

B. 587 / 1927

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.

No 28695 B.
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Tabeling

Id 26. September 1928 No 28685 B

TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

EQUITABLE BUILDING
BALTIMORE, MD.

Official Court Reporter

OFFICE AND HOME
TELEPHONES

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SARAH L. TABELING.)	

Tuesday, September 11th, 1928.

The above entitled cause came on for hearing before his Honor, Judge Joseph N. Ulman, on Tuesday, September 11th, 1928, at 10 o'clock A. M.

Messrs. Isaac Lobe Straus and William Pinkney Whyte Jr., appeared in behalf of the petitioner.

MR. William Purnell Hall appeared in behalf of the respondent.

Thereupon - - -

JOHN A. SHERMAN, Jr.,

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

DIRECT EXAMINATION.

By Mr. Whyte:

Q What is your name, Mr. Sherman?

A John A. Sherman, Jr.

Q What is your position, sir?

A Assistant State's Attorney.

Q Of Baltimore City?

A Baltimore City.

Q How long have you been Assistant State's Attorney, sir?

A About six years.

Q As Assistant State's Attorney of Baltimore City, did you make an investigation into the record in the case of William V. Tabeling versus Sarah L. Tabeling and the testimony produced thereunder?

A I do not know whether I ought to go into a discussion of a matter that was undertaken as an investigation in our office, but I will be guided by his Honor as to whether or not I should answer that question.

THE COURT: There is no statutory bar to your doing so, is there?

THE WITNESS: No, your Honor.

MR. STRAUS: The matter was presented in chambers to your Honor.

THE COURT: I want to hear it.

THE WITNESS: Yes.

Q Now, tell his Honor just what investigation you made, sir?

A I might say that a complaint was made to our office--

MR. HALL: By whom?

THE WITNESS: Well, I want to tell everything about this matter.

MR. HALL: The Court wants to hear all about it and we want to hear it. You say a complaint was made and I think the Court is entitled to know by whom it was made.

THE WITNESS: Well, Mr. Straus and Mr. Whyte came to our office and made a complaint.

Q (By Mr. Straus): Won't you say what we did, didn't we file this record with you and went over certain contradictions in the record?

A And filed a copy of that record.

Q The record in this case and the record in the Court of Appeals?

A Yes, sir.

Q And had at least you or Mr. O'Connor to read that record?

A Yes sir.

Q Pursuant to reading that, what did you do?

A Pursuant to reading that, I consulted his Honor, Judge Ulman, and then went ahead with an investigation. We summoned to the office two witnesses, a woman by the name of Lou Wright--- she is known under another name which I cannot recall at this time- and a young man, I believe, by the name of Strong or Storm.

Q Small, was it not?

A Small, and obtained from those people some information.

Q Was your examination of them taken down stenographically?

A Yes, sir.

Q And reduced to typewritten form?

A Yes, sir.

Q Have you those examinations with you in Court?

A I have it at my office.

MR. STRAUS: Well, we desire them here in Court and we would like to have your Honor direct Mr. Sherman to produce them in Court.

Q Mr. Sherman, I would like to ask you this in the meanwhile: Did your office make any effort to locate and

have brought in so that you might examine him, a third witness by the name of Stokes?

A Yes, we tried to locate Stokes and the best information we could get on him was that he was in Virginia somewhere.

Q You never could locate him in Maryland?

A We could not locate him here. I might say we had another witness there, another man there. I have his name in that paper downstairs, and I discussed the matter with him but made no-- took no notes.

Q Well, also to save time I might direct your attention to a statement in the petition in this case that on, I think, the 7th of April you laid the examinations made by your office of the two witnesses to whom you have referred as having been examined, before his Honor, Judge Ulman, in chambers in this Court in the presence of Mr. Whyte and myself as solicitors for Mrs. Tabeling and of Mm. J. Abner Saylor, then the solicitor for Mr. Tabeling, did you not?

A Yes, sir.

Q That was prior to the filing of any petition in the case?

A THE COURT: Now, which witnesses were present at that time?

MR. HALL: No witnesses.

MR. STRAUS: I beg your Honor's pardon.

THE COURT: I misunderstood you. My recollection is that he produced a statement of the witnesses.

MR. STRAUS: Yes, sir, that is what I meant to ask him if I did not ask that, sir.

THE COURT: I misunderstood your question, the acoustics are bad and the noise from the street.

Q You produced the examination of those witnesses as recorded in your office and read those examinations to his Honor at that conference?

A Yes, sir.

Q Can you give us from those papers the names of the witnesses you did examine?

A Yes, sir. The witness I referred to, the man who was summoned there whose name I could not recall, was George L. Kennedy, and I talked with him but I did not have his statement reduced to typewriting. Now, I have these statements.

Q Whose statements have you there?

A I have the statements of Mrs. Lou Wright, 2303 North Charles Street, taken at the State's Attorney's office, March 31st, 1928.

MR. HALL: What is that number?

THE WITNESS: 2303 North Charles Street.

THE COURT: What is the date of the statement?

THE WITNESS: March 31st, 1928. Also a statement of John M. Small, 1805 Edmondson Avenue, taken at the State's Attorney's office on April 3rd, 1928.

Q (By Mr. Straus): Are those statements true and exact stenographic reports of the statements made by these two persons, Mrs. Wright and Mr. Small in your office?

A Yes, sir.

MR. HALL: Now, wait a minute, he did not take the notes.

THE COURT: Were you present when the statements were made?

THE WITNESS: I was present when the statements were made.

THE COURT: Well, what happened next.

THE WITNESS: Well, they were made in the presence of the stenographer, one of the young ladies at the office, and

then she transcribed her notes and then I went over the statements later to see whether they were correct, and they were, to the best of my knowledge.

THE COURT: Were they signed by the parties?

THE WITNESS: Yes, sir.

THE COURT: In your presence?

THE WITNESS: Yes, sir.

Q (By Mr.Straus): They were read too and signed by the respective parties?

A Each one of them read. I not only read it to them, but they read it themselves.

Q And then they signed it after reading them?

A Yes, sir.

Q Will you read to the Court the statement first of Mrs.Wright?

A Do you want me to read it?

Q Yes, please?

A I will start off with the question at the beginning:

"Q. Now Mrs.Wright, suppose you just tell me about the whole arrangement.

A. Well, I was supposed to go to this beauty parlor to make my acquaintance with Mrs Tabeling. Mr. John Brown, a private detective in the Maryland Trust Building, he told

me this, to go and have some work done and sort of make her acquaintance. Well I went twice alone then I met Mr.Stokes.

Q Who is Mr.Stokes?

A Well I don't know just who he is?

Q Well, what is his connection? Well go ahead anyway

A Mr.Brown introduced me to Mr.Stokes in Mr.Brown's office. Then we both went over and I introduced Mrs. Tabling to Mr.Stokes. Then she suggested to us going on a party. Mr.Brown said that was all right. Of course, I had no intention of going on this party. I told him I would not be mixed up in any of her parties. The shore belonged to Mr. Stokes I think, I am not real sure of that, and Mr.Brown and Mr.Stokes suggested that I ask her to go on a party with us. Well I asked her and she consented; see we went two or three times, but before when we went five or six went there with two machines. Well we made a party up, and of course we went.

Q You all went there you, Mr.Stokes, Mrs.Tabling, and John M.Small, also known as Smallwood? A./ All four went there. We arrived at the shore about 9, and on our way down we stopped and go some sandwiches, and after we got in there John suggested going up and getting some beer. John and I

went and when we came back the crowd of them were half way up the road, in the meantime they had gone in Mr. Brown, I think Mrs. Tabeling and another man.

Q You didn't go after beer?

A Yes we went after it, but didn't get it.

There was a big dog in the yard and we were afraid to go in.

Q What is Mr. Small's connection with Brown out there?

A I think he did some work for them.

Q Have you ever seen him at the office?

A Yes.

Q Who suggested to bring him into the party?

A Mr. Brown.

Q When did you make this arrangement with Mr. Brown, when did Mr. Brown suggest for you to go down and make your acquaintance with Mrs. Tabeling?

A Sometime in May.

Q And the night you went down to the shore was about June 23rd, I believe?

A Yes, I guess that's right.

Q You say some three years ago Mr. Brown and his detective agency did some work for you, and that's how you

came to know him?

A. I knew Mr. Brown long before, but I had never done any detective work for him.

Q Now Mr Brown sent for you and you went up to his office and talked to him about this Tabelaing matter, what were you supposed to get out of it?

A Well he didn't say anything to me about getting anything out of it.

Q Well, were you to be paid for you work or time?

A He just asked me to do a favor for him, and I felt that I had to do it for him because he had once favored me.

Q Well what did Mr. Brown say in the way of explaining to you what we wanted done?

A He said he wanted me to do a favor for him, he said you have your hair washed once in a while. I am going to send you to a place to have it done, then of course he told me her name and address and said you just go in unconcerned and have your hair washed or whatever you want done to, and just get acquainted with this party and see if you can make her acquaintance, and if she asks you to one of her parties tell her yes, you will go and I said I won't have to go and he said no certainly not, and he said I would

not let you go anyway. So I took another party with me and she was the one that had her hair washed and I didn't have any work done, but I just went along, and she got very friendly, then she took my name and asked me to come back again, which I did and the second time I went back she told me she was going to have a pajama party at her house that Sunday night and she would like to have me attend and I told her I would. Of course I had no intentions of going. She also asked John to attend. He was with me that night.

Q Who introduced you to John Small?

A I think Mr. Brown.

Q Who introduced you to this man known as Stokes?

A Mr. Brown.

Q Where was that?

A I think I met John Small at Mr. Brown's house and Stokes at the office.

Q Did anyone tell you that Mrs. Tabeling's husband and witnesses would be on hand there?

A No one told me that. All I did was to follow order and go where I was told to go. Several parties were suggested and each time she suggested taking someone else in the party, so I think at the time that we went is when they

planned it.

Q Mrs. Wright, this statement that you made is made of your own free will, and without any threats or promises from this office?

A Yes, but you promised me my name was not coming up other than the name of Wright, which is the name they always knew me by.

Q Mrs. Wright, you will be known throughout this investigation as Mrs. Wright so far as I am concerned?

A Yes."

THE WITNESS: Then that was signed by Mrs. Lou Wright and witnessed by James J. Murphy?

MR. HALL: Did you know that was not her name?

THE WITNESS: Yes, sir-- well, I did not know whether this was her right name or whether the other was her right name.

Q (By Mr. Straus): I feel for purposes of identification I am afraid I will have to ask you to tell his Honor what the other name is of this woman. Whether it is her right name or not, you do not know---

THE COURT: Well, I would not ask Mr. Sherman to state it. You can get it in the record in some other manner.

In fact, it is already in the record.

MR. WHYTE: Yes, sir, the record is full of it.

THE COURT: The Court remembers it.

MR. STRAUS: That is all right, we will follow that suggestion. Of course, this other testimony is before your Honor in the other case.

Q Now, then, will you read to his Honor the statement of John M. Small made in your office and of which I understand you have the record?

A (Reading): "Mr. Sherman and Off. Murphy present.

Mr. Sherman:

Q. Now Mr. Small, you appeared as a witness in a divorce case of Mr. and Mrs. Tabeling?

A Yes, sir.

Q In the course of that case, there was testimony as to a trip taken to a shore on or about June 23rd, in which you were one of a party of four?

A Yes sir.

Q And will you tell me who made the arrangements for you to be a member of that party, and who engineered the program to have Mrs. Tabeling's husband and Detective John Brown find Mrs. Tabeling in a compromising position with a

man named Stokes?

A I can truthfully say that I don't know who arranged the party for Mrs. Tabeling's husband to be down there. Mamie told me there was to be a party and she wanted me to go down there, as to who arranged the other details I don't know.

Q You drove the automobile?

A Yes, sir.

Q You were supposed to be a friend of Mrs. Tabeling on that trip?

A No, sir.

Q Well, was not Stokes to be the friend of Mamie?

A I don't know.

Q Well you know that you paired off?

A We all went down in the car together.

Q Well don't you know that Stokes was the companion of Mamie?

A Yes, sir.

Q Were you not supposed to be a friend of Mrs. Tabeling?

A Yes, sir.

Q Do you recall having a conversation with Mamie, also

known as Lou Wright, and with Brown at Brown's home, prior to this party?

A No, I can't say that I do. I am not trying to lie about it, I can't say that I do.

Q Well when was it that you and Mamie and Brown were together at Brown's House?

A I don't know when it was?

Q But you were at Brown's house with Mamie, otherwise known as Lou Wright?

A I have met her there several times, yes sir.

Q What did Brown say to you, or what instructions did Brown give to you in connection with this arrangement?

A He didn't give me any as I know of. In the course of the conversation, I grant you that, but what transpired I don't know.

Q What did you talk about during the conversation?

A We talked about it, but what we said I don't know.

Q You know what you were to do, what were you to do?

A I went out on the party with them?

Q You knew who told you to go to the party with them?

A I truthfully don't remember which one told me.

Q Who do you think told you?

A Both of them, I think?

A. Who do you mean?

A Mr. Brown and Mamie.

Q You know that the object of arranging this party was to catch Mrs. Tabeling in a compromising position, didn't you?

A Yes sir.

Q Who told you that?

A Nobody told me particularly, nobody told me it was common sense I guess more than anything else.

Q When did you first get your knowledge that this arrangement was planned?

A About a week before it happened.

Q And was that the time that you were at Mr. Brown's home?

A Now to tell you the truth, I have forgotten all about the thing. I can remember the party, but as far as those kind of things I have forgotten. That's the whole thing in a nut shell. I don't know whether it was there or some place else

Q Was it not arranged that Mrs. Tabeling was to be gotten out on a party some place so that she could be caught by her husband?

A Yes sir.

Q How was it that you were selected to be a party to that?

A They just knew me.

Q Who knew you?

A All of them, Mamie and Mr. Brown.

Q Mr. Brown knew you better than Mamie?

A Yes sir.

Q What arrangements did Brown make with you for the use of your car and for the use of your time?

A No arrangements at all were made.

Q What were you to get for the use of your car and your time?

A He just asked me to do that, thats all.

Q As a friend you mean to say?

A More than anything else.

Q You were not indebted to Brown were you?

A No sir. I didn't get a cent in the world for it?

Q What did you get?

A Nothing.

Q What did you do it for?

A Friendship I guess.

Q Did Brown do anything for you?

A No sir, not as long as I knew him.

Q When you went down to the shore, there were four in the bungalow and two of you left, you were supposed to get and get some beer, that's true, isn't it?

A Yes sir.

Q As a matter of fact you were not intending to get some beer?

A We did

Q Where?

A We went there and we couldn't get in.

Q Did you rap on the door?

A Yes, sir.

Q You tried to get in the place and there was nobody there?

A No sir, only the dog was there?

A Did the dog bother you?

A No.

Q Who suggested the idea of leaving the two people there together while you and Mamie went out?

A Mamie said she was going after some beer and she asked me to go with her.

Q That was all planned and worked out before you went there, I want you to give me the party who told you how to work this thing and who planned it?

A Well all I knew of it was gotten from Mamie.

Q Who did Mamie get it from?

A I imagine Mr.Grown.

Q Didn't you know she got it from Mr.Brown? Were you there when she got it from Mr.Brown?

A No, sir.

Q Were you all there at Brown's house?

A Yes sir.

Q What were you supposed to do down there?

A There was another car supposed to be down there with Mr.Stokes and Mamie?

Q Anybody else, how about Brown?

A I don't know that.

Q You knew that Brown was supposed to be there on the night of the 23rd.

A Yes sir.

Q You knew that there would be other witnesses there on that night of the 23rd?

A I didn't know who was going to be there.

Q You knew that Brown was going to be there that night?

A Yes, sir.

Q You knew it was a result of somebody telling you that?

A Yes sir.

Q Who was it that told you?

A I don't know whether he told me or whether I got it from her?

A What did he tell you?

A We talked the thing over and he said we would have a party if it could be arranged.

Q Who told you that?

A Mr. Brown.

Q Who was to notify Mr. Brown the party was to be held?

A She was.

Q Well before you ever went into the proposition at all, didn't you know that they were going to work an arrangement to catch this woman down there with a man. Wasn't that the whole object of you being down there?

A Yes, sir.

Q When did you first meet Stokes?

A Through Mr. Brown?

Q When?

A I have met him at both places, his home and his of-

fice.

Q Just prior to the first meeting with Mrs. Tabelaing, when was it that you, Stokes and Brown were together to talk over what was going to take place?

A I don't recall any time just the three of us were together, we might have been but I can't recall it now.

Q Well, were there more than three of you together?

A Mr. Brown and Mamie and Stokes.

Q Was Stokes a private detective?

A Not as I know of.

Q Who introduced you to Stokes?

A Mr. Brown.

Q Who told Stokes what part he was to take?

A Mr. Brown.

A You were there?

A Yes.

Q Who intruduced you to Mrs. Tabelaing?

A Mamie.

Q And that was over at Mrs. Tabelaing's beauty parlor?

A Yes.

Q Is that the time that Mamie had a hair wash or something done to her hair, what was it?

A They did something, but I don't know what it was.

Q She introduced you as Smallwood?

A Yes, sir, thats true.

Q What was your reason for that?

A Nothing particular as I know of, just did it, thats all.

Q You used Smallwood before?

A Yes sir I have in traveling.

Q Have you used it in connection wit some work you did for Brown?

A No sir.

Q Now you mean to say that you have not done any of this sort of work for him?

A I have gotten some automobiles for him. I have gotten several cars for him.

Q When you got back to the bungalow there was a crowd of people there in the yard and there was something going on there, a fight or fuss, a lot of arguments, did you see anybody hit Mrs. Tabeling in the nose?

A No I didn't, no, sir, I never saw anything like that.

Q She did have a broken nose or something?

A If she did she didn't show it.

Q Did you see any blood on her?

A No, sir I didn't.

Q You say you recognized Brown as being one of the party, who else did you recognize in the party?

A There was another man there, but who he was I don't know.

Q Was Kennedy down there?

A What Kennedy.

Q Kennedy was the man who was peeing in the window there?

A I don't know him but I might know him by description. There was another man there that I have seen around Mr. Brown's office, so I imagine you mean him.

Q Have you seen this man before?

A Yes, sir, I have seen him around the office.

Q That's the man you know as Kennedy, but you don't know his first name?

A Yes sir.

Q Was Kennedy present at any of the conversations between you and Stokes and Mamie?

A . He has been in the office when all of us were down together.

Q Did he take part in the conversation?

A As far as I recall he did, yes, sir.

Q And he had a definite part to play in this program, didn't he?

A That I don't know. He was there at the conversations but whether it was arranged for him to be there I don't know. Of course, as far as I know, the way things looked, Yes. As far as I know arrangements were made for him to be there with Mr.Brown so that Mr.Brown would have someone with him.

Q Do you know whether or not he actually had intercourse with Mrs.Tabeling?

A I don't.

Q Do you know whether or not he was supposed to have anything to do with Mrs.Tabeling?

A I don't know that either.

Q Now Mrs.Small, this statement that you have made is made of your own free will, without any promises or any threats from this office?

A Yes sir.

Q And all of the above is true to the best of your knowledge and recollection?

A Yes, sir."

THE WITNESS: That was signed John M. Small and witnessed by Officer James J. Murphy.

MR. STRAUS: We offer both of these papers in evidence, although they have both been read into the record.

(Papers referred to were thereupon marked Petitioner's Exhibit No. 1 and Petitioner's Exhibit No. 2).

THE COURT: Does that conclude the examination in chief.

MR. STRAUS: Yes, sir.

CROSS EXAMINATION.

By Mr. Hall:

Q Mr. Sherman, do I understand this examination and investigation of these witnesses at your office was done with the approval of Judge Ulman?

A Yes, sir.

Q And Judge Ulman instructed you to make these examinations of these witnesses?

A Yes, sir.

Q And you furnished a copy of these papers to the

other side?

A No, sir.

Q Who was it first came into your office and made a complaint about this matter?

A I do not know whether it was Mr. Straus or Mr. Whyte or both gentlemen at the same time, I am not positive about that.

Q How often did Mrs. Tabeling come there?

A Mrs. Tabeling never come to my office until, I believe it was some time in July. She came there one day to ask what was being done. I told her I had no information to give her, that if she wanted to find anything out about her case to go to her counsel, Mr. Straus. That is the first time I ever recall having seen Mrs. Tabeling in connection with this case or ever seeing her before.

Q You have known her for some years, haven't you?

A I know the family but I would not know Mrs. Tabeling to pick her out as to who she was.

Q Then she had not been at your office before these people were interviewed by you?

A No, sir.

Q You had the record in the case, did you not?

A Yes, sir.

Q And you knew that one of Mr. Whyte's defenses for this woman was connivance, didn't you?

A Well, I gathered that from the paper there.

Q And these questions were asked by you for the purpose of developing whether there was any connivance or not, weren't they?

A No, sir, my investigation was for the purpose of ascertaining whether or not there had been a criminal conspiracy.

Q Well, no warrants were sworn out for anybody?

A No, sir.

Q There haven't been up to this time?

A No, sir.

Q Is the State's Attorney's office in the habit of making investigations of this kind into divorce matters?

A I cannot answer that question.

Q You have never made one before, have you?

A I have never made one.

Q You say in this testimony of Small's, you ask him if Mrs. Tabeling did not have a broken nose, where did you get that information from?

A Why, this record I think, shows that somebody was struck and I believe it was Mrs. Tabeling.

Q Can you find any place in this record where Mrs. Tabeling had a broken nose or anybody ever complained she had a broken nose?

A I do not think I could.

Q Why did you ask Small whether the woman had a broken nose?

A At the time I asked the questions of Small I did not have that book directly in front of me, I did not pick out any special question to ask him. It just occurred to me I had seen in that record that Mrs. Tabeling had been struck or supposedly had been struck.

Q Well, she claimed to have been struck?

A Yes, sir.

Q But there was nothing in the record of anybody having a broken nose?

A I do not believe there is.

Q You talk about some man peeping in the window. Where did you get that information from?

A Out of the record.

Q You are sure that is in the record?

A I am quite sure. At least that is what I gathered, that someone had apparently peeped in the window or watched.

Q Who gave you Small's address?

A I do not think I can say definitely, but I got some information out of this record and I sent a Officer Murphy to locate him and my recollection is that he went to some address, whether Edmondson Avenue or wherever it was, and found that the man in question was employed by one of the laundry companies, and in that way he was located.

Q Do you know how he was brought into your office, under what circumstances?

A I do not recall that he was brought into our office, Mr. Hall.

Q If I were to tell you-- didn't Murphy tell you how he brought him in?

A Murphy went out and met him. My recollection of that is that Murphy went to the laundry company and saw his boss and told him that there was a matter we wanted to talk to him about and asked him if he could let him off to come down there, and I think he was out on a route at that time and his boss made arrangements with Murphy to meet him

the next day at some definite point on the route where he could be relieved by another driver, and that was done. Murphy met him some place and they came in, I think, together.

Q Why didn't Murphy meet him at his place of employment the next morning?

A Well, because-- I do not know just when they go to work. Our office does not open until nine and I think he went to work seven and it was thought more convenient for the laundry company that we do it that way.

Q See if it happened in this way: Murphy went to the laundry company's office, got the assistant superintendent of one of the superintendents of the laundry company to go with him and to follow around on the route that Small was on until they located him, took him off of the wagon then and there and put him in the State's Attorney's automobile and took him to your office and the man then turned his money and wagon over to the superintendent; didn't it happen that way?

A I do not know.

Q Well, did Murphy tell you that?

A My recollection is that Murphy told me what I just told you.

Q Murphy is available down in your office?

A Oh, yes.

Q How long did you have Small at your office?

A Well, long enough to talk to him and ask him these questions; get this information.

Q Well, you have here typewritten questions and answers about nine pages long. About how long was he there all told?

A I could not tell you definitely.

Q Was he there two or three hours?

A Oh, he was there some time.

Q And, of course, the answers you got in the State's Attorney's office about making the statements of their own free will, you always put that in, don't you?

A Yes, sir.

Q You would not let them make a statement unless you put that in, would you?

A Well, prior to asking these questions I told these people I was making an investigation and I wanted some information from them and neither one could be compelled to make a statement if they did not so desire, but if they wanted to tell me about this matter I would be glad to hear

it. That is generally what I told them.

Q You did not write them letters from the State's Attorney's office requesting that they come in?

A No.

Q Why didn't you?

A Well, I supposed the quickest way was to send out and get them in.

Q To pick them up?

A Well, no, not pick them up; send a summons to them.

Q Did Murphy have a summons?

A I do not recall whether he did or not. I imagine he did.

Q What power has the State's Attorney's office to bring anybody into their office?

A Well, I assume we have the same power-- I do not know that we have any special power to summon.

Q Don't you know you have no power, as a matter of fact, but if you want to see people and people won't come in, then it is your duty to have them arrested and have them brought in?

A Well, I do not know we have authority to compel a

person to come in in response to our summons. We certainly have the authority to issue a summons.

Q Where there is no legal proceeding in your office, you have power to issue a summons?

A Well, it is a request.

Q But don't you tell the people that it is a summons and they have to come in?

A Well, we have a form down there.

Q And it says on there it is a summons, don't it?

A I do not know the way it is worded.

Q Well, anyway, it is so familiar to you you would call it a summons?

A Well, we generally use that expression.

Q Have you got all in here that Small said?

A I think that covers what he said.

Q Didn't he tell you that they did catch this man in the room with Mrs. Tabelaing?

A I don't think he told me that, no, sir. I had that information out of the record.

Q Well, did you ask him anything about her misconduct on the shore that night?

A I did, I asked him whether or not---

MR. STRAUS: It appears there.

MR. HALL: Well, he answered generally.

A (Continuing): I asked him whether or not they had intercourse. It is there somewhere.

Q Did you ask him anything about what Mrs. Tabelaing said coming up in the automobile about being caught?

A No, I do not think I did, Mr. Hall.

Q This man came in in his working clothes, didn't he?

A Yes, sir.

Q He was very much excited, wasn't he?

THE COURT: Who was very much excited?

MR. HALL: This man Small.

A I do not know that he was particularly excited. I think he had on leather puttees and riding breeches.

Q You took him in the office and you and Murphy had a talk with him before you brought the stenographer in, didn't you?

A I am sure Murphy had no part in it.

Q Wasn't Murphy there the whole time and didn't Murphy ask him a good many questions himself?

A That may have been.

Q Why aren't Murphy's questions in here?

A I talked to him a few minutes before I called the girl in. I explained to him why he was there and that there were no charges against him, that I was making an investigation, and did he know about it and did he want to say anything or didn't he, whatever it was I said to him. Then he agreed to make the statement and then I called the girl in.

Q Did you advise him what he was saying in there might result in an indictment for perjury?

A I advised him that anything he said there might be used against him.

Q You did advise him that?

A I think I did.

Q Is it in here?

A I think it is; in fact, I am sure it is.

Q You knew from the testimony you had read, the record of the case, that if he answered those questions the way you wanted them answered, he was subjecting himself to an indictment for perjury, didn't you?

THE COURT: Now, Mr. Hall, counsel on the other side is not objecting, but Mr. Sherman is an officer of the

Court and he is that in a double sense, every attorney is an officer of the Court, Mr. Sherman more specifically so, and the Court is taking exception to the form of your question in which you say if the questions were answered the way Mr. Sherman wanted them answered. The Court is assuming that the only thing Mr. Sherman wanted was the truth and that he had no ulterior motives or desire to get any kind of an answer except the truth. I will ask you to be good enough to reframe your question without employing what to me is a somewhat offensive manner of statement.

MR. HALL: Read the question, Mr. Stenographer.

THE COURT: I do not think it is necessary to read that question. Reframe the question without using any offensive language.

MR. HALL: Do I understand the Court objects to that statement being asked?

THE COURT: Yes, sir.

MR. HALL: We take an exception to it, Mr. Stenographer.

Q Did you ever read over to Mr. Small the testimony he had given in the divorce case?

A No, sir.

Q Why didn't you?

A Well, I did not do it.

MR. STRAUS: I do not think this is material.

THE COURT: I think it is material.

MR. STRAUS: Whether he read over to him the testimony?

THE COURT: Yes, sir.

Q Did you read over to him the testimony taken in a divorce case that you had before you in the record?

A No, sir.

Q Did you ask whether the testimony he had given in the divorce case taken before Judge Ulman was the truth or not?

A No, sir.

Q Why didn't you?

A I was not interested. I was only undertaking to find out whether there had been a conspiracy.

Q Or whether perjury had been committed?

A Well, I was not so much interested in it as I was the illegal combination.

Q Did Judge Ulman ask you to find out whether conspir-

acy had been committed in the case or not?

A I do not recall Judge Ulman asking me that.

Q Where did you get the information--- or where did it develop whether conspiracy had been committed in this case?

MR. STRAUS: We object to that, there is no evidence to warrant that.

THE COURT: Overruled.

MR. STRAUS: Exception.

A Following the complaint, I came up to Judge Ulman to ask whether or not I ought to go ahead and look into the case and my recollection is that the Judge said to see what it is or to investigate it and find out about it.

Q Well, Mr. Straus and Mr Whyte when they called at your office told you there had been a conspiracy, didn't they?

A They did not tell me.

Q Wasn't that one of Mr. Straus' complaint to you, didn't he point out to you evidence of the conspiracy in the record?

A Yes, sir, he pointed out parts of the testimony, but I do not think either one used the expression I used

"conspiracy."

Q When did this conspiracy idea first come up?

A Well, I think that was probably my own conclusion after looking through the record and talking with Mr. Straus and Mr Whyte.

Q All right, then, let us get to the other statement. When you read the statement to Judge Ulman, did you tell him that this woman's name, Lou Wright, was not her right name?

A I suppose I did, but I am not sure about that.

Q Well, of course, you knew it was not her right name and you did not put the right name in because she did not want her name known and you promised not to tell?

A Yes, sir.

Q This address she gave you 2303 North Charles Street, you also knew that was not her address, didn't you?

A No, I did not know that. I think that is the address she gave.

Q Did you make any effort through your office to find out whether she actually lived there or not?

A No, we did not. I think we found out where she was employed and that is as far as we went.

Q Murphy went up to Hecht's where she was employed as

telephone operator, didn't he?

A I do not know whether he did or not.

Q Don't you know now where she lives?

A Not of my own knowledge, no, sir.

Q Hasn't Murphy tried to ascertain where she really does live?

A I have her address here.

Q What address have you, we want her number in, if the Court will permit it?

A Do not misunderstand me, Mr. Hall, I am not undertaking to protect her.

Q Doesn't she live at 649 North Fulton Avenue?

A That is the number I have here on my notes.

Q Hasn't she been living there for years with her child?

A I don't know.

Q Who gave you that address? If the woman gave it to you I don't want you to say it?

A I do not know whether she gave it to me or whether somebody else gave it to me. I merely have it marked down on this paper, I have made a memorandum of it.

Q When she came into your office you had a long pre-

liminary talk with her, didn't you?

A I had a preliminary talk with her, yes, sir.

Q Do you remember having a lot of papers on the desk and saying, "I want to get a statement from you in this Tabeling case, there has been a lot of testimony reflecting on your character," do you remember that?

A No, sir.

Q Do you remember when you first started to talk with her and saying, "Don't I know you, didn't I carry on a non-support case for you in the office here?"

A No, I did not say that. When this lady came in she knew me and told me she had been in that office before and I could not recall her at all. Then she told me I had tried a non-support case against her husband some time. I had no recollection of that case.

Q Did Miss Lou Wright tell you that Mrs. Tabeling--- have you got everything in here that this woman said?

A I have everything in there that was taken down by the stenographer.

Q But there was a great deal that was said that is not in here at all, is that right?

A I think that covers everything she said.

Q Was Murphy in the office at the time?

A He was in there at the time this statement was made.

Q Didn't he ask her a lot of questions too?

A He may have asked some.

Q Why didn't you put those down, why weren't they put in the statement?

A Whatever he had to say was in the preliminary discussion we had.

Q Didn't this Wright woman tell you that Mrs. Tabelaing took off her bloomers when she got down to the shore and did not put them on until they came home that night and that she, the Wright woman, went and got her bloomers for her off the porch?

A Something was said about the bloomers, yes.

Q Why isn't that in here?

A I do not recall just what was said about bloomers, but there was something said. The bloomers did not have any special place in the statement I was getting.

Q Certainly, but it had a special place in the divorce proceedings?

A I was not interested in the divorce proceedings.

Q What I am trying to get out principally is that there

was a lot that was said by this woman that is not in that statement, isn't that true?

A No, there was not a lot said. There was something said before I called the girl in to take that statement.

Q Well, you say there was something said about bloomers?

A Yes, sir.

Q And you did not put that in?

A It is not in there. You see, I was not interested in whether they testified to the truth or whether they did not testify to the truth in that divorce case. I was interested, or at least my thoughts or my object was to find out whether or not there had been an illegal combination there.

Q You also sent for Kennedy?

A Yes sir, we sent for Kennedy.

Q You had Murphy to bring him over to the office, didn't you?

A I would not say he was not brought over, Mr. Hall. You can put it that way if you want. He was invited to come over.

Q He came over with Murphy, didn't he?

A He came over, I don't know whether with him.

Q Murphy is a big fellow down in your office, isn't he?

A A big police officer.

Q Kennedy made a statement to you, didn't he?

A Yes, he did.

Q Why didn't you reduce that to writing?

A Because as soon as Kennedy came in and started to talk I could see that Kennedy would be no good to the State in prosecuting any case that might arise and I would not get any information out of Kennedy that would be much good. The only thing I did get out of Kennedy was the corroboration of the statement of Mrs. Tomlin and Small that they had talked at Mr. Brown's office on one occasion.

Q If you were making an investigation for Judge Ulman, you knew that Judge Ulman wanted all the facts, good, bad or indifferent, didn't you?

A I was not under the impression I was making this investigation for Judge Ulman, I was making it for the purpose of finding out whether or not there had been a criminal offense committed and if so, to proceed.

Q Who asked you to submit these statements to Judge Ulman?

A Nobody.

Q How did you come to be in the room with Mr. Whyte and Mr. Saylor?

A I came up here in response to a call.

Q Didn't Mr. Whyte send for you?

MR. STRAUS: No, the Court did.

MR. HALL: Well, I don't know; if the Court did, all right.

THE WITNESS: I was told Judge Ulman wanted to see me.

Q Did you tell Judge Ulman at any time you had Kennedy at the office and he made a statement that you did not take down, you just let it go?

A I believe I did.

Q You think he told him that?

A I think so.

THE COURT: I am quite sure he did, Mr. Hall.

Q You did not get the information you wanted from Kennedy that would assist in any criminal prosecution and therefore you did not put it down?

A No, I would not put it that way. You see, I did not get the information I wanted---

Q I mean as a prosecuting officer. You had no

interest in the divorce case, I know that, and I know you are not trying to frame up anybody in the case. That is far from my mind. I have known you since you were a boy, I know you too well for that. I have had business with you and business with your family, as you well know?

A No, I concluded after talking with Kennedy for a minute or two that Kennedy would more than likely be on the other side. Perhaps be one of the accused. I did not know just how it would work out.

Q Did your office ever write a letter to Stokes about the testimony given by him in the record?

A I am sure I wrote no letters.

Q Who went after Stokes to try to locate him?

A I think Murphy went.

(Testimony of the witness concluded).

THE COURT: Is that your only witness?

MR. STRAUS: Yes, sir.

THE COURT: Have you any testimony at all, Mr. Hall?

MR. HALL: No, sir. We do say these people who made these statements should be produced here. They issued summons for them. There must be good reason for bringing

them here.

MR. STRAUS: There is a very good reason, they are not our witnesses.

(Discussion followed).

MR. STRAUS: We rest on the testimony of the State's Attorney.

THE COURT: Have you definitely and finally concluded for your part to offer no testimony, Mr. Hall?

MR. HALL: Yes, sir.

THE COURT: You make that statement being advised of the fact that Stokes, Small and Brown are all sitting in the Court room at this time?

MR. HALL: Well, I will put them on the stand.

THE COURT: I just want to know what you are going to do.

MR. HALL: I will put them on the stand.

THE COURT: Then if you are going to put them on the stand, of course, your statement is premature.

MR. HALL: What your Honor has said indicates to me that some importance might be attached to their being present in Court and not putting them on the stand, and I shall put them on the stand. If your Honor please, I do want to put into the record that the counsel for Mrs. Tabelaing in

open Court knowing that John R. Brown is present, that Stokes is present and Small is present, will not offer them as witnesses. That Small having been summoned by the petitioner in this case and being in open Court, they have not produced him as a witness. I am asking the Court at this time to issue an immediate summons for Mrs.--- I do not want it to go out under that name---

THE COURT: Do you want the Court to postpone further proceedings in the case until we get her here?

MR. HALL: Yes, sir, it will only take an hour.

THE COURT: I am not sure I am going to postpone the case for that, Mr. Hall. It is certainly competent for you to issue a summons for her.

MR. STRAUS: Let me submit the situation to your Honor just briefly. Unless your Honor particularly desires to postpone the matter and have this witness brought in, we object to it. We object to this delay. Now, let us look at the situation.

As far back as April, may it please the Court---

THE COURT: It is not necessary to say anything, Mr. Straus, I am not going to delay the case.

MR. STRAUS: I do not ascribe any fault to Mr. Hall---

THE COURT: I am not going to delay it.

MR. HALL: Then I want it put into the record if this witness is produced she will confirm everything said in the divorce case about the adultery, about the bloomers, as testified here by Mr. Sherman and wipe out entirely the statement made to Mr. Sherman and tell the Court the circumstances under which it was made and the promises made to her at the time she made it. I think the conscience of the Court is called into play now and I think the Court ought to have the witness before it. She has never been before it in any sense of the word, only an ex parte statement in the State's Attorney's office. This is a serious matter. If there has been any conspiracy or unlawful combination, the Court wants to know it. But under the circumstances of this case, where people are dragged into the State's Attorney's office, where there are no summonses, where they take this man off the street into the State's Attorney's office and take this woman from her place of employment at Hecht's and take her down to the State's Attorney's office-- and your Honor has heard the statement

of Mr. Sherman that these statements are not complete--
I think this woman ought to be brought before the Court.
All that was said at that hearing is not all that is set
forth in the statements, there isn't a single word here of
whatever Murphy said.

MR. STRAUS: Your Honor, we object to that state
ment going into the record.

THE COURT: It is in the record, Mr. Straus, the
stenographer is taking it down. It is simply a gratuitous
statement of counsel.

MR. STRAUS: May it please the Court, I submit you
cannot put into the record a statement of counsel of what the
witness will testify.

MR. HALL: I am telling your Honor the witness will
testify to that if brought here.

MR. STRAUS: We object to that statement on the
record, if the Court please, Mr. Hall has no right to make
that statement.

THE COURT: Your objection, Mr. Straus, simply means
this: That if counsel on the other side makes a proffer of
what the witness would testify if present and you admit
the witness would testify, that becomes testimony in the

case. In this instance counsel has made a statement not admitted and therefore the statement is simply a gratuitous and ex-parte statement which cannot and will not be considered by the Court.

MR. HALL: Then I will go further than that---

MR. STRAUS: It goes further than that. Counsel has no right to say that a witness isn't in Court. The witness has not been summoned after months of what has been going on, and for counsel to get up and say there is a witness somewhere who will come into Court and testify to this, that and the other is beyond the rights of counsel and counsel has no right to do what Mr. Hall asked be done in this matter, that such a statement of counsel recorded in the record the Court, I submit, ought to eliminate from the record. In fact, I understand the Court says that it will be because counsel has no right under any practice or procedure to have a statement of that sort reported in the record. If the witness were here under examination, the question propounded to the witness objected to, sustained by the Court, counsel might say we offer to prove this, that or the other by the witness. But this isn't that situation. Even that right when the witness is present is only

under certain limitations. But Mr. Hall is far off in the practices known when he attempts to have in the record what a witness will testify.

THE COURT: I think you are probably right, Mr. Straus, but I am not going to order the stenographer to strike it out.

MR. STRAUS: Then we wish to put on the record that we do not admit that this witness would testify to any such thing.

MR. HALL: Then I wish to present to the Court in open Court a four page statement made in the handwriting of Mrs. M. Tomlin, 649 North Fulton Avenue, to back up the statement made in open Court and I will ask counsel on the other side to read it and see if they will admit it.

MR. STRAUS: That makes the matter so much more important, because if any such statement were in the possession of Mr. Hall and it would serve the purpose for which he now offers it, then it was his double duty to summon that witness here and it emphasizes the position in which they are as falling far short of any requirements of the law for this procedure.

MR. HALL: Doesn't your Honor see they do not want this witness here? I am going to ask your Honor to read

this statement.

THE COURT: No, I cannot read it.

MR. HALL: Then I will put myself on as a witness and ask to be sworn.

Thereupon - - - -

WILLIAM PURNELL HALL,

took the stand, having been first duly sworn according to law, testified as follows:

THE WITNESS: My name is William Purnell Hall; I am a member of the Bar and I am counsel for Mr. Tabeling in this case. I hold in my hand a statement made by Mrs. M. Tomlin, 649 North Fulton Avenue, in her own handwriting and made in my presence, which I desire to offer as evidence.

MR. STRAUS: We object to that, may it please the Court. No theory of evidence in the world would permit that to be introduced in evidence here, may it please your Honor.

THE COURT: In what way does that differ, Mr. Straus, from the statement offered on your behalf by the State's Attorney?

MR. STRAUS: The State's Attorney is a public official

investigating this case. She was asked to come to his office and she came in and under oath made the statement.

MR. HALL: Oh, no, not under oath. You are mistaken about that.

MR. STRAUS: She made the statement to a public officer of the Court and that statement, may it please the Court, was read to her. She signs it in the presence of the State's officers, who got the statement in the discharge of their public duties, and it is offered to the Court as an admission of this woman and of facts which tend to contradict the statements offered by Stokes and Small during the examination of them as witnesses in Court in the divorce case. Now, that is an entirely different thing from a statement written by her, given to some person, whether counsel for the defendant or not, and offered by them in Court when the woman is available as a witness and could have been summoned and produced as a witness.

THE COURT: I will confess some doubt about the distinction. It seems to me that possibly one ground of the distinction is that you are objecting to this paper and counsel on the other side did not object to the other papers. I would hesitate in a Court of Equity to base my determination upon that circumstance alone.

Is there any authority for the proposition that a statement made to a prosecuting officer stands upon a footing different from a statement made to counsel in the case?

MR. STRAUS: Yes, sir.

MR. HALL: I would like to have some authority for it.

MR. STRAUS: Well, there ought to be. She is called into a public officials office in an impartial way, presumably for all purposes of the law in an impartial way, in the impartial exercise of public function and duty and she is advised that what she says might be used against her---

MR. HALL: Oh, no, not at all.

MR. STRAUS: Yes.

THE COURT: That is the uncontradicted testimony.

MR. STRAUS: And her statement is made with express reference to the subject. Now, then, having made that statement, she is almost amenable to being brought in here and being examined. Mr. Hall has a perfect right, I submit, in view of the testimony of Mr. Sherman that she made the statement, which was read to her and which she signed. Mr. Hall has a perfect right to call that witness in here and say, you have here your admissions to a public official, who

conducted this examination, as he states, with the approval and sanction of the Court. Now, then, having made that statement to Mr. Sherman we want to ask you to read this statement and tell the Court whether any statement of yours embraced in this signed paper is incorrect, and then they could say, if it is incorrect, why did you make it, with no cross examination. We have no method here at all of testing the accuracy of that statement. The two things stand upon entirely distinct grounds. In other words, the statement Mr. Sherman offers is as made by the witness to him in the discharge of his public duty, which may be contradicted or refuted by an easy procedure, and he has not availed himself of it. He comes in here at the last minute with a statement he proposes to make. May it please the Court, I submit it would be a grave departure from the legal procedure. We are bereft of the right of cross examination--

THE COURT: I think that this statement certainly is not competent evidence. I have some doubt as to whether the statement offered by the State's Attorney is competent evidence, but it is in and it came in without objection and in view of my own unwillingness to postpone further consideration in this case in order to enable Mr. Hall to issue

an immediate summons for a witness, although I think that this written statement is not competent evidence I am going to permit it to be read.

MR. HALL: All right, sir.

MR. STRAUS: Your Honor, we object.

THE COURT: I will give you an exception.

THE WITNESS: (Reading): "During the summer a gentleman called to my place of employment at Hecht Bros said he was a detective, that Mr. O'Conner wanted to see me at the States Attorneys office. He asked me when I could come down and I told him I would arrange the next day. I asked him what Mr. O'Conner wanted with me, he said he didn't know, I went to States Attorneys office next morning, and ask for Mr O'Conner; was told he was not in, Mr. Murphy came in to the office and I said I could see Mr. Sherman, Mr. Sherman took me in his private office. Mr. Sherman came in, and ask me if the office hadn't handled a non support case for me some time ago. I said "Yes". Mr. Sherman then ask me if I knew Mrs. Tabeling and I said yes. He told me reading from papers that there had been a lot of testimony from her divorce case reflecting on my character. I made a statement at his office, which was taken down in short

hand, some time after wards a typewritten paper was handed to me to sign and I signed it. I do not know what was in the paper, as I was so scared and worried about being away from my place of business so long, but I could have signed anything to get out back to work. I met Mrs. Tabeling at her Beauty parlor where she did some work for me. She invited me to join the Barbers Club which I did Mr. Small and Mr. Stokes also joined the club which was over her beauty parlor. At the club we danced and drank gin Mrs. Tabeling took me out with Mr. Small and one of the Barbers in Mr. Small car to a place on Brehm's Lane run by an Italian we had some drinks and something to eat and came home. We let Mrs. Tabeling out some distance from her home and that night she told me she loved Joe so much, that she would be willing to pay a thousand dollars to stay all night with him. We made several trips to Mr. Stokes shore on one occasn there were two machines. The night we went to the shore, that the detectives found Mrs. Tabeling in the room with Mr. Stokes Mrs. Tabeling took off her bloomers when she got down to the shore and hung them out on the porch After the detective left I got her bloomers for her, she put them on, and we came home. I was never in the employ of Mr. Brown

as detective nor have I ever done detective work for anybody so far as I know Mr. Brown nor Mr. Tabeling at any time knew when we went to the shore or any other place. Mr. Tabeling has told me of week end parties she has had with men in Wash. and mentioned New Williard Hotel as the Hotel where she stayed. On another assasn she asked me if we couldn't postpone shore party until her sweet papa came to town who was expecting his wife to be confined, and then we could come to Balto. Mr. Sherman did not tell me what he wanted with the statement or why except to clear my character. He said he would not need me any more coming from the shore Mrs. Tabeling said she knew her husband had been watching her sometime and now he would be through with her. I did not know Mr. Tabeling until I meet him at the shore the night he saw his wife in the room with Mr. Stokes. Mrs. Tabeling wanted to go home with her husband but he said I did not bring you down here and you can go home with the people who brought you here.

Mrs. M. Tomlin

649 N. Fulton Avenue."

MR. STRAUS: Now, your Honor, I certainly move in

that statement that all statements with reference to Mrs. Tabeling be stricken out. They ought not to be in this record under any circumstance. I do not think the statement has any relevancy at all, but if it has any relation it is with relation to the statements made in the State's Attorney's office and not extraneous statements as to which the State's Attorney testified he was not concerned.

THE COURT: Is there any objection to striking out such portions, Mr. Hall?

MR. HALL: Yes, sir, I put it in for what it is worth.

THE COURT: I overrule your motion, Mr. Straus.

MR. STRAUS: We take an exception.

CROSS EXAMINATION.

By Mr. Straus:

Q Mr. Hall, when was this woman at your office?

A She was not at my office, she was at my home.

Q When did she make this statement?

A She made this statement I think Wednesday or Thursday of last week. The statement is not dated, I am not sure of the date.

Q But it was as late as last Thursday?

A I think so.

Q Did she come day or night?

A It was night.

Q Do you know how she got there?

A She was brought there by Mr. Brown, Mr. John R.

Brown, at my request.

Q Was he present when she made the statement?

A Yes.

Q Who else was there?

A No one. That was made in my dining room at home in her handwriting on letter paper gotten out of the desk drawer at my home.

Q And Mr. Brown was present when she made that statement?

A Yes, sir.

Q Did you know Mr. Brown was going to bring her there?

A He brought her at my request.

Q You had been discussing the matter with Mr. Brown prior to that?

A Oh, yes.

Q Who brought Mr. Brown to your office prior to that,

Mr. Tabeling?

A Mr. Tabeling brought him to my office.

Q You have been employed in this case just recently, haven't you?

A About a week or ten days.

Q And it was Mr. Brown who employed you or Mr. Tabeling?

A Oh, no, Mr. Tabeling. Mr. Tabeling is almost a neighbor of mine, he lives within two squares of my home.

Q And it was Mr. Tabeling who brought Mr. Brown?

A I do not know who brought the other. I had no connection with Mr. Brown except roasting him in an alienation case in the next Court here before Judge Stanton. That is the only acquaintance I had with Mr. Brown.

Q Well, they came together at the first interview?

A Oh, yes, they came together.

Q And pursuant to that Mr. Brown came with Mrs. Tomlin or Mrs. Lou Wright, whatever her name may be?

A Tomlin, that is her name, there is no mistake about it. She wanted to know from me whether I was going to use that statement. I told her I certainly was. She said she did not want it brought in and whether she should leave town.

I told her under no circumstances should she leave town.
All I wanted was the truth.

Q Then Mr. Hall, you knew as late as last Thursday
of this past week where she was?

A Yes, sir.

Q Did you know the case had been assigned for the
11th of September?

A I did, and yesterday I knew your side had summoned
her as a witness.

Q Did you take any steps to have her here?

A Oh, no.

(Testimony of the witness concluded).

MR. HALL: Before we conclude, I am going to ask your
Honor to strike out the statements produced here by the
assistant State's Attorney.

THE COURT: Motion overruled.

MR. HALL: Exception.

THE COURT: Now, I want to be very sure and I want
to ask both sides deliberately whether they have concluded
the testimony.

MR. STRAUS: We have concluded, yes, sir.

MR.HALL: With this exception. I requested the Court before to issue an immediate summons and if she is returned sick, that the Supreme Bench physician, Doctor Oliver, be sent to examine her.

THE COURT: The Court refuses to postpone any further consideration of the case.

MR.HALL: Take an exception, Mr.Stenographer. Now, then, we have no further testimony with the understanding that Brown is in Court, Tabeling is in Court and Small is in Court.

THE COURT: Yes, sir.

MR. STRAUS: And that none of them are offered by Mr. Hall for Mr.Tabeling.

MR.HALL: No, but all of them were summoned by the other side, including Mr.Tomlin.

THE COURT: The decree will be vacated.

MR. HALL: Take an exception, Mr.Stenographer.
