

In the Recorder's Court

OF THE

City of Calexico, County of Imperial, State of California

The People of the State of California
Plaintiff

1927

Criminal Complaint

Octaviano Marcos Defendant

State of California,
County of Imperial.

Personally appeared before me this 14th day of June 1927
Alexander Garcia, who on oath makes complaint and charges and says, that
on the 15th day of April, 1927, in the City of Calexico, County of Im-
perial, State of California, a felony was committed as follows, to-wit:
That on the 15th day of April, 1927, at the City of Calexico, County of
Imperial, State of California, Octaviano Marcos

did then and there did willfully and unlawfully and feloniously
have and accomplish a sexual intercourse with one Hugo Escobar
Escobar, a female person under the age of 15 years old
and not then and there the wife of said defendant.

in violation
of and contrary to the provisions of Ordinance numbered _____ said City of Calexico,
passed by the Board of Trustees of said City of Calexico on the _____ day of _____
1927, and entitled as follows, to-wit: "AN ORDINANCE

all of which is contrary to the laws, force, and effect of the Constitution of the State of California,
and against the peace and dignity of the People of the
State of California.

Wherefore, complainant prays that a warrant may issue for the arrest of said
Octaviano Marcos and that he
may be dealt with according to law.

Subscribed and sworn to before me
this 14th day of June, 1927
Alexander Garcia
Recorder of the City of Calexico,
County of Imperial, State of California.

Alexander Garcia

In the Superior Court

Of the County of Imperial, State of California

The People of the State of California, Plaintiff,

VERSUS

OCTAVIANO MORAN

Defendant

Information for

A Felony, to-wit, having sexual intercourse with a female under the age of 18 years

OCTAVIANO MORAN

is accused by the District Attorney of the County of Imperial, State of California, by this information of the crime of a felony, to-wit, having sexual intercourse with a female under the age of eighteen years, committed as follows: The said Octaviano Moran

on or about the 15th day of May A. D. nineteen hundred and twenty-seven at the said County of Imperial, State of California, and before the filing of this information did then and there wilfully, unlawfully and feloniously have and accomplish an act of sexual intercourse with and upon one Lupe Escalante, then and there a female under the age of 18 years, to-wit, of the age of 16 years, and not then and there the wife of said Octaviano Moran.

contrary to the form, force and effect of the statute in such case made and provided, and against the peace and dignity of the People of the State of California.

Elmer H. Heald District Attorney of the County of Imperial, State of California

Dated July 2nd, 1927 19

[Signature]

1 MR. HEALD: Defendant has been arraigned and the case set
2 for trial

3 THE COURT: Yes

4 Q Do you speak English A Yes

5 Q Speak English sufficiently so you can understand the
6 questions asked you, and answer them in English A Yes

7 Q Where do you live A 828 Seventh Street

8 Q What is your name A Lupe Escalante

9 Q How long have you been living at 828 Seventh Street

10 A About a year

11 Q Is that in the city of Calexico, County of Imperial,
12 State of California A Yes

13 Q How old are you A 16

14 Q When were you born A 1910

15 Q What date was your birthday on A December 1st

16 Q December 1st A Yes

17 Q You were born December 1st, 1910 A Yes

18 Q Is your father living A No, sir

19 Q Is your mother living A No, sir

20 Q With whom are you living A My sister, and my broth-
21 er-in-law, Mr. Garcia

22 Q What are their names A His name is Alexander
23 Garcia Jr., her name is Frances Garcia

24 Q How long have you been living with them

25 A Ever since my mother died four years ago

26 Q Did they live-- A 828 Seventh Street?

27 No, we used to live 624 Fourth Street

28 Q How long have you been living with them A Four years

29 Q Where were you born A In Oxnard, in California

30 (Mrs. Garcia talking to witness in undertone)

31 MR. BLAISDELL: Let the record show we object to witness
32 being coached

MR. HEALD: You mustn't speak to your sister

1 A I was born in El Rio, California

2 Q Where is that A Near Los Angeles,

3 Ventura

4 Q El Rio, California A Yes

5 Q How long did you live there A Kid when we came to

6 live in Santa Ana

7 Q When did your father and mother die

8 A My father died about eleven years ago, my mother died

9 four years ago, will be in October

10 Q Are you going to school A I just quit this year,

11 I was going to school. I quit

12 Q Do you know the defendant, Octaviano Moran A Yes

13 Q How long have you known him A About two or three

14 years

15 Q When did you first meet him A Oh, two or three years

16 ago

17 Q Where did you first meet him A Here in Calexico

18 Q How long have you been keeping company with Octaviano

19 Moran, defendant in this/ ^{case} A Since November

20 Q Since November, what year A 1926

21 Q 1926 A Yes

22 Q Did you know him before that A Yes

23 Q Had you been keeping company with him, Octaviano Moran,

24 before November, 1926 A No, sir

25 Q When was the first time you ever went out--strike that.

26 Did you ever go out any place, out at anytime alone with

27 Octaviano Moran A Yes

28 Q When was the first time A Just about November, I think

29 MR. BLAISDELL: What was the answer, please (Answer read)

30 MR. HEALD: November, 1926 A Yes

31 Q Have you gone out with Octaviano Moran alone, just you

32 and Octaviano Moran alone together any place since that day

A Yes

1 Q When A Many times
2 Q Many times since then A Yes
3 Q Did he come to your house on these occasions that you
4 went out with him A Yes
5 Q That is, the house that you lived in with your sister
6 and her husband A Yes
7 Q Did you ever meet him any where else away from the
8 house
9 A Sometimes I used to go up town, he would take me home
10 in the car
11 Q Where do you mean by "taking you home"
12 A He used to live near the house, take me home in his car
13 Q Whose home did he take you to, his home
14 A He used to leave me about a block from the house
15 Q You say he lived about a block from where you were
16 A You asked me if I seen him before. I said I used to
17 come up town sometimes, and he used to take me home, leave me
18 about a block from home
19 Q He used to leave you about a block from your home
20 A Yes
21 Q Where did you go on the occasions when you went out
22 with Octaviano Moran
23 A I used to go sometimes riding, at night
24 Q Any place else A Used to go to his room afterward
25 Q Where is his room A He used to live
26 in the Fox Apartments, No. 7
27 Q Is that in the city of Calexico A Yes
28 Q County of Imperial, State of California A Yes
29 Q On these occasions when you--strike that. Did you say
30 he took you out riding- A Yes
31 Q In whose car did you go riding A In his car
32 Q What kind of a car is it, do you remember A Studebaker

1 Q Where did you go when he took you out riding in his
2 car A We used to go out to the sand-hills, or road toward
3 El Centre
4 Q Did he ever take you into Mexico, Lower California,
5 Republic of Mexico A No, sir
6 Q Ever go down there with him A No, sir
7 Q Did he ever offer to take you down there
8 A The only time I used to see him over there was at dances
9 Q Have you been over there with him to dances
10 A Not with him, but I went with my family. We used to go
11 ever to dances
12 Q In the city of Mexicali, Lower California
13 A Yes
14 Q Any other place he took you to in the County of Imperial,
15 State of California
16 A Used to go to dances in Heber
17 Q Palm Garden Dance Hall A Yes
18 Q Heber A Yes
19 Q How many times did he take you there
20 A Six or seven times
21 Q When you went there, how did you go A At night
22 Q How would he take you there
23 A He used to go for me at the house
24 Q What method of conveyance did he use to take you up
25 there A He would ask me before if I wanted to
26 go, and come to the house for me
27 Q Come in his car to get you A Yes
28 Q Take anybody else A Sometimes take a friend
29 along, Helen
30 Q Who A Helen Simone
31 Q Is she here in court A No
32 Q Is she Mexican A She is half Syrian, half Mexican

1 Q Helen what? How do you spell it A 3-i-m-o-m-
2 Q On how many occasions, did Helen go with you
3 A She used to go all the time with us when we used to go
4 there
5 Q Did anybody accompany Helen A No, sir
6 Q Just took you and Helen along A Yes
7 Q No other man went with you A No, sir
8 Q Now, Miss Escalante, on any of these occasions that you
9 went out with Mr. Moran--strike that. I will ask you if you
10 understand what I mean by the word "sexual intercourse"
11 A Yes
12 Q You understand what that means A Yes
13 Q On any of the occasions, Mr. Moran, the defendant in
14 the case, took you out did you have sexual intercourse with
15 him A Yes
16 Q How many times A What was it?
17 Q How many times A About fifteen or twenty
18 times
19 Q When was the first time you had sexual intercourse with
20 defendant, Octaviano Moran
21 A Just about in April, I believe
22 Q What year A 1927
23 Q And where were you at that time A Out toward the
24 sand hills in his car
25 Q In whose car A His car
26 Q The defendant Octaviano Moran's car
27 Q The defendant Octaviano Moran's car--that is a Stude-
28 baker car that you referred to A Yes
29 Q Now, can you tell us as near as you can where you were
30 on that date A Yes
31 Q Where were you A We went riding. He came
32 for me to the house about half past eleven, and we went riding
Q That is the house where you were at the time living
A Yes

1 Q With Mr. and Mrs. Garcia A Yes
2 Q Then where did you go A We went out riding
3 toward the sand hills in his car
4 Q Which direction from Calexico A It is East
5 Q East from Calexico A Yes
6 Q Was that in the county of Imperial, State of California
7 A Yes
8 Q What did Moran say to you on that evening after you got
9 in the sand hills A Didn't say anything
10 Q Did he propose to you that you have sexual intercourse
11 with him A No, sir
12 Q Had he spoken to you about having sexual intercourse
13 before that A No
14 Q What did he do, just state what happened
15 A He coaxed me to smoke a cigarette. After that I felt
16 very dizzy, sleepy and drowsy, and went to sleep on his shoulder.
17 When I woke up I was in the back of the car
18 Q You were in the back of the car. Whereabouts in the
19 back of the car A In the back seat
20 Q Go ahead and state what happened, tell what happened,
21 tell what he said and what you said, what he did and what you
22 did A Well, when I woke up --
23 Q Go right ahead. You will have to tell the Judge here,
24 he doesn't know what is in your mind, you will have to tell him
25 MR. BLAISDELL: She has already answered. Object to it.
26 It is repetition
27 MR. HEALD: I didn't hear the answer
28 MR. BLAISDELL: She said she woke up in the back seat
29 MR. HEALD: Q Did anything else happen
30 A I don't know he just started making love
31 Q Did ~~he~~ have sexual intercourse with you there at that
32 time A Yes.

1 Q In the back seat of the car A Yes

2 Q Were you conscious at the time he started it A No

3 Q When did -- when were you first conscious of the fact
4 that the defendant, Octaviano Moran, at that time and at that
5 place was having sexual intercourse with you A Yes

6 Q I say when were you first conscious of it

7 A After I woke up. I don't know how much later it was,
8 after awhile

9 Q But when you became conscious where was the defendant

10 A He was in the back of the car, the seat

11 Q Relative to you,-- what were the relative positions
12 of your bodies. Just go ahead, tell the Judge exactly where you
13 were, where he was when you became conscious

14 A In the back seat--

15 MR. BLAISDELL: Just a minute. Object to that as incompet-
16 ent, irrelevant and immaterial. Already been covered and repe-
17 tition. She has answered it--

18 MR. HEALD: I merely asked her, if the court please,
19 to state what actually happened. These are the facts. It is not
20 incompetent, irrelevant and immaterial. He certainly could not
21 object to it on the ground it isn't material, it certainly is
22 material, the very essence of the crime; may have been asked
23 and answered. I don't know. I didn't hear it.

24 A We were in the back seat--

25 MR. BLAISDELL: Wait a minute. Already testified. It has
26 been asked. Therefore, it is incompetent, irrelevant and immat-
27 erial what the position of the bodies were in, what they might
28 have done afterward. I don't apprehend this court wants to
29 know anything more than what is relevant relative to the accusa-
30 tion

31 THE COURT: Objection overruled. You may go ahead and
32 answer. Do you understand the question now?

1 A Yes. I was back in the seat. I was laying down and
2 he was on top of me
3 Q When was the next time--strike that. What did you
4 do after you became conscious and he had finished performing
5 this act of sexual intercourse, where did you go then
6 A We came home
7 Q That is,-where do you mean by "coming home" ,- to your
8 home or his
9 A To ours
10 Q To Mr. and Mrs. Garcia's house A Yes
11 Q When did you see him next A About two weeks later
12 Q Where were you then A He came over to the house
13 for me
14 Q Did you--when was the next time you had sexual inter-
15 course with him A About that time
16 Q Where were you at that time A Out riding
17 Q Whereabouts A The same place
18 Q The same place A Yes
19 Q What did he say to you at that time
20 A He all the time--
21 MR. BLAISDELL: Now, just a minute. We object to that as
22 leading
23 MR. HEALD: I just simply asked her to say what he said.
24 Nothing leading about that
25 MR. BLAISDELL: We don't know that anything was said
26 MR. HEALD: All right. Withdraw it
27 MR. BLAISDELL: I will withdraw my objection
28 MR. HEALD: State where you were first A On that night?
29 MR. HEALD: Yes A Out to the sand hills in
30 his car
31 Q Which direction from Calexico A East from
32 Calexico

1 Q Who was there at that time A Just he and myself
2 Q Octaviano Moran and yourself A Yes
3 Q Was anything said by Octaviano Moran
4 A Yes, that time. He used to tell me his divorce was
5 going to be granted in August
6 Q Did he say anything else that night A No
7 Q Did Octaviano Moran, the defendant, say anything to you
8 on that occasion about having sexual intercourse with him
9 A Yes
10 Q What did he say A He didn't say much, started coaxing
11 Q State whether or not he asked you to allow him to have
12 sexual intercourse with you on that occasion
13 MR. BLAISDELL: Now, we object to that, as leading,
14 suggestive, putting the answer in the witness' mouth
15 MR. HEALD: I withdraw the question
16 Q Did he on that occasion ask you to allow him to have sexual
17 intercourse with him
18 MR. BLAISDELL: Just a minute. Some objection. The witness
19 testified--
20 MR. HEALD: She can answer yes or no
21 MR. BLAISDELL: I knew, but if you ask a man if he's stopped
22 beating his wife and he said yes or no, he is up against it anyway
23 MR. HEALD: We will submit the question to the court and abide
24 by the court's ruling as to whether it is suggestive
25 MR. BLAISDELL: Read the question and answer
26 THE COURT: Will you read that question (Question read)
27 A Yes, sir
28 MR. BLAISDELL: Now, if the court please, it is a leading
29 question, or it is -- the witness is an intelligent person. She
30 is able to testify of her own accord, without asking these ques-
31 tion. Why, certainly it suggests the answer. She is abundantly
32 able to testify

1 MR. HEALD: Of course, if the court please, to argue that
2 question is leading, that could apply to any question. The
3 question whether or not the question asked by counsel is leading,
4 is one which is suggesting the answer to the witness, I don't
5 know what her answer is going to be. Nobody does. Nobody can
6 answer. I asked her to state if it is a fact, if he asked her
7 if she would allow him to have sexual intercourse with her,
8 really asking her to state what he said, nothing leading or
9 suggestive about it

10 MR. BLAISDELL: You can ask whether--what the conversation
11 was, if there was one, then she will state what it was. The
12 damage has already been done, Your Honor, anyway now. Might as
13 well withdraw the objection. The damage has already been done.
14 I protest against those questions

15 THE COURT: The question has really been answered. You with-
16 draw the objection

17 MR. BLAISDELL: Yes, the damage is done. We protest against
18 any more leading questions

19 THE COURT: Miss Moran, don't answer your questions, these
20 questions, until you know whether there is going to be an
21 objection. If there is an objection, don't answer until the
22 court tells you to

23 MR. HEALD: Now, Miss Moran--or Miss Escalante, how many
24 other times--strike that. When was the next time you had sex-
25 ual intercourse with him A About two weeks later

26 Q Where were you at that time A The same place

27 Q And you and Mr. Moran were there together A Yes

28 Q Anybody else there A No

29 Q And what was said at that time, just state what he
30 said at that time A All the time he used to see
31 me, he would tell me the same thing, his divorce was almost
32 granted and would be had in August, and we will be married then,
and he used to make love to me

1 Q When was the next time,—can you state approximately the date,
2 the last occasion you have just stated, do you remember what
3 month it was A In April
4 Q What year A 1927
5 Q Now, when was the next occasion that you had sexual
6 intercourse with the defendant, Octaviano Moran
7 A About that same week
8 Q What was said on that occasion A All the time he used
9 to see me he used to tell me about the same thing
10 Q When was the last time that you and Octaviano Moran
11 had sexual intercourse A June, the --
12 MR. BLAISDELL: Just a minute--might as well let it go.
13 Never mind
14 MR. HEALD: What was that A June 15th
15 Q Where was that A In his apartment,
16 Fox Apartments
17 Q Fox apartments, where are the Fox Apartments
18 A Here on Seventh Street
19 Q Seventh Street, City of Calverico, County of Imperial
20 A Yes
21 Q State of California A Yes
22 Q And about what time was it A About one o'clock
23 in the morning
24 Q Who was present that time A Just he and myself
25 Q Mr. Moran and yourself A Yes
26 Q State what was said on that occasion
27 A That was the night he went for me home, I was going to
28 leave home. He brought me there to be there a couple of days
29 until Saturday, so he could take me to San Diego
30 Q Did he say he was going to take you to San Diego
31 A Yes
32 Q When A That was Thursday; no, Wednesday night.

1 He said Saturday night--

2 Q Saturday night, what month-- A June

3 Q --if you remember. Saturday night, in June A Yes

4 Q Where were you when he told you that

5 A In his apartment

6 Q What other conversation took place on that night
7 between you and the defendant Moran

8 A He just said he was going to take me over there. He
9 told me again his divorce was going to be granted in August

10 Q Did you know all this time Octaviano Moran was married

11 A Yes

12 Q Where was his wife, do you know A In Mexicali

13 Q Was anything else said on this evening of June 15th,
14 1927 between you and the defendant; if so, state what other
15 conversation you had with him; state what you said and what he
16 said

17 A I don't remember, just about reading the paper, that is
18 all. About the conversation

19 Q Well, now, had you seen Octaviano Moran prior to the
20 15th day of June, 1927 other than on this Saturday that you have
21 just mentioned. Had you seen him on any other date

22 THE WITNESS: When, before that?

23 Q Yes. A Just about a month. I hadn't talked to
24 him, but he used to write to me all the time

25 Q About a month before that A My sister, when she
26 knew I was going to, running around with him, she watched me
27 all the time, but he wrote to me all the time

28 Q About a month before that, on this occasion
29 where were you when you saw him

30 A I went to Church that Sunday morning

31 Q Where did you see Moran A He was in Church. He
32 went to church for me

Q With you or for you A For me

Q Did you meet him after Church was over or before church

1 A After mass was said
2 Q What time of day was that A It was about nine
3 Q Well, and what did Moran say to you on that day
4 A Nothing; I told him I couldn't see him very much
5 because they were guarding me. He says he would keep on
6 writing to me
7 Q Did you receive letters from Moran after that day
8 A Yes
9 Q How many letters did you receive from him
10 A About ten
11 Q Did you write any letters to him A Yes
12 Q After that date that you went--that he met you there
13 at Church A Yes
14 Q Now, when he met you there at Church, was that on
15 Sunday A Yes
16 Q Where did he take you after Church was over
17 A He took me to the "Capitol Sweets"
18 Q Where A "Capitol Sweets"
19 Q Where is that A That is a refreshment
20 stand here on Second Street
21 Q After you went there, where did you go, did you go any
22 place after that A Went riding
23 Q Where did you go A Out here of Calaxico, out
24 toward the other road
25 Q Did you have any sexual intercourse with Moran on that
26 date
27 MR. BLAISDELL: Just the same objection. I don't see,
28 Your Honor, why that question should be put in that way when it
29 could be ^{put} in some other way so much better. I make the objection
only to withdraw it, the damage is done
31 MR. HEALD: I asked her if she understood what that meant,
32 that is a fact, she can testify to a fact. She is allowed
all that. It's a fact as to what her name is

1 MR. BLAISDELL: You might say, "that is your name, John Smith"
2 or "What is your name?" The right way is "What is your name",
3 not "Is your name John Smith". All right I withdraw the objection

4 The Court: Did she answer the question

5 REPORTER: No
(Reporter reads question)

6 THE COURT: Your objection is withdrawn

7 MR. BLAISDELL: No, I will not withdraw that objection.
8 I will object to that for the purpose of the record, and I want
9 the court's ruling, whether or not that leading questions can be
10 asked everytime

11 THE COURT: It does appear to the court, the question should
12 be put in a different manner, may be some question in regard
13 to whether or not it is leading

14 Q What did you do on that occasion, Miss Escalante

15 A We went riding afterwards, and afterwards went to his
16 apartment

17 MR. HEALD: Where at, his apartments, at the Fox Apartments

18 A Yes

19 Q In the city of Calexico, A Yes

20 Q What did you do there--strike that. How long did you
21 stay there that day A About half an hour

22 Q What did you do there A Had sexual intercourse

23 Q And that was on Sunday A Yes

24 Q Now, Miss Escalante, how--state what your condition has
25 been ever the last two or three weeks

26 MR. BLAISDELL: Just a minute, may the court please, we
27 object to that--incompetent, irrelevant and immaterial, has
28 nothing to do with the allegations set forth in the complaint,
29 might have some bearing, I imagine, the other events will prove.
30 I don't see what that has to do with the accusation

31 MR. HEALD: If the court please, we have alleged in the
32 complaint that an act of sexual intercourse took place with this
girl, between this girl and defendant, Octaviano Moran, we have a

1 right to bring out every bit of evidence. Certainly the court
2 has a right to know every bit of evidence that tends to prove
3 that fact. This girl's condition will tend to prove it
4 If I hadn't asked that question in that manner, counsel would
5 have been on his feet objecting it is leading and suggestive,
6 now he comes back and says it is immaterial. It is material.
7 This girl's condition, now and since that date, is material.
8 Counsel knows it too

9 THE COURT: Objection overruled

10 MR. HEALD: All right, read the question (Question read)

11 THE WITNESS: What?

12 MR. HEALD: Q Physical condition

13 A To say that I am in a family way. I don't know what you
14 mean

15 Q State what your physical condition has been

16 MR. BLAISDELL: If she knows

17 MR. HEALD: Sure she knows what her physical condition has
18 been

19 MR. BLAISDELL: We object until it is shown that the witness
20 knows what her physical condition has been

21 MR. HEALD: That's what I am asking her

22 MR. BLAISDELL: Withdraw the objection then

23 Q Do you know what your physical condition has been
24 since the time that Octaviano Moran had the last act of sexual
25 intercourse with you, do you know what your physical condition
26 has been

A Yes

27 Q All right; now, state to the court what that condition
28 has been, what the physical condition of your body has been

29 Q Have you been sick during that period of time A Yes, sir

30 Q Do you know what we mean by 'menstruation period'

31 A Yes

32 Q When was your last menstruation A About 3 months ago

1 Q You haven't had one since then A No, sir
2 Q Did you and the defendant, Octaviano Moran, discuss
3 this fact at any time A Yes
4 Q When A The first time when he gave me those pills,
5 about two months ago
6 Q What did he say at that time A He gave me those
7 pills, so I wouldn't have anything and my stomach wouldn't hurt
8 MR. HEALD: Do you want to look at that (handing box
9 to defendant's attorney)
10 Do you want to look at this (handing photograph to
11 defendant's attorney)
12 MR. BLAISDELL: Sure, it is a fine picture
13 Q Miss Escalante, do you recognize--
14 MR. BLAISDELL: We object to that, incompetent, irrelevant
15 and immaterial. Would like to know what the purpose
16 MR HEALD: Give me a chance, I will make my purpose. I hadn't
17 gotten through asking my question before you objected to it.
18 MR. BLAISDELL: I was afraid the witness would answer
19 THE COURT: Don't answer the question until counsel has time
20 to object
21 MR. HEALD: Give him a chance to object. Miss Escalante,
22 I hand you this photograph, which has some writing on the front
23 of it in Spanish, and is blank on the back, and ask if you
24 ever saw it before A Yes, he gave it to me
25 MR. BLAISDELL: You see, the witness answered the question
26 without giving me time to get in the objection--counsel's objec-
27 tion
28 MR. HEALD: We will consent for the witness withdrawing
29 the question, so he can get in his objection
30 Let the record show the witness withdraws the answer. Now read
31 the question
32 MR. BLAISDELL: You have my objection already, if the court
please

1 MR. HEALD: Read the question

2 MR. BLAISDELL: No connection in that that he had an act
3 of sexual intercourse, that I know of

4 MR. HEALD: We haven't had an opportunity yet, if the court
5 please, to shew what the purpose is. I will state the purpose
6 of it. We intend to show by this witness that that is a photo-
7 graph of this defendant, Octaviano Moran, that he gave the
8 photograph to her on one of these occasions, and that he wrote
9 that writing on the front of the photograph there in Spanish
10 himself, and we intend to introduce it in evidence as one of the
11 People's Exhibits

12 (Question read)

13 A Yes, he gave it to me

14 THE COURT: Don't answer the question

15 MR. BLAISDELL: Is your honor ready to pass on my objection
16 that it is incompetent, irrelevant and immaterial, secondary
17 evidence, not within the issues of the case

18 MR. HEALD: It is an element of evidence which should go
19 to the court and should go to the Jury, in case there is a jury
20 trial, to show this defendant was with this little girl. Of course,
21 he denies it, we have a right to introduce any element to show
22 this defendant was with her on any of these occasions, no differ-
23 ence what it is

24 MR. LAW: Corroborative evidence

25 MR. BLAISDELL: It is too remote. If you go that far you
26 can bring in anything

27 MR. HEALD: It isn't too remote in view of the fact it was
28 given to her on one of these occasions. We have a right to show
29 that this man had this act of sexual intercourse with this little
30 girl anytime prior to the date charged in the complaint

31 MR. BLAISDELL: Photograph, I don't see how that can bring
32 in anything

MR. HEALD: I don't see how that can be remote

1 MR. HEALD: You don't deny this is a photograph of the
2 defen ant

3 MR. BLAISDELL: Yes, we deny everything

4 MR. HEALD: All right, we will show it is. We will show
5 it is a photograph

6 MR. BLAISDELL: You might have a dance program

7 MR. HEALD: Absolutely, if it was a dance program and he was
8 dancing with her that night and wrote something on it, we have
9 a right to show it in evidence. We have a right to give it to
10 the court

11 THE COURT: The objection will be overruled. Prosecution
12 will be permitted to introduce the photograph as an exhibit

13 MR. HEALD: Read the question (Question read)

14 A Yes, he gave it to me

15 Q When A About two months ago

16 Q Where were you when he gave it to you

17 A In the show, theatre

18 Q Is that--that is, you mean by he gave it to you,

19 Octaviano Moran, the defendant in this case A Yes

20 Q Was anything said at the time he gave it to you, did he

21 say anything A He told me for me to give him my picture

22 afterwards

23 Q Did he put that writing on there at that time

24 A Yes, he wrote it on

25 MR. HEALD: Now, we offer it in evidence as "People's Exhibit One"

26 and ask the court to mark it

27 THE COURT: The photograph is admitted as "People's Exhibit
28 One"

29 Q Can you speak Spanish, Miss Escalante A Yes

30 Q Do you understand Spanish A Yes

31 Q Do you read Spanish A Not very well

32 Q Can you write Spanish A No, sir

1 Q Can you read Spanish; did you say you could read
2 Spanish A Yes

3 Q I will ask you to state whether or not that writing on
4 there is Spanish A Yes, that is in Spanish

5 Q Are you able to read it A Yes

6 Q When was the first time you read it A When he gave it
7 to me

8 Q Did you know what he was writing on there when he put it
9 on there

10 THE WITNESS: What?

11 Q Did you know what he was writing on there when he wrote it,
12 the defendant, Octaviano Moran A Yes

13 Q Did you see him write it on there A No, he gave it to me.
14 It was already written when he gave it to me

15 Q Do you know his handwriting when you see it A Yes

16 Q Examine that and state whether or not that is his hand-
17 writing

18 A He wrote that

19 Q He wrote it. All right. Now, did Octaviano Moran, the
20 defendant in this action, ever take you to--strike that. Did
21 you ever go to a physician or doctor A Yes

22 Q When A The 28th of April

23 Q The 28th of April A Yes

24 Q What time A 1927

25 Q What Doctor did you go to A Talbott

26 Q Is he in the room now A Yes

27 Q Point him out A (Points out Dr. Talbott) That is him

28 Q Where is his office A Third Street

29 Q City of Calexico, County of Imperial, State of California

30 A Yes

31 Q Who was present when you went to the doctor

32 A Mr. Moran took me then

Q Octaviano Moran, the defendant, go with you A Yes

Q Have any conversation with him before you went to the
doctor's

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A Yes

Q What did you say, what did he say

A He told me he was going to take me--

MR. HEALD: Strike that. Where did the conversation take place

A In his car the night before

Q Whereabouts

A Just riding around town

Q Here in the city of Callexico

A Yes

Q How long before you went to the doctor's did that conversation take place

A He told me that the night before, he was going to see Dr. Talbott about it, then he was going to take me there that night

Q What time of day was this conversation

A It was at night

Q What time

A About half past ten or eleven

Q Now, state what you did after you had the conversation

A He just told me he was going to take me to see the doctor about the matter

Q Did he take you to see the doctor

A The next night

Q Do you remember approximately what day that was

A The 28th of April

Q 192-, nineteen twenty-

A 1927

Q Did Octaviano Moran, the defendant, go with you to the doctor

A Yes

Q Why did you go to the doctor

A To have the doctor examine me

Q Did the doctor examine you

A Yes

Q Was Octaviano Moran present when the Doctor examined you

A Yes

Q That was Dr. Talbott, the Doctor sitting here now

A Yes

Q Over there back of Mr. Powers

A Yes

Q And Octaviano Moran, the defendant sitting here, was present when he examined you

A Yes

Q Now, what was said, and who said it, just state all the conversation that took place between you and Moran and the

1 doctor--well, before I ask you that, who else was there, anyone
2 else A The nurse

3 Q Who was the nurse A I don't know. She is a red-
4 headed lady in the hospital

5 Q You don't know what her name is A No

6 Q Would you know her if you saw her A I think so

7 Q Ever seen her since A No, sir

8 Q How old a lady was she A Oh, she was pretty old,
9 about forty I guess

10 Q All right, now, Miss Escalante, state what the doctor
11 said, and what Moran said. Just tell it to the Judge here. He
12 is the one that wants to hear it. Don't pay any attention to
13 anybody else, just go ahead and tell him

14 THE COURT: Go ahead and tell what happened, what was said

15 MR. HEALD: Q Before you state that, I will ask you to
16 state whether or not, did the doctor examine you

17 THE WITNESS: What is it?

18 MR. HEALD: Q Did the doctor examine you A Yes

19 Q All right. Now, just state what he said. You don't
20 need to tell what he did. Just state what he said, if anything,
21 that you heard, did he say anything

22 THE WITNESS: What was that?

23 MR. HEALD: Did he say anything anything A Yes

24 Q Just state what he said. Did Moran say anything?

25 THE WITNESS: What is it?

26 Q Did Moran say anything A Yes, sir

27 Q Octaviano Moran, the defendant A Yes

28 Q State what he said then A (No answer)

29 Q Well. I withdraw that question. Miss Escalante, I show
30 you a box here. That has "28 capsules" written on it, and the word
31 "Hyperol" and some other writing on it. The word "Hyperol"
is written on four sides of it. It contains a bottle in which
there are some dark colored capsules and paper with some direc-

1 tions on it on the inside, and ask if you ever saw that before ?
2 Just wait a minute. They may want to object

3 MR. BLAISDELL: No objection

4 MR. HEALD: Q Did you ever see that before

5 A Yes, he gave them to me

6 Q Who do you mean A Octaviano Moran

7 Q When did he give them to you A The first days of April

8 Q The first days of April A The first days. I don't

9 know just exactly what day

10 Q Where were you at the time he gave you that

11 A In his car

12 Q Where was the car, in the city of Calexico

13 A Yes, he used to go for me at the house

14 Q What did he say to you when he gave you that

15 A He told me these pills, your stomach wouldn't pain you

16 with these. He told me he had bought them from a lady--

17 Q What? A He told me he bought from a lady

18 Q From a layman A Lady

19 Q Did he tell you what her name was A Yes House. She

20 lives right here on Seventh Street

21 Q How do you spell her name A H-o-u-s-e-

22 Q She lives on Seventh Street A Yes, in a red house on

23 the corner

24 Q City of Calexico, County of Imperial, State of California

25 A Yes

26 MR. HEALD: And we will introduce this in evidence, and ask the court
27 to mark it "People's Exhibit No. 2"

28 MR. BLAISDELL: We object to that as incompetent, irrelevant
29 and immaterial. No foundation being shown or laid that it has
30 been in her continuous possession at all times

31 MR. HEALD: We will withdraw that, and not argue about it any
32 more. What did you do with it after he gave it to you

1 A He told me to take them but I didn't take them
2 Q Have they been in your possession since that time
3 A Yes
4 Q Up to what time A Until my sister found them,
5 the other day, about two weeks ago
6 Q Did you turn them over to your sister
7 A No, she found them in my closet
8 Q Did she take them at that time A Yes
9 Q All right. We will ask that be marked for identification.
10 We won't even ask that. We will have the sister on the witness
11 stand and show it. Now, Miss Escalante, I will show you another
12 box here, which has "Lang's Wonder Female Capsules" written on
13 it, and then directions, then it gives some directions
14 "Lang's Mineral Wonder Company" written on the bottom of it.
15 Did you--there is nothing in the box apparently but some cotton.
16 I ask you to state whether or not you ever saw that before
17 A It was given to me at the time they were (indicating
18 other box)
19 Q Who gave it to you A Octaviano Moran
20 Q Octaviano Moran, the defendant A Yes
21 Q What did he say when he gave you that
22 A He told me to take these^{too}, but I didn't take them. I
23 threw them away
24 Q Did you have any other conversation, other than what you
25 have stated with the--to the Judge here--with Octaviano Moran
26 about these boxes and the contents of it
27 A He told me to take them but I didn't take them
28 Q Why did he give you these boxes, if you know
29 A He thought maybe I was in a family way
30 Q Did he give you these, Miss Escalante, prior to the
31 time that you and Moran went to Dr. Talbott's office
32 A No, it was before. He gave me those about the first
days of April, and we went to Dr. Talbott's about the 28th of
April

1 Q Now, Miss Escalante, can't you tell us just what was
2 said in the doctor's office. Talk to the Judge. You are talking
3 to him now. Go ahead and tell it. (Pause) (No answer)

4 MR. HEALD: We will withdraw that question then. Now, when was
5 the last time--I believe you have already answered that question,
6 but in order to refresh your memory on it--I believe you stated
7 the last time you had sexual intercourse with Octaviano Moran,
8 the defendant, was on the 15th day of June, at the Fox Apartments
9 in the city of Calexico, County of Imperial. Is that correct

10 A Yes

11 Q How long after you had seen the doctor was that

12 A Two months I think

13 Q Did you and Moran have any conversation at that time
14 relative to your physical condition? Did you? A Yes

15 Q What did he say A That was why he was so afraid
16 they would know about it. I was afraid too my family would know
17 about it

18 Q Have you been examined by any other doctor other than
19 Dr. Talbott A Yes, I don't know his name. She knows the name
20 (indicating reporter). In El Centro

21 Q In El Centro A Yes, she took me there

22 Q Did you--Miss Escalante, have you lived any other place
23 in the city of Calexico other than with Mr. and Mrs. Garcia

24 A No, sir

25 Q Haven't lived any other place A No, sir

26 Q Have you had a room any other place

27 A No, sir, until he took me up to this apartment about two
28 weeks ago

29 Q What apartment is that A Reed Apartments

30 Q Where is that located A On Seventh Street,
31 Seventh and Paulin

32 Q Who took you up there A He told me to go see

1 a room there. He came up in a little while and gave me money to
2 pay the lady

3 Q You mean by "he" the defendant, Octaviano Moran A Yes

4 Q That's the Reed Apartments, city of Calexico, County of
5 Imperial, State of California A Yes

6 Q Do you know the proprietor, owner or person who operates
7 the apartment A The lady over there (indicating Mrs. McCracken)

8 Q Did you get a room there A Yes

9 Q How long did you stay A I stayed three days

10 Q When did you first go there A Thursday morning

11 Q What day A The 15th

12 Q Of what month A June

13 Q 1927 A Yes

14 Q Did Octaviano Moran go there with you at the time you
15 procured the room A I went there about eleven.
16 He went about twelve, gave me money. He stayed there awhile with
17 me

18 Q Who did you give the money to A To the lady. She said
19 it was--I told her maybe I was going away that night. He wanted
20 me to go away so they wouldn't know I was--they didn't know any-
21 thing about it

22 Q When did he tell you that A That night

23 Q Where did he propose to have you go, did he say
24 A He didn't say exactly where, he told me he would go and
25 take me to San Diego

26 Q Why did he tell you he would take you to San Diego
27 A So they wouldn't know he knew anything about me, that I
28 left home; that I went on my own accord, that he didn't know
29 anything about me

30 Q How much money did Octaviano Moran give you that
31 occasion when he came up to the Reed Apartments here in the city
32 of Calexico A Twenty dollars, he took my pearl ring,
so if they found me they wouldn't know he had given me money; to
say I had sold it to someone else

1 MR. HEALD: You may cross examine

2 MR. BLAISDELL: No cross examination

3 MR. HEALD: That is all, Miss Escalante, you can sit over
4 there by your sister

5 MR. HEALD: The doctor wants to get away. I would like to
6 let him testify now

7 ***

8 DR. WILLIAM T. TALBOTT,
9 a witness called on behalf of plaintiff, being first duly sworn,
10 testified as follows:

11 DIRECT EXAMINATION

12 Questions by Mr. Heald:

13 Q What is your first name A William T. Talbott

14 Q Where do you live A 319 Third Street,
15 Calexico

16 Q What is your full name A William T. Talbott

17 Q What is your occupation A Physician and surgeon

18 Q What school did you graduate from A University of
19 Southern California

20 Q How long have you been a practicing physician and surgeon

21 A Nine years

22 Q And you are admitted to practice in the State of Calif-
23 ornia under the State laws A Yes

24 Q Where is your office at the present time

25 A 237 Third Street, Calexico

26 Q Do you know Lupe Escalante, the girl who testified
27 here A Yes

28 Q How long have you known her A Oh, about two years.
29 I guess

30 Q Do you know Octaviano Moran, the defendant A Yes

31 Q Did Octaviano Moran and Lupe Escalante come to your
32 office on or about--during the month of June, 1927, April I mean

1 A No. In April, yes, sir

2 Q They were in your office together, were they A Yes

3 MR. HEALD: That is all

4 MR. BLAISDELL: No cross examination

5 ****

6 FRANCIS GARCIA,

7 a witness called on behalf of plaintiff, being first duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 Questions by Mr. Heald:

11 Q Your name is Frances Garcia A Yes

12 Q Your full name A Frances A. Garcia

13 Q How old are you A Twentythree

14 Q And this is your husband, the gentleman sitting there,

15 Mr. Garcia A Yes

16 Q Do you know Lupe Escalante A Yes

17 Q What relation, if any, is she to you A She is my sister

18 Q Do you know how old Lupe is A She is 16 years old

19 Q Do you know when she was 16 years old A Uh! Huh!

20 Q When A The first of December

21 Q What year A 1927

22 Q Nineteen twenty-- A Twenty-seven, I mean

23 Q When was she born A December 1st, 1910

24 Q Were you living with your father and mother and Lupe
25 at the time she was born A Yes

26 Q Where was she born A In El Rio, California

27 Q That is in what county, do you know

28 A It is in Ventura County

29 Q How long did you and your sister, Lupe, live there with
30 your father and mother A Since they died

31 Q Have you any brothers and sisters A Yes, I have many of
32 them

1 Q How long has Lupe been living with you

2 A Ever since my mother died

3 Q When was that A Four years ago

4 Q Now, has Lupe been living here in the city of Calexico--
5 strike that. How long has Lupe been living with you here in
6 the city of Calexico A Ever since we have been here, since
7 my mother died

8 Q How long was that A Four years

9 Q Do you know the Defendant, Octaviano Moran A Yes

10 Q How long have you known him A I have known him
11 since I was about thirteen years old in Tia Juana, met him
12 for the first time

13 Q In Tia Juana A Yes

14 Q How long has he been here or have you known him here in
15 the city of Calexico A When he came here to
16 Calexico, he already lived here, that was in Mexicali

17 Q Do you know when the first time he went--strike that.
18 Has he been going with your sister, Lupe

19 A Well, I guess my sister Lupe met him at some dance or
20 something. We didn't know until we happened to see him at the
21 window that night

22 Q Just state of your own knowledge the first time you
23 ever saw Octaviano Moran go with your sister Lupe, when was
24 the first time you knew it of your own knowledge

25 A I know it Easter Sunday

26 Q This last Easter Sunday A Yes

27 Q Where did you see him A We were coming from Church
28 It was that time I didn't want my sister to go to church. I
29 went with her. He offered us a ride. I told him I didn't want
30 to get in the car. He was a married man. He was going to have a
31 baby. I didn't want him to go with my sister at all. He said
32 he was going to divorce his wife. I said it was none of our
business if he divorced his wife or not

1 Q Where was that conversation A In his car
2 Q Whereabouts A Right in front of the
3 City Hall. He picked us up and took us right home
4 Q Who was present A Him and my sister and I
5 Q Just three A Yes
6 Q What did Moran say A Just that, said he
7 was going to divorce his wife; He didn't like his wife

8 MR. BLAISDELL: Just a minute. Objected to as incompetent,
9 irrelevant and immaterial unless offer of proof is made to the
10 court

11 MR. HEALD: Yes, it is. Any statement defendant makes in the
12 presence of Lupe, her or anyone else present, that in any way
13 shows his intentions, his motive in going with this little girl
14 is absolutely relevant. Anything he said at that time, any
15 statement he makes himself in the presence of this little girl
16 is absolutely admissible

17 MR. BLAISDELL: If counsel offers to prove that--I withdraw
18 the objection. If he makes a statement that is what he expects
19 to prove by this witness, why, we withdraw our objection

20 MR. HEALD: That is what we expect to prove

21 MR. BLAISDELL: Withdraw the objection and ask that it be
22 stricken out, however, if she doesn't so testify

23 Q Was that the first time you know that Octaviano Moran
24 was going with your sister A Uh[Hum]

25 As I heard some other people say, I didn't believe it

26 MR. BLAISDELL: Object to that A I didn't think he
27 would fool her that way, because he knows he is a married man

28 MR. BLAISDELL: Object to the witness answering when a
29 question is pending

30 THE COURT: Don't answer the question when an objection is
31 made

32 MR. HEALD: After you and Lupe got in the car where did you
go A Went right straight home from here

1 Q Did you and Lupe get out of the car and go in the house
2 A Yes
3 Q When did you see him then
4 A No more--he goes around by my house every evening he
5 drove the car
6 Q Did you see him A Yes
7 Q How many evenings did you see him A Many evenings
8 Q What time of night did you see him
9 A He used to go around about six o'clock, sometimes eight
10 or nine according to the hour he wanted to go
11 Q Where did you see him on these occasions
12 A He used to pass around the house and throw letters at
13 her because he couldn't see her any other way
14 Q Did you see him throw the letters at her
15 A I never caught him, but I know
16 Q Did you get some of them
17 A No, she was too wise
18 MR. BLAISDELL: We ask that the evidence of this witness
19 in regard to letters being thrown between the parties be
20 stricken, or not considered
21 Q She said she saw them
22 MR. BLAISDELL: Saw the letters thrown?
23 A No, I didn't see it
24 MR. HEALD: I beg your pardon. All right strike it out,
25 it is all right with me
26 THE COURT: It may be stricken out, Mrs. Garcia do not
27 testify except as to facts A Surely
28 Q Mrs. Garcia, did you ever see this man, Octaviano
29 Moran, around your house, the place that you live over there,
30 that is, inside the yard or near the house, or inside of the
31 house A Yes
32 Q When, on what occasion A He used to go around
to see, to disturb Lupe anytime she was asleep. It was that

1 time my husband got up to get a drink of water, he ran to beat
2 the devil--

3 MR. BLAISDELL: I object to this and ask that the witness
4 be required to answer the question

5 MR. HEALD: She is answering the question all right. Might
6 not be satisfactory to you, but to us it is

7 MR. BLAISDELL: Highly satisfactory to the district attorney.
8 I object to voluntary evidence, improper

9 Q Did you see him on that occasion yourself A Yes

10 Q Where was he A In back of the window.

11 My husband got up to drink some water

12 MR. BLAISDELL: Object to the husband "getting up to drink
13 some water"

14 MR. HEALD: And saw him at the window- A Yes

15 Q Which side of the house A On this side of the
16 house (indicating)

17 Q West side A Yes

18 Q What time was it A About 11:30 at night

19 Q State whether--strike that. Where does Lupe--where is
20 Lupe's bedroom in the house A On the back of the house,
21 the West room

22 Q I will ask you to state whether or not this window, ^{at} which
23 you saw Moran, was the window to Lupe's bedroom

24 A It was Lupe's bedroom

25 Q Did you go outside the house A I did not

26 Q Did you hear your husband speak to Moran that night

27 A Didn't speak to him

28 Q Did you see Moran when he left the house

29 A He ran, just saw him run

30 Q Which way did he go A That way (indicating)

31 Q Have you seen him around that house since that time

32 A No, I haven't seen him in our yard even

Q Will you state approximately what day of the month that
was, and the year

1 A I remember--the year 1927
2 Q Do you remember the month A In May, Sunday night
3 Q How long after the time that Moran took you and Lape
4 home in his car was it, if you remember
5 A That's Easter Sunday, last Easter Sunday
6 Q How long was it after that you saw him at the window
7 A In May right after that
8 Q Right after that East Sunday, was it A Yes
9 Q Now, Mrs. Garcia, when was the first time that--strike
10 that. Did Lape ever tell you, or has she ever told you, or did
11 she ever tell you, that she has missed a menstruation period
12 A No, she never told me anything
13 Q When was the first time that you personally knew of
14 your own knowledge that Lape was in a family way-
15 MR. BLAISDELL: Just a moment before you answer
16 MR. HEALD: Withdraw. Do you know now that your sister,
17 Lape Escalante,--
18 MR. BLAISDELL: Wait a minute
19 MR. HEALD: Wait until I get through
20 THE COURT: He can ask the question first
21 MR. BLAISDELL: Will you caution the witness not to answer
22 it until we can get the objection in. I make my apology to the
23 district attorney. Go on with your question
24 MR. HEALD: Read the question (Question read)
25 Q --is in a family way A Yes
26 MR. HEALD: Don't answer it now
27 MR. BLAISDELL: Calls for a conclusion. We object to that,
28 calling for a conclusion
29 MR. HEALD: We will stipulate that the answer may be with-
30 drawn. You can go ahead and make your objection
31 MR. BLAISDELL: Not proper foundation laid, if the court
32 please, for that question. She is not an expert or hasn't

1 shown herself to be an expert

2 MR. HEALD: You are possibly right, I will withdraw that
3 question

4 THE COURT: The question is withdrawn

5 MR. HEALD: Yes, I will withdraw the question. How long
6 has Lupe been living in your house--strike that. I will ask
7 you this question. Has Lupe been living in your house contin-
8 uously since on or about the 15th day of April, 1927

9 A April, yes, she has been there

10 Q Has Lupe at any time either for a short period of time
11 or a long period of time, or any period of time, lived any
12 where else, you know of A No

13 Q Has she been away from your house on any occasion

14 A You say from April

15 Q Well, since the first of January, 1927

16 A No, she has been home

17 Q Now, since the 28th day of April, 1927, state, if you
18 know, what your sister's physical condition has been

19 MR. BLAISDELL: Just a minute. We will make the same objec-
20 tion that is heretofore made, calling for a conclusion. No
21 foundation laid for any expert testimony in regard to this
22 condition, whatever it may be, realizing, of course, she can
23 testify to her physical appearance along certain ordinary
24 lines

25 MR. HEALD: Well, withdraw the question. Do you know the
26 Reed Apartments, where they are in the City of Calexico,
27 county of Imperial, State of California A Yes

28 Q Where are they A On Seventh Street

29 Q Do you know of your own knowledge whether Lupe stayed
30 over there on any occasion

31 A I don't know, been just since she left the house on
32 the 15th of June

Q When did she leave the house A Wednesday, the 15th

1 of June

2 Q How long was she gone A She left the house
3 for good, that was the 3rd or 4th day, she stayed out here

4 Q Is she back living with you again now A Yes

5 Q Since she has been living with you again, state whether
6 or not you have noticed, whether or not Lupe has been sick
7 on any occasion

8 MR. BLAISDELL: Just a minute before you answer that question.
9 What do you mean by her being sick.

10 MR. HEALD: I don't know of any other word for it. When a
11 man is sick, he is sick. I don't know any other word for it,,
12 stomach ache, tee she, whatever is the matter with her

13 MR. BLAISDELL: We will withdraw it

14 THE COURT: Answer the question

15 A Yes, I knew she is in a family way

16 MR. BLAISDELL: We ask that --

17 Q How do you know it

18 MR. BLAISDELL: Just a minute. Ask it be stricken out, not
19 responsive to the question, any way it is a conclusion

20 THE COURT: Objection sustained

21 MR. HEALD: That is probably true. Mrs. Garcia, just state
22 facts. That is all you've got to state. State what you observed
23 about Lupe. Don't state any conclusion, just state facts. State
24 what you observed A The only thing I knew we took her

25 to a doctor in El Centro. He said she was in a family way

26 MR. HEALD: I guess that is all. You may cross examine

27 CROSS EXAMINATION

28 Questions by Mr. Blaisdell:

29 Q Mrs. Garcia, did you say you saw Mr. Moran through the
30 window one evening when Lupe was in the bedroom A Yes

31 Q What time did you say that was, about eleven or twelve
32 o'clock A 11:30, between 11 and 11:30

1 Q The lights were on A No lights were on
2 Q Then how did you recognize Mr. Moran, how could you
3 tell. It was dark A Moon shining
4 Q Moon shining, that's the way you recognized him
5 A Certainly. I know him perfectly well
6 Q Moon was shining that night A Yes
7 Q You could see him plainly A Sure
8 (WITNESS retires from stand)

9 ***

10 ALEJANDRO GARCIA JR.,

11 a witness called on behalf of plaintiff, being first duly sworn,
12 testified as follows:

13 DIRECT EXAMINATION

14 Questions by Mr. Heald:

15 Q State your full name, Mr. Garcia A Get no full name.
16 My name is?

17 MR. HEALD: Yes A Alejandro Garcia Jr.

18 Q You speak English, do you A Not very good

19 Q Do you want an interpreter or do you think you can get
20 along with it A If I/^{not, I}think I may ask for him

21 MR. HEALD: You might swear the interpreter, then if he
22 needs him we will have him

23 (Thereupon Richard Cohen was sworn as interpreter by the
24 court to interpret from English into Spanish and Spanish into
25 English)

26 MR. BLAISDELL: Hahn't been shown he needs one

27 MR. HEALD: You don't object to him having one

28 MR. BLAISDELL: I think, unless it saves time by the inter-
29 preter--

30 MR. HEALD: We will have it direct until he gets snowed
31 under

32 Q Where do you live, Mr. Garcia A At 728 Seventh Street

1 Q Do you know Lape Escalante, the little girl on
2 the stand A Yes
3 Q What relation, if any, is she to you
4 A She is my sister-in-law
5 Q Mrs. Garcia, the lady who just had the witness stand
6 A She is my wife
7 Q Do you know the defendant, Octaviano Moran A Yes, I do
8 Q How long have you known Moran A Must be about four
9 or five years, I think
10 Q Did you ever see Moran in, around and near your house
11 in the City of Galaxico A Yes
12 Q When A Sunday in May, about the 20th of May, the
13 last part of May
14 Q What year A A 1927
15 Q Where did you see him A He was running out
16 of my premises there back part of the house
17 Q Where was he when you first saw him
18 A I woke up between eleven and twelve to get a drink of
19 water. When I turned on the light, he ran off the house, he was
20 inside the house. I try next day and went up to the chief of
21 police Mansa and told him about it, see
22 Q Well, now, state whether or not Moran, the defendant,
23 was inside of your house A He was inside at the time
24 I saw him
25 Q Whereabouts, did you see him A He was running out
26 of the premises. He was five or six feet inside of the premises.
27 I run out of the house to see if I could get him. He ran to the
28 car and get away
29 Q Do you mean inside of the premises, of your lot, or in
30 your house A No, on the lot
31 Q Now, where was he relative to your house A What?
32 Q Where was he relative to your house
A He was in the back part of the house near my sister-
in-law's bedroom

1 Q You saw him outside of the house near your sister-in-
2 law's bedroom A Yes

3 Q Does your sister-in-law's room have a window at that
4 point A Yes, got two windows at the back part, one
5 at the side

6 Q At which window was Moran A He was running from the
7 two windows in the back part, to the outside of the lot

8 Q How close to him did you get A About ten or fifteen
9 feet from the kitchen window up to where he was running

10 Q Did he say anything to you A No, I couldn't get
11 him, in other words, by the time I got out there he was gone

12 Q Did you say anything to him A No, I just went up
13 to chief of police, Manss, and told him about it

14 Q How do you know it was Moran A It was a very clear
15 night, see; the night was just clear you could easy see him

16 Q Is this the man right here A Yes, that's the man

17 Q Is that the man you saw that night A Yes

18 MR. HEALD: You may cross examine

19 A This man was caught in there, too

20 MR. BLAISDELL: We object to any testimony by this
21 witness unless it is brought out by question and answers

22 THE COURT: Now,--

23 MR. HEALD: Q Did you report the fact that Moran was on
24 your premises near the window that night A Yes, next day

25 Q Who did you report it to A I reported it to
26 Chief of Police Manss

27 Q What did he do, if anything A He just told me--

28 MR. BLAISDELL: Objection--never mind

29 MR. HEALD: Q Without stating what he said, state what he
30 did A I don't know what he did

31 Q I think that is all

32 CROSS EXAMINATION

Questions by Mr. Blaisdell:

1 Q Did you sign the complaint in this case, Mr. Garcia
2 MR. HEALD: Objected to as wholly incompetent, irrelevant
3 and immaterial. The complaint speaks for itself. It is the best
4 evidence

5 Q Calling your attention to criminal complaint, is this
6 your signature, Alexander Garcia Junior

7 THE WITNESS: Let me see

8 MR. BLAISDELL: (Hands paper to witness) A. Yes, that's mine

9 Q Did you understand this complaint when you made it
10 A Well--

11 MR. HEALD: Object to that question, if the court please

12 Q Did you make that on information and belief or your
13 own knowledge

14 MR. HEALD: We object, it is wholly incompetent, irrelevant
15 and immaterial; the complaint itself is the best evidence.

16 It is not a part of the case, no part of the issues in the case

17 THE COURT: Objection sustained. The complaint is a matter
18 of record, signed and sworn to

19 MR. BLAISDELL: All right, let the record show that criminal
20 complaint, signed by Alexander Garcia Jr., is not made upon
21 information and belief but is made of actual knowledge of said
22 Garcia

23 MR. HEALD: Let the record show it is--it is all right,
24 then, the complaint speaks for itself. It is all right then

25 Q At the time you made the complaint did you swear to that

26 MR. HEALD: Objected to as wholly incompetent, irrelevant
27 and immaterial, not proper cross examination. The complaint
28 is the best evidence. It is a part of the records in the case

29 MR. BLAISDELL: Of course, it is; but we want to show the
30 contents. If we could ask him whether, as a matter of fact, he
31 did swear to it--

32 MR. HEALD: He did. His name is there. He swore to it
before this court

1 MR. BLAISDELL: That's what I asked him

2 MR. HEALD: The court knows that of his own knowledge

3 THE COURT: Objection sustained

4 Q As a matter of fact, Mr. Garcia, you do not, of your
5 own knowledge, do you, know that Octaviano Moran, on or about
6 about the 15th day of May, that he did wilfully, unlawfully
7 and feloniously have and accomplish a sexual intercourse with
8 one Lupe Escalante

9 MR. HEALD: Object to that as being wholly incompetent,
10 irrelevant and immaterial. The complaint is in evidence and
11 speaks for itself. It's the best evidence

12 MR. BLAISDELL: He has already testified here in behalf
13 of the State

14 MR. HEALD: Further, it is not proper cross examination.
15 No such thing was brought out on direct examination. He was not
16 asked any question about that at all

17 MR. BLAISDELL: That is true to a certain extent, but he
18 has testified to certain incidental facts that he saw Moran on
19 his premises, and that he had to make complaint. I suppose
20 that evidence was in to bar out the general accusation of un-
21 lawful sexual intercourse. Beyond this it's merely for the
22 purpose of impeaching

23 MR. HEALD: You can't impeach the witness by showing the
24 complaint is signed

25 MR. POWERS: That is a sworn statement

26 MR. HEALD: Not sworn testimony

27 MR. POWERS: Charge of perjury

28 MR. HEALD: There won't be a charge of perjury so don't
29 get all het up about that

30 THE COURT: Objection sustained

31 MR. BLAISDELL: Now, then, for the purpose of impeachment,
32 we make the same objection and ask a ruling, that this man
came into court and sworn on his own positive knowledge to a
crime

1 MR. HEALD: Not a proper method of impeachment, if the
2 court please. They have not confronted this witness with any
3 testimony, statement made outside of court contrary to any state-
4 ment he has made here on the witness stand. He hasn't made any
5 statement on the witness stand contrary to that complaint. We
6 submit that to the court, they can't impeach him on that be-
7 cause he has made no such statement

8 MR. BLAISDELL: Is that statement in that complaint true

9 MR. HEALD: Object to that on the ground it is wholly
10 incompetent, irrelevant and immaterial. The complaint is the
11 best evidence. He states that it is true right in the com-
12 plaint itself

13 THE COURT: The court is not willing to let any question
14 or testimony in regard to the facts set forth, or as to whether
15 the complaint has been properly filed, the complaint is of
16 record

17 MR. HEALD: They can't attack the complaint collaterally
18 anyway

19 MR. POWERS: This is impeaching the witness

20 MR. HEALD: You haven't confronted him with a statement
21 made on the witness stand under oath, contrary to anything made
22 in there

23 MR. POWERS: Direct question

24 MR. HEALD: I know, but he never answered it--nothing on
25 record of it

26 MR. POWERS: Let him answer the question

27 MR. HEALD: He can't answer, the court already ruled it
28 is immaterial

29 MR. POWERS: Four or five--

30 MR. HEALD: Maybe six, anyway it has been ruled it is
31 immaterial

32 MR. BLAISDELL: The witness has testified in behalf of the
State and has testified as to certain incidental matters in
connection with the direct accusation. The District Attorney

1 may be right in regard to the fact it is not proper cross
2 examination, but we --there are some other points involved,
3 and for the purpose of impeaching this witness, it seems to
4 me we have the right to go into any evidence which he has
5 given before this court for the purpose of having the court
6 pass upon the reliability of his evidence. That's the way it
7 seems to me. I only want to bring before the court the fact
8 that this man comes into this court and testifies to certain
9 things. And also testified as to the fact on his direct
10 knowledge, to-wit, for the alleged crime. I know he will
11 testify he did it on information and belief. That's the only
12 fact I want to bring out

13 MR. HEALD: Now, if the court please, this is a mere effort
14 not to impeach this witness. This witness made no statement
15 on the witness stand which they have confronted him with new
16 contrary to anything set forth in this complaint. He
17 hasn't testified to a single thing on the witness stand contrary
18 to a thing set forth in the complaint; therefore, they can't
19 impeach the witness on that ground; merely an attack on this
20 man for signing that complaint. He is a man of Spanish race ;
21 it might possibly be he didn't understand everything he did
22 there, but it isn't his fault. They have no right to attack
23 this complaint collaterally. Not proper cross examination.
24 Wholly immaterial any way. If it is material for impeachment,
25 they have laid the proper foundation, if that is all it is; it
26 is wholly immaterial for any other purpose

27 MR. BLAISDELL: I think the district attorney's office
28 will agree with us to have a complaint made for a crime, that
29 unless the person making it does have absolute knowledge of
30 the fact--

31 MR. HEALD: Complaints are made like that every day. I don't
32 suppose a complaint is ever made; Police officers make com-
plaints when they don't know anything about it, though that was
made out on a form produced here and is good as far as that
goes

1 THE COURT: The court is not willing to admit any testimony
2 of that character in regard to the proper filing of the complaint

3 MR. HEALD: That is all (Witness retires from stand)

4 *****

5 FREDA McCracken,

6 a witness called on behalf of plaintiff, being first duly sworn,
7 testified as follows:

8 MR. HEALD: DIRECT EXAMINATION

9 THE COURT: What is your full name A Freda McCracken

10 Q Where do you live A Now, at the Reed apartments

11 Q Do you know Lupe Escalante, the little girl who was on
12 the stand, witness stand A Yes

13 Q Do you know Mr. Moran, the defendant here, Octaviano
14 Moran A Yes

15 Q Did you see Lupe Escalante, or did she come to the Reed
16 Apartments, the place where you were living now, or about,
17 or during the month of June, 1927 A Yes

18 Q Are you the proprietor of the Reed Apartment at the
19 present time A Yes

20 Q Did you see Octaviano Moran--strike that. When did
21 you rent the room, what time of day A Well, it was in the
22 morning about ten o'clock

23 Q Do you know, remember the date A It was the 16th of
24 June, 1927

25 Q Did you see Octaviano Moran there on that day A Yes

26 Q About what time did you see him A Between 12 and 1

27 Q Where did you see him

28 A Well, he knocked on my door

29 Q Then what did he say to you at that time, if anything

30 A He asked, I don't remember the exact words

31 Q Of course, it would be humanly impossible to remember
32 the exact words, approximately what did he say as near as you
can recall A He asked if a little girl was there who

rented a room and where he could find her

1 Q What did you say A I told him
2 Q What did he do A He went on around there
3 Q Did he go to the room, if you know
4 A I am not positive but I heard them talking so I had an
5 idea he did
6 Q You heard Lupe Escalante and the defendant
7 A I heard their voices, yes
8 Q When did Moran leave, do you know A No
9 Q You didn't see him A I saw him leave the Fox
10 Apartments. I didn't see him leave the Reed apartments
11 Q How long--strike that. Did Lupe Escalante pay you for
12 the room that day A Yes, she offered to
13 Q How long after Moran came did she--strike that. Did
14 she bring the money to your room, or to your office
15 A She come around there with the money, yes
16 Q How long after Moran arrived did she bring the money
17 around to your room A Well, it was after one
18 MR. HEALD: That's all. You may cross examine
19 MR. BLAISDELL: No cross examination
20 MR. HEALD: That is all. State rests. We think defendant
21 should be bound over for trial before a Jury in the Superior
22 Court, and ask the court to so bind him over. Do you want to
23 say anything
24 MR. BLAISDELL: No
25 (Conversation regarding fixing of bond
26 THE COURT: Defendant is bound over to answer to the
27 Superior Court on the charge of rape as set forth in the com-
28 plaint. Bond of a Thousand Dollars will be permitted to
29 stand and the existing order of court in regard to defendant
30 not leaving the city without consent of the court will stand

1 I, Hazel B. Livingston, hereby certify that on the 30th
2 day of June, 1927, I was duly appointed and sworn by
3 R. S. EMERSON, City Recorder of the City of Calexico, County
4 of Imperial, State of California, to report in shorthand
5 writing and do so correctly report all the testimony and
6 proceedings upon the preliminary examination of the above
7 entitled cause; that under and by direction of said
8 R. S. Emerson, I afterwards reduced my said shorthand notes
9 to longhand writing; that the foregoing is a true and correct
10 transcript of my said shorthand notes and is a full, true
11 and correct statement of the testimony and proceedings had
12 at the said preliminary examination of said cause.

13
14 *Hazel B. Livingston* REPORTER
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ALLEGED VIOLATION: On or about January 17, 18, 21, and 25, 1950, while the capsules were being held for sale after shipment in interstate commerce, the defendant caused a number of the capsules to be repacked and sold without a prescription, which acts resulted in the capsules being misbranded.

NATURE OF CHARGE: Misbranding, Sections 502 (b) (1) and (2), the repackaged capsules bore no label containing the name and place of business of the manufacturer, packer, or distributor, and no label containing a statement of the quantity of the contents.

Further misbranding, Section 502 (d), the capsules contained a chemical derivative of barbituric acid, which derivative, the Federal Security Administrator, after investigation, has found to be, and by regulations designated as, habit forming; and the label of the repackaged capsules failed to bear the name, and quantity or proportion of such derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

Further misbranding, Section 502 (f) (1), the labeling of the repackaged capsules bore no directions for use.

DISPOSITION: January 11, 1951. A plea of nolo contendere having been entered, the court imposed a fine of \$200.

3372. Misbranding of Lang's Mineral Iron and Aluminum Sulfate. U. S. v. 15 Pounds, etc. (F. D. C. No. 30343. Sample Nos. 86437-K to 86440-K, incl.)

LABEL FILED: December 19, 1950, Southern District of California.

ALLEGED SHIPMENT: On or about October 7 and 25, 1950, and on other dates in 1950, by Margaret Lange, from Portland, Oreg.

PRODUCT: *Lang's Mineral Iron and Aluminum Sulfate.* 15 pounds in bulk; 25 envelopes, each containing $\frac{1}{2}$ ounce; 21 boxes, each containing 12 capsules; and 12 12-ounce bottles containing the product in solution, at Lang's Mineral Wonder, Los Angeles, Calif.

Also in the possession of the consignee were 8,000 empty envelopes, 200 labels for the capsules, 1,000 labels for the solution, and 1,000 copies of a folder entitled "Lang's Mineral Wonder."

RESULTS OF INVESTIGATION: The product was shipped, labeled as described below. The consignee repackaged the article into envelopes, each containing $\frac{1}{2}$ ounce; into boxes, each containing 12 capsules; and into bottles, each containing 12 ounces of a solution consisting of 1 pound of the article to 5 gallons of water. The consignee also caused the printing of the envelopes, the box and bottle labels, and a folder entitled "Lang's Mineral Wonder." This folder was given to prospective customers at the consignee's place of business and was mailed in response to inquiries.

LABEL, IN PART: (Bulk shipment) "Lang's Mineral Iron and Aluminum Sulfate"; (repackaged, in envelopes) "Lang's Mineral Wonder * * * Net Contents: $\frac{1}{2}$ oz."; (repackaged, in boxes) "Lang's Mineral Wonder * * * Lang's Female Capsules"; and (repackaged, in bottles) "Lang's Mineral Wonder * * * Net Contents: 12 oz."

NATURE OF CHARGE: Misbranding (bulk shipment), Section 502 (f) (1), the labeling failed to bear adequate directions for use since the labeling bore no directions for use. The article was misbranded in this respect when introduced into, and while in, interstate commerce.

Further misbranding (repackaged drug in envelopes, boxes, and bottles), Section 502 (a), certain statements in the accompanying folder entitled "Lang's Mineral Wonder" were false and misleading. These statements represented and suggested that the article would be effective as a treatment for

>

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Further misbranding (repackaged drug in envelopes, boxes, and bottles), Section 502 (a), certain statements in the accompanying folder entitled "Lang's Mineral Wonder" were false and misleading. These statements represented and suggested that the article would be effective as a treatment for physical troubles; that it would help reach the cause of a wide variety of conditions; that it would end conditions that bring pain and distress; and that it would furnish the system with minerals essential for it. The article would not be effective in the treatment of the conditions and for the purposes stated and implied.

Further misbranding, Section 502 (a), certain statements on the label of the ?boxes of capsules were false and misleading since the statements represented and suggested that the article would be effective as a treatment for diseases of females, whereas it would not be effective as a treatment for diseases of males.

Further misbranding (envelopes, boxes, and bottles), Section 502 (a), the statements which appeared on the envelopes "Silica (SK)2), Sodium & Potassium Oxide (NA20 & K20), Phosphates (P208), Iron Oxide (FEj03), Aluminum Oxide (ALsO,), Sulphates (SO,), Moisture @ 105? C, Water (Combined) (By T>ifference)" and the statements which appeared on the label of the bottles ?containing the solution-

Part8 per?Grains per
million

gallon

Silica (SiO2)

5.0

.29

Iron Oxide

. (FE203)

5120.0

299.00

Aluminum Oxide (Al2Os)

1332.0
77.79
Sulphuric Anhydride (SO_a)
9720.0
567.65
Total Solids
16177.0
944.73

"were misleading in that they failed to reveal the material fact that, when taken as directed, the article would supply no therapeutically useful substance ; and the statements on the label of the boxes containing the capsules "Silica (SiO₂) 0.08? Sodium & Potassium Oxide (Na₂O & K₂O) trace, Phosphates (P₂O₅) trace, Iron Oxide (Fe₂O₃) 6.26?, Sulphates (S₂O₃) 39.92-Moisture @ 105? 014.02?, Water (Combined) (By Difference) 19.50?" were misleading since they failed to reveal the material fact that the iron and aluminum sulfates were the only constituents of the article that, when taken as directed, would produce any significant physiologic effect. The product in the envelopes, boxes, and bottles was misbranded while held for sale after shipment in interstate commerce.

DISPOSITION : February 8, 1951. Florence Potter, also known as Florence Wilson, trading as Lang's Minerals, Los Angeles, Calif., claimant, having consented to the entry of a decree, "judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF DEVIATION FROM
OFFICIAL OR OWN STANDARDS

1 Q Do you know Lupe Escalante, the little girl on
2 the stand A Yes
3 Q What relation, if any, is she to you
4 A She is my sister-in-law
5 Q Mrs. Garcia, the lady who just had the witness stand
6 A She is my wife
7 Q Do you know the defendant, Octaviano Moran A Yes, I do
8 Q How long have you known Moran A Must be about four
9 or five years, I think
10 Q Did you ever see Moran in, around and near your house
11 in the City of Galaxico A Yes
12 Q When A Sunday in May, about the 20th of May, the
13 last part of May
14 Q What year A A 1927
15 Q Where did you see him A He was running out
16 of my premises there back part of the house
17 Q Where was he when you first saw him
18 A I woke up between eleven and twelve to get a drink of
19 water. When I turned on the light, he ran off the house, he was
20 inside the house. I try next day and went up to the chief of
21 police Mansa and told him about it, see
22 Q Well, now, state whether or not Moran, the defendant,
23 was inside of your house A He was inside at the time
24 I saw him
25 Q Whereabouts, did you see him A He was running out
26 of the premises. He was five or six feet inside of the premises.
27 I ran out of the house to see if I could get him. He ran to the
28 car and get away
29 Q Do you mean inside of the premises, of your lot, or in
30 your house A No, on the lot
31 Q Now, where was he relative to your house A What?
32 Q Where was he relative to your house
A He was in the back part of the house near my sister-
in-law's bedroom

1 He said Saturday night--

2 Q Saturday night, what month-- A June

3 Q --if you remember. Saturday night, in June A Yes

4 Q Where were you when he told you that

5 A In his apartment

6 Q What other conversation took place on that night
7 between you and the defendant Moran

8 A He just said he was going to take me over there. He
9 told me again his divorce was going to be granted in August

10 Q Did you know all this time Octaviano Moran was married

11 A Yes

12 Q Where was his wife, do you know A In Mexicali

13 Q Was anything else said on this evening of June 15th,
14 1927 between you and the defendant; if so, state what other
15 conversation you had with him; state what you said and what he
16 said

17 A I don't remember, just about reading the paper, that is
18 all. About the conversation

19 Q Well, now, had you seen Octaviano Moran prior to the
20 15th day of June, 1927 other than on this Saturday that you have
21 just mentioned. Had you seen him on any other date

22 THE WITNESS: When, before that?

23 Q Yes. A Just about a month. I hadn't talked to
24 him, but he used to write to me all the time

25 Q About a month before that A My sister, when she
26 knew I was going to, running around with him, she watched me
27 all the time, but he wrote to me all the time

28 Q About a month before that, on this occasion
29 where were you when you saw him

30 A I went to Church that Sunday morning

31 Q Where did you see Moran A He was in Church. He
32 went to church for me

Q With you or for you A For me

Q Did you meet him after Church was over or before church

1 Q When was the next time,—can you state approximately the date,
2 the last occasion you have just stated, do you remember what
3 month it was A In April
4 Q What year A 1927
5 Q Now, when was the next occasion that you had sexual
6 intercourse with the defendant, Octaviano Moran
7 A About that same week
8 Q What was said on that occasion A All the time he used
9 to see me he used to tell me about the same thing
10 Q When was the last time that you and Octaviano Moran
11 had sexual intercourse A June, the --
12 MR. BLAISDELL: Just a minute--might as well let it go.
13 Never mind
14 MR. HEALD: What was that A June 15th
15 Q Where was that A In his apartment,
16 Fox Apartments
17 Q Fox apartments, where are the Fox Apartments
18 A Here on Seventh Street
19 Q Seventh Street, City of Calexico, County of Imperial
20 A Yes
21 Q State of California A Yes
22 Q And about what time was it A About one o'clock
23 in the morning
24 Q Who was present that time A Just he and myself
25 Q Mr. Moran and yourself A Yes
26 Q State what was said on that occasion
27 A That was the night he went for me home, I was going to
28 leave home. He brought me there to be there a couple of days
29 until Saturday, so he could take me to San Diego
30 Q Did he say he was going to take you to San Diego
31 A Yes
32 Q When A That was Thursday; no, Wednesday night.