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Q Who paid your fare? A I don't know who paid it.

Q What lawyer asked you to come here?

THE COURT: If she knows.

A Mr. Delaney.

Q Your employer is here also, isn't he, Mr. Mendelson,
the Niquira? A Yes, he is here.

Q Did you travel together with him, with your employer?

A Yes, we all came together.

Q Now, did you have any talk with your employer when he
came on from Pennsylvania, about this case? A No, we were
not talking any.

Q Did you ever speak to your employer about this case,
from the time that you first made the affidavit signed by you
and sworn to before your employer, to the present day?

A No, I was not talking to him any time.

Q Well, when you were coming on here with your employer,
didn't you ask him what you were coming on here for?

A Well, I didn't ask him. He told me to come with him to
New York and I came with him.

Q And you did not know the object of your coming here?

A No, because they did not tell me.

Q You did not know that you were going to be a wit-
ness in Arseny's case? A No, they did not tell me.

Q Well, did you ask where they were taking you to?

A Well, I did not ask them. They only told me to come along
with them.

Q Since your arrival in this city, where have you stopped? A Well, where they took me, there I sleep.

Q Well, who takes you? A The lawyer.

Q Well, has the lawyer taken you to the Broadway Central Hotel? A Well, I don't know what you call the hotel. I am a stranger here.

Q Well, did you stop in a large house with a number of rooms? A I don't know. I didn't go through the rooms.

Q Well, you are not paying your own expenses at the hotel, are you? A No, sir.

Q Do you know who does pay your expenses? A I don't know.

Q Does the lawyer stop at the same hotel? A I don't know.

Q Does he bring you there and take you from the hotel to the court? A Well, no. We always go from here from the court, and then we met all together there and come to the court back again.

Q Now, just give me the names of all the persons that meet together, from court to court? A Well, I can't give you the names of all of them. I don't know them only from seeing them here.

BY THE COURT:

Q Well, name some, name all that you know? A Mar. Pavla, and the second one is Edravitsky.

BY MR. SHITKIN:

Q And Mr. Delaney? A Mr. Delaney, and Sam Mendelson, and Adamiak Yatsko. The others I don't know.

Q Well, that is all right. We have two, four, five, so far that you know. Now, since you have been in this city have you seen the Reverend Arseny? A Well, I only saw him here when I saw him here in court, in the case.

Q Did you speak to him? A Well, what have I got to talk with him? I got no business with him.

Q Did you speak with him, I ask you? A No.

Q Did any one tell you that Xirozow and Gurkowskys were arrested on the charge of a publication concerning yourself and the Reverend Arseny? A Nobody ever told me anything about it.

Q Do you know now that these defendants are on trial for having published an article concerning yourself and the Reverend Arseny? A I don't know if they are for that or what.

Q You testified yesterday that your child was baptized, and that the priest who baptized the child is here. Since yesterday afternoon, after so testifying, have you seen that priest? A No, sir, I did not.

Q You mean you did not see him in court, is that what you mean by your answer? A I did not see him to-day at all.

Q Well, did you see him yesterday? A Yes, yesterday I saw him. He was here.

Q Now, when you went home yesterday afternoon from this court, did you go home with Mrs. Sdravitsky? A Where?

Q From this court to where you were stopping? A Yes.

Q Did you tell Mrs. Sdravitsky the questions that were being asked of you? A No, sir.

Q Had no talk with her about this case at all? A She did not ask me and I did not tell her anything.

Q Didn't you desire to know what Mrs. Sdravitsky was doing here from Mayfield, Pennsylvania? A I have got no business to her.

Q I say, did you see or did you go home with your employer, Mendelson, yesterday afternoon? A Yes, sir.

Q Did you speak to him or did he speak to you concerning this case yesterday afternoon? A No, he did not ask me anything.

Q Didn't you tell him the questions that the lawyer was asking of you? A No, I did not tell him and he did not ask me.

Q Didn't you desire to know what your employer was doing here from Mayfield, in New York? A I don't know what he came here for. They called him and he is here.

Q Now, did you yesterday afternoon, in going home with the parties, some of whose names you have given us,-- was

Adamak Yatako in the party? A Yes, sir.

Q And Yatako lives in Mayfield, doesn't he? A Yes, sir.

Q Did you speak to Yatako about this case yesterday?

A No, sir, I did not speak to them and they did not ask me.

Q Well, you had known Yatako in Mayfield, hadn't you?

A Yes, sir.

Q Well, didn't you want to know what Yatako was doing here in New York? A What have I got to do with him?

Q When you arrived at Needle's office, whom you called the little Jew, did you find these defendants there?

A When the two men brought me in first, a little later these two defendants came in.

Q So that at the time you made this affidavit, Defendants' Exhibit -- so that at the time that you subscribed your name and swore to Defendants' Exhibit D, there was present yourself, Needle, the two men who brought you there and these two defendants? A Yes, sir.

Q Any one else? A I don't remember whether there was anybody else or not.

Q Did you have any talk with these defendants at Mr. Needle's office, relative to this article, or relative to this case? A I was not talking to them at all.

Q And they were not speaking to you, these defendants?

A No, they did not speak to me at all.

Q Well, who did speak to you?

THE COURT: Well, she has gone all over that.

A Only the lawyer was talking to me.

Q In your own language? A Well, he was speaking to them in English and he was talking to me in English also.

Q I ask you now again, please, whether the lawyer spoke to you in the Russian or Polish or Ruthenian language?

A English.

Q Did you understand him? A I don't understand English.

Q Not having understood him, why did you sign your name to that paper? A Well, I signed that paper for the \$10,000 and for the man that was to get married to me.

Q Well, what were you to do for the \$10,000? A I don't know. They did not give it to me.

THE COURT: Repeat the question.

(Question repeated by the stenographer)

A I don't know what I would have done with the money.

THE COURT: Now, repeat the question again.

(Question again repeated by the stenographer).

BY THE COURT:

Q What did they tell you to do, or what were you to do before you got the money?

THE COURT: That is your question, is it not?

MR. SMITH: That is it, yes, sir.

A They did not tell me anything.

Q Well, why did they promise you the \$10,000 and to marry you? A Well, they told me that this man would marry me and they would give me the money, and I should say that this child is from Arseny.

THE COURT: Now, just repeat everything she says.

Let us be the judges of whether it is responsive or not.

BY MR. SMITH:

Q When you say that they said they would give you \$10,000 and one of the two men would marry you, you do not refer to these defendants, do you?

THE COURT: She has answered that over and over again. She said no.

MR. SMITH: If the Court says it has been answered, that is enough for me.

THE COURT: She said one of those two men at the bar yesterday, made the promise, and she said again that these two defendants were not present when the promise was made her.

Q Do you recall having met the defendant Kirosov in the house of Swale, at Olyphant, Pennsylvania?

MR. GARVANI: One moment. She has called that other boy Kirosov.

THE COURT: Well, the Court would suggest that you have the defendants rise.

MR. GARVANI: I said she had called the other man

Kircow, so that when he uses the word "Kircow" he should have this defendant stand, so she will know that you refer to him and not the other man.

Q Do you recall having met this defendant, indicating the defendant, Konstantine Kircow --

THE COURT: Now, one moment.

Q Do you recall having met this defendant (indicating the defendant Konstantine Kircow, standing up) at the house of Swala at Olyphant, Pennsylvania? A I don't remember whether he was in Swala, or not.

Q But you know Swala, don't you? A I don't know whether he calls himself Swala or what.

Q Didn't you state to the defendant at Swala's house, before you were taken to Mr. Needle's office, that everything in that article written concerning yourself and Arseny was true?

MR. GARYAN: One moment. I want to suggest, we will just get into a tangle which takes us half an hour to unravel, and not only that, but she has testified that she never read the article or knew anything about the article, and the question is now whether she said that everything in the article was true, and it assumes something.

THE COURT: Well, let her answer the question.

MR. GARYAN: And I require that the date be fixed,

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whether it was subsequent to the date of publication.

MR. SWITKIN: Certainly it was subsequent to the date of publication. The purpose is not for the purpose of creating the impression it did on the minds of the defendant, but it is for testing the credibility of the witness.

MR. GARVAN: Well, perhaps that may be admissible.

THE COURT: Repeat the question, Mr. Stenographer.

(Question repeated).

A I did not say that.

Q And yet, after having denied that, they took you to the lawyer's office, is that right? A Yes, I went with them, but I did not say anything.

Q Do you recall having met Eugene Wasylenko in the home of Mendelson, where you say you were employed, after June, 1906?

MR. GARVAN: After June 25th.

Q After June 25th, 1906? A There was more than one man that came to the house there.

Q We are now speaking of one man, Eugene Wasylenko.

THE INTERPRETER: She says she would not talk too much.

MR. GARVAN: Well, never mind now.

Q Do you know Eugene Wasylenko? A I don't know.

MR. SWITKIN: (Calling) Wasylenko.

Q Do you
of Eugene Wasylenko?

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Q Do you know this man, indicating a man by the name of Eugene Wasylenko?

THE COURT: Well, has not he been in before?

MR. SMITKIN: Yes, sir, I just asked her concerning him.

A Yes, I know him.

Q Now then, did you meet Eugene Wasylenko at Mendelson's home, in the kitchen where you were employed, after the 25th of June, 1906? A I don't remember last year.

Q Oh, that is only half a --

THE COURT: That is an answer, now.

Q Will you swear that you did not meet him after the 25th of June, 1906, in the kitchen of Mendelson's house where you were employed?

THE COURT: Well, she says she does not remember.

MR. SMITKIN: Your Honor, I am entitled to a yes or no answer.

THE COURT: Well, that is an answer. I will not allow that question.

MR. SMITKIN: I except.

THE COURT: She says she does not remember. Now can she swear. She says she does not remember and that ends it. That is not contradicting anything brought out by the prosecution. It is your own question and she has answered that she does not remember. That is all. Now, put another question. You have your exception.

Q Let me refresh your memory. Now, didn't you speak to Eugene Wasylenko in the kitchen of Mendelson's house after the 25th of June, 1906, and didn't he ask you why you had retracted what you had said of the Reverend Arseny?

MR. SMITKIN: Go as far as that and then I will go further.

A I did not say anything to him and he was not there.

Q I thought you said a moment ago you would not swear that he was, or that you were certain whether he was there or not?

MR. GANVAN: I object and we do not care what you thought she said a moment ago.

MR. SHITKIN: Well, I will modify my question.

Q Didn't you swear a moment ago that you do not remember whether he was there or not?

MR. GANVAN: I object to that. It is on the record what she swore to a moment ago.

THE COURT: Objection sustained.

MR. SHITKIN: I respectfully except.

Q Didn't you state to Eugene Wasylenko in the month of September, 1908, after he had asked you why you retracted about the priest, that the reason you did that was because they would not bury your child? A No, I did not say that.

Q Did you ever speak to Metrofon Biluszenenko in the month of September, 1908, and state to him that the reason you retracted about Arseny was because otherwise they would not bury your child?

MR. GANVAN: Objected to as just having been answered.

MR. SHITKIN: No, this is another person.

THE COURT: That is another person.

MR. GANVAN: All right.

A No, sir.

MR. SHITKIN: That will be a relief to her. That is

all.

2
 SAMUEL MANDERSON, being called and duly sworn
 as a witness on behalf of the People, testified as fol-
 lows:

DIRECT EXAMINATION BY MR. GARRAN:

Q Mr. Manderson, where do you live? A Mayfield,
 Pennsylvania.

Q What is your business? A Justice of the Peace.

Q Have you any other business of your own? A Merchant
 and wholesale liquor dealer.

Q And you are what they call the Squire? A Yes, sir.

Q And you are a married man? A Yes, sir.

Q And live there with your wife and children, you have
 children? A No children.

Q With your wife? A Yes.

Q Do you know this Mary Krinitzky? A Yes, sir.

Q Can you give us any idea of about the time she came to
 work for you in the year 1907 -- 1908?

THE COURT: Ask him when she came.

Q Well, when? A I think it was about -- she was in
 trouble about three months, I think, when she came to work at
 our place, three or four months.

Q Was it before Christmas? A I think it was, yes, sir.

Q How long did she work for you? A When she was in
 trouble she worked for us about up to one week before she
 gave child to the birth.

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Q Gave birth to the child, you mean? A Gave birth to the child. My mother was living with me at the time and she sent her over to this woman to give birth to the child there, because it would be one of her own people, instead of having her with us.

BY THE COURT:

Q The question is when? A When she gave birth to the child?

Q Yes? A June 4, 1907.

BY MR. GANVAN:

Q And about a week before that you sent her to this Russian midwife? A Yes, sir.

Q And after she had the child and her confinement was over, did she return to work for you? A Yes.

Q Has she worked for you ever since? A Ever since, with the exception of one month or six weeks. She has a sister living out in New Jersey some place, and she wrote a letter for her to come there.

Q Well, she went out there? A Yes, and came back.

Q Now, during the month of March -- did you notice her condition when she came to work for you? A Why, no, you couldn't tell it on her at all.

Q And during the month of March of 1907, did you have a conversation with her in reference to her condition? A Why, my mother did, and I knew about it through my mother.

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Q And then after that before you issued any process conversation with her?

Q Yes? A Yes,

Q And did she at any time say what it was -- mention the child? A Yes,

Q Did you, as Judge said any process for the

MR. SMITH:

that it is incorrect not binding upon

THE COURT:

MR. SMITH:

A Yes, sir, I did.

Q Do you know -- Identification --

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Q I show you the Identification, and

at that time, after

A Yes, sir.

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A Yes, sir.

Q And then after your mother had a conversation with her, before you issued any process, of anything, did you have a conversation with her? A With her?

Q Yes? A Yes, sir.

Q And did she at that time mention to you -- do not say what it was -- mentioned to you the name of the father of the child? A Yes, sir.

Q Did you, as Justice of the Peace at that time then issue any process for that man?

MR. SHITKIN: One moment, I object on the ground that it is incompetent, immaterial and irrelevant, and not binding upon these defendants.

THE COURT: Objection overruled.

MR. SHITKIN: I respectfully except.

A Yes, sir, I did.

Q Do you know -- I show you People's Exhibit 3 for Identification --

(Paper is so marked).

Q I show you this paper marked People's Exhibit 3 for Identification, and ask you if that is the paper issued by you at that time, after your conversation with Mary Krinitaky?

A Yes, sir.

Q That was in March, 1907? A Yes, sir.

Q That was some four months before the birth of the child?

A Yes, sir.

MR. SWITKIN: The defense makes no objection to the comment to the witness.

MR. GARVAN: I was simply counting up the number.

Q Do you know Andrew Pretash? A I don't know the man.

Q After March, 1907, and after you had this conversation with the complaining witness, did you look for Andrew Pretash?

MR. SWITKIN: I object to that on the ground that is incompetent, immaterial and irrelevant.

THE COURT: How is that competent?

MR. GARVAN: Well, my idea is this --

THE COURT: I allowed the other in --

MR. GARVAN (Interposing): My only theory of the admission of this testimony is this, the defendant's counsel has chosen to show upon cross-examination of the complaining witness that subsequent to the date of the libel, that is, subsequent to June 28, 1907, this defendant made --

MR. SWITKIN (Interrupting): 1908.

MR. GARVAN (Continuing): 1908, made statements contrary to the statement made by her on this stand, to the effect that Arseny was not the father of her child, and Andrew Pretash was. Now, they have shown that prior to that time she made a statement that Arseny was the father. Now the law allows me to go back of that and show --

THE COURT (Interposing): Not prior to the birth?

MR. GARVAN

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MR. GARVAN: My idea is this, the theory of the law, as I understand it, is, if a person makes a statement up on the stand in direct testimony, and then on cross-examination the defendant shows that prior to her taking the stand here she made a contrary statement, then the people or the party putting her on the stand are allowed to show that prior to making the alleged contradictory statement, she made the same statement which she now makes on the stand. In this case I want to show that four months before the child was born, to a Justice of the Peace of that town she made a statement as to who was the father of her child, which is consistent with her statement here.

THE COURT: Well, I do not think that you can do that.

MR. GARVAN: If your Honor rules against me, I bow to your Honor's superior wisdom.

THE COURT: I sustain the objection. I have allowed you to prove that she made a statement. Now, the defense objects to having that statement disclosed, on the theory, I suppose, Mr. Snitkin, that it was not made in the presence of the defendants?

MR. SNITKIN: That is true, really, your Honor, that it is purely hearsay. My friend is also mistaken on the rule of evidence.

MR. GARVAN: Oh, no, I am not. We used that in the

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Patrick case.

THE COURT: I have sustained the objection. I have allowed you to go so far as to say that there was a statement made and the person named.

BY MR. GANVAN:

Q Do you know where Andrew Pretash is?

MR. SMITH: I object to that as incompetent, immaterial and irrelevant.

MR. GANVAN: Merely to explain his absence.

THE COURT: I will allow you to explain that on the ground that the District Attorney wished to explain the absence of the person.

MR. SMITH: I respectfully except.

A When the Constable went there to this house where he was boarding, he was not home, and they told him about it, and as soon as he found out he was to be arrested, he went to Cleveland, Ohio.

MR. SMITH: I ask that the answer be stricken out.

THE COURT: Strike it out.

Q Have you been able to find him yourself? A No, sir.

BY THE COURT:

Q Have you tried to find him? A I have, yes, sir.

BY MR. GANVAN:

Q What is the nearest station to this monastery? A Canaan is about two miles and a half from it, but it is through woods.

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They generally go out to Fairview, that is about four miles.
There is a roadway from Fairview over to this monastery.

BY THE COURT:

Q What do you mean by station? A A small station.

Q What railroad? A On the Delaware & Hudson. There
are no street cars running there.

Q No street cars running there at all? A Not through
South Canaan, where this monastery is.

MR. WHITKIN: The Judge asked about Simpson.

MR. GARVAN: I will make it clear.

BY MR. GARVAN:

Q The cemetery was at Simpson? A Yes, sir.

Q Street cars run from Simpson to Carbondale? A That's
all.

Q And the railroad station is at Carbondale? A Yes,
sir.

Q Then they take the cars to Fairview? A Yes, sir.

Q And then there is a roadway? A From Fairview to the
monastery?

Q Yes, a roadway to the monastery at Canaan? A At
Canaan, yes. A wagon road, yes, sir.

Q But it is easier to go on to Canaan, although it is a
bad road? A A bad road, all woods.

Q And do you know what time the last train leaves Carbondale for Fairview on Sunday night? A I think it is something

around six o'clock.

Q Have you a time table? Is this the time table that you have brought with you? A I happened to have it with me. That is a Delaware & Hudson time table.

Q Which is the branch? A That is the Manassas branch here, 6:40.

Q 6:20, isn't it? A Well, on Sundays it is 6:40.
BY THE COURT:

Q 6:40? A The last train, yes, 6:40.

BY MR. DARVANI:

Q 6:40? A Yes, sir.

MR. DARVANI: I think you may examine.

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CROSS EXAMINATION BY MR. SWITKIN:

Q There are trolley cars running from Simpson to Carbondale Station? A Yes, sir; not right to the station, about two or three blocks from the station.

Q Well, two or three blocks? A Yes, sir.

Q And the distance between Simpson and Carbondale is about two or three miles? A Well, between two and three miles.

Q Well, between two and three miles. A Yes, sir; between two and three.

Q There is no railroad station at Simpson? A No, sir.

Q And the Erie Railroad stops at Carbondale, and so does the Delaware & Hudson? A Yes, sir.

Q And I think the Ontario and Western has a station there too? A At Carbondale; yes, sir.

Q Yes, I thought so. Now, in order to take a train at Carbondale, you either walk or take the trolley from Simpson to Carbondale? A Yes, sir.

Q And when do you say that the last train leaves from Carbondale to Fairview, as you first said? A Sunday?

Q Sunday. A 5.40, I think it is, in the time table.

Q 5.40? A Yes, sir.

Q Well, would you mind looking at this (indicating)

A It is on the Honesdale branch.

Q Just pardon me a minute. Are you sure that is the last

Train? A Yes, sir.

Q Don't you know that there is a train that leaves Carbondale at 6.20? A Yes, on week days.

Q Just look at the Sunday time table, please. Look at that?

MR. CANVAN: No, he is right.

MR. SWITKIN: Is he right? If I am wrong, I am willing to apologize.

A 5.40.

MR. CANVAN: I offer this in evidence.

MR. SWITKIN: I am perfectly willing to have it marked in evidence.

(Marked People's Exhibit 4).

Q Now, Mr. Mendelson, the distance from Simpson --

THE COURT: Well, one minute. This witness can testify to his knowledge of that as a fact, without any reference to a time table, if he knows.

A I am familiar with it, your Honor, and that is the time.

MR. SWITKIN: I am willing to take the Court's suggestion.

BY MR. SWITKIN:

Q I ask you if, independent of that time table, you can state with any degree of reasonable certainty, as to when the last train leaves Carbondale for Canaan? A That is the last train.

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A That is the last

BY THE COURT:

Q That is, on Sunday ? A Yes.

BY MR. SMITH:

Q You state that of your own knowledge ? A Yes, sir,
there is no other railroad running through there.

MR. GAVAN: It really does not matter, between 5.40
and 6.20.

MR. SMITH: No, but I will show you differently. I
have another time table here.

Q Now, Mr. Mandelson, the distance between Simpson and
South Canaan, where the Monastery is, is about seven miles ?

A Why, I think it is around that, 7, 8 or 10 miles.

Q Have you ever tried to walk it ? A No, sir.

Q Never tried it ? A No, sir.

Q It would not take you more than about 40 minutes to walk
7 miles, would it ? A I couldn't tell you that.

MR. GAVAN: You could do it ?

MR. SMITH: I ask him if he couldn't.

A I could not; no, sir.

Q Now, is there a trolley car or any means of conveyance
from Mayfield to South Canaan ? A No, sir, only this railroad,
the Delaware & Hudson Railroad from Carbondale.

Q Well, that is all right. You are talking now about a
direct route from Carbondale to Canaan ? A Yes, sir.

Q There is also a route that runs on Sunday from Carbon-

dale to Mayfield ? A A railroad from Carbondale to Mayfield?

Q Yes. A Yes, sir, every day in the week.

Q And do you know when the last train leaves from Carbondale to Mayfield ? A From Carbondale to Mayfield, yes, sir, 10.30.

Q At night ? A Yes, sir.

Q Now, Mayfield from South Canaan is a distance of about three miles, isn't it ? A Mayfield to South Canaan, yes, it is over 10 miles.

Q What is that ? A It is over ten miles.

Q In other words, the distance is greater between Mayfield and Canaan, than the distance between Canaan and Simpson, is that it ? A Why, now I tell you that I couldn't --

Q (Interrupting) No, is that what you mean to tell us?
A I couldn't tell you how far it is from Canaan to Simpson.

MR. GARVAN: He said it was 10 miles from Mayfield to Canaan.

MR. WHITKIN: And therefore I ask him if the distance is greater between Simpson and Canaan than it is between Mayfield and Canaan.

A Why, it is nearer, I think, from Simpson to Canaan than it is from Mayfield.

Q That is your best impression ? A I think it is.

Q Have you ever tried to ride that way ? A Ride that way ?

Q Yes. A No.

Q That is, you have never tried to ride from Simpson to South Canaan ?

THE COURT: He says he has not.

MR. SWITKIN: I want to get it on the record.

Q Is that right ?

MR. SWITKIN: Well, we will let that go.

Q Now, let us see, how long have you known the Reverend Arseny ? A About four years.

Q And you have lived in Mayfield, I suppose, for some years ? A About twenty-five years.

Q Can you tell us when -- the month and the year that this girl Mary first became employed by you ? A I think it was in the winter of 1906 that she came to us.

Q Could you tell us the month ? A I couldn't; no, sir.

Q Are you certain about the year ? A Pretty certain about the year, yes, sir.

Q When she came to work for you as a domestic, I suppose ? A Yes, sir.

Q Was she brought there to your home by any one ? A I don't know that, because my mother was taking care of the house at that time. She lived with me.

Q Now, you have stated that at that time when she came to work for you first, that she was, to use your language, in trouble three months, is that right ? A I think so, between three and four months.

Q Well, how do you know that, or how did you know that ?
 A She told my mother about it after she was employed.
 Q When was that, that she told your mother and your mother told you ? A After she was in trouble, she come to work for us. I don't know how long she was in trouble.
 Q Well, how many months after ? A I couldn't tell you, but I know she was in trouble at that time, because she told my mother, and my mother told me.
 Q But you could not tell us when it was she told your mother and your mother told you ? A It was before I issued the warrant for this Andrew Pratash.
 MR. GARYAN: Here is this paper.
 MR. SWITKIN: May I see that ?
 MR. GARYAN: No, sir. I will offer it in evidence.
 MR. SWITKIN: No, may I see it ?
 MR. GARYAN: No.
 THE COURT: He said no, go on. You object to its going in evidence.
 Q Now then, what year did you say it was that you had issued some paper which you called a warrant ? A 1907.
 Q What month ? A March.
 Q You have not any interest in this case, have you ?
 A No, sir.
 Q You live in Mayfield ? A Yes, sir.
 Q Who asked you to come here ? A Mr. Delaney.

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Q Have you ever spoken to Arseny about this case ?

A No, sir, only the time he came there to see me, when the article was wrote in the papers, that is the only time I ever spoke to the man in my life, without saying "How do you do" to him going by.

Q When was it that Arseny, the Reverend Arseny, came to your home relative to some article that you have stated about ?

A Why, I couldn't say whether it was one day after he got the paper or the same day, but he came over to the office with Yatsko Adamiak.

BY THE COURT:

Q With whom ? A With Yatsko Adamiak.

BY MR. SWITKIN:

Q The answer is you saw him on perhaps, you say, the day after the alleged publication ? A Yes, it might have been the day after.

Q Did you see the article yourself ? A I did, yes, sir.

Q He showed it to you ? A Father Arseny had the paper with him.

Q Who was with Father Arseny ? A Yatsko Adamiak.

Q Any other person ? A No, sir.

Q Where was Mary Krinitaky at the time that Father Arseny accompanied by Yatsko Adamiak, showed you this paper ? A She was doing her duty in the house as a servant.

Q Well, what did Father Arseny ask you to do after he

showed you that him into the paper, look at I says "What I could not read over to me, and "No, I don't t accusing you o girl home?" I in". I told I says "Do you "No".

Q A list father of your have anything thousand times "I can take a with me." I the affidavit

Q Now, tion. A Yes

Q You signing ? A

Q And y

Q Well,

showed you that paper? A He came in to the house and I took him into the parlor with Mr. Adamiak, and he said "Look at this paper, look at the article they wrote about me in the church". I says "What is it"? He showed it to me, and I told him I could not read Russian, but I could understand it. He read it over to me, and he said "Do you think it is true?" I says "No, I don't think it is true, because I never heard the girl accusing you of anything like that". Well, he said, "Is the girl home?" I says "Yes, sir; if you want her I will call her in". I told my wife to call her and she came into the parlor. I says "Do you know anything about this article?" She says "No".

Q A little slower, now. A I said "Is Father Arseny the father of your child?" She says "No". I said "Did he ever have anything to do with you?" She says "No, I will swear a thousand times he never had anything to do with me". She says "I can take an oath right here now he never had anything to do with me." I says "Will you?" She says "Yes", and I drew up the affidavit and she signed it willingly.

Q Now, we will just start off now and ask you this question. A Yes, sir.

Q You explained to the girl, of course, the paper she was signing? A Certainly, she understood it.

Q And you read it to her? A Yes, sir.

Q Well, how did you read it to her? A I read it to her

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in English, and explained it to her in her own language, because I speak the language as good as she does. I asked her was Father Arseny the father of her child and she said no. She says "I will swear a thousand times that he is not". I says "Will you sign a paper to that effect?" She said "Yes, sir".

Q You are certain now, Mr. Mendelson, that you told her the contents of that paper that she signed? A Yes, sir.

Q So that you did have some talk with her concerning Father Arseny's alleged relationship with her? A Alleged relationship?

Q Yes. A At the time that Father Arseny was there, in the presence of Yatako Adamiak.

Q Yes, that is what I say, you did have some talk with her? A I asked her was he the father of the child, and she said no.

Q All right, that is what I am trying to get at. So that at that time you communicated to her what you desired to have her do?

MR. DANVAN: I think the conversation has been told. It speaks for itself. It is the same thing over and over again. He said he did. What more do you want?

Q Did you receive a fee? A For the affidavit, no, sir. I never charge any of the clergymen any fees.

Q When the article was read to you by Father Arseny, did

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you hear also read the your address given?

Q Did you hear who desired to ascertain, care of Mendelson that.

Q Don't remember

Q Now, Mr. Mendelson, time that you saw the A Why, it was some

THE COURT:

be sure which of

MR. SWITHIN:

Q Well, indeed of my knowledge and was, and asked for him. and he walked out.

BY THE COURT:

Q Before or a llication, your Honor BY MR. SWITHIN:

Q You never have said "How do you was all.

you hear also read that her name appeared in the article and your address given ? A Yes, sir.

Q Did you hear it read in the article to you that those who desired to ascertain the truth may inquire of Mary Krinitzky, care of Mendelson, Mayfield ? A I don't just remember that.

Q Don't remember that ? A No, sir.

Q Now, Mr. Mendelson, tell us please when was the first time that you saw the defendant Kirozow at your office ?

A Why, it was some time after.

THE COURT: Let that defendant stand up so we will be sure which one you mean.

MR. SMITH: There is no doubt now.

Q Well, indicating the defendant Kirozow. A To the best of my knowledge and belief he came in one afternoon, I think it was, and asked for a cigar. I gave him one. He paid for it and he walked out. I believe that is the only time that I saw him.

BY THE COURT:

Q Before or after the publication ? A After the publication, your Honor.

BY MR. SMITH:

Q You never had any conversation with him ? A I might have said "How do you do?" to him while he was in there. That was all.

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Q Any conversation about the case? A This man here?

Q Yes. A No, sir.

Q Do you recall this defendant Kirsnow having this conversation with you "I told Hendeleon that Father Arseny was going to sue us and that the girl had made an affidavit for the Father, meaning Arseny," and that you said "Don't be afraid, it is only a bluff, Mary did not tell one third of what she knows about Father Arseny" -- now, pardon me -- "and the Monastery and if I had my own way, the place would be closed long ago".

A No, sir.

Q Never said that? A Never said it; no, sir.

Q Or words to that effect? A No, sir.

Q Didn't you say to him "He bothered me so much about an affidavit and paid me \$5. for it, and if I wanted a hundred I could have had it"? A It is a lie.

Q Thank you, sir. Who pays your expenses for coming here? A I get my railroad fare and my hotel bills.

Q Who pays it? A Mr. Delaney.

Q Have you had any talk with Mr. Delaney about this case?

A No more than in a general way of speaking. We spoke together about it.

Q Did you speak to any of the witnesses in this case?

A What witnesses?

Q Any of the witnesses in this case?

THE COURT: Well, name the witnesses. He asked you

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A No, sir.

Q And you

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Mr. Delaney and

Q Didn't

to name them.

MR. SWITKIN: He knows.

THE COURT: No, he does not know.

Q Well, did you speak to Mary Krinitaky? A She works with me, yes, sir.

Q Did you speak to her since you have been in New York about this case? A In what way do you mean?

Q Any way. A No, I have not.

Q Well, what way did you think I meant? A Well, I mean to tell her to say anything or anything else. I speak to her. I meet her here every day. I am with her every day here in the court house.

Q You take her to the hotel? A No, I don't. I stop at the Broadway Central, and she is stopping with her friends.

Q You are housed at the Broadway Central and Delaney pays the bills? A For me and himself, yes.

Q Well, yesterday afternoon when Mary went out of court, didn't she tell you as to what questions were asked her here?

A No, sir.

Q And you did not ask her? A No, sir.

Q Nor this morning? A What is that?

Q You did not speak to her this morning about this case?

A As soon as she got out of court, I went up to the hotel with Mr. Delaney and come back here at 3 o'clock.

Q Didn't you take Mary to where she resides? A No, sir.

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Q How long have you been in attendance as a witness in this case ?

MR. GARVANI: How is that material ?

THE COURT: Well, how is that material ?

MR. SMITKIN: Well, I suppose you press the objection ?

MR. GARVANI: I do press the objection.

THE COURT: I sustain the objection as entirely immaterial, if he had been in attendance ten years.

MR. SMITKIN: I except.

Q Did you know, Mr. Henderson, that there was a civil suit pending ?

MR. GARVANI: I object to that.

MR. SMITKIN: Wait, I have not finished my question.

Q Brought by the Reverend Arseny against these defendants and the Ruthonian Publishing Company and the Little Russian Union of America, did you ? A Why, all I know about it is, that Mr. Delaney said they were intending to or did start it. That is all I know about it. I never heard Arseny say a word about it.

Q A civil suit, I mean ? A I heard something about it, yes, sir.

Q And you know, of course, of your own knowledge, or do you know whether the civil case has yet been tried ?

THE COURT: Well, it has been conceded that it was not.

MR. SMITHKIN: Oh, it was conceded. That is all.

MR. GARVAN: The People rest.

MR. SMITHKIN: Now, may it please your Honor, the defendant moves your Honor to take from the consideration of the jury the count in this indictment, this entire case from the jury -- I will just withdraw that for the present.

The defendant Kirozow moves that your Honor take from the consideration of this jury this indictment, and direct them to acquit, on the ground that the People have failed to make out any case as against him.

THE COURT: The motion is denied.

MR. SMITHKIN: I except. The defendant Gurkowsky now moves that your Honor take from the consideration of the jury this indictment, and direct them to acquit, upon the ground that as to him, the People have failed to make out any case.

THE COURT: The motion is denied.

MR. SMITHKIN: I except.

MR. SMITHKIN opened the case for the defense as follows:

Now, may it please the Court, Mr. Foreman, and each of you gentlemen, it is customary in all, apparently in all criminal cases, to state to the jury what the defendant intends to prove, and I am going to follow that custom

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and state briefly to you what we intend to prove, and I shall ask this of you, that you are not to bind these defendants by what I tell you I am going to prove, because after all, what I tell you is what we would term second-hand information.

I want you to listen to the evidence as it falls from the lips of the witnesses, and get it directly. So I will simply give you a skeleton of what we intend to prove.

We intend to prove that some time in June, we received a letter addressed to this newspaper -- well, I cannot comment on the evidence now as to the contents of the letter until I offer it in evidence. The letter stated certain things, and accompanied with the letter was an article, the original of which we have here, and which we are going to introduce in evidence.

Of course, the paper is in evidence, and the co-defendant's Gorkowsky's name appears as editor. Kirozow, we will prove to you, knew nothing about the publication until after Delaney came to him, and Delaney wanted a retraction.

They said "Well, we have the original article, and as you will observe, it bore the name of this woman and her address, apparently authentic. We believed it to be true, so we said to Delaney 'If you can disprove that,

we shall be glad to make a retraction¹².

So we went to Hayfield and all parts of Pennsylvania, to ascertain whether that was true, and we will prove to you that prior to the alleged publication, she had told a number of witnesses her condition, and we will prove to you who she said was responsible for it.

So, we plead that if this is libellous at all, that there is justification. We will prove to you that we did not do it maliciously. We had no intention to hurt him. If you believe that what I prove to you conclusively proves to your minds that these defendants had a right to rely upon those statements, why then there is no malice, and there really cannot be a conviction.

In addition to the statements that she made which led to the publication of this article, I will prove to you that thereafter she made an affidavit repeating practically all that the article said.

So that we did what any reasonable person under like circumstances would do. If we had done wrong, to atone for it. If we had committed no wrong, to fight for what we thought was right.

Now, we will prove to you that Kircow, a man of reputation among those who know him -- we will have the distinguished honor of having the Bishop here, sent here by the Pope of Rome, who will testify to this defendant's

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reputation, he who has been the leader of 12,000 of his clan. He is, and as you will hear evidence, a real Roman Catholic, Greek Catholic, recognizing the Pope, whereas they, the other side, recognize the Czar.

THE COURT: Now, that question does not enter into this at all, and I want to impress it on you right now, Mr. Snitkin. I told you about that the other day. I want you to eliminate altogether any attempts on your part to give any definition or to define in any way Roman Catholicity. It does not enter into this case at all. Now, that ends that and it is not an element in this case.

MR. SNITKIN: Well, it will appear in this case, and we may as well meet the issue when it arises.

Now, gentlemen, it naturally breaks one off in the trend of an argument; however, that is what we are going to prove to you, and then we are going to ask you as intelligent men, as liberty loving men, as men who seek to do justice, and as men who want justice done, to do what you should do in this case.

With the permission of the Court, I would like to call Mr. Needle out of order, because he is an attorney of Pennsylvania and desires to go back home.

THE COURT: How many witnesses have you, Mr. Snitkin?

MR. SNITKIN: We have about seven. There will be in all about ten witnesses, the Bishop and these two defend-

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ants, and four waiting to be called.

THE DEFENSE.

H A R R Y H E E D L E, being called and duly sworn as a witness on behalf of the defense, testified as follows:
DIRECT EXAMINATION BY MR. SMITHKIN:

Q Mr. Needle, you are an attorney and counselor-at-law?

A Yes, sir.

Q Admitted to practice in the courts of Pennsylvania?

A Yes, sir.

Q You have been an attorney at law for how many years?

A Two years ago last June, or last March.

Q And you reside where? A At Olyphant, Pennsylvania.

Q And you have been living in that region, that vicinity, for how many years? A Eighteen years.

Q Mr. Needle, will you please tell the court and jury when it was that you first met Mary Krinitaky? A The early part of July.

BY THE COURT:

Q In what year? A In this year.

Q 1909? A 1908, I mean last year.

BY MR. SMITHKIN:

Q Now, Mr. Needle, you speak the Ruthenian language?

A Well, I don't know whether it is the Ruthenian language. It is a language that is a corruption of the Polish and the Slavish.

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It is spoken by Galicians, from the part of the country I come from.

Q Oh, I see, you are an Austrian? A Yes.

Q And of course Galicia is part of Austria?

A Austria; yes, sir.

Q Now, Mr. Needle, when this girl came in, or did you see her in your office? A Why, it happened this way. Mr. Kirozow --

BY MR. CARVAN:

Q No, just answer the question, please. A Yes, I saw her.

BY THE COURT:

Q You saw her in the office? A I saw her.

BY MR. SMITH:

Q Now, was Kirozow there? A Yes, sir.

Q Was the co-defendant Kurkowsky there? A No, sir.

Q Now, just tell us all the persons that were there. Give the names if you recall. A There were present at my office Mr. Kirozow, a gentleman by the name of Bielansky, who is a Russian teacher in Olyphant, also a gentleman by the name of Heftogor Koselowsky, John Swala, a man by the name, they call him Shaly, and then there was a small fellow, I don't know his name. He is here, though.

Q Do you mean Metrofon Biluazzenko or Vasylenko?

A He calls himself an artist, he is a wood carver.

BY THE COURT:

Q Who calls himself an artist? A He calls himself an artist, a wood cutter.

BY MR. SWITKIN:

Q You have seen him here in court? A Yes, sir.

Q Now, state in your own way just exactly what occurred in your office, in the presence of the persons you have named?

MR. CHARVAT: I object to that, if your Honor please. It must be confined to a contradiction of the things he asked the complaining witness about, in the making of this affidavit.

MR. SWITKIN: I will have to divide the question probably tenfold to do that. Well, I will withdraw the question. It will take more time.

Q Did you draw an affidavit in your office? A Yes, sir.

Q Did she sign her name to it? A Yes, sir.

Q Did you write the affidavit? A Yes, sir.

Q Is the affidavit in your own handwriting? A Yes, sir.

Q Prior to her signing or subscribing her name to that affidavit? A Yes, sir.

Q Did you read the contents of that affidavit to her?

A Yes, sir.

Q In what language? A In the Russian language. The language that she spoke, her mother tongue.

Q Now, I want you to state to the court and jury what you said to her and what she said to you before she subscribed her

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name to that affidavit ? A At first I asked her to tell me the story in her own language, and as she told me, gradually as she was telling me the story I was writing it down. After I had finished the affidavit I read it to her in her own language. Then I said to her "This is a very serious affidavit and I want -- are you telling the truth?" She says "Yes". I said "Are you willing to sign it and swear to it?" She says "Yes, sir" and she signed it. Then I administered the oath to her as a Notary Public.

Q Then you interrogated her before you made the affidavit?

A Yes, sir.

Q Was anything said by anybody of that party in your office about giving her \$10,000, or of one of the party marrying her ? A No, sir.

BY THE COURT:

Q Well, so far as you know, A As far as I know.

Q Do you know what was said before they came to your office ? A No, sir.

Q Well, why don't you say then as far as you know ?

A I am saying what happened in my office. I do not know what happened outside.

BY MR. SMITH:

Q Of course, I ask you in your office. A In my office.

THE COURT: You asked him the broad question, was anything said.

MR. SNITKIN: I asked about his office.

THE COURT: Well, then, go on.

BY MR. SNITKIN:

Q Now, were there any witnesses or persons who witnessed the signing of that affidavit? A Yes, two of them.

Q Did they subscribe as witnesses? A Yes, sir.

Q Now, why did you have subscribing witnesses?

Objected to. Objection sustained. Exception.

THE COURT: That is a matter of cross-examination, if anything.

Q Do you know Mr. Delaney, don't you? A Yes, sir.

Q Was anything said by Mary in your office, in your presence, relative to the alleged publication of her relationship with the Reverend Arseny?

MR. CARVANI: Yes or no.

Q Yes or no. A Yes, sir.

Q Now, what did she say?

MR. CARVANI: That is objected to.

THE COURT: I will allow it.

A She said the contents of that article was true.

Q Well, how came it to be that she said the contents of that article were true?

MR. CARVANI: I object to that.

THE COURT: Well, let him go on.

A It dropped out during my examination of her, that she had made a previous affidavit.

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Q Yes. A Then I asked her "Is that the article that was in the paper?" I believe Mr. Kirozow said this, that I should ask her that question, and I asked her was that the contents, in that paper true in regard to the Reverend Arseny, and she said yes.

BY THE COURT:

Q You had not seen that article before they brought her to your house? A Oh, no, I didn't know anything about it.

Q You did not know she was coming to your house at all?

A No, sir.

Q You did not know any of the people that came there?

A I knew the people that were in the office.

Q Entire strangers to you? A No, the people -- I told them I would not take her affidavit unless she would get some people that I knew, or I would get.

Q Whom did you tell that you would not take her affidavit? A I told Mr. Kirozow, unless she had some of her countrymen.

Q Oh, Mr. Kirozow came to you first? A Yes, sir; Mr. Kirozow came to me first.

Q What did he say to you? A He said, he had a prepared affidavit and I looked it over and I said "I won't take her affidavit unless she has her countrymen that can speak her language and that is acquainted with her, come to my office".

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BY MR. SWITKIN:

Q So that, as the result of that conversation, countrymen of hers did come? A What is the question?

Q I say, as the result of that conversation those men that you desired came, didn't they? A Yes.

BY THE COURT:

Q Well, who was present when you had that conversation with Mr. Kirozow? A Why, Mr. Kirozow met me on the front stoop of my house.

Q Was he alone? A He was alone; yes, sir.

Q And he had a prepared affidavit? A He had a prepared affidavit.

Q And he showed you that affidavit? A He showed me the affidavit.

Q Well, why did he show you that affidavit? A He wanted me to administer the oath.

Q To whom? A To a lady by the name of Mary Krinitaky.

Q But she was not there? A No, but he said he was going to bring her.

Q Oh, he went first to make sure that you would take an affidavit from a woman that you did not know anything about, is that it? A Yes, sir.

Q You never saw her? A No, but I said "I want people to come to my office that knows her".

Q Yes, for what purpose? A Her countrymen.

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Q For what purpose did you want people there who knew her?

A Well, the affidavit was such a serious affidavit that I would not take her affidavit unless I knew the people, who she is and everything about her. I would not take advantage of anybody.

Q Well, no one has intimated that.

MR. SWITKIN: Thank you, Mr. Needle, that is all.

ORDERS EXAMINATION BY MR. GARVAN:

Q You do not pretend that this affidavit is in her language, do you? A It is the subject matter of her language.

Q Well, you do not pretend that it is in her language, do you? A Not in the Slavish language, no. A translation into English.

Q But you do not suppose she used any words in the Slavish language that could be literally translated into this language, do you? A She may have not used as high words as that, but they are just --

Q (Interrupting) Well, you do not suppose that she used any words in the Slavish language or any other language on earth that could be translated into the language in this affidavit?

A Oh, yes.

Q You do? Do you think her vocabulary was sufficient --

A (Interrupting) She said --

Q Just a moment. Did she say "He had carnal knowledge of my person"? A Well, she didn't -- she said he had intercourse with her, consensual with her. I put it in in that

language.

Q Yes, well, she did not use that language then, did she ?
 A She said he had connections with her. That is what she said.
 BY THE COURT:

Q Well, the question is whether she, in the Slavish or
 Ruthenian language, said "He had carnal knowledge of my person".
 Did she or did she not ? A Not exactly --

Q I know, but that is the question, whether she used
 those words, did she, yes or no ? A Well, I don't recollect.
 I wouldn't say that.

Q You would not say, all right.

BY MR. CARMAN:

Q Could she read ? A Oh yes, she could read.

Q She could read ? A Not English, but she could, I know
 she could write her name.

Q Yes, well, you just testified to the jury that certainly
 she could read. A Did I say that ? Well, it must have
 been a mistake if I said so, that she could read. I would not
 say, because I don't know, but she could write her name.

Q Well, that is all right, I did not ask you that.

MR. CARMAN: I ask to have that stricken out.

THE COURT: Strike out the answer.

Q Now, could she read ? A I have not tested her about
 reading, I don't know.

Q And yet you put in here that she said that the article

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 you swear to that
 whether she could

Q Just answer
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 read or not.

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A Mr. Mandela

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 that appeared in the Ruthenian Weekly paper called "Swoboda" under date of June 25th, 1908, is true and correct. How could you swear to that if she could not read? A I don't know whether she could read or not.

Q Just answer the question, how could she swear to that if she could not read? A I don't know whether she could read or not.

Q That is all, that is an answer. Who was it brought this client to you? A You mean Mr. Kirozow?

Q Yes. A Nobody, as far as I know of. He came to me. I never saw him before.

Q What was Swala's connection with the affair? A Swala?

Q Yes. A Swala came afterwards.

Q Well, who is Swala? A John Swala is a young man that conducts an undertaking establishment at Olyphant.

Q You know the Squire, Mr. Mendelson there, do you?

A I know him from Mayfield, yes.

Q You know him to be a man of high character, don't you?

MR. SWITKIN: I object to that.

MR. BARVART: This is all preliminary to something in this affidavit I wish to ask him about.

THE COURT: I will allow it for the present. If not connected, we will strike it out.

MR. SWITKIN: Exception.

A Mr. Mendelson, he is a man of good character.

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Q He is Squire of your town ? A Not of my town.

Q Well, one of the towns there ? A Of one of the towns in the county.

Q And you examined this girl carefully before you allowed her to make such an important affidavit ?

MR. SWITKIN: I now ask that that last answer given by the witness be stricken from the record on the ground that it is incompetent, immaterial and irrelevant.

MR. GANVAN: I will connect it in just a moment.

THE COURT: Motion denied for the present.

MR. SWITKIN: Exception.

Q You examined her very carefully about her entire connection with this matter ? A I had her tell me her story.

Q Just answer my question, please. A Yes.

BY THE COURT:

Q Do you understand the question ? A Yes, sir.

BY MR. GANVAN:

Q If you do not understand questions, say so. A Well, it is the first time I am on the witness stand.

Q Well, we know how bad witnesses lawyers make. Just listen and answer my questions. You wouldn't allow a young girl to make such an affidavit against a high dignitary of any church without the greatest care and caution, would you ?

A Yes, sir; that is my position.

Q You knew you were making a charge in this affidavit

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which if true, would blot out this man's career in the church, didn't you? A Yes, sir.

Q And you put in this affidavit, didn't you, or you knew, didn't you, that she had made an affidavit for Father Arsany since the publication? Just answer me yes or no. A Yes, sir.

Q And you know that that affidavit had been made before Squire Mendelson? A Well, I wouldn't be sure, before whom it was made.

Q Well, didn't you ask her under what circumstances she made the affidavit? A Well, I asked her --

Q Just answer yes or no. A Yes, I asked her --

Q One moment. A Yes.

Q Let me have a chance. You know she worked for Squire Mendelson? A That I did not know.

Q You did not know that? A Well, I am not positive about it, I would not say.

Q And you did not know that she had made the affidavit clearing Father Arsany before Squire Mendelson? A I knew--

Q Just answer me. A Yes, sir, but I would like to explain one moment.

BY MR. CHITKIN:

Q Well, I will get you to explain if he doesn't.

BY MR. GARVAN:

Q And did you communicate with Squire Mendelson about the matter? A No, sir.

Q And yet you put into your affidavit made by this girl "Further that deponent states that one Yatake Adamiak and Reverend Arseny Chahovzoy, through threats and by putting me in great fear of my liberty, compelled me to sign a paper written in the English language, the contents of which I am ignorant of the contents of said paper of which I was not informed of" -- now, did you believe when you had her sign that, that Squire Mandelsohn had allowed her to sign any such paper before him ?

MR. SMITKIN: I object to the form of the question, first, that it states facts not in evidence, the witness having stated that he did not know Squire Mandelsohn had taken the affidavit --

THE COURT: Objection overruled.

MR. SMITKIN: Exception.

A What is the question again ?

Q (Question repeated by the stenographer) A Yes, sir, formerly --

Q Yes, sir is the answer. Who is this Chaly that you have here ? A He is out here in the corridor, a young fellow.
BY THE COURT:

Q And who is he ? A He is a Russian fellow.

Q Well, that is not very definite. We have a good many Russians here. What is he in that community ? What do you know of him ? A He lived in Olyphant and had connection with the Russian church. In what capacity I don't know, either as

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Janitor or as organist, I don't know. I had seen him in town.

Q Was he a client of yours ? A I had no business with him.

BY MR. GANVAN:

Q Who else was there ? A Mr. Neatogy Kesselowsky --

Q Now, with this great care which I know you examined this girl, making such a terrible affidavit, did you examine her as to the birth of the child ? A No, sir.

Q You did not ? Did you examine her as to the death of the child ? A The child was living, if my impression is right.

Q The child had not died at that time ? A No.

Q Did you examine her as to the physician who attended her ? A No.

Q Or the circumstances of where the child was born ? A No, sir.

Q Did you find out from her that in March, 1907, three months before the child was born, she had sworn out a warrant for the arrest of Andrew Protash, as the father of the child ? A No, sir.

Q You did not find that out ? Did you ask her whether prior to the birth of the child she had ever mentioned to any human being the fact that Father Arseny was the father of that child ? A Yes.

Q And did you find out whether she had or not ? A She said --

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Q No, did you find out from any one else whether she did or not ? A No, no.

Q Did you find out the midwife who attended her ? A No.

Q How long did you examine her altogether ? A My best recollection is that she must have been at my office over half an hour.

Q Over half an hour ? A Yes, sir.

BY THE COURT:

Q Speak so that the last juror may hear you. A Yes, sir.

BY MR. DARVANI:

Q And the entire investigation that you made before you drew the affidavit and had her sign it, was confined to that half hour's examination, was it ? A Yes, sir; over half an hour.

Q And were you introduced into the subject of this affidavit by the defendant Kirozow, who held a blank affidavit in his hand, is that right ? A Yes, sir.

Q Did you have that affidavit before you when you drew this affidavit ? A Yes.

MR. DARVANI: That is all.

RE-DIRECT EXAMINATION BY MR. SMITHIN:

Q Who stated to you, Mr. Needle, that which terminated in your writing this phrase, or this paragraph in the affidavit "I requested my fare to South Canaan, which was refused to me, Reverend Arseny Chahovzov saying 'I have a carriage, you will

ride with me". A Mary Krinitzky, I believe her name is.

Q Who told you, which led you to write this paragraph of that affidavit "So I and Reverend Arseny Chahovsov started on our journey towards the Monastery aforesaid". A Mary Krinitzky.

BY MR. GATVANI:

Q What is the Russian word for "aforesaid" ? A "Persnie"

Q Did she use that word ? A Yes.

BY MR. SMITHIN:

Q You speak Russian, don't you ? A Yes, and Slavish.

THE COURT: He testified he spoke the language of Galacia, the native tongue of this Mary Krinitzky.

Q Who told you which caused you to write this part of the affidavit "While riding, he treated me with fruits and he embraced me, and with much persuasion I submitted to his embraces".

MR. GATVANI: Well, he has testified he got the entire-

A Mary Krinitzky told me.

BY MR. GATVANI:

Q Did she use the words "persuasion" and "embraces" ?

A Words similar in import.

BY MR. SMITHIN:

Q Well, what words did she use ?

BY MR. GATVANI (interposing)

Q You were the literary re-writer of the affidavit? A Yes

BY THE COURT:

Q You gave me words little more

BY MR. SMITHIN:

Q Now, you came to Reverend Chahovsov my liberty, language, the

A I inquired and she said got scared,

BY MR. GATVANI:

Q Did

Q You

A I think

Q Do

Arseny could

BY MR. SMITHIN:

Q Well

A Yes, what

started to

Q Do

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BY THE COURT:

Q You were the editor of the affidavit ? A Well, she gave me words of similar import and I had to make them sound a little more smooth, a little more polished.

BY MR. SNITKIN:

Q Now, can you state to the court and jury how it was that you came to put in that, to write in that affidavit, that "The Reverend Chahoysov through threats of putting me in great fear of my liberty, compelled me to sign a paper written in the English language, the contents of which I was ignorant of".

A I inquired of her how she came to make the affidavit before and she said that Adamiak and the priest jumped on her and she got scared, so she signed that paper before a Squire.

BY MR. GARYAN:

Q Did you ask her who the Squire was ? A No, I did not

Q You know all the Squires around there, don't you ?

A I think I do.

Q Do you know any Squire around there where the Reverend Arseny could jump on this girl before ?

MR. SNITKIN: I am not through.

BY MR. SNITKIN:

Q Well, you do not mean literally jump on her, do you ?

A No, what I have reference to is, they went after her, they started to scold her.

Q Do you think you could tell us with some degree of cer-

tainty in her own language what she said, and then there would be an interpreter.

MR. SWITKIN: Will that be proper, your Honor?

THE COURT: I think his vocabulary on the stand can be compared with the language of that affidavit, and the jury will have to infer as to its origin.

BY THE COURT:

Q Where is your office? A In Scranton.

Q In Scranton? A Yes, sir, that is my home in Olyphant.

Q Have you a sign up there? A Yes.

Q What kind of sign? A Well, when I was a student at law --

Q Now, just tell me what kind of sign you have up there?
A "Harry Needle, attorney-at-law and Notary Public".

Q What kind of house is it you live in? A A brick building, two stories.

Q Do you occupy the whole house? A Why, a brother of mine has a story also there. I have an apartment there.

Q You live in that house? A Yes, I live in that house, but I would like to explain --

Q Wait a minute. How long have you lived in that house?
A In that house, ever since I was married.

Q How long is that? A Two years last June.

Q Now, how far is Scranton from your home? A Six miles.

Q Do you go to Scranton every day? A Every morning.

Q And stay there how long ? A Until 6 o'clock, some-
times four.

Q Now, you say you were sitting on your stoop, I under-
stand it, on this night ? A Yes, sir; this night.

Q About what hour ? A I got home that day --

Q Well, about what hour was it you were sitting there ?

A About 4 o'clock.

Q That was in the afternoon ? A Yes, in the afternoon.

Q How did you happen to be sitting on the stoop ? A Yes

Q A stranger came along the street, is that it ?

A Now, I couldn't state who came with Mr. Kirosov.

Q Well, you told me no one came with him. A Well, I
would not -- I am not sure whether he came alone or somebody
else, but my impression is, it would be that he was alone, in-
quiring for a Notary Public.

Q What ? A Inquiring whether I was a Notary Public.

Q A Notary Public ? A Yes.

Q Well, can you explain why a man should come along and
show you an affidavit --

MR. SMITKIN: Now, do not answer that yet, please.

Q (continuing) And inquire whether you were a Notary
Public, an entire stranger to you ?

MR. SMITKIN: I object to that as incompetent, immar-
terial, irrelevant, and argumentative.

THE COURT: The objection will be sustained.

Q You have not any explanation to make further than that?

MR. SMITHKIN: Wait a moment, I object on the ground that that question is incompetent, immaterial and irrelevant; it is prejudicial and it is argumentative.

THE COURT: Well, I will withdraw the question.

MR. SMITHKIN: It is before the jury.

Q Cannot you refresh your memory in any way? A What is --

MR. SMITHKIN: Wait a moment.

Q Where you met this Kirozow, is it?

MR. SMITHKIN: I objected on the ground that the witness has already answered.

THE COURT: The objection is overruled.

MR. SMITHKIN: Exception.

THE COURT: He said he did not know. He could not tell.

A To the best of my knowledge, is this, Mr. Kirozow, it is a small town, came up to me and says "Are you a Notary Public?"

Q Alone. A Alone, I would say.

Q You have never seen him before? A No, I have not.

Q Go on. A (No answer).

BY MR. GARYAN:

Q How far is Olyphant from Simpson? A It is about 12 miles from Carbondale and a few miles from Carbondale to Simpson. It must be about 14 or 15 miles.

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Q About 14 or 15 miles from Simpson ? A Yes.

MR. WHITKIN: Wait a minute.

Q How far is Carbondale -- A Carbondale is a city.

Q How big ? A About 15,000, I would say.

BY THE COURT:

Q Had you seen this article in the paper before Mr. Kirozow came to see you ? A No, sir.

Q Didn't know anything about it ? A Had no knowledge of it at all.

Q Never heard of Kirozow ? A I have heard of the newspaper. It was published in Olyphant at one time.

Q But you did not know him ? A No, I did not know him. No, sir.

Q Who is Swala ? A Swala is an undertaker in Olyphant.

Q A client of yours ? A No, sir.

Q How long have you known Swala ? A I have known Swala since, ever since I came to the country, seventeen or eighteen years. I have known Swala anyhow sixteen or eighteen years.

Q You never did any business for him ? A No, I never did business for Swala.

Q Well, how did you know him ? You just knew that was Mr. Swala, is that it ? A Oh, no, you really know everybody in that small town.

Q You do ? A Yes, sir.

Q Visited at his house ? A No, never visited his house.

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Q Just when you met him on the street you were polite to each other ? A Talked to him, went to school even with Mr. Swala, public school.

Q Who was the other man, you say, Chaly ? A Chaly. They call him Chaly Hryako.

Q Who was he ? A He holds some position in the Greek Catholic Church at Olyphant.

Q There is a church at Olyphant, is there ? A Oh, yes.

Q That Father Arsany had not anything to do with ?

A No, sir.

Q Did you know him before ? A Father Arsany ?

Q No, this Chaly. A Knowing him to see him.

Q How long had you known him ? A I saw him in the town for over a year, I believe. I am not positive how long.

Q It is not he that brought the defendant Kirozow to you, was it ? A I am not positive upon that point.

Q Well, what do you think about it now ? A I really cannot give you my idea. I do not remember it.

Q Well, then, how long after your first interview with Mr. Kirozow with reference to this matter was it that Mary Krinitzky came to you with them ? A About five minutes afterwards.

Q Only five minutes ? A Only five minutes, yes.

BY MR. SMITKIN:

Q Now, Mr. Needla, you have been asked about having bus-

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ness with an undertaker.

A Yes, sir.

Q You are not a doctor.

Q That is why you ?

THE COURT: No answers ?

MR. SMITKIN:

to that. I have no

THE COURT: It is your word.

MR. SMITKIN:

zealous in trying to

THE COURT: Oh now take a recess.

I do not wish you.

Meanwhile, be among yourselves, any conclusion as to you by the Court.

The

trial of the at 11.30 a/c

insee with an undertaker. The undertaker is Swala ?

A Yes, sir.

Q You are not a doctor ? A No.

Q That is why you have not any business with him ? A No.

THE COURT: Now, how about committing these defendants ?

MR. SHITKIN: Judge, I pledge you my personal word as to that. I have never broken my word with you.

THE COURT: It is not a question of your breaking your word.

MR. SHITKIN: I may have been possibly a little over zealous in trying the case.

THE COURT: Gentlemen of the Jury, the Court will now take a recess until 11.30 o'clock A.M. on Monday.

I do not wish to bring you here if we are not ready for you.

Meanwhile, be very careful not to discuss this case among yourselves, nor with any one, and do not come to any conclusion concerning it, until it is finally submitted to you by the Court for your consideration.

The Court thereupon adjourned the further trial of the case until Monday, January 11th, 1909, at 11.30 o'clock A.M.

THE COURT: I think, Mr. Carvan, rather than let these Russians have the idea that we are tyrannical here, that we will let the defendants go in Mr. Snitkin's custody.

MR. CARVAN: All right, your Honor.

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body.

New York, January 11th, 1909.

TRIAL RESUMED.

THE COURT: I am very sorry that we could not take up this case, but we will have to adjourn now until 2.15 o'clock.

Meanwhile, be very careful not to discuss this case among yourselves, nor with any one, and do not come to any conclusion concerning it, until it is finally submitted to you by the Court for your consideration.

(Recess until 2.15 o'clock P.M.)

After Recess. Trial resumed.

MITROYON BILUSZEZENKO, being called and duly sworn as a witness on behalf of the defense, testified through Official Interpreter Bernhard as follows:

DIRECT EXAMINATION BY MR. SWITKIN:

Q Where do you live ? A I am living at present in Bridgeport.

Q Where did you live in the month of June, 1908 ?
A In Mayfield, Pennsylvania.

Q What is your business ? A Painter and doing some covering with gold leaf.

Q Are you a married man ? A Yes, sir.

Q And in the month of June, 1908, did you live at Mayfield with your wife? A Yes, sir.

Q Do you know Mary Kriniteky? A Yes.

Q When and where did you first meet her and under what circumstances? A I met her for the first time in my own rooms.

Q Go right ahead and state everything you heard her say and what she said to your wife in your presence?

MR. GARVAN: That is objected to. What is it in contradiction of? Conversations with that witness are not admissible of themselves.

MR. SHITKIN: I have asked her under cross examination whether she had ever spoken to this man Biluszenenko and she said she had not.

MR. GARVAN: What page is it?

MR. SHITKIN: I am just looking through now. I know I thoroughly examined her and she said she had never spoken to this man. On page 110 I asked her if she knew a man by the name of Mitrofon Biluszenenko residing at Olyphant or Mayfield, rather, and she said "Is it Biluszenenko?" and I said "Well, perhaps that is right". Then she said "Yes, I do." Then I asked her "Do you know his wife?" and she said "No, I don't know his wife." Then I said "Do you know the man at the Bar, indicating Mitrofon Biluszenenko?" She says "Yes, I know him, because he was a painter in our house."

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Then, the last question on page 111, the question is "That is, at any time prior to June, 1908, yes or no?"

"I was in the house there, but Biluszenenko was boarding there. There was another woman not his wife, that Edravitzky woman." Then I asked her "Did you ever state to Mitrofon Biluszenenko" -- and on page 112 "Did you ever state to Mitrofon Biluszenenko that the Reverend Arseny was the father of your child?" "A No." "Q Did you ever tell Mitrofon Biluszenenko that you had ever asked Arseny to place your child in the Monastery and he refused to do it?" "A No."

Question on page 113 "You never had any conversation with any person in Mayfield or any other part of Pennsylvania?" "A Never." Then follow other questions.

Irrespective of that, if your Honor please, if I do not or if I had not asked this woman a question, that is part of our defense. We are proving first justification, and we have a right to show conversations and statements that this woman made to other persons, statements upon which we relied.

MR. GANVAM: Not at all. There is no such rule of law known to American jurisprudence.

THE COURT: I will overrule the objection.

MR. GANVAM: I would ask that the question be made definite, and definite to contradiction of questions that he asked that witness as to this man. General conversa-

tions as to Tom, Dick and Harry are not admissible.

THE COURT: Repeat the question.

(Question repeated by the stenographer).

MR. GANVAN: I object to that question.

THE COURT: Well, I will sustain the objection to the form of that question.

MR. SWITKIN: I take an exception.

Q Did Mary Krinitaky ever tell you that Arseny was the father of her child?

MR. GANVAN: At what time? The time of the conversation should be fixed.

MR. SWITKIN: Prior to the 25th of June, 1908.

MR. GANVAN: All right.

A No. Although I have heard it from others,

MR. GANVAN: No, I object, and ask to have that stricken out. I ask to have "I heard it from others" stricken out.

MR. SWITKIN: I submit, your Honor, in a libel case--

THE COURT: I grant the motion. The answer is "No".

Q Prior to or when did you see Mary Krinitaky in your house? A It was in the month of June, 1908.

Q Now, state under what circumstances you saw her?

MR. GANVAN: Objected to, the circumstances. Time and place are all we want. The circumstances might en-

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title him to rehearse for an hour and a half, the circumstances of his birth and his bringing up and how he came to be in Boranton and how she came to be there. Time and place are all we want here.

THE COURT: Objection sustained.

MR. SHITKIN: I except.

Q At any time in the month of June, 1908, did Mary Krinsky ever tell you that Arseny was the father of her child?

MR. GANVAN: Objected to as already answered. The answer is "No" and is on the record.

THE COURT: Well, at any time prior to June 25th. When was the libel published?

MR. SHITKIN: The libel was published on the 25th of June, 1908.

THE COURT: Well, I will confine it to prior to the 25th of June.

MR. GANVAN: Prior to the 25th of June.

MR. SHITKIN: Wait a moment. I will frame my own question.

THE COURT: But he has already answered that, I understand it.

MR. SHITKIN: Well, I will re-frame my question.

THE COURT: Well, for my own information, the stenographer will repeat that question to which he answered "No".

(The stenographer repeats as follows: "Q Did Mary Krinitzky ever tell you that Arseny was the father of her child? A No.")

MR. SWITKIN: Will you repeat my last question?

(The stenographer repeats the last question)

THE COURT: That last question is withdrawn, is it not?

BY MR. SWITKIN:

Q Did you ever have any conversation with Mary Krinitzky prior to the 25th of June --

MR. SWITKIN: Question withdrawn.

Q Do you know a newspaper called "Swoboda"? A Yes, sir.

Q Did you in the month of June, 1908, see an article in "Swoboda" concerning Arseny and Mary Krinitzky? A Yes.

Q Prior to seeing this article in "Swoboda", did you see the person described in that article or called Mary Krinitzky? A I did.

Q Now, state under what circumstances you saw her and what she said to you, relative to the Reverend Arseny?

MR. CARVANI: Objected to. You see, your Honor, he could enter into a tirade. He says "State the circumstances and what she said about Reverend Arseny".

THE COURT: That question does not limit it. It does not say when he saw that publication of the paper.

MR. CARVANI: That is true, your Honor is right.

MR. SWITKIN:

technical, all right.

THE COURT: N

MR. SWITKIN:

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that paper. I as

he did.

THE COURT: N

MR. SWITKIN:

the person or saw

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THE COURT: N

MR. SWITKIN:

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THE COURT:

confusion in the

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25th of June, 190

MR. SWITKIN:

as the framing of

BY MR. SWITKIN:

Q I now ask you the article, prior to see her.

Q Where? A In

MR. SMITKIN: Well, of course, if we are going to be technical, all right.

THE COURT: Now, that remark is entirely uncalled for.

MR. SMITKIN: Now, Judge, here is the paper in evidence and it speaks for itself. There is the date upon that paper. I asked if he saw that article and he said he did.

THE COURT: Well, he might have seen it this morning.

MR. SMITKIN: All right, then I asked him if he was the person or saw the person named in that article prior to the publication of that article.

THE COURT: You did not say "prior to the publication"

MR. SMITKIN: Well, prior to his reading it. They are the same, legally.

THE COURT: No, they are not, we want to avoid all confusion in the minds of the jury. I will sustain the objection as to every conversation or transaction after the 25th of June, 1908.

MR. SMITKIN: I except to your Honor's ruling, so far as the framing of my question is concerned.

BY MR. SMITKIN:

Q I now ask you whether you saw Mary Krinitzky named in the article, prior to the 25th of June, 1908? A Yes, I did see her.

Q Where? A In my apartment.

Q Who lived there?
some boarders.

Q What are the names
A Eugene Wasylenko and Ro

Q Is Wasylenko one of
he is here.

Q Now, tell us please
said to you, or to your wife
ere in your presence, conc

MR. GARYAN: The

THE COURT: Prior

MR. SMITKIN: Well

June.

THE COURT: I know

MR. GARYAN: That

THE COURT: I will

MR. GARYAN: It is
that witness. This is
cussion.

THE COURT: Well,
said she never said anything
did she not?

A What is the question?

Q (Question repeated)
Now, tell us please just as

Q Who lived there ? A I lived there and my wife kept some boarders.

Q What are the names of the boarders that she kept ?
A Eugene Wasylenko and Roman.

Q Is Wasylenko one of the boarders, in court ? A Yes, he is here.

Q Now, tell us please just exactly what Mary Krinitzky said to you, or to your wife in your presence, or to the boarders in your presence, concerning herself and the Reverend Arsany

MR. CARVAN: That is objected to.

THE COURT: Prior to the 25th of June, 1908 ?

MR. SWITKIN: Well, that is prior to the 25th of June.

THE COURT: I know, but keep that in mind.

MR. CARVAN: That is objected to.

THE COURT: I will overrule the objection.

MR. CARVAN: It should be confined to questions asked that witness. This may open the door for a general discussion.

THE COURT: Well, then, we can strike it out. She said she never said anything to him prior to that time, did she not ?

A What is the question ?

Q (Question repeated by the stenographer as follows):

"Now, tell us please just exactly what Mary Krinitzky said to

you or to your wife in your presence, concerning the conversation with the Reverend Arsany ?"
BY THE COURT:

Q Prior to the 25th of June, 1908, when I returned from work, I talked to my wife and asked my wife "Who does she work for ?" When I asked "Where

MR. CARVAN

is conversation

BY MR. CARVAN:

Q Was the witness

MR. SWITKIN

THE COURT

him testify

A She was there.

MR. SWITKIN

there, and was

BY THE COURT:

Q Just confirm to you ? A She was there, and she said if I can produce papers to that effect

THE COURT

responsive. T

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you or to your wife in your presence, or to the boarders in your presence, concerning herself and the Reverend Arseny?"

BY THE COURT:

Q Prior to the 25th of June, 1908? A It was this way, I returned from work, when I found the woman sitting in my house talking to my wife, and she was telling this. When I came in I asked my wife "Who is this strange woman?" and she said to me "She works for Mendelson, and she asked me to take a child". When I asked "Where is the child?" --

MR. CARVANI: Wait a minute. Whom did she ask? This is conversation between himself and his wife.

BY MR. CARVANI:

Q Was the woman there, was Mary Krinitaky there?

MR. SMITHIN: I object to this.

THE COURT: I direct you to put questions and let him testify in answer in an ordinary way.

A She was there.

MR. SMITHIN: He said this woman Mary Krinitaky was there, and wanted his wife to take care of the child.

BY THE COURT:

Q Just confine yourself to what Mary Krinitaky said to you? A She was crying and begged me to take the child, and she said if I can't take the child, to advertise it in the papers so that other people would take it.

THE COURT: Well, strike that out. That is not responsive. The question was about the Reverend Arseny.

MR. SMITHIN

meal.

MR. CARVANI:

THE COURT:

BY THE COURT:

Q Tell him to Arseny?

MR. SMITHIN

that woman say ing the child as admissible under

BY THE COURT:

Q Tell what she I don't know of such

THE COURT:

she said.

MR. SMITHIN

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THE COURT:

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Interpreter)

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MR. SHITKIN: I except. We can only do it piece-meal.

MR. GATVANI: Well, we will let it stand, your Honor?

THE COURT: Well, let it stand.

BY THE COURT:

Q Tell him to tell us what she said about the Reverend Arseny?

MR. SHITKIN: I want him to tell everything he heard that woman say concerning the Reverend Arseny and concerning the child and concerning herself, which I submit is admissible under this indictment.

BY THE COURT:

Q Tell what she said about Arseny? A I told her that I don't know of such people who would take the child.

THE COURT: Well, strike that out. Just tell what she said.

MR. SHITKIN: If your Honor orders that stricken out, I take an exception.

THE COURT: Well, take an exception, and I instruct the witness to answer the question. (Addressing the Interpreter) Now, tell this witness if he does not understand that question to say so, but if he does understand it, I will commit him for contempt if he persists in not answering properly.

You may take an exception.

MR. SHITKIN: I except, if your Honor please.

THE COURT: Ask him if he understands what I said to him?

MR. SHITKIN: Will your Honor please let me get --

THE COURT: One minute. Ask him if he understood what I said to him?

THE INTERPRETER: He did not understand what your Honor said.

THE COURT: Well, ask him if he understands what you tell him that I said.

THE INTERPRETER: He says he understands it.

MR. SHITKIN: Now, give me an exception, if your Honor please, to the remarks you made to the witness, or at least I take an exception, and I object to this cross-fire --

THE COURT: Take an exception. I want to have this case tried in an orderly and proper way, and I will not allow any criticism on your part of anything I do. Now, I will give you a chance, as I told you the other day, to test it, if you desire. Now, do not say anything about cross-fire. There has been nothing done that I do not believe to be strictly right and proper, and I will not tolerate your making the slightest criticism on the action of the Court.

MR. SHITKIN: Pardon me just a moment. I take an exception on the record.

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THE COURT: Just go on. Take any exception you please. Do not address me at all -- "Judge".

THE COURT: Repeat the question.

Q (Question repeated by the stenographer as follows)

"By the Court: Tell us what she said about Arseny?"

MR. SMITHKIN: Now, I except to being interrupted by either the Court or Counsel for the People, until I am through with the examination of the witness.

THE COURT: Take an exception. I have ruled several times that I will allow this witness to say what Mary Krinitzky said about Arseny and the child. Repeat the question again.

(Question again repeated by the stenographer)

A She said that he does not take the child because the child is from Arseny.

BY MR. SMITHKIN:

Q Now, go ahead. Is that all she said? A No.

Q Tell us all she said?

BY THE COURT:

Q About Arseny?

THE COURT: You may except to my amendment of your question. I will not allow your question in the form you put it.

MR. SMITHKIN: I take an exception to the re-framing of my question.

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BY MR. SWITKIN:

Q If your last answer does not contain all that Mary Krinitaky said to you or to your wife in your presence, or to any person in your apartment in your presence, kindly repeat all she said concerning Arseny and the child? A All right. When I asked her how it was, she said that it was at the time when it was the dedication of the cemetery, that she was traveling together with Arseny in a buggy. She said "He first was going to give me money for a ticket, and then he changed his mind, and then when we were driving together, while we were driving, he treated me to some bananas and other fruit, and then he asked me whether I had some kind of a fellow that I lived together with. When I told him that I had none, he kind of pitied me, and he said that that was not good, that I ought to have a fellow, that it is not good to live alone. Then he started to kiss me, and he examined my stockings, and I was ashamed, and I took away his hand. Then he stopped his horse and he did this. Then when we came to the Monastery I remained there and I lived there until it became noticeable, and then I left. I was paid off, and I left.

When I was in Mendelson's and gave birth to the child, there was some kind of a teacher there, and some other people and they did not know what name to put in. It was kind of inconvenient to put in Arseny's name, and it was put in the index under "A", and it was called "Andrew".

At the christening -- I forgot his name -- this?", and ~~she said~~ ^{she said} in money from the Monastery for it".

BY MR. SWITKIN:

Q Well, state all subject matter of this

THE COURT: R

Q (continuing) and

Q Well, is that a

THE COURT: R

Q Is that all the no? A What she said said on another occasion

THE COURT: R

MR. SWITKIN:

it out.

THE COURT:

The question was 25th, 1908.

Q The occasion of night, was it prior to 28th of June.

Q All right. T

At the christening there was a priest and he said --
 -- I forgot his name -- he said 'Who is going to pay for
 this?', and ^{Schlenker} ~~Woylens~~ in a joking way said 'You demand this
 money from the Monastery, let the head of the Monastery pay
 for it!'.
 BY MR. SNITKIN:

Q Well, state all that was said by her relative to the
 subject matter of this ?

THE COURT: Regarding Arseny and the child.

Q (continuing) and the child, yes. A That is all.

Q Well, is that all that you can remember ?

THE COURT: He says that is all.

Q Is that all that you can remember that she said, yes or
 no ? A What she said that evening that is all, but what she
 said on another occasion is different.

THE COURT: Strike out the latter part of that answer.

MR. SNITKIN: Just a moment before your Honor strikes
 it out.

THE COURT: Strike out the latter part of that answer.
 The question was limited to that occasion, prior to June
 25th, 1908.

Q The occasion you refer to, not having occurred that same
 night, was it prior to the 25th of June, 1908 ? A After the
 25th of June.

Q All right. Then you need not tell that. What did you

say to her that she
 to prior to the 25th

MR. CARV

THE COURT

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MR. SNIT

Q Having tes

that was said that

to you that night,

25th of June, 1908

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her request, and

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MR. CAR

MR. SNIT

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Q (continua

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MR. CAR

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the People.

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examination

say to her that she should do with the child, and I am referring to prior to the 25th of June, 1908 ?

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

THE COURT: Objection sustained. It is entirely immaterial what he said to her.

MR. SWITKIN: I except, and I will put this question:

Q Having testified that that was all that you can recall that was said that night, I ask you now whether she said this to you that night, referring to any occurrence prior to the 25th of June, 1908, she said that she had asked Abbott Arseny already four times, and that he did not pay any attention to her request, and on the contrary he said "I would receive all other babies but yours" --

MR. GARVANI: Now --

MR. SWITKIN: Wait until I am through. I will put the question.

Q (continuing) "Because it is from there, and people would say that we have a baby shop in the Monastery".

MR. GARVANI: Now, if your Honor please, there is only one ground upon which the defendant can claim this evidence is possibly admissible, and that is as to the credibility of the witness Mary Krinitzky called on behalf of the People. If it is upon that ground, they should have specifically asked her this conversation in their cross examination, which they did not do. Prior to the 25th of

June makes no difference or not, unless they and that has not been

MR. SWITKIN:

THE COURT: I

I will sustain the

MR. SWITKIN:

The reason I asked

THE COURT:

MR. SWITKIN:

if I can convince

THE COURT:

and I have excluded

MR. SWITKIN

BY MR. SWITKIN:

Q At the time of the child as you have name of Hryeko Chaly

Q Now, have you you on that occasion what should be done

THE COURT:

thing with reference

MR. SWITKIN

she said about