

# MRS. SCHENDEL TAKES STAND FOR STATE

(From Thursday's Daily.)

## THESE ARE TRYING THE ISSUES IN SAGE CASE

The jurors: E. E. Lake, H. B. De Baca, Albert Schultz, B. W. Alma, Charles Mackling, R. G. Gaddis, E. F. Swigert, Hugh Allen, T. T. Alfred, Ed A. Roberts, Elton K. Mills.

Alberta Florence Schendel, 17-year-old prosecutrix in the Sage case, told the jury yesterday afternoon how she had been given the alternative of accompanying Clarence Sage, special officer for the United Verde, and Fred Woods, a Jerome plumber, to Sage's apartments, or of "sleeping with the greasers in the city jail."

Her testimony came at the end of a day devoted to examination of preliminary witnesses, including attaches of the Sullivan hotel in Jerome, where Mrs. Schendel was living, and from which, she testified, she was taken about 1:30 on the morning of January 6 last by Night Policemen R. P. Giles and George Floyd. Some of the testimony was introduced after objection of counsel for the defense and twice the assistant county attorney was complained of for "misconduct" by Judge P. A. McCarran, senior of defense counsel, and assignments of error were noted at his request.

The state's witnesses were excluded from the courtroom under the rule. First to be called was James Sullivan, clerk in the hotel, who testified as to the arrival of Giles and Floyd at the place the night in question, and told of their having extracted Mrs. Schendel from her room. At the request of the defense, Sullivan drew a rough diagram of the hotel layout. This operation was repeated in the afternoon with another witness, and Judge McCarran said he didn't want to seem to be "making artists out of the state's witnesses."

Joseph Seidel, a miner who lived at the hotel, next stated he was in the lobby with Sullivan when the officers accompanied the prosecutrix witness from the place. He said she was fully dressed, but without a hat, and seemed worried.

On cross-examination, Judge McCarran asked the witness of what country he was a native. "America," said the witness. "I mean where were you born?" McCarran insisted. "Nebraska," Seidel replied.

Mrs. Schendel spoke to Sullivan, the witness said, but he couldn't hear what passed.

**Another Irishman**  
A second obvious Irishman followed Seidel. He was Tim D. Harrington, former manager of the Sullivan hotel, who told the court he was sitting in the lobby at the time Mrs. Schendel was led through it to the street. He definitely fixed the time he came up from his room, which was directly under that of Mrs. Schendel, as 1:14 a. m.

He said he saw Giles and Floyd standing by the door of the wash-room talking. There was an exchange of argument by counsel at this point over the admissibility of testimony relating to conversations not had in the presence of the defendant, and the state avowed it would later prove concerted action. This was not sufficient for the court, however, who explained that only in cases where a conspiracy was charged and testified to, could the assertions of one defendant be binding on another, when not made in the other's presence.

The passage of the lobby occurred at 1:30, Harrington declared, and he and Sullivan stepped to the door and saw the three progress to a point a block and a half away, where they were joined by another individual.

Harrington gave his testimony in a very positive tone of voice, and was frequently jerked up, all standing by the court or defense counsel to await the ruling of the judge. What he thought was not permitted to get into the record.

He told of going with Sullivan to a restaurant, where they had a lunch, and of their return to the hotel, where they talked until about 3 o'clock, when he retired.

Giles, he said, was sober and Floyd drunk. He said he saw Sage going from a point near the Bank of Jerome toward the company store.

**More Fireworks**  
McCarran, without trying to ease the question a particle, threw a shell into the case with his first interrogatory. He asked Harrington if it were not part of his duty to collect the rent for certain places of immoral purpose, located in the rear of the Sullivan hotel. Although the witness registered an instant "No," the prosecution leaped up with an objection on the ground there was nothing in the record of the direct examination concerning the existence of "cribs" in conjunction with the hotel. The defense was blocked on this question, but Judge McCarran repeated it in half a dozen forms, so as to "make his record" as the court described it.

He then took another line and inquired into the witness' personal relations with the two officers and learned that Harrington had been arrested twice in two nights. "Hot nights, eh?" counsel queried. The witness admitted it.

the room between Mrs. Schendel's room and the street on that night. The doors were locked, he declared.

Raymond Evans, a timber helper, told of passing a group of persons on the sidewalk in front of the city hall that night. The group included Woods, Sage, Floyd and a woman. He said he overheard Woods say he would go on the woman's bond, but didn't hear the amount mentioned. He was not cross-examined.

Larry Hickey, a switchman, coming off shift at the mine, was on his way home after his night meal. His testimony added to the mounting belief that in a town like Jerome where men go on and off shift at all times of night, occurrences on the streets in the hours of darkness are subject to observation.

He, too, he declared, had passed the group on the city hall steps. He heard Woods say: "I suppose this will have to go on record." Sage said: "Woods, pay me \$50."

**The Star Witness**  
A capacity crowd, in which there was not a single feminine member, had waited all day for the star witness of the state, Mrs. Schendel, and interest took an upward swing when she strode down the aisle in charge of the jail matron, Mrs. Lowry.

The witness proved to be a plump young woman with guileless brown eyes and a soft voice. She was attired in a loosely fitting one-piece dress of an indefinite brown material and wore a wide-brimmed beaver hat. A heavy chain of beads with a pendant was her only ornament.

Her real name was Alberta, but she had "given herself" the name of Florence about two years ago. She had had an unhappy home. Her father was not an agreeable person, and she had voluntarily secured admission to the industrial school of her native state of Utah. She was 17 years old last November 10, she said.

About a year ago, she had married Marion Schendel of Jerome, a relative, she said, of R. E. Tally, assistant general manager of the United Verde Copper company.

About five months later, they had gone to California, and Schendel had left her and she had come back to Jerome last December after having been three days in a hospital, to dispose of her furniture. Her father-in-law had bought it.

All this was brought out in response to questions by Mr. Clark. She said she had been awakened by Giles, whose voice she recognized. He ordered to get dressed and come out, and told her she was under arrest on suspicion. She described her dressing operations, told of having put on a pair of bloomers, skirt, undervest, shoes and stockings and a coat.

She was "marched" out into the lobby and up the street, where she was confronted by Woods, and half a block farther on by Sage.

"Giles and Floyd gave me to Woods and Sage," she said.

She told of being offered a night in the apartment or in the city jail with the inmates thereof, and of having expressed a preference for the "greasers."

Arrived in the apartment, she said her captors had locked the door and had taken her into the kitchen where she was shown two milk bottles of whiskey. She knew it was whiskey because she had been given whiskey when she was ill of the influenza. Resistance to offers of a drink did her no good, she said. Her head was held and she was forced to drink "and I drank." The result of the liquor was to make her very dizzy. She said she sank upon the bed, where one of the men began disrobing her.

**Witness!**  
The story up to this point had progressed without interruption by the prosecutor, Mr. Clark halted the witness with a gesture and then began:

"Now, Mrs. Schendel, going back to the time—"

There was a pause, during which the silence in the courtroom was almost palpable. Then came the sound of the avid audience, sinking back in its seats and drawing a deep breath. The tension being relaxed, the prosecution went on with questions relative to earlier incidents and again led the witness to the apartment scene.

She described the alleged events following her loss of control by reason of the liquor in very brief, simple words, rather hastening over the matter, and then plunged into the recital of her return to the hotel, her short sleep and her three visits to her attorney the following day, when she complained of her alleged mistreatment. Questions by the state's attorney, led her back and forth over the story up to the time of her alleged abduction by the defendants. On the basis of testimony presumed from the rulings to have established the allegation of a conspiracy, the court permitted the witness to relate conversation with the officers not in the presence of the defendant.

would be allowed to attack the testimony of the prosecutrix was opened and counsel evinced an agreeable degree of preparation. The defense held that the information was a "peculiar one" alleging the common law offense in which there were set up the statements of force, use of narcotic liquor and threats of immediate harm with apparent power to exercise same and also the statutory offense which need be based only on the proof of the act and of the nonage of the victim. The defense believed that the common law allegation opened the door to attacks upon the moral character of the witness to show alleged lack of necessity for the employment of force or other means of coercion.

There was an involved series of objections, arguments and rulings, and then Mr. Clark agreed with the court that if he failed to prove the statutory offense, he would submit to a direct verdict for the defendant, even though the common law offense might be proved. McCarran claims the indictment then must be held to charge the statutory offense with all other matters appearing as surplusage, and that by beginning to put in testimony on the alleged common law offense, the state had elected this as its issue.

Judge Lockwood ruled, however, that at this time, he would proceed under the theory that the state meant to charge the misdemeanor of a minor child and confined the defense to attacks upon the recollection and credibility of the witness, limiting all attempts upon her previous reputation.

The defense then appeared to be well supplied with ammunition and proceeded to go over the early life of Mrs. Schendel thoroughly. Judge McCarran asked about Mrs. Schendel's marriage to Schendel at Goldfield, Nev., after a week's acquaintance with him and casually interjected the name of Benjamin Henley, a relative of Schendel's.

"Did you not," he asked, "accuse Mr. Henley's brother, Dave, at Goldfield of having tried and succeeded in violating you, and did you not later say that this charge was untrue?"

"He came to my house and acted smart," the witness returned.

"The defense then repeated the question with some variation, but naming one M. R. Hampton of Jerome. The answer was not allowed, and at this time in the absence of the jury, McCarran offered to prove, if permitted that the witness was a woman of notorious habits in a number of places, mentioning, specifically, Goldfield, Nev., Prescott, Jerome, Ash Fork, Flagstaff and others. The offer was rejected under the ruling of the court.

This brought things to the lunch hour. After recess, the defense proceeded to ask many questions relative to the places of residence of the witness in Jerome and elsewhere.

McCarran then brought in the name of the third man whom the defense alleged had been accused of misconduct by Mrs. Schendel. He was known as "Curly" Coffey, an Ash Fork, Flagstaff and other. The offer was rejected under the ruling of the court.

"Who is Hampton?" was suddenly fired at the witness.

"A friend of mine, I remember now. He is a friend of mine."

"Do you entertain any love or affection for Hampton?"

"Yes, sir. I like him."

"Did you write him a letter just before you left Jerome with your husband last fall?"

"Yes, sir."

A letter, the writing of which the witness had admitted, and purporting to be the one written to Hampton, was offered in evidence but rejected.

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refused a recess until this morning, opened its case.

Mrs. Mary Walker, mother of the prosecutrix, was produced by the state to testify that Florence was born at Beaver, Utah, November 10, 1902, and that she is not yet 18 years of age. The mother identified a record of the county in which Mrs. Schendel was born, showing the birth of a daughter to Mr. and Mrs. W. B. Walker in 1902 as that of the prosecutrix's birth.

James Murdock, a deputy county clerk from Utah brought the book here and a certified copy of a page containing the Walker entry was made and introduced in evidence over objections of the defense.

Perhaps the most lively testimony was that of Norman Wyckoff, a Jerome attorney and counsel for Mrs. Schendel. Wyckoff testified that the woman had come to him on January 6 and had related the story of her alleged violation in the apartment of Clarence Sage early that morning.

On cross-examination, the defense counsel opined that the witness took a deep interest in the case of Mrs. Schendel, to which the witness replied "Naturally"

Just after the noon recess, Wyckoff was recalled to testify as to the location in Jerome of his law office. He said it was about two blocks from the Sullivan hotel and described its location.

Warren G. Davis, sheriff of Yavapai county, stated he knew Sage as head guard of the United Verde Copper company. He never was a deputy sheriff under him, Davis said. None of the four defendants, he added, served under the sheriff's office.

There was no cross-examination and the state rested. Judge P. A. McCarran, chief of counsel for the defense, had requested in chambers an adjournment to this morning, and he renewed the request. Judge Lockwood allowed one hour and at a little after 3 o'clock, a large and masculine audience filed back into its seats the attaches took their places and court convened for the purpose of listening to the story of the defense.

J. R. Carter, formerly of San Diego and now a fire guard of the United Verde, according to his own description, was the first defense witness. The gist of his testimony was that there was no disturbance in or around the Sage apartments on the night of January 5-6 last when Mrs. Schendel alleges she was violently and otherwise mistreated there by Sage and Fred Woods.

He said his duties called on him to pass the United Verde apartments, where Sage roomed, about every hour. He saw nothing, heard nothing out of the way. No woman had entered or left the apartment while he was within sight.

Mr. Carter was asked about the state of the weather. He said there was a snowstorm the night in question; it was most violent after midnight when a high wind came up, the temperature went the other direction and much snow fell.

was under Clarence Sage in the guard department of the company. He said he had about 100 residences to guard and that his "beat" was approximately 500 yards by 300 yards. Was he armed? Sometimes. On the night in question, Carter said, he was armed.

Carter also served as an introducer for the next witness, James W. Cobb, colored, janitor at the United Verde apartments and the Bank of Jerome. Cobb's testimony related chiefly to the peacefulness which pervaded the Sage apartments the night Mrs. Schendel alleged she was violently mistreated there. It was quiet every night, the witness elaborated.

The defense brought out the fact that Cobb tended a boiler in the basement of the apartment house and that he worked nearly under the rooms occupied by Sage.

The ability of the witness to hear anything except the roar of his oil-burner was questioned by the state on cross-examination. His recollection as to location of parts of the scenery thereabouts was also tested.

"On the night of January 5, did you hear two shots fired into the laundry of the apartment house?"

The witness certainly had not.

He had never heard any shots fired while he was there.

Had he heard reply made to the shots from a window?

Again, he had not.

The audience, in which were many union men, audibly appreciated the witness' plaintive admission that he worked pretty near 24 hours of the day. He had to work an alarm clock overtime, arising each two hours during the night to see to his boilers.

Harry Carlson on Stand  
What promised to be the most lurid testimony of the entire trial was blocked by a ruling of the court restricting the defense's inquiry into the alleged habits of Mrs. Schendel through Harry Carlson, deputy United States marshal at Jerome.

Carlson had barely seated himself on the stand when a storm developed. He had testified that Mrs. Schendel had to him accused M. R. Hampton of having performed an illicit act with her at Ash Fork, when another line of questions from McCarran brought the chief legal issue of the case back to the fore and caused a long recess.

During the jury's absence, McCarran made an avowal that he would be able to prove that the prosecutrix had miscondemned herself in the most common manner all over Jerome. The offer was rejected a second time by the court, and the defense relinquished Carlson to the state for cross-examination.

**Clark Takes Witness in Hand**  
If there was any purpose in the revelation of Carlson's movements in Arizona, the prosecution did not make it plain in the first part of the

cross-examination which ended with the day's session. Clark indicated he desired to recall Carlson at a later time, and the court asked the defense if it would accord the state the same courtesy after recalling witnesses that the state had given the defense. Judge McCarran said Clark might recall Carlson any time before the defense closed.

Carlson has been a deputy United States marshal in the Verde district for about two years, and for three years has been an employee of the United Verde in the capacity of a guard. He said he divided his time about equally between his two employers.

Beside Jerome, he had lived in Tucson, Senator and Nogales in this state and in 1916 returned through Nogales after over a year in Old Mexico. Virtually all the cross-examination related to Carlson's movements throughout the state, and in only one instance was the case brought in. That was when Carlson admitted that his work made Clarence Sage, the accused, his superior officer.

(From Sunday's Daily)  
The trial of a statutory charge against Clarence Sage ended its first week with every prospect that there would be several days more of fiercely contested testimony taking. Delays in the examination of witnesses continued yesterday during resumption of the direct case for the defense, and finally led the court to remark that it was obvious that a superior judge was on trial as well as the defendant, and that counsel were making their case first for a higher court.

A glimmer of what the defense's story of the spectacular night of Jan. 5-6 last will be was obtained from a half day's examination and cross-ex-

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amination of Former Police Officer Robert P. Giles of Jerome, a co-defendant of Sage. At least, Giles' story indicates that the officers had nothing to do with the alleged "turning over" of Florence Schendel to Sage and Woods for alleged immoral purposes.

Preliminary witnesses, including one who spoke Spanish and English and two who probably could speak a little English, but were too saving of it to waste it in a court of law, laid the foundation for the later introduced story of a ruction in the Mexican quarter. Giles, on the stand later in the day, stated that after he and Floyd had taken Mrs. Schendel to the front of the police station, they turned her loose to answer a call by Sage for a maneuver into the "Quarter Latin" to quell a natural result of a native birthday party for a Miss Virilla. The officer said neither he nor his companion saw either of their co-defendants again that night, nor did they see Mrs. Schendel.

A. T. Basini, a broker; Angel Ruiz and Bernardo Gandul, the latter "mokers," testified as to the existence of a model or miniature riot at the scene of the "cumpleanos" of

(Continued on page five)

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