

June makes no difference, whether she made this declaration or not, unless they were communicated to the defendant, and that has not been proven.

MR. SWITKIN: Why, that is what I am trying to do.

THE COURT: The witness has stated that that was all, I will sustain the objection to this question.

MR. SWITKIN: I except. Pardon me just a moment. The reason I asked this question is this --

THE COURT: I do not care to have it discussed.

MR. SWITKIN: Well, your Honor will certainly listen if I can convince your Honor --

THE COURT: I have decided that question is improper, and I have excluded it.

MR. SWITKIN: Well, I except.

BY MR. SWITKIN:

Q At the time that she told you relative to Arseny and the child as you have stated, was there a man there by the name of Nryoko Ghaly? A Yes.

Q Now, have you stated all that Mary Krinitzky said to you on that occasion, that you have stated with reference as to what should be done with any newspaper?

THE COURT: There is no evidence that she said anything with reference to a newspaper, is there?

MR. SWITKIN: Well, your Honor, the witness said that she said about it in a newspaper, about putting it in a

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newspaper, and I am asking him to state if that was all she said about that.

THE COURT: The stenographer will repeat that testimony.

(The stenographer repeats the previous testimony as follows: "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: Now, what is the last question?

(Last question repeated by the stenographer as follows: "Now, have you stated all that Mary Krinitzky said to you on that occasion, that you have stated with reference as to what should be done with any newspaper?")

BY THE COURT:

Q Have you stated all or not? A No.

Q Well, then, what more did she state?

MR. SMITHIN: Well, pardon me.

BY MR. SMITHIN:

Q Now, then, state all that she said relative to the newspaper at that time?

THE COURT: No, relative to the child and the newspaper. You may take an exception, if you desire.

MR. SMITHIN: No, that is perfectly satisfactory, if your Honor will let me go at it that way, we will go right along all right.

A She said "The last time and he said 'Don't you know reason my only hope is in' BY MR. SMITHIN:

Q Now, have you stated said about pinning her hope her "Why didn't you go to said "I have been to the satisfaction."

Q Now, what part of

THE COURT: Now

MR. SMITHIN: I

knows Arseny for can

I may show by this

THE COURT: Well

A From the State of Khat

Q How long have you arrived here.

BY THE COURT:

Q Well, when was it 1907.

BY MR. SMITHIN:

Q Did you ever know

THE COURT: He was in this country

A She said "The last time I went to see Arseny he gave me \$10. and he said 'Don't you come around again', and that is the reason my only hope is in the newspapers".

BY MR. SMITHKIN:

Q Now, have you stated all that you can remember that she said about pinning her hope on the newspapers? A I said to her "Why didn't you go to people with this before?" and she said "I have been to the people, but I could not get any satisfaction."

Q Now, what part of Austria or Russia did you come from?

THE COURT: How is that material?

MR. SMITHKIN: Well, I want to show that the witness knows Arseny for many years, and knows him from abroad.

I may show by this witness Arseny's reputation abroad.

THE COURT: Well, I will allow it.

A From the State of Ekaterinaslaw, Russia.

Q How long have you known Arseny? A From the time I arrived here.

BY THE COURT:

Q Well, when was that? A It was in the month of June, 1907.

BY MR. SMITHKIN:

Q Did you ever know him in Charkowako, Russia?

THE COURT: He says he has only known him since he was in this country.

Q Well no

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Q Well now, what do you mean by saying --

MR. GARVAN: Never mind what he means.

MR. SWITKIN: Well, wait until I put the question.

MR. GARVAN: Well, put the question and do not make a speech.

Q What do you mean by saying that you have known him, by saying that you have known him since he has been in this country? A When I was in Russia I only heard about him, but I didn't know him personally, but when I came to this country I knew him personally.

Q Did you know of any home that he conducted in Tyronowka the government of, I suppose it means, the County of Charkowa - ko in Russia?

MR. GARVAN: I object to that.

THE COURT: He says he did not know Arseny at all in Europe. Then he said he had heard of him before he came to this country.

MR. GARVAN: That shows it is pure hearsay.

MR. SWITKIN: Well, reputation is proved that way, by hearsay.

MR. GARVAN: Well, you have to know the man yourself.

THE COURT: I sustain the objection.

MR. SWITKIN: I except.

Q Now then, what have you heard abroad relative to the reputation of the Reverend Arseny, and do not answer yet, as to

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BY MR. GARVAN:

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BY MR. SWITKIN

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Q Yes, S

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decency and morality ?

MR. GARYAN: Objected to absolutely, "what have you heard of the man?"

Objection sustained. Exception.

Q Did you ever hear the reputation of Arseny relative to decency and respectability discussed ?

Objected to. Objection sustained. Exception.

THE COURT: Well, abroad, you are speaking of now ?

MR. SMITKIN: That is what I said, abroad.

THE COURT: Objection sustained.

MR. SMITKIN: I except.

Q Now, Mr. Bilusnenko, do you recall having seen Mary Krinitaky after the 26th of June, 1908 ?

BY MR. GARYAN:

Q Just yes or no. A Yes.

BY MR. SMITKIN:

Q Where and when ? A I was staining the floors in Mandaleon's.

Q Yes, go ahead.

MR. GARYAN: No.

Q (continuing) Did you have any conversation with her in Mandaleon's relative to any affidavit that she had made for Arseny after the appearance of this publication in question ?

MR. GARYAN: Yes or no.

MR. SMITKIN: Now, if your Honor please, I submit to

your Honor, and I ask your Honor's protection, that I am not to be interrupted, and I ask your Honor to instruct the District Attorney that he must not interrupt me and tell the witness how he must answer. He cannot limit a man to a yes or no answer.

THE COURT: Well, I will limit him to a yes or no answer, and when you put leading questions I will sustain objections to them altogether.

MR. SMITHKIN: Yes, sir, your Honor may limit him, but the District Attorney cannot. Will you repeat that question?

(Question repeated by the stenographer)

A Yes.

Q Now, Mr. Witness, do you know a woman by the name of Mrs. Edravitzky? A Yes, sir.

Q Did you ever have any conversation with Mrs. Edravitzky concerning any letter or letters sent to her by Arseny, yes or no?

MR. GATVAN: Objected to as leading.

MR. SMITHKIN: I only ask for yes or no.

MR. GATVAN: I will show your Honor how that is leading, and how it comes under the rule. On page 62, defendant's counsel asked Father Arseny "Did you give the name of Mrs. Edravitzky to your lawyer", Ac. "Did you ever write any letter to her about this case?" and he

answers "Yes to Ed"

Now, he seeks this witness, a th tion, not with the letters sent to he assumption? Page

any letter to her

Now, he asks had any conversat written to her by

THE COURT:

MR. SMITHKIN

argues with your libel cases, for

THE COURT:

MR. SMITHKIN

BY MR. SMITHKIN

Q Did Mrs. Zare letters from Arseny?

MR. GATVAN:

MR. SMITHKIN

my question.

THE COURT:

tion out once,

peat it. The

answers "Not to Zdravitsky."

Now, he seeks to get in hearsay testimony by asking this witness, a third party, if he ever had any conversation, not with the priest, but with Mrs. Zdravitsky about letters sent to her by Father Arseny. You see the assumption? Page 63, top of the page: "Did you ever write any letter to her about this case? A Not to Zdravitsky".

Now, he asks this witness, a third party, if he ever had any conversation with Mrs. Zdravitsky about letters written to her by Father Arseny.

THE COURT: Why, it would only be hearsay.

MR. SMITKIN: Well, that is the way I have tried to argue with your Honor, that hearsay evidence is allowed in libel cases, for the purpose of showing --

THE COURT: No, I sustain the objection.

MR. SMITKIN: I except.

BY MR. SMITKIN:

Q Did Mrs. Zdravitsky tell you that she had received letters from Arseny?

MR. CARVANI: Objected to.

MR. SMITKIN: Wait a moment. I am not through with my question.

THE COURT: Now, Mr. Smitkin, I have ruled that question out once, and I do not see what right you have to repeat it. The testimony has been excluded, and I do not

think you have any right to ask that question after the ruling. Now, one more question on

MR. SMITKIN: Yes, to --

MR. CARVANI: Yes.

MR. SMITKIN: Now, to contradict the No letters to Mrs. Zdravitsky, hear me on that?

THE COURT: No, testify on that.

MR. SMITKIN:

CROSS EXAMINATION BY MR.

Q How long have you known Simpson or do you live, Simpson or

Q Yes, where do you live?

Q Bridgeport, Conn.

Q How long have you known Simpson or half.

Q And how long have you known Simpson or with him in February?

Q Did you know he was in the hospital?

Q How long had you known Simpson or

think you have any right to repeat the question directly after the ruling. However, I will allow you to put just one more question on that line.

MR. SWITKIN: If your Honor please, how am I going to --

MR. GANVAN: You ought to know how to try your case.

MR. SWITKIN: Now, I ask the witness this question to contradict the Neverand as to whether he had written letters to Mrs. Zdravitsky. I wish your Honor would hear me on that?

THE COURT: No, I will not allow this witness to testify on that. Take an exception.

MR. SWITKIN: I except. Now, he is your witness.

CROSS EXAMINATION BY MR. GANVAN:

Q How long have you been living in this place? Where do you live, Simpson or Mayfield? A Now?

Q Yes, where do you live now? A In Bridgeport.

Q Bridgeport, Connecticut? A Yes.

Q How long have you lived there? A Two months and a half.

Q And how long have you known Chaly? A I got acquainted with him in February, 1900.

Q Did you know he wrote for "Svoboda"? A Yes.

Q How long had you known he had been writing for "Svoboda"?

A From the time I got acquainted with him.

Q So that from February, 1906, you knew he was a reporter for "Svoboda" ? A Yes.

Q Did he board with you ? A No, he is a friend of Wasylenko, and he used to visit Wasylenko.

Q Wasylenko boarded with you ? A Yes.

Q What was Wasylenko's business ? A He is working, carving wood.

Q Whom did he work for ? A In churches.

Q How long have you been married ? A Five years.

Q Where were you married ? A In a small village in the State of Ekaterinaslaw.

Q Is your wife with you in Bridgeport ? A My wife returned to Russia.

Q When ? A The 8th of August.

Q What was her name before she was married ?

A Tiena Sudkova.

Q Did you know Mary Pavla ? A Yes.

Q She boarded with you, didn't she ? A No, when my wife went away I boarded with them.

Q At the time this woman came there with the child, was Mary Pavla there ? A No.

Q She was not there ? A At that time my wife was here yet.

Q Now, did you ever do any work on the Monastery ? A Yes.

Q How much did you do ? A I worked in Mayfield. Used to take over the images to the Monastery. \$75. worth of work.

Q Did you ask for more work ?

MR. SWITKIN: That I object to as incompetent, immaterial and irrelevant.

MR. CARVANI: I want to show the motive of this man's testimony.

THE COURT: Objection overruled. It is cross examination.

MR. SWITKIN: I except.

A Yes, and he said when I would finish this work I would get some more.

Q Yes, and then he did not give you any more, did he ?

MR. SWITKIN: Pardon me before that is answered.

That is objected to on the ground that it is incompetent, immaterial and irrelevant.

THE COURT: Objection overruled.

MR. SWITKIN: I except.

A After this a contractor from New York got the job.

Q And that was the work that you, or wasn't it after he found out that you were not a communicant of the church, when you had told him you were a communicant when you got the first work ?

MR. SWITKIN: I object to it on the ground that the question is incompetent on its face, that it is immaterial

and incompetent.

Objection overruled. Exception.

A No, I belonged to the Brotherhood, and I went to church.

Q Then, he found out that you were not a communicant, didn't he?

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

THE COURT: Objection is overruled. It is cross-examination, Mr. Shitkin.

MR. SHITKIN: One moment, your Honor. He is asking him as to what the state of mind of Arseny was, and he said "and he found out that you were not a communicant of the church? How can he tell another man's mind?"

THE COURT: Well, he can tell whether another man found out anything about him or not. The objection is overruled.

MR. SHITKIN: I except.

A I don't know. I even now have these documents to prove that I was a member of the church.

Q Well, was not that the reason why he did not give you the second work, and gave it to a New York contractor?

MR. SHITKIN: I object to the question on the ground first, that it assumes a state of facts not in evidence; that it is incompetent and immaterial.

MR. SARVAN: I withdraw the question.

THE COURT: The question is withdrawn.

Q Didn't you find that the reason was that a dispute came

up as to whether you were a member of the church or not ?

MR. SMITKIN: I object to it first on the ground that it assumes a state of facts not in evidence, the witness having answered that he was a member of the church, and on the ground that the question is incompetent as to what his state of mind was, and as incompetent, immaterial and irrelevant, and not binding upon these defendants.

THE COURT: The objection is overruled.

MR. SMITKIN: I take an exception.

A There was no dispute about this at all. I belonged to the church, and I still belong to it.

Q Now, what was Chaly doing in your house ? A When ?

Q At any time ?

MR. SMITKIN: That I object to.

Q When this girl came there ? A Well, while we were having the conversation with her, he was taking down some kind of a memorandum, whatever she was saying.

Q But how did he happen to come to your house ? A I don't know how it happened that he came there, only when I came from work I found Mary Krinitzky there and this fellow Chaly.

Q Yes, you don't know how he came to be there ? A No.

Q Was that before or after the article came out in "Svobodnaya" ? A Before.

Q How long before ? A I don't know.

Q A month, a week, a year or what ? A About a month.

Q Who else was present besides you and Chaly and the girl?

A Wasylenko.

Q Yes, any one else? A Roman, the boarder, and he went back to Russia.

Q Any one else? A No.

Q You have told everybody who was there? A My wife, Chaly, Wasylenko, the fellow that returned to Russia, Roman; that is all.

Q And you do not know how Mary Krinitzky happened to be there? A No.

Q And you do not know how Chaly happened to be there?

A No.

MR. GARVANI: That is all.

BY THE COURT:

Q How do you fix the time as a month before the publication of the article? A I don't say exactly a month. I say about a month. Probably half a month or so; probably still less than that.

Q Well, why did you say a month? A I said half a month.

Q Do you say that you did not say a month in your first answer? A I said approximately about a month or half a month.

Q Do you insist that you said half a month the first time?

MR. SMITHKIN: I object to the form of that question.

THE COURT: Your objection is noted, and exception.

Q Do you insist that you said half a month the first time ?

MR. SMITHKIN: Will your Honor rule on that question so that I can take an exception ?

THE COURT: I have noted your exception. Objection overruled.

A I mean approximately.

Q Have you received any information of any kind by a nod or otherwise since you have been on that stand ?

MR. SMITHKIN: I object to the form of the question, first, that the question tends to prejudice the testimony of this witness in the eyes of the jury, and that it is incompetent, immaterial and irrelevant.

THE COURT: The objection is overruled. The question is repeated.

MR. SMITHKIN: I except.

THE COURT: Do you want me to give my reason for asking that question, Mr. Smithkin ?

MR. SMITHKIN: No, your Honor, I never question the Court.

A No.

THE COURT: He says no.

Q Now, you think it is even less than half a month ?

A Yes,

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A Yes, I think it is even a week.

Q Yes, even a week. Isn't it less than a week?

A How can I tell that positively?

Q Well, why do you say it is a week then? Why do you think it is a week if you cannot tell?

MR. SMITHKIN: I urge my objection. I object to the question on the ground that the question is incompetent, immaterial and irrelevant.

THE COURT: Your objection to the question is noted.

An exception.

A I did not mark it down. It is possible that it is a week or half a month or something like that. I don't remember.

THE COURT: Yes, go on.

MR. SMITHKIN: That is all. The District Attorney is kind enough to allow the Bishop to be called out of order.

THE COURT: Well, all right. Call the Bishop if you want to.

REVEREND FATHER STEPHEN ORTYNSKY,

being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SMITHKIN:

Q What is your calling? You are a Bishop, are you?

A I am a Bishop of the Ruthenian Greek Catholic Church, Bishop appointed from the Pope of Rome for all Ruthenian Greek Catholics in the United States.

Q I am
in that state

Q A...

Q Yes

America?

Q Yes

Q A...

Q And

live --

Q Yes

BY THE COURT

Q Yes

BY MR. SMITHKIN

Q Yes

Philadelphia

Q Yes

and the de

over one

Q Yes

Q And

besides you

BY THE COURT

Q Yes

can know

BY MR. SMITHKIN

Q Yes

Q I see, you are Bishop of all the Ruthenian Catholics,
in that what you mean? A Yes.

Q Appointed by the Pope of Rome? A Yes.

Q How long, Bishop, have you been Bishop? A Here in
America?

Q Yes. A One year. It is in the fifth month.

Q A year and five months? A Yes.

Q And where is your church? A My church? Home, I
live --

Q Where do you live? A I live in Philadelphia.

BY THE COURT:

Q Where? A In Philadelphia.

BY MR. SMITKIN:

Q Where is your Cathedral? A My Cathedral is too in
Philadelphia.

Q How long have you known, Bishop, the defendant Kirozow,
and the defendant Curkowsky? A Mr. Kirozow has known me
over one year.

Q You know him over a year? A Yes.

Q And, Bishop, you know more people that know Kirozow
besides yourself? A I know my people, so far as I can know.

BY THE COURT:

Q What is the answer? A I know my people so far as I
can know any people in a year.

BY MR. SMITKIN:

Q You state you know him? A Yes.

Q Do you know more parishioners that know Kirozow?

A Yes.

Q Now, did you ever hear --

MR. GAYVAN: Oh, no. Prove it according to law.

MR. SMITKIN: Now, if your Honor please --

THE COURT: Let him put the question. Go on, Mr.

Smitskin.

MR. SMITKIN: Just wait a moment now, your Honor.

Q Did you ever hear anything against, and do not answer yet, please, did you ever hear anything against the reputation of the defendant Kirozow as to decency or respectability?

MR. GAYVAN: Objected to.

THE COURT: Oh, I will allow it. Repeat the question.

(Question repeated by the stenographer).

A No.

Q Did you ever hear anything against the reputation of the defendant Kirozow for truth and veracity? A No.

Q Did you understand the question? A I understand, but please slowly.

Q Yes, I will say it slowly.

THE COURT: Repeat the question, Mr. Stenographer.

(Question repeated by the stenographer as follows:

"Did you ever hear anything against the reputation of the defendant Kirozow for truth and veracity?")

A No.

Q Now, how long have Curkowskys? A In the same This is all one year.

Q Do you know more Curkowskys, besides yourself?

Q (Question repeated)

Q Now, have you ever reputation for truth and veracity?

Q Have you ever heard reputation for decency and respectability in the future, I don't

THE COURT: What

MR. GAYVAN: --

sure.

Q Yes, none of us know

CROSS EXAMINATION BY MR.

Q What is Kirozow's position? A He is President of a church, rich in members, which call him as officer of my church of my church, therefore --

Q Well, wait just a moment, please is? A This is my

Q Do you know what

Q Now, how long have you known the other defendant Gurkowskys ? A In the same time. This is over one year. This is all one year.

Q Do you know more people, parishioners, that know Gurkowskys, besides yourself ? A What do you say ?

Q (Question repeated) A Yes.

Q Now, have you ever heard anything against Gurkowskys's reputation for truth and veracity ? A To-day not.

Q Have you ever heard anything against Gurkowskys's reputation for decency and respectability ? A To-day not. Perhaps in the future, I don't know.

THE COURT: What is the answer ?

MR. CARVAN: "To-day not", meaning up to-day, I presume.

Q Yes, none of us know the future. A No.

ORDE EXAMINATION BY MR. CARVAN:

Q What is Kirozow's business ? A His business ? I know him as President of a great Society, Greek Catholic Society, rich in numbers, which counts about 11,000 members, and I know him as officer of my church in Jersey City. He is an officer of my church, therefore --

Q Well, wait just a moment -- do you know what his business is ? A This is my business as Bishop with him.

Q Do you know what his business is ?

BY THE COURT

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BY THE COURT:

Q What does he do for a living ? A I don't know.
Perhaps he is or was co-partner in the --

BY MR. CARVAN:

Q The "Swoboda" ? A I don't know.

Q The newspaper ? A So they say.

Q Did you ever read his newspaper ? A I don't know this
thing. I don't know his own occupation, what his business is,
I don't know.

Q Do you know Curkowsky's business ? A He is an editor

Q Editor of what ? A Of "Swoboda".

BY THE COURT:

Q Of what ? A Of "Swoboda", the newspaper.

BY MR. CARVAN:

Q And is "Swoboda" a newspaper of your church ? A Of my
church ?

Q Yes. A No, that is of my congregation, this "Congrega-
tion of Souls, Greek Catholics.

BY MR. SMITHKIN:

Q That is the name of the society, isn't it ? A Yes.

BY MR. CARVAN:

Q Do you know the newspaper "Swoboda" ? A Yes.

Q And do you know him to be the editor of the newspaper
"Swoboda" ? A Yes.

Q Do you read that paper ? A Not every time. I have
no time to read. I am every day in journey, therefore I can-

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BY MR.

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BY THE COURT:

Q Just answer questions, please. A Yes.

BY MR. GANVAN:

Q Do you read Russian? A Ruthenian, not Russian.

Q Your Grace, will you kindly read the last paragraph of that article, from there down (indicating).

MR. SHITKIN: Well now, that I object to as incompetent, immaterial and irrelevant, the witness not having been called for any general purpose, except to testify as to the character of the defendants. He cannot be interrogated upon any other question.

MR. GANVAN: That is all I am going to examine him on.

THE COURT: I overrule your objection. If it appears it is incompetent, you may renew it.

MR. SHITKIN: All right. For the present I respectfully except.

Q Did you read that? A Yes, but I have not read it before.

Q You have not read it before? A Before, not. I read now. This is the Society for Souls, but this is not the church's newspaper, but before I have not read it.

Q Now, having read it, do you think that that article, do you think a decent man could write an article like that last paragraph?

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A (In English

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

MR. CANYAN: I will connect it up. It has been connected up already. The defendant's lawyer has asked him if he ever heard anything against the decency of these two defendants.

THE COURT: I will allow this question.

MR. SHITKIN: I respectfully except.

Q Now, do you believe that any decent man would write the last paragraph of that article, no matter what his faith?

A That he has written?

Q No, no.

MR. CANYAN (to the Interpreter) Just make this clear, please, in Ruthenian.

MR. SHITKIN: Now, your Honor, I further object to it upon the ground that there is no proof throughout the entire People's case that the defendant wrote the article.

A What you ask, please?

THE COURT: Wait until the question is put.

Q (Through Interpreter Michael Tandlich) Do you believe that any decent man would write, any man of decency, no matter what his faith, would write that last paragraph about other people's faith?

THE COURT: Now, the objection is overruled.

MR. SHITKIN: I respectfully except.

A (In English) When anything is true, we can write, when it

is proven here in America.

Q Just answer me. A the truth and in America it and I don't understand American law, to write, all

Q Your Grace, I am not but let me tell you, the law as anywhere else, and I am decency. Now, you will refer to a whole sect, and again and notice that it is "So the Czar's glorifying

MR. SHITKIN: On

that.

A This is not my thing, t
BY THE COURT:

Q Well, you have competency and the decency of the cross examination the same American law. A Yes.

Q The law is no reason say that you never heard men, the People's representative and is entitled to your h

MR. CANYAN: I

is proven here in America.

Q Just answer me. A I cannot say. When this is what is the truth and in America it is allowed, but I am a new comer and I don't understand American law. When this is true in American law, to write, all right; when not, all right.

Q Your Grace, I am not asking you about the law of America but let me tell you, the law of decency is the same in America as anywhere else, and I am only asking you about the laws of decency. Now, you will remember that that last paragraph refers to a whole sect, and not to any man. Now, read that again and notice that it is not about one man. (Reading) "So the Czar's glorifying nobles are appearing before --"

MR. SHITKIN: One moment, I object to you reading that.

A This is not my thing, to --

BY THE COURT:

Q Well, you have come here to testify to the respectability and the decency of these men. Now, you are subject to cross examination the same as any one else. That is the American law. A Yes.

Q The law is no respecter of persons. Now, when you say that you never heard anything, that they were not decent men, the People's representative has a right to ask your opinion and is entitled to your honest belief.

MR. CARVANI: I want to know what he considers decent.

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BY THE COURT

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A Yes, I
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BY MR. CARVANI

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Q Yes
BY THE COURT

Q Yes
to ?

A This is true. I have nothing heard about this before to-day.
BY THE COURT:

Q Nobody questions the truth of your testimony, and all we want is the truth and the whole truth. You understand my position? You understand my statement? A Please to repeat?

Q You have come here and stated that you have never heard that they were not decent and honorable men. That is what you have said? A Yes.

Q Now, you were asked a question by the representative of the People, as to your own opinion of the man who would write that article, that particular thing, and you must give it?

A Yes, therefore I say, when this is not true, the man should not write this thing. When this is true, I do not know whether it is permitted in your country or not.

BY MR. CANNAN:

Q I do not care whether it is permitted or not. Just listen to my question. A I say, when this is not true, he cannot write it. When it is true, I cannot answer more.

Q Now, are you ^{through} true? A What?

Q Have you answered? A What?

Q Are you ^{through} true with your answers? A When this is true, what is wrote --

Q Well, you have said that already.

BY THE COURT:

Q Well, have you read the clause he called your attention

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BY MR. CARVAN:

Q Have you read that paragraph? A Yes, in this moment, before not.

BY THE COURT:

Q Now, the question is, does that refer to any man? Is there any man mentioned there in the part he asked you to read?

A From this article I cannot tell --

BY MR. CARVAN:

Q No, do not look at anything else.

MR. SMITH: Well, the witness is entitled to look at the entire article.

A There is some consequence, and I must read it all.

Q Now, Your Grace, you will submit to this Court.

MR. CARVAN (to the Interpreter) Just tell him he will kindly submit to this Court. He is the same as any other witness here.

MR. SMITH: I submit that is an unfair remark to make to the Bishop.

THE COURT: Well, the Court has already stated that, that there is no desire except to be absolutely fair to the Bishop.

A All right.

BY MR. CARVAN:

Q The translation of this article which is in evidence is as follows: Now, listen carefully and anything you do not

understand ask me, and he will tell it to you in Russian.

BY MR. SMITKIN:

Q And now, pardon me also, Bishop, may I say, please do not answer until I get an objection upon the record?

A All right.

BY MR. CANNAN:

Q (Reading) "So the Czar's glorifying ascetics are appearing before the public at daytime without masks. In papers they are all holy people, so you could send them alive and even in their shoes to the Heaven, but in reality they appear as rotten things, rough people, and are not fitted for their service. I do not wonder for those people are not educated and civilized enough. They were appointed and ordained without any selection of the better ones, from all candidates for priesthood, caring just for the business". Now, you are a Bishop of the Greek Catholic Church? A Yes.

Q Do you think any member of the Greek Catholic faith could write that about the Russian Catholic faith and be a decent man, about the whole faith?

MR. SMITKIN: I object to the question on the ground that the question does not contain the entire article written, and therefore an opinion upon a part of the article cannot be expressed by the witness, and cannot be asked of the witness, and I further object to it, that the question is improper on its face, that it is incompetent

and that it is immaterial and irrelevant, and on the further ground that that question, taking a part of the article, does not show that that in any way refers to Arseny

MR. CARVANI: That is just what I am talking about.

MR. WHITKIN: Well, that is just --

THE COURT: His attention is called to the article alleged to have been published by the defendants, in cross examination of his testimony that he never heard these men did an indecent thing, and it is allowed for that reason. We want to get the Bishop's notion of decent and indecent things.

MR. WHITKIN: Well, your Honor, he is asking him about part of the article.

THE COURT: Your objection is overruled. If you call a man here and wish to get great prestige from the fact that he is a Bishop of the Roman Catholic Church, and then you do not wish him to give his notion of decency and indecency -- no Bishop or no Prelate has a right to claim any such privilege. Now, I say that with all due respect to the witness.

MR. WHITKIN: I except to the expression of the Court's opinion.

THE COURT: I am giving my reason for the ruling on your objection. I overrule the objection and you take an exception, and the exception is noted.

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MR. SMITKIN: I respectfully except.

A You will permit me to speak ? First, I say they are not Catholic people, Russian Catholics, they are not. They are orthodox. That is another faith than Catholic.

BY MR. GARVANI:

Q Yes, I am a Catholic and I understand. Go right on.

A Yes, this is other people, therefore, I say about Russian Catholics, they are not Russian Catholics, they are Orthodox.

Q Well, whatever they are, they are men and women.

BY THE COURT:

Q Well, have they any rights that you respect ? A Now, I say about this thing, when this man writes the same thing and he is Catholic, and writes to beat the other faith, other men, I think this is impossible to write what he writes.

BY MR. GARVANI:

Q That is all. I thought so. A And I say in the same way, when you permit me to speak, in the same way I say the same people, the same priests in the newspapers write against Catholic Bishops in such manner that is impossible to hear, not in China they write so as they write against our faith.

BY MR. SMITKIN:

Q And you have yet not prosecuted anybody for libel ?

A I can show you newspapers showing my photograph here, how they write against us. Therefore we pay not attention in this writing, we pay no attention. We pay no attention.

Q You do not
BY MR. GARVANI:

Q Now, have
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Q Has any
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RE-DIRECT EXAM

Q You have
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Q You do not pay any attention to them ? A No.

BY MR. GARVAN:

Q Now, have they accused you of being the father of a child ? A What ?

Q Has any paper in America accused you of being the father of a child ? A I do not understand.

MR. SHITKIN: Will Your Grace just kindly be quiet for a moment ? I object to the question.

MR. GARVAN: I withdraw the question.

THE COURT: The question is withdrawn. The question was only put in view of what the Bishop said.

RE-DIRECT EXAMINATION BY MR. SHITKIN:

Q You have been asked by my learned friend to express an opinion as to part of the article. Now, read the entire article and see if that is proper comment to make about a priest, if that is the truth ?

MR. GARVAN: I will consent that he see the entire article.

A (After the witness reads) I pay no attention to these things of these people.

MR. GARVAN (To the Interpreter) Just impress upon the Bishop that he must answer questions put to him and none other, and make no remarks.

(Question repeated through the Interpreter) A (In English) I say when this is true what is written, this is so

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bad a thing, this is so great damage and great defamation of this girl, and this girl belonged to the other people, not to the Russian people, and they wrote, and they asked the girl, they asked the girl, that she in their hands is fallen, and that she has so great damage and defamation, and I say this is very bad thing. When it is true what they wrote, this is very bad thing.

Q Now, they have a newspaper called the "David"?

MR. GANVANI: I object to "they". There is nobody here but the People of the State of New York and these defendants.

Q Well, the Reverend Arcady, he is interested in a newspaper called the "David", isn't he, if you know, of course?

A Yes.

THE COURT: It is entirely immaterial whether he is or not. Do you think that one libel justifies another?

MR. SMITKIN: No, your Honor. Well, that question is withdrawn. Thank you, Bishop, that is all.

NICHOLAS PIDHORNOCKI, being called and duly sworn as a witness on behalf of the defense, testified as follows:

DIRECT EXAMINATION BY MR. SMITKIN:

Q What is your first name, please? A Nicholas.

Q You are a minister, are you, of the Ruthenian Greek Catholic Church? A Yes.

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Q Where is your church ? A 332 East 20th street, city.

Q Are you the Rector of that church ? A Yes, sir.

Q Now, Reverend, how long have you been in this country ?

A Over eleven years.

Q Do you know the defendant Kirozow ? A Yes, sir.

Q How long, Reverend, have you known him ? A Over 11 years.

Q Do you know more people that know him besides yourself?

A I was seven and a half years --

Q No, yes or no, please. A Yes.

Q When did you first meet this defendant Kirozow ?

A I was Pastor in Jersey City for seven and a half years, and he was my church member.

Q Now, Reverend, have you ever heard anything against the reputation of Kirozow, for truth and veracity ? A I never heard --

BY THE COURT:

Q Yes or no. A Never, no.

CROSS EXAMINATION BY MR. GANVAN:

Q Have you read this article ? A Yes.

Q What do you think of it ?

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

MR. GANVAN: Question withdrawn.

Q What do you think of the man that would write it ?

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A Well, I have --

MR. SMITKIN: One moment. I object to the question.

A I do not understand what you want.

MR. SMITKIN: I object to the question first, that it is incompetent, immaterial and irrelevant, improper in form, and on the further ground that this witness is only called to testify as to reputation for truth and veracity, which is really the only trait involved in this case.

MR. GARVAN: He has not testified to that. He simply said he never heard anything against him.

MR. SMITKIN: And that is sufficient.

MR. GARVAN: Oh, no.

MR. SMITKIN: Well, I object.

THE COURT: Well, I have allowed you to put that question. It was allowed and you have been answered. Now, we allow the District Attorney to cross examine on the same line.

Q You have read this article, have you? A Yes, sir.

Q And do you see that it accuses a priest of another faith of being the father of an illegitimate child, don't you? You know that, don't you?

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

A I think it is not --

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BY THE COURT:

Q You will wait, please.

MR. SHITKIN: Wait until I get my objection. I object to it as incompetent, immaterial and irrelevant and because the only trait involved in this case is as to the truth and veracity of the defendant, and he may interrogate as to the truth and veracity of this defendant, and nothing else, I submit.

THE COURT: I overrule the objection.

MR. SHITKIN: I except.

Q You say you have read the article? A Yes, sir.

Q You see, do you not, in reading that article, that it accuses the Reverend Areeny, a priest of an opposite faith, from you, of being the father of an illegitimate child, do you not? A Yes, if this article is true.

Q If the article is true? A Yes.

Q Of having abused and defamed a poor servant girl who was in the employ of his Order. You see that the article says that, don't you?

BY THE COURT:

Q Well, is that what the article says or not, that is the question? A I think --

Q Not your opinion of what you think. What does the article say?

BY MR. GARYAN:

Q Did not the article say that to you? A To everybody.

Q Yes, article was sent from you

Q Well read that letter

Q Now the first person is guilty that an accusation, no matter Greek Catholic was, would be other sent

to its and in part of and the clergy libel is in brought down a with

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Q Yes, now, and you also saw that the conclusion of that article was a general attack upon the clergy of an opposite sect from you, did you not ? A Never.

Q Well, will you kindly read the last article ? Just read that last paragraph. A Yes (After reading).

Q Now, do you believe that a decent man, assuming that the first part of the article is true, assuming that Father Arseny is guilty of all that the first part says, do you believe that an decent man, because of the misdoings of one member of a faith, no matter whether it was Jew or Gentile, Christian, Greek Catholic, Roman Catholic, Russian Orthodox, or what it was, would make a general attack upon all the clergymen of any other sect or religion ?

MR. SHITKIN: The question is objected to first, as to its form; second, that it is incompetent, immaterial and irrelevant, and on the further ground that the latter part or last part of the article is not of itself libellous and the indictment does not read that we libelled the clergy of any faith, but the indictment does say that we libelled Arseny, and I submit therefore, that that question is incompetent.

THE COURT: It has been allowed solely because he is brought here as a character witness, and his opinion on decency and indecency is relevant, that is all.

MR. SHITKIN: Your Honor, they hold that when you ask a witness as to his knowledge of the defendant's reputat-

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ion and the particular trait involved in the case, that you cannot interrogate him upon anything else, and all I asked him here is as to truth and veracity, not decency and respectability, as I did the last witness.

MR. CARVANI: Well, then, if he did not ask him as to his decency and respectability, I withdraw the question, and that is all.

THE COURT: Then the question is withdrawn.

DEMYTRIUS DOBROTWOR, being called and duly sworn as a witness on behalf of the defendants, testified as follows:

DIRECT EXAMINATION BY MR. SMITH:

Q Your calling is that of a Reverend, is it not, you are a Reverend? A A reverend.

Q Attached to what church, connected with what church? A The Ruthenian Catholic Church.

Q In the city of New York? A Yonkers, New York.

Q Do you know the defendant Krasow? A I know him.

Q How long have you known him? A Over two years.

Q And do you know more people that know him besides yourself? A Certainly I know.

Q And did you ever hear anything against this defendant's reputation for truth and veracity? A Now is that, please?

Q (Question repeated through Interpreter Pandlich)

A Never.

Q (In English)
Curkowsky v A

Q Do you know
self? A Yes, I

Q Have you
Curkowsky for the
MR. SMITH

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Q (In English) How long have you known the defendant
Gurkowskys ? A Over two years, just the same.

Q Do you know other people that know him besides your-
self . A Yes, I do.

Q Have you ever heard anything against the reputation of
Gurkowskys for truth and veracity ? A Never.

MR. SMITKIN: That is all, Reverend.

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CROSS-EXAMINATION BY MR. GARVAN:

Q Your Reverence, would you consider it anything against a man's reputation for truth and veracity, to publish, concerning a minister of any faith, that he was the father of an illegitimate child, upon a letter coming through the mails without any signature to it?

MR. SWITKIN: One moment. I object to that question on the ground that it assumes a state of facts not in evidence.

MR. GARVAN: I am going to assume. I want to find out what his idea of truth and veracity is.

MR. SWITKIN: You cannot ask a character witness a hypothetical question. There is no proof that the letter is unsigned. Here is the letter, Mr. Garvan, and it is signed.

THE COURT: I sustain the objection.

Q You would expect a man who loved truth and loved veracity, before he accused any other man, much less a minister or clergyman, of being the father of an illegitimate child, to have absolute proof of that fact, wouldn't you, before he did it?

MR. SWITKIN: I object to the question as incompetent, immaterial and irrelevant.

Objection overruled. Exception.

A Should I answer?

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Q Yes. A What

THE COURT: A

(Question repeated)

A Well, he did not receive a letter that he received.

Q Oh, you know all

THE COURT:

MR. SWITKIN:

MR. GARVAN:

question.

(Previous question through Interpreter: expect a man who loved truth and veracity, before he accused any other man, of being the father of an illegitimate child, to have absolute proof of that fact, wouldn't you, before he did it?)

A Yes, sir.

MR. SWITKIN: original transcript article.

MR. GARVAN: no question about

THE COURT:

read it. Can you

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Q Yes. A What is the question?

THE COURT: Repeat the question, Mr Stenographer.
(Question repeated through Interpreter Kandlich.)

A Well, he did not write that. He wrote it upon the
letter that he received.

Q Oh, you know all about the case, do you?

THE COURT: Well, he answered your question?

MR. SMITKIN: I object to that last question.

MR. GATVAN: I withdraw that. Just repeat my other
question.

(Previous question repeated by the stenographer,
through Interpreter Kandlich, as follows: "You would ex-
pect a man who loved the truth and loved veracity, before
he accused any other man, much less a minister or clergy-
man, of being the father of an illegitimate child, to have
absolute proof of that fact, wouldn't you, before he did
it?")

A Yes, sir.

MR. SMITKIN: I have a witness here to prove the
original translation of the letter which accompanied the
article.

MR. GATVAN: I will admit the translation. There is
no question about that.

THE COURT: Well, we have an interpreter who can
read it. Can you read it?

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Exhibit

INTERPRETER KAMILICH: - I can talk it, but I don't know whether I will be able to read that. No, I will not be able to read it.

MR. CARVAN: I can tell generally whether it is the sense or not.

THE COURT: Then I think we ought to have the witness called, if he is qualified.

THERODOSIUS LABOWSKY, being called and duly sworn as a witness on behalf of the defense, testified as follows:

DIRECT-EXAMINATION BY MR. SMITKIN:

Q What is your last name? A Labowsky.

Q Now, Mr Labowsky, what is your business? A I am secretary to the Supreme Lodge of a certain order.

Q You are a citizen of the United States? A Yes, sir.

Q Formerly a member of the United States Army, weren't you? A Yes, sir.

THE COURT: Well, that does not tend to literary requirements. Just get down to the issue.

MR. SMITKIN: Not very much, your Honor.

Q You speak the English language, of course? A Yes.

Q You speak the Ruthenian language too? A Yes.

Q Fluently? A Yes.

Q Look at this letter which I ask to be marked Defendant's

Q

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Exhibit N for Identification.

(It is so marked.)

Q (Continuing:) Now, what language is that letter written in?

MR. GANVAN: Oh, he has read it before.

BY MR. GANVAN:

Q What language is it written in? A Ruthenian.

BY MR. GNITKIN:

Q Did you make a translation of that letter? A Yes.

Q Is that the translation annexed to Defendant's Exhibit N for Identification, yes, or no? A Yes.

MR. GNITKIN: I ask that that be marked Defendant's Exhibit N-1 for Identification.

(It is so marked.)

Q And is that a correct translation of the letter marked Defendant's Exhibit N for Identification? A Yes, sir.

THE COURT: Well, has he been qualified?

BY MR. GNITKIN:

Q Where were you born? A I was born in Austria, part of Galicia.

Q Do you speak the Ruthenian language? A I was born and brought up in that language.

Q You are a Ruthenian? A Yes, I am.

Q Belonging to the Ruthenian church? A Yes.

Q And you have been an American citizen how long a time?

A American citizen, you mean?

Q Yes. A 1896, about twelve years.

Q And you have been a resident of the United States how long? A I have been a resident here about 16 years.

BY THE COURT:

Q How old are you? A Thirty-three.

Q And you came to this country when you were about fifteen? A I came here between 13 and 15.

Q Did you study the Ruthenian language since you came here? A In the old country also and here.

Q Where did you go to school? A Here?

Q Did you go to school here? What schooling did you have, let us know? A I had what they call gymnasium, that is the high school in the old country. I studied Latin and a little Greek, and then I studied my own language about almost eight years.

Q You learned to read and write in your own language?

A In my own language and then I read history.

Q Did you study English on the other side too? A No, sir, here.

Q And you have kept up your acquaintance with the Ruthenian language? A I always did.

Q Not only spoke it but have written it? A It is my own language with which I, after all, would prefer to any other.

Q Yes, and you kept up your familiarity with it?

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A Yes, your Honor.

THE COURT: I think he is qualified.

MR. SMITH: Shall we proceed further now, your Honor.

THE COURT: You have no more character witnesses?

MR. SMITH: No, sir.

THE COURT: Well, gentlemen of the jury, the Court will now take a recess until to-morrow morning at half past 11. We have a very small calendar for to-morrow, and we can get to work at half past 11. To-morrow I think we can fairly hope to begin at half past 11, and please be prompt. Meanwhile, do not discuss this case among yourselves, nor with any one whatsoever, and do not come to any conclusion concerning it until it is finally submitted by the Court for your consideration.

(The Court thereupon adjourned the further trial of the case until Tuesday, January 12th, 1909, at 11:30 o'clock A. M.)

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New York, January 12th, 1909.

Trial resumed.

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

DIRECT EXAMINATION BY MR. SMITH:

Q Where do you live ? A Alden Station, Pennsylvania.

Q Did you ever live in Mayfield, Pennsylvania ?

A Yes, sir, I lived there.

Q With whom did you reside at Mayfield ? A I lived with Mr. Biluszenko.

Q What is your business ? A Carving on wood and sculptor.

Q Mr. Wasylenko, do you know Hryko Ghaly ? A I do, I know him very well.

Q With whom did you reside at Mayfield ? A I lived with Mr. Biluszenko.

Q Now, Mr. Wasylenko, do you know Mary Krinitzky ?

A Yes, sir, I do.

Q When and where did you first see her ? A I saw her for the first time about the 17th or 18th of June.

BY THE COURT:

Q That year, and where ? A In 1908, in Mayfield, in Biluszenko's house.

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BY MR. SWITKIN:

Q Did you have any conversation with Mary Krinitaky at that time ? A I sat there and was listening to the conversation. She was talking to Mr. Siluzsenenko and his wife.

Q Now, will you please state to the court and jury --
BY THE COURT:

Q Is that the first time you saw her -- the time you stated ? A The first time.

BY MR. SWITKIN:

Q State to the court and jury what you heard her say ?

MR. GARVAN: That is objected to, unless you can point out in the evidence where she was asked, and what part of her testimony it tends to contradict, otherwise, if it is before June, it must be proven it was called to the attention of these defendants.

THE COURT: Well, he may prove that later.

MR. GARVAN: Well, he must prove that first, under the Sherlock case.

MR. SWITKIN: Here is the Sherlock case here. Show me where that reads in it. That is our very defense.

THE COURT: Well, now, wait a minute. There is no need of discussing the matter. Mary Krinitaky said that she had not made any statement to Mitrofen?

MR. GARVAN: This is not Mitrofen.

THE COURT: I know, but he is produced as an alleged

witness between any conversation between Mitrofen and Mary Krinitaky. On that ground I will overrule the objection.

A Mary Krinitaky said to Biluszenenko and to his wife, she was asking them to take her child to bring it up.

BY MR. SMITHKIN:

Q Proceed. A She also said that she has been four times to see Father Arseny, and that he refused her asking him to take it into the Monastery, but he refused to take it, because it is a baby from the Monastery, and people will say that the Monastery is a baby shop.

Q Proceed. A Then she said to put it into the newspapers so that there may be other people who will take pity on her, she being so unfortunate, and they may take this child to bring it up.

Q Go ahead, what else was said by her? A Then she said that Father Arseny was the father of this child, that the first time he touched her was at the time of the dedication of the cemetery, in Simpson.

Q Now, state all that she said about Father Arseny and the child. A Then she said that after the dedication of the cemetery, when the crowd dispersed, Father Arseny was going to give her money to buy a ticket for the railroad, "But then he changed his mind and he said to me 'You stay here and you will go together with me in the buggy'".

Q Well, proceed. Just give all the conversation.

A "Then when we left Simpson and we got into the forest, Father Arseny started to ask me whether I had any young man". Then Father Arseny said to her "You are young, and nature requires this". Then he started to give her fruit and bananas and other things. Then, when he gave her the fruit, he embraced her, and put her close to himself, and then he examined her stockings. Then, while he was examining her stockings, he pinched her leg, and then he threw one leg over her, and he did it.

Q Proceed, with all that she said. A. Then she said, at the time of the christening in the church, they did not know the name of the father, and they did not know how to christen the child, and they picked out the letter "A" from the alphabet and they wrote down in the book the name of "Andrew".

Q Proceed. A Then she said that Schlanta stood up for the child and a teacher from Mayfield. Then Mary said that when the child was christened, the priest that was present asked to be paid. Schlanta said at the time "You can ask the money from the Monastery and let Father Arseny pay for it".

Q Go on. A Nothing else.

Q Now, have you stated all that she said that you can remember on that occasion? A Well, he said nothing else. I said everything that Mary said in Biluszenko's.

Q Who was present in the room where this conversation was had between Mary and Biluszenko and his wife? A In the room

at the time were Re Chaly and myself.

Q You mean before Biluszenko?

Q Now, at the time, what did you see on the paper.

MR. SMITH

CROSS EXAMINATION

Q Where do you

Q How long in July, 1907.

Q The 6th of

Q Where did you originally go to Oly

Q Yes, how

Q Now, then, when you were sent to work in the

Q Now, did you not in the Monastery

Q Were you known as Eugene?

Q Beren's? called me that was

at the time were Roman, the fellow that used to board there, Chaly and myself.

Q You mean besides Mrs. and Mr. Biluszenko ? A Yes, then Biluszenko came .

Q Now, at the time this story was being told by Mary, what did you see Chaly doing ? A He was taking down notes on paper.

MR. SWITKIN: He is your witness.

ORON'S EXAMINATION BY MR. GATVANI:

Q Where do you live ? A Alden Station.

Q How long have you been in this country ? A The 6th of July, 1907.

Q The 6th of July, 1907 ? A Yes, sir.

Q Where did you go when you came to this country ? A I came originally to Olyphant.

Q Yes, how long did you stay there ? A Four months.

Q Now, then, where did you go ? A Then I went to Simpson to work in the church. Carving on wood.

Q Now, did you ever work in the Monastery ? A No, I was not in the Monastery.

Q Were you ever known by any other name ? A I was only known as Eugene Wasylenko.

Q Weren't you ever known as Vasily Moskal ? A They called me that way because I am from Russia.

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BY THE COURT:

Q What part of Russia? A Kief.

Q How far is that from Moscow? A Probably as far as from here to Chicago.

Q How long did you go under the name of Vasily Moskal?

MR. SMITH: I object to that question as improper on its face, and on the ground that it assumes a state of facts not in evidence.

MR. GAVAN: Well, I will withdraw it. I will leave it just as it is.

Q Did you bring Mary Krinitaky to this house? A No, she came there herself.

Q And Chaly was there with note paper and a pencil, was he when she came, yes or no? A He had the paper and the pencil.

Q Did you know she was coming? A No, I didn't know.

Q What time of day was it? A About 6 o'clock in the evening.

BY THE COURT:

Q When she came? A About 6 o'clock in the evening. I don't remember exactly.

BY MR. GAVAN:

Q What was Chaly doing there? A Chaly just was after coming in with me. We were just talking and smoking.

Q You just happened there by accident; yes or no?

A Yes, he came accidentally. He used to come around to see me.

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Q And then Mary came in, and without any introduction, started in to tell you this about the child, is that right, just answer yes or no. A She came around there, because no one wanted to take that baby to nurse.

THE COURT: Strike that out. It is not responsive.

Q Now, do you know Andrew Pretash?

MR. SWITHIN: I except to the Court's direction, that that last answer of the witness be stricken out.

THE COURT: Repeat that previous question and answer.

(The Stenographer repeats as follows: "Q And then Mary came in and without any introduction started in to tell you this about the child, is that right, just answer yes or no? A She came around there, because no one wanted to take that baby to nurse.")

THE COURT: It is not responsive, but we will let it remain. Repeat the last question now.

(Last question repeated as follows: "Q Now, do you know Andrew Pretash?")

(Continuing)

A Yes, about the child.

BY MR. GANVAN:

Q Was any one with Mary? A She came around herself.

Q Any one with her? A No, she came around alone.

Q Now, do you know Andrew Pretash? A No, I do not.

Q Never knew him? A No, I did not hear even. There was no one in Mayfield by that name.

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Q You knew Mary worked for the Squire, didn't you, just yes or no? A I found it out afterwards.

Q Didn't you know it at that time? A I found out when she was telling us.

Q Now, did you ask her if she had complained to the Squire about Arseny; yes or no? A Yes, she did say it. She said that she told it to Mendelson.

Q Did she say she told Mendelson that Arseny was the father? A Yes, she said so. She said she told it to Mendelson.

Q Did she tell --A(Interrupting) Mendelson himself told me so.

MR. CARVAN: I ask to strike that out.

MR. SMITHKIN: No, I object to that.

MR. CARVAN: Well, let it stand.

Q When did Mendelson tell you that?

MR. SMITHKIN: I object to the form of the question. That is assuming something, in the form of the question. The witness did not say Mendelson told him anything.

MR. CARVAN: Yes, he did say so.

THE COURT: Yes, and you objected to striking it out. Let the stenographer repeat that last answer.

(Repeated by the stenographer as follows: "Q Yes, she said so. She said she told it to Mendelson.

(Continuing) Mendelson himself told me so").

MR. SMITHKIN: All right.

Q When did Mendelson tell you so ? A Mendelson keeps a store, a sort of a general store and he sells drinks and meats and other things, and we were in there with Biluszenenko and we had some drinks, and while there, Mendelson said that he would give his head to be cut off if that child is not from Arseny.

Q Now, did he tell you that Mary told him that Arseny was the father of the child ? A He did not say that.

Q Did he tell you that Mary had sworn out a warrant before him, swearing that Andrew Pretash was her husband -- or was the father of the child ?

MR. SMITHKIN: I object to the form of the question on the ground that it calls for the contents of a written instrument which is not in evidence.

THE COURT: Objection overruled. You brought it out yourself that she had sworn out a warrant, and that when the warrant was attempted to be served, he had disappeared.

MR. SMITHKIN: The District Attorney did, your Honor.

THE COURT: You brought it out on cross examination. Now, this question is asking whether Mendelson told him that also.

MR. SANFORD: Just repeat the question.

(Question repeated by the stenographer)

A He told that to Biluszenenko, and Biluszenenko told it to me when we got home.

Q Did he tell it to you, just answer ? A He did not tell it to me personally.

BY THE COURT:

Q Were you with Biluszenenko when he told it to Biluszenenko ? A Yes, we were there together, at the time in the restaurant.

BY MR. GARYAN:

Q Now, you know where the notes are that Chaly took at that time ? A He took it along with him when he went away.

Q Yes, and Chaly is a friend of yours, just answer yes or no ? A I got acquainted with him in February, 1908.

Q Now, did you see Mary after that ? A I saw her again the 1st of July in Olyphant.

Q Now, when you had this conversation with Mary, that was before the publication of the "Swoboda" article ? A That was before it was published in the paper.

Q How long before ? A About a week before that.

Q Now, when you had the conversation with Mendelson, was that before the publication or after ? A It was between the time that she was in Biluszenenko's, and the time that this article appeared in the paper.

Q Was it before the article appeared in the paper ?

THE COURT: Well, yes, it must have been. He says it was between the time --

MR. GUTKIN: Oh, no -- I think the witness' answer speaks for itself, with due respect to the Court.

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BY MR. GARYAN

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THE COURT: Repeat the answer.

(The stenographer repeats the answer as follows:

"It was between the time that she was in Biluszenko's and the time that this article appeared in the paper").

THE COURT: I will withdraw my comment, as long as you object. I merely wanted to save time.

BY MR. SARVAN:

Q Now, how long a time was it before you took Mary to Olyphant? A It was not I who took her. It was Chaly who came and took her to Olyphant.

Q But you and Chaly went with her to Olyphant, didn't you? A Yes, I went and I met them.

Q Where did you meet them? A They were on the way to take the car in Mayfield. I don't know the name of that street.

Q What were you doing in Mayfield?

MR. SARVAN: Oh, he lived there.

A I was rooming with Biluszenko.

Q What did you go to Olyphant for? A As I met them, Chaly said "Maybe you can come along as a witness".

Q As a witness, yes, and where did you meet them?

A I don't know the name of the street. It is where the cars run.

Q What did Chaly say he wanted you as a witness to?

A He said on that account, that Father Arseny is making a complaint against the people that published the article in the

"Swoboda".

THE COURT: Repeat the question, Mr. Stenographer.

(Question repeated by the stenographer).

A Because he said that people came and threatened her, Father Arseny, Mendelson, and Adamiak.

BY THE COURT:

Q Well, what were you to be a witness to, that is the question? A Because he was questioning her, whether she takes back the words that she said in Biluszenko's. She said "No, everything was true that I said, only I was threatened."

BY MR. GANNAN:

Q And why was he going there as a witness?

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

THE COURT: Objection overruled.

MR. SMITHKIN: I except.

A Because he could not take her along himself. He wanted to have somebody to witness it, so that she would not say that he did nothing to her.

Q Well, what did he say he was going to Olyphant for?

MR. SMITHKIN: I urge the same objection, as the question is incompetent, immaterial, irrelevant and hearsay.

Objection overruled. Exception.

A He said that Mary wanted to swear truly to everything, what she said was true.

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BY MR. GANNAN

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BY MR. GANNAN

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Q Well, why didn't he take her to the other Squire in Mayfield, did he say that ?

MR. SWITKIN: I object to the form of the question, on the ground that it is incompetent on its face, that it calls for the operation of this witness' mind as to the state of mind of another witness.

THE COURT: The objection is overruled. It is cross examination.

MR. SWITKIN: I except.

A Because he had no acquaintances there.

Q Well, how far is Mayfield --

BY THE COURT (interposing)

Q Who had no acquaintances in Mayfield ? A Chaly.

Q Well, did not Chaly live in Mayfield ? A No, he lived in Olyphant. He only came to see me.

BY MR. GARYAN:

Q Well, you knew there were two Squires in Mayfield, didn't you ? A No, I did not.

Q How far is Mayfield from Olyphant ? A I think it costs 17 cents by railroad.

BY THE COURT:

Q Well, how far ? Ten miles, fifteen miles ? A I can't tell that, I don't know.

BY MR. GARYAN:

Q Now, where did you go when you got to Olyphant, did you

go to an ice cream saloon or place first, yes or no ? A First, we went to Peter Swala, the first time.

Q What did you go to Peter Swala for ? A Because I knew Swala, and Chaly wanted to look for a lawyer.

Q Chaly lived in Olyphant, you say ? A Yes, he is a teacher.

Q Did you ever know Kironow before that ? A No, the first time I knew him in Olyphant.

Q Where did you meet him in Olyphant ? A In Peter Swala's.

Q Where did you go from Peter Swala's ? A We went to Notary Public Needle.

Q Did you all go together ? A Chaly and Mary walked first, and I followed.

Q Yes, and did you all go to the house together ? A Yes.

Q Did Kironow go with you ? A I don't remember whether he was with us or not.

Q You don't remember that ? A I don't remember.

Q Did you people -- A (Interrupting) I know he was in Needle's.

Q How far is Swala's house from Needle's ? A Not very far.

Q How far is it ? A It is just around the corner in the other street, very near, just around the corner in the other street.

Q Did Kirozow go with you, do you remember now ?

A I don't remember.

Q Did he leave Swala's before you did ? A I think, it appears to me that he did go away first, with Bielansky.

Q Was he at Needle's when you got there ? A Yes, he was.

Q Now, how long did you stay at Needle's ? A I don't remember exactly. I had no watch with me. I can't tell exactly.

MR. CARVAN: That is all.

BY THE COURT:

Q Now, where did you live since you have been in this country ? Tell us that again, when you first came to America, where did you live ? A In Olyphant.

Q For how long ? A About four months.

Q Where did you go then ? A Simpson.

Q How long did you remain there ? A Nine months.

Q Where did you go from that ? A When I finished my work I went to Alden Station.

Q With whom did you live while in Simpson ? A I only worked in Simpson, but I lived in Biluszenenko's.

Q Well, where was Biluszenenko's ? A In Mayfield.

Q Well, then, you never lived in Simpson; you lived in Mayfield, is that it ? A I lived in Mayfield, only worked in Simpson.

Q Well, why didn't you say you lived at Mayfield ?

MR. SWITKIN: Well, he did say he lived in Mayfield.

THE COURT: No, he said he lived in Olyphant, and then in Simpson.

A I said that I lived in Mayfield.

Q How far is Mayfield from Simpson? A Five cents' fare

Q How long does it take to go? A About half an hour, riding.

Q And what were your hours of work at Simpson? A I worked myself. Just whenever I felt like it.

Q And what was your business? A Sculptor, and I also make altars in the church.

Q Well, didn't you do some work for this Monastery?

A No, never.

Q Not at any time? A Never.

Q You never tried to get any work there? A No, I was not there at all.

BY MR. GARVANI:

Q Did you ever try to get work there?

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

THE COURT: Well, you did not object to it.

MR. SWITKIN: I did not to your Honor, because I paid respect to the Court's question, but if the District Attorney asks it, I object to it.

THE COURT: Well, it is a repetition of the question.

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DIRECT EXAMINATION

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What was the answer ?

(Answer repeated by the stenographer).

MR. CARVAN: Well, I withdraw the question.

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

DIRECT EXAMINATION BY MR. SHITKIN:

Q Where do you live ? A Olyphant, Pennsylvania.

Q What street ? A River Street.

~~THE COURT (addressing the defendant):~~

Q What is your business ? A Teacher.

Q Teacher of what ? A I teach the children and I sing in the church.

BY THE COURT:

Q Well, what church and what children ?

BY MR. SHITKIN:

Q What church are you connected with ? A The Greek Catholic Church.

Q Where ? A In Olyphant, Pennsylvania.

BY THE COURT:

Q Not Azeny's church ? A No.

Q Well, what children do you teach ? A Small children.

Q Well, what children, in what school ? A Ruthenian School.

Q Well, in a public school there ? A It is a Parochial School. It belongs to the church.

BY MR. SMITH:

Q Do you know Eugene Wasylenko ? A I do.

Q Prior to the 25th of June, 1908, and on or about the 17th or 18th of June, 1908, were you at Mayfield, Pennsylvania?

THE COURT: That question is leading. Prior to the 25th.

BY MR. SMITH:

Q On or about the 17th or 18th day of June, 1908, were you in Mayfield, Pennsylvania ? A I was.

Q At whose home ? A In the house of Biluszenko.

Q Do you know Mary Krinitaky ? A I do.

Q At the time that you were in Biluszenko's house, at the time you stated, did you meet Mary Krinitaky there ?

A I met her.

Q Had you known Mary Krinitaky before the time that you met her at Biluszenko's house ? A No, I didn't know her.

Q Now, will you please tell the Court and Jury everything that Mary Krinitaky said in Biluszenko's house, in your presence, to any person ? A Mary Krinitaky, when she was questioned whose child it was, said that the first time she came together with Father Arseny, at the time of the dedication of the cemetery in Simpson. She said that it was this way. After the dedication of the cemetery was over, Father Arseny was about

to give her money the same minute or in the same minute. She said that she will

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to give her money to buy a ticket for the railroad, but in the same minute or in the same moment, he changed his mind and he said that she will go together with him in the buggy.

While they were driving through the forest, he started to question her, whether she had any acquaintances among the young fellows. She said "I have not got any. What do I need them for?" He says "How is that possible, you are a young girl?" he said "you ought to have it to entertain yourself, you ought to have some young fellows." Then he started to treat her. He gave her some fruit, bananas and other things. He embraced her and he squeezed her. Then he started to kiss her. Then he pinched her legs and started to examine her stockings.

She said to him "You are a priest. You are a Holy Father, why do you do this?" He says "That is nothing, do not be alarmed. I would not do anything to you", but he kept on, he continued his business, and finally he stopped the horse. Then he threw his leg over her, and he did his business.

Q Proceed, just tell everything she said. A After this, they certainly went to the Monastery, and she still remained there for a long time; when she became pregnant. That is, when it became noticeable, Father Afany threw her out of the Monastery.

She remained, so to say, on the street, not having any friends, not having any work. Not being familiar with the custom here, and not knowing the language, and she finally

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landed in Mandelson's, who took her in, and there is the place where she gave birth to the child.

She received there about \$9 or \$12 a month. That child, from the very day that it was born, was going from place to place to board, and that was the reason that she came to these people, and all the money that she earned went to support this baby, because she paid about \$8 or \$9 a month.

At the time I met her, she came to ask Mrs. Biluszenko to take in this child, to bring it up, and to the question why she does not go to Father Arseny to ask him to take this child in to the Asylum, she said "I have been to see Father Arseny already four times, and I asked him and he said 'Mary, why do you bother me? Everybody knows that this child came out from the Monastery. If I receive this baby, it will be a shame for the Monastery, because everybody would say then that in the Monastery is a baby shop', and finally he gave her \$10, and said to her 'Go and do as you think is right, but do not bother me any more'".

She, concluded this, and then she started to talk again. After this, she was talking about her own situation, and that she was poor. "What will I do with this poor and sick child?" "I walked all over Hayfield and no one wants to take this child to bring it up", she said to Biluszenko, "You are also refusing, because you have children, what am I to do?" She says "Maybe there are other people, maybe it will be better to let

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people know, maybe there will be other people who will be willing to do it". Then she said "Maybe you write an advertisement in the papers and maybe some one will be found who will be willing to take it." At the same time, I was taking notes, I took it all down.

BY MR. SWITKIN:

Q Now, I wish you would look at the article appearing in "Svoboda" of the 25th of June?

MR. GARVAN: I will assume he has looked at it.

Q (continuing) State who wrote the original of that article?

MR. SWITKIN: The District Attorney conceding that this witness has seen the article appearing in "Svoboda".

THE COURT: You may ask him whether he has seen it or not. There is no concession necessary. Ask him if he saw the article.

Q You have seen the article appearing in "Svoboda" of the issue of June 25th, 1908? A What about?

BY THE COURT:

Q Did you ever see it?

MR. SWITKIN: No, one moment, to be fair to the witness, I ask for the production of the newspaper in evidence.

MR. GARVAN: It is an exhibit.

THE COURT: Well, produce it.

BY MR. SWITKIN:

Q Now, Mr. Witness, look at page 5 of People's Exhibit 1 in evidence, and state who wrote the original article appearing in this paper?

THE COURT: Now, repeat what he said.

THE INTERPRETER: He said --

THE COURT: Whatever he says you translate, whether it is responsive or not. You are a mere phonograph, that is all. He will talk into you and you talk it out and do not edit anything.

THE INTERPRETER: I am trying to say it, your Honor.

THE COURT: Well, repeat every word he says as soon as he says it, without any further talk with him. Now, put that question again. Repeat the question, Mr. Stenographer.

(Question repeated by the stenographer as follows:
"Now, Mr. Witness, look at page 5 of People's Exhibit 1 in evidence, and state who wrote the original article appearing in this paper?")

A I wrote that.

Q Now, then, look at Defendant's Exhibit B for Identification, and state in whose handwriting that exhibit is?

A I did it.

Q What did you do with Defendant's Exhibit B for Identification?

MR. SMITKIN: That question is withdrawn. I ask that this paper be marked Defendant's Exhibit F for Identification.

(Marked Defendant's Exhibit F for Identification).

Q Now, then, look at Defendant's Exhibit E for Identification, and state in whose handwriting that is? A Mine.

Q Now, then, what did you do with Defendant's Exhibit E for Identification and Defendant's Exhibit F for Identification after you wrote them? A I sent it to the office of the "Swoboda" paper.

MR. SMITKIN: I now offer them in evidence.

MR. GARVAN: Objected to, unless it is shown it came to the attention of these defendants.

Objection sustained. Exception.

Q After you had sent --

THE COURT: "How did you send it?"

Q How did you send Defendant's Exhibit E for Identification and F for Identification?

THE COURT: Now, do not let us get mixed up. How many exhibits have you there?

MR. SMITKIN: There are two, and the respective translations. There are two exhibits and two translations.

THE COURT: Well, what is the first exhibit?

MR. SMITKIN: The first exhibit is Exhibit E. That is the letter. Then there is a translation, for which we had

that man on the stand yesterday.

THE COURT: But he did not write the translation. You ask him about these two exhibits?

MR. SWITKIN: No, I simply ask him about Defendant's Exhibit E, then I ask him about Defendant's Exhibit F, which is the article.

Q Now, after writing Defendant's Exhibit E and Defendant's Exhibit F, what did you do with those respective exhibits?

A I sent it by mail to the office of the paper.

Q Now, then, after mailing Defendant's Exhibit E for identification, and Defendant's Exhibit F for identification, did you see that article in "Swoboda" (indicating)? A I saw it.

MR. SWITKIN: I now offer Defendant's Exhibit E and Defendant's Exhibit F for identification in evidence.

MR. JARVAY: Not unless there is a promise to connect it up.

THE COURT: Well, if it is not connected we will strike it out. I will take it for the present, subject to motion by the District Attorney to strike it out if not connected.

(Marked in evidence Defendant's Exhibits E and F).

MR. SWITKIN: Now, I offer Defendant's Exhibit E 1 for identification in evidence, being translation of Defendant's Exhibit E in evidence.

BY THE COURT:

Q How much postage did you pay on that mail ? A Two cents.

Q How did you address the envelope ? A "Swoboda", 184 Hudson Street, New York City."

MR. GARVANI: Well, it is all subject to correction. All right.

(Defendant's Exhibit K 1 for Identification is marked Defendant's Exhibit K 1 in evidence).

MR. SMITKIN: This is our translation of the article as appears in "Swoboda".

(Marked in evidence Defendant's Exhibit F 1).

CROSS EXAMINATION BY MR. GARVANI:

Q How long have you been in this country ? A A year and about three months.

Q What have you been doing for a living since you got here ? A I first worked in a shop, and then I became a teacher.

Q What shop did you work in ? A In Bayonne City, in a shirt factory.

Q What is the name of it ? A Mr. Dillon.

Q Who ? A Mr. Dillon.

Q How long did you work there ? A About two months.

Q And then, where did you go ? A Olyphant, Pennsylvania.

Q What did you do there ? A Taached in a church.

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Q What church ? A Russian Orthodox.

Q Who was the pastor ? A A fellow by the name of Znosko was priest at that time.

Q How long did you work there ? A Over five months.

Q How much did you get paid ? A \$25. a month and whatever else I could get.

Q Then, where did you go ? A About two months I have been around New York and other places, any time that I had off.

Q Yes, two months you did not work, then where did you go ? A Also as a teacher in Olyphant, in another church.

Q What is the name of the other church ? A St. Kirryl Methodias.

Q What kind of church is that ? A Greek Catholic.

Q When did you go to the Greek Catholic Church from the Russian Orthodox Church ? A I left of my own accord in the beginning of August, and I had about two months off.

Q August what year ? A 1908.

Q What church were you working at in July, 1908 ?

A The Russian Orthodox Church.

Q Where ? A There in Olyphant.

Q What is the name of the church ? A St. Nicholas.

Q What is the priest's name ? A In Olyphant on the Hill.

Q What is the priest's name ? A Vladimir Znosko.

Q How do you spell it ? A Znosko.

Q When did you leave there ? A The first days of August.

Q When did you begin to write letters for "Kzoboda" ?
A Right after my arrival in this country.

Q You knew that "Kzoboda" was opposed to the Orthodox Russian Church, didn't you, yes or no ? A I knew it.

Q And you were writing articles opposed to the Russian Orthodox Church in that paper, weren't you ? A Yes.

Q And all this time you were taking pay as a Cantor in the Russian Orthodox Church, weren't you ? A Yes.

Q Do you remember an article you wrote -- I show you People's Exhibit 5 for Identification --

(No marked).

Q (continuing) Do you remember that article that you wrote on the 30th of April, I think -- on the 23rd of July, 1908 ? A What is it signed ? Which is it ? Where is the end of it ? Show me the end of it ?

Q Well, look at it and see if you don't remember having written it ? A This page 2 ? This is page 3. I did.

Q Do you see -- Just look at the article --

MR. SMITKIN: Now, I shall object --

MR. JARVAY: Wait just a moment, preliminary to that --

Q At the time you wrote that article, were you in the employ of the church, of the Russian Orthodox Church ?

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

MR. GARY: I will show in just a moment. I will lead up to it.

THE COURT: This is an article subsequent?

MR. GARY: This is on the general question of the credibility of this man.

THE COURT: I will allow it on that ground, for the purpose of attacking his credibility, the credibility of the witness only.

MR. SMITH: Exception.

Q Yes or no? A What date?

Q July 23rd? A Yes, I was employed.

Q And was Archbishop Platon the head of that church, the Russian Orthodox Church at that time, of which your church was a part, the church in which you worked, yes or no?

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

THE COURT: I will allow it on the same ground. If it is not connected, we will strike it out, on your motion. It is merely for the purpose of affecting the credibility of this witness.

MR. SMITH: I take an exception.

A I don't know whether he was at the head of it or not.

BY THE COURT:

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BY MR. GARY:

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BY THE COURT:

Q Did you ever hear of him? A They often mention his name in the church.

Q Well, who was he?

BY MR. GARVAN:

Q He was an Archbishop of the same church of which you were a member, wasn't he, the same creed, yes or no? A Yes.

Q Now, did you then, on July 23rd, when you were a Cantor in the Russian Orthodox Church, of which Archbishop Platon was a member, did you write the following --

MR. SMITH: One moment.

MR. GARVAN: Wait a moment. I have not finished the question yet.

MR. SMITH: I know it. That is what I am trying to prevent.

MR. GARVAN: Well, the Court cannot rule on it until I have finished the question.

THE COURT: I will allow him to finish the question.

Q (Question repeated)-- (continuing) -- "And when you take in hand the *Postoi*, a Russian newspaper, you will see the pig and dog-tail and glorification of the Archbishop Platon, the Arch opy, offsprings of the same dirt". Did you write that in that article?

MR. SMITH: I object on the ground that it is incompetent.

THE COURT: I will allow the question.

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BY MR. GARVAN:

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MR. SMITHIN: I except, and before the witness answers I urge the further objection, on the ground that the witness cannot read from a paper which is not in evidence. I press my objection that the witness cannot be interrogated upon an exhibit not in evidence.

MR. GARYAN: He certainly can.

THE COURT: Objection overruled. It is too late to put that objection now, if it had any force.

MR. SMITHIN: Exception.

A I don't know what you mean, where it is.

BY THE COURT:

Q Read the article. You said you wrote it. Now read it. A Yes, sir, these are words taken from other papers and put in here.

BY MR. GARYAN:

Q Did you say that? A These words are taken from the "Svid", from the "Post", newspapers of the Orthodox Russian, and these are not my words.

MR. GARYAN: One moment. You have not pointed to the right part of it.

Q I am talking about what you say about Archbishop Platon. Do you mean that the "Svid" said those things about Archbishop Platon? A I say that I put that in, taking it from the papers of the "Svid" and the "Post", which are against us. The "Post" and "Progress", the newspapers.

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MR. GARVAN: Well, I think, if your Honor please, I can save the time of the court and jury by over-night having a translation made of the article, and then asking him if he wrote the article, and if it is admissible on the ground of his credibility, then I can interrogate him on it.

THE COURT: Very well.

Q Now, I show you People's Exhibit 6 for Identification--
(So marked)

Q (continuing) and ask you if you wrote that article marked People's Exhibit 6 for Identification?

MR. SMITKIN: That question I object to as incompetent immaterial and irrelevant, and not within the issue laid in this indictment, and subsequent to the publication of the alleged libel.

MR. GARVAN: No, it is prior, April 30th.

MR. SMITKIN: Then I object to it as incompetent, immaterial and irrelevant, and not within the issue framed in this indictment.

THE COURT: It is only admitted on the ground of credibility. Objection overruled.

MR. SMITKIN: I take an exception.

A Yes.

MR. SMITKIN: I move that the answer be stricken from the record on the ground that it is incompetent, immaterial

and irrelevant.

MR. GARVANI: I will show it is essential, but I want to get a full translation before I take up fully the time of the Court on it.

THE COURT: I will allow it for the present, with privilege to you to renew your motion if it is not shown to be material.

MR. SMITH: I take an exception.

Q Did you ever visit the Monastery? A I was there once.

Q When was that? A When I was on vacation.

BY THE COURT:

Q Which Monastery do you mean, now? A South Canaan.

BY MR. GARVANI:

Q What year? A 1908.

Q How long after the publication of this article?

A I don't remember the date, when it was.

Q Well, was it after the publication of the article, yes or no? A I don't remember.

Q Well, don't you know whether you visited this Monastery before or after you wrote this letter about Father Arseny?

A I don't remember.

Q You don't know whether you visited the Monastery in South Canaan before you wrote this article about Father Arseny?

MR. SMITH: I object to it on the ground that the witness has already answered it. I further object to it on the ground that whether he did or not --

MR. GARVANI: Well, do you want that answer to stand as his final answer?

MR. SMITHIN: Pardon me.

MR. GARVANI: I will withdraw the question on the defendant's objection, on the ground that it has already been answered.

Q Did you know Father Arseny? A I know him.

Q Did you know him to speak to? A I don't understand the question.

Q Well, have you spoken to him in your life? A I met him once or twice, only say "How do you do, Priest?" That is all.

Q Was it generally known in the church by your pastor, that you were writing for "Svoboda" these articles?

MR. SMITHIN: I object to it as incompetent, immaterial and irrelevant.

MR. GARVANI: If your Honor please, it affects directly the credibility of this witness, if he was an employee of the church, that he was writing scurrilous articles about.

THE COURT: I will allow it. It is cross examination.

MR. SMITHIN: I take an exception.

Q Yes or no. A I don't know whether he knew it or not.

Q Did you ever see Mary Krinitzky before you saw her at Biluzzenenko's house, yes or no? A No.

Q How did you happen to be there that day? A I came to see my friend Wacilenko, who was boarding there.

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Q Now, how long after you saw Mary Krinitsky at the house that day was it that you wrote the article ?

MR. SMITH: That is objected to, on the ground that it is incompetent, immaterial and irrelevant.

Objection overruled. Exception.

A I made a memorandum at that time, and on the same day when I came I sent it.

Q Did you speak to any one except Mary Krinitsky about this affair, between the time you talked with her that day, and the time you wrote the article and sent it, just yes or no ?

A I spoke only to Wasylenko.

Q Wasylenko was there at the time Mary Krinitsky made the statement, wasn't he ? Yes or no ? A He was present.

Q And you spoke to no one except those who were present, from the time you took the statement of Mary Krinitsky, until the time, the same day, when you sent the article to New York, is that right, yes or no ? A I spoke.

Q To whom ?

MR. SMITH: I object on the ground that it is incompetent, immaterial and irrelevant.

Objection overruled. Exception.

A With a few, but I don't remember who with.

Q Wait a minute. Now, understand, between the time that you had the talk with Mary Krinitsky, and the time that you say you sent the article, the same day, between that time at 8

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