantic Trust Company.

THE COURT: Let me make a suggestion. Counsel can correct it if it is wrong. Let me read into the record what the testimony was at that time.

MR. WHYTE: Yes, sir, I am perfectly willing.

THE COURT: The testimony was that he had in bank at that time on South Street and Redwood Street, which he identified uncertainly as the Baltimore Trust Company, $25.00; he also said he had in the Provident Bank, $250. and in the Tarsus Building Association he had $1.00. He said upon being pressed that he had paid Mr.Brown $1100., that the balance was for balance was for business debts to Swift, Armour and others. He said he had at the Samuel Ready Building Association a balance of $25.00 and the Belmont Building & Loan a balance of $35.00. He said, further that he owns a 1921 Hup automobile and that he did own 13 lots at Riviera Beach but that he lost them for non-payment of installments nine months ago, at which time $644.00 had been paid on the purchase price of $3400.

MR. WHYTE: I did not get that, I have that marked as $960.

THE WITNESS: No, sir.

Q (By Mr.Whyte): His Honor is right?

A Yes, sir.

THE COURT: He said he had paid an income tax but that he had filed his returns and he did not produce his work sheets. He said further that last spring he had something over $2,000. in the Savings Bank of Baltimore, where he now has a balance of $1.00, and he claimed he had used that money for his living expenses and debts, but gave no details as to how it was used. He said his wife had at one time operated a beauty parlor and she gave it up before the separation, and that is about all he said.

MR. RIFMAN: Your Honor, for the purpose of the record there should be some indication of when he drew these large amounts from the bank.

THE COURT: Well, $1700. was in June from the Tarsus Building & Loan Association. The $2,000. he said was withdrawn subsequent to last spring. Do you know when you drew that?

THE WITNESS: No, sir.

MR.RIFMAN: Does he know whether it was withdrawn

before his separation from his wife or not?

THE WITNESS: Before we separated.

MR. RIFMAN: How long before?

THE WITNESS: Three or four months before?

MR. RIFMAN: That would be about February or March?

THE WITNESS: I don't remember.

MR. RIFMAN: You withdrew a large sum of money in February---

THE COURT: No, the large sum, the $1700. was in June.

MR. WHYTE: I am talking about $2,000. in the Savings Bank of Baltimore, I want to know when he withdrew that.

THE COURT: Do you know?

THE WITNESS: About three or four months before I left my wife.

MR. RIFMAN: That would make it February or March of 1927.

THE WITNESS: Yes, sir.

Q (By Mr.Whyte): What did you use that money for?

A To pay my meat bills. As I said, I was in debt when I left my wife.

Q Did you withdraw it in one sum?

A Yes, sir.

Q Did you draw it all out at one time?

A Yes, sir.

Q You mean you owed that amount of money and you had to withdraw that money and pay it out?

A Yes, sir.

Q Now, on June 4th, did you draw any money out of the Samuel Ready Building Association, $1500.?

A No, sir.

Q You had $1500. there?inaccount with your father and yourself, didn't you, at that time?t

A It was my account, sir.

Q Is it there now?

A I gave it to my father.

Q Transferred it to him?

A Yes, sir.

Q On June 4th, all right, sir. How much did you transfer to him?

A The total amount.

Q $1500.00?

A Whatever it was.

(Testimony of the witness concluded).

Thereupon - -

GEORGE L. KENNEDY,

a witness of lawful age, produced on behalf of the plaintiff, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q What is your full name?

A George L. Kennedy.

Q What is your post office address?

A 666 West Fayette Street.

Q Mr. Kennedy, do you know Mr. and Mrs. Tabeling, the parties to this case?

A Yes, sir.

Q Have you had a personal acquaintanceship with Mrs. Tabeling?

A No, sir.

Q I asked you a moment ago whether you knew the parties and you said yes. What did you mean by that?

A By sight. I have talked with him, I know her by sight.

Q When was the first time you saw Mrs.Tabeling?

A The first time that I saw Mrs.Tabeling I seen--- that I could absolutely say that was Mrs.Tabeling, I had seen a lady several times whom I had been told was Mrs. Tabeling.

Q The lady you saw several times, is she in this Court room?

A Yes, sir.

Q Well, point her out, if you please?

A The lady sitting between those two gentlemen. (indicating).

Q Well, that is Mrs.Tabeling?

A Yes, sir.

Q In the first place, have you heard any of the testimony that was given in this Court?

A No, sir.

Q Were you here yesterday?

A No, sir.

Q Have you been in this Court this morning to hear any testimony?

A No, sir.

Q Tellus where and when you saw the lady that you now know to be Mrs. Tabeling for the first time?

A The first time was on the night of May 13th,

Q What year, sir?

A 1927.

Q Where did you see her?

A That night I saw the lady get in an automobile with some other people.

Q Tell us who those people were, if you know?

A At the time I did not know-- I don't think at the time for the moment that I knew any of them, but there was one man who was at the wheel a tall man, whose outline and one thing or another I kind of suspicioned, I thought I knew him, and afterwards I put it together and following along in the machine, I finally remembered I had met him once.

Q Tell us where you saw Mrs. Tabeling on that occasion you have just referred to?

A On that particular occasion I saw her getting in the automobile--

Q Where?

A In front of her place of business, I don't know the name of the street, I couldn't tell you the name of the street.

Q What kind of a business was it?

A A beauty parlor back of a barber shop.

Q Who was she with on that occasion?

A She was with a gentleman, a little short man. Who he was I could not tell you.

Q You saw Mrs.Tabeling and this man get into an automobile?

A Yes, sir.

Q What time of the night was it?

A I think it was along about nine o'clock or thereabouts.

Q Tell us about that?

A As they drove off we picked them up a nd trailed them---

THE COURT: Who was "we"?

THE WITNESS: Mr.Brown. We trailed them. We passed them and they passed us at different times and at Patterson Park, I think, and East Fayette we stopped for the red light and as we stopped--- as we got the go sign we couldn't move, we had motor trouble--- I am not a motorist but I know the machine would not move, and while we were there the machine in which Mrs.Tabeling was passed us.

Q (By Mr.Sayler): How many people were in Mrs. Tabeling's auto?

A Four people.

Q You have spoken of one man and Mrs.Tabeling, now---

A Yes, sir, those two in the rear.

Q Who was in front?

A The gentleman driving and another lady.

Q Do you know who the lady was?

A At that time I had never seen that lady in my life.

Q Have you subsequently learned who she was?

A Subsequently learned.

Q Who was it?

A It may seem strange, I have only heard her called by her first name. The last name I have never heard..

Q What was she called?

A Mamie.

Q You say you lost them at Patterson Park Avenue and East Fayette Street?

A Yes, sir.

Q Did you see them any more that evening?

A Well, we drove to Havre de Grace.

Q Did you see Mrs. Tabeling in Havre de Grace?

A We didn't see any sign of Mrs.Tabeling or anyone in there, in that machine, in Havre de Grace.

Q When you got to Havre de Grace where did you look for Mrs.Tabeling?

A Around the different hotels and parking places.

Q Well, did you see Mrs. Tabeling any more that evening?

A As we came back-- Mr.Tabeling was with us on that occasion. As we came back we dropped Mr.Tabeling several blocks from his place of residence. We drove north-- Mr.Brown was driving and I was with him--- we drove north on Harford Avenue and we saw Mrs.Tabeling leaning out of a second story. Then we drove on and we quit for the night.

THE COURT: The second story of her home?

THE WITNESS: Of her home, yes, sir, leaning out of the second story middle window, if I remember right.

Q That was May 13th?

A Yes, sir.

Q Did you see her after that?

A Yes, sir.

Q Give us the date if you can?

A I think it was about May 23rd-- pardon me, I might have seen her in the meantime before this, I might have seen her because I walked past the beauty parlor on many occasions and I looked in and I saw her and I might have seen her possibly three or four or five times between May 13th and this night I am going to tell you about.

Q A moment ago you mentioned May 23rd, 1927?

A Yes, sir.

Q What was it with reference to Mrs.Tabeling?

A That night I saw Mrs. Tabeling get in a machine. I think they were the same parties as on the night of May 13th.

Q What do you mean by the same parties?

A The two people, the tall man and the small woman. The tall man I would say was the same. The woman looked to me to be the same.

Q How many people got in this automobile?

A Four.

Q Two men and two women?

A Yes, sir.

Q What did you see then?

A Then they drove around for a couple blocks and picked up another man, who got in the rear of the machine.

Q That made three men and two women in the automobile?

A There was one man and one woman in the front, there were two men and one lady in the rear.

THE COURT: Who were in your party?

THE WITNESS: What did you say?

THE COURT: Who were in your party?

THE WITNESS: Mr.Brown.

THE COURT: Anybody else?

THE WITNESS: I don't know whether his wife was with us that night or not.

THE COURT: Was Mr.Tabeling with you?

THE WITNESS: That night I don't think Mr.Tabeling was with us; no, sir.

Q (By Mr.Sayler): Well, now, I assume you followed that night in your automobile. Where did Mrs.Tabeling's automobile go?

A No, I beg your pardon. I was wrong on that. There were not four people in the automobile that night.

There was one man, Mrs. Tabeling got in the automobile with the tall man.

Q Go on and tell us?

A She got in the automobile with a tall man and then they drove away from there down through Brooklyn and out to a place I was told was Rock Creek.

Q What kind of a place was it?

A At that time I couldn't tell you, for the simple reason the automobile stopped for a few moments in front of a bungalow.

Q Well, did you ever see that bungalow after that?

A I have seen it after that, yes, sir.

Q When did you see that bungalow later?

A Later I saw it from the outside after that.

Q When was the night you saw it again?

A June 2nd, from the outside.

Q Were you with Mr.Brown on June 23rd, 1927?

A Yes, sir.

Q Was that the same bungalow?

A Yes, sir.

Q All right, now, we have the bungalow established. On the night of May 23rd, you saw the automobile in which

Mrs. Tabeling was riding go up to this bungalow or stop in front of it. What did Mrs. Tabeling do after she got out?

A The car stopped, I didn't see anyone get out of the car. The car stopped for a few minutes, possibly five to ten minutes, turned around and came back toward the city.

Q Is that all you observed on May 23rd?

A Yes, sir.

Q When was the next time you saw her?

A May 27th.

Q Tell us about that, who were you with on May 27th?

A Mr.Brown.

Q Were you in an automobile?

A Yes , sir.

Q Tell us what you observed?

A On May 27th is when the tall gentleman and the lady came out of the beauty parlor and Mrs.Tabeling and a little short man followed them out of the beauty parlor and the four of them got in the machine right there at the curb by her beauty parlor---

Q What did you see?

A That is when they drove around the corner-- I mean a couple of blocks and picked up another man.

Q Yes?

A Who got in the rear of the machine.

Q Where did Mrs.Tabeling sit?

A In the rear, between the two men.

Q Had you ever seen anther of those men or any of those men on any prior occasion?

A Never in my life.

Q You never saw this man before?

A No, sir.

Q Did you get a good look of any of those men?

A Not so I could identify them, no, sir.

Q What did they do?

A That night they drove down to this bungalow.

Q At Rock Creek?

A Yes, sir.

Q The same bungalow you had visited a few days before?

A Yes, sir.

Q Well, what happened?

A Well, they sit down there and it seemed they were having quite a party. We stayed around there a little

while listening to the merriment and I went on back and sat in the machine. After a while Mr.Brown came back and sat in the machine, and, if I remember rightly, we stayed in the machine until this party passed us and we followed them back to the Hanover Street bridge and we dropped them there.

Q How long was Mrs. Tabeling at that shore?

A I suppose from an hour and a half to two hours. I did not take the time.

Q Did you notice how Mrs.Tabeling was sitting in the rear seat as they were going from Baltimore to this bungalow?

A I noticed at one time she was sitting between these two gentlemen. If I remember rightly, their arms were about her.

Q Their arms were about her?

A Yes, sir, about her shoulders.

Q Did you see Mrs.Tabeling on any other occasion?

A June 2nd there was a big party, quite a big party left the beauty parlor. It must have been eight or ten people; possibly that many.

Q Where did they go?

A They went down to the shore, to the bungalow.

Q The same place?

A The same place.

Q How long did they stay there?

A Possibly an hour and a half to two hours.

Q Could you look into the bungalow on this particular night and see what was happening?

A I did not look.

Q On the night of May 27th, when the four people went down to the bungalow, did you look into the window?

A I did not look init; no, sir.

Q That is June 2nd, 1927. When was the next time, if any, you saw the lady?

A You must always bear in mind when I say the next time I might have been out in the neighborhood and walked passed the beauty parlor, but the next night was on June 7th.

Q Who were you with on that occasion?

A Mr.Brown.

Q Where did you see Mrs.Tabeling?

A I saw Mrs.Tabeling come out of her house and cross Harford Avemue and as she came across---

I saw her come out of the door way, on the street, and as she crossed the street there was a wagon right up in front of the next house and whether the other lady was standing there or not I don't know; but as they crossed the street the two ladies were together. Of course, I had my eyes focused right on that door.

Q Who was the other lady?

A The other lady I had never seen before in my life.

Q Do you know who she was?

A Mr.Brown said that was her sister.

MR. SAYLER: Do you object?

MR. WHYTE: No, I don't object.

Q (By Mr.Sayler): What time was that?

A About 8.05.

Q Now, what happened?

A They walked directly across the street right in front of our automobile.

Q Do you remember how she was dressed on that occasion?

A In a black dress, a big black hat that came down here (indicating), and as near as I can describe it, in front was a white band, as I described it.

Q The hat she has on now?

A No, not that style of hat.

Q Well, now, you saw these ladies cross the street. What did they do?

A They went up Harford Avenue to the opposite corner and took a No. 19 car.

Q All right?

A They came down to the corner of Redwood and Light. They got out of the car.

Q Redwood and Light?

A Yes, sir, Redwood and Light, and they got out of the street car.

Q Yes, sir?

A And I got out of Mr.Brown's car, he was looking for a place to park and I went across to the other side of the street and they crossed over to the north side of Redwood---

Q Do you mean the ladies crossed?

A The ladies crossed and there they were met by a gentleman.

Q Had you ever seen that man before?

A Never in my life.

Q Can you describe him?

A He was a dark complected man, a darker complected man than I am. A man, I would say, about five foot eleven, possibly six feet.

Q Yes, sir?

A Weighing about 165 pounds.

Q Do you remember how he was dressed?

A A dark suit, I think a dark brown suit, and a little mustache, and a soft hat.

Q Where did these three people go?

A Then they started down east on Redwood, and a gentleman stopped in front of Mr.Brown's automobile, he made a mistake.

Q Yes, sir?

A He opens the door of Mr.Brown's automobile and started to get in---

Q Where was Mr.Brown at that time?

A Mr. Brown was in his car.

Q Yes, sir?

A So then I stood at the corner and I saw they had Brown's car. I waited to see what they were going to do. They moved, still going east a little bit further to a car directly in the rear of Mr. Brown's car. By that time I

walked down to Brown's car.

Q Was there anyone in that car?

A There was a gentleman sitting at the wheel of that car.

Q Can you describe him?

A Well, I can't desdribe him very well, but I learn ed who it was about three months afterwards.

Q We will come to that in a little while. What did they do, these three people, they approached the automobile and what did they do?

MR. WHYTE: I have to object to that, my brother has been leading right along.

THE COURT: I don't think so.

MR.WHYTE: Well, he has been telling about the people being there and everything---

THE COURT: I have not heard a leading question yet. The present question is what did they do.

MR. WHYTE: Yes, but he led him long before that.

THE COURT: No, he repeated his former question.

A After the little argument at Mr.Brown's car or whatever it was, they walked to the rear. I saw the gentleman who met them on the corner and the other lady,

not Mrs.Tabeling, got in the rear of the car. Then Mrs.Tabeling got in the front. By that time I was down to Brown's car. As I went to get in the car Brown says to me, "Get the number---

Q Don't tell us what Mr.Brown told you, but did you get the number?

A At that time I got the number, I looked back and got the number.

Q Do you know what that number was.

A I don't remember, no, sir. I know it was a Washington car. N something, what the rest is I could not tell you now.

Q Well, did you write it down?

A I wrote it down three times that night, yes, sir, at that time I remembered it for some little time. I wrote it down more for a memorandum than anything else.

Q How did these people greet each other when they got to the automobile?

A Very effusively.

Q You say very effusively, what do you mean by that?

A Well, they seemed very glad to meet each other.

Q Well, now, the automobile left there, I suppose.

Where did it go?

A It went around Light, north on Light to Lexington. They went through Light, across Baltimore street and went up to Lexington on St. Paul, made a quick turn around that semaphore---

Q Well, it is right back of you if you want to refresh your memory?

A Well, they came up through Light, across Baltimore street, through that block, and then across Fayette Street, came past the Court House to Lexington, made a quick turn--- we thought they were going north--- made a quick turn, almost struck that big abutment there and started south in that block in front of the Court House. Then as they got to Fayette, they made a quick turn and come east on Fayette. Then as they come down to the Equitable Building they made a quick turn in the middle of the block and parked between-- there is a door on Fayette Street to the Court House and a few feet from there is an iron telephone pole and right beyond that there is a light. Now, they parked almost in front of the door.

Q Almost in front of the Court House door?

A Almost in front of the Court House door on Fayette

Street.

Q What did they do?

A They left there and went up into an office building.

Q You saw them, do you mean, all four people?

A Two ladies and two gentlemen.

Q What building did they enter?

A The Calvert Building.

Q Do you remember what time that was?

A That was 8.30.

Q What did you do after that?

A I kept the building under surveillance.

Q Did you enter the building?

A I did once.

Q Yes?

A I went up to the sixth floor.

Q Did you find these people in the building?

A I didn't see them-- I saw them enter the building but I did not see them in the building. I saw them enter the Fayette Street entrance of the Calvert Building and I saw them get on an elevator and the elevator went up.

Q And you lost them after that?

A I lost them after that.

Q When was the next time you saw them after that?

A After that at five minutes after ten the four came out of the Fayette Street entrance to the Calvert Building.

THE COURT: In what order?

THE WITNESS: The shorter lady of the two was in front.

Q (By Mr.Sayler): Was that Mrs.Tabeling or the sister?

A The other lady was in front.

Q Did she come alone?

A She came down the street with a gentleman.

Q Where did they go?

A They walked down the street, then Mrs.Tabeling came out with another gentleman and they walked across the street.

Q Yes?

A They got directly across Fayette street to the side that the Court House is on and they walked down to their automobile.

Q To the same automobile?

A To the same automobile.

Q Now, what did Mrs.Tabeling do when she was talking across the street?

A Well, Mrs.Tabeling seemed to be very carefree.

Q What did the man do that was with her?

A He had his arm around her.

Q Around her?

A Yes, sir.

Q What part of her body?

A I would say this way (indicating).

Q Around the waist, do you mean?

A We will say the waist, yes, sir.

Q What happened after that?

A They walked down in that position. The other party, the other lady and the gentleman got in the rear of the machine. Mrs.Tabeling and the other gentleman waited until they were in the machine, then I saw the gentleman who was with her take her face this way (indicating) and kiss her.

Q More than once?

A Once.

Q What happened after that?

A Then he got in the machine and she got in after. Do you want me to continue?

Q Yes.

A Then they drove up and around and finally parked in the 1700 block North Charles Street and stopped as though they were debating about something. Then after ten minutes or a little bit longer they started north on Charles Street. We lost them, they got the red light on us.

Q Where did you lose them?

A At Charles and North.

Q Did you see the lady after that that same evening?

A After that at about twelve thirty, I saw the lady walk from the corner of Lafayette Avenue, she was with another lady.

Q You say "the lady", who do you mean by that?

A I am speaking of the subject, Mrs.Tabeling.

Q You saw Mrs. Tabeling and another lady, who was that other lady?

A The lady I had seen her with all the evening.

Q Well, that was her sister?

A Her sister, so I was told.

Q What were they doing?

A They were standing on the corner.

Q Did you tell us what corner that was?

A That was the corner of Lafayette and Harford Avenue.

it was just on the corner north of where she lived.

Q Could you tell how they got to that corner?

A I don't know how they got to that corner.

Q Did you see any street cars there?

A Cars were going north and south but I did not see her get off the car. After one car went north and one car went south is when I saw them.

Q What did Mrs.Tabeling do after you saw them on the corner?

A They did not stay there but a short while and the other lady and Mrs.Tabeling walked down to Mrs. Tabeling's entrance. Mrs. Tabeling went in and the other lady came around Lafayette Avenue and went in.

Q Do you know what time it was you lost the trail of Mrs.Tabeling's automobile at North Avenue and Charles?

A I think it was around 7130. The report will give it exactly because I took the time.

Q It was five minutes after ten when they came out of the Calvert Building?

A Yes.

Q And you think it was about 10.30 when you lost them at Charles and North?

A Yes, sir, 10.30, at Charles and North.

Q Was that the last time you saw Mrs.Tabeling prior to June 23rd?

A June 8th.

Q Before we get down to June 8th, let us refer a moment to that man who was in that party. You said there was a man in this particular party that night, who was that night?

A I don't know.

Q Where did you see him a couple of months later?

A A couple of months later he came out of the Calvert Building.

Q Was Mrs.Tabeling with them?

A No, sir, it was in the day time.

Q Was Mrs. Tabeling in any way associated with this man coming out of the Calvert Building?

A You are asking me when I next saw that man on June--- on June 7th?

Q Yes, sir?

A The next time when I saw the man was about two months later---

THE COURT: Well, we do not want to waste time. When you saw him two months later did he have any connection with this case in any way?

THE WITNESS: No, sir.

Q (By Mr.Sayler): Well, then, I will withdraw that question. That was on June 8th you saw Mrs.Tabeling?

A Yes, sir.

Q Where was she on that occasion?

A On that occasion she came out and got in an automobile with a tall man.

Q Where was she when you saw her do that?

A She came out of her beauty parlor. They drove to East Baltimore Street.

Q Had you ever seen that tall gentleman before that occasion?

A The gentleman who got in the car on the night of June 8th I had never seen before.

Q Have you ever seen him with Mrs.Tabeling since then?

A No, sir.

Q You saw him go to East Baltimore Street?

A They went to East Baltimore Street and they stopped the car and Mrs. Tabeling went into a building and loan association. She was in there a few minutes, came out and got in the car and went back to her place of business and then afterwards I saw-- it seemed like there was a dance on the top floor and I saw a lady whose figure reminded me of Mrs. Tabeling's from the street.

Q You saw Mrs.Tabeling go into her beauty parlor?

A Yes, sir.

Q What became of the man who was with her?

A He went back there and went in the barber shop.

Q Did he leave Mrs.Tabeling?

A He simply pulled his car up, she got out and he pulled his car around and she got out and went into the beauty parlor and the man was what I thought was the man who went into the barber shop.

Q The man did not go into the beauty shop with Mrs. Tabeling?

A No, sir.

Q Now, I refer again to the night of June 7th. Did you see Mr.Tabeling that evening?

A Yes, sir.

Q Where did you see him?

A Mr. Tabeling came down.

Q Where?

A I met him on the corner of-- I was standing right at the Court House when Mr.Tabeling came to see me.

Q Mr. Tabeling came to you?

A He came where I was.

Q After he came where you were standing, what did Mr.Tabeling do?

A Well, we walked down to Mr.Brown's automobile.

Q Yes, sir?

A He got into the automobile--- we stood out there and talked a while and then when his wife and the other people came out he got in the automobile.

Q Mr. Tabeling got in Brown's automobile?

A Yes, sir, Mr.Tabeling got in Mr.Brown's automobile.

Q Was Tabeling in Brown's automobile with you when you attempted to follow Mrs.Tabeling's automobile?

A No, sir, when we picked him up--

Q I don't mean when you picked them up in the early evening, I am referring to the time when the four people came out of the Calvert Building was Mr.Tabeling in Brown's

automobile at that moment?

A When they came out of the Calvert Building, yes, sir.

Q Did Mr.Tabeling stay with you in Brown's automobile after that?

A Yes, sir, until we lost them at North Avenue and Charles.

Q Did you see Mrs.Tabeling after that?

A The night of June 23rd.

Q On June 23rd, Mr. Kennedy, tell us where you picked up Mrs. Tabeling on that day?

A I picked her-- I saw her get in an automobile.

Q Where?

A In front of her place of business.

Q What time was that?

A It would seem to me it was around between eight and nine, I just can't remember exactly.

Q Who was with you then?

A I was with Mr.Brown.

Q You saw Mrs.Tabeling get in an automobile, did she get in alone?

A No, sir.

Q Who was with her?

A Two men and a woman.

Q Do you know who the woman was?

A I had seen the woman several times, that is the woman I told you I afterwards knew as Mamie.

Q Where did these four people go after they got into the automobile?

A Well, I couldn't tell you that because I had instructions to do something else.

MR. WHYTE: Where did they go in the automobile?

Q You don't know where they went?

A I know later in the evening. Do you want me to jump to the next place I saw them.

Q Yes?

A The next place I saw them was down to the bungalow on Rock Creek.

Q Let us leave the bungalow and come back to Baltimore. After you saw these four people get in an automobile what did you do, you need not give us all the details, I want to know whether or not you communicated with Mr.Tabeling on that evening?

A I did.

Q Where did you find Mr.Tabeling?

A He was standing in front of the cigar store, you could usually find him there, in the 1600 block Harford Avenue.

Q What did you do?

A I motioned to him to come around the corner.

Q All right?

A He did. I had a yellow taxi and he got in the taxi with me. We drove to Brooklyn and there we met Mr. Brown and we dismissed the taxi.

Q Where did you and Mr.Brown and Mr.Tabeling go?

A We went to that bungalow on Rock Creek.

Q Had you ever seen that bungalow before?

A Several times.

Q Is that the bungalow you referred to a few moments ago?

A Yes, sir.

Q What did you do?

A I stayed outside--

Q Before that, did you see any automobiles around the bungalow?

A Yes, I saw one automobile standing infront of a little fence that you had to open a little gate and go through.

Q Had you ever see that automobile before?

A Yes, sir.

Q Where?

A Out around there.

Q Around where?

A Around her beauty parlor.

Q Do you know whether or not that that was the same automobile that the four people had gotten into earlier in the evening?

A I could not swear to that.

Q What did you do then?

A I stood beside the house and I was there quite a long time, until finally I heard a commotion inside the bungalow. Then I stepped from around the house, across this porch and into the door and into kind of a living room or sitting room; a little place that they have in those shores I am not familiar with, but it looked to me like what you call a big room and over to my right it looked to me like an opening, which was covered by a portiere and standing in

front of there was Mrs.Tabeling. Mr.Brown and Mr.Tabeling were already in the room. There was an argument going back and forth and while this argument was going back and forth out walks a man from this opening,which seemed to be covered by a portiere. He walks out and came out and took the end or the center. Then after they got talking back and forth, Brown said, "What are you going to do?" Tabeling said, "I have caught you at last," and she said, "Nothing wrong, Bill." Brown said, "What are you going to do?" She said, "I am going home with my husband." Tabeling said, "Go home with your gentleman friend." Then I wanted to smoke and walked out into the yard.

Q Had you looked through any windows before you entered the bungalow?

A I never looked through a window.

Q Could you hear any conversation coming from the house before you entered the house?

A I wouldn't say conversations, it came to me as mumbled words, nothing I could identify, possibly, because of the position I was in where I was standing.

Q You heard some conversation but you could not distinguish what it was?

A I heard a mumble as though people were talking.

Q Did you look into this little room from which the man came?

A I did not, no, sir.

Q Was the man dressed when he came out?

A He had on his shirt and pants.

Q How about his coat?

A I don't remember him having a coat, in his shirt sleeves.

Q Did you notice how Mrs. Tabeling was dressed?

A Very well dressed.

Q Did you see any clothing hanging on a line near the house?

A I did not.

Q You say you walked out of the house, and where did you go after you left that bungalow?

A I walked out into the yard and lit a cigar and smoked and I suppose in possibly three or four minutes they all-- Mr. Tabeling, Mrs.Tabeling, Brown and the man piled out into the yard. Then I walked on out and walked into the road and stood by the fence, then the others came out.

Q How many people were in your automobile party that

night at the bungalow?

A How many people in that automobile?

Q In your automobile, you have spoken of Mr.Brown, yourself and Mr.Tabeling, was anyone else there?

A I think Mrs.Brown was with us.

Q Well, after all the people came out of the automobile, what did you do?

A After they came out of the automobile?

Q Out of the bungalow?

A They went out into the road and Mrs.Tabeling said, "I am going home with my husband," and he said, "You are not going---

Q Well, you have told us that.

A That is about the same thing, and then finally they got to talking loud. I said, "For heaven's sake, don't talk so loud and tell your business to everybody," and I walked down the road to where our machine was.

Q Did Mrs.Tabeling have any argument with anyone there?

A I saw Mr.Brown's hat fly back up the road.

Q Who knocked it?

A I couldn't say. As the hat flew back I heard Mrs.

Tabeling say, "What did you hit me for," and I didn't see any blows struck. I was at that time out in the road and I saw the hat fly back up the road and as the hat flew back I heard Mrs.Tabeling say, "What did you hit me for?"

Q Who was near her at the time?

A Brown was standing right next to her and her husband was here (indicating) and Brown said, "What did you step on my foot for," or something like that.

Q Well, I suppose you left Mrs.Tabeling for the night after that?

A After that, yes, sir.

Q Did you see Mrs.Tabeling on any other occasion?

A After that I saw Mrs.Tabeling again.

Q Where was that-- can you give us the date first?

A I couldn't give you the date. About two weeks after the night of June 23rd, she walked into Mr.Brown's office with a woman who identified herself as Mrs. Gould, a private detective who works for Smart.

Q Did you see Mrs.Tabeling any more after that?

A Never.

Q Did you have any conversation with Mrs.Tabeling on that occasion when she and some woman came into Mr.Brown's

office?

A My only conversation was "Won't you kindly take a chair?"

CROSS EXAMINATION.

By Mr.Whyte:

Q Do you do anything else besides detective work?

A Sometimes, yes, sir; I have been a salesman.

Q Salesman for who?

A For the Boston Garters.

Q Are you that now?

A No, sir.

Q What are you doing now?

A At the present time I am not employed.

Q Are you regularly employed by Mr.Brown?

A No, sir.

Q You mean you only come in as he calls for you?

A As he calls for me, yes, sir.

Q How long have you been on this case?

A This case?

Q Yes, how long before June 23rd, 1927?

A Well, I will do my--- I possibly did a couple day's work on the case prior to May 13th, I could not really tell

you myself because I didn't keep any record, it is just by memory. But I can bring incidents to corroborate my memory.

Q Have you been paid since May 13th?

A Not regularly, only when I work.

Q Did you work every day from May 13th?

A I did not work every day from May 13th, to June 23rd, inclusively, no, sir; I onlybworked when Mr.Brown would come and ask me. Maybe today he would come and maybe three or four days after that.I did not work continuously in that period.

Q Now, you saw her on May 13th, when you saw her get in the car about 9 P. M.?

A Yes, sir.

Q Where did you see her get into the car on May 13th at nine P. M.?

A Right in front of her beauty parlor.

Q I want to know the number of the car?

A I could not give it toyou.

Q Do you mean you didn't take it?

A I took it at the time but I have forgotten it now.

Q Didn't you report that number to Mr.Brown?

A Mr. Brown can possibly give it to you, I reported the number and gave him the number.

Q You gave him the number?

A I think I did, I would not befsure. That is a long time and lots of things have come up since then.

Q But you gave him the number of the car you say that night?

A I won't say positively, but I think I gave him the number of the car.

Q Was that a Maryland car?

A A Maryland car, yes, sir.

Q On that occasion that automobile went to Patterson Park and some other street and then you lost them because the light was turned against you?

A Our car would not work when called upon.

Q You went on to Havre de Grace and you came on back and you saw her in the house?

A I saw her hanging out of the window of her house.

A And that is all you saw her do that night?

A Yes, sir.

Q Do you know who went with her that night?

A The gentleman who was in the rear of the car that

night. The gentleman who was in the rear of the car I did not know.

Q Did you ever see him after that?

A I have seen someone around. I did not get enough view of him to positively identify him but I have seen a party around there whom I would say, to my own self, that is the same party I saw that night.

Q Well, there were four people in that automobile?

A Yes, sir.

Q Now, in May 23rd,Mr. Tabeling was with you on May 23rd, he was with you?

A Mr. Tabeling was with me.

Q On May 23rd, 1927, was Mr. Tabeling with you that night?

A He was after I got him.

Q Where did you get him that night?

A I saw him standing in front of a cigar store in the 1600 block Harford Avenue as I came down in an automobile. I motioned to him to come around the corner.

THE COURT: Are you talking about May 23rd or June 23rd?

THE WITNESS: May 23rd, I was thinking about

June.

Q I said May 23rd. I call your attention to May 23rd and ask you to testify in regard to that day and not in regard to the day of June 23rd.

A May 23rd, if you will remember before, I made a mistake in giving the testimony on that which I had to change. On May 23rd the subject came out and got in the automobile with a tall gentleman and drove down to this shore on Rock Creek. That is when they stayed a few minutes, turned around and came to town.

Q Was Mr.Tabeling with you that night?

A No, sir.

Q Just you and Mr. Brown?

A Just Mr.Brown and myself.

Q Is that the tall man the same man that got in the car on May 13th?

A Yes, sir.

Q He was the same man?

A I would say he was the same man, yes, sir.

Q What is his name?

A John Small.

THE COURT: S-m-a-l-l.

THE WITNESS: I don't know how he spells it, but his name is John Small.

Q (By Mr. Whyte): Do you know where he lives?

A I don't know where he lives, no, sir.

Q Do you know where he works?

A I don't know whether he is working at the place now or not.

Q Where did he work?

A I never saw him there and I never asked him, but I think he worked at Montgomery Ward's.

Q Did Mr.Brown meet him?

A What did he say?

Q Does Mr. Brown know him?

THE COURT: I suppose Mr.Brown had better say that.

Q Have you met him in the presence of Mr.Brown.

A Myself?

Q Yes, at Mr. Brown's office?

A Some months before that I had met the man once, that is why I was not sure. I wasn't sure of the identity the first night I saw him, I had met him once.

Q Have you ever met him in Mr.Brown's office?

A Yes, sir.

Q He has been in there, has he?

A Yes, sir.

THE COURT: Is that where you met him some months before?

THE WITNESS: Yes, sir.

THE COURT: Have you ever met him there since then?

THE WITNESS: Yes, sir.

Q (By Mr.Whyte): You say you met that tall man in Mr.Brown's office before that day and after this day?

A I met him some months before that day, once.

Q He is a detective too, isn't he, or do you know?

A I don't know anything about his business, he was just what I would call a casual acquaintance.

Q How many times before June 23rd did you see him in Mr.Brown's office?

A That would be hard to say. How many times?

Q Yes?

A I don't think that I saw him over once.

Q Who was present there in the office beside Small?

A I couldn't tell you that.

Q Now, this lady that you call Mamie?

A Yes, sir.

Q Have you found out her last name?

A No, sir.

Q Did you ever see her with Mr.Brown?

A I have seen her in Mr.Brown's office; yes, sir.

Q Before June 23rd, did you see her there?

A Well, I don't keep a diary.

Q Well, that hasn't been so long ago, sir.

A I want to be fair to everyone. I don't know that I do. The first time I had ever seen the lady in my life, I mean anyone resembling her was the night of May 13th.

Q Did you see her in Mr.Brown's office after that?

A I think I did, once.

THE COURT: How long after that?

THE WITNESS: I could not tell you, Judge.

THE COURT: Well, do you know whether you saw her there before this event you have testified to as occuring on June 23rd?

THE WITNESS: It possibly might have been in that

time.

Q (By Mr.Whyte): Now, this man you saw down there coming out of the room that night from behind that curtain with his coat off and his pants on, did you ever see him in Mr.Brown's office?

A Yes, sir.

Q When did you see him in Mr.Brown's office?

A Do you mean the first time or the last time?

Q The first time you ever saw him in Mr.Brown's office?

A I couldn't place that,possibly it has been a year ago or possibly less, I tried to think whether it was last fall or last January--- I don't mean the fall of 1927, but the fall of 1926 because I have not been around Mr.Brown's office the latter part of 1926 or the early part of 1927. I had not been around his office for some time.

Q What is his name, do you know?

A Yes, sir.

Q What is it?

A I know the name I know him by.

Q What do you know him by?

A Stokes.

Q Have you got any initial for him?

A R.Stokes.

Q Where can he be found?

A That I could not tell you.

Q You don't know where he is or where he hangs out?

A No, sir.

(Testimony of the witness concluded).

Thereupon - - -

JOHN R. BROWN,

a witness of lawful age, produced on behalf of the plaintiff having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q What is your post office address, sir?

A 2821 Presstman Street.

Q In what business are you, sir?

A Detective business.

Q Where is your office?

A 205 Maryland Trust Building.

Q Are you a licensed detective in the city of Baltimore?

A Yes, sir.

Q How long have you been one?

A I have been in the detective business all told for about eleven years.

Q Are you the same Mr.Brown that the witnesses have been talking about in this case?

A Yes, sir.

Q I suppose you were employed by Mr.Tabeling to trail Mrs.Tabeling?

A I was, sir.

Q Did you know Mrs.Tabeling prior to your employment?

A No, sir.

Q When were you employed to do this work?

A On February 5th, 1927.

Q Did you do the work personally?

A Part of it I did, yes, sir.

Q Only tell us about the part you did. Did you keep reports of the work that you did?

A Yes, sir.

Q Have you those reports with you?

A Yes, sir.

Q Can you testify of your own knowledge about the work that you did or do you want to refresh your memory from the reports as made out?

A I prefer to refresh my memory as to the dates, there are a number of dates.

THE COURT: Were the reports made contemporaneously with the work?

THE WITNESS: Yes, sir.

THE COURT: You wrote them yourself?

THE WITNESS: On the typewriter, yes, sir.

THE COURT: I suppose there is no objection to his using them?

MR. WHYTE: Do they only show your actions?

THE WITNESS: My actions personally.

MR.WHYTE: And nobody else?

THE WITNESS: No, sir.

Q (By Mr.Sayler): You say you were employed about February 5th?

A Yes, sir.

Q When is the first time you followed her?

A Mrs.Tabeling was seen on February 5th and 6th but she was not followed.

Q When did you follow her for the first time?

A February 7th.

Q I donnot want to go over a whole lot of detail that might not amount to anything. Did you see her with any men on February 7th, 1927?

A I saw a gentleman enter her home on the morning of February 7th, 1927.

Q Describe that man?

A Pardon me, that was in the afternoon, 4.20 P.M.

Q Where was Mrs.Tabeling's home at that time?

A Mrs.Tabeling admitted a gentleman to her front door.

Q Where was Mrs.Tabeling's home at that time?

A 1731 Harford Averne.

Q How was the man dressed?

A The gentleman was about five feet, six, he looked to be about twenty two years of age, wearing a brown overcoat and brown soft hat.

Q Do you know the man?

A No, sir.

Q Have you ever seen him before or since?

A No, sir.

Q He went in the house about 4.20. Did you see him come out?

A Yes, sir.

Q What time was that?

A About 7.30 P. M.

Q When was the next time you saw her?

A February 8th, 1927.

Q Where did you see her?

A I saw Mrs.Tabeling admit a gentleman to her home about 8 A. M.

Q Had you ever seen that man before or since?

A I have seen him since but not before.

Q Do you know who he is?

A No, sir.

Q Describe him?

A He is a gentleman about 6 feet 1, about thirty years of age; he wore a dark overcoat and black derby hat; dark complected.

Q Where did you see that man after that?

A I have seen him in Mrs.Tabeling's beauty parlor.

Q Have you seen him more than once?

A Yes, sir.

Q How many times have you seen him?

A Twice after that occurrence.

Q You say he went into her house about eight o'clock in the morning?

A Yes, sir.

Q Did you see him come out?

A I did.

Q What time was that?

A At one noon, one p. m.

Q When was the next time you saw her?

A That day.

Q Was she with any man on that day?

A She came out with this gentleman.

Q Came out with the man about one o'clock?

A Yes, sir.

Q Where did they go?

A The gentleman and Mrs.Tabeling went to a nearby grocery store and purchased some groceries.The man carried the packages and they returned to 1731 Harford Avenue.

Q Did you see them come out then?

A Yes, sir.

Q What time was that?

A Ten that night.

Q Where was that grocery store?

A Directly across the street from the Tabeling home, on the corner of Lafayette Avenue, I think is the name of the street, and Harford Avenue.

I think it is a Crook's store, to the best of my recollection; I think it is known as Crook's store.

Q Now, when,is the next time you followed her?

A The next time when I saw Mrs.Tabeling was March 5th, 1927.

Q Now, tell us about that?

A About 5 p. m. this day Mrs.Tabeling left her home unaccompanied. She walked south on Harford Avenue or about one square to where an automobile was parked. She got in the automobile and drove away.

Q Did you get the number of the car?

A No, sir, I attempted to get the number but it was impossible.

THE COURT: Why?

THE WITNESS: The tags were obstructed by dust, your Honor, it was impossible to see the number of the tags.

Q (By Mr.Sayler): Did you see who was driving the car?

A There was a gentleman driving.

Q Describe him?

A He was a gentleman who appeared to be about twenty eight years of age; about five feet four; weighing about one hundred and thirty pounds and decidedly plain.

Q Did you follow that automobile?

A No, sir, I did not have a car at the time, I was on foot.

Q Did you see Mrs.Tabeling any more on that day?

A Yes, at nine p. m.

Q Where did you see her?

A At 9 p. m. Mrs. Tabeling was seen walking north on Harford Avenue within a square of her home.

Q Well, what did she do?

A She was accompanied by another gentleman whom I had never seen before, a man who looked to be about six feet. I did not get much of a look at this gentleman. Mrs. Tabeling and the gentleman stood in the doorway of her home and talked a few minutes and then Mrs. Tabeling was called by a man next door who is known to me as Mr.Gorsuch. It ap-

pears Mr.Gorsuch tipped Mrs. Tabeling that a strange man was in the neighborhood. He walked around to Harford Avenue and Eden and got in with the same gentleman whom Mrs.Tabeling had left, they turned around in the middle of the block and went north on Eden Street.

THE COURT: Where did Mrs.Tabeling go?

THE WITNESS: She entered her home, your Honor.

Q (By Mr.Sayler): Did you get any of the numbers of the automobile license?

A That was the same automobile that I previously referred to. The tag numbers were obstructed by mud and dust. The car looked as though it had recently come in from the country. It was covered by mud and dust.

Q Look at your notes and see whether you can refresh your memory on those numbers?

A The only two numbers that could be distinguished were the first two, which were 45.

Q Now, when is the next time you followed Mrs.Tabeling?

A On March 19th, 1927.

Q Where did you see her on that day?

A About 7.30 P. M.

Q Where were you at that time?

A Seated in our automobile directly across the street from her home.

Q What did you see?

A About 7.20 P.M. an automobile arrived in front of Mrs. Tabeling's home, driven by a colored man. A lady occupied the rear seat, the stout lady who I later identified as Mrs.Tabeling's sister. The lady got out of the car and entered Mrs.Tabeling's home. About ten minutes later, which was 7.30 P.M., Mrs.Tabeling accompanied by the same lady come out of the home and got in the automobile. The tag numbers of that automobile were 55833, which is in the name of Mrs.Tabeling's brother, Mr.Dempsey. The car was followed---

THE COURT: 55833?

THE WITNESS: 55833, yes, sir.

THE COURT: To whom does the car belong?

THE WITNESS: The car is in the name of Mr.Dempsey who is MrsTabeling's brother.

THE COURT: Go ahead?

A (Continuing): The automobile in question was fol-

lowed to Gay Street near the Benesch Department store, where the car was parked and the driver got out and went in one of those stores. I was unable to find out which store he went in. He soon returned with a package, got in the car and drove away. They drove to Belair Market near Gay Street or Gay Street near Belair Market, rather. The two ladies got out of the car and by the time I got my car parked and could get out, they had gone. I do not know where they went.

Q Did you see Mrs.Tabeling any more that day?

A Yes, sir.

Q When and where?

A About 8.30 that evening there was what I would term sort of a cafe or cabaret, whatever you may term it. I think it is Low street near the market. I am not positive about the street. However, there was a number of automobiles parked near this street and a number of exclusive looking ladies going in and coming out. I observed Mrs.Tabeling standing in the doorway of this building talking to another lady. I do not know the lady1.

Q Did you see her talking to any man or going with any man on that day?

A No, sir.

Q When is the next time you saw her?

A March 26th, 1927.

Q Where was she at that time?

THE COURT: Is this one of your---

MR. SAYLER: I am going to show the man went into her home, sir.

I do not know who he was, I cannot describe him.

THE COURT: It is immaterial and irrelevant.

MR. SAYLER: Just for the record, note us an exception at this time. Your Honor, my offer is to prove on that occasion a man was seen going into Mrs.Tabeling's house and remained in there a long time, sir.

MR. WHYTE: I object to it.

THE COURT: Unless followed up by some proof as to who the man was and what happened in the house, the Court considers it is immaterial and irrelevant.

MR. SAYLER: And following it up by testimony that Mr.Tabeling was not there at that time.

THE COURT: I adhere to the ruling.

MR. SAYLER: Exception noted.

Q When is the next time you saw Mrs.Tabeling?

A On May 13th, 1927.

Q Where was Mrs.Tabeling at that time?

A About 9.20 P. M. that day Mrs.Tabeling left her beauty parlor accompanied by a lady and two men anddrove five squares and picked up another gentleman. The car was followed until it reached Patterson Park Avenue and Fayette Street, I had trouble with my battery there---

THE COURT: The witness is repeating in effect the testimony of the witness Kennedy.

MR. SAYLER: I can close that up very quickly.

Q Was Mr. Kennedy with you on that occasion?

A Yes, sir.

Q Have you heard Mr. Kennedy's testimony in this Court with relation to that occasion?

A Yes.

Q Have you anything to add to what Mr. Kennedy said in his testimony here?

A I have.

Q What have you to say?

A This is May 13th you are referring to?

Q Yes, sir.

A No, sir, nothing on May 13th.

THE COURT: Now, it is understood the defense may cross examine him in detail regarding that, if you desire.

MR. WHYTE: Yes, sir, excepting while you are on that Mr. Kennedy said the plaintiff was with him on that day. I may be mistaken.

THE COURT: Mr. Kennedy first did not say so and then he said he thought Mr.Tabeling was along.

MR. WHYTE: I would like to know from this witness right now whether he was there.

THE WITNESS: This trip Mr.Tabeling was with us.

MR. WHYTE: Then I will stand on it.

MR. SAYLER: I just want him to say whether or not the testimony given by Mr. Kennedy is correct.

Q Was the testimony given by Mr. Kennedy in this Court this morning in reference to May 13th, 1927, the same testimony you would have given had you been given an opportunity to say so?

A Absolutely.

Q When is the next time---

A May 23rd, 1927.

Q Were you and Mr. Kennedy together?

A Yes, sir.

Q Did you hear Mr. Kennedy's testimony in Court this morning?

A Yes, sir.

Q Was his testimony correct as to the events related regarding that day?

A Absolutely true.

Q Is there anything you can add to that?

A No, sir.

Q Now, May 27th, 1927-- when is the next time you saw Mrs.Tabeling?

A June 2nd, 1927.

THE COURT: Did you not see her on May 27th?

THE WITNESS: I did see her on May 27th, yes, sir.

Q I just asked you when was the next time you saw her?

A We were talking about May 27th.

THE COURT: No, we were talking about May 23rd.

THE WITNESS: I beg your pardon.

THE COURT: If you are going to have this short examination you have to be careful. You said a while ago Mr. Kennedy's testimony was correct about May 23rd, were you

talking about May 23rd or 27th?

THE WITNESS: May 23rd.

THE COURT: You are finished with that.

THE WITNESS: Yes, sir.

THE COURT: What is the next date?

THE WITNESS: May 23rd.

Q (By Mr.Sayler): Were you with Mr. Kennedy on that occasion?

A Yes, sir.

Q Did you hear Mr. Kennedy's testimony in this Court regarding that occasion?

A I did.

Q Was that testimony correct?

A Yes, sir.

Q Would that have been your testimony in substance had you been given an opportunity to relate it?

A Yes, sir.

Q Is there anything you can add to that?

A No, sir.

Q When is the next occasion you followed Mrs.Tabeling?

A June 2nd.

Q Who were you with on that occasion?

A Mr. Kennedy.

Q Did you hear his testimony?

A Yes, sir.

Q Is there anything you can add to that testimony?

A No, sir, that is correct.

Q The events he related, are those the same things you saw?

A Absolutely.

Q When is the next time you followed Mrs.Tabeling?

A June 7th, 1927.

Q Who were with you then?

A Mr. Kennedy.

Q Did you hear his testimnny in Court with relation to what he saw on that date?

A Yes, sir.

THE COURT: Was anybody beside Mr.Kennedy with you on that occasion?

THE WITNESS: Mr.Tabeling joined me later, your Honor.

Q Mr. Kennedy did not say how Mr.Tabeling joined you. Why did Mr.Tabeling join you on the evening of June 7th,

1927?

A I sent for him.

Q How did you send for him?

A I sent a taxi for him.

Q Where did you see Mr.Tabeling?

A At the corner of Light-- corner of St. Paul and Fayette Street was where he met me.

Q Did you see Mrs.Tabeling enter the Calvert Building?

A I did.

Q Did you followher?

A Yes, sir.

Q Where did she go after she entered the Calvert Building?

A To office 657.

Q Who went in that room?

A Mrs.Tabeling, another lady and two gentlemen.

Q What did you observe after they went into the room?

A Immediately after they went in the room the lights were lighted. They remained so for possibly twenty minutes or probably a half an hour. The lights later went

out. They remained out for at least a half hour. The door was locked.

Q How do you know that?

A Because I tried it.

Q Where didyou stay while they were in this office?

A Part of the time I stood in the lobby of the 6th floor and overheard some conversation.

Q What did you hear Mrs.Tabeling say?

A I don't know who made the statement but I did hear a gentleman's voice say, "I have come all the way from Washington to meet you."

MR. WHYTE: "To meet you?"

THE WITNESS: "To meet you."

MR. WHYTE: There were two ladies in there, you say?

THE WITNESS: Yes, sir.

MR. WHYTE: I move to strike it out.

THE COURT: No, I think it goes to the probative force.

MR. WHYTE: It might have been the other fellow's voice.

THE COURT: It might have been but it was made in

the presence of the witness. I will let it in for whatever it is worth.

Q (By Mr.Sayler): What time did they go into that room, if you know?

A About 8.10 P. M.

Q What time did they come out?

A About 10.05 P. M.

Q Did you see Mrs.Tabeling when she met those men earlier in the evening?

A I did.

Q How did they greet her?

A There was much hand shaking.

Q Well, was there anything else?

A Not at the meeting. I saw nothing more than that at the meeting.

Q Have you heard Mr. Kennedy's testimony as to what happened after Mrs.Tabeling and her friends left the Calvert Building?

A Yes, sir.

Q Did you observe those things that he spoke about?

A I did.

Q Is there anything you can add to that?

A With the exception of one thing. While the car was being driven in the direction of North Avenue and Charles Street, the gentleman who drove the car acted as though he was not sure of himself and at one particular place he ran zig-zagged across the street and got up on the curb. Whether it was his intention to turn there, I don't know.

Q Where was that?

A I couldn't remember the location where the incident occurred because I was busy watching traffic, I was driving my car.

Q Do you know what street it was on?

A I think it was on Cathedral Street, somewhere in that location.

Q How did these four people act when they left the Calvert Building with reference to their walking in?

A The gentleman who was with Mrs.Tabeling had his arms around her neck walking across the street from the Calvert Building to the automobile. Just prior to getting into the automobile he took her cheeks in his hands and kissed her standing on the pavement alongside of the car.

Q Did you see any indications of intoxicating liquor?

A They all acted in a very happy mood. They were

laughing, talking and apparently having a jolly good time.

Q Did you know any of those men with Mrs.Tabeling?

A I did not, no, sir.

Q When was the next time you saw Mrs.Tabeling?

A June 16th, 1927.

Q Was Mr. Kennedy with you then?

A Yes, sir.

Q Mr. Kennedy did not testify about that?

A I beg your pardon, Mr. Kennedy was not with me on that day. This is June 16th, I am referring to now.

Q Who were with you then?

A I was by myself on that occasion.

Q Where did you meet Mrs.Tabeling that day?

A At about 7.45 P. M. Mrs. Tabeling left her home and went---

THE COURT: Do you expect to follow this up by testimony from anybody else?

MR. SAYLER: No, sir, I can give you some details now about the automobile license number.

THE COURT: Does it connect up with any other testimony?

MR. SAYLER: Now, sir.

THE COURT: It is immaterial and irrelevant.

MR. SAYLER: All right, the same exception.

Q When is the next occasion you have?

A The night of June 23rd, 1927.

Q Now, we have heard about that from Mr. Kennedy?

A Yes, sir.

Q How did Mr.Tabeling come to meet you on that occasion, at whose request did he meet you?

A By my request.

Q How did you know where he was?

A Mr.Tabeling had informed me many days previous to this occurrence that in the event I would need him he could always be found in a cigar store on Harford Avenue, in the 1600 block.

Q How did you locate him there?

A I had Mr. Kennedy call at the cigar store in a taxi for him.

Q Mr. Kennedy testified he got Mr.Tabeling and brought him in a taxi cab down to Brooklyn and met you and your wife, Mrs.Brown?

A That is true.

Q When you all went down to a shore at Rock Creek?

A Yes, sir, that is true.

Q I understood from Kennedy you separated after you got down to this bungalow, is that correct?

A That is true, sir.

Q Now, before I get there, did you have any notice that there was going to be a party down at the Calvert Building on the night you referred to a few moments ago?

MR.WHYTE: Objected to. Notice from whom?

THE COURT: I suppose you mean to limit that notice-- he can answer that yes or no.

MR.WHYTE: Yes,he can answer yes or no.

MR. SAYLER: All right, give him a chance.

Q Did you have any notice?

A No, sir.

Q Did anyone tell you that Mrs.Tabeling was going to meet anybody?on the night of June 23rd, 1927, and go to any shore?

A No, sir.

Q Why did you follow Mrs.Tabeling on the night of the Calvert Building episode and also on the night of June 23rd, 1927?

A The night of the Calvert Building episode, Mr.

Tabeling informed me that his wife had said she was going to the theatre with her sister on that particular night. Our suspicions became aroused as to whether or not such was the case and we decided to pay strict attention that night.

Q On the night of June 23rd, 1927, why did you follow her?

A Mr. Tabeling informed me on that day that his wife told him that she was going to Clifton Park bathing and she would take her bathing suit. In view of the fact they had been to the shore before, when they said bathing suits I immediately linked bathing suits up with the shore and not Clifton Park.

Q Now, let us go back to the night of June 23rd; when they got down to the shore which way did you go and which way did the other people go?

A I followed the four people as far as Brooklyn---

Q Well, now, let us get over that, let us get down to the shore?

A I went by way of Brooklyn, over the Hanover Street Bridge---

Q Let us assume we are down at this bungalow at

Rock Creek and your automobile is stopped?

A I see.

Q Now, what did you do?

A We immediately surrounded the bungalow.

Q Did you stay together?

A No, sir.

Q When you say you surrounded the bungalow, what do you mean by that?

A Mr.Tabeling and I were on one side of the bungalow and Mr. Kennedy was on the other.

Q What did you see?

A There was a dull light in what looked to be a living room. Whether this light was a lamp or an old lantern, I don't know, but it was an old lamp of some kind. I saw Mrs.Tabeling with two gentlemen and another lady sitting at the table. There was a bottle on the table and all four were smoking. I do not know the condition of the bottle. That condition continued approximately fifteen or twenty minutes and one lady and one man left, leaving Mrs. Tabeling with the other gentleman there. They remained to occupy their seats at this table and Mrs.Tabeling was smoking a cigarette and they were drinking the contents from a bottle.

The gentleman apparently made love to Mrs.Tabeling, he put his arms around her and hugged and kissed her on several occasions. Soon after that they got up and Mrs.Tabeling and this man entered the room which led to the right of this living room.

Q Did you hear any conversation before they went into that room?

A I did.

Q What did you hear?

A The conversation was in part---

Q Just tell us the words you heard?

A The conversation was by a lady and it said to the man, "Have you got a condom?" He assured her that he did.

Q Who were in the room at that time?

A Mrs.Tabeling and the gentleman.

Q Were there any other people in that room at that time?

A No, sir.

Q What were the next words you heard?

A I heard a man's voice say, "You bet your life I have," and the woman's voice said, "All right, then, the

$10.00 proposition still holds good."

Q What did they do?

A They went into the room on the right of the living room.

Q Was there any light in that room?

A No, sir.

Q How long were they in there?

A I would say they were in there at least a half hour.

Q Did they come out?

A They come out when they heard the boards of the floor cracking, when Mr.Tabeling and Mr. Kennedy and I made our appearance in the living room.

Q What did you see after you walked into the living room?

A The door opened from the inside of this room, which presumably was a bedroom, and Mrs.Tabeling made her appearance in the doorway, I apparently being the first one she saw. She said, "There isn't anything wrong, Mister," and at that instant I think she observed her husband standing there and she immediately said to him,"There is nothing wrong, Bill" and the man made his appearance.

Q What was the condition of the man?

A The man was adjusting his clothing.

Q What do you mean by that?

A The man was buttoning up the front of his trousers.

Q What is the next thing that happened?

A The man made his appearance in this living room and there was much talk, Mrs. Tabeling becoming much excited and apparently Mr.Tabeling became much excited and they got to arguing and finally they made their way to the yard. They were talking loud and I tried to advise them not to tell the whole community about it, but they finally made their way out to the road still arguing and while they were standing there Mrs.Tabeling was apparently to my right standing at a bank and this bank she was standing on gave away and she apparently slipped and got on my foot and naturally I jumped when she did and she apparently thought I was going to strike her because she took a wallop at me and knocked my straw hat about ten feet.

Q Did you look into this room from which Mrs. Tabeling and the man came out?

A Yes, sir.

Q What furniture was in that room?

A There was a bed in that room and also a wash-stand and chair.

Q How was the bed made up?

A The bed was rumpled as though it had recently been occupied,

THE COURT: I will strike out the word "recently". I do not see how that follows.

MR. SAYLER: Yes, sir.

Q The condition of the bed was rumpled?

A Yes, sir, all rumpled up.

Q How was Mrs.Tabeling dressed at that time?

A Mrs.Tabeling was fully dressed, she was dressed in black.

Q MR. WHYTE: Fully dressed?

THE WITNESS: Fully dressed,yes, sir.

Q (By Mr.Sayler): Did you notice the condition of her hair?

A Her hair was disheveled.

Q Did you see any clothing hanging on a line near the house?

A Yes, sir.

Q What did you see there?

A I would call them step-ins; some people call them bloomers.

Q What became of them?

A Mrs.Tabeling got them later on.

Q Tell us about that?

A After they got out on the road and the episode happened about my hat being knocked off, Mr.Tabeling and Mr. Kennedy went down the road to get in the automobile, apparently the crowd was breaking up. The two ladies, Mrs. Tabeling and the other lady, got in the automobile that was standing there. I was standing in the back of this automobile. Mrs.Tabeling got out of the automobile and went down on the porch of the bungalow and got this garment off the line.

Q Had you seen her put the garment on the line?

A No, sir, I did not see her put it on there.

Q Do you know any of the people who were with Mrs. Tabeling on that occasion?

A Yes, sir.

Q Who were they?

A The lady was Mrs. Tolman, I think that is the way it is spelled, T-o-l-m-a-n.

Q Did you have any advance notice that Mrs.Tolman was going with Mrs.Tabeling on this night?

A No, sir.

Q Had you ever seen Mrs.Tolman prior to this occasion?

A Yes, sir.

Q When was the last time you had seen her prior to this occasion?

A I would say a week previous to this occurrence.

Q Where did you see her?

A At my office.

Q What was she doing there?

A Mrs.Tolman came there and told me that she---

MR. SAYLER: Do you want that?

THE COURT: I do not know whether the other side wants it or not.

MR. WHYTE: Yes, I want it.

A (Continuing): Mrs.Tolman came there and told me she had been out with Mrs.Tabeling on several occasions.

Q On several occasions?

A Yes, sir.

Q Did she say she was going to have a party or any-

thing of that kind?

A She did not mention anything about any specific party.

Q Was Mrs.Tolman in your employ?

A No, sir.

Q Now, there were two men with Mrs.Tolman and Mrs. Tabeling on that occasion, did you know those men?

A Yes, sir.

Q Let us take the first one, John Small--

THE COURT: He has not said so.

Q Who was this man?

A One man was named Small and the other one named Strokes.

Q Let us take John Small, how long have you known him?

A I would say approximately a year and a half.

Q Is he a detective?

A No, sir.

Q Did he ever work for you?

A No, sir.

Q Did you know he was going to be with either of these people on this occasion?

A No, sir.

Q Where did you know Mr.Small from?

A I transacted a little business for his mother.

Q Do you mean detective work for his mother?

A Well, I would not call it detective work, she had some furniture in storage which required some attention.

Q And she came down for advice?

A Yes, sir, that is it.

Q And that is where you met Mr.Small?

A That transaction with his mother.

Q Did you introduce or take any part in the introduction of Mr.Small and Mrs.Tabeling?

A No, sir.

Q Did you know that Mr.Small knew Mrs.Tabeling before this occasion?

A No, sir.

Q Do you know how Mr.Small met Mrs.Tabeling?

A Yes, sir.

Q How do you know that?

A She was introduced to Mr.Small by Mrs.Tolman.

Q How do you know that?

A Mrs. Tolman said that she did. Of course, I did not witness it.

Q Well, let us take the other man, from where did you know Mr.Stokes?

A I transacted some business for Mr.Stokes about two years ago.

Q What kind of business was that?

A Detective business.

Q What did you do for him, did you make any investigation for him?

A Yes, sir, made an investigation; that is true.

Q That was about two years ago?

A Approximately two years ago, yes.

Q Was he ever in your employ?

A No, sir.

Q Did you introduce him to Mrs.Tabeling?

A No, sir.

Q Did you know that he knew Mrs.Tabeling prior to June 23rd, 1927?

A No, sir.

THE COURT: Which of these men was it you say came out of the room with the bed in it?

THE WITNESS: The man Stokes.

CROSS EXAMINATION.

By Mr.Whyte:

Q Do you carry a revolver at night?

A I have carried a revolver in the past.

Q When you got down there on the 23rd of June, 1927, and Mrs.Tabeling---

THE COURT: It is half past twelve, there is no use of starting the cross examination now. You will resume at one thirty.

(Thereupon, at 12.30 P. M. a recess was taken until 1.30 P.M.)

AFTER RECESS (1.40 P.M.).

Thereupon - - -

JOHN R. BROWN,

whose examination was suspended for the purpose of taking the noon recess, resumed the stand for

CROSS EXAMINATION (Continued).

By Mr.Whyte:

MR. SAYLER: Your Honor, there is one question I had forgotten to ask, if I may be permitted to do so.

Q Mr.Brown, on the night of June 23rd, 1927, you followed, I understood you to say, or Mr. Kennedy to say, that yourr automobile followed the Tabeling automobile and you stopped at the Brooklyn end of the Hanover Street bridge?

A Yes, sir.

Q Did you know at the time you stopped there where the Tabeling automobile was going?

A I did not know.

Q What led you to go down to the shore after that?

A Because we had followed Mrs. Tabling there previous

to that occasion and we took pot luck of locating her there this night.

Q Do you remember how many times you have been to that shore following Mrs.Tabeling prior to that time?

A I believe four times previous to that occasion.

CROSS EXAMINATION (Continued).

By Mr.Whyte:

Q Well, in that automobile, as a natural fact, whose automobile was that on the 23rd of June?

THE COURT: Which one?

MR. WHYTE: The one that Mrs.Tabeling went down to the place they testified about, called Rock Creek?

A That automobile, the tag numbers were in the name of John M.Small.

Q Now, was the other man in that car Stokes?

A Yes, sir.

Q And the lady in there was a lady that Mr. Kennedy testified he knew only as Mamie?

A Yes, sir.

Q And he afterwards thought her name wasMamie Tolman, is that right?

A I did not hear him say anything about Tolman, sir.

Q What is her name, you know her now?

A Mamie Tomlin.

Q Does she ever go under the name of Lou Wright?

A I don't know.

Q Well, those three were in that car?

A Yes, sir.

Q Now, Mr. Kennedy has testified that he saw this Mamie Tomlin, if that is her right name, in your office. Do you remember when she had been in your office before this?

A No, I don't remember what date she was there.

Q About how long before June 23rd, had she been in your office?

A At least two weeks.

Q What was the nature of her business in your office?

A Of what character was it? She came to my office and told me that she had been on parties with Mrs.Tabeling.

Q She told you that?

A Yes, sir.

Q And what did she wish you to do for her?

A There was nothing suggested that I do.

Q Do you mean she just came in your office out of a clear sky and told you about these parties?

A I did not send for her to come there.

Q No, I did not ask you that. Had she been coming there before that?

A Before what?

Q The two weeks before she came this time?

A Oh, yes, she had been in my office previous to the two weeks before this shore episode.

Q Had she been coming there sort of as a regular thing?

A Oh, no, sir, not regularly; periodically.

Q Before that what did she want you to do then?

A There was nothing definitely stated I was to do at any time.

Q THE COURT: What were your relations with her, was she your employee or you her employee?

THE WITNESS: No, sir, she was not my employee and never had been. She was a mere acquaintance, I had also done some work for her in the past, made an investigation for her and my acquaintance was to this effect. That she went to

Mrs. Tabeling's beauty parlor and got her hair trimmed. Then she told me she had talked with Mrs.Tabeling on a number of occasions and to quote her exact words, she said, Mrs. Tabeling was a high-flier.

Q Did she know you were working on this case at that time?

A I don't think so.

Q Did you tell her you were?

A No, sir.

Q Never on either one of those visits there?

A Oh, later when she gave me information about Mrs. Tabeling being a high-flier, naturally I told her then to give me as much information as possible.

Q Then she was getting information for you about Mrs.Tabeling?

A True.

Q And you were acting on the information she gave you?

A Acting on her leads, yes, sir.

Q On this particular night, on June 23rd, she told you they were all going down to Rock Creek Park, didn't she?

A No, indeed.

Q She did not tell you that?

A No, sir.

Q Where did you pick up Mrs.Tabeling in the car before they started for Rock Creek?

MR. SAYLER: What night?

MR. WHYTE: June 23rd?

A In front of Mrs.Tabeling's beauty parlor.

Q Oh, you were watching the beauty parlor?

A Yes, sir.

Q You had been watching that right along, had you?

A Yes, sir.

Q So when they came out of there you followed them?

AA Yes, sir.

Q And when you got down to the bridge, then you stopped following them?

A Yes, sir.

Q Then you sent for Mr.Tabeling?

A That is right.

Q Did you see Small that day?

A That day or that night?

Q At any time that day?

A I saw him that night down the shore.

Q Did you see him before that time?

A Yes, sir.

Q Did you get a telephone message from him?

A No, sir.

Q And you did not hear from Stokes either, did you?

A No, sir.

Q Not a word from him?

A No, sir.

Q You know both of them?

A Yes, sir.

Q And they have both been in your place of business?

A Yes, sir.

Q You have done personal work for Small and his mother?

A For his mother.

Q And also for Stokes?

A Two years prior to this occasion.

Q Two years prior you worked for Stokes.

A That is right.

Q You took your wife down with you this night?

A Yes.

Q Did she stay in the automobile?

A Yes, sir.

Q When you got down there, as I understand you to testify, Mr. Kennedy went on one side of the bungalow and Mr.Tabeling went on the other?

A Tha t is true.

Q And you and Mr.Tabeling looked through a window?

A Right.

Q Standing side by side, I mean you were standing peering in the window?

A That is true.

Q So you and Mr.Tabeling saw the same thing.

A I can't vouch for what Mr.Tabeling saw.

Q All right, but you were both looking through the window at the same time together?

A I can state what I saw.

Q Yes, sir, I understand that. As you started to go into this house, after you left the window and started to go into this house, did you call Mr. Kennedy to come around from the other side?

A No, sir.

Q Well, Mr. Kennedy testified that all three of you

went in together. Then he came around of his own accord, did he?

A That is true.

THE COURT: I am not so sure of that.

MR. SAYLER: No, he did not.

MR. WHYTE: I am pretty sure of it but I can be mistaken.

MR. RIFMAN: I have notes here, your Honor, that Brown went in with Tabeling.

THE COURT: Mr.Tabeling testified they were outside the bungalow about ten minutes and he then entered with Kennedy and at the suggestion of Brown he followed and Kennedy was behind him.

Q When you went in there, there was a curtain to this door leading to the bedroom?

A There was a portiere there, yes, sir.

Q The door was not shut?

A The door was closed, yes, sir.

Q When you got inside?

A Yes, sir, we got inside the living room and the door leading to the bedroom was closed.

Q And through that closed door Mrs.Tabeling came, is

that correct?

A The door opened and then she appeared.

Q Suddenly?

A Well, the door gradually opened, I would not say suddenly.

Q What did you do?

A Simply stood there.

Q You did not pull a gun out of your pocket at her?

A Mr.Whyte, I would not pull a gun on any woman.

Q I asked you, did you or did you not, not what you would not do?

A No, sir, I did not.

Q Did you hit her in the face with your fist?

A No, Mr.Whyte, I did not hit anyone.

Q I ask you, did you hit her in the face with your fist that night?

A No, sir.

Q Did she hit you?

A She hit my hat.

Q Only your hat?

A Yes, sir, only my hat.

Q You did not get hit in the eye or nose, did you?

A No, sir.

Q Well, you had quite a fight down there that night, didn't you?

A No, sir, no fight.

Q When you got there you testified these people were out in the outer room sitting around the table?

A That is true.

Q And as I understand you to testify, two of them got up and left?

A That is true.

Q Did you watch Mrs.Tabeling from that time until the time she went into the room?

A Yes, sir.

Q You saw her until you moved around the house, didn't you?

A Yes, sir, that is true.

Q Did you see her take any clothes off?

A No, sir.

Q And then you looked in the window and you testified when she came out of thedoor she had her clothes on, that

is correct?

A That is true, yes, sir.

Q What do you mean by trying to insinuate that those clothes on the line belonged to Mrs.Tabeling, how do you know that?

A I did not say they belonged to Mrs.Tabeling, Mr. Whyte.

Q Oh, you say she took them off the line?

A No, sir.

Q You don't mean to infer to the Court that she undressed and hung her clothes on the line?

A I do not mean to infer anything, I merely stated that the garment was hanging on the line which she removed.

Q From the line?

A From the line.

Q Now, did she leave there before you did in her car with these friends of yours, Mr.Stokes and Mr.Small?

MR. SAYLER: I object to that question, there has been no testimony about these people being friends of his.

Q Well, these people that you know?

A Ask the question again, please, Mr.Whyte.

Q Did she leave Rock Creek Park on the night of June 23rd, 1927, with the people you know, namely Small, Stokes and this woman known as Mamie Tolman, before you left down there?

A No, sir.

Q You left first?

A That is true.

Q And what time did you get to Baltimore?

A I should judge about twelve o'clock.

Q Then where did you go?

A Mr. Tabeling got out of my automobile in front of his father's home.

Q His father's home about twelve o'clock?

A Yes, sir.

Q Twelve o'clock midnight. You left him there?

A Yes, sir.

Q Do you know Mrs.Tabeling's brothers?

A By sight, yes, sir, one of them.

Q Do you know how many she has got?

A I have been told that she has three.

Q Well, I will tell you she has six.

THE COURT: Just a minute, strike that out, please.

Q Were any of these gentlemen you have testified to as going into her house, do you mean to say they were not her brothers or members of her family?

A I don't know those people who went into her house?

Q You don't know them?

A No, sir.

Q Mr.Tabeling testified you received for your services in this case $1100., is that correct?

MR. SAYLER: I object to that, I do not see where it throws any light on the question.

(Objection overruled; exception noted).

A What is the question?

Q Mr. Tabeling testified he paid you $1100. for your services in this case, is that correct?

A Approximately that amount, I am unable to state the exact figures.

Q Paid by check?

A By cash.

Q Several sums, I mean several different payments?

A It was periodically over the period-- during the time of the investigation, five months I would say. Just how often, I don't recall.

Q Will you say four or five different times?

A No, I would say not over three times.

Q I call your attention back to June 7th, to this Calvert Building occasion?

A Yes, sir.

Q Were either one of these gentlemen you saw that night Small or Stokes?

A No, sir.

Q Did you recognize one of them as the brother of Mrs.Tabeling that night?

A No, sir, I did not.

Q You knew it was her sister with her, didn't you?

A At the time-- yes, on that occasion I do know that washer sister.

REDIRECT EXAMINATION.

By Mr.Sayler:

Q Mr.Brown, it has been testified that on one occasion there was an automobile in which Mrs.Tabeling and some other people got and that automobile bore a license tag from the District of Columbia. Have you got that license tag number with you?

A Yes, sir.

Q Will you give us that number, please?

A N-6281, that is a District of Columbia tag.

Q Do you know in whose name that automobile was licensed?

A I do not, although I went to Washington to try to find out.

Q Is that the number of the automobile license which was on the car on the night of June 7th, 1927?

A Yes, sir.

(Testimony of the witness concluded).

MR. SAYLER: Your Honor, I expected one or two more witnesses but they are not here. I would like to rest my case, sir.

Thereupon - - -

SARAH L. TABELING,

the defendant, produced on her own behalf, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By MrWhyte:

Q Now, Mrs.Tabeling, what is your full name?

A Lillian Dempsey Tabeling.

Q Where are you living now, Mrs.Tabeling?

A With my father.

Q Whereabouts?

A 1501 East Lafayette Avenue.

Q Now, when were you married?

A I was married on February 7th, 1924.

MR. SAYLER: That is all admitted and proven, that is just encumbering the record.

THE COURT: We will save as much time by leaving it in as by striking it out.

MR. SAYLER: It costs money, your Honor.

THE COURT: All right, strike it out.

Q After your marriage, where did you go to live?

A For the first three months with my mother and father.

Q Your husband lived with you?

A Yes, sir.

Q After that, where did you go?

A We took an apartment at 1731 Harford Avenue.

Q Did you live up there until June 23rd?

A No, sir, July 29th.

Q What day did your husband leave you?

A June 23rd.

Q Now, Mrs.Tabeling, what was the treatment of your husband from the time you were married and immediately after the time you were married on up until the 23rd day of June, 1927?

MR. SAYLER: I object, your Honor, I do not see that is admissible either under the bill or cross bill.

MR. WHYTE: The cross bill charges that.

MR. SAYLER: No, it does not.

THE COURT: I do not see why it should. The cross bill charges his abandonment of her, it does not charge constructive abandonment. In fact, all the evidence is that he left her. I have an abstract of the cross bill beginning with paragraph five. The first four paragraphs are admitted.

MR. WHYTE: Yes, sir.

MR. SAYLER: It alleges abandonment, that is all.

THE COURT: I think so.

MR. WHYTE: Strike that question out, please, Mr. Stenographer.

Q What has been your conduct toward your husband from the time you were married, Mrs.Tabeling?

A I have been a faithful wife.

Q Did your husband say anything to you before he abandoned you on June 23rd?

A Yes, sir.

Q What did he say to you?

A Well, I was in business, I had a beauty parlor at Harford Avenue and Oliver Streets and because of my physical condition I could not keep it up any longer. From the severe beatings I had gotten from my husband I had been injured----

MR. SAYLER: The lady is trying in an indirect way his conduct.

THE COURT: It isn't responsive, strike it out.

MR. WHYTE: She has to tell why things happened, your Honor.

THE COURT: Strike out her answer and repeat the question.

(Question here read by the reporter).

Q What did he say before he left you?

A Do you mean pertaining to the affair that evening?

Q What did he say before he left you on June 23rd, if anything?

A I had been invited to go with these people down to this country place to a bathing party, my sister, brother nephew and myself had been invited---

MR. SAYLER: Your Honor, that isn't at all responsive. I do not like to interrupt but it isn't responsive.

THE WITNESS: Well, what am I to answer?

THE COURT: This may be responsive. Go ahead.

THE WITNESS: My husband had been invited also. When I went home and told him about it he said he would be pleased to go. He told the little girl that I had helping me there to get his bathing suit for him out of the cedar chest, which she did. She got his and mine. At seven--around, I would say, around seven o'clock or thereabouts--about 6.30 we had our dinner and about 7.30 we went down Harford Avenue to the beauty---

MR. SAYLER: Can't we instruct the witness to get to the answer?

THE COURT: I think she is coming to it.

THE WITNESS: (Continuing): We left the house to

go-- I to go to the beauty parlor to meet these people, the little girl went along with us and my husband stopped up at 1619 to leave us there, but before that I wanted to tell you, Mr.Whyte, if I will be permitted, that my husband had intended going to this party with us, which he knew about it two days before---

MR. SAYLER: Your Honor, the question is, what did your husband say to you before he left.

THE COURT: Suppose you say that first and make your explanation afterwards.

MR. SAYLER: Your Honor, I want to get this record straight. Can't we strike that out?

THE COURT: No, let it stand.

THE WITNESS: Your Honor, he told us he would go to this party and when his sister came up to us and gave him some sort of message, he said, "I am sorry, I cannot go to this party, my father wants me," and he did not go, and I went to the beauty parlor----

THE COURT: Is this the last thing he said to you before he left you?

THE WITNESS: Yes, sir, the last thing he said.

THE COURT: And you never spoke to him again?

THE WITNESS: The next time was down at the shore.

THE COURT: What did he say to you down there?

MR. WHYTE: Your Honor, I would like to do that myself, if I may, sir.

THE COURT: You have asked her what he said before he left.

MR. WHYTE: She has finally gotten to that.

THE COURT: I will strike it all out if you insist on that. You began by asking her what he said before he left her and she has told us---

MR. WHYTE: That is one thing or one part of what he said before he left her on the night of the 23rd of June. That is as close as I can come to it.

THE COURT: All right, go ahead.

Q (By Mr.Whyte): When did you see your husband again after that?

A Down to the shore.

Q What did he say to you down there?

A Do you want me to tell---

Q I will come to that afterwards, what did he say?

A He said to me-- first he spoke to the people and he sort of acted confused and he didn't know what it was

all about. He said to me, "Come on, get out of here," and he was going to take me home when the man interferred and said he could not go home with me, he said to me--- he did not say it to me, he turned to those people and said, "My God, you haven't got anything on her."

Q Is that the last he said to you?

A That is the last word I heard from my husband except when I saw him on the street and other times he phoned to me.

Q Since June 23rd, since you ceased living together, has he called you over the phone?

A Constantly.

Q Talked to you over the phone?

A Yes, sir, and I have had my family and others---

Q Never mind about that. What did he say to you over the phone?

A He asked me to meet him and he asked me to go to Mr.Sayler's office, he asked me to have Mass on Sunday and asked him to meet him after work onSaturday night. After he would leave his father's home he would meet me and talk to me.

Q Have you ever met him on the street?

A Yes, sir, several times.

Q Where was the last place you met him on the street?

A The last place was on the corner of Lanvale and Harford Avenue.

Q What did he say to you then?

A He said, no matter what I say in Court or no matter what Brown says, he said, "Don't blame it on me, blame it on my father." He said, "I am sorry for what has happened," and I told him "Bill, how can you say I have committed adultery when you know in your heart it is a lie." He said, "I am not saying anything." He said, "Why don't you go up and talk to Mr.Sayler?" He said, "I know I have a dummy for a lawyer." He said, "I discovered that by the way Brown and he hooked me out of my money."

Q Have you seen him since then?

A Yes, sir-- no, before that, that was the last time when he told me about Brown and Mr.Sayler hooking him for the money.

Q Had you seen him before that?

A Yes, once before I was going in Nicholson's little cigar store on Harford Avenue and he said to me-- he asked me if I had a private detective working for me and I told

him anything he did he didn't tell me about, why should I tell him. He said, "I know you have Straus for a lawyer and Sayler told me he was going to get one of the biggest lawyers in town to help him out on this case." He said, "Because Brown and him certainly have hooked me," and he said,--- using his own words, He said, "John Brown was a horse thief."

Q Those were the occasions your husband talked to you about this case?

A Yes, sir.

Q Who did you go to Rock Creek with?

A There were some people came into the shop I had known as customers, a woman who called herself Lou Wright, a man by the name of Mr.Stokes, and a fellow by the name of John Small, who was known to me as John Smallwood, and this Stokes' right name is Ralph W. Stokes, but he was known to me as Sam and I afterwards found out that his name was Ralph W. Stokes.

Q When did you start to keep this beauty shop?

A In April.

Q 1927?

A Yes, sir.

Q Who set you up in business there?

A My husband.

Q What is next to the beauty shop?

A The barber shop is in the front of it, I am in the rear of the barber shop.

Q How long had you had that shop set up in April, 1927 before you met Lou Wrights?

A I was in there two or three days when she came in. I had not been there longer than that I know.

Q How long before John Smallwood came around?

A The same thing, Mr.Whyte, he brought her there.

Q When did you first come across Sam Stokes?

A I would say about a month after that or around that.

Q Who introduced Lou Wrights to you?

A No,one.

Q How did you come in contact with her?

A She came in and asked me for a manicure and a trim and I gave her the manicure and had the barber to trim her hair and she became quite friendly and sat there all the evening, and she also had another woman who I learned was Mrs.Brown to call for her that night.

MR. SAYLER: Did you say this other woman is Mrs.Brown that you are talking about?

THE WITNESS: No-- yes, I have seen Mrs.Brown.

MR. SAYLER: You just testified a moment ago that Mrs.Brown took Lou Wright from your beauty shop, did you say that?

THE WITNESS: Yes, sir, and she told me too that the woman up there was Mrs.Brown.

MR. SAYLER: I ask that be stricken out.

THE COURT: Strike it out.

Q (By Mr.Whyte): Anyhow, you testify that Mrs.Brown brought her there, is that it?

A Yes, sir.

THE COURT: No, she came after her.

THE WITNESS: I said she came after her, I said Mrs.Brown called for her.

Q (By Mr.Whyte): Mrs. Brown came to call for Lou Wright afterwards?

A Yes, sir.

Q Who brought Sam Stokes there?

A Lou Wright, the girl.

Q Did she introduce him to you?

A Yes, sir, asher sweetheart and John Small as her cousin.

Q Now, on the night, or before the night of June 23rd, 1927, who was it proposed that you go down to Rock Creek?

A Will you ask me that again, Mr.Whyte?

Q I want to know who got up this party for Rock Creek on the night of June 23rd?

A Well, you know, Mr.Whyte, I had been down there once before, my sister and the whole family, you might say, five of them all went down to this shore. She gave the barbers and everybody a party down there.

Q Who gave it?

A Lou.

Q She gave a party at Rock Creek?

A Yes, sir, she and Sam Stokes paid for everything.

THE COURT: Are you talking about June 23rd?

THE WITNESS: No, sir, I was there once before that.

THE COURT: If you will listen to the questions your lawyer asks you and answer those questions it will be very much easier to understand. You were asked who had given the party at Rock Creek on June 23rd.

THE WITNESS: Lou Wright and Sam Stokes.

Q (By Mr.Whyte): You say you had been there before?

A Yes, sir.

Q When before?

A About two weeks before.

Q Who took you then?

A Lou and Sam and this John Small---

Q The four of you?

A Oh, no, they took us but my sister went along--- well, there were three machines.

Q Now, on the night of June 23rd, how many were going in that party?

A Well, the same crowd had been invited to go and that is when---

Q What same crowd, your brothers and sister?

A Yes, sir, everybody that had been invited before.

Q What time were you going?

A We were supposed to leave the barber shop at half past seven.

Q Why didn't the others go?

A Because Lou Wright was waiting in the barber shop, waiting for this woman to come and at half past seven she

called up and said the party was off, there would be no bathing party. My brother and this fellow that was supposed to go along with the rest of the crowd went to a fight at Riverview---

MR. SAYLER: Just a minute.

Q (By Mr.Whyte): Were all of them to go?

A Yes, sir, they were all waiting at the beauty parlor.

Q Who went to the telephone?

A I did.

Q And when she told you this you told them the party was off, is that it?

A Yes, because they were all standing around in the barber shop.

Q Did you stay in the beauty parlor?

A Yes, sir, because I had been taking things up home that I had in the beauty parlor, because I had told Tom, the man I rented it from---

MR. SAYLER: I ask her to stop right there.

THE COURT: All right, stop there.

Q Just wait until I get this straight and never mind that. You stayed there how long?

A I stayed there until 9.30?

Q Then where did you go?

A I was just about to leave the barber shop between twenty five after and half past nine when --- Tom and the other barber were in the rear of the shop sitting there talking and he said, "Here is Lou---

MR. SAYLER: We object.

THE COURT: Leave out what he said.

A (Continuing): Lou and Sam walked in and said, "Where is the crowd--

Q Who came walking in?

A Lou and Sam.

Q That is Lou Wright and Sam Stokes?

A Yes, sir.

Q What did they say to you when they got there?

MR. SAYLER: I object to what they said.

THE COURT: She has already answered that question apparently without objection.

MR. SAYLER: It got over my head, sir.

THE COURT: Do you want it stricken out?

MR. SAYLER: Yes, sir.

THE COURT: I will strike it out.

MR. WHYTE: Strike out what, your Honor.

THE COURT: What Lou Wright said.

Q What did you do? They wanted to know where the rest of the people were?

A Yes, they said, "When you go to the shore---

MR. SAYLER: I ask the Court to strike that out.

THE COURT: Strike out the conversation.

Q (By Mr.Whyte): What did you do?

A I can't tell how I come to go to the shore?

Q You can't say what they said?

A Well, all I can say is that I went down to the shore with them.

THE COURT: How many were in the party?

Q (By Mr.Whyte): Who went?

A Lou Wright, Sam Stokes, John Small and myself.

Q Who was driving the car?

A John Small, he always drove.

Q It was his car, wasit?

A Yes, sir.

Q How long did it take you to get down to the shore?

A About forty five minutes.

Q Well, that would be 10.15 as I have it, you left there at 9.30?

A Yes, sir.

Q When you got down to the shore, what did you do?

A I went into the bungalow with these people---

Q All four?

A Oh, may I tell you what happened before I got to the bungalow?

Q Yes.

A They stopped at the Hanover Street bridge and they stopped at a place and a man handed out a package---

Q At the end of Hanover Street bridge?

A Yes, sir. That is a little place where they had crabs. Sam got out of the car and the man handed him a package which had sandwiches and something else, which he gave Sam and we went down to the shore and they had some kind of trouble for a few minutes, John fooled around with the car, and we got down in the bungalow and we had just got in there when Lou and John said they were going next door to get some beer---

MR. SAYLER: I ask that be stricken out.

THE COURT: Strike out what they said.

Q (By Mr.Whyte): Well, did any of you leave?

A Yes, sir, Lou and John.

Q What did they leave for?

A Beer.

Q How long were they gone?

A Well, they were hardly out when they came right back, because so much had happened in that little while.

Q How long would you say they were out of the place?

A I would say five minutes.

Q When they left, they left you and Sam Stokes there?

A Yes, sir.

Q Anybody else there?

A No, sir.

Q What did Sam Stokes do or what did you do?

A I was at the table. SamStokes offered me $10.00---

Q To stay with you?

A Yes, sir, and he said, "I will make it $50.," and he was supposed to be intoxicated that evening---

MR. SAYLER: I ask that be stricken out.

THE COURT: Strike out what he was supposed to have

been.

A (Continuing): Well, he said-- he raised it to $50. and he started like to put his arm around me and got real fresh and I stood up and as I stood up, there were two doors to the left of this living room and he walked over to this living room, to the living room, you know, closest to the back entrance. He said, "Come here--- pardon me, he pulled me over.

Q Did he pull you toward the door?

A Yes, sir, and I did not go in the bedroom, I was no where near the bedroom and I am dressed exactly as I was dressed that night, and he said---
then I turned around-- it happened so quick I can hardly tell you-- I turned around and as I did this man Brown had a gun and he held it in my face, and along with my husband were Mr. Kennedy, Mr.Brown, and Abner Sayler and my husband.

MR. SAYLER: Mr.Brown, Kennedy, your husband and myself were there?

THE WITNESS: Yes, sir.

THE COURT: When you say Abner Sayler, do you mean the gentleman who just spoke to you?

THE WITNESS: Yes, sir.

THE COURT: Did you recognize all of them?

THE WITNESS: Yes, sir, positively.

THE COURT: Are you positive it was Mr.Sayler?

THE WITNESS: Yes, sir, on my oath it was Mr. Sayler.

Q (By Mr.Brown): I understand you to say this man Brownput a gun in your face?

A Yes, sir, he did.

Q What did he say to you?

A He said to me,"We got you now," and he pulled his coat open and he had a police badge on and he said, "We got you now." I said,"What are you talking about," and my husband acted like he was crazy, I didn't know what was the matter with him, and Brown said, "We got you now." I said, "For what?" My husband said, "My God, man,you haven't got anything on her," and as they were talking and arguing they had been walking to the gate which is some little distance from the house, the road is a little bit higher than the bungalow is, and when we got up to the road my husband had lagged back. He said, "Are you going home?" I said, "Yes, I am going with you." Brown said, "You aren't going home with him," and my husband came over and

my husband said, "Come on, if you are coming," and this man Sayler--

Q Just say Mr.Sayler.

A Well, Mr.Sayler, he said,-- Mr.Sayler said to him,"Don't be a damned fool, after all the money you have spent," and Brown-- we had gotten up outside of the gate and this Mr.Brown came over and I started toward my husband thinking I was going with him because he had said so and I saw no machine at all belonging to these people because I wondered how they had gotten down there---

MR. SAYLER: I ask that her mental process be stricken out.

THE COURT: Strike it out.

A (Continuing): --well, Mr.Brown shoved me over and punched me in my face---

Q Out on the road?

A Yes, sir, out in the middle of the road.

Q Hit you with his fist?

A Yes, sir, with his fist and made my nose bleed and I beat him.

Q You hit him?

A I beat him.

Q Do you mean knocked him down?

A No, sir, I didn't knock him down but I beat him and beat him good and he showed it.

Q How many times did he hit you?

A He hit me twice.

Q Then what happened?

A Why, Mr. Kennedy-- I won't say which one it was, but one of them said, "Don't hit that woman," and Kennedy said, "Don't you know who her old man is," those are the very words Kennedy said.

Q Who separated you?

A Lou Wright picked up Mr.Brown's hat and as she picked it up he said something to her and called her Loretta and I said to Mrs.Wright, "Why, that man knew you, who is he?" She said, "I don't know him." I said, "Well, he called you Loretta or Lou." She said, "Well,I don't know him."

Q Did you leave there before your husband left there?

A No, sir.

Q Did he leave there first?

A Yes, sir.

Q How long after he left did you leave?

A Well, they fooled around in the machine a little bit and got in the machine and came right up.

Q Do you mean a few minutes after that?

A Yes, sir.

Q Do you know what time you got home that night?

A Yes, sir.

Q What time?

A About twenty minutes to twelve.

Q Who was it brought you home?

A John Small, SamStokes and Lou Wright.

Q And when you got home what did you find?

A When I got home I went in the house and all the furniture was upset, my mattress was all cut and torn to pieces, the ice box was all upset, the dishes were all broken and scattered---

MR. SAYLER: Just a moment---

THE COURT: I do not see its relevancy.

MR. WHYTE: I am going to follow it up.

THE COURT: All right.

MR. SAYLER: Subject to exception, your Honor?

THE COURT: Yes.

MR. SAYLER: All right.

A (Continuing): Everything in the ice box had been thrown out, the place looked like a cyclone had struck it, and his clothes were gone and there was some silverware I have never been able to find that, and other little things that belonged to me, and little papers and receipts that I had were all gone and some little jewelry and two small banks he had taken out of my drawer, all the things that belonged to me.

Q Did he come back to get anything more out of the house?

A Not to get anything more, no, sir,not that I know of.

Q And then you lived there alone?

A Yes, sir.

Q Until July 29th, I understand?

A Yes, sir.

Q Then you had to give it up?

A Yes, I still owe the man a month's rent.

Q And you went to live with your father?

A Yes, sir.

Q Now, Mrs.Tabeling, have you ever worked outside of this beauty shop? What can you do for a living?

A Telephone operator.

Q Are you able to work right straight along?

A No, sir, my sister had a position and she was taken ill and I went to work here at the Warehouse Lumber Company at Fairfield and I constantly cried about being hurt--- I thought I had been hurt going from the depot to there and I went to the doctor's because I could not work and the doctor told me it wasn't from the accident at all, it was from my physical condition, what I had gone through.

MR. SAYLER: I ask that be stricken out, your Honor.

THE COURT: Except her own statement that she was unable to work. Strike out what the doctor told her.

MR. WHYTE: I asked her was she able to work, your Honor.

THE COURT: He said no and that stands.

Q (By MrWhyte): How much has your husband contributed to your support?

A Well, the first year I was married, my husband

gave me anywhere from forty to sixty dollars a week.

Q How long did that last?

A About, I would say, fifteen months, fourteen or fifteen months.

Q After that what happened?

A He told me his father objected to him giving me so much money. He said he would handle everything and he wouldn't allow me even to buy a loaf of bread and he would go over to the store and get the things in the morning and pay for them at night, he had the milk and everything at the market stall and I wasn't allowed to buy a loaf of bread, and if I did I would have to show him the paper where I had gotten the loaf of bread.

Q How about your clothes?

A My husband bought me the dress I have on since we have been married, nothing else. I still have it on.

Q He never bought you anything else?

A No, sir, never.

MR. SAYLER: Your Honor, I have been sitting here patiently trying to figure out a way that evidence would be admissible. I do not see any and I therefore ask it be stricken out.

THE COURT: The only possible relevancy it could have is bearing on the means of the defendant in the cross bill, it can become an issue.

MR. SAYLER: I do not mind the statement about the first year of their married life, but after that the lady is trying to get into the record his treatment subsequent to the marriage. I do not mind her telling what his earning capacity was a short time prior to the separation and matters of that kind.

MR. WHYTE: I have to show how they lived, your Honor.

THE COURT: The only way that testimony bears on the treatment is to draw inferences and the Court promises not to draw inferences.

MR. WHYTE: I have to get into the record how they lived?

THE COURT: I have ruled in your favor.

MR. SAYLER: Just to keep the record straight, I note an exception.

Q (By Mr.Whyte): Is that all the clothes he has ever bought you?

A. Yes, sir.

MR. SAYLER: I ask that be stricken out.

THE COURT: Strike it out.

Q How much does your husband make?

A My husband makes, I would say, around fifty dollars. He has told me he had to make it the way he lived, he has made fifty dollars or sixty five dollars, around that.

Q Net?

A Yes, sir.

MR. SAYLER: I ask that be stricken out because there is no way in the world that this woman can tell his earning capacity now.

THE COURT: Do you base that on what he told you?

THE WITNESS: Well, he told me and the way we lived.

THE COURT: You have not lived with him for several months?

THE WITNESS: No, sir; I am saying at that time.

THE COURT: Well, it isn't responsive to the question, I will strike it out.

Q (By Mr.Whyte): Do you know anything about your

husband's income prior to this application for divorce?

A I know my husband used to give me very good money and I know my husband used to pay a very high price to different abortionists in town and that cost money.

MR. SAYLER: I ask that be stricken out.

THE COURT: Strike it out.

MR. WHYTE: That shows money, your Honor, it may not sound nice, but it shows the spending of money.

THE COURT: It seems to me quite irrelevant. Strike it out.

Q (By Mr.Whyte): Did he ever tell you how much he earned a week?

A He told me he earned between fifty and sixty five dollars a week.

Q When did he tell you that?

A When he was living with me.

Q The latter part of your living together?

A Yes, sir. He used to brag about it because I used to plead for clothes and money I wanted sometimes for myself---

MR. SAYLER: I ask that be stricken out. The question was, did he tell you the latter part of your married

life.

THE COURT: Strike out all after that.

Q (By Mr.Whyte): The latter part or the first part?

A The latter part.

Q Did you know he had all these lots at Riviera Beach?

A Yes, sir.

Q Did you know he bought them in your name as well as his?

A I was with him when he bought them.

Q How much did he pay for those lots?

A $2100.

Q Do you know how much he paid on them?

A No, sir, he never let me know. I know he had five years to pay for them.

Q When did he buy those?

A I don't just recall when he bought them, Mr. Whyte.

Q Do you know the year?

A Yes, it was the first year, I think, we were married.

Q What year?

A 1924 I think, I can't say just when he bought those.

Q Mrs.Tabeling, have you ever committed the crime of adultery?

A Sir?

Q Have you ever committed adultery?

A Never.

Q When you went over here to this Calvert Building across the street---

A Yes, sir.

Q What did you go there for?

A My sister---

Q What is her name?

A Miss Claire Dempsey and I went to the Calvert building to do some typewriting for this gentleman from Washington. I don't even know his name, and we went to this office, we were there but a very short time and my sister and I left and came home on the No. 19 street car. We did not go home in an automobile.

Q Where is your sister?

A In Buffalo.

Q Will she be here?

A Tomorrow morning, yes, sir.

Q Who was the other man?

A The other man? This man's office this man took me to and this man from Washington, where the typewriting was done---

THE COURT: Who did the typing.

THE WITNESS: My sister, Miss Dempsey, and my husband gave his promise to let me go because she wanted to do this work.

Q (By Mr.Whyte): Well, were you kissed out in the middle of Fayette Street?

A Mr.Whyte, I never came out on Fayette Street with the man. I went in but the man did not put his arm near me or anything else. I went in the Calvert Building, the fourof us went in.

MR. SAYLER: I ask that be stricken out, she was asked if she was kissed.

THE COURT: Answer the question.

THE WITNESS: I was not.

Q Did you come out of there with just your sister or the two men?

A My sister.

Q Nobody with you?

A No, sir, only my sister.

Q Did you get into any automobile that night?

A We went down in the machine---

Q I asked you when you came out did you get in an automobile?

A No, sir, we came out and we went to Redwood and St. Paul Street and got a 19 car and got off at Lafayette Avenue and Harford.

Q And your sister was with you?

A Yes, sir.

Q Now, let me call your attention to something I overlooked. Did you hang any garments on a line down at Rock Creek?

A No, sir,

Q Did you take any off of a line?

A No, sir, I never saw any on a line. I never saw any line.

Q Now, you started the beauty shop in April. When did you close it?

A I closed it up around the first part of June, I had told---

I had to give it up about the first or second of June.

Q Well, you were still there on the 23rd of June?

A I had been going down there, yes, Mr.Whyte, I was taking creams and different things, I had a lot of equipment.

Q You mean you were not paying rent for it?

A No, sir.

MR. SAYLER: I ask that that be stricken out.

THE COURT: Strike it out.

Q Who paid the rent for the beauty shop?

A No one.

Q Who did you rent the beauty shop from?

A Mr.Thomas Pasquale.

Q Did your husband rent it or did you rent it?

A I rented it.

Q Did he pay any part of it?

A No, he gave me money to take up beauty culture.

Q How much did that cost?

A Well, I think $50.; $45. or $50.

Q When did you start to take that up?

A In January, 1927.

Q When did you open up this beauty parlor?

A April.

Q How long did you work as a telephone operator?

A What do you mean, Mr. Whyte?

Q How long were you engaged in youroccupation or whatever it was---

A Since my husband left me?

Q Yes, you told the Judge you worked as a telephone operator and I want to know how long you worked as one?

A About four weeks, around that; four or five weeks.

Q Are you working now?

A Relief operator, I have worked the last couple days.

Q How much do you get?

A $2.50.

MR. SAYLER: $2.50 a week or a day?

THE WITNESS: It is only for three days, three or four days. I don't know the period.

Q In other words, you have no regular occupation at all?

A Oh, no, sir, I just take this relief.

CROSS EXAMINATION.

By Mr.Sayler:

Q Madam, you were asked a moment ago how long you had worked as a telephone operator and you said four weeks. What four weeks were those?

A I asked Mr.Whyte, did he mean when I had been married.

Q I want to know how long you had worked as a telephone operator?

A Do you mean all together?

Q Yes.

A Well, off and on, I would say six years.

Q Now, you say you have been working recently as a relief operator?

A Yes.

Q What is the last day you worked?

A Last night.

Q You worked last night?

A Yes, sir.

Q And the night before?

A Yes, sir.

Q Did you work any last week?

A I went to work Sunday-- Saturday.

Q How about Sunday?

A I think Sunday, I went Sunday, Monday and last night.

Q Sunday night, Monday night?

A Yes, sir.

Q Tuesday night?

A Last night was Tuesday, wasn't it?

Q No, last night was Wednesday.

A Well, Wednesday night.

Q Then you have worked the last four nights?

A Yes, sir.

Q By whom are you employed?

A Baltimore City Hospital.

Q Where is that?

A Bay View.

Q How long do you expect to have that position?

A I don't know, I am to call up this afternoon to find out if she wants me.

Q Who employs you down there?

A The Telephone Company.

Q Well, let us go back a little bit. Let us go down to the bungalow on the night of June 23rd. You have testified that among those who were present on that occasion was

Abner Sayler. Did you ever see me before that night of June 23rd, 1927?

A No, I had never.

Q You never saw me?

A No.

Q How did you know my name is Abner Sayler?

A Well--- that night when we were all down the shore, naturally I looked at everybody and I looked especially at the man who was all dirty looking and I looked at him and I looked at everyone and the very thin man I got a very good look at because I had seen him so many, many times before.

Q I am not talking about any thin man or the dirty man. I asked you about myself.

A You asked me how did I know it was you and I am trying to tell you. I saw you because you were standing alongside of my husband. I saw you and then I knew that my husband had you for an attorney because you had called up once before, you know, if you remember.

Q I had called up at your home?

A Yes, sir, don't you remember?

Q Yes, I do, I tried to get a reconciliation a long

time before.

A Is that what it was?

Q You know, don't you?

A No, I don't know.

Q I wrote you a letter about it, didn't I?

A No, you called me up at the apartments upstairs and the lady that was there heard exactly what was said.

Q On that occasion you had not seen me, had you?

A I just knew who you were, I had not seen you.

Q You knew me by sight?

A No, my husband told me you were his attorney.

Q All right, you have me as your husband's lawyer?

A Yes.

Q Up to June 3rd, 1927, had you ever seen me?

A No, sir.

Q Now, on the night of June 23rd, in this bungalow on Rock Creek, how did you know that man there was myself?

A At the time I did not know who the people were. but I looked at each and every one, we had plenty of argument and plenty of time to see, and if you remember this, Mr.Sayler, I walked into your office a couple days after

that happened---

Q Yes, I remember.

A And you said to me, you were having a little argument there and you said it was your daughter and not to pay any attention to it, and you said, "Oh, you are Miss Dempsey, I have a case against you." I said, "I am not Miss Dempsey." I said, "Are you Mr.Sayler?" You said, "Yes." I said, "Abner Sayler?" You said, "Yes." You said, "What can I do for you?" You said, "What do you want," and I said, "I have all I want," and your man followed.me.

Q Who was it followed you, lady?

A I don't know who it was but I know he was in your office and when I got on the elevator at the Calvert Building he was with me.

Q My office isn't in the Calvert Building?

A No, sir, you are up on St. Paul Street.

Q Where did you go to the Calvert Building?

A On the third floor.

Q Who did you see?

A Mr.Smart.

Q Is that the detective, Mr.D. C.Smart?

A Yes, sir.

Q Youhad employed Mr.Smart about that time?

A Yes.

Q Why did you employ him?

A Well, I--- just to find out if I was correct on some of the things. I knew my husband, every move I made-- I could not go out of the house that I was not followed.

Q Isn't it true you employed Mr.Smart to find out something about your husband?

A Oh, no, I wanted to find out if I was correct, what was happening. I couldn't go out of the house without being followed and telephone calls---

Q Did you see Mr. Kennedy on the stand this morning?

A Yes, sir.

Q Isn't that the man who was down at that bungalow?

A Yes, and you were there too.

Q And I was there?

A Yes, you were there.

THE COURT: Which one was dirty?

THE WITNESS: The dirty one was Kennedy because my

sisters and everybody has seen that dirty looking man around---

MR. SAYLER: I ask that be stricken out.

Q While you are on this particular occasion, in reference to this bungalow episode we have been talking about, I understand you to say it was 9.30 when you left your beauty parlor?

A Yes, sir.

Q Did you have any furniture in your beauty parlor at that time?

A The beauty parlor was a place that this man had---

Q Did you have any furniture in your beautyparlor at that time?

A No.

Q What did you go there for?

A I had creams-- I went there to keep the appointment with Lou Wright and she called me up there a couple of times to meet her there and the club---

Q After she called you up, you went there?

A Yes.

Q Why didn't you meet at your own home?

A Because they had a club down there on the third floor and they were all members of the club and different names---

Q Who had this club on the third floor?

A Barbers and myself.

Q Who?

A The barbers and I belonged to it and so did Stokes and this Wright woman and John Small and my brothers and sisters---

THE COURT: What did you start to say about being in the club under different names?

THE WITNESS: I say this John Small joined the club under the name of John Smallwood, this R. W.Stokes joined under the name of Sam Stokes---

Q (By Mr.Sayler): I did not ask you that, Madam?

A The Judge did.

Q Why didn't you meet at your own home and go to the river?

A Because I had been down to the beauty parlor in the afternoon and got the phone call and she said, "We will all meet at the beauty parlor"and I said, "all right," and every body came to the beauty parlor who was supposed to go--

Q Who came to the beauty parlor--

A My brother, Harry Deppsey--

Q Is hehere?

A No, he is not; he is in New York.

Q Now, who else?

A My sister Claire Dempsey.

Q Next?

A Marie Schidiger.

Q Where does she live?

A 35 South Carey Street.

Q Is she here?

A Yes.

Q She was at the beauty shop?

A Yes, at the beauty parlor to go to the shore.

Q Who else?

A A fellow named Tyler.

Q Where does he live?

A In the 1400 block East Fayette Street.

Q Is he here?

A He is not.

Q The next one?

A My nephew.

Q What is his name?

A Al Berger.

Q MR. WHYTE: Albert?

THE WITNESS: No, sir. Alphonse.

Q (By Mr.Sayler): Is he here?

A No.

Q Where is he?

A In Buffalo, but he is on his way here.

Q What is the next one-- don't look at those people.

A I am looking at you.

Q Who else?

A There was nobody else--- and myself.

Q When did you tell your husband about this party?

A I told my husband about it the day before, the first time.

Q Was it the day before Lou called up and made the engagement?

A Yes.

Q And the same day you talked to Lou you told your husband about it?

A Yes, sir.

Q You say your husband was going on this party until

his sister come to your home and stated something and then your husband said he would not go. What is his sister's name?

A I think it is Lutz.

Q Has she got a first name?

A Helen Lutz.

Q You know her pretty well, don't you?

A No, I do not.

Q Where does she live?

A I don't know.

Q How many sisters has your husband?

A One that I know of.

Q Do you want to say you don't know Helen pretty well?

A I only know that she came to the house a little while but she and I have not been---

Q You have never been on good terms, have you, for a long while?

A No, sir, never.

Q Isn't it true you and she had a little altercation shortly after your marriage to her brother and that altercation was brought about by your making an engagment with

a man in your own apartment and your sister -in-law told you about it and explained to you about it and then you had a little falling out as a result of that?

MR. WHYTE: Objected to.

A No, sir.

THE COURT: I do notnquite see the relevancy of it. I sustain the objection.

MR. SAYLER: Your Honor, I am prepared to follow it up that it did happen and there was a little flirtation. It simply shows the lady's character.

THE COURT: Strike out the counsel's comment.

MR. SAYLER: Yes, sir, but the question will not be stricken out, it will simply be overruled?

THE COURT: Yes, sir.

MR. SAYLER: Exception noted.

Q You and Helen Lutz have never been friendly, have you?

A She came to my house-- you know, mother recognized me, she came to my house when mother come for me because she thought he was doing something, and Helen came to my house and she asked me a question and because I told her I did not know what she asked me-- and she asked me in the

presence of someone-- she got very mad and she also asked my sister the same question and we had a terrible argument about that.

Q That was in reference to your having a flirtation with a man, wasn't it?

A It was not.

Q What was it about then?

MR. WHYTE: I object. They are going into the same thing. It don't hurt me except it chokes the record full.

THE COURT: I do not think this case is going to be decided on general impressions or general allegations of character and habits. It is going to be decided on very specific issues. I will sustain the objection and strike it out.

Q (By Mr.Sayler): Madam, have you ever done any work other than a worker in the beauty parlor or telephone operator?

A Telephone operator and maybe help out in an office or something like that.

Q Do office work?

A Help out. When I was a telephone operator we

always--

Q I asked you very plainly did you ever do any work other than that of a telephone operator and working in a beauty parlor?

A No, sir.

Q How about working for a man named Snyder, 1911 West Mulberry Street?

A Mr.Snyder, 1911 West Mulberry street---

Q Did you ever worked for a man named Snyder, 1911 West Mulberry?

A No, he asked me if I would come up---

Q I did not ask you that, Madam?

A He asked me to come up and fix a turkey for him for his Thanksgiving dinner.

Q You did not work there as a housekeeper?

A No, I did not.

Q Now, let us go back to June 7th, on the night you and your sister Claire and two men, one from Washington, went to the Calvert Building. What were the names of those men?

A I don't know.

Q Where did you see those men for the first time?

A

A The one man I have known for a long time, I will say several years.

Q What is his name?

A Mr. Nagel.

Q First name?

A Clarence.

Q How do you spell his last name?

A N-a-g-e-l.

Q Where does he live?

A On East Preston Street.

Q Does he live there now?

A Yes, sir.

Q And the number?

A I don't know.

Q Preston near what?

A I think it is near St. Paul Street.

(Thereupon, at 3 o'clock p. m., an adjournment was taken until ten o'clock Monday morning).

Monday, January 23rd,1928.

Hearing in the above entitled cause was resumed on Monday, January 23rd, 1928, at 10.40 A. M.

Present: Counsel for the respective parties.

MR. WHYTE: Now, with your Honor's permission, I would like to suspend with Mrs.Tabeling, the defendant, for a few moments to put on a bank official who would like to get away as soon as possible.

THE COURT: Very well.

Thereupon - - -

GEORGE F. SLOANE,

a witness of lawful age, produced on behalf of the defendant having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Whyte:

Q What is your name, sir?

A George Sloane.

Q What is your position, sir?

A Bank Teller.

Q With what bank, sir?

A Savings Bank of Baltimore.

Q Have you brought the account or accounts with you showing deposits and withdrawals in the savings bank standing in the name of William V. Tabeling?

A Yes, sir.

Q Will you tell the Court from your records just what that account shows?

A MR. SAYLER: Can I see it a moment, maybe I can save time.

(Papers handed to Mr.Sayler).

Q All right, Mr.Sloane, tell the Court what your books show?

A There are two accounts, one is in the name of William V. and William H. Tabeling. It was opened on September 15th, 1926, for $2,526.67. On May 23rd, 1927, there was $2,595.51 drawn out. The difference there was the interest which was added in October and April. That left a balance of $1.00. October 1st, 1927, there was $9.73 credited to the account, making a balance of $10.73.

There was another account in the name of William H. and William V. Tabeling opened July 15th, 1926, for $15,517.60. The interest added up to and including October 1st, 1927, made the balance, $16,426.17; and on January 7th, 1928, there was $426.17 drawn out, leaving a balance of $16,000.

CROSS EXAMINATION.

By Mr.Sayler:

Q Who opened that last account, Mr.Sloane?

A That was opaned by William H. Tabeling.

MR. WHYTE: Is it the same as the other one, a joint account?

THE WITNESS: Both joint accounts, exactly the same; the only difference is one is William V and William H. and the other one is William H. and William V., the names are reversed.

(Testimony of the witness concluded).

Thereupon - - -

RALPH STOKES,

a witness of lawful age, produced on behalf of the plaintiff having been first duly sworn according to law, was examined

and testified as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q What is your full name, sir?

A Ralph Stokes.

Q Where do you live?

A 226 North Carey Street.

Q What business are you in?

A An iron worker.

Q Do you know Mr.Tabeling, the plaintiff in this case?

A No, sir.

Q Do you know Mrs.Tabeling, the defendant in this case?

A Yes, sir.

Q Where did you first meet her?

A At a hair dressing parlor.

Q Where was that, sir?

A I don't know the address.

THE COURT: Do you know the street?

THE WITNESS: How is that?

THE COURT: Do you know the Street?

THE WITNESS: I would know it if I heard it.

THE COURT: What part of the City is it in?

A It is toward Harford Road.

THE COURT: Does the street on which it is located run the same way as Harford Road?

THE WITNESS:No, sir, it kind of diagonally crosses it.

THE COURT: About how far from the Harford Road.

THE WITNESS: I think it is on one side of the building, the building is right on the corner.

Q (By Mr.Sayler): How many times did you visit Mrs. Tabeling's beauty parlor?

A Three times.

Q Who went with you the first time?

A Mrs.Tomlin.

Q Did anybody else go with you?

A No.

Q Well, did you meet Mrs.Tabeling after you got there?

A Yes, sir.

Q Did you go anywhere that evening with Mrs. Tabeling?

MR. WHYTE: Objected to.

THE COURT: On what grounds?

MR. WHYTE: On the ground this isn't rebuttal evidence.

THE COURT: The Court has suggested that it desires to hear from this witness and that the witness is introduced out of turn but as part of the plaintiff's case, at the suggestion of the Court.

MR. WHYTE: Then your Honor overrules the objection and exception noted, just to keep the record straight.

(Question here read by the reporter).

A I don't remember whether we went anywhere that evening or not.

Q Well, now, you say you say you have been to her place three times?

A Yes, sir.

Q Do you remember when you met her?

A Yes, sir.

Q Do you remember the month and day?

A No, I don't remember that.

Q How long after that did you see her again?

THE COURT: Do you remember approximately when it was?

THE WITNESS: It was about May.

THE COURT: Of what year?

THE WITNESS: Last year?

Q (By Mr.Sayler): About how long after that did you see her again?

A About a week.

Q Where did you see her?

A At the same place.

Q When you went to her beauty shop,the first time you went there with this Mrs.Tomlin you spoke about?

A Yes, sir.

Q What was done, why did Mrs.Tolman go to Mrs. Tabeling's beauty shop?

A She went there to have something done to her hair.

Q Did you stay there while her hair was treated in some way by Mrs.Tabeling?

A Yes, sir.

Q The second time, what occurred on that occasion?

A I think we went out on a party.

Q Who went?

A There was quite a number, there were two machine

loads, I don't know the names of the people, of all the people.

Q Where did you go?

A We went to Rock Creek.

Q That is the second visit, now the third visit? Had you ever been in that house before that you attended at Rock Creek?

A I had.

Q Well, who invited you to go on this party?

A Mrs.Tomlin and Mrs.Tabeling.

Q When is the next time you saw Mrs.Tabeling?

A I don't remember the exact date.

Q Well, were you with her at a bungalow at Rock Creek on the night her husband came down there and saw her?

A Yes, sir.

Q Do you remember the date of that?

A No, sir, I don't remember the date.

Q Well, now, let us talk about that. With whom did you go to the bungalow on that occasion?

A I went with Mrs.Tomlinn, a fellow by the name of John and Mrs.Tabeling.

Q You went to this place on Rock Creek, didyou?

A Yes, sir.

Q Tell in your own way just what went on?

A Well, we went down to this shore and we stopped and got something to eat some crabs and sandwiches and went down there.

Q Who bought those?

A I bought them.

Q All right?

A We had some gingerale and some liquor and we stopped there and rest for a while. Then we suggested we try to get some beer or something---

Q What you have just spoken about, did that occur at the bungalow?

A Yes, sir.

Q Well, proceed now?

A So I thought I had done about enough, I spent as much as I thought I ought, so the other people decided to go get the beer.

Q When the other people went out who were left in the bungalow?

A Mrs.Tabeling and I.

Q All right, now, what happened? When the others went

out, where were you?

A I was there in the room with Mrs.Tabeling.

Q Were you standing, sitting or what?

A Well, we sat at the table a while and got up and acted the fool a little while.

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

A Well, I had talked the thing over with her some time before and she told me she would do most anything for $15. I told her--- well, I told her I would give her $10., so I had a right good chance there to show her that night and I offered it and she accepted it.

THE COURT: Repeat the conversation as near as you can.

THE WITNESS: I heard her say one time she would do most anything for $15., so we had talked over the thing a little bit and I thought that was the time and I offered her $10.

THE COURT: I mean repeat what conversation you had there that night, if you remember how it ran.

THE WITNESS: I told her the bet still stood good for the $10. and she said, all right, so we went in the

room together.

Q (By Mr.Sayler): You went in the room, what happened in the room?

A Your Honor, do I have to answer that question?

THE COURT: Mr.Stokes, you have sworn to tell the truth, the whole truth and nothing but the truth. It is your duty to answer that question.

Q Well, now, what happened in the room there?

A Well, we sat down on that bed and acted the fool a little bit, then Mrs.Tabeling asked me if I had a condom and I told her yes, and I went and got one.

Q Did you or did you not have sexual relations at that time?

A Repeat that question again.

(Question here read by the reporter).

A Yes.

Q Well, what happened after that?

A I heard a noise outside and jumped up and I saw a tall man come in holding his coat out with a police badge on it and we came out in the room and there were three or four people out there. Just a kind of a balled up affair, I don't just remember plainly what did happen.

Q Three or four people came into the room, you say. Who were the people?

A I recognized them afterwards as a man by the name of Brown, one by the name of George, and I understood Mr. Tabeling was the third one.

Q Brown first, a man that you call George?

A Yes, sir.

Q Do you know his last name?

A No, sir.

Q And Mr.Tabeling was the third. Was I present on that occasion?

A No, sir.

Q Had you seen me at any time that evening?

A No, sir.

Q Well, can you remember what happened after that?

A After that they had a little argument and Mrs. Tabeling wanted to go home with her husband and he wouldn't have her, he told her to stay with the gang she was with, or something to that effect, and we all went out through the yard and I was afraid there might be somebody else around there, I hung back a little behind the rest of them because the detective asked Mr. Tabeling would he run

them into Glenburnie and I thought there was a bunch around there and I waited back and the rest of them all went up on the road and they done some talking up there, which I don't know what happened.

Q Did you see any revolvers there on that occasion?

A No, sir, I seen no guns.

Q Were you around when Mr.Brown's hat fell off?

A I was down in the yard, I didn't see that.

Q Was there any fighting there?

A Not that I seen.

Q You said one man you recognized was Mr.Brown?

A Yes, sir.

Q Was he John R.Brown, the detective?

A Yes, sir.

Q How long have you known him?

A About three years.

Q When was the last time before this occurrence you are just talking about at the bungalow when you had seen Mr.Brown?

A I guess about two months.

Q Where did you see him at that time?

A In his office.

Q What were you doing in his office?

A At that time my machine was stolen and I had him investigate it.

Q Have you ever been in any way, directly or indirectly employed by Mr. Brown as a detective or investigator?

A No, sir.

Q You have consulted him as a detective, I understand?

A Yes, sir.

Q Did you know that night that any of these people that were in your party on this particular night at the bungalow knew Mr.Brown?

A Will you repeat that question again?

(Question here read by the reporter).

A No, sir.

Q Did you in any way communicate with Mr.Brown to tell him about this shore party before it came up?

A No, sir.

Q Did you in any way inform Mr.Brown that you knew Mrs.Tabeling before you had this party at the shore?

A No, sir.

Q I understood you to say that you had seen Mrs. Tabeling three times and you have recited those occasions. Now, were there any other occasions that you saw her?

A They had a club over there, I saw her on several occasions at the club.

Q Where was this club?

A It was located over the barber shop.

Q Did you see Mr.Tabeling at this club?

A Yes, sir.

Q Mr.Tabeling?

A Mr.Tabeling, no, sir, I never seen Mr.Tabeling.

Q How many times did you visit that club?

A I don't know exactly, I believe it was three times.

Q Did Mrs.Tabeling go with you to this club?

A Yes, sir.

Q Who took you to this club?

A Mrs.Tabeling.

Q What did you do after you got there?

A Well, played the victrola, talked and danced and had something to drink.

Q When you say something to drink, do you mean in-

toxicating liquors?

A Yes, sir.

Q Do you know whether or not Mrs.Tabeling took off any of her clothing after she came down to the shore at Rock Creek the night we have just spoken about?

A Yes, sir.

Q What did she take off?

A She took her bloomers off.

Q Did you see her do that?

A No, sir.

Q How do you know she did it?

A I know she did it because I went back with the other girl to get them off the back porch.

Q When was that?

A That was the night the detectives came down there.

Q How did you know they were on the back porch?

A The other girl told me they were there and she had to go get them, she didn't want to leave them on there.

CROSS EXAMINATION.

By Mr.Whyte:

Q Mrs. Tolman, is she a Miss or Mrs?

THE COURT: Do you mean Tolman?

MR. WHYTE: Tomlin or whatever the other lady's name is.

Q Is she a Miss or Mrs.?

A I am not sure of that.

Q Where did you meet her?

A I saw her from time to time on the street going to work, I never had an introduction to her.

Q You mean you picked her up?

A No, I don't mean I picked her up.

Q When and how did you meet her?

A Well, I met her time after time and slightly spoke to her and finally one day I talked toher.

Q You talked to her on the street?

A Yes, sir.

Q Did she tell you what her name was?

A Yes, sir, she told me what her name was.

Q Do you know where she lives?

A Not exactly where she lives, no, sir; I never went to her home.

Q Well, where does she live?

A I don't know.

Q So you don't know her home?

A No, sir.

Q Well, did she ever take you over to the beauty parlor?

A Yes, sir.

Q Got you on the street and took you over?

A No, sir, that was a long time before I had met her.

Q How long before?

A About a year and a half.

Q A year and a half?

A Yes, sir.

Q You went to the beauty parlor a year and a half ago then?

A No, sir, I met Mrs.Tomlin a year and a half ago.

Q I want to know where you met her on the day you went to the beauty parlor?

THE COURT: The first time?

MR. WHYTE: Yes, sir, the first time?

A I met her on the corner-- one street this side of Fulton Avenue.

Q Well, was it day time or night time?

A It was in the evening.

Q What did she say to you?

A She told me she wanted to go get her hair dressed.

Q Did she ask you to go with her for that purpose?

A She asked me to take her over.

Q You didn't know where the beauty shop was?

A No, she took me over.

Q Oh, she took you to the beauty shop?

A Yes, sir.

Q What did you want to go to the beauty shop for?

A To escort Mrs.Tomlin.

Q And when you got over there you stayed until her hair was fixed, is that it?

A Yes, sir.

Q How long did you stay?

A I don't remember.

Q You don't know how long you were in there?

A No, sir.

Q Did you leave there with her?

A Yes, sir.

Q How old a woman is this woman, Mrs. Mamie Tomlin?

A I couldn't tell you.

Q You know whether she is young or old?

A Yes, sir.

Q What do you call her young or old?

A I would call her a woman about between thirty and thirty-five.

Q Did you ever meet her at Mr.Brown's office?

A No, sir.

Q Do you know whether she knows Mr.Brown or not?

A I am not positive.

Q Didn't she tell you she did?

A No, sir.

Q She did not tell you she knew Mr.Brown?

A No, sir.

Q Who was in the beauty parlor when you got there with Mrs.Tomlin?

A I don't remember. Mrs.Tabeling was there for one. I don't remember who else was there

Q And she introduced you to Mrs.Tabeling?

A Yes.

Q Now, the next time you went there did you go alone or did you go with Mrs.Tomlin?

A I don't remember whether it was the next time I went with Mrs.Tomlin but I stopped there with two other friends of mine to have some work done on their hair.

Q Do you mean two other ladies?

A Yes, two other ladies.

Q Who were they?

A One was Mrs.Cortwright.

Q What is the other one?

A A Mrs. Gaminsky.

Q You took them over and introduced them to Mrs. Tabeling?

A I don't remember whether I introduced them to Mrs.Tabeling or not, I took them over there to have some work done on their hair.

Q Now, that was the second time you were there?

MR. SAYLER: He has not said it was the second time.

A I don't remember if that was the second time or not.

Q Well, the first time you were introduced to her, you said?

A Yes, sir.

Q I asked you the next time you went there and you said you went there and had these two ladies and I asked you if you went with Mrs. Mamie Tomlin and you said no, it

was two ladies, is that right?

A I don't know whether I went there the next time with Mrs.Tomlin or with the other two ladies, I don't remember that distinct time.

Q Did you ever go there by yourself?

A Yes, sir.

Q When did you go there by yourself?

A I don't remember the date, I don't remember no dates.

Q Well, you can recollect whether it was April or May, can't you?

A I can't do that.

Q You don't know that?

MR. SAYLER: He says he don't know.

MR. WHYTE: All right.

Q Will you swear it was not in June that you went by yourself?

MR. SAYLER: I object to that, the man says he doesn't know.

MR. WHYTE: Well, they all say that.

THE COURT: Mr.Whyte, it is sometimes a little difficult to draw the line as to what is fair cross ex-

amination and what is not. I want you to have every opportunity to cross examine the witness as vigorously as you can, but I would suggest that you confine yourself to questions and refrain from comments.

MR. WHYTE: Very good, sir.

Q Your answer is you don't recollect?

A No, sir.

Q Who was there at the time you went alone?

A Why, there were several barbers there.

Q Any lady patrons in there at the time you went in?

A I don' t remember that.

Q Did you ever go there after that time alone to the beauty shop?

A No, sir.

Q Well, then, prior to June 23rd, you never saw Mrs. Tabeling alone?

A I don't remember no dates.

Q I asked you if prior to June 23rd, 1927, you ever were alone anywhere with Mrs.Tabeling?

A I cannot answer that question because I don't remember that date or the month.

Q I am not asking you for dates, I am asking you a very simple question. Were you or were you not with this lady at any time alone prior to June 23rd, 1927? That is good English, can't you answer that?

THE COURT: Just a minute. The date June 23rd, 1927, is the day of the trip to Rock Creek about which you have already testified in detail. That is the trip when you say you went into a room alone with Mrs.Tabeling. Now, in order that you may understand his question exactly it is this: Before you made that trip, when you say you went into the room alone with the lady, had you ever seen her alone?

THE WITNESS: Yes, sir.

Q (By Mr.Whyte): Whereabouts?

A She went out in the machine with me.

Q Now, when was that?

A I don't know, it was some time in the spring of the year.

Q Where did you go?

A We drove about six or seven blocks and we got into an argument and I left her out.

Q What was the argument about?

A Well, we were supposed to go to Rock Creek that night.

THE COURT: Well, go ahead. What was the argument about?

A (Continuing): And it was late and she did not want to go down and she was quite sarcastic about it and she made me sore and I pulled the machine up to the curb and told her to get out.

Q You wanted her to go down there alone that night with you?

A That was her suggestion, she made that up herself.

Q And then she would not go?

A She did not go.

Q She would not go. That is the night she hit you, isn't it?

A She never hit me, no, sir.

Q Didn't she have laundry in the car that night and didn't you throw it out on Eden Street?

A No, sir.

Q You threw her out?

A No.

Q You put her out?

A I told her to get out.

Q Did you ever see her after that alone?

A I seen her after that in the bedroom at Rock Creek.

Q Well, any other time but that? After this occasion you started to take a ride with her, did you ever see her between that time and June 23rd at Rock Creek alone?

A No.

Q Were you intoxicated the night you went to Rock Creek?

A No, sir.

Q Had you been drinking?

A Yes, sir.

Q Now, I understood you to say that this lady, Mrs. Mamie Tomlin, invited you to go on this party?

A That party was made up in my presence between Mrs.Tabeling and Mrs.Tomlin.

Q Where were you when you were making it up?

A In the beauty parlor.

Q What time in the day was it you were making this party up?

A It was in the evening.

Q About what time?

A Sometime between seven and ten o'clock.

Q Seven and ten?

A Yes, sir.

Q Well, you called that party off afterwards, didn't you, and then called it on?

A No, sir.

Q Who were going on the party when you first made it up?

A The four of us.

Q How about Mrs.Tabeling's relatives were any of them going on it?

A No, sir.

Q You say you did not hear that, you say they were not going on it?

A Yes, sir.

Q Were any of her friends going on it?

A Not that I know of, they were not invited in my presence; I had no knowledge of it.

THE COURT: Just who were present when the party was made up, as you put it?

THE WITNESS: Mrs. Tomlin and Mrs.Tabeling and

myself.

THE COURT: Who was the fourth man, where was he?

THE WITNESS: That fourth man was invited some time, I don't remember when.

Q (By Mr.Whyte): How was he invited?

A He was invited by these other people, I suppose, by one or the other, Mrs.Tabeling or Mrs.Tomlin.

Q When was he invited?

A I don't know.

Q Well, after you made up the party, where did you go?

A This party at Rock Creek?

Q Yes?

A I don't get that question quite clear.

Q Did you make up the party in the beauty shop and go direct to Rock Creek or did you go away and come back again?

A The night the party was made up to go to Rock Creek, we didn't go the same night it was made up.

Q You did not go the same night it was made up?

A No, sir.

Q Well, was this you are talking about the night before you went or when was it? You are talking about a party that you made up now between seven and ten o'clock on some night between Mrs.Tabeling, Mrs.Tomlin and yourself to go to Rock Creek. How long was that before the day you went to Rock Creek?

A I don't know.

Q Was it a week?

A Just about.

Q Well, then, the party was made up about a week ahead?

A I couldn't just state.

Q You don't know who after that was invited to go on this party, do you?

A I don't know anything about it.

Q On the night of the party, what time did you get there?

MR. SAYLER: Get where?

MR. WHYTE: Wherever he got Mrs.Tabeling.

Q What time did you get her?

A I don't know what time. If I remember, it was a

little later than usual. Just the exact time I can't say.

Q Where did you get her?

A At the beauty parlor.

Q Who came there with you?

A Mrs.Tomlin and John.

Q Who is John?

A John Smallwood or Small, I don't know which.

Q How did you come?

A In a machine.

Q Where did you meet them?

A I can't say where I did meet her.

Q You don't know where you met her?

A No, sir.

THE COURT: You don't know where you met Small or Smallwood?

THE WITNESS: Well, I had met them on several occasions and I sometimes met them at---

THE COURT: At that time where did you meet?

THE WITNESS: I don't remember.

THE COURT: When you met Smallwood, do you know whether he was alweady with Mrs.Tomlin?

THE WITNESS: Yes, sir.

Q (By Mr.Whyte): Where was your house then, where were you living then?

A At Stevenson Street.

Q Is that where Mrs.Cortwright lived?

A Yes, sir.

Q Do you know whether Mrs. Mamie Tomlin lived there too?

A She used to board there.

THE COURT: Do I understand you correctly that Mrs.Tomlin formerly boarded at the same place you boarded?

THE WITNESS: Yes, sir.

Q (By Mr.Whyte): Where did Small live, if you know?

A I don't know.

Q Who introduced you to him?

A Mamie.

Q Who?

A Mrs.Tomlin.

Q Who owns this Rock Creek bungalow?

A E. P. Johnson.

Q Have you got any interest in it?

A Yes, sir.

Q What is your interest?

A Well, I am buying it from Johnson.

Q You went under the name of Sam Stokes to this lady, didn't you?

A Yes, sir.

Q What did you do that for?

A Because I don't like my first name.

Q Are you buying this property under the name of Sam Stokes?

A No, sir.

Q Then you do like your first name when you are buying property, don't you?

THE COURT: I sustain the objection.

Q Who told you to give her the name of Sam Stokes?

A Nobody.

Q What name did Mamie Tolman give to her?

A Lou was her first name.

Q Well, was it Lou Wright?

A I believe it was.

Q And John Small, do you know whether that is his right name or not?

A No, sir.

Q Do you know whether Smallwood is his right name?

A I couldn't tell you.

Q What name did he go under?

A John.

Q What name did he go under with her, his last name?

A Either Small or Smallwood, I don't know.

Q Now, after you left this beauty shop there were two automobiles left it, were there?

A One night.

Q On the 23rd day of June, on your way to Rock Creek, how many automobiles left the beauty shop?

THE COURT: The witness said he went to Rock Creek twice.

Q The 23rd of June is the date of the event which you have testified about in the bedroom?

A One automobile.

Q No other automobile following?

A Not that I know of.

Q Did you stop on the other side of the Hanover street bridge?

A Yes, sir.

Q What did you stop there for?

AA To get crabs and sandwiches and gingerale.

Q Who bought that?

A I bought some.

Q Who got out of the car to buy them?

A I did.

Q How long did you stop, sir?

A About ten or fifteen minutes.

Q Did you meet Mr.Brown in there when you stopped?

A No, sir.

Q You know him pretty well, don't you?

A Yes, sir.

Q He wasn't there when you stopped?

A No, sir.

Q Then you went on down?

A Yes, sir.

Q How long did it take you to go from the beauty shop down to Rock Creek bungalow?

A I imagine about an hour.

Q Do you know how many miles it is?

A Sixteen miles from the City Hall.

Q All four of you went in the bungalow?

A Yes.

Q What is that bungalow, what does it consist of?

A Two bedrooms, a living room and a kitchen; two porches.

Q Is the living room in the center of the house?

A One side.

Q The bedrooms are all on one side?

A Yes.

Q Do they open into the living room or into the hall?

A Into the living room.

Q Where did all four or you go when you first got there?

A In the living room.

Q How is it lighted?

A Repeat the question.

Q How is it lighted?

A It is lighted by coal oil lights.

Q On a table or suspended from the ceiling.

A On the table.

Q You were all sitting around the table or what did you do?

A We took off our wraps and sat around the table and

started to make gingerale highballs.

Q Took off what wraps?

A Coats.

Q That was a warm night?

A I don't remember, I don't believe it was very cold.

Q What did you do sitting around the table?

A Drank gingerale highballs.

Q And ate the crabs?

A Ate the crabs.

Q How long were you doing that?

A About a half hour I guess.

Q And I understood you to testify the other two left the bungalow?

A Yes, sir.

Q Where were they going?

A They were going after some beer.

Q Where was the closest place you could get beer?

A I could not state that, we didn't know at that time. They were going to try to get some.

Q How far was the place from you that they were going to try to get it, you need not name the person?

A About a half mile I guess.

Q About a half mile?

A I think so.

Q Now, you say Mrs.Tabeling told you she would do most anything for fifteen dollars?

A Yes, sir.

Q When did she tell you that?

A She told me that one night in the beauty parlor.

Q Was anyone there that night?

A Other people in the beauty parlor but we were standing in a little hall way between the beauty parlor and barber shop.

Q And it was after that you took your first ride with her in the automobile that she told you that?

A It was after I told her that--- after she told me that, yes.

Q Then you took your first ride in the automobile?

A Yes.

Q Did you start to hug and kiss her out there in that living room?

A At the shore?

Q Yes?

A Yes, sir.

Q Put your arms around her, didn't you?

A Yes, and she put her arms around me too.

Q Did you give her $10.00?

A No.

Q Why not?

A Because these people came in before I had a chance to give it to her.

Q Now, you went into that bedroom, you say?

A Yes, sir.

Q Did you go in first or did she?

A She went first.

Q Did you close the door to the bedroom?

A Yes.

Q Who closed it?

A I don't remember.

Q Was there any light in the bedroom?

A No.

Q What clothes did she take off?

A She took her bloomers off.

Q In the bedroom?

A No.

Q Where?

A Out on the porch.

Q Was there anybody else there when she took them off besides you?

A I couldn't state that.

THE COURT: Where was this porch?

THE WITNESS: On the front of the house toward the river.

Q Did she take them off when she first got there?

A No, I don't think she did.

Q Well, when did she take them off, how long after she got there?

A It must have been around a half hour.

Q Well, you were in there eating these crabs and drinking highballs, and you were in there a half hour with these other people before they left to get the beer. Did she take them off while the other people were on the property or after they left the property?

A I can't state that, I don't know.

Q Did you see her hang them up?

A No.

Q Did you hang them up?

A No.

Q Did you see her take them off?

A No.

Q Well, now, you didn't see her take them off and you didn't see her hang them up, how do you know she took them off?

A I heard her say she took them off and hung them on the back porch--- front porch.

Q When did she tell you that?

A That was after the excitement was all over.

Q Then Mr.Brown was there?

A He was gone then.

Q Is this a small bedroom you went into?

A The bedroom was about ten by twelve.

Q Has it got any curtains to it?

A Window blinds.

Q Has it got shutters?

A No.

Q How high is that window from the ground?

A About four or five feet.

Q How long were you in there?

A In that room?

Q Yes.

A I don't know.

Q Five minutes?

A I couldn't tell you.

Q Ten minutes?

A I couldn't tell you.

Q Will you swear it was over five minutes?

A Yes, sir.

MR. SAYLER: Now, I object.

THE COURT: Overruled.

(Exception noted).

Q You will swear to that?

A Yes, sir.

Q Will you swear it was over ten minutes?

A Yes, sir.

THE COURT: I would suggest, Mr.Whyte, that you omit the word "swear". I have already stated to the witness that he is sworn to tell the truth, the whole truth and nothing but the truth.

Q MR. WHYTE: Strike the question out, please.

Q Will you say whether or not it was over ten minutes?

A Yes.

Q It was?

A Yes.

Q How many minutes was it?

A I don't know.

Q Did Mrs.Tabeling take her hat off?

A I don't think she had any on.

Q Did she go down with a hat on?

A I don't remember, I don't think she did.

Q She had no hat on.

THE COURT: No, he said, "I don't think she did."

Q Did she have long or short hair?

A I couldn't tell you that.

Q What was the color of her dress?

A I don't know the color but I believe it was some dark sort of a dress.

Q Did she take her shoes off?

A No.

Q Did you get in bed?

A What is that?

Q Did you get in bed with her?

A Yes.

Q In bed with her?

A Yes.

Q When the detectives came in did you come out of the room first?

A No.

Q Who came out of the room first?

A Mrs.Tabeling.

Q What did Brown say to her?

A I don't think he said anything, he come holding his coat out there as I was standing back.

Q His what, sir?

A He was holding his coat out that way (indicating), you could see the police badge on it, and I don't think he had said a word right then.

Q What did Mrs.Tabeling say to him?

THE COURT: Or to anybody, what did she say?

THE WITNESS: She said something to her husband, I can't repeat it.

Q (By Mr.Whyte): Where was her husband?

A He was in the room.

Q Right next to Brown?

A Around there somewheres.

Q Did you see any other detective there, anybody else there?

A I seen another man there.

Q Do you know who he is?

A I know him by the name of George.

Q How long have you known him?

A I have known him by the name of George for about a year, I guess.

Q Where did you meet him?

A I seen him in Brown's office.

Q Now, I understood you to tell his Honor that Mr. Brown left there first in his car?

THE COURT: After the whole thing was over?

MR. WHYTE: After the whole thing was over.

MR. SAYLER: I did not go over that.

THE COURT: On direct examination?

MR. WHYTE: Yes, sir.

MR. SAYLER: He said he waited until the others had gone.

THE COURT: I do not remember him saying anything about that, I do not see any record in my notes that he left first.

MR. WHYTE: Very well, sir, I will ask him some other way.

Q Did you see Mr.Brown's automobile parked down there?

A No, sir.

Q You don't know where it was?

A No, sir.

Q Who did you come back to Baltimore with?

A The same people I went down with.

Q Was Mr.Brown there when you left?

A I didn't see him.

Q Where did you take Mrs. Tabeling?

A We took her up on the street she lived on and I got out about four blocks before we got to her home.

Q Were you drunk?

A No.

Q You had been drinking all the evening?

A Not all the evening.

Q Not all the evening? Have you talked with Mr. Brown about this case since January 23rd, when you went to Rock Creek?

A No, sir.

Q You have never seen him since?

A Yes, sir.

Q You have not talked to him about it at all?

A I wanted to know why I was called in this case.

Q When did you want to know that?

A Saturday, I believe.

Q You had not seen him at all besides that?

A No, sir. I think that was Saturday.

Q You think that is the only time you have seen Mr.Brown, Saturday?

A If that was the day that they notified me I would have to come on the case, that is the day. I don't remember.

Q Well, now, last Saturday is only two days ago, I am asking you if you ever saw Mr.Brown at any time before that?

THE COURT: And since June 23rd.

Q And since June 23rd?

A I don't think I did.

Q Have you ever been in Brown's car since June 23rd?

A Yes.

Q Who were in Brown's car that time?

A Nobody.

Q Who was driving it?

A Brown.

Q Well, then, you have seen him then, is that correct?

A I don't understand that question.

Q Repeat the question, Mr.Stenographer.

(Question here read by the reporter).

A I understood the question to be in the car with Brown.

Q I can't hear you?

A That was the day when I was notified I would be in the case and I went to see him.

Q That was last Saturday, two days ago?

A I don't remember whether it was Saturday or what day it was.

Q Will you say it wasn't a week ago?

A Yes.

Q It was not a week ago?

A No.

Q Have you ever been in Mr.Brown's car other than that?

A No.

Q Have you ever been to his office since June 23rd?

A Yes.

Q Well, then, you have seen Mr.Brown.

THE COURT: Now, Mr.Stokes, what happened between you and Mr.Brown since the night of June 23rd?

THE WITNESS: The sole thing that happened between I and him at that time was I was notified I was to be in on this case and to come down whenever notified or I would be pulled in it.

THE COURT: How did you go down, on the street car?

THE WITNESS: Yes, sir, on the street car.

THE COURT: When did you go in his automobile?

THE WITNESS: When he took me out Baltimore street.

THE COURT: After your interview with him?

THE WITNESS: Yes, sir.

THE COURT: Where was your interview?

THE WITNESS: In his office.

Q (By Mr.Whyte): I understand your testimony is that Mr.Brown came to see you or you went to see Mr.Brown on Saturday before this case, that is two days ago, and I understood you to testify before that you had gone-- in answer to his Honor's question, that you had gone down to

Brown's office to see him.

THE COURT: No, before that, apparently at one transaction.

Q Have you ever seen Mr.Brown once in regard to this case?

A No, sir-- just once in regard to this case.

Q Is that all?

A No, I saw him twice in regard to this case.

Q That is what I am getting at. When was the first time you went to see him?

A Repeat that question.

Q When was the other time you went to see him.

A It was on Saturday.

Q What Saturday?

A Last Saturday.

Q Well, you have testified to that and I understand that. Now, you went to see him again besides that and I want to know when that was?

A That was the day-- it might have been Friday.

Q Then you saw him twice last week?

A Twice last week, yes.

Q And before that, how many times?

A I don't know, I didn't see him before that for a long, long time.

THE COURT: About this case or about something else?

THE WITNESS: About anything.

THE COURT: Did you ever see him about this case before Friday of last week?

THE WITNESS: No, sir.

Q (By Mr.Whyte): Have you seen Miss Mamie and talked about this case with her?

A I have saw Miss Mamie very little in the past five months.

Q Have you seen her since June 23rd?

A Yes, sir.

Q Where did you see her?

A I met her going home from work one evening.

Q Where did she work?

THE COURT: Is this cross examination, Mr.Whyte?

MR. WHYTE: Yes, sir, he is talking about knowing these people and he was taken to this beauty parlor and introduced. I want to know how he did all this.

THE COURT: Now you are talking about things subsequent to June 23rd.

MR. WHYTE: Yes, sir, but I have a right to test the witness on cross examination.

THE COURT: I understood from counsel that Mr. Tomlin isn't available as a witness and if this isn't the foundation for anything else, it seems to me it is immaterial.

MR. WHYTE: Well, it is evidence to come before the Court to show the exact relations with Mrs.Tomlin, or whatever her name is---

THE COURT: Go ahead, it probably takes less time to go ahead than to argue.

MR. SAYLER: Your Honor, the bill closed at the time it was filed and I think this is immaterial.

THE COURT: I think it is too.

MR. SAYLER: I do not think my client should be bound by anything these witnesses might have done subsequent to the time of filing the bill.

MR. WHYTE: Well, this is a peculiar kind of a case, do you object?

MR. SAYLER: Yes, Iobject.

THE COURT: Sustained.

Q What time did you get up in Baltimore that night

with this lady?

A I don't remember.

Q Have you seen her since?

A Who?

Q Mrs.Tabeling.

A No, I have not.

Q You said you are an iron worker?

A Yes, sir.

Q Where do you work now, sir?

A Federal Reserve Bank.

Q What time did you see Brown Friday and Saturday?

MR. SAYLER: Now, I object.

THE COURT: No, I overrule that objection.

Q What time, sir?

A That was after I went home and got the telephone call, I imagine it was about 6.30.

Q Both Friday and Saturday?

A No, Saturday, it was in the forenoon.

Q What is that, sir?

A Saturday, it was in the forenoon-- or in the afternoon, Saturday.

THE COURT: Are you married or single?

THE WITNESS: I am divorced.

(Testimony of the witness concluded).

Thereupon - - -

JOHN M. SMALL,

a witness of lawful age, produced on behalf of the plaintiff, having been duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q What is your name, sir?

A John M.Small.

Q Where do you live?

A 1805 Edmondson Avenue.

Q Where do you work?

A Montgomery, Ward & Co.

Q How long have you been working there?

A For about a year.

Q Do you know Mr.Tabeling, the plaintiff in this case?

A No, sir.

Q Do you know Mrs.Tabeling?

A Yes, sir.

Q Where did you meet her?

A At the beauty parlor.

Q Who took you over there?

A Miss Mamie.

Q Where was Miss Mamie living then?

A If I remember correctly, on Harlem Avenue.

Q Why did you go over to this beauty parlor?

A To accompany her.

Q Why did she go there?

A To have her hair dressed.

Q Do you know whether or not she had her hair dressed?

A Yes, sir.

Q What did you do while that was going on?

A Waited for her.

Q How did you go over to the beauty parlor?

A By automobile.

Q Did you drive it?

A Yes, sir.

Q Tell us when that was, that occasion?

A Oh, on several different occasions.

Q How many times did you go there?

A Four or five times.

Q Did you go on any parties with Mrs.Tabeling?

A Yes, sir.

Q Just tell us where those parties took place?

A At one particular time we went up to Brehm's Lane.

Q What kind of a place did you visit out there?

A Sort of a road house.

Q Who went out there?

A There was Mamie, Mrs.Tabeling and another fellow and myself.

Q Do you know the other man's name?

A Yes, sir.

Q Can you identify him in any way, do you know where he works?

A No, sir.

Q Was he a stranger to you?

A Yes, sir, I was introduced to him but I don't remember his name.

Q You don't recall just when that occasion was, do you?

A No, sir.

Q Well, that is one place you went. Do you know Mr.

Stokes, the man that was on the stand a few minutes ago?

A Yes, sir.

Q How long do you know him?

A Oh, six or nine months, something like that.

Q Were you in any way connected with Mr.Brown, the detective?

A No, sir.

Q Have you ever been employed in any way by him as investigator or detective?

A No, sir.

Q Do you know Mr.Brown?

A Yes, sir.

Q When did you first meet him?

A About a year and a half ago.

Q Under what circumstances did you meet him?

A I had him do some work for me.

Q Some investigating work?

A Yes.

Q Have you ever been in his office?

A Several times.

Q Have you been in his office since June, 1927?

A Yes, sir.

Q How many times have you been there?

A Not over twice.

Q What was the reason for going there?

A Why, I had some of my mother's furniture in storage and part of it was stolen out.

Q Have you ever consulted him since June, 1927, I am talking now about Mr.Brown. Do you understand the question?

A Yes, sir.

Q Well?

A No, I can't say that I have.

THE COURT: You say you have been in his office twice since then, you did say so a moment ago?

THE WITNESS: Yes, it was about the same thing, yes, sir.

THE COURT: Did you consult him?

THE WITNESS: I don't remember whether I saw him personally or not, the only time I stopped in was to leave a letter I had gotten from the storage company.

Q (By Mr.Sayler): Well, you went to this party out on Brehm's Lane with her but you don't remember when that was, do you?

A No, sir.

Q Do you remember the night of June 23rd, 1927?

A Yes, sir.

Q How long before June 23rd, 1927, did you visit this place on Brehm's Lane?

A About once or six weeks.

Q Did you go on any other trips with Mr.Tabeling?

A Only one other I remember.

Q Where was that?

A We took a ride down to the shore.

Q Who went along?

A It was only Mr.Tabeling and myself in the car at the time, we were supposed to meet another car down there.

Q Where did you go?

A Rock Creek.

Q Was that the same place you visited on June 23rd, 1927?

A Yes, sir.

Q You went down to this shore alone with Mrs.Tabeling, did you get out of the automobile?

A No, sir.

Q You came back to Baltimore?

A Yes, sir.

Q Did you go down there after that with Mrs.Tabeling?

A Not until the night of June 23rd.

Q Who went that night, that evening?

A There was Mr.Stokes and Mamie and myself.

Q When were you invited to go on that party?

A We had been talking about it for some time, I imagine it was two or three days before we went.

Q Where did you meet?

A At the beauty parlor.

THE COURT: How did you get to the beauty parlor?

THE WITNESS: Sir?

THE COURT: How did you get to the beauty parlor?

THE WITNESS: By automobile.

THE COURT: Who was in the automobile that took you to the beauty parlor?

THE WITNESS: There was Miss Mamie, Mr.Stokes and myself.

Q (By Mr.Sayler): all right, now, assume you are at the beauty parlor. Do you remember what time you got there?

A Not exactly, no, sir.

Q Well, who left the beauty parlor to go to the bungalow?

A Mrs.Tabeling.

Q You four?

A Yes, sir, just the four of us.

Q Were there any other automobiles around the neighborhood at that time following you when you left the beauty parlor?

A No, sir, not that I know of.

Q Did you in any way communicate with Mr.Brown and tell him about this party?

A Yes.

Q Now, the automobile left the beauty parlor and where did you stop for the first time after you left there?

A At the other end of the Hanover Street bridge.

Q What did you do there?

A Got some sandwiches.

Q How long did you remain there?

A Oh, I guess about twenty minutes.

Q Then from where did you go?

A I went down to the shore.

Q Did you see Mr.Brown's automobile around the

Hanover Street bridge?

A No, sir.

Q Well, you went down to the shore. What did you do after you got out of the automobile at the shore?

A Went into thebungalow?

Q Just state in your own way what happened?

A We ate the sandwiches and had a couple drinks.

Q Did Mrs.Tabeling have anything to drink?

A She might have had a drink the same as the rest of us.

Q Was there anyone under the influence of drink?

A No, sir.

Q Well, after you ate the sandwiches and had something to drink, as you have just told us, what did you do?

A Somebody suggested that we get some beer, so Miss Mamie and myself went out to get some beer.

Q Do you remember who suggested it?

A No, sir, I can't say I do.

Q Well, you and Miss Mamie went for the beer. How far did you have to go to get that beer?

A A little piece down the road.

THE COURT: A little place or a little piece?

THE WITNESS: A little piece down the road.

THE COURT: Well, one or two city blocks?

THE WITNESS: Oh, three or four City blocks, I guess.

Q (By Mr.Sayler): How long were you gone?

A I guess thirty or forty minutes.

Q When you came back, what did you observe when you came back to the bungalow, what did you observe?

A I came back and there seemed to be a commotion as I went in through the gate, there were three or four people coming out. Of course, we wanted to know what was going on.

Q Did you know any of those people?

A No, sir.

Q Who were the people you saw coming out of the place?

A Supposed tohave been the detectives they told me.

Q Well, you knew Mr.Brown, did you recognize him?

A Not until after they had gotten up in the road I didn't recognize him, I recognized him then; yes, sir.

Q Who were there when you saw them in the night so

that you could recognize them?

A The only party I really recognized was Mr.Brown, somebody said one gentleman there was Mr.Tabeling.

Q Yes?

A So I took it for granted that the other man was with Mrs.Brown.

Q Do you know the other man?

A I had seen him before. I don't know him.

Q Was I there at that time?

A No, sir.

Q Did you see any revolvers around the bungalow that evening?

A No, sir.

Q Did you see any fighting down there?

A No, sir, no fighting as I saw.

Q Were you around when Mr.Brown's hat fell off?

A I can't recall that, no, sir.

Q Do you know whether or notMr.Brown had an argument with Mrs.Tabeling outside of the bungalow?

A There were some words passed all around, I don't know directly who they are arguing with.

Q Did you see Mr.Brown's automobile down there?

A No, sir.

Q Did you ever go to any barber's parties or barber club affairs?

A Oh, yes, sir.

Q Who took you there?

A The four of us went together.

Q Who were the four?

A Mr.Stokes, Mrs. Tabeling and Mamie and myself.

Q Was that the barber club, was that barber club in the same building where the beauty shop was?

A Yes, sir.

Q What did you do after you got there?

A Sat around and talked and danced.

Q Did you have any intoxicating liquors to drink?

A Some,yes, sir.

Q Did Mrs.Tabeling consume any?

A That I don't know, I don't remember.

CROSS EXAMINATION.

By Mr.Whyte:

Q When did you last talk to Mr.Brown about this case?

A About which case, sir?

Q This one going on now?

A Not at all.

Q You have not talked to him at all?

A No, sir.

Q Did you come up to Baltimore with Mrs.Tabeling on the 23rd day of June, 1927, after it was over?

A Yes, sir.

Q Did Mr.Brown and the husband leave there before you did or not?

A Yes, sir.

Q They left there first?

A Yes, sir.

Q Now, under what name did Mrs. Tabeling know you, sir?

A Under the name of Small.

Q Did you ever this club under the name of Smallwood?

A I think that is the way they had it, yes, sir.

Q Didn't she call you Smallwood?

A No, she very seldom called me by my last name at all.

Q Did she introduce a woman to you in Montgomery Ward's under the name of Smallwood?

A Who introduced me?

Q Mrs.Tabeling, up in your place of business?

A I think she did, yes, sir.

Q Then you are only known to her as Smallwood, isn't that correct?

A Yes, sir.

Q What are you doing under a different name from your own?

A Well, I use that sometimes.

Q Have you ever used it before on any other occasion?

A Several occasions, not in Baltimore, though.

Q For what reason?

A Because I use it, that is all. Just traveling on the road at the time.

Q For what use, you can answer that, can't you?

A I didn't have any particular reason why I did it.

Q You just did it?

A Yes, sir, registering in hotels, that is all.

Q Were you working on a case then?

A No, sir.

THE COURT: By registering in a hotel, doyou mean

yourself or with somebody else?

THE WITNESS: By myself, I was working on the road at the time.

Q (By Mr.Whyte): Were you working on something secret that you did not wish your name to come out.

A Yes, sir.

Q Then you were working on something and you wanted to hide your identity, is that correct?

A I wouldn't say I wanted to hide my identity altogether, no, sir.

Q What did you do it for?

A I was traveling on the road for the Commercial Credit Company.

Q Now, they don't require you to go under other names?

THE COURT: Was that a question?

Q I ask you if they require you to give a different name from your own?

A No, sir.

Q Then, what did you do it for?

A Just because I just used that name, that is all.

Q How many times have you been in Mr.Brown's office

lately?

A Not at all, sir.

MR. WHYTE: Now, your Honor, I do not want Mr. Brown to sit there and make any signs or signals to this witness.

THE COURT: If Mr.Brown has made any signs or signals--- Mr.Bailiff, did you notice any signs?

MR. MOONEY: No, your Honor.

MR. WHYTE: Other people have.

THE COURT: Mr.Brown, you sit in my room.

(Mr.Brown thereupon left the Court room).

Q How long have you known Miss Mamie?

A About two years or two years and a half.

Q What is her right name?

A Tomlin, I think.

Q What name did she go under when she was traveling with you and Mrs.Tabeling?

A Lou Wright.

Q Did you ever meet her in Mr.Brown's office?

A No, sir.

Q Well,before June 23rd, 1927, when had you been in Mr.Brown's office?

A I don't remember the date, it has been some time before that but I don't remember the date.

Q Well, two weeks before that or when, sir?

A I wouldn't like to say, I don't remember whether it was two weeks or a month. It might have been longer than that.

Q You went in there to see Mr.Brown?

THE COURT: Did you go in there to see Mr.Brown?

THE WITNESS: Yes, sir.

Q How long have you known Mr.Brown?

A I guess about a little over a year, only since I have had business transactions with him.

Q Did you pay for these transactions that he did for you?

A I did, yes, sir.

Q Do you know Officer Collins,police officer?

A No, sir.

Q Did you ever see him down around Mr.Brown's office?

A No, sir.

Q Did you ever do any work at all for John R.Brown at night?

A No, sir.

Q Have you ever been in John Brown's car?

A No, sir.

Q On the night of June 23rd, you told his Honor that you went to this party in company with Miss Mamie, Mr. Stokes,--- do I understand you to tell his Honor that you took them to the beauty shop?

A Now whether Mr.Stokes went to the beauty shop with me or not, I don't know. I know there was Mamie and myself in the car and I think we all three went there, yes, sir.

Q Where did you meet Miss Mamie that night?

A I don't know exactly where I got her.

Q Do you remember where you got Mr.Stokes?

A No, I can't say that I do.

Q You don't recollect where you got either?

A No, sir.

Q Where is Mr.Brown's office?

A At Calvert and Redwood.

Q Did you go up there that night?

A I don't recollect going up there, no, sir.

Q Where do you live?

A 1800 block Edmondson Avenue.

Q You drove the car, didn't you?

A Yes, sir.

Q Which way did you go across to the beauty shop?

A I don't know exactly.

Q When you brought them home where did you let them out?

A I left Mr. Stokes out two or three blocks before we got to Mrs.Tabeling's house and I stopped around the corner from Mrs.Tabeling's house.

Q Where did you let Miss Wright out?

A I let her out on Greenmount Avenue.

Q Where?

A Near North.

Q Do you know where Mrs.Tabeling's house was?

A No, not exactly; no, sir; I was told where to stop.

Q Who told you?

A Mrs.Tabeling.

Q Mrs.Tabeling told you?

A Yes, sir.

Q Did she tell you to pull around the corner?

A Yes, sir.

Q When you came back to the Rock Creek bungalow---

first let me ask you this, did you get the beer?

A No, sir.

Q Where did you go for the beer?

A Four or five city blocks from the bungalow.

Q Who told you to go there?

A That I don't exactly remember, I know I was told I could get it down there.

Q Did Miss Mamie take you there, did she suggest you get it there?

A That I don't know whether she suggested it or not, I don't remember exactly except we could get it there.

Q Well, did you go down there in your car?

A No, sir.

Q Where was your car?

A Setting in front of the place.

Q In front of the place?

A In back where the road goes in.

Q Was there a road from this bungalow to the place where you went to get the beer?

A Yes, sir.

Q You decided to walk instead of riding. Why couldn't you get the beer?

A There wasn't anybody home, sir.

Q Now, when you got back did you see Mrs.Tabeling?

A I saw a crowd of people in the yard.

Q Well, did you go in the house?

A No, sir.

Q You did not go in?

A No.

Q How long did it take you to go from Baltimore down there to Rock Creek in your car?

A Oh, I guess thirty or forty five minutes. I have never timed it.

Q Do you know what time you left the beauty parlor that night to go on this party?

A Not exactly, no, sir

Q Well, was it eleven or twelve o'clock, one o'clock or what, sir?

A Around half past eight or nine o'clock, I imagine.

Q Do you know about what time you got there and left Mrs.Tabeling out on the street?

A What was that question, sir?

Q What time did you get back when you let her out on the street around the corner?

A I imagine it was around midnight.

Q I understood you to tell his Honor when you stopped over on the Hanover Street bridge to get the crabs and sandwiches you were in there about twenty minutes is that correct?

A Yes, sir.

Q Did you hear the evidence of Mr.Stokes?

A No, sir.

Q None of it?

A No, sir.

THE COURT: I thought you came in while he was on the stand?

THE WITNESS: I was back there but I was not paying any attention to what he was saying when Mr.Sayler questioned him.

Q Were you in this Court room when Mr.Stokes was testifying?

A Maybe three or four minutes before his Honor asked me whether I was here or not.

THE COURT: Do you know what Mr.Stokes was being asked about when you came in the Court room?

THE WITNESS: No, sir, I do not.

THE COURT: You do say, however,that when you came in it was Mr.Sayler who was questioning him and not Mr.Whyte?

THE WITNESS: I think it was, yes, sir.

THE COURT: Have you any idea how many questions he asked him?

THE WITNESS: No, I have not.

THE COURT: Before Mr.Whyte took him in charge?

THE WITNESS: No, I have not; no, sir.

(Testimony of the witness concluded).

(Thereupon at 12.30 P. M. a recess was taken until 1.30 P.M.).

AFTER RECESS (1.35 P.M.).

Thereupon - - -

SARAH L. TABELING,

whose examination was suspended, resumed the stand for

CROSS EXAMINATION (Continued).

MR. SAYLER: Your Honor, this case has developed along some angles I had not anticipated. I think it well to separate these witnesses, sir.

THE COURT: I think that is a good idea in most cases. What witnesses do you refer to?

MR. SAYLER: All the defendant's witnesses and I haven't any here. If I have any here I will be asked that they be sent out of the Court room too, sir.

MR. WHYTE: Your Honor, we haven't had the advantage of anything like that so far in this case.

THE COURT: Yes, you have.

MR. WHYTE: Only this morning your Honor ordered Brown in that room and Small in there, but during the rest of the case they were all in here.

THE COURT: That is true. I have often thought it would be a good idea if we ~~e~~xcluded all witnesses in all cases. I will try to draw no improper inferences by reason of the fact that they have heard the testimony of other witnesses, but as long as the suggestion has been made the Court will now have the witnesses step into the clerk's office.

(All witnesses with the exception of the plaintiff and defendant were thereupon excluded from the Court room).

THE COURT: Do you think it will be desireable for Mr.Whyte to make such further direct examination of the witness as he may desire in view of the testimony of Messrs Small and Stokes?

MR. SAYLER: I think we have already covered that, sir.

THE COURT: Perhaps so,but he indicated a while ago he might want some further direct examination. Then you can complete your cross examination.

MR. SAYLER: I have no objection to him doing so.

MR. WHYTE: Then, your Honor, I will proceed as

though on direct examination.

THE COURT: Yes; of course, limiting it to special matters in the testimony of Mr.Stokes and Mr. Small.

MR. WHYTE: I am merely going to have her rebut the testimony given.

TESTIMONY IN REBUTTAL OF SARAH L. TABELING.

Q (By Mr.Whyte): Mrs. Tabeling, did you hear the testimony of Mr.Stokes against you?

A Yes, sir.

Q I ask you on that night, June 23rd, 1927, did you wear a hat to Rock Creek?

A I did.

Q Did you ever take that hat off?

A Never.

Q I ask you whether on that nightor not you committed the crime of adultery with Sam Stokes?

MR. SAYLER: She covered that.

A I did not.

THE COURT: She covered that but it does no harm to repeat it.

MR. WHYTE: I want to ask her one question, your

Honor, and I am not quite sure whether it was testified by Small or Stokes or either of them, I want to ask her did she go in or frequent a cabaret on Low Street.

THE WITNESS: I have never known or seen a cabaret on Low Street or no place else.

MR. SAYLER: There has been no reference to a cabaret on Low Street.

MR. WHYTE: One of your witnesses testified about it.

MR. SAYLER: No, Brehm's Lane.

THE WITNESS: Mr. Brown said he saw me standing in the door way.

MR. WHYTE: Let me ask you this question. Did you go out with Mr.Small or Mr.Smallwood anywhere on Brehm's Lane?

A Yes, sir.

Q Tell his Honor what that was?

A This woman that was known to me as Lou Wright, John Small, Sam Stokes and another woman, who was supposed to be Lou Wright's sister. I closed the beauty parlor around nine o'clock, and they took a short ride and stopped in Brehm's Lane. We were not there, I guess, ten or fifteen

minutes and came out and went home. Mrs.Wright said her sister had to be home.

Q Mr.Small or Smallwood has testified that he took you alone down to Rock Creek park?

A Never in his life.

Q Who introduced Sam Stokes to you?

A Lou Wright.

MR. SAYLER: That has been gone over.

THE COURT: Yes, I think it has.

MR. WHYTE: Well, then, I do not want to go into it.

Q Do you smoke?

A No, sir, I do not.

Q Do you drink?

A I have taken highballs and things like that in my own home that my husband has given me, and occasionally around my own father's, things like that; and the night of Brehm's Lane I drank wine, but the night down at Rock Creek there was no whiskey or highballs because the package Stokes had, which he said was crabs--- I never saw anything opened because the man handed him the package at the Hanover Street bridge.

Q I did not hear the last?

A He said the package had crabs and crab sandwiches in it and he threw the package on the table and when we stopped at the Hanover Street Bridge the man stepped out and handed Mr.Stokes the package, at some little place on the right at Hanover Street bridge.

Q How long did you stop down there to get the crabs?

A Well, it wasn't five minutes because Mr.Stokes was supposed to be intoxicated and Mrs. Wright took the package. He said, "Here, Sam", and instead of Sam taking it Mrs. Wright took it.

MR. SAYLER: May I have that answer again?

(Answer as here read by the reporter).

MR. SAYLER: I would like to strike out about supposed to be intoxicated.

THE COURT: Strike out those words "Supposed to be intoxicated."

Q When you got into the car before you went down there, was Mr.Stokes in the car?

A Yes, sir.

Q Who told you he was intoxicated?

A Lou.

MR. SAYLER: I object.

THE COURT: Strike it out.

Q Did he act on the way down as if he was intoxicated?

A Yes, he just sat back in the corner and he talked to me a little bit but he just acted very sleepy like in the corner of the car.

MR. SAYLER: I would like to have that stricken out.

THE COURT: Of course, the question was leading but you didn't object to it. I will let it stand.

MR. WHYTE: all right, sir, witness with you.

CROSS EXAMINATION (Continued).

By Mr.Sayler:

Q How many times have you been to this cafe on Brehm's Lane?

A I don't know whether I was there on one occasion not very long from the time I was with Miss Wright.

Q You had been out there several times, hadn't you?

A Yes, sir.

Q One time you went with Miss Wright and who did you go with on the other occasions?

A On the other occasions I went out with Miss Milholland and Mrs. Hess.

Q You took Mrs. Hess out there, did you?

A No, I did not.

Q Does Mrs. Hess have an automobile and you showed her how to get to this place, did you not?

A Oh, no, I did not.

Q Are you talking about the same occasion I am talking about?

A That is the only occasion I have ever been with Mrs. Hess in my life.

Q In order to refresh your memory, I am going to tell you about an occasion when you and Mrs. Hess and her daughter came out of this cafe and after you got out of there Mrs. Hess accused you of stealing some money from her, do you recall that occasion?

A Yes, I do, Mrs. Hess---

Q I just asked you if you recalled the occasion?

A Yes, I do.

Q I want to know whether or not Mrs. Hess appeared against you at the Northern Police Station after that?

(Question objected to).

THE COURT: I sustain the objection.

A She did not---

THE COURT: I sustain the objection.

Q Did you come out of this cafe with Mrs. Hess before or after you went out there with Lou Wright?

A Before, I don't know how long before, but a long time before.

Q And Mrs. Hess took you out then?

A No, I didn't say that.

Q Well, who steered the party to this cafe at that time?

A Mrs. Hess was selling some kind of tickets and Miss Milholland---

Q Well, Miss Milholland suggested it, did she?

A She suggested we go some place and get rid of these tickets.

Q How many times had you been down to this bungalow at the Rock Creek shore?

A Once before, with a party.

Q Now, it has been testified here on the night of May 23rd, 1927, that you got into an automobile in front of your place of business at 8.20 and rode in that automobile to Rock Creek to this bungalow by way of Lippins Corner and the automobile stopped there for about three minutes and there were just you and the man in the machine alone?

A That is a lie.

Q That isn't true, is it?

A No.

MR. SAYLER: That is all I want to ask you, lady.

(Testimony of the witness concluded).

Thereupon - - -

CLAIRE FAY DEMPSEY,

a witness of lawful age, produced on behalf of the defendant, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Whyte:

Q What is your name, Miss Dempsey?

A Claire Dempsey.

Q Where do you live?

A 1501 East Lafayette Avenue.

Q Have you any occupation?

A I keep house for my father.

Q I cannot hear you?

A Keep house for my father and my family.

Q It has been testified here that on the night of June 7th, 1927, you went into the office of a man with your sister, Mrs.Tabeling, in the Calvert Building, across the street, is that true?

A Yes, sir.

Q Well, now, will you tell his Honor how you came, why you went there?

A Well, I had been there several times. This man could not employ-- he hadn't enough work to employ a stenographer at all times and as I was formerly a stenographer, I used to go down and do work for him on several occasions. He called me up and asked me would I come down, there was a friend of his wanted some letters copied, so I asked my sister would she go along---

MR. SAYLER: Now, your Honor, that is hearsay.

MR. WHYTE: She asked her sister to go along.

THE WITNESS: You asked me how my sister got there, she went along and I told the man I would meet him at Calvert----

THE COURT: Leave out the conversation. You went there with your sister?

THE WITNESS: Yes, sir.

Q (By Mr.Whyte): Where did you first see this man Nagel?

A At Light and Redwood Street.

Q What is his name?

A Clarence D. Nagel.

Q Where is his office?

A He is now in the Franklin Building.

Q Where was he then in the Calvert Building?

A On the Sixth floor.

Q You met him where?

THE COURT: Light and Redwood.

A Light and Redwood.

Q Was anybody with him?

A Well, on the corner, no, and he told me then that a friend of his was in the car and he said---

THE COURT: Leave out the conversation.

Q What did you do after you met him?

A We got off and went in the car to the Calvert Building.

Q Did you meet the man who was in the car?

A I was introduced to him, yes, sir.

Q Do you know who he is?

A No, sir, I don't remember.

Q Now, then, where did you go?

A Went to the sixth floor of the Calvert Building.

Q And what did you do there?

A I copied a few letters for this man.

Q Where was your sister, Mrs.Tabeling?

A Sitting-- alongside of me.

Q After you got through copying the letters, what did you do?

A Well, we came home.

Q Who came home?

A My sister and I.

Q You came alone out of the Calvert Building?

A Absolutely.

Q When you come out of the Calvert Building how did you get home?

A Came down St. Paul to Redwood and waited there for the 19 car.

Q You went home on the street car?

A Yes, sir.

Q Do you recollect the party that was to have been held on June 23rd, 1927, a bathing party?

MR. SAYLER: Now, I object to that. The form of that is very bad.

THE COURT: I think so.

Q Do you recollect the afternoon of June 23rd?

A June 23rd?

Q 1927?

A Well, that is the night that---

Q It has been testified in this case that that is the night or day, rather, that Mr.Tabeling left your sister?

A Yes, sir. Well, my brother and my nephew and myself were invited to go to the shore party---

MR. SAYLER: Who invited you?

THE WITNESS: My sister Lillian---

MR. SAYLER: I object, that is hearsay.

MR. WHYTE: An invitation isn't hearsay.

THE WITNESS: I was there when my sister was talking to this Lou Wright on the telephone and she said the party was off, that we couldn't go.

MR. SAYLER: You couldn't hear what the lady said, could you?

THE WITNESS: My sister turned from the telephone and told me.

MR. SAYLER: I ask that that be stricken out.

THE COURT: I do not just get the theory that will make that evidence admissible.

MR. WHYTE: The theory of it is at that time this lady has testified she was going on a party and she went down--- at least she has not come to it yet, but she means she went down to the beauty shop to go on the party and the telephone rang and her sister---

THE COURT: I understand perfectly, but---

MR. WHYTE: I want to ask her what kept her from going on theparty, that will probably bring it in all right. I will change that and put it in a little different way.

THE COURT: Regardless of how you ask it, you are asking this lady to tell what her sister said to her on a

certain occasion and it would seem to me that is inadmissible, both for the reason that it is hearsay testimony and for the further reason it is a self-serving declaration.

MR. WHYTE: No, sir, your Honor will realize that this lady was going to go on a party. Now, she goes to go on the party and I am asking her what stops her from going on the party. Now, manifestly she can answer that because that is a question of fact. She testifies that a telephonic communication came for her sister and that was the reason that they did not go on the party.

THE COURT: All right, if that is what she wants to testify, the stenographer put down your statement and the Court will assume that is what she would say and that is her testimony.

MR. WHYTE: All right, then, the answer is yes, that is what happened?

THE COURT: Yes.

Q When you did not go on the party, where did you go?

A I returned to my home.

Q Will you tell us about what time it was you re-

turned to your home?

A I would say around 7.30.

Q Where did you leave Mrs.Tabeling?

A At the shop.

Q Did you see her again that night?

A Around midnight,I would say, when she came home from having gone to this shore party and she was crying---

Q Where did you see her?

A At my home.

Q Now, tell the Court her condition when you saw her at your home?

A Well, her nose was bleeding and there was a red mark on her face---

Q Make it a little clearer for the stenographer, what part of her face?

A Right by the eye, right under her eye.

Q Her right eye?

A Yes, sir.

Q Was there anything further you saw wrong with her face besides that?

A Well, there was a mark around her mouth, and, of course, the blood had kind of caked on there.

Q Was her face bruised?

A Well, small bruises.

Q About what time was it you saw her at your house, did you say midnight?

THE COURT: She said about midnight.

Q Well, never mind if she said it once?

A Around midnight.

CROSS EXAMINATION.

By Mr.Sayler:

Q How long has it been since you were employed, Miss Dempsey?

A Three years.

Q Your mother is living, is she not?

A No, she is not.

Q Have you been away recently?

A Yes, sir.

Q Where have you been?

A Buffalo, New York.

Q Were you there last week?

A Yes, sir.

Q How long have you been away?

A Since the 30th of December.

Q How many letters did you copy for Clarence Nagel on the night you went to the Calvert Building?

A Probably eight or something like that;I don't know.

Q How long were you in the building?

A About an hour.

Q And what were those letters about?

A Business.

Q What kind of business?

A Well, I can't tell the man's business.

Q Oh, yes, you can, you can tell us.

MR. WHYTE: One minute, your Honor---

THE COURT: If there was anything in them of such a nature that the witness feels it should be confidential, I will be glad to have the witness step up to the Bench and say it in a low tone of voice, so that nobody but the stenographer, the Court and counsel can hear what is said.

THE WITNESS: Judge, he is a salesman and some of the letters were personal and some business.

Q (By Mr.Sayler): For whom was he a salesman at that time?

A I don't know.

Q What kind of paper did you write these letters on?

A On plain paper.

Q Whose office was this?

A I can't recall the name of the consul, Mr. Nagel had desk space there.

Q Did you save copies of those letters?

A He did, I did not.

Q Where abouts in the Franklin Building is Mr. Nagel's office?

A Fourth floor.

THE COURT: Franklin Building?

THE WITNESS: Baltimore and South Streets.

Q (By Mr.Sayler): What business is he in now?

A He is a salesman.

MR. SAYLER: Your Honor, I am perfectly willing to have this gentleman produced if we can find him, if we can get him on the telephone.

MR. WHYTE: Just one minute, he is under summons.

MR. SAYLER: Well, that won't hurt if we try to get him.

MR. WHYTE: I am in hopes he is right in that room and will be the next witness.

MR. SAYLER: Was he in the room when you came out?

THE WITNESS: No.

Q (By Mr.Sayler): Have you seen him here today?

A No, I have not.

MR. SAYLER: It won't do any harm to try to reach the gentleman.

MR. WHYTE: I will be glad to have him called over the telephone now.

Q How long has it been since you saw Mr. Nagel?

A Before I went away.

Q Did you see him very often?

A Well, maybe twice a week sometimes.

Q Where would you see him?

A He would come to my house.

Q On how many occasions have you been to the Calvert Building to write letters for him?

A Oh, quite a number of times.

Q How many?

A Well, it must be about ten or maybe more.

Q Did he ever pay you for those?

A This was as a friend.

Q He never paid you?

A No.

Q Don't you know the name of the other man who had the automobile?

A No, I don't recall his name.

Q He came from Washington, didn't he?

A I don't recall his name.

Q It has been testified that you met in your sister's beauty parlor on that particular evening before you went to the Calvert Building, is that so?

A No.

Q Where did you meet your sister?

A In my sister's apartment.

Q Where was her husband?

A He was out whenI got there.

Q And from there you got on the street car and came down town?

A Harford Avenue and Lafayette.

Q Why didn't you meet in front of the Calvert Building?

A Because I got off the car at Light and Redwood,

where if I had met him in front of the Calvert Building I would have had to transfer. There are only two blocks to walk otherwise.

Q Why did you meet at your sister's beauty parlor on the night of June 23rd, 1927?

A Why did I meet there?

Q Yes?

A I was supposed to meet there and go on the shore party.

Q Why didn't you meet her at her home?

A Because they were all to be there at the beauty parlor.

Q Her home is nearer than the beauty parlor, isn't it?

A Well, she had to work up until she had to go.

Q What kind of work did she have to do?

A Why, peoples hair.

Q On June 23rd, then, she was running the beauty parlor?

A Yes, sir.

Q Well, it has been testified in this case that your sister gave up her beauty parlor earlier, about June 1st or 2nd. What have you to say with reference to that?

A Well, I don't know why-- I had met her down there, she did my hair and my cousin's and all my girl friends.

Q After June 1st or 2nd, 1927?

A Yes, she did mine that night.

Q When did she give up that beauty parlor,do you remember?

A No, I don't know.

Q Was it before or after the time her husband had left?

A Why, before her husband had left her, when she said she was going to give up---

Q I did not ask you what she said, lady, I asked you when did she give up the beauty parlor, before or after her husband left her?

A Before.

Q He left her on the night of June 23rd,1927, and you say you had your hair treated just about that time?

A Well, my sister still does my hair.

Q Well, she hadn't given up her beauty parlor by June 23rd, 1927, had she?

A Why, I don't know just what business transactions

she had made, I don't know anything about that.

Q Wasn't your sister's home nearer to your house than to the beauty parlor?

A Well, yes, it is.

Q Only about a half block from your home,isn't it?

A One block.

Q How far from your sister's home was the beauty parlor?

A Three blocks.

Q Did you see any blood on your sister's clothing on the night of June 23rd, 1927?

A On her clothing, I am not sure. On her face.

Q I did not ask you about her face, lady?

A I said I am not sure about her clothing.

REDIRECT EXAMINATION.

By Mr.Whyte:

Q He has asked you a great deal as to why you were at the beauty parlor. How many people were at the beauty parlor when you were asked to go on this party?

A Oh, quite a number.

Q Can you tell me who they were?

A Yes, I can recollect myself, all of them.

Q Tell me who they were?

A Thomas Pasquale, Joseph Briggs, Louis Mortellero.

MR. SAYLER: How do you spell that?

THE WITNESS: M-o-r-t-e-l-l-e-r-o.

Q (By Mr.Whyte): Who else?

A My nephew, Alphonse Burger.

Q Is he here?

A Yes, sir.

Q Who else?

A I think Marie Schidiger.

Q Is she in the Court house?

A Yes, sir.

Q Who else?

A My brother was there.

Q What is his name?

A Harry Dempsey.

Q Without asking you to name any more---

MR. SAYLER: Let us get all of them.

Q Do you recollect any more?

A There may have been more there but I don't recall.

Q Did you leave with them, with these people you have mentioned?

A Well, we left in twos and threes,I came up with this Marie and my nephew.

RECROSS EXAMINATION.

By Mr.Sayler:

Q Thomas Pasquale is the barber who works there, doesn't he?

A Yes, sir.

Q Louis Mortellero is also a barber that works there isn't he?

A Yes, sir.

Q How about Joseph Briggs,is he the third barber?

A No, sir.

Q Where does he live?

A I don't know.

Q Where did he live when you knew him?

A Well, I don't know.

Q Did you ever know him?

A Yes, I have known him quite a while but I don't know where he lived.

Q Where did you meet him?

A I met him through my brother.

(Testimony of the witness concluded).

Thereupon - - -

CHARLES P. GORSUCH,

a witness of lawful age, produced on behalf of the defendant, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Whyte:

Q What is your full name,Mr.Gorsuch?

A Charles P. Gorsuch.

Q Where do you live, sir?

A 1729 Harford Avenue.

Q How close is that to the apartment that Mr. Tabeling used to occupy up there?

A Next door.

Q What is your business?

A Plumbing.

Q Do you recollect the night of June 23rd, 1927?

A Yes.

Q Did you see Mr.Tabeling that night?

A Yes.

Q About what time did you see him, sir?

A Nine o'clock, it might have been a few minutes before or a few minutes after.

Q In what way did you see him?

A I was sitting on the front steps.

Q You were?

A Yes, sir. Mr.Tabeling and his sister came in a great hurry up the street, walking pretty fast.

Q And where did they go?

A They went into the entrance that led upstairs to the second floor flat.

Q Did you notice the house that night, did you notice anything else that happened that night?

A I got up when they went in and the front was lit up, the windows were lit; that is, the electric was turned on.

Q Did you see them come out of there?

A No, sir.

Q Did you stay out in front of your place?

A No, sir.

Q Where did you go?

A I went through the house, down to the garage, and took the car out.

Q Your car?

A Yes, sir.

Q And what time did you get back?

A About eleven o'clock.

Q And what did you do with the car?

A Parked it out in front of my house.

Q And where did you sit?

A Out on the front step waiting for my son to come home.

Q Did you see Mr.Tabeling comehome any more after you got back from your ride?

A No, sir.

Q Did you see Mrs.Tabeling?

A Yes, sir.

Q Did she come up to see you or how did you happen to see her?

A I was sitting on the front steps and she came down the street, past the florist, which was lit up, they were not closed yet.

Q What time was this she came up?

A That was between half past eleven and twelve o'clock approximately, I might say twenty minutes of twelve; just before midnight.

Q Did you see her face?

A Yes, sir.

Q Did you notice anything the matter with her face?

A Yes, sir.

Q What was the matter with it?

A Her nose looked like it had been bleeding and right under here (indicating) was kind of dried, it looked like it might have been bleeding, and her eye was a little discolored and her cheek was very much swelled.

MR. SAYLER: I would like to have the things that looked like stricken out of the record.

MR. WHYTE: Well, a man describes it---

THE COURT: I overrule your motion.

MR. SAYLER: Note an exception.

Q (By Mr.Whyte): Did you see where Mrs.Tabeling went?

A I told her she had better go and see some body---

THE COURT: That is not evidence. Did you see

where she went?

THE WITNESS: She went up the street, I didn't see where she went then.

CROSS EXAMINATION.

By Mr.Sayler:

Q You are a widower, aren't you, Mr.Gorsuch?

A Widower, yes, sir.

Q You have been more friendly with Mrs.Tabeling than you have with Mr.Tabeling, haven't you?

A Not necessarily, no, sir; I have been very friendly with Mr.Tabeling.

Q Have you during the past year taken Mrs.Tabeling out in your automobile?

A With Mr.Tabeling.

Q Was Mr.Tabeling always present?

A No, sir, Mr.Tabeling was not always present.

Q How many times in the past year have you taken Mr.Tabeling alone in your automobile?

A Well, numerous occasions.

Q Where would you go?

A Maybe go out for a ride and come back again, leav-

ing from Mr.Tabeling's house and coming back, with Mr. Tabeling or with Mr.Tabeling's permission, and always with somebody.

Q I asked you how many times you went out alone with Mrs.Tabeling?

A Well, I will say I never went out alone.

Q What is Mr. Tabeling's sister's name, I am referring to the lady that you saw about nine o'clock walk up in front of your house on the night of June 23rd, 1927?

A Well, she had two or three names. She might have been married last to-- married to Mr.Brown, she was married to Mr.Brown.

Q That is the only name she ever had except Helen Tabeling, wasn't it?

A Helen Tabeling I think before that.

Q You know her as Helen Brown?

A Yes, sir.

(Testimony of the witness concluded).

Thereupon - - -

MARIE SCHIDIGER,

a witness of lawful age, produced on behalf of the

defendant, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Whyte:

Q Where do you live?

A 35 South Carey Street.

Q Do you know Mrs. Tabeling?

A Yes, sir.

Q How long have you known her?

A I have known her about five years, going on five years.

Q Did you ever work with her?

A Yes, sir.

Q How long have you been working with her?

A Since she has been married.

Q Do you recollect the night of the bathing party?

A Yes, sir.

MR. SAYLER: Don't lead the witness.

THE COURT: Go on.

Q Did you go with Mrs. Tabeling on that night?

A No, sir, I was invited to go.

Q You were invited to go on the bathing party?

A Yes, sir.

Q Did you go to the beauty shop that night?

MR. SAYLER: Don't lead the witness.

THE COURT: I think it is quite possible to ask the witness where she did go.

MR. WHYTE: All right, strike it out, your Honor.

Q Where did you go that night?

A Well, I went up at Mrs.Tabeling's at six o'clock and they were eating their supper and after supper she asked me if I wanted to go on a bathing party that night and I said no, I had to go home, and she told me to get her bathing suit out and Mr.Tabeling did also---

MR. SAYLER: I ask that be stricken out.

THE COURT: Was her husband there?

THE WITNESS: Yes, sir.

THE COURT: This is a conversation in the presence of both parties.

A (Continuing): I went in and got the bathing suit out and his sister rang the door bell and he went down to answer the door bell and he came up and said he was not going, that his father wanted him. So Mrs.Tabeling said, "Wait a minute, while we all walk down together." So Mr. Tabeling, Mrs.Tabeling and myself walked down Harford

Avenue and we left Mr.Tabeling at 1619 Harford Avenue, at his father's.

Q You left him there?

A Yes, sir.

Q Now, then, where did you go?

A Mrs.Tabeling and myself walked down to the beauty parlor corner Harford and Oliver.

Q Then what did you do?

A We went in the beauty parlor and after we were in there about five minutes the telephone rang and they said the bathing party was off---

THE COURT: Did you answer the telephone?

THE WITNESS: No, Mrs.Tabeling answered it.

Q Was there a party that night, then, so far as you are concerned?

A They said the party was called off.

Q Then, where did you go?

A I said to Mrs.Tabeling, "Mrs. Tabeling I am---

THE COURT: Where did you go?

THE WITNESS: I went to my aunt's on Lafayette Avenue.

Q Where?

A On Lafayette Avenue.

Q Did you go to Mrs.Tabeling's that night?

A Yes, sir.

Q Afterwards?

A Yes, sir.

Q What time afterwards, about.

A Between half past eight and nine o'clock.

Q What did you go back there for?

A I went back there to wash Mrs.Tabeling's dishes.

Q What did you see when you got in there?

A I went in there and the bureau drawers were all upset and they were empty and the mattress was pulled half was off the bed and it was cut aad torn and the kitchen was all torn to pieces, the ice box was empty, the door was open, and there were some glasses and plates on the floor all broken.

Q What did you do?

A I washed the dishes and I swept the kitchen and then I went out and went down to the beauty parlor to see if I could see Mrs.Tabeling.

Q What for?

A I wanted to see if she knew all about this, and

the man down there said---

MR. SAYLER: Never mind what he said.

MR. WHYTE: Witness with you.

CROSS EXAMINATION.

By Mr.Sayler:

Q I want to show you this first.

(Paper handed Mr.Whyte).

MR. WHYTE: I object to it.

THE COURT: I will allow him to ask questions in a preliminary way about this, I do not know whether it is admissible yet or not.

Q Is that your signature?

(Paper handed witness).

A No, sir.

Q It is not?

A No, sir.

Q Will you kindly write your signature on here, write "Marie" on there and write "Yours Truly","Marie".

(Witness here wrote on paper as requested).

Q Oh, don't rub it out, just move down the line if you have written something that is not right.

(Witness here wrote on paper as requested)1

Q Now, write "Dear Friend."

(Witness here wrote on paper as requested).

Q Now, after writing your name on there, Miss Marie, and comparing it with the writing on this piece of paper, I again ask you did you write this piece ofpaper that I now hold before you?

A It looks like my writing.

Q Now, tell us, did you or didn't you write the writing on that piece of paper?

A Yes, sir.

Q To whom was it directed?

A Mrs.Tabeling.

Q Why did you write this letter to Mrs.Tabeling?

A I don't know, she wasn't home at the time--

Q Did you give this letter to Mrs.Tabeling?

A I laid it on her bureau.

Q For her to receive?

A Yes, sir.

Q Did you do that before or after the time Mr.Tabeling left his wife?

A I think it was before.

MR. SAYLER: Now, I would like to introduce this in evidence, your Honor.

MR. WHYTE: I do not see what bearing it has.

THE COURT: I will admit it as bearing on the credibility of the witness.

(Paper referred to was thereupon marked and filed in evidence as Plaintiff's Exhibit No. 1 and is as follows):

"Dear Freind:

I came in this morning and sweep your bedroom floor and I looked for a neddle to sew your dress but could not find any I wish I could do more I still love you and your freinds nexdor how is the old boy himself.I may see you tonight

With love to all

Yours Truly

Marie

Love and Kisses. "

Q (By Mr.Sayler): In this letter it says, "I still love you and your friends next door, how is the---

THE COURT: Mrs.Tabeling, I have had to admonish you before. I want to say if there is any further comment

you will be dealt with in a way you will not like.

Q In your letter you say, "I still love you and your friends next door, how is the old boy himself." Who is the friend you refer to? I will ask you more specifically, wasn't it Mr.Gorsuch?

A Well, it was his son and Mr.Gorsuch too.

Q What is the son's name?

A Charles.

Q And the father's name is Charles too, isn't it? Were you referring to the son when you say, "how is the old boy himself?"

A Yes, sir.

Q Who was he courting around there?

A He was a friend of mine.

THE COURT: Young Gorsuch?

THE WITNESS: Yes, sir.

Q Let us go back to this night of June 23rd, 1927. In the early evening while at Mrs.Tabeling's, Mrs.Tabeling invited you to go on the swimming party, did she not?

A Yes, sir.

Q And you told her then you could not go, didn't you?

A Yes, sir.

Q Did you have a bathing suit?

A No, sir.

Q Where did you live at that down?

A Down at 829 Central Avenue.

Q How far was that from the Tabeling home?

A It was about nine blocks.

Q Well, if you told her you could not go, why leave your dishes and the household work and go up to the beauty parlor with Mrs.Tabeling?

A I just told her I would walk down that far with her.

Q Are you sure you were at the beauty parlor on that evening?

A Yes, sir.

Q Positive of that, aren't you?

A Yes, sir.

Q What time did you go to the beauty parlor?

A Well, when we left home it was around 7 or quarter after.

Q What time did you have supper?

A I guess we had supper around six o'clock.

Q And they finished about half past six?

A Yes, sir.

Q Why didn't you wash the dishes first?

A Because I had to go around my aunt's place.

Q Where was your aunt's?

A Right around on Lafayette Avenue.

Q Where did she live?

A 1415 Lafayette Avenue.

Q How far from the Tabeling home was that?

A I guess about a block.

Q After supper you could not wash the supper dishes because you had to go to your aunt's, then Mrs.Tabeling wanted you to walk down to the beauty parlor so you waited until you came back. When you came back between 8.30 and 9no'clock you saw Mr.Tabeling come to the house?

A No, sir.

Q No, everything was turned up at that time?

A Yes, sir.

Q Did you see Mr.Tabeling there then or his sister?

A No one was there.

Q

Q Who did you see when you got to the beauty parlor?

A I seen the man in the barber shop.

Q Who else?

A That is all.

Q Nobody else there?

A No, sir.

Q Now, was Mrs.Tabeling running her beauty shop at that time?

A No, she had given it up two weeks before that.

Q You say when you got to the barber shop the only person you saw was the man who ran the barber shop?

A Yes.

Q Do you know his name?

A I only knew him by the name of Tom.

Q Did you know him well enough to call him Tom?

A Just from seeing him a couple times.

Q Anybody else there?

A There was a couple more barbers. I don't know who they were.

Q How long did you stay there?

A I just stayed there about five minutes.

Q Then you left?

A Yes, sir.

Q Where was Mrs.Tabeling's bathing suit when you left?

A I don't know.

Q You did not even get the bathing suit, did you?

A I got them out of the drawer for her.

Q Where was it?

A I laid it on the bureau.

Q Where was the bathing suit when you got it out?

A It was still there.

Q Are you positive that Mrs.Tabeling had a bathing suit?

A Yes, sir.

Q Well, she didn't take it down to the beauty parlor, did she?

A No, sir.

Q Why did she leave it home?

A I don't know, unless she forgot it.

Q What?

A Unless she forgot it.

THE COURT: When you left the beauty parlor, where did you go?

THE WITNESS: I went up to my aunt's on Lafayette Avenue.

THE COURT: Did anybody leave with you?

THE WITNESS: No, sir.

Q Are you quite sure of that?

A Yes, sir.

THE COURT: Did you come back to the beauty parlor that night?

THE WITNESS: Yes, sir, on my way home.

THE COURT: How much later was that?

THE WITNESS: When I got down there I guess it was about nine o'clock,

Q (By Mr.Sayler): His Honor asked you where you went after you went to the beauty parlor and you said you went to your aunt's and then after that you came down to Mrs.Tabeling's home and washed the dishes?

A Yes, sir.

Q Is that the same night you visited between half past six and half past seven?

A No, I never visited my aunt until after I came

back from the beauty parlor.

Q After supper you said you didn't wash the dishes because you went to see your aunt?

A Yes, sir.

Q Is that the same aunt you went to see before?

A Yes, sir.

Q You went there at half past six or seven and then again after you left the beauty parlor; in other words, two visits on the same evening?

A No, sir. You see, I came up and got the bathing suits, then all three of us, Mr.Tabeling, Mrs.Tabeling and myself, walked down Harford Avenue and went to the beauty parlor and on the way going back I stopped at my aunt's.

Q Now, before I asked you why you didn't wash the dishes after supper and you said you couldn't because you had to go to seeyour aunt?

A Yes, sir.

Q What did you do between half past six and the time you went to the beauty parlor?

A I never did anything in between then.

(Testimony of the witness concluded).

Thereupon - -

ALPHONSE BERGER, Jr.,

a witness of lawful age, produced on behalf of the defendant, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Whyte:

Q What is your full name?

A Alphonse Berger, Jr.

Q How old are you?

A Eighteen.

Q Where do you go to school?

A Buffalo High School, Buffalo, New York.

Q Do you know Mrs.Tabeling?

A Yes.

Q Any relation to you?

A My aunt.

Q Do you recollect a bathing party that was to be held on or about June 23rd, 1927?

A Yes.

Q Where were you living at about that time?

A I was staying with my aunt at 1501 East Lafayette Avenue.

Q What aunt is that?

A Claire.

Q Did you go to this party that night?

A No, I did not.

Q Where did you go?

A At home, I stayed at home.

Q Why didn't you go on the party?

A Because my aunt Claire and myself went around to the beauty parlor and while there Lillian received a telephone message saying the party wasoff.

MR. WHYTE: Witness with you.

MR. SAYLER: No questions.

Q (By the Court): When you left the beauty parlor that evening, where did you go?

A Back to the house, 1501 East Lafayette Avenue.

Q With whom?

A My Aunt Claire.

Q Anybody else?

A That is all.

Q Quite sure about that?

A Positive.

MR. SAYLER: Where do you live?

THE WITNESS: 173 North Lincoln Boulevard, Buffalo, New York.

REDIRECT EXAMINATION.

By Mr.Whyte:

Q Did you see your Aunt Lillian after that that night?

A Yes, I did.

Q Where did you see her?

A At my home.

Q What time did you see her, about?

A About half past eleven or quarter to twelve.

Q Did you notice anything about her when you saw her?

A Yes, I did.

Q What was the matter with her?

A Why, her eye was red underneath as though she had been struck, and her nose was bleeding.

(Testimony of the witness concluded).

Thereupon - - -

J. ABNER SAYLER,

a witness of lawful age, produced on behalf of the plaintiff in rebuttal, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Talkin:

Q Mr.Sayler, it was testified by Mrs.Tabeling that on the evening of June 23rd, 1927, you were present at a shore party given at Rock Creek. What have you to say about that?

A I was not, I have never been to Rock Creek or any place in Rock Creek in my life.

Q Can you tell us anything that will make you remember this night as compared to others?

A Yes, I remember the night of June 23rd as though it were only a few moments ago. In my diary I had an entry of the night before this, June 22nd, when Colonel Woodcock came to my house to dinner and we had cherries that night and that was the object of his visit, and the next night I went home to get some cherries and I recall about that so distinctly it is indelibly impressed on my memory.

There are other reasons why I can remember the night of June 23rd. For instance, in addition to being a member of the Bar I am a farmer, I sell produce off my place. Friday is the big market day at Lexington Market and I go home every Thursday early and superintend the shipping of vegetables and things that are to be sent from my place on the truck to the market, so that I am home every week early on Thursday evening during the summer time.

CROSS EXAMINATION.

By Mr.Whyte:

Q There wasn't a poker game on that night, was there?

A I never play it, sir.

(Testimony of the witness concluded).

Thereupon - - -

OTTO PFANNKUCHEN,

a witness of lawful age, produced on behalf of the plaintiff in rebuttal, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q What is your full name?

A Otto Pfannkuchen.

Q Where do you live?

A 613 North Curley Street.

Q Do you know Mr. and Mrs.Tabeling, the parties to this suit?

A No, sir.

Q You don't know either one of them?

A Oh, I know Mr.Tabeling from Belair Market and I know Mrs.Tabeling from Belair Market.too, we have stands there.

Q Do you know when the separation of these parties took place?

A No, sir.

Q Do you ever answer the telephone for Mr.Tabeling?

A Yes, sir.

Q Where is that telephone?

A Calvert 1092.

Q Where is it?

A Belair Market.

Q On whose stall is it?

A The stall I attend to.

Q How far from that stall is Mr.Tabeling's stall?

A Four stalls.

Q Has Mr.Tabeling got a telephone?

A No, sir.

Q Does he ever get messages over your phone?

A Yes, sir.

Q Did you ever talk to Mrs.Tabeling over the phone?

A No, sir, all I do is answer the phone and they said, "Get Mr.Tabeling to the phone," and I get Mr. Tabeling to the phone.

Q Did you ever talk over that telephone since the separation with Mr. and Mrs.Tabeling?

A No, sir.

Q Did Mrs.Tabeling ever call him up on your telephone?

A Yes, sir.

Q How often?

A Once a day,sometimes I would tell her he was not there and she would call up later.

Q Do you know whether or not she has called him up since Mr.Tabeling has stopped living with her?

A Well, I answered the telephone and the message is

to get Mr.Tabeling to the phone, that is all I know.

Q Do you know her voice when you hear it?

A No, sir.

Q How do you know Mrs.Tabeling called on the telephone?

A Well, I couldn't tell you, all I know is that I answer the phone and get Mr.Tabeling to the telephone.

MR. WHYTE: I move to strike out the whole testimony.

MR. SAYLER: I am willing to have it stricken out.

THE COURT: Strike it all out.

(Testimony of the witness concluded).

Thereupon - - -

WILLIAM B. TABELING,

the plaintiff, previously produced, sworn and examined in his own behalf, resumed the stand in rebuttal and testified further as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q It has been testified here that on the night of June 23rd, when your wife came home, she showed signs of her nose having bled and bruises about her face. Did you see any marks on her that evening?

A No, sir, I didn't see her that evening.

Q On the night of June 23rd, 1927, you did see your wife at a shore down at Rock Creek Park?

A Yes.

Q Did you see any marks or bruises or blood on her face when you left her down at the shore?

A No, sir.

Q Did your wife have a bathing suit?

A Yes, sir.

Q Did you see it on the night of June 23rd, 1927?

A No, sir.

Q The little girl Marie has testified that on the night of June 23rd, 1927, your wife told her to get your wife's bathing suit out, did you hear such a conversation?

A No, sir.

Q The little girl testified that you and she and your wife left your home and walked towards the beauty parlor after seven o'clock on that night, did you do that?

A No, sir.

Q Was the little girl at your house on that occasion?

A Yes, sir.

Q Do you remember what time she left your house?

A No, sir.

Q The little girl also testified between 8.30 and 9 P.M. after she walked down to your wife's beauty parlor, she came back to your house to wash dishesand she saw the bureau drawers upset and things topsy-turvy. What have you to say with reference to that?

A I came out around seven o'clock and was staying at 1619 Harford Avenue, I did not go back until after the proceedings at the shore.

Q It has been testified around 71P.M. or 7.30 P.M. that same evening your sister came up to the house and told you something and after your sister told you something you went in the house and told your wife you could not go on the bathing party. What have you to say with reference to that?

A I know nothing of that.

Q Did your sister come to your house?

A No, sir.

Q Did you know anything about this proposed bathing party?

A No, sir.

Q Did I go down to the Rock Creek shore---

THE COURT: Well, I do not think that is serious.

MR. SAYLER: It was seriously uttered by the defendant, your Honor.

THE COURT: I haven't any objection to your asking the question.

Q I want to know was I down-- on the night of June 23rd, 1927, did you see me at all that evening?

A No, sir.

CROSS EXAMINATION.

By Mr.Whyte:

Q Mr.Tabeling, what time did you reach your house that night after you had been down to Rock Creek?

A Around midnight.

Q How long did you stay in it?

A Long enough to get my clothes and go out.

Q Well, how long was that?

A Probably about ten minutes.

Q Who was with you?

A My sister.

Q Where did you get your sister?

A In front of my house-- 1619 Harford Avenue, down home.

Q Did you walk up there with her?

A Yes, sir.

Q And walked back with her?

A Yes, sir.

Q What did you take your sister up there for?

A To help me carry my clothing out.

Q And how much did you carry out, two bags full?

A My clothing, I put it in a bed sheet.

Q Did Mrs.Tabeling come in there when you were there?

A No, sir.

Q You didn't see Mrs.Tabeling any more that night?

A No, sir.

(Testimony of the witness concluded).

Thereupon - - -

HELEN BROWN,

a witness of lawful age, produced on behalf of the plaintiff, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q What is your name, Madam?

A Mrs. Helen Brown.

Q Where do you live?

A 1408 Central Avenue.

Q Have you been sitting in the Clerk's office since the noon recess?

A Yes, sir.

Q Have you heard any of the testimony in this case?

A No, sir.

THE COURT: None at all?

THE WITNESS: Oh, yes, I have been here before.

Q But not since you went into that room?

A No, sir.

Q It has been testified here on the evening of June 23rd, 1927, you came around to your brother's home on Harford Avenue and said something to him in the early evening. What have you to say with reference to that?

A No, sir, I was not at my home, I was not at my home that evening.

Q What time did you see your brother, the plaintiff in this case on the evening of June 23rd, 1927?

A At midnight.

Q About midnight?

A Yes.

Q Where did you meet him?

A We came down Harford Road from North Avenue and was standing talking to my father and he came up in the back of me and said, "Come on and go with me."

Q Well, what did you do?

A I went with him.

Q Is that the first time you saw him that day?

A Yes, sir.

Q You went with him and where did you go?

A To his home.

Q What did you do after you got there?

A He packed his clothing, asked me to help him with his clothing, and then we came down home to my father's.

Q In what condition was the place when you arrived there?

A Very much upset.

Q Did your brother upset it?

A No, sir, it was upset when we got there.

The bed was not made. The kitchen was not straightened, the dining room was all upset, and we left it as we found it.

Q Did you know anything about any contemplated bathing party that evening?

A No, sir.

CROSS EXAMINATION.

By Mr.Whyte:

Q Mrs.Brown, how do you know it was midnight?

A Why, it was midnight when we came home, I was with my husband, my husband was with me.

Q Did your husband go down with you to your brother's house?

A No, sir.

Q Where was your husband?

A With me-- I left him standing talking to my father.

Q Well, then, your husband came over with you from your house 1408 Central Avenue?

A No, sir.

Q Where did you meet your husband?

A At my father's address, we were walking down the road from North Avenue and my father's home is in the 1600

block. He was talking to another gentleman.

Q When did you leave your house?

A 6.30 that evening.

Q Where did you go?

A 222 East 22nd Street, to a sick aunt.

Q What is her name?

A She is dead now, she died in the meantime. Her name was Mrs.McCardle.

Q How long were you there?

A We were there from 6.30 until we left midnight to go home.

Q How do you know it was midnight?

A By the time of the clock, twelve o'clock.

Q Did you hear it strike twelve?

A Yes, sir.

Q What the City Hall clock?

A No, I did not hear the City Hall strike twelves. It was twelve o'clock by my watch. I have a wrist watch and my husband has a watch.

Q Did you look at your watch?

A Yes, sir.

Q Well, it was twelve o'clock, then, when you left

your aunt's house?

A No, it was twelve o'clock when we had reached my father's, midnight.

Q How long were you there before you walked down to your brother's house?

A We were not there very long.

Q About how long?

A I don't suppose it was ten minutes.

Q After you went down to your brother's house and got his things, where did you go?

A I came back to my father's.

Q Did you see Mrs. Tabeling, your brother's wife that night?

A Yes, sir.

Q Where did you see her?

A She came down the road in the meantime.

Q She came down the road in the meantime?

A After we had come back, she came down with her brother Harry in about a half hour.

THE COURT: Did you say in about a half hour or with her brother Harry?

THE WITNESS: In about a half hour with her brother Harry.

Q Do you know Mr. John R. Brown in this case?

A The only time I know Mr.Brown was that night when all this trouble was going on and Mrs.Tabeling and her brother came down the street because I supposed they would make a scene because he made an insulting remark to me and I went in and told my brother if he didn't think it best to get police protection for the evening because I knew he and my father were there alone and I asked him if I should get in touch with his detectives and he said I could and I called them up and asked him if he wouldn't come to our home.

Q So you had Mr.Brown to protect you that night?

A No, sir, he told me--- he left and told me he thought everything would be all right. I did not want to go home knowing the two were in the house alone.

Q Did you stay at your father's house all that night?

A No, sir, I went home.

Q Did your husband go with you?

A Yes, sir.

(Testimony of the witness concluded).

Thereupon - - -

CORA BROWN,

a witness of lawful age, produced on behalf of the plaintiff in rebuttal, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Sayler:

Q What is your full name?

A Mrs.Cora Brown.

Q What is your address?

A 2821 Presstman street.

Q Are you the wife of Mr. John R. Brown the detective?

A Yes, sir.

Q Have you heard any of the testimony in this whatsoever?

A No, sir.

Q Were you with your husband on the night of June 23rd, 1927; when he and some others went down here on Rock Creek?

A Yes, sir.

Q Was I in that party?

A You were not.

(No cross examination).

(Testimony of the witness concluded).

(Thereupon, at 3.05 P.M., an adjournment was taken until ten o'clock tomorrow morning).

Tuesday, January 24th, 1928.

Hearing in the above entitled cause was resumed on Tuesday, January 24th, 1928, at 10.10 A. M.

Present: Counsel for the respective parties.

MR. WHYTE: May it please your Honor, the records show that Officer Collins was summoned and we were notified by telephone that he was on the way down. Another summons went out for him yesterday and he is returned sick. Now, Mr. Nagel, another witness who was called yesterday, could not be here at the time-- he was here in the morning, I understand, and then went away. He is here this morning and his evidence is very short. I would like to put him on the stand before I close, your Honor.

Thereupon - - -

CLARENCE D. NAGEL,

a witness of lawful age, produced on behalf of the defendant, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr.Whyte:

Q Mr. Nagel, what is your name?

A Clarence D. Nagel.

Q What is your business?

A Salesman.

Q Where was your office about last June?

A Well, my office personally was in the Munsey Building, 1407. However, one of my sales managers office was over in the Calvert Building.

Q What was his name?

A Clisham.

Q What floor of the Calvert Building?

A 664.

Q Do you know Miss Claire Dempsey?

A Yes, sir.

Q Do you know Mrs.Tabeling?

A I have recently, yes, sir.

Q Do you recollect in the first part of June Miss Claire Dempsey coming down to your office---

MR. SAYLER: Don't lead him, please.

Q (Continuing): Coming down to the office on the 6th floor of the Calvert Building?

A Well, it was some time the early part of the summer, I can remember her coming down there, yes, sir.

Q What did she come down there for, sir?

A I would not know any other reason except doing a little typewriting for me.

Q Do you recollect where you met her that night after she came down there?

A I think it was down around the Southern Hotel, Redwood and Light. She got off the car there.

Q Was anyone with you?

A Yes, sir, that was a salesman that was over from Washington, one of the salesmen we brought over. He was supposed to come here to go on the job.

Q Who was with Miss Claire Dempsey, if anybody?

A I was.

Q I mean, was Mrs.Tabeling---

THE COURT: Do not lead the witness.

Q Was anybody else with Miss Claire Dempsey?

A Since you brought the incident to my mind, I can tell you the incidents of that evening.

Q Very well, sir.

A I asked Miss Dempsey down there to write up a contract and a letter and when I met Miss Dempsey I think she had the lady that is now known as Mrs.Tabeling with her. I presume she brought along some other company---

MR. SAYLER: Do not let us presume, we will do the presuming.

A (Continuing): All right, sir. We got in the car and drove up there to the Calvert Building, went in, went up to the room. There was a contract, as I remember, and a letter that was typewritten and what time elapsed, I don't know, it was some brief time and they went on about their business, whatever it was. As far as the evening is concerned, that is about as much as I can remember, there is nothing to bring it back to my memory.

Q Did they leave the office together?

A Yes, sir.

Q Did they leave you there?

A Yes, sir.

CROSS EXAMINATION.

By Mr.Sayler:

Q On how many occasions did you have Miss Claire Dempsey write letters?

A Of an evening, that is the only time I can remember.

Q You have been courting Miss Dempsey for some time, haven't you?

(Question objected to; objection overruled; exception noted).

A No, just a friend of the family.

Q Have you ever called upon her socially?

A At spaced times, yes, sir; maybe sometimes three or four months before, just as a matter of friendly courtesy.

Q When was the last time prior to thisparticular evening that you have just referred to that you had seen Miss Claire Dempsey?

A Well, sir, that is a little indefinite in my memory, but I know at no time did I see her very often, not over once in two or three months.

Q How did you get in touch with her to write these letters?

A I had Miss Dempsey's phone number.

Q Did you call her to meet you at a certain place?

A Yes, sir, right there at Light and Redwood as I understand it.

Q Well, your office was in the Munsey Building?

A It was a matter of courtesy, I thought, to meet a lady at the car and escort her to the office.

Q You did not go in your automobile or your friend's automobile to her beauty shop, did you?

A No, sir, whose beauty shop are you talking about?

Q Mrs.Tabeling's beauty shop?

A No, sir.

Q Did you know where it was?

A I understood it was on Harford Avenue afterwards.

Q But you had never been there?

A No, sir.

Q Your office was in the Munsey Building, wasn't it?

A Yes, sir.

Q From whom did you have desk space?

A In the Munsey building?

Q Yes, sir?

A I think Mr. Herbert V. Simpson, attorney.

Q How long did you keep an office there?

A I still have one there.

Q And you had it at that time?

A Yes, sir.

Q You had to go to your office, didn't you?

A Yes, sir.

Q You had a typewriter in your office, didn't you?

A Yes, sir.

Q You had a girl over there to write, didn't you?

A No, sir, the machine was broken down at the time.

Q How did you come to go to this Calvert Building office?

A Because the man we had there was handling part of the issue I was handling. I had a key the whole time he had an office.

Q Did he give you a key?

A Yes, sir.

Q Is hisoffice over in the Calvert Building now?

A No, sir, it has been discontinued.

Q When did you get that key from Mr. Clisham?

A At about the time the office was opened up last February, I suppose.

Q And you kept it up until June?

A Yes, sir.

Q I don't understand why you should have an office in the Munsey Building and visit the Calvert Building?

A I handle issues of stock, promotions of stock, and Mr.Clisham handled certain portions of that issue.

Q Why didn't he have an office with you?

A Because he would sooner run his own office. He was working over Washington at the time for us as salesman.

Q Did you pay anything to Miss Claire Dempsey for this service?

A No, sir.

Q You don't remember how long you were there, do you?

A No, sir, I can't remember the time.

Q Miss Claire said she did not write any contract, she wrote some letters. What have you to say with reference to that?

A I would not argue the point one way or the other

because there was nothing on that evening to bring anything definite to my mind. You bring me over here and ask me something about back in June which has no significance to me.

Q Didn't you walk out of that building, the Calvert Building, with this man from Washington and these two ladies and board an automobile right over here on Fayette Street on the night in question?

A As far as I can remember about thenight in question, I did just as I stated, because we had some business to transact up there, we had this contract to discuss, if I remember correctly.

Q With whom was that contract?

A It was with some salesmen that Clisham sent over here. I think, if I remember right, the name was Thomas.

Q Why didn't you get your own stenographer to write that?

MR. WHYTE: He has answered that, your Honor.

A I did not have a stenographer even in the Munsey Building, I did not have enough work of that sort.

Q Why didn't you pay some professional stenographer to do that work for you during business hours?

A Well, he got over here about 5.30 if I remember correctly, it was after business hours. There wasn't anything important enough to have him linger over about it.

Q How was this man from Washington?

A As near as I can remember, I think his name was Thomas.

Q Don't you know his first name?

A No, sir.

Q He drove his own automobile, didn't he?

A He had his car. I don't know that he even lived in Washington.

Q What was his address when you knew him?

A It was the same address that Mr.Clisham had his office, that is the only address I know him by. His partner had an office in Washington.

Q When did you learn that this man was calling over from Washington about this contract?

A I think Clisham called me up on Long Distance that day.

Q Where was Clisham then?

A In Washington.

Q Clisham kept an office in Washington and one in

Baltimore?

A His partner had an office over there, yes, sir.

Q Why couldn't Clisham write that contract?

(Question objected to; objection sustained).

Q What is your first name?

A Clarence.

Q Mr. Nagel, are you sure that the man who came over from Washington was named Thomas?

A No, sir, I am not. There was a bunch of them over there and I couldn't remember any of them, because it was of no significance to me. He did not even directly work under me.

Q Wasn't that man's name Sennell?

A I don't know a man of that name, but I would not argue with you about it. I don't remember any of them, for that matter.

Q Don't you remember Thomas' first name?

A No, I do not. Of course, he used his initials in whatever the matter was. Such a contract, if I had drawn a contract that night, would simply have been a sub-contract.

Q It wouldn't have taken long to have written tha t

contract, would it?

A No, sir.

Q How long do you think it would have taken to write up those two papers that night?

A Well, I don't know. Sometimes it takes considerable time by the time you get to arguing back and forth and have to rewrite it.

Q Were you in the office as long as an hour that night?

A I would not say we were. We probably were,or we might have been less time than that.

Q It couldn't have been as long as two hours, could it?

A I hardly think so.

Q It may have been an hour, however?

A I wouldn't say whether it was or was not. I didn't take any particular notice of the evening, that was simply a part of the evening's work to get that done, and then discuss it with him afterwards, as I presume I did. I think he went back to Washington, that night, if I can remember.

Q Are you quite sure that this gentleman and you

did not drive these two ladies home?

A Absolutely.

THE COURT: Was the discussion between you and Mr. Clisham, the man from Washington, in the presence of the two ladies, I mean the discussion as to the terms of the contract?

THE WITNESS: We could not very well have gotten away from it. There was a double office up there, I might have taken him in there and argued the point in the office, I don't know.

(Testimony of the witness concluded).

(TESTIMONY CLOSED ON BOTH SIDES)

(Argument to the Court followed).

THE COURT: It is perfectly clear, of course, that there are two questions presented in this case. First, whether an act of adultery is shown to have been committed, and, secondly, if it has been, whether it was by the connivance of the plaintiff. In respect to the first question, as has been very forcibly argued by counsel for the defendant, the proof to be sufficient must rest on evidence which is clear, concise and unequivacal. Now, the principal incidents which have been brought to the Court's attention are those of June 7th and those of June 23rd, 1927.

The testimony respecting the incidents of June 7th, standing alone, certainly rests on circumstantial evidence and might be said to be insufficient to prove an act of adultery. I do not feel, however, that that question is before me and I refrain from passing upon it except to say that that evidence, if believed, is at least enough to tend to show a loose attitude on the part of the defendant towards sexual relations.

The evidence as to the incidents of June 23rd, on the other hand, if believed, is both positive and conclusive and is corroborated by circumstances appearing

from the testimony of the defendant herself and of witnesses called by her.

Now, in spite of all of the inconsistencies and contradictions on the part of the witnesses called on each side respectively, and having in mind especially the impressions produced upon the Court's mind by the witnesses as they appeared upon the stand, I conclude that there is that clear, concise and unequivocal proof of an act of adultery on June 23rd which is requisite under the law of this State.

Coming now to the second question as to connivance, manifestly it goes without saying that the rule of law so adequately expressed in the Connecticut report of Dennis vs. Dennis, in 68 Conn. 186, is a wise and salutary rule and this Court would be inclined to follow it even if it had not received express commendation from the Court of Appeals of Maryland in Barclay vs Barclay, 98 Md. 371. But it seems to me that this case is clearly distinguishable from Dennis vs. Dennis in a most important respect. In Dennis vs. Dennis it appears from the statement of the facts of the case on page 188, and appears again in the opinion of the Court on pages 194 and 195,

that there was direct evidence that the woman who was used in that case to entice and lure the defendant into an act of adultery actually was employed by the detectives, who, in turn, had been employed by the lawyer, who, in turn, had been employed by the plaintiff herself. The fact of the employment of that woman, in short, did not rest upon inference but was an affirmative fact established, in so far as appears from a careful reading of that case, by uncontradicted evidence.

There is a familiar principle running through all of the cases that it is never proper to found an inference upon an inference. We are all familiar with that rule in the law of torts. It is a necessary rule of the workings of the human mind as well as being a well recognized rule of law. In this case, not only is there no proof of the employment of accomplices to bring about an act of adultery, but on the contrary, there is a positive denial of such employment. It is true that the female witness, Lou Wright--- I call her a witness although she has not testified, the female person Lou Wright or Mamie Tolman-- has not been brought into Court. The effort

has been made to have her here, as I understand it, and she is reported to be ill. At all events, she has not testified.

But the two men, Small and Stokes, have testified. Each of them has an occupation or means of livelihood, and did have an occupation and means of livelihood in June, 1927 quite apart from any activity as a private detective. In short, against their denial that they were employed, against Brown's denial that he employed them, against the Court's very clear impression that they were telling the truth on the witness stand when they said they were not employed, there is only one thing urged by counsel for the defendant, and that is that in their relations with the defendant, they did not use their true names. From that the Court is asked to infer that they were detectives or that they were accomplices, at all events, in the planting of an act of adultery against the defendant. I cannot draw that inference. In the first place, the witness Stokes did use his true surname, he called himself or allowed himself to be called Sam instead of Ralph because he said he did not like his first name. I think we all have had nicknames different from our given or Christian names. The witness

Small permitted himself to be called Smallwood when introduced, saying, however, that in his relations with this group he was generally called John and neither Small nor Smallwood was used very often. I think many reasonable inferences can be drawn from this use of a slightly different surname, quite as reasonable, if not more so, than the suggested inference that it was used by him to conceal his identity in order that he might connive in this act of planting a pretended adultery against the defendant. In his associations with this group Mr.Small was not behaving himself in just the way a business man or employee of a large corporation wants to be known as behaving. He was, to put it mildly, "having his fling". I think that might be a perfectly reasonable explanation of his use of a name similar to his own but not precisely his own.

So that I get back to the proposition with which I started, that in order to find connivance in this case it would be necessary to infer not only actual connivance, which is denied, but that inference would really rest upon a primary inference which the Court regards as a violent one, namely, that these men and this woman, Mrs.Tolman, were co-conspirato s with Brown and were employed by Brown as

private detectives simply because they did not use their true names in connection with these wild parties, in which they participated.

That piling of inference upon inference I regard as improper and not justified by the facts shown in the record; and I am therefore compelled to say my conclusion is that the relief asked for shall be granted and a decree will be signed accordingly. The cross bill will be dismissed.