

MR. DARVAN: We have used the American calendar all the way through.

THE COURT: You mean the new calendar?

MR. DARVAN: Yes. Only on their feast days, I am informed, do they use the old calendar.

Q Now, how long after you had connection with this Andrew did you leave your employment at the Orphan Asylum? A Three months later.

Q And when you left the Monastery, or the school there or asylum, did you leave of your own accord, or were you discharged or thrown out? A I left of my own accord.

Q And where did you go to work then? A Went to Mandalson.

Q That is to the house of a man named Mandalson? A Yes.

Q And where did he live? A In Mayfield.

Q Now, in March, did anything happen in March?

MR. SWITKIN: Of what year, Mr. Darvan?

MR. DARVAN: Of the next year, 1907.

A I don't know.

MR. DARVAN: Well, perhaps I do not call it specifically enough to her attention.

Q What became of Andrew, if you know, Andrew Pretash, what became of him?

MR. SWITKIN: My clients tell me the interpreter argues with the witness instead of following your Honor's

instruction by giving a literal answer.

THE INTERPRETER: Well, your Honor, I am trying to get her answer.

THE COURT: Well, whatever she says, you repeat, then if it is not satisfactory, put the question again.

A He went away, Andrew did.

Q When did he leave ? A, I don't know.

Q Well, what month, if you know ? A I don't know, I don't know what month.

Q Well, now, was it before or after you made application for any process against him, any warrant ?

THE 9TH JUROR: Your Honor, can I ask the girl a question in her own language ?

THE COURT: Have you any objection ?

MR. SHITKIN: No objection to it.

MR. SARVAM: No objection.

(the 9th Juror addresses the witness in a foreign language, and the witness answers).

THE 9TH JUROR: I asked her the question whether she understands better in Russian language or the Polish language, but this is different altogether.

THE COURT: Well, what is her answer ?

THE 9TH JUROR: She understands better in Polish language than the Russian language. There are some questions which he has been asking and she did not know

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what it means. She answered in a different way. I understand the Polish language, so I can understand her better, what she answers, and the question from the interpreter I cannot understand very well.

THE INTERPRETER: Your Honor, this is not Polish and it is not Russian. It is a dialect, your Honor.

THE 9TH JUROR: No, it is a grammatical language.

MR. SWITKIN: No, it is not a dialect. That is where you are wrong. They have a language of their own.

THE COURT: Well, we will not have any discussion on that subject. Tell us whatever she says. The juror says, as I understand it, that she would rather speak in Polish.

THE 9TH JUROR: She understands it better than the Russian.

THE COURT: (Addressing the Interpreter) Do you understand Polish?

THE INTERPRETER: I do, your Honor, but she does not understand it.

MR. GARYAN: Well, speak Polish to her.

THE COURT: Did the juror speak in Polish or Russian to her?

THE 9TH JUROR: Well, I cannot speak Russian, but I can speak Polish to her.

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BY MR. GARYAN (To the

Q Now, did you Andrew, and when?

MR. SWITKIN and irrelevant.

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MR. GARYAN

Q When was the

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A Yes, sir.

Q And how long

THE COURT: Did she understand you ?

THE 9TH JUROR: Yes, sir.

THE COURT: Did she give you an intelligent answer ?

THE 9TH JUROR: Yes, sir.

THE COURT: Well, speak Polish to her.

BY MR. GARVAN (To the Official Interpreter)

Q Now, did you make application for a warrant against Andrew, and when ?

MR. SWITKIN: Objected to as incompetent, immaterial and irrelevant.

THE COURT: It is only for the purpose of fixing the date, as I understand it. I will have to sustain the objection if it is for any other purpose, Mr. Garvan, if the objection is pressed.

MR. GARVAN: Yes, sir.

Q When was the last time you saw Andrew Pretash ?

A I don't remember that.

Q Do you remember what month it was ? A No, I do not.

Q Was your child baptized ? A Yes. There is the priest who christened him.

Q What name was he christened ? A Andrew.

Q Andrew what ? A Andrew Pretash.

Q That was the name under which you had him baptized ?

A Yes, sir.

Q And how long after the child was born did you have him

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A The third day.

Q The third day after he was born? A Yes.

Q That was then June 7th, 1907?

MR. GARYAN: The date of this article is June 25th, 1908.

A I don't know the date.

Q Do you remember in 1908 --

MR. GARYAN: Well, I will ask this question first:

Q Did any time in your life Father Arseny have anything wrong to do with you?

MR. GARYAN: Ask her that in Polish, now.

A No, he did not touch me with his finger even.

Q Now, do you remember in 1908, the time when you were living at the Mandelson's, the time when Father Arseny came to your house and you signed a paper in his presence and in Mandelson's presence?

MR. GARYAN: Now, take your time and make that clear. Ask her first if she remembers the occasion of it. I do not mean the date or anything else, but just if she remembers the occasion.

A I don't remember the month, but I remember the occasion.

Q Now, as to the occasion on which Father Arseny came to see you, and you signed a paper, did you ever see this defendant (indicating)? A In Mandelson's, you mean?

Q No, anywhere? A I saw him only in Oliphant.

Q Which one? A This one (indicating)

BY THE COURT:

Q What is the name, do you know? Well, go down and point him out. A The two of them.

THE COURT: Tell her to point out the one she saw.

MR. GANVAN: She points to the two defendants.

THE COURT: Indicating both?

THE INTERPRETER: She says she saw them both.

BY MR. GANVAN:

Q Where did you see them? A In Oliphant.

Q How long after -- now, go carefully here, because I do not want to make any mistake here -- how long after the occasion on which you saw Father Arseny in Mandelson's house, was it, that you saw these two men in Oliphant? A I don't remember.

Q Well, about? Was it a week or how long, a few days or what? A I can't tell. It was a week or two weeks; I don't remember.

Q Where were you in Oliphant? A First I saw them in the house of one Russian.

Q One Russian, what was his name? A I don't know what his name was, and then in the office of the Squire.

Q Well, how did you happen to be in the house of this Russian? A They took me in there and they told me they were going to get me work.

Q Where did they take you from? Who took you there?

A There were other two fellows, not the defendants.

Q Yes, they took you to the house of this Russian? A Yes.

Q And who was in the house? A One man was there, and these two fellows brought me over there.

MR. SWITKIN: But not the defendants, is that correct?

Q Were you working at this time at Mandelson's?

A Yes, I worked at Mandelson's.

Q And did some one come to you at Mandelson's? Now, just answer yes or no. A Yes, sir.

Q Now, was that some one who came to you at Mandelson's house either one of these defendants? A No.

Q Some one else? Now, then, how many came to Mandelson's to see you, to take you away, on that one occasion, one or more?

A Two.

Q Now, where did you go with those two men? A I went with them on a street car.

Q Yes, to where? A We went to Oliphant.

Q Where did you go in Oliphant? A Some restaurant, ice cream place.

Q Now, did you meet anybody in the ice cream place, other than these two men, I mean, to talk to? A There was only the one that worked there.

Q Now, from the ice cream place, where did you and the

two men go ? A We went to that Russian fellow.

Q You do not know his name, as I understand ? A No.

Q Now, who was in his house ? A The man from the house was there.

Q How long did you stay there ? A I can't tell how long.

Q Now, where did you go from the Russian's house ?

A We went to the office of the Squire.

Q What Squire ? A Some Jewish fellow. I don't know, a short fellow.

Q But it was a Squire in Oliphant, not the Squire in Mayfield ? A Yes, sir.

Q Now, up to that time had you seen these two defendants?

A I did not see them until we got to Oliphant.

Q Well, where in Oliphant did you see them ? A I saw them when they came to that office.

Q You did not see them in the Russian's house ? A I am not sure whether they were in that house or not.

Q But you did not have any conversation with them ?

A I don't remember that well.

Q Now, where did you have the first conversation with either of these defendants ? A In Oliphant.

Q Where in Oliphant ? A In that office.

Q Now, then, what conversation did you have with these defendants in that office ? Just tell what they said to you and what you said to them ? A I didn't say anything. I was

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Q What did they say to you ? A One of them said to me he was going to marry me. The other one said he was going to give me \$10,000 if I say that the child is from Arseny.

MR. GARVAN (Addressing the 9th Juror) Is that correct ?

THE 9TH JUROR: Just one question. I want to know who offered her the money, and who offered to marry her.

THE COURT: The translation is correct, is it ?

THE 9TH JUROR: So far, yes, sir.

THE COURT: Well, that is all we want to know.

BY MR. GARVAN:

Q Now then, when they said that, were there any other men present besides these two defendants ? A At the time they were saying that to me it was in the house of a woman. There was three of them there.

Q Whose house was it ? A Mrs. Edravitsky.

Q And that was before you went to the Squire's office, or after ? A First we went to Edravitsky, and then to the office.

Q You went from the Russian's house to Edravitsky's house? A First we were at Edravitsky's. Then they took me to that Russian fellow's house. From there we went to the office.

Q Well, now, did you see these defendants in the Russian's house ? A No.

MR. SHITKIN: If your Honor please, I now move that that part of the witness' testimony relative to any statement made to her about \$10,000 and marrying her, be stricken from the record, on the ground that it appears now affirmatively that it was not said by either of these defendants.

MR. GANVAN: I consent for the present, until we get it straightened out. It seems very difficult to get it straightened out, but we will have to have patience.

THE COURT: Very well.

Q Now, I ask you again when you came to Oliphant, if you went to Mrs. Sdravitsky's house first, if that was the very first place you went before you went to the office?

THE COURT: Well, ask her where Mrs. Sdravitsky lived. She may have started from her house.

Q Does Mrs. Sdravitsky live in Oliphant? A No, in Mayfield.

MR. GANVAN: Well, your Honor is right and I am wrong.
BY THE COURT:

Q Who lives in Mayfield? A Yes, sir.

BY MR. GANVAN:

Q Well, before you went to Oliphant, did you go to Mrs. Sdravitsky's house? A They came, those two fellows came to Mandelson's house. Then when we were out on the street, we were three.

Q Then, where did you go ? A Then we went to Oliphant.

Q When did you go to Mrs. Edravitzky's house ? A That was before we went to Oliphant, when they were talking to me about this.

Q Now, then, tell us who else was at Mrs. Edravitzky's house, besides these two men and yourself ? A Besides these two fellows and myself, there was Mrs. Edravitzky and her girl.

Q Were either of these defendants there? Was either Kirozow, or this other defendant there ? A No.

Q Well now, where did you first see, or did you see these two men in Mayfield at all ? A No, I did not see them there.

Q Now, then, you went to Oliphant --

THE COURT: When you say "these two men" do you mean the defendants ?

MR. CANNAN: Yes, sir.

THE COURT: Well, then, you had better put it that way.

Q Yes. Did you see either of these two defendants in Mayfield ? A No.

Q Now, then, you went to Oliphant. Then you say you went to the ice cream place and the Russian's house. Where did you first see these two defendants ? A They came first to that Russian house and then we went to the office.

Q Well, did you have any talk with them at the Russian's house ? A No, I didn't say anything to them.

Q Well, did you have a talk with the other two men ?

A Yes, we just spoke.

Q Then you went to the office ? A Yes.

Q Now, you have told us about a conversation that you had about \$10,000. with these defendants. Where did you have that and when ?

MR. SWITKIN: I object to the form of the question.

MR. GARVAN: I withdraw the question in that form.

Q Where was the first time ? Now, understand the first time, where was the first time you had a talk, that you spoke with these two men here, these two defendants ? A I did not speak to them much.

THE COURT: Strike that out.

BY THE COURT:

Q When was the first time that you spoke to them ?

A In the office there.

BY MR. GARVAN:

Q Was that before you signed any paper ? A Before that.

Q And who was present when you had that talk with the two defendants ? A There were about four there.

Q Now, tell us exactly what was said by them ? A I don't remember exactly what was said. It is so long ago I didn't take it into my head.

Q Well, what was the substance of it ? What did either Kirov or this other man say to you ? A Kirov kept on say-

ing to me that I should say that this child is from Father
Arseny.

Q And did you afterwards sign a paper ? A Yes, I signed
it. I didn't know what I was signing. They told me to sign it.
I thought it was the truth.

Q You thought it was the truth ? A They told me to
swear to it and I swore, and then they told me so and so.

MR. GAVAN: That is all. You may cross-examine.

CROSS EXAMINATION BY MR. SMITHKIN:

Q Now, Mary, you say you are 26 years of age ? A Yes.

Q How old were you when you came to this country ?

A I don't know, only I know I am here four years.

Q Do we have it that you do not know how old you were
when you came here, except that you are four years here ?

A Yes, sir.

Q You have stated that you were born in Galatia, Austria?

A Yes, sir.

Q When you emigrated from Galatia, where was the first
port that you arrived at ? A Shenandoah, to my brother.

Q Oh, Shenandoah, Pennsylvania ? A Yes.

THE COURT: Well, she did not understand your word
"port", I guess.

Q Can you tell us what year it was you arrived at your
brother's place in Shenandoah ? A No, I don't.

Q How long did you remain at Shenandoah before you left

that place ?

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that place? A A year and a half, a year and six months.

Q Leaving Shenandoah, where was the first place that you went to? A To the Monastery.

Q Where was that Monastery? A I don't know what the name of the place is.

Q Well, when you left Shenandoah, didn't you know where you were going to? A It was a priest that recommended me to the place, and he took me there.

Q Well, what is the name of that priest? A I don't know. He did not live there, so I did not know.

Q How long had you known that priest who took you to this Monastery? A I didn't know him until that time when he took me.

Q Where did you meet him? A On the train, as I was going.

Q So, you left your brother's house at Shenandoah, got on a train, and you didn't know where you were going to, is that right? A I was going to my sister's in Simpson.

Q Now, what is your sister's name? A Olene Krinitaky.

Q Now, Miss Mary, at the time that you left your brother's home in Shenandoah, and boarded the train, you had intended to go to your sister's home in Simpson, Pennsylvania, is that right? A I did go to my sister's in Simpson.

Q That is not what I asked you.

MR. SMITH: I ask that it be stricken out as not

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A I was going to my sister in Simpson, and this priest lived in Simpson.

Q Well, how did you know this priest, whom you had never apparently met before, know that he lived in Simpson? A It was on the train that he told me that.

Q All right. How many female passengers were on that train besides yourself? A There were many women.

Q And the only woman that the priest came over to take to the Monastery was you, is that it? A I was going to my sister and we had a conversation on the train.

Q Well, were you sitting on the same seat as he was, or did you go over to where he was, or did he come over to where you were? A I was sitting alone. He was going with his wife.

Q And you had never seen the priest before you met him in the train? A No, never saw him before.

Q Did he come over to where you were sitting?

A As I was sitting in the train, I was thinking Russian, and I was talking Russian to the English people, and then he heard me speaking and he came over to me and spoke to me.

Q Now, tell us please what was the first thing that he said to you?

MR. GARYAN: I object to this as absolutely immaterial, if your Honor please.

MR. SMITH: The question is withdrawn if it irritates you.

MR. GARVANI: It don't irritate me. It bores me infinitely.

THE COURT: Go on.

Q Well, now, did the priest personally convey you or take you to this Monastery? A I went to my sister. I came to my sister. He showed me the place where my sister was living.

Q Did you remain there with your sister? A Yes, I was there a week.

Q Then the priest did not take you after leaving --

THE COURT: Well, do not comment. Just ask questions.

Q Then the priest did not take you to the Monastery right after he left you on the train?

THE COURT: Well, she said she was a week with her sister. Now, do not make any comments. You may ask any question you please, and let the jury decide on the testimony. We must get through.

MR. SMITH: All right, your Honor.

Q You say you do not know the name of the Monastery where you worked? A No, I do not.

Q How long had you worked there? A Six months.

Q During the six months that you worked there, did you meet the Reverend Arceny? A Where?

Q Well, I don't know. You know. Well, did you meet him?

A Father Arceny &

Q And where was that place. What

Q Well, there at this Monastery, place which you call

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Q No, I ask

A (No answer).

BY THE COURT:

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Q Did you

A Father Arseny does not live there. He lives in Mayfield.

Q And where is that Monastery located ? A I don't know what place. What the name of it is.

Q Well, then, had you ever seen Father, or Reverend Arseny at this Monastery, the name of which you cannot tell us, and the place which you cannot locate it at ?

MR. GANNAN: I move to strike out the last part of the question.

THE COURT: I grant that motion.

MR. SMITH: I except to the modification of my question.

THE COURT: Well, it is difficult enough to get answers to simple questions.

A He used to come around there.

Q Well, in the six months that you worked there, did you see him often ? A He used to come around there from Mayfield. It is all his, in his care.

Q No, I ask you, did you see him often ?

A (No answer).

BY THE COURT:

Q Did you see him often ? A Oh, no.

THE WIT JUNIOR (addressing the Interpreter): You did not put it right.

BY THE COURT:

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BY MR. SMITH

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THE COURT: Now, Mr. Interpreter, let me tell you once more, do not argue with the witness.

THE INTERPRETER: I am not, your Honor.

THE COURT: Now, I beg your pardon. You have not obeyed my orders. Every word she says you translate into English as well as you can. Then if counsel requires other answers, he will put his question.

Q (Question repeated) A He did not come around there often.

BY MR. SMITH:

Q How many times in the six months that you worked there did you see him come there? A He came around once a week.

Q Now, Mary, after staying at your sister's home at Simpson for a week, who took you to this Monastery? A The priest from Simpson.

Q Was it the same priest that you met on the train? A Yes, sir, the same.

Q Can you tell us what month that was in, or the year that the priest took you from your sister's home to the Monastery? A No, I don't remember that.

Q Now, Mary, you said your husband's name was Andrew Pretash?

MR. DANVAN: She did not say her husband.

A Yes, Andrew Pretash.

Q Now, when and where were you married to him?

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MR. GARVAN: She did not say he was her husband.

A We were not married.

Q Oh, that is it? So that, do you mean to tell the Court and Jury that a priest baptized your child, which was born out of lawful wedlock? A Yes, it was not for married people, but it was not Father Arseny that christened him. It was another priest. He is here.

Q Did you give the priest that christened that child the surname of your child?

MR. GARVAN: How does she know what surname means?

THE COURT: Oh, she said the child was christened Andrew.

MR. SHITKIN: Andrew Pretash, she said. Now, then, I have a right to ask her before I offer these documents in evidence, as to whether she gave the surname to the minister or priest who baptized the child.

THE COURT: Well, put the question in an intelligible form now.

MR. SHITKIN: Well, then, I ask your Honor to do it for me.

THE COURT: No, go on. You do not claim that a bastard cannot be baptized, do you?

MR. SHITKIN: I never thought so.

THE COURT: The sins of the parents are not visited on the child.

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MR. SMITKIN: Well, I will withdraw that question for the present.

BY MR. SMITKIN:

Q I ask you now if you can tell the court and jury when it was your child was born?

THE COURT: Just strike out all that about telling the Court and Jury, and make the question simple.

A June 4th.

BY THE COURT:

Q The baby was born June 4th? A Yes, sir, June 4th.

Q You are sure of that? A (In English) Yes, June 4th.

BY MR. SMITKIN: (To the Official Interpreter)

Q Now, what doctor attended you when your child was born?

THE COURT: If any.

A Dr. Martin.

Q Dr. Martin? A Yes.

Q From Mayfield, Pennsylvania? A Yes.

Q Now, isn't it true, madam, that your child was born on the 3rd of June, 1907? A No.

Q Now, when the child was born, what did you say to the doctor was the occupation of your husband? A I didn't say anything to him.

BY THE COURT:

Q Did the doctor speak Russian? Did the doctor talk to

you in Russian ? A (In English) No, in English.

BY MR. SMITHKIN:

Q (To the Official Interpreter) Didn't you state to the doctor that the occupation of the father was student, yes or no ? A No, I did not say that.

Q Well, you have stated here that the child was christened Andrew Pretash. Now, I ask you if it is not a fact that the child was named or christened Andrew Krinitzky, yes or no ?

THE COURT: Well, let her answer.

A I gave the name of Andrew Pretash.

Q Now, then, when did this child die ? A I don't remember what month it died.

Q How old was your child when it died ? A I don't remember exactly. I think it was about sixteen months. There may have been a week missing from that time.

Q The child was born on the 4th of June, as you say, 1907 ?

THE COURT: Well, she has said that. Now, go on.

MR. GARVANI: What is the use of repeating that ?

MR. SMITHKIN: Well, I am allowed latitude in cross-examination.

MR. GARVANI: But you are not allowed latitude and longitude both.

MR. SMITHKIN: No, I am steering clear now.

Q Can you tell whether or not the child died on the

30th of August, 1908

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30th of August, 1908 ?

THE COURT: She said about sixteen months.

A I cannot tell that, because I don't know.

MR. SMITKIN: That is fourteen months.

MR. GATVANI: Well, it is fifteen months, less about four days.

MR. SMITKIN: Your Honor, I cannot try a case in this way.

THE COURT: Well, you must remember it costs the People about \$500. a day to run this part, and we cannot allow a waste of time. You are limited to original questions. I will not allow you to repeat constantly, especially when we have a witness of this kind.

MR. SMITKIN: Well, that is the difficulty. If we had an English speaking witness I would not have to do that.

THE COURT: Well, go on, now.

Q Well, what was the name under which your child was interred ? A Andrew.

Q Andrew what ? A I didn't give any other name. I just told them Andrew.

Q Didn't you give the name of Andrew Krinitaky ? A No, only Andrew.

Q But you knew your husband's name was Pretash, and you said --

THE COURT: Now, that question will be excluded. She

never claimed about a husband.

Q Well, you knew that the father of the child was Andrew Pretash, didn't you? A It was from him, but we were not married.

Q I understand. Knowing that he was the father of your child, didn't you care to have the surname of the man to whom you gave birth to this child applied to the child?

MR. GARVAN: Well --

THE COURT: I will sustain the objection if it is made

MR. SMITHKIN: I except. There is no objection made yet.

MR. GARVAN: Well, I do object.

THE COURT: Objection sustained. It is entirely immaterial.

MR. SMITHKIN: I except. Your Honor, it is material--

THE COURT: No, we differ on that. You have your exception.

MR. SMITHKIN: I except. I now offer these papers in evidence. I show them to Mr. Garvan. They are properly authenticated as required by our Code.

MR. GARVAN: As to the certificate of birth, I do not think it is particularly material, and I am quite willing and consent to admit it. As to the certificate of death, I absolutely object to it as absolutely incompetent, immaterial and irrelevant not properly proven here, and

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has no bearing as between these two parties. It cannot be regarded as binding upon them in any way. It is made subsequent to the date of the alleged libel. This alleged libel was published on June 25th, 1908.

MR. SWITKIN: If your Honor will pardon the interruption. You will observe the birth certificate precedes the publication of the alleged libel.

MR. GARYAN: I consent to the admission of that.

MR. SWITKIN: Just a moment. Under the Code, we are pleading in this case, as we will if it go to the Jury--

THE COURT: Now, you need not discuss that. The birth certificate is admitted. Now, how about the death certificate?

MR. SWITKIN: Now, I submit, your Honor, in interrogating a witness as to her credibility, and inasmuch as the papers are properly authenticated as required by our Code, that there can be no reason founded in law to exclude that testimony, if I can prove that she has made a material misstatement in that she did give the surname to the child --

THE COURT: Yes, this does not say anything of the ¹ ~~fact~~. It simply shows that the child was baptized under that name and buried under that name, and I will admit it merely for the purpose of showing that fact. It does not say she gave the name or knows anything about it -- merely

that it was baptized name.

MR. SWITKIN: V

THE COURT: For purpose of proving baptized under a name that a child of that

MR. SWITKIN:

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MR. SWITKIN: law and the facts.

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MR. GARYAN: I

one question. I name date of birth, this birth is June 3rd, on June 25th, 1908

MR. SWITKIN:

MR. GARYAN: D certifies that the you explain that?

that it was baptised under that name and buried under that name.

MR. SNITKIN: Well, that is a matter of argument.

THE COURT: Well, I will admit them just for the purpose of proving that there was a child christened or baptized under a certain name, and another certificate that a child of that name died and was buried.

MR. SNITKIN: Yes, sir.

MR. GARVAN: But in no way evidence of the facts, of the allegations contained therein.

THE COURT: Not at all.

MR. SNITKIN: That is a matter of argument.

THE COURT: That is a matter of the jury.

MR. SNITKIN: Yes, and they are the judges of the law and the facts.

(The papers are marked Defendants' Exhibit B).

MR. SNITKIN reads Defendants' Exhibit B to the Jury.

MR. GARVAN: One moment, please, I would like to ask one question. I notice, Mr. Snitkin, that in the certificate of birth, this Dr. Martin certifies that the date of birth is June 3rd, 1907. The alleged libel took place on June 25th, 1908.

MR. SNITKIN: That is right.

MR. GARVAN: On August 30th, 1908, the same Dr. Martin certifies that the date of the birth was April 30th. Can you explain that?

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BY MR. SNITKIN:
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MR. SWITKIN: I am reading the certificate. That is a matter you can comment on later.

MR. DARVAN: How the doctor was present at the birth-

MR. SWITKIN: One moment, I object.

MR. DARVAN: All right. I will withdraw it now.

BY MR. SWITKIN:

Q Now, Mary, how long had you known Andrew Pretash before you had intercourse with him? A When I came there, he was there already.

Q When did you last see him? A I don't know when it was the last time. When he went away I remained there yet.

Q Do you know where Andrew Pretash is now? A I don't know.

Q Can you tell us when it was, that is, the month or the year that you were present at the consecration of the cemetery?

A No, I don't remember that.

Q Now, what were you doing at the cemetery? A I was working around the children.

Q Well, who took you there?

MR. DARVAN: She testified to that, I submit.

MR. SWITKIN: Well, that is why I am cross-examining,

Mr. Darvan.

A I came with a priest from Simpson.

Q What was his name? A I don't know.

Q Where did you meet him? A On the train, when I was coming.

THE COURT: Are you speaking now --

Q No, you misunderstand me. I am now speaking when you went to the consecration of the cemetery, and I wish you would tell us, please, who it was that took you there to the cemetery?

THE COURT: On the 29th of July?

MR. SNITKIN: No, she does not know the date. That is why I ask her that question.

THE INTERPRETER: She is talking about the time --

THE COURT: Now, repeat what she says.

A I was taken by the priest when I went to my sister's.

BY THE COURT:

Q Now, after you had been working in this Orphan Asylum, what person took you to this cemetery in July? A I was not in that house.

BY MR. SNITKIN:

Q Didn't you go to the consecration of the cemetery?

A I was not there.

Q Didn't you testify on your direct examination that you were at the consecration of the cemetery, and that you and the Reverend Arseny went home together? A I was only in the house helping around there, but I was not there at the cemetery.

BY THE COURT:

Q Well, where --

MR. GARYAN: You see, she says she went there to help. She did not go to the cemetery to the services.

THE COURT: Yes, well ?

BY MR. SHITKIN:

Q On that occasion, that is, at the services at the cemetery, what were you doing ? A I went at the time to see my sister. I was helping around there.

Q No, but your sister lived in Simpson, didn't she ?

A Yes.

Q And the consecration of the cemetery was also at Simpson, is that right ?

THE COURT: Well, the cemetery was.

Q The cemetery, yes. A Yes, sir.

Q Well, did any one ask you to go to that cemetery ?

A Father Arseny asked me to go there, and I went there to the Sister, and helped along. There were many people there to help along, wash the dishes, &c.

Q Well, did you help receiving the guests ? A Yes, sir.

Q Well, who asked you to receive the guests ? A I was not receiving them.

THE COURT: She does not understand what you mean by receiving guests.

MR. SHITKIN: Well, how can we tell that, your Honor ? I am not speaking to an English speaking witness. That is why I have to give them some latitude.

BY THE COURT:

Q Do you know what he meant by receiving guests ? A Yes, I understand that is to receive the people when they come, the

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BY MR. SMITKIN:

Q Well, did you do that, yes or no? A I did not receive them, but I was helping them to wash the dishes.

Q Well, Father Arseny yesterday afternoon testified --

MR. SMITKIN: That question is withdrawn.

Q Do you know a priest by the name of Alexis Vogoslovsky?

A I don't know whether it is Vogoslovsky or who it is.

BY THE COURT:

Q Well, the question is do you know that priest? A I don't know until now. I worked at that time, I didn't know.

BY MR. SMITKIN:

Q Well, do you mean to say that you don't know a priest of that name, is that what you mean? A I don't know. I did not live in Simpton.

Q Did any woman ask you on the day that you were at this cemetery, or nearby, to assist in receiving the guests, yes or no? A No. Arseny told me to help there, to work, and I went to my sister's, and I helped too, washing the dishes.

Q Well, Reverend Arseny testified yesterday afternoon that on that occasion, you were called by the wife of one of the priests to assist in receiving the guests. Now, do you now state that Father or Reverend Arseny was mistaken in that testimony?

MR. CARRAN: I object to that.

THE COURT: Objection sustained. The witness is not allowed to characterize that testimony. It is a question for the jury to decide whether washing dishes for guests would not be helping receive them.

MR. SMITHKIN: Exception. I am reading from the record here.

MR. CARVAN: Well, read the whole of the record.

THE COURT: Well, I will not allow her to characterize his story. The jury hear both. The objection is sustained.

MR. SMITHKIN: All right. I will not argue it.

Q Reverend Arseny testified that the wife of that priest who asked you to assist in receiving guests --

MR. CARVAN: I object to your stating what he testified to.

THE COURT: Well, I will allow him to put the question

Q (continuing) That that woman was the wife of Alexis Vegaslovsky. Now, do you say that he is mistaken in the testimony that he has given, in the testimony yesterday, or are you mistaken in the testimony you are giving now?

THE COURT: Same ruling.

MR. SMITHKIN: There has been no objection, your Honor.

MR. CARVAN: Yes, there is.

THE COURT: Same ruling.

MR. SMITHKIN: Then I except.

Q Now, what time of the day was it that you arrived at

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Simpson, at this cemetery ?

MR. DARVAN: She said she did not go to the cemetery

A I cannot remember that, what time it was.

Q Can you tell us the day of the week it occurred on?

A No.

Q Can you tell us the year ? A No, I don't know.

Q Can you tell us the name of the month ? A The day of the consecration was 29th of July.

THE COURT: Are you speaking of the consecration for the date it first came ?

MR. SMITKIN: No, the consecration.

THE COURT: The 29th of July.

Q Now, how do you know it was the 29th of July ? A I remember that, that it was in that month.

Q Well, who told you the day of the month, if any one did?

A Nobody told me that. I thought this over myself, and I remembered.

Q Well, how long did you stay there on the 29th of July, at the consecration services ? A I was not there. I was there to help wash the dishes.

BY THE COURT:

Q Well, how long were you there, is the question?

A That one day.

Q Well, how long on that day, how many hours ? A I can't tell that.

BY MR. SMITKIN:

Q Was it at sundown that you were through with your work?

A Do I know it? I was helping there and I was helping my sister.

Q Well, your sister does not live at this place where the consecration services took place, does she, yes or no? A She lived in Simpson, and then she went to Bayonne City.

Q To Bayonne City, New Jersey? A Yes.

BY THE COURT:

Q Well, when did she go there? A I don't know, when she went there.

MR. JAYMAN: Well, at this time she lived at Simpson where she said.

BY MR. SMITKIN:

Q Well, did you know when the last train left from Simpson to Mayfield? A No, I didn't know.

Q Well, then, how did you know that you were late for train time? A I didn't know, but when I came to the house of the priest, I found out that they were gone already to the Monastery.

Q What priest was that whose house you went to?

A There in Simpson.

Q What is his name? A I don't know what his name is.

Q Now, let us see. When you found that the priest had gone to Simpson, to the Monastery --

MR. GANVANI: No, no, from Simpson.

THE COURT: She went to the house in Simpson, and there was informed that the others had gone.

MR. SWITKIN: That question is withdrawn for the present.

Q Whose house was it that you were helping wash the dishes

A It was not the house of the priest where we were washing the dishes. It was the house of some one else there, that lived there.

Q Did the priest live there also, that is, within a distance of say half a mile or quarter of a mile from where you were working? A Near what?

Q Near the place where you were washing the dishes?

THE INTERPRETER: I do not understand her, your Honor. She speaks her own language again.

THE COURT: Well, repeat the question to her.

A I washed the dishes in the house where the priest lived.

BY THE COURT:

Q Yes. A (No answer)

BY MR. SWITKIN:

Q What is his name, what is the name of the priest?

A I don't know.

BY THE COURT:

Q Well, where did you go, if anywhere, after you washed the dishes? A I went to my sister's.

Q And then you came back from your sister's to this priest's house ? A Yes, sir.

THE COURT: Well, that is as I understood her testimony before.

BY MR. SNITKIN:

Q Now, then, what time was it that you left your sister's home to go back to the house of the priest ? A I don't know.

Q Well, then, how did you know that you were late for train.

THE COURT: Well, she has answered that question. That is excluded as repetition.

MR. SNITKIN: I except.

Q Who told you that you were late for train time ? A Nobody told me. It was I inquired, and the train was gone already.

Q Of whom did you inquire ?

THE COURT: If you remember.

A Do I know ? There were many people there. I asked, I inquired.

BY MR. SARVAN:

Q Where was it, at the station ? A It was in Simpson I inquired, and they said it is late already.

BY MR. SNITKIN:

Q Well, what train did you expect to take, that you were informed that you were late for at that time ? A I don't know what time this train leaves.

MR. SWITKIN: I ask that the answer be stricken out as not responsive to my question.

THE COURT: The motion is denied.

MR. SWITKIN: I except.

Q What train did you expect to take from Simpson to where you desired to go, and that you were informed that you were late for at that time?

THE COURT: Excluded as repetition. She has answered it.

MR. SWITKIN: I except.

Q Well, having found out that you were late for train time, where did you remain?

THE COURT: What did you do?

Q Where did you remain?

THE COURT: Well, put your question.

A I remained in that priest's house.

Q Now, then, how long did you stay in that priest's house before you met Father or Reverend Arseny? A I don't know how long it took.

Q Did you expect to meet him that evening at the house of that priest? A I thought so. I went there and the wife was there, and then Father Arseny came.

Q Whose wife was there? A The other priest's.

Q She told you that Father Arseny was coming there, is that right? A She did not tell me.

Q Well, why did you wait for Father Arseny, if you waited at all for him? A I went there and waited, that they should come to take me.

Q Who should come to take you? A The other priests that were there.

Q Then you did not expect the Reverend Arseny to take you from Mayfield to the Monastery?

THE COURT: From Simpson.

Q Or rather from Simpson to the Monastery? A I was waiting for the buggy, that some one was coming to take me in a buggy.

Q Well, you did not come in a buggy there, did you?

A No, I came on the train.

Q Well, how did you know there was going to be a buggy there to take you back? A Because some of them had a buggy.

Q Well, finally, what time was it that the Reverend Arseny took you from this place, where you were at the priest's house, to the Monastery? A I don't know what time it was.

Q Was it dark? A Yes, it was dark. I don't know what time it was.

Q How long did it take you?

MR. SMITH: That question is withdrawn.

Q How many persons occupied that buggy? A Only Arseny and myself.

Q Who drove that buggy? A Arseny.

Q Now, you to drive the Monastery

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Q Now, this you say was at night. How long did it take you to drive from that house of the priest where you were, to the Monastery ? A Six miles.

Q Yes, well, how long did it take you to drive six miles?

THE COURT: How long a time ?

Q Yes, how long a time ? A I can't tell that.

Q Was it an hour or two hours or three hours ? A I don't know. I don't know how long it took.

Q Can you tell time ? A I don't know the time.

Q Well, what time is it now ? A (No answer).

BY THE COURT:

Q Can you see that clock there (indicating). A Yes, sir.

Q What time is it ? A Fifteen minutes of four.

BY MR. SWITKIN:

Q Yes, so you can tell time. Then, what time was it that you arrived at the Monastery ? A I don't know.

Q Didn't you look at the hour as to when you arrived ?

A No. I didn't have any watch. I couldn't look.

Q Well, isn't there a timepiece in the Monastery or a clock there ? A They have, but I didn't look.

Q Now, what month was it, if you can tell us, that you left work at this Monastery ? A I don't know, I don't know the month. It was in the beginning of the fall.

Q Of what year ? A I don't know.

THE COURT: Well, what did she say, fall or spring?

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MR. SMITKIN: This defendant said she said spring.

THE COURT: Does the Juror know?

THE 9TH JUROR: She said the fall.

Q Have you the baptismal certificate of that child?

A I have not.

BY THE COURT:

Q Did you ever have one? A No, I didn't have it. It was not given to me.

THE COURT: There is no evidence that any baptismal certificate was ever given her. You ask her if she had it, assuming that one was issued. Now, she says she never had one.

MR. SMITKIN: That is all right. I take her answer.

BY MR. SMITKIN:

Q Now, Mary, did you know that there was an article published concerning yourself in connection with Reverend Arseny in a newspaper, yes or no? A I didn't know it, because I didn't read any papers.

Q Well, then, when were you first informed, if you were informed, at all, that there was an article published in a newspaper concerning your relationship with the Reverend Arseny?

THE COURT: Her alleged relationship.

MR. SMITKIN: Yes, I beg your Honor's pardon.

Q Or alleged relationship with Rev. Arseny? A I don't know, because no one told me.

Q Well, if no one told you that anything was published concerning yourself and Rev. Arseny's alleged relationship, why did you make an affidavit for the Rev. Arseny? A I thought that I was taken over there to sign it, and to swear that he was going to marry me and give me ten thousand dollars.

MR. SHITKIN: Well, it is apparent she is mistaken on the question.

THE COURT: Strike that out.

BY THE COURT:

Q Did you ever hear, did anyone at any time ever tell you that your name was in a paper? A No, no one told me. I have not gone anywhere. I have my work.

Q Well, do you know now that your name was in the paper?

A I don't know. Nobody ever told me.

BY MR. SHITKIN:

Q Did you sign a paper while you worked for Samuel Mandelson, in Mayfield, Pennsylvania, on the 26th of June, 1908, yes or no, please? A I don't know whether I did sign any paper. I know that I swore that I had nothing to do with Arseny.

Q Yes, where did you swear to that, that you didn't have anything to do with Arseny? A In Mandelson's.

Q And who swore you ---

MR. SWITKIN: Pardon me, that question is withdrawn.

Q Can you write your name? A (No answer.)

BY THE COURT:

Q Can you write? A Yes.

BY MR. SWITKIN:

Q Well, did you write your name to that paper, to which you say you swore at Mandelson's? A Yes, I wrote my name in Mandelson's.

Q Did you know what the paper was, to which you signed your name at Mandelson's? A Yes, I did know.

BY THE COURT:

Q Did what? A I did know.

BY MR. SWITKIN:

Q What did you know that contained? A It was written there, and I swore to that, that I had nothing to do with him.

BY THE COURT:

Q Did you read it? A No, the Squire read it to me.

BY MR. SWITKIN:

Q What Squire? A Samuel Mandelson.

Q The man that you worked for?

THE COURT: Yes, that is the man she worked for.

A The same.

Q Now, if at that time you did not know that your name was linked in connection with the Rev. Arseny, why did you make

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an affidavit of that kind?

MR. GARVAN: Now, how is she going to understand that?

MR. SWITKIN: Well, he can interpret it, linked or connected.

THE COURT: Do the best you can, Mr. Interpreter.

A I signed it in Mandalson's because I had nothing to do with him.

BY THE COURT:

Q Well, who asked you to go to Mandalson's and sign it?

MR. GARVAN: She lived there.

THE COURT: I know.

Q But who asked you to sign it? Was Arseny there?

A There was Arseny there, and a Deacon by the name of Yedako Adamyo.

Q And who else? A And the wife of Sam, the Squire.

Q Was the lawyer there? A No, there were only the two of them. Five all together.

BY MR. SWITKIN:

Q Well then, when you were asked to sign this paper that you had nothing to do with the Rev. Arseny, did you ask why you were asked to sign it? A I signed it myself, because I knew I had nothing to do with him.

Q I ask you if at the time that you signed this paper at Mandalson's, had anything been said to you that it was alleged

at any time that you had illicit relations with the Rev. Arseny? A Nobody said anything.

Q Well, if nobody said anything to you why did you sign that paper?

MR. GARVAN: I object, if your Honor please. That has been gone over sufficiently.

THE COURT: Objection sustained.

MR. SMITKIN: I except. I call upon the prosecution to produce that affidavit.

MR. GARVAN: I will if I can find it.

MR. SMITKIN: Well, here is a copy of it. I will furnish you with it and I ask that that be marked for identification.

(Marked Defendant's Exhibit G for identification.)

MR. GARVAN: I will look for it and try to get it. They tell me I have it.

BY MR. SMITKIN:

Q Now, Mary, do you know a man by the name of Mitrofan Biluszenko, residing at Oliphant, or at Mayfield, rather?

A Is it Biluszenko?

THE COURT: Repeat the name again.

Q Well, that is perhaps right, Biluszenko? A Yes, I do.

Q Do you know his wife? A No, I don't know his wife.

MR. SMITKIN: May I ask your Honor's indulgence

that that witness be called in for identification?

THE COURT: What witness?

MR. SMITKIN: I have him; he is a witness for the defense.

THE COURT: Well, you can call him, if you wish.

Q Do you know the man at the bar, (indicating a man whose name is Mitrofen Bilusnenko), yes or no? A Yes, I knew him, because he was in our house. He was a painter in our house.

MR. SMITKIN: Yes, that is all, Mr. Bilusnenko.

Q Were you ever at his house in the month of March,

1908? A I don't know.

Q Will you swear that you were not at his home in March,

1908?

THE COURT: Well, how can she swear if she does not know? She says she does not know.

Q Well, will you swear that you were there or that you were not there? A (No answer.)

BY THE COURT:

Q Were you ever in that man's house at any time?

A (No answer.)

BY MR. SMITKIN:

Q That is it, at any time, prior to June, 1908, yes or no? A I was in the house there, but Bilusnenko was boarding there. There was another woman, not his wife, that

Maravitsky woman.

BY THE COURT:

Q Well, do you live in that house?

Q You just passed to see Mary Pavlovna?

BY MR. SMITKIN:

Q Mary Pavlovna,

Q Did you know of Mrs. --- what is her name? wife living there? That was the house?

BY THE COURT:

Q What is her name?

BY MR. SMITKIN:

Q Did you know

MR. SMITKIN:

Q Did you know there? A No.

Q Ever came your child? A No.

Q Did you know Rev. Arseny was there?

Q Did you know had asked Arseny

Edravitsky woman.

BY THE COURT:

Q Well, do you mean in the house where you lived? Did you live in that house? A No.

Q You just paid a visit there, is that it? A I only went to see Mary Pavla there.

BY MR. SHITKIN:

Q Mary Pavla, was that the wife of Mitrofen? A No.

Q Did you know at that time that you were in that house of Mrs. --- what is her name --- Edravitsky, that Mitrofen had a wife living there also? A That was not Edravitsky's house. That was the house of the husband of Mary Pavla.

BY THE COURT:

Q What is his name? A Stephen Pavla.

BY MR. SHITKIN:

Q Did you ever state to Mitrofen Biluszenko ---

MR. SHITKIN: Question withdrawn.

Q Did you have a child with you when you paid a visit there? A No.

Q Never came to Mitrofen's house, or Pavla's house with your child? A No, I never went with a child.

Q Did you ever state to Mitrofen Biluszenko that the Rev. Arseny was the father of your child? A No.

Q Did you ever tell Mitrofen Biluszenko that you had asked Arseny to place your child in the Monastery, and

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that he refused to do it? A No.

Q You never had such a conversation with any person in Mayfield or any other part of Pennsylvania? A Never.

Q Did you ever receive ten dollars from Arseny? A No.

Q Did you ever state that you had received ten dollars, and that Arseny did not want to give you any more? A No.

MR. SMITKIN: Now, will Mr. Chaly step in?

BY THE COURT:

Q Who took care of this baby after it was born?

A Mrs. Sdravitsky.

MR. GARVAN: Mrs. Sdravitsky, she was the midwife.

THE COURT: Well, with whom did the baby live?

MR. GARVAN: It lived with the midwife up to shortly before its death.

BY MR. SMITKIN:

Q Do you know this person, indicating the man who is at the bar, indicating a man whose name is Hryeko Chaly? Do you know him? A I know him.

BY THE COURT:

Q What is his name? A Kirosov.

BY MR. SMITKIN:

Q So you identify this man Chaly as Kirosov, is that it?

A Yes, that is Kirosov.

Q So that when you stated that Kirosov had a conversation with you relative to the affidavit that you were to make for him, you referred to this man, indicating Hryeko Chaly?

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A (No answer.)

BY THE COURT:

Q What do you
him Kirosov.

Q Is that it?

Q How many
one.

Q Now, which
Kirosov? A (The
bar brought in

Q Well, who
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BY MR. SMITKIN:

Q Who is the

A I don't know

BY THE COURT:

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A (No answer.)

BY THE COURT:

Q What do you call him? A (In English) Everybody calls him Kirosov.

Q Is that it, Kirosov? A Kirosov.

Q How many Kirosovs did you ever know of? A Only this one.

Q Now, which one do you mean? Go and put your hand on Kirosov? A (The witness indicates the man standing at the bar brought in by Mr. Snitkin as Kryoko Ghaly.)

Q Well, who is this man sitting down there next to Mr. Snitkin, who is that? A (In English) I don't know him.

BY MR. SNITKIN:

Q Who is that man, (indicating the co-defendant)?

A I don't know him.

BY THE COURT:

Q Did you ever see them before? A I only saw them in Oliphant.

MR. CARVAN: She said she did not know them but saw them in Oliphant.

MR. CARVAN (Addressing the man standing at the bar produced by Mr. Snitkin) Wait until I ask that man, how do you spell your name?

MR. CARVAN: He says Kiroso ---

MR. SNITKIN: That is his Christian name.

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MR. O'RYAN: Hrycho Chaly.

MR. SWITKIN: That is right.

THE COURT: What does he do, put his given name last?

MR. SWITKIN: His Christian name is Hrycho, and the surname is Chaly. You see, your Honor, they write the surname first and the Christian name last, but in the proper way it is just as I gave it to you, Hrycho Chaly.

THE COURT: Well, the proper way is the order that they write it in. Write his name as he is called in the natural regular way.

MR. SWITKIN: Here is the way he signs it "Hrycho" that is his Christian name, and the surname "Chaly".

THE COURT: What do you mean by Christian name, his given name?

MR. SWITKIN: Yes, sir, and his surname is Chaly.

THE COURT: Is his given name Chaly?

MR. SWITKIN: No, his family name is Chaly, and his given name is Hrycho. May he step out now, your Honor?

THE COURT: Yes.

BY MR. SWITKIN:

Q (Through the official interpreter) Now, did you ever tell Chaly, the man whom you called Kirosov, who was brought to the bar, did you ever tell him that Arseny was the father

of your child? A No, I did

Q Did you ever state were out of work? A No, I I made money.

Q Did you ever tell a burial for the child, and to be buried?

THE COURT: Well this burial business.

MR. SWITKIN: W libel.

THE COURT: Do character?

MR. SWITKIN: W

THE COURT: Val doesnot apply. A

MR. SWITKIN: W

THE COURT: I

MR. SWITKIN:

Your Honor will observe of course, that it says a publication made, in the belief grounds for this b

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of your child? A No, I did not tell him.

Q Did you ever state to him that you had no money and were out of work? A No, I always had work and always had money, I made money.

Q Did you ever tell Chaly that you were trying to get a burial for the child, and that Arseny would not permit it to be buried?

THE COURT: Well, this is after the alleged libel, this burial business. I do not know how that is material.

MR. SMITKIN: Well, it is, your Honor, under reasonable libel.

THE COURT: Do you claim here that a cleric is a public character?

MR. SMITKIN: Why, of course he is.

THE COURT: Well, I do not so rule. That section does not apply. A priest is a private individual.

MR. SMITKIN: Now, the Code reads your Honor ---

THE COURT: I know how the Code reads.

MR. SMITKIN: 244, there are two subdivisions there.

Your Honor will observe that a publication is justified --- of course, that is where you prove the truth --- then it says a publication is excused when it is honestly made, in the belief of its truth, and upon reasonable grounds for this belief, and consists of fair comment and

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conduct of the person in respect to public affairs, etc.

Now, as to whether a priest is a public person or is not, is a matter for the jury to determine, because they are the judges of the law and facts.

THE COURT: I will explain my opinion to the jury though, of that.

MR. SWITKIN: I beg your Honor's pardon?

THE COURT: I say, the Court has a right to give its opinion of that.

MR. SWITKIN: Well, it seems that the jurisdiction of the Court is limited to passing upon questions of evidence, and as to what the law is, is for the jury to determine.

THE COURT: Well, yes, that is broadly true.

MR. SWITKIN: Will you repeat the last question?

(Last question repeated by the stenographer.)

THE COURT: Well, I will exclude that on the ground that the statement was made after the publication of the libel, or the alleged statement, and could not have affected the publication in any way. You have an exception. Go on, now.

MR. SWITKIN: Yes, sir.

BY MR. SWITKIN:

Q Did you ever tell Mitrofen Biluszenko that Arseny refused to give burial to the child?

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MR. GARVAN: That is objected to.

THE COURT: Sustained on the same grounds.

MR. SWITKIN: Exception.

Q Did you ever tell Biluszenko that the Rev. Arseny had refused to give burial to your child, because he said if he did, it would show there was a baby factory at the Monastery?

MR. GARVAN: Objected to on the same grounds.

THE COURT: The same ruling.

MR. SWITKIN: Exception.

THE COURT: You say "burial"?

MR. SWITKIN: Yes, burial, I am talking about.

Q Now, did you ever go to the office of Harry Needle?

MR. SWITKIN: A person called to the bar is indicated as Harry Needle.

BY THE COURT:

Q Did you ever see that man? A No. I only saw him at the time I was in Oliphant.

BY MR. SWITKIN:

Q Were you in his office? A Yes.

Q Is this your signature (indicating)?

THE COURT: Whose signature, her signature?

MR. SWITKIN: Yes, sir.

A Yes, sir, I did.

MR. SWITKIN: I offer that paper in evidence.

MR. GARVAN: Consented to.

(Marked Defendant's Exhibit D.)

Q Was Heftegy Keselowsky and Michael Hielansky present when you signed your name to that paper?

MR. GANVAN: Conceded.

MR. SMITKIN: All right. Now, it being in evidence I will read it to the jury.

(Mr. Smitkin reads to the jury Defendant's Exhibit D.)

MR. GANVAN: Is it claimed this is the language of this woman?

THE COURT: It is claimed this paper was signed at this time. What is the date?

MR. SMITKIN: The 1st day of July, 1908.

BY MR. SMITKIN:
Before

Q Did you sign your name to Defendant's Exhibit D, did Harry Needle converse with you in your language? A Which fellow was that?

Q Needle, the man that was at the bar a few moments ago?

THE COURT: "Did anyone read it to you?" Is that the question?

A No, he didn't say anything. They were talking all, and then they told me to swear to it.

Q Well, did you ask them what you were swearing to?

A No, I didn't ask. I was thinking that this was all on account of that money.

BY THE COURT:

Q What money? A I thought it was all that, that they would give me the \$10,000 and they will marry me, and that I will say that the child was from Arseny.

BY MR. ENITKIN:

Q So that, under the belief that you were getting \$10,000 and that someone was going to marry you, you were willing to say that Arseny was the father of your child?

THE COURT: That is only a conclusion upon the testimony.

MR. ENITKIN: I submit, your Honor, I have a right to ask that question.

A I was swearing on this, that they were going to give me ten dollars, I mean ten thousand dollars, and that is what I was swearing to, and they were going to marry me.

MR. ENITKIN: Go on. She wants to say something else.

A (Continuing) That is all.

Q Well, who told you to say that Arseny was the father of your child? A Two or three fellows.

THE NINTH JUROR: That is not the question, your Honor. The question was not put to her properly and she did not know what the question was. Will you let the interpreter repeat it again to her?

THE COURT: Repeat the question again.

(Question repeated by the stenographer.)

THE INTERPRETER: The same way I said before, your Honor.

THE COURT: Well, what does she say?

(The question is again repeated by the stenographer.)

A One of them that was here, Kirosov, I think.

BY MR. SHITKIN:

Q Well, wasn't either of these defendant at the bar?

A No.

Q Well then, if they asked you to say that, anyone at all asked you to say that Arseny was the father of your child, were you willing to say that for a consideration of \$10,000 and getting married.

THE COURT: The question is excluded. She has already answered that she did it. It is repetition.

MR. SHITKIN: I except. I have a right to show the witness's state of mind.

THE COURT: She did it. Her willingness is shown by that. There is no question about that.

BY MR. SHITKIN:

Q When was the first time that you saw either of the defendants at the bar?

THE INTERPRETER: She says it takes so long, and ten times over the same thing.

BY MR. GARVAN:

Q Just answer once or twice more.

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THE INTERPRETER: She says she is all tired out.

THE COURT: Well, we will adjourn now. I would like to get this case finished.

MR. SWITKIN: Judge, I promise you to hurry up as much as I consistently can.

THE COURT: Well, gentlemen of the jury, the court will now take a recess until 12 o'clock to-morrow.

Meanwhile, gentlemen of the jury, be very careful not to discuss this case among yourselves, nor anyone else, whatever, and do not come to any conclusion concerning it until it is finally submitted to your consideration.

(The Court thereupon adjourned the further trial of the case until Friday, January 8th, 1908, at 12 o'clock M.)

THE COURT: The stenographer will put this on the record: That on the personal assurance of counsel for the defense that he will guarantee the attendance of the defendants to-morrow, the Court allows them to go in his parole.

New York, January 8th, 1909.

TRIAL RESUMED.

MARY KRINITSKY, a witness for the People, resumes the witness stand.

CROSS EXAMINATION CONTINUED (through Official Interpreter Bernhard):

BY MR. SWITKIN:

Q Mary, do you know the nearest station to Simpson?

A No.

Q The dedication of that cemetery, or rather the consecration of that cemetery was on a Sunday, wasn't it?

A I don't remember what day.

Q Do you know whether or not there is a station at Carbondale, a train station? A It is far from Simpson to Carbondale.

Q But I ask you whether you know whether there is a train station at Carbondale? A There is one.

Q Carbondale is about two miles from Simpson, isn't it? A I don't know that.

Q Don't you know that you can go by trolley car from Simpson to Carbondale for five cents? A I was late. I could not go that time to Carbondale.

MR. GARVAN: Only to save time, I would suggest that this information be gleaned from somebody else.

THE COURT: Well, if you make objection I will rule on it. She said in the first place she did not know.

MR. SWITKIN: Now, she says she could not go to Carbondale.

THE COURT: Well, I would have bound you by that answer. I would not have allowed you to go further on that line if objection had been made. You have to confine yourself.

Q Is there a trolley car running from Simpson to Carbondale? A I don't know.

Q How often have you traveled from Simpson to Carbondale? A I did not go much. I was far from that.

MR. SWITKIN: I ask that the answer be stricken out as not responsive to my question.

MR. GARVAN: No, I object.

THE COURT: Motion denied. She said she did not go much.

MR. SWITKIN: Well, that is indefinite. I am entitled to know how many times.

THE COURT: Well, she cannot say that.

Q Well, can you tell us whether it was once or twice or three times that you traveled from Simpson to Carbondale?

THE COURT: There is not any evidence that she ever traveled there.

A I can't remember how many times I was.

BY THE COURT:

Q Did you ever go from Simpson to Carbondale by trolley?

A I was going.

Q Prior to the 29th of July, 1907, was it?

MR. SMITKIN: Yes, sir; prior to the 29th of July, 1907 -- 1906, rather.

THE COURT: 1906? There may not have been any trolley there then.

MR. SMITKIN: Well, she says she went.

A I did not go only that time when I needed it.

BY MR. SMITKIN:

Q Well, there was a trolley there in 1906, wasn't there, between Simpson and Carbondale?

MR. HARVAN: I submit, your Honor, there are lots of men here who know the conditions.

THE COURT: You can prove it otherwise.

MR. SMITKIN: In order to contradict this witness, I have to lay a foundation and direct her attention to it, because otherwise the District Attorney may say I did not properly prove it.

THE COURT: Well, you are making her your witness on those points. This is entirely new matter.

MR. SMITKIN: Why, this is testing the credibility of the witness. This is not new matter. She says the last train left at a certain hour.

THE COURT: She says she was told that.

MR. SWITKIN: All right, if I can prove that the train left later than she thought it had already gone for the day, that tests her credibility.

THE COURT: Not at all. The jury can take that into account.

MR. SWITKIN: I take an exception.

Q I ask you this question, don't you know as a matter of fact that the last train on Sunday leaves Carbondale at 11 o'clock at night?

MR. GARVAN: I object. It may be leaving Carbondale for Chicago.

MR. SWITKIN: Carbondale to Mayfield.

MR. GARVAN: Well, who wants to go to Mayfield? I object to it as immaterial.

Objection sustained. Exception.

Q You have testified that there was no railroad station at Simpson, didn't you? A There is no station in Simpson.

Q But you did testify that there is a station at Carbondale? A There is a station in Carbondale, but it is far away from Simpson.

Q I understand that, but in order to take the train, you would have to go to Carbondale, wouldn't you? A I didn't know what car, I didn't know anything about a car.

MR. SWITKIN: I ask that the answer be stricken out as not responsive to my question.

THE COURT: Motion denied. It is the best answer the witness can give.

MR. SMITKIN: I except to the Court's remark, characterizing the witness's best answer. Now, I would like to have that affidavit that she had signed for the Reverend.

THE COURT: Well, I presume that is a private remark to Mr. Garvan? Do you want that on the record?

MR. SMITKIN: Yes, sir. It is an exhibit marked for identification.

THE COURT: Well then, ask for whatever exhibit it was. The jury will disregard any remarks of counsel.

MR. GARVAN: It was discussed yesterday, your Honor.

MR. SMITKIN: Defendant's Exhibit C for identification. Now, I offer this paper in evidence.

MR. GARVAN: No objection.

THE COURT: What is the paper, Mr. Garvan?

MR. GARVAN: It is the first affidavit she made for the priest.

THE COURT: What date?

MR. SMITKIN: June 26th, immediately after the publication of this alleged libel.

THE COURT: All right. If you do not object to it Mr. Garvan?

(Marked Defendant's Exhibit C in evidence).

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BY MR. SMITKIN:

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Mr. Snitkin reads the exhibit to the jury, Defendant's Exhibit C.

MR. SNITKIN: In order to be fair to all concerned, we may state that the original has been mislaid, but that this may be considered the original affidavit.

MR. GARVAN: Yes, that is right, that is my fault.

BY MR. SNITKIN:

Q Now, after making that affidavit, Defendant's Exhibit C, did you have any conversation with Hrycko Chaly, or with Eugene Wasylenko, and did you to them state that the reason you made that affidavit for the Reverend, was that you were threatened with bodily harm?

THE COURT: Can you translate that?

THE INTERPRETER: yes, your Honor, but it is too long.

THE COURT: Do you object to having that question divided so as to have it interpreted?

MR. SNITKIN: Not at all, your Honor.

(The stenographer repeats the first part of the question, as follows: "Now, after making that affidavit, Defendant's Exhibit C, did you have any conversation with Hrycko Chaly, or with Eugene Wasylenko"?)

A I don't understand what that means.

THE COURT: Ask her if she knows those men.

THE INTERPRETER: She says "which men"?

BY MR. SMITKIN:

Q With Hrycko Chaly or with Eugene Wasylenko?

A I don't know.

BY THE COURT:

Q Don't you know Hrycko Chaly or Eugene Wasylenko?

A I don't know. I did not see those fellows.

Q Well, do you know them? Would you know them if you saw them? A It was some time ago. I don't know.

THE COURT: Well, bring them in, Mr. Smitkin.

BY THE COURT:

Q Now, do you know those men standing there who just came in? A Yes, I do.

MR. SMITKIN: They are identified as Hrycko Chaly,

and the other is Eugene Wasylenko.

BY THE COURT:

Q Now, you see those men standing there, do you?

A This one is not Hrycko.

Q Well, you know those people, do you? A I saw them when they came.

Q Well, did you ever talk with them about this case?

A No, I did not speak to them at all.

BY MR. SMITKIN:

Q Did you ever speak to them concerning the affidavit that you made for the Reverend Arseny, yes or no? A No, I did not say anything to anybody.

Q Didn't you state to Ghely and Wasylenko that the reason you made the affidavit for the Reverend Arseny was because you were threatened with bodily harm? A Who will do me harm?

THE COURT: Repeat the question, and the jurors will follow it also to see if it is correctly translated.

(The question is repeated by the stenographer to the interpreter).

A I did not say anything.

Q Didn't you state to Ghely and Wasylenko, that everything contained in the article appearing in "Svoboda" on the 25th of June, 1908, was true? A No.

Q Didn't you prior to the 25th day of June, 1908, ask Hryoko Ghely, to let the public know --

MR. SMITKIN: Just a minute. Just eliminate the word "Ghely" and insert the word "Biluszenko".

THE COURT: Well, withdraw your question and put another one.

Q Didn't you prior to the 25th of June, 1908, ask Nitrofon Biluszenko, to let the Russian newspapers know what Arseny had done to you? A No, I didn't say anything.

BY THE COURT:

Q Did you ever see a Russian newspaper? A No, I don't read papers.

Q Did you know there were any Russian newspapers pub-

lished in America? A I did not know, because no one told me.

BY MR. SWITKIN:

Q Well now, in the community where you lived, was it not common talk about the alleged relationship between yourself and Arseny?

MR. GANVAN: I object to that, if your Honor please.

THE COURT: Objection sustained.

MR. SWITKIN: I respectfully except.

Q Now, you have testified that you have never had any conversation with either Chaly or Mitrofan Bilusosenko?

THE COURT: About this case.

MR. SWITKIN: I will have to divide the question.

All right.

Q About this case? A Never spoke to them.

Q Didn't you testify yesterday afternoon, and I read from page 76, so that you may follow me if you want to, that you had a conversation with those men, and that you simply said what they told you to say?

THE INTERPRETER: Will your Honor permit me to say that in Russian? She does not understand the Polish.

THE COURT: Well, say that to her in Russian.

THE INTERPRETER: She says she does not understand.

MR. SWITKIN: What is the answer?

THE INTERPRETER: She does not understand it.

MR. SWITKIN: You mean she does not understand you?

THE INTERPRETER: No.

THE COURT: Well, I am not at all surprised. Can the juror put that question to her?

(Question repeated by the stenographer to the ninth juror).

MR. GANVAN: I object to that question, unless the time and place of the alleged conversation are fixed. I think that we should be fair to this witness.

MR. SWITKIN: Certainly.

MR. GANVAN: The line of examination has been about a conversation with those two men, about her affidavit which she made for Arseny. Yesterday she testified to a conversation with them when she was in Olyphant. Her mind is fixed now on the time of the Arseny affidavit.

THE COURT: Well, that is a matter for the jury to determine.

MR. SWITKIN: I have a right to press my question, whether she did not testify yesterday afternoon that she did have a conversation with these two men, and that all she said was what they told her to say.

THE COURT: Well, she does not know what "conversation" means. She said those men took her and she signed that affidavit on the promise of money.

MR. SWITKIN: Now, while nothing pleases me better

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then to have your Honor correct me, it does seem to me
that your Honor --

THE COURT: Well, where is the testimony of yesterday?

MR. SMITKIN: Pages 76 and 77, your Honor. She said she never spoke to these men -- at the bottom of page 76, the last question on page 76, going right on 77 clear down to the last line there.

THE COURT: Well, it says here "I did not say anything. I was saying what they were telling. What did they say to you? One of them said to me he was going to marry me and the other one said to me he would give me \$10,000."

MR. SMITKIN: Yes, sir, well, is not that conversation? (Reading) "I did not say anything. I was saying what they were telling me." She did a physical act and she spoke.

THE COURT: She said she signed an affidavit on certain promises made to her. That is what she said yesterday. Now put your question and let the juror put it.

MR. SMITKIN: I did, and I ask that it be repeated.

THE COURT: The stenographer will repeat it to the juror.

(The question is again repeated to the ninth juror by the stenographer).

THE NINTH JUROR: She says she did not say nothing yesterday.

BY MR. SMITKIN:

Q Is that the best answer you can make to my question?

THE INTERPRETER: She says she does not understand it.

THE COURT: Well, we ought to have an interpreter here who can talk to her. Will the juror speak to her again, if you have no objection?

MR. SMITKIN: I have no objection.

THE COURT: Repeat the question to the juror.

(Question repeated by the stenographer to the ninth juror).

THE NINTH JUROR: She says "I cannot answer any better".

THE OFFICIAL INTERPRETER: She says "I speak Ruthenian."

THE COURT: Well, that is not her full answer. Let us have the full answer. She said "I speak Ruthenian"?

THE NINTH JUROR: I speak "Ruthenian".

THE COURT: Go on. Now, let me talk to the witness.

BY THE COURT:

Q Now, you understood yesterday what was said to you, didn't you? Do you speak English at all? A (In English) No, only a little bit.

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Q You understand? A Yes, only a little bit.

Q Well now, yesterday you understood, you talked?

A No, we talk no English, only Ruthish.

Q Well, you understood this man yesterday when he spoke to you, didn't you?

MR. GANVAN: She don't know what "understood" means.

Q Didn't you understand yesterday?

THE COURT: Well, put it to her now.

A (Through the official interpreter) I understood but not exactly everything.

THE COURT: Well, just tell her to try to understand.

A (Continued through the official interpreter) I am not a pure Russian.

MR. GANVAN: I think we had better stick to the official interpreter. Here are several people from all directions at the girl.

BY MR. SHITKIN:

Q (Through the official interpreter) You have testified yesterday afternoon that two men came to Mendelson's and took you on a street car to Olyphant. Had you ever seen those two men before they came to you at Mendelson's? A I did not see them only at the time when they came there.

Q Did you know them before you saw them at Mendelson's?

A I did not know them.

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Q Well, then, meeting two men who came to your employer's house, whom you had never seen before, didn't you tell your employer where they wanted you to go?

MR. GARVAN: Now, just leave it all off except "Didn't you tell your employer".

MR. SMITHKIN: I submit, your Honor, I must not be limited that way.

THE COURT: Well, go on. You will stay here until midnight to finish this case and your clients will stay in jail until it is finished. I will commit the defendants until we finish this case. I am not going to stay here a week trying this case. It is all unnecessary. Her story has been told over and over again.

MR. SMITHKIN: I object to your Honor's remarks and except to them.

THE COURT: Well, I should have some control over the trial of the case. Repeat the question.

(Question repeated)

A No, because they did not tell me where they were taking me to.

Q Didn't you want to know where you were going?

A They said only I should go with them.

Q When for the first time did you see either of these defendants? A I saw them in Olyphant.

Q Both of them or one of them? A Both.

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Q In whose office did you see them at Glyphant, or where? A That little Jew that was here yesterday.

Q The little Jew, yes? Did Kircosow promise to marry you when you saw him in the little Jew's office?

MR. GARVAN: Do not say "Kircosow".

MR. HWITKIN: Well, I am indicating this first defendant.

THE COURT: Let him stand up. Now, indicate the defendant Kircosow.

A No, not him.

Q Did he, this defendant Kircosow offer you \$10,000?

A (In English) No, never. (Answer continued through the interpreter) No.

BY MR. HWITKIN:

Q (Through the interpreter) Did this co-defendant, Ourkowskys tell you he would marry you? A No.

Q Did he offer you \$10,000? A No.

Q You testified yesterday afternoon that about two months after the 29th of July, you had connection with Andrew, is that correct? A Where did I testify that?

THE COURT: With Andrew Eretash.

Q You testified yesterday afternoon in answer to Mr. Garvan's question --

MR. HWITKIN: Just go as far as that, then I will read the question and answer.

A I don't remem

Q "Q Now, connection with that" -- and in Mr. Garvan says, Well, you don't the priest". In answer to Mr. with Andrew two

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A I don't remember saying that.

Q "Q Now, how long after that was it that you had connection with Andrew, about? A About two months after that" -- and in order that there may be no misunderstanding, Mr. Garvan says, "That is about two months after July 29th? Well, you don't remember that date; that date was fixed by the priest". Now, didn't you testify yesterday afternoon in answer to Mr. Garvan's question that you had intercourse with Andrew two months after the 29th of July, yes or no?

MR. GARVAN: Explain what "intercourse" means.

A I don't know about this, testifying that.

Q Well, do you swear now that you did not say, testify yesterday afternoon as I have read to you?

THE COURT: Why do you not ask her when her intercourse began.

A I did not say that yesterday.

Q That is all I want to know. Now, you testified yesterday afternoon in answer to Mr. Garvan's question --

MR. SMITH: I am reading from page 69.

Q (Continuing) That after this connection with Andrew, you left your employment at the Orphan Asylum three months later, is that correct?

THE COURT: I think I will adjourn this case until we get a Russian interpreter.

MR. SMITH: Judge, a Russian interpreter will not

be much use.

THE COURT: Well, what not. Well, what

THE INTERPRET several times the times. One thing thing was asked of

MR. SMITH:

THE COURT:

(Question re)

A I said once yesterday again.

THE COURT:

that she remember

Q (Question repeated) He ought to know it.

Q Well, if you you left your employment with Andrew, was that

MR. GARVAN:

fied to.

Objection

THE COURT:

BY THE COURT:

Q Was that true

be much use.

THE COURT: Well, we will see whether he will or not. Well, what does she say?

THE INTERPRETER: She says "Yesterday I was asked several times the same thing and I answered a good many times. One thing was asked eight times and the other thing was asked probably ten times".

MR. SWITKIN: Well, I press my question.

THE COURT: repeat the question.

(Question repeated by the stenographer).

A I said once yesterday and I don't want to say it all over again.

THE COURT: Tell her that she must answer, either that she remembers saying that or not, that is all.

Q (Question repeated) A I told him that yesterday. He ought to know it.

Q Well, if you so testified yesterday afternoon that you left your employment three months after your had intercourse with Andrew, was that correct?

MR. GARVAN: I object to that. That has been testified to.

Objection sustained. Exception.

THE COURT: Well, was that correct? Ask her.

BY THE COURT:

Q Was that true? A About whom?

Q Is it true that you left your place three months after you had connection with Andrew? A I don't remember when it was that I left the monastery and went to Mendelson's.

THE COURT: there is an interpreter down in Special Sessions, I think might do.

MR. SWITKIN: No, he does not speak her language. He speaks Polish.

THE COURT: Well now, we will adjourn until 2 o'clock, and we will have him up here and see.

Meanwhile, gentlemen, be careful not to discuss the case among yourselves or with any one else, and do not come to any conclusion upon it until it is finally submitted for your consideration.

The defendants are committed.

(Recess until 2 o'clock p.m.)

After recess.

TRIAL RESUMED.

THE COURT: I have sent for another interpreter, Mr. Switkin. You talk to him and satisfy yourself as to his competency.

MR. SWITKIN: I am no judge.

THE COURT: Well, let your clients do it. I do not want the impression created that we desire anything but exact justice, and I want these men to feel that

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their interests will be safely guarded.

I said, Mr. Garvan, before you came, that I have called this new interpreter in order to get an interpreter who could talk, if possible, clearly with the witness, and who will be satisfactory to the defense, in order not to create the impression that we wish to deprive the defendants of any rights whatever.

MR. SMITKIN: Just a moment, I never intimated or insinuated that we were not being properly treated, so far as the law in the case is concerned.

THE COURT: I do not say that you did, Mr. Smitkin, but I am very anxious to preserve the respect of the community for this Court, that is, in its sense of fairness, and we have differed as to the propriety of certain questions. You insisted on your technical rights, and you are entitled to them. Now, this interpreter may be satisfactory.

MR. SMITKIN: If your Honor please, one of my technical rights I have insisted on is that I have sent for a bond in this case that we feel is perfectly good in a case of this kind. Your Honor locked these men up in a case of this kind, where the case is only a misdemeanor.

THE COURT: No, it is not the only case. There are some Judges who make it a rule to lock up the defendant in every case when they are put on trial. Now, I have

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been of the opinion that that is unnecessary, because I have assumed that when a defendant is out on bail, and is put on trial, that he would not leave.

MR. DARVAN: It has been the policy of the District Attorney's office never to consent to any defendant going out after trial is commenced.

THE COURT: Yes, so I understand, they never consent to it.

MARY KRINITSKY, a witness for the People, resumes the witness stand:

(Michael Tandlich, is duly sworn as interpreter)

THE COURT: Do you understand the Ruthenian language?

INTERPRETER TANDLICH: Yes, sir.

THE COURT: Well, talk to the witness and see if she understands you.

THE INTERPRETER: (After talking with the witness) Yes, sir, she says she understands me.

THE COURT: All right, put your questions now, Mr. Snitkin.

CROSS EXAMINATION CONTINUED (through Interpreter Tandlich)
BY MR. SNITKIN:

Q Who asked you to come here as a witness? A The lawyer.

Q Who
Q What
THE
A Mr. Delan
Q Your
the Squire?
Q Did
A Yes, we
Q Now
came on fro
not talking
Q Did
from the t
and sworn
A No, r w
Q Be
didn't you
A Well, I
New York
Q A
A No, be
Q Y
ness in A
Q Y
A Well,
with the