

Q but prior to the time of June 25th, 1968.

MR. JUSTICE: I urge my objection. Will your Honor hear me on that?

THE COURT: No, the objection overruled. It is proper on cross-examination in view of your direct.

MR. JUSTICE: I take an exception.

A Yes.

MR. JUSTICE: Your Honor, I have an authority here, showing that it is improper.

Q You were not paying him anything prior to June 25th, 1968, for the articles he wrote for you, were you? A No, sir.

Q Did you know whether he had any other business, or you knew he had no other business than Senator in the Hungarian orthodox church, didn't you? A No, sir.

BY THE COURT:

Q Well, did you know or did you not know? A I did not.

Q You did not know whether he had any business or not, is that it? A I did not know.

BY THE COURT:

Q Now, how long did he work for "Sveboda"? A Since the first time that he arrived here in this country.

Q How long did he work in the office of "Sveboda"? A He did not work inside, in the office.

MR. JUSTICE: I understood him to say, to so testify.

THE COURT: I understood he so testified in the direct.

Q When he came to this country, did he go to work for "Sveboda"?

BY THE COURT:

Q When he first came? A He never worked for "Sveboda" in the office.

BY MR. JUSTICE:

Q Well, where did he work for "Sveboda"? A Well, he was writing articles from different places, sending them in from what different places? A He was writing from Moscow, Minsk, Seranien and some other places.

Q Well, where did you first meet him? A When he came to this country, he came to the "Sveboda", in the office.

Q Well, that did he say to you then?

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

Objection overruled. Exception.

A When he came into the office, he introduced himself as such, and the other says I don't remember, but he told me that he was a writer for newspapers in Russia, and he also brought a letter of introduction from one of the greatest editors of a newspaper from Russia, which reads:

BY THE COURT: That letter, the part and that line...

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7 THE COURT: A Question in the fall. I don't exactly remember, in 1907.

BY MR. GARVANI

Q Did you see him at that time to which party he belonged, the Russian Orthodox or the Greek Catholic party? A I asked him? I did not ask him, because I knew from Russia, they all belong to one.

BY THE COURT:

Q Which one? A The Orthodox.

BY MR. GARVANI:

Q And your paper was a Greek Catholic paper, wasn't it?

A Yes, sir.

BY THE COURT:

Q Well, wasn't you from Russia?

THE DEFENDENT: He says Greek Catholic.

BY MR. GARVANI:

Q Was not Chaly brought over here and employed by you to go to work in the Orthodox churches as an Orthodox Russian, but really as a spy to write for your paper?

MR. DEFENSE: I object to that question on the ground that it is incompetent, immaterial and irrelevant, and I object to the District Attorney characterizing the attitude of the witness Chaly.

THE COURT: He is asking a question inquiring for a fact on cross-examination. Objection overruled.

MR. DEFENSE: I except.

A No, sir.

Q Did you think a man was reliable, did you think you could rely and act with good motives upon the articles of a man whom you knew to be employed by the Russian Orthodox Church, who was writing articles against the very people who were paying for his living?

MR. DEFENSE: I object in the form of the question as assuming a state of facts not in evidence. I further object as incompetent, immaterial and irrelevant. On the further ground, that this being collateral matter, the evidence having appeared in the negative, the District Attorney cannot at this time impeach him.

THE COURT: Why, you have stated that, or at least he stated in answer to your question that he relied on this man's character.

MR. DEFENSE: No, no, I didn't say that.

THE COURT: Well, relied on this man's writing the article.

MR. DEFENSE: Now, whether a man is an honest man or a thief --

THE COURT: He gets his revenge. It is for the jury to say. It is cross-examination.

MR. DEFENSE: I except.

A I could believe him, because -- on the same reliability as

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Q Put your paper was attacking the Russian Orthodox Church continuously, wasn't it?

MR. BRITTON: I object to the form of the question, as incompetent, immaterial and irrelevant. Objection overruled. Exception.

A No. MR. DAWSON: Ask him to reconsider that. MR. BRITTON: I object to the form of that question.

THE COURT: Well, objection sustained. Ask him if he understood the question. You may do that.

Q I repeat, was not your paper continually publishing statements upon the Russian Orthodox Church and its members? MR. BRITTON: I objected on the grounds that no date is fixed.

Q Prior to the date of June 25, 1906? MR. BRITTON: I object to it as incompetent, immaterial and irrelevant, it appearing affirmatively by the question itself, that that libel is not concerning the person libelled and named in this indictment, and therefore, not being between the same parties, it is incompetent, immaterial and irrelevant.

MR. DAWSON: Why, his testimony was admitted on the ground that he had a right to expose himself by saying he

believed the article, and relied on the source from which he received it. Now, this is an attempt to inquire into the truth of that statement, that he relied on that source.

MR. BRITTON: Will not your Honor listen to me, so that I may convince you?

THE COURT: No, objection overruled. We are not bound to take his bald statement that he relied, without inquiring into the conditions that existed at the time it was sent to him. It is for the jury to say. Objection overruled.

MR. BRITTON: Exception. I want to convince your Honor that we can all make mistakes.

THE COURT: No, sir. That is why I wanted to ask you your question in the beginning.

MR. DAWSON: It is just why I wanted them to let in. That is why I withdrew my objection.

MR. BRITTON: The Court of Appeals holds you must not call that.

MR. DAWSON: When you asked him what he relied on, his reliance, I was willing to have the jury hear it.

MR. BRITTON: I wanted to avoid all this, but you insisted on asking these questions, and maybe it leads to re-examination on that, that is all.

MR. BRITTON: I take an exception.

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Q (question repeated). A Not always, only sometimes.
 Q That is all right. That is all I care about.
 A Sometimes when we see something in other papers, we picked it out and wrote about it.

Q Well, now, what did you think the motive of Chaly was in writing those several articles that you have testified to, which the Russian Orthodox Church and his members, what did you think his motive was in writing the articles, for you or for your paper without pay, while he was in the employ of the Russian Orthodox Church?

MR. BELMONT: I object to the question as incompetent, immaterial and irrelevant, on the further ground, this being collateral matter and having been answered, the witness cannot be contradicted by the District Attorney, the apparent object of this question being to contradict collateral matter given by this witness.

Objection overruled. Exception.

MR. BELMONT: Will your honor please go to add to my objection that it reasons a state of fact not in evidence? A Because he wrote it, and I believed he is telling the truth, and that is in telling the truth about it.

Q I repeat the question, what did you believe his motive was? A Well, he wrote about it because he was writing the truth.

Q Now, did you make any investigation of any kind about

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ever, prior to the date of publication --
 MR. BELMONT: I withdraw that question.

Q Did you have any information concerning the allegations of this article prior to the date of publication, except what you derived from the letter and article sent you by Chaly?
 A No, sir.

Q Did you attempt to obtain any information as to the truth or falsity of this article before the time that you received the article from Chaly, and the time you published it in the paper? A No, I did not, because I believed that this was the truth.

MR. BELMONT: That is all.

BY THE COURT:

Q When did you come to this country? A The last of August, 1922.

Q Then you were here a year and a few months before Chaly? A Yes, sir.

Q Did you know whether Chaly was married or not?

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

Objection overruled. Exception.

A I did not.

Q Well, is he married?

MR. BELMONT: I object as incompetent, immaterial and irrelevant.

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15 position with that corporation? A I was treasurer.

Q Were you --

THE COURT: Yes, sir, editor?

MR. MITCHELL: Just a moment, your Honor.

Q You were not the proprietor of this paper? A No,

sir.

Q Were you the manager of this paper? A No, sir.

Q Were you the reporter of this corporation? A No, sir.

Q What were your duties there? A My duties, I had

charges in the office of receiving mail and taking money, and

paying employees, taking orders, and in some important things

I had to do with Mr. Weeks, who was in charge of the

printed plant upstairs.

Q How much money did you get from this corporation?

A That time I been getting only \$20.

Q What, a month or a week? A A month.

Q How much do you get now? A I get now \$75.

Q So that you get a little over \$10 a week, is that it?

A Yes, sir.

Q Now, Mr. Hirsopp, you was a married man? A Yes, sir.

Q With whom are you living? A I live with my wife and five

children.

Q When did you first see the articles that is complained

of in this indictment? A The first time I see the articles,

when Mr. Delaney was, about on the 20th of June, 1900.

16 Q Now, I want you to tell the Court and jury what Mr. Delaney said to you when he came into the office? A Mr. Delaney, he came with some other men. I don't know, I

know Mr. Kilroe.

MR. MITCHELL: I think up to this time there has been

no possibility of Mr. Delaney being a witness in rebuttal,

but if he is going to testify to the contrary, it may be

possible Mr. Delaney will be called in rebuttal, as I think

Mr. Delaney ought to stop that.

Q Now, as a matter of fact, what Delaney said when he

came into the office. You say he was accompanied by another

man? A Yes, sir.

Q Well, have you found out who this other man is?

A No, sir.

Q Well, is not that Mr. Kilroe, the lawyer?

MR. MITCHELL: It is conceded it was Mr. Kilroe.

MR. MITCHELL: It is conceded on the record that Mr. Kilroe was the person who accompanied Mr. Delaney on his

first visit to this "speakeasy".

A Yes, sir.

Q Now, there has been a civil suit brought against you,

hasn't there? A Yes, sir.

Q That suit has not been tried yet, has it? A No, sir.

Q And, perhaps, the co-defendant in this original suit,

is also named as defendant in the civil case for damages, isn't

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Q Now, in this civil case --

A Yes.

Q Now, Mr. Javorsky, that question is withdrawn.

Q Do you mean the Ruthenian Publishing & Exchange Com-

pany? A Yes, sir.

Q Do you mean the Little Russian National Union of Amer-

ica? A Yes, sir.

Q Are they named as defendants in that civil case?

A Yes.

Q They are named also, are they? A Yes.

Q But they do not appear in this indictment, do they,

so far as you know? A No, I don't know.

Q Now, Mr. Kircane, proceed and tell the Court and jury

what Delaney said to you? A Well, Mr. Delaney came, and

there was a witness man. Mr. Delaney did not express

his name, but he came and he asked "Is this 'Reboda'?" I

said "Yes," and he asked if we have, if we published some libel

article against a Russian priest, and I was surprised, and I

said, "Remember that, how long ago is that?" He said, "That is

the last edition." It was Monday when he came, the 20th of

June, and the last edition was on the 24th of June.

Q Yes? A He did not show me the newspaper. I do not

believe he had a newspaper with him. Then I asked Mr.

Javorsky, who was on the stand, to find that number of the

"Reboda."

Q You mean, you mean the co-defendant, you asked him?

A No, Javorsky, who had charge of the addressing.

Q One of the witnesses?

THE COURT: He said that.

A Yes, sir. We were three in the office, one by the other,

and Mr. Javorsky found the number of the "Reboda". I looked

there and I says, "No, you know, am you know in the beginning?"

Q Oh, it said, "General", is that what you mean?

A Yes, I asked him what the meaning was, that libel. He

said "It was in 'Reboda'".

Q Whom did you ask that off? A Mr. Delaney.

Q Speak out loud and keep your voice up? A He said,

"Look on the 5th page." I found it and then I asked Mr.

Curkowsky had he got the original article, and he says, "Yes,"

well, show me." Then he showed me the article and he

compared it with the newspaper. Then I say, "Mr. Delaney,

we have the article, the original from the man whom we believed

that to be, and Mr. Delaney asked "Why, you retried that,

because we bring suit against you, criminal suit." I said,

"Mr. Delaney, we can't retract until we find out from the per-

son who it was spoke to that, how he expressed on the letter,

don't be afraid if it is true, because it was true."

Then there was more speaking with Mr. Delaney. I don't

remember what he spoke to me. Then the next day, on the 20th

of June, at noon time, about one o'clock, I took the train, but

before I sent a special delivery letter to Chely. I says to Chely, "Ist that girl to Olympant, because I want to see what she would say, because we have trouble, we have a cell against us, a criminal suit," how Mr. Delaney said it was, and I said "I want to see personally that girl," and I took a train about two o'clock on the 30th of June, and I reached --

BY MR. SPITZBI

Q On the 30th? A I reached on the 30th, about night, at about nine o'clock, I think at night.

Q That train did you take?

MR. SPITZBI: He said the two o'clock train.

A Two o'clock train from the Lackawanna, Hoboken. Then I went to the Sherman House, Hotel, and about ten o'clock, Mr. Blalensky, and Mr. Falshu, who was for years in Jersey City, and he was working for some building house in Horeston, he came there and introduced me to Mr. Blalensky. He says, "This is Mr. Blalensky, owner of the Greek Catholic Church, Olympant." And he introduced me. "This is Mr. Hrozow." Then I asked Mr. Blalensky, "do you know who lives nearby?" "Yes, I know Chely, she lives in Olympant, he lives near by me." Then, after that I went with Mr. Blalensky to Olympant, and I spent in the Horeston Horeston.

Q He stayed? A Then, in the morning, I met Mr. Blalensky about, in the school, and I asked him, "How do, Mr. Blalensky, did he, I want to see Chely." When we came to

Chely, wasn't he was living, he was living, they call it Gray's Island, that was a little further from Olympant, but he was not home, and I asked him, Mr. Blalensky, will he accompany with me and go to Hayfield.

Q To Hayfield? A Yes, I was informed in Olympant that that girl lives in Hayfield, in Mr. Mendelsohn's. We took a train to Hayfield and then we came to Hayfield, to Mr. Mendelsohn. He was a brewer and had a liquor store. First, when we got in the liquor store I buy two bottles of beer for Mr. Blalensky, and for me, because I see that that Mr. Mendelsohn was busy with some man.

Then I stepped to the counter and I asked for cigars from the lady, and I asked the lady, "Is this Mr. Mendelsohn?" She says "Yes". And after I asked "Are you Mr. Mendelsohn?" "Yes", she said "I'll get kindly speak with me a few words?" "Yes, sir, come upstairs," and he gave steps from the counter, from the grocery counter, he says "Come right up, to go upstairs, and we went upstairs. There was a tall top desk and there was books, and he asked me, "How you feel?" I said "I came from Hayfield."

He says "I guess you gentlemen can speak Blalensky." "Yes, sir." He asked me, "How is the other one with you?" I introduced him, I said, "This is counter at Olympant," and I says, "Mr. Mendelsohn, have you met a girl named Mary Kriminsky who is employed by you?" "Yes, sir." "Would you let me see her?" He said, "She was with some man to Joseph."

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BY MR. SMITH:

Q Who is a bluff? A Mr. Delaney, that is, Mr. Mendelsohn says, "It still works for these people, he is nowhere in that conspiracy than Arseny." Then I said, "Why, Mr. Mendelsohn, what did you draw (that affidavit for?) "Why," he says, "they borrowed as much, Mr. Adelman," or "Talks" -- something like that -- "was here three or four times and they gave me five dollars, but if I won, they give me a hundred dollars," and he says, "Don't lie off-ald."

I said, "Well, I don't know." "Well," he said, "if anything happens, call me for witness," and he was very gentle with us and he says, "Well, come on, gentlemen, have beer with me." I says, "Thank you, Mr. Mendelsohn, we just had beer downstairs," and then he walked with us downstairs and bring us outside of his building and showed us the car says, we should go on the car to Olyphant."

Then I took the car, and we reached Olyphant with Mr. Blahnsky. Then I got on River street, Chaly, and I says, "Chaly, how is it?" He says, "Well, I have the girls." "Where is she?" He says, "Down on," and he bring me to the house of Peter Swale, his name is Peter Swale, and in the Swale house I find Mr. Swoyenko, and that girl. I know that is all, Mr. Swoyenko and that girl, yes. There was nobody else, and Peter Swale, and when I came in the room, Chaly says, "Well, this is Mr. Swoyenko, and that is Mary Yablonsky." I asked, "Are you

BY THE COURT:

Q To whom? A Jesus, that is about the third situation near to Olyphant. I asked Mr. Mendelsohn, "Do you know about that, how a paper "hooked" inserted an article about Arseny and Mary Yablonsky?" He said "Yes," and he was laughing. He said "That's all right, that is not one-third what is in the book." "Well," I says, "do you know if there was any affidavit drawn by you, Mr. Mendelsohn?" He said "Yes." "Well, what do you think about it, is that true, what was in the book?" "Yes, sir." He said, "That is true." "Why," he says, "those people what they do in that conspiracy, if that was my way, I would have it up. That is not only one Mary, there is about four. One went to Forester, one went to the old country, and about two went to Brooklyn, or New York," he said, "but I won't bother them, because I do business with them."

I says, "Well, Mr. Mendelsohn, what you draw that affidavit for?" "Well," he says, "I do business with these people, I have got to. Until that Father Arseny, he called in his church that every Jew should be out, but I forgive him for it." "Well," I says, "Mr. Mendelsohn, you know that some lawyer come to Swaboda and they say they bring original suit against us." "Yes," he says, "don't be afraid of the lawyer." I had a check-st, a visiting card what Mr. Delaney gave me, and I showed him the visiting card, and he says, "I know him, he is a bluff."

Mary Krinitzky?" "Yes, "where do you live," I says, "in
 Weyfield." "Is that you that was published some article in
 our weeklies about you and Arseny?" "Yes, sir," said
 you hear that what was published?" "Yes, sir," says, but
 as read you," and I read carefully that newspaper, and when
 I was through, I asked, "is that everything, is true?" "Yes,
 sir." "Well, can you swear on thine?" "Yes, sir." "Did you
 sign some paper to Mr. Mendelson?" "Yes, I did." "Why,
 what do you mean, you sign these papers, what you undertake?"
 "Oh, well, Father Arseny, and all people, they say, they em-
 bellied me, saying, when the priest came, he says, 'Sign, sign,
 you go to hell if you don't sign for a priest,' then I sign,"
 I says, "Why, did you understand that you signed a paper, that
 is not true what methods was publishing?" "Oh says "Yes, sir,"
 and they ever read you it?" "No, sir," "Did they tell
 you in your language?" "No, sir."

Then I asked Mr. Nialonky if they know any notary public
 in Weyfield, and Mr. Nialonky says "Yes, I know," I said "Who
 is it?" And he says, "Mr. Beadle." I said, "What nationality
 is he?" And he said, "He is a Jew." I says, "Well, I am
 afraid to go to a Jew," I says, "I heard how Mr. Mendelson say he
 he can't draw an affidavit for me, he might want to go against
 Mr. Mendelson," and they say, "Well, never mind, he is an honest
 man, we don't know him for other," and Mr. Nialonky bring me on
 the street and show me where Mr. Beadle was, set in a seat, it

was not far, on the street, and I say, "Mr. Nialonky, you
 come back and bring Mary Krinitzky to his office."

Then I came to Mr. Beadle and I asked him, "Mr. Beadle,
 are you Mr. Beadle?" "Yes," I says, "I am a man from
 New York City, from Weyfield, would you make an affidavit for
 me?" And he asked me, "Come on to the office." When I
 came to his office he asked me the question, "What kind of af-
 fidevit do you want?" I told him all that story about the
 newspaper, and I had an affidavit, some particulars what was
 needed, what was important, what my lawyer Rogoike told me to
 Jersey City, because I reside in Jersey City, "What paragra-
 phs should I tell to the man who is going to draw your affidavit,"
 and I showed him, "I want you to express to that girl, ask those
 questions and put this on the affidavit." And Mr. Beadle says,
 "Well, I won't take this paper; I want to see first the girl,
 because this is a serious thing, and I want to know what she will
 say, and so forth."

Then I left the office, but the next time they came from
 Weyfield, and we waited them on the street. I came to Beal
 and they said, "They went already to Mr. Beadle." Then I followed
 and I came to his office of Mr. Beadle, and I found Mary Krin-
 itzky, Mr. Nialonky, Conly and Weyfield. Then Mr. Beadle
 started to say, "Are you Mary Krinitzky?" "Yes." "Are you
 the mother of the child?" "Yes, sir." "Where do you live?"
 "I live in Weyfield." "By whom you employed?" "By Mr.

Then she says "Afterwards, when I became in the family, they discharged me from the monastery."

Then he asked further "How was that happened", and he said one time, "How is that come in the newspaper" And Chaly says "Then she says she came to Mr. Bilasovets, and begged him to take that child and Mr. Bilasovets refused, and asked her some questions and she was repeating to Mr. Bilasovets, where was present Mr. Vasilenko and Mr. Chaly."

Then he started after that examination, he started to draw an affidavit, and every paragraph he translated in her own language, and asked her, "Is that true?" And she says "Yes," and when he was finished, then he said, "Mary, would you swear on this?" And she said "Yes". He swore Mary and Mary signed.

Oh, the part before that examination, I said to Mr. Bielansky that he should go as my witness before he started the examination and Mr. Haskie, he asks me the question "What do you want witnesses more? Here is some", and I say, "Here is Chaly who wrote this article, I don't want as witness," and he bring me Mr. Bielansky and Mr. Kozlovsky. Mr. Kozlovsky was present, and then after all Mr. Bielansky signed it, his name, and Mr. Kozlovsky signed his name.

Then I took the affidavit and I went to New York

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Mendelson." "What is the name of your husband's? She said, "I don't have no husband." "How you get that child?" And she was ashamed and he says, "Now, Mary, tell the truth, don't be ashamed, they all people in the age."

Q "What is that? A He says, that "All people see in the age." Then she said, "The first time I had trouble with me, with Reverend Aroney, when we was going from the consecration of the monastery in Simpson, Pennsylvania."

Q "All, Mr. Haskie asked her how it was happening, and she said, "Well, he took me on the train, when we went to Simpson, and after that celebration at the monastery he gave me a ticket and I should go back to the monastery, and then after a while somebody said and said, "Mary, don't go, you go with me on the buggy." Then I go with him on the buggy. That was in the evening." "Well, we did not ask the hour; she did not tell hours, but she says, "It was dark, and when we was half way in the road, he asked me "Mary, you young girl, have you got a boy?" I was ashamed and I said, "Father, I don't need no boy", then he started to treat me with fruits, bananas and oranges and after, he kissed me, embraced me, and then pinched me in the legs, etc. Then I asked "Father, what you do?" He says, "I never mind, I don't do nothing." Then he stoped the horse and he said "A."

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city. After that, I see that man, I don't know his name, I guess Mr. Kilroe, he was with Dalany before, he bought a newspaper from me, and he says would you retrace? I said yes, we retraced gladly if you want it, but that makes worse for the priest, on account of that affidavit that we have, and that is all.

BY MR. SWITKIN:

Q After that, you were served with papers in a civil suit weren't you? A That.

Q After that you were arrested in this case and served with papers in a civil suit? A Yes.

Q And that suit has not yet been determined? A No, sir.

THE COURT: That is concluded.

EXAMINATION BY MR. DARVANI:

Q How much stock do you own in this corporation?

A Nil

Q How many shares of stock do you own in the corporation?

A Thirteen.

Q How many shares are there? A Thirteen shares.

Q How many are there altogether? A Thirteen hundred.

Q What? A Thirteen hundred, that is 100 each.

Q 100 shares? A No, one share was \$100.

Q Well what is the capital? A I don't understand.

MR. SWITKIN: I submit that is immaterial, if he

had one share or two more.

THE COURT: Well, it may become material.

MR. SWITKIN: It may be material to help them in the civil case.

MR. DARVANI: No, I do not care anything about the civil case.

THE COURT: I hope you do not think the Court would aid in any civil case. This is all proper as to the credibility of his statement. It is all proper cross examination.

MR. SWITKIN: I take an exception.

Q What is the capital stock of that corporation?

A I don't know.

Q How much capital? A I don't understand that.

Q How many shares of stock are there altogether? A How many altogether? I guess forty-five.

Q Who owns the rest?

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

THE COURT: I will sustain that objection.

MR. DARVANI: Well, I just want to know whether he knows.

Q Are you sure there are forty-five? A I am not sure, but I don't think it was more.

Q How many do you own? A Thirteen.

he said he was manager of the paper, and the defendant here said he had nothing to do with it, except as cashier. Now, I want to find out what the truth is.

MR. BRITTON: What difference does it make, whether I have one share or a thousand?

THE COURT: None whatever, so far as affecting you.

The question is as to whether the jury will believe his statement or not.

MR. BRITTON: These minutes become public records, and they can get them in the civil suit.

THE COURT: We are not solicitous about that at all.

MR. BRITTON: Exception,

Q You had charge of the advertising (through interpreter Tarditch)?

Objected to as incompetent, immaterial and irrelevant. Objection overruled. Exception.

A (In English) I opened the letters and when any advertiser came in a letter, I called Mr. Davis, and we discussed it. When there was a meeting of the company we discussed with the president.

Q (In English) Yes, and you received all money that came in to the paper? A Yes, sir.

Q How long had you known Chaly? A Chaly?

Q Yes? A I know him over a year.

Q Now, you are treasurer? A Yes, sir.

Q Who is president? A Mr. Gabriel Jadig, from Derby, Connecticut.

Q Then are you general manager of the paper? A No, sir.

Now I ask.

Q Wasn't you then? A No, sir.

Q Who was then? A There was no manager then.

Q No manager? A No, sir.

Q This man, what is the other man they spoke of?

THE COURT: Davis.

A Davis.

Q He just had charge of the printing? A Yes.

Q He is now editor of the paper? A No, sir.

Q You were editor, weren't you? A No, sir.

Q I mean, managing editor? A No, sir.

Q Didn't you have charge of the advertising? A No, sir.

Q Who had charge of the advertising?

MR. BRITTON: I object. That is immaterial, your Honor.

THE COURT: Well, ask him what his position was.

MR. BRITTON: Well, that is all. What difference does it make? He is interested in the paper.

THE COURT: Well, he is testing his credibility; that is all.

MR. BARVANI: Your Honor, it is in evidence already.

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Q How long after he came here with you went him? How long after he came to this country did you meet him? Did you meet him when he first came here? A Yes, sir, that's all.

Q Did you meet him at the dock? A No, sir, I met him right in "Swoboda".

Q Who met him at the dock? A I don't know.

Q Did you meet him at the dock? A No, sir.

Q How long after he landed, did he come to the office of "Swoboda"? A How long after he landed?

Q Yes? A Well, I guess next day.

Q Next day? Where did he go to live?

MR. SWITZKI: I object as incompetent, immaterial and irrelevant.

Objection overruled. Exception.

A What did you mean?

Q Where did he go to live when he came over here?

A Ohaly?

Q Yes? A I guess Newark.

Q Did he live with you? A No, sir.

Q When did he live with you? A I couldn't tell you.

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

Objection overruled. Exception.

Q Where did the editor live? A New York.

MR. SWITZKI: Objected to as incompetent, immaterial

and irrelevant.

Objection overruled. Exception.

Q Don't you know when he went to live with La Bevard?

MR. SWITZKI: Objected to on the ground that the witness has already answered.

MR. COFFIN: Objection sustained. He said he did not know.

Q Do you know? A Must?

Q When he went to live with in Newark?

MR. SWITZKI: Objected to on the ground that it is already answered.

A No, sir.

MR. SWITZKI: Objection withdrawn.

Q Didn't you ask him when he was living with?

A No, sir.

Q How soon after he got here did he begin to write articles for "Swoboda"?

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

Objection overruled. Exception.

Q How soon after he got here did he begin to write articles for "Swoboda"? A I don't understand that.

Q How soon after he landed in this country from Russia did he begin to write articles for "Swoboda"? A I couldn't remember how soon. His articles that appeared, several,

some times twice a month and some times three times a month. You know, this is a weekly.

BY THE COURT:

Q Well, when did he write the first article for the paper? A I couldn't tell. I couldn't remember.

BY MR. DANVANI:

Q Do you remember where he went to work when he came here? A

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

Objection overruled. Exception.

A I guess he went to Bayonne city.

Q What did he work at there? A I couldn't tell you what he was working at.

Q Do you know how long he stayed in Bayonne? A No, sir.

Q Where did he go to from there? A Well, I believe that he went to Elizabeth, or some place in Pennsylvania.

Q Do you know what he worked at there? A If I know what he was working at.

BY THE COURT:

Q Yes? A Well, he was pastor of the church. I think.

BY MR. DANVANI:

Q What church? A The Orthodox Church.

Q You mean that? A Yes sir, I did.

Q Did you know whether he ever did any work in this

country of any kind or description, except to be pastor of the Orthodox Russian Church and to write for your paper?

Q (Question repeated through Interpreter Tschellich?) A (In English) Well, that is only the first time.

Q (Through Interpreter Tschellich) Is that the only employment you knew him to have in this country? A (In English) That's all I know.

Q (In English) And he did not receive any pay for these articles that he wrote, sometimes twice and sometimes three times a month for "Freedom"? A No, sir, we don't pay no reporters.

Q What time did you go to Pennsylvania? I left on the train at ten o'clock, on the 30th of June.

Q What day did your paper go to print, what day of the week? A Thursday.

Q Why, you publish on Thursday, don't you? A Oh, that day we print. Well, printing is Wednesday.

Q When do you begin to print the paper? You begin to print it before Wednesday, to publish it Thursday, don't you?

A Well, start about Tuesday.

Q When does it go to press, don't it go to press Monday night? A When it goes to press.

Q Yes? Well, sometimes it goes to press on Wednesday.

Q It cannot go to press on Wednesday if you print it Thursday, can it?

MR. DISTRICT I object to this.

A Well, on Thursday it should be sent to the post office in the afternoon. We generally send it in the afternoon.

Q When do you take up the paper first, is put it to press? A First put it to press?

Q Yes? A Tuesday.

MR. DISTRICT If your Honor please, I think it will hasten the disposition of this case if we close here. I have the examination of a witness in another case up stairs in my office, and I will try to cut short this case examination. I am almost through.

MR. DISTRICT This closes the defendant's case, this court. We can finish tomorrow, I suppose, get all the evidence in, without

MR. DISTRICT Yes, I can save my rebuttal very short.

THE COURT Gentlemen of the Jury, the court will now take a recess until 12 o'clock tomorrow.

Meanwhile, be very careful not to discuss this case among yourselves, nor with anyone else, and do not come to any conclusion on 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 Friday, January 16, 1909 at 12 o'clock P.M.)

TRIAL RESUMED.

KONSTANTIN KIROSOV, one of the defendants, resumes the witness stand.

CROSS-EXAMINATION CONTINUED BY MR. DISTRICT.

Q Kirosov, what does "Unionist" mean? A That is the name of an organization.

Q That is a Greek Catholic organization? A That is the Little Russian National Union.

Q That is the one of which you are president? A Yes, sir, I was president.

Q And you call that "Unionist"? A Yes, sir.

Q And do you call a member who belongs to it "Unionist"?

A What do you mean?

Q I mean, you call a man who belongs to the Little Russian National Union, you call him a "Unionist"? A No, sir.

Q What do you call him? A No, we call him by member, his name. He is a member of the organization.

Q But in common talk, when you talk of it, you talk of it as "Unionist", do you? A No, that is different, you know, in our language. There is a difference in our language. That means society, "Unionist".

Q But you speak of your society as the "Unionist"? A In the Russian language, yes.

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Q Yes, that is all I wanted to know. Don't you read your paper when it comes out? A Yes, sir, I read it.

Q Well, didn't you read this article when it came out?

A No, sir, I didn't read it. I didn't have no chance to read that article.

Q Don't you read the paper the minute it come off the press? A No.

MR. QUAYN: That is all.

REDIRECT-EXAMINATION BY MR. SMITH

Q Now, Kirason, were you ever arraigned in any Magistrate's Court before you were indicted?

MR. QUAYN: That is objected to.

MR. SMITH: All right, I will withdraw it if you object to it.

Q Do you know the publication called "Friday" A Yes, sir.

Q Is it a weekly or monthly publication? A Weekly.

Q Do you know the difference in days from the old calendar and the new calendar? A Yes, sir, about thirteen days difference.

Q How many? A Thirteen or fourteen days difference, this year.

Q That is, the American calendar, being the new calendar? A Yes.

Q And your calendar being the old calendar, is that

correct? You say there is a difference of about thirteen or fourteen days? A Yes, sir.

THE COURT: There is no such thing as the American calendar. The calendar we use is the Gregorian calendar. The Russians use the old Julian calendar, and the other nations use the Gregorian or modern calendar.

THE WITNESS: Yes, sir.

BY THE COURT:

Q And there is a difference of thirteen or fourteen days? A Yes, sir.

Q Which do you use in your paper, the Russian Calendar? A No, sir, the American calendar.

Q That is, the Gregorian calendar? A Yes, sir.

BY MR. SMITH:

Q Do you know what calendar is used by the publication called "Friday"? A They use the old style, they call it.

Q The old calendar? A Yes, sir.

MR. SMITH: That is all, Mr. Kirason. The defense rests.

MR. QUAYN: That is all. I want to call back the defendant, or the witness Chaly. I have the privilege of recalling him.

MR. QUAYN: CHALY, a witness for the defense, is recalled for further cross-examination.

BY MR. OBYVAK:

Q (Through Official Interpreter Bernardino) Okay, what does "Unia" mean? A "Unia" in America is a working man's organization. There is another "Unia", the religious one.

Q The religious "Unia"? Well, what does the religious "Unia" apply to? A Of this can speak only people who know all about religion. In religious questions I have entered.

Q Now, does not "Unia" mean the Greek Catholic Church which is subject to Rome? A I know that the "Unia" churches of these Greek Catholics are called "Uniate". They belong to Rome.

Q Yes, that's all I want? A And the particulars of the "Unia" I do not know.

Q I show you people's Exhibit 7 for identification, and see you if you wrote that letter? (The paper is so marked.)

MR. BERTINI: I object on the ground that it is incompetent, immaterial and irrelevant, as it is being filed.

MR. OBYVAK: I will have to come to that. THE COURT: No objection, or he shows him a document and asks him if he wrote it.

MR. BERTINI: Well, I object to it.

THE COURT: The objection is overruled.

MR. BERTINI: I take an exception.

Q Is that in your handwriting? Look at the handwriting, not to read it, you or not

BY THE COURT:

Q Do you know your own handwriting? A I wrote it.

BY MR. OBYVAK:

Q When did you write it? A I don't remember the date.

Q Well, look at the date and see if you did not write it December 6, 1908?

MR. BERTINI: I object to that as irrelevant, immaterial and irrelevant, and after the alleged publication of the libel, and on the further ground that the witness cannot be asked to read from an exhibit put in evidence.

THE COURT: He is only asked to refresh his memory. I overrule the objection.

MR. BERTINI: I take an exception.

THE COURT: Just put your question that way, and let him look at it and refresh his memory and see whether he wrote it on that date.

BY MR. OBYVAK:

Q Look at that and refresh your recollection and see whether you wrote it on the 6th of December, 1908?

THE COURT: I will sustain your legal objection that is cannot read from an exhibit not in evidence.

A Yes.

Q And to whom did you write that letter?

MR. SMITH: I object to that on the ground that it calls for the contents of a written communication not in evidence, and the written communication is the best evidence.

THE COURT: There is no evidence as yet as to the name in the communication. He asked him as to when he sent that letter. When he offers the letter in evidence then we can discuss the admissibility of it. I will have to give him a chance to show that it is admissible. I overrule your objection.

MR. SMITH: I take an exception.

A To one Russian orthodox priest.
Q What is his name? A Vladimir Zozob.

MR. PARVAT: That is one of the names he mentioned the other day. It is very difficult for me to cross-examine him on the letter written in Russian. I have a translation of it, but I cannot point to the part the translation affects. If we could use the translation subject to any objection?

THE COURT: Let Mr. Smith see it.

MR. SMITH: May we have the services of the interpreter for just a moment?

THE COURT: Yes. I do not suppose the interpreter can translate, though.

MR. SMITH: Well, he can read the translation and

see if it is correct.
MR. PARVAT: Of course, my translation I have is subject to any correction by Mr. Smith.

While the interpreter is reading that letter I will call Mr. Mendelson, who is an English speaking witness. I will call him in rebuttal simply to save time.

THE COURT: Do you agree to that?

MR. SMITH: Yes, sir, simply to save time.

MR. PARVAT: I now offer that letter in evidence, as bearing upon the credibility of this witness, and I desire to cross-examine him upon it.

MR. SMITH: I object to it as incompetent, irrelevant and immaterial, not binding upon these defendants, as to any communication this witness had with any witness after the publication of this alleged libel.

MR. PARVAT: Purely upon the question of credibility of this witness, showing his character.

MR. SMITH: The mere fact that you say that it is for the purpose of affecting his credibility does not make that competent. You could under that rule, ask for the introduction of a lot of testimony that would be absolutely irrelevant.

THE COURT: Well, the defendants have testified that this man was a man of good character, that they relied on his statements that this alleged libel was true and

they published it.

MR. WITKIN: That is right.

TIM CONNER: Now, it is for the jury to learn as much as possible about the character of this witness, and for that reason I will allow it, solely on that ground.

MR. WITKIN: I respectfully except. Will you let the witness read the original?

(The paper is marked People's Exhibit 7 in evidence.)

TIM CONNER: Well, the witness does not understand Russian?

BY TIM CONNER:

Q Do you understand Russian?

TIM CONNER: Well, it is nearly the same.

TIM CONNER: Well, the jury with the consent of

counsel may take the exhibit into the jury room after wards.

MR. CONYAN: (Reading) "December 5th, 1908--

BY MR. CONYAN:

Q Now, just follow me along.

MR. CONYAN: (Reading) "December 5th, 1908.

"Dear Father Vladimir

"I forgive me that I have not written you a letter after my departure for New York. I was always busy, much occupied with "Unia,"--- an essential question, as there was no time to think about anything else. It seems to me

that you sent me greeting through new reader of Olympian and greetings were transmitted to me through my friend. For the greetings and not forgetting me a stunner, I cordially thank you. I send my greetings to your well-respected wife. I forgot her name. In the new circumstances to me it is neither warm nor baked. However, just in one relation I won. I already paid 100 rubles of my debt to my father. Now I do not need any more of "Unia". It is a very bad thing to be "Unia". Believe me that there is nothing worse than a "Unia" with all her shameful details. Her melodies are dogs' barks, priest not priest but something boiled water, and services all verminners look like howling wolves. So I have a plan to get myself some work in a store or in a hotel for a waitress and wait, not knowing neither "Unia" neither orthodox, and to be independent. In "Unia" you find more money but that singing is dog singing; orthodox is more easy. There is no money but in better orthodox parlance it seems protectionism. I am sorry that I cannot see you. Believe me that I am interested for you. When I meet you I will tell you something, very interesting things from this American dirty place. Write me in a short time how much it costs to rise from Olympian to you. If done; then after two or three days I will see you. Then and there what I got. See please among your spy-

A Yes.

Q Did you ever--I think I asked him this question--I show you an article, I will ask it again, I think it was about, People's Exhibit B for identification, and ask you if you wrote that article? A I wrote it.

MR. DARVANI: I now offer in evidence this article of which this is a translation, subject to the same as I have done, with the languages on both sides, subject to objection by either side. I show to your Honor the translation so your Honor can get the sense of it.

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

MR. DARVANI: Wait until his Honor reads it.

THE COURT: Well, this publication is after the publication of the alleged libel?

MR. DARVANI: I agree, but it is to show the general attitude of this man's mind. If your Honor thinks it is not admissible, I will not press it.

THE COURT: Well, I will exclude it. The other part I allowed simply on the theory stated before.

MR. DARVANI: All right. There is another paper which I have sent for, which it is claimed contained a threat in regard to this libel. It will be right here in just a moment.

BY MR. DARVANI: I show your Honor's Exhibit 6 for identification, please

I don't think if there is any place in store or hotel. It is more than hateful to me that all these dogs bark. If we will see you we will speak with you more. All that I write to you in this letter is to be kept secret until then, because in another case "Inlet" will eat me. If you will be nearer to Olybhan please come to Pannanaky and then we can see. I a great "Uniat" can see you.

your
 (signed) HAYRUCHAKO.

I do not know what he did sign it.

BY MR. DARVANI:

Q How did you sign that letter? A Hayruchako.

Q Now, which is your right name, Hayruchako or Kryako

Onely? A Hayruchako.

Q Well, why didn't you give the jury your right name here? A I was not asked about that. I was asked what name I signed when I wrote the articles to the paper.

Q Wasn't you read by the interpreter here to give your true name when you took the witness stand? A I was asked what my name was, and I said that my name was--

Q What did you say your name was? A I was asked what my name was and I thought, I mean that I was asked the name which I gave as a correspondent.

Q When you were asked your name, you thought you were not asked your right name, but the name you wrote under?

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...beeboda", dated April 30th, 1906, and ask you if you wrote that article? A I wrote it, yes.

BY MR. GARYANI: I will recall the defendant Kirason in the meantime.

K O N S T A N T I N K I R S E O V, one of the defendants, recalled for further cross-examination:

BY MR. GARYANI: Q Kirason, didn't you know the right name of Chaly?

A Yes, sir.

Q What is his right name? A His right name is Mersuchenko.

MR. GARYANI: That is all.

MR. SWITZKI: That is all.

M Y O K O O H A L Y, a witness for the defence, resumes the witness stand:

MR. GARYANI: Now, if your Honor please, I offer this article in evidence, upon this ground--dated April 30th, 1906, that is two or three months prior to the publication of the libel--the defendant testified that the witness Chaly had written several articles for them, several of which were against the Russian orthodoxy, and that it was because what he published before was the truth, and because of their reliance on his previous articles, that they re-

lied upon the truth of this one, and published it. I offered this article to show the nature of the publications upon which they testified they relied in accepting this article and publishing it without investigation.

MR. SWITZKI: I object to it on the ground, first, that Mr. Garvan unintentionally has misstated the evidence in the case. There is absolutely no evidence, and I challenge Mr. Garvan to point it out, that these defendants said they relied on the truth of the publication which is to be offered in evidence. The testimony of Burkowsky was that there had been several articles written by this witness, and that no complaint had been made, and therefore when this article was recalled, they relied upon its truth. I submit, irrespective of that, that that piece of evidence, or about to be offered in evidence, is incompetent, immaterial and irrelevant.

THE COURT: I would exclude it if you had not attempted to excuse the libel. As I said before, I do not think that this libel is in the class of libel that can be excused. That is a legal question, however, for the jury to decide, and I am expressing my opinion, but as long as you attempted to excuse it by showing they believed the article to be true and that they had good reason for that belief, I am going to admit the article, and it is for the jury to pass upon the character of their correspondent and

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as to the truth of their statement that they had good reason for believing it. The burden is on you of establishing that.

MR. SMITH: The burden, I understand, in a criminal case never shifts, even in a libel case.

THE COURT: The burden of satisfying the jury that the libel was excusable, when you attempt to excuse a libel--

MR. SMITH: Well, if that is your Honor's view of the law, I respectfully accept.

THE COURT: It is for the jury to say.

MR. SMITH: In a criminal case the burden never shifts.

THE COURT: On the whole case the burden never shifts.

MR. SMITH: Now, in a recent case, if your Honor please, reported in 97 New York Supplement, Appellate Division, First Department, March, 1908, they decided that it is not permissible to introduce evidence of an independent crime. Now, if your Honor please, every libel is a crime by itself. There is no doubt of that.

THE COURT: Well, it is not claimed this is a libel.

MR. SMITH: Then if it is not a libel, I submit it should not be allowed.

THE COURT: It is simply for the purpose of showing

the relations that existed between this alleged correspondent and the editor or proprietor of that paper, and for putting the jury in possession of the facts on which the defendant claimed he based his belief that the article was true. It is allowed as affecting the credibility of the witness, if the jury so consider it. I allow it solely on that ground.

MR. SMITH: Well, I respectfully object to it on the ground that it is incompetent, immaterial and irrelevant, that it is anterior to the publication of the alleged libel, that it is a distinct article by itself, and if libelous at all, is a distinct crime, and cannot be offered at all for the purpose of proving malice in this case, and I take an exception.

(The paper is marked in evidence People's Exhibit 6.)

MR. SMITH: Of course this is all subject to correction. (Reading)

Nov. 14. April 30, 1908. "Evolsda" by Grigori Chaly. "RESURRECTION OF KATAPIN" (Vostokvits) Lazarus.

In No. 13 of "Evolsda" I read that on 2/18 of April there was "mass-day of our beloved prelate most Rev. Archbishop" who being alive reaches the God--the platoon. In these circumstances it is said that this unusual celebration of the Russian Arch-bishop happened to coincide with the Holyday of the resurrection of Lazarus" the dead, who

after four days however by God's word and again became a living man". It was written that in that was a great joy for sisters and friends of Lazarus. Reading further I found here too such of unwise and unjust. By Lazarus and his sisters and friends were named not those persons who should be compared with this miracle, as it would be desired for the author having in purpose to picture to the best this "greeting". The result was simply a mockery. Therefore I wish to help the "creator" of this "greeting".

In his creation an evidently it is over his ability. Stinking Lazarus is not the united people as the stupid author boldly dared to apply to the all people, but this Lazarus appears to be not anybody else but Russian Academy himself or that-- please excuse-- "archbishop Platon."

The Lazarus' sisters are the nuns of the Kiev's market 'Plorevsky women' convent, which is situated near by the Strastny monastery where this Russian spider used to live before coming to America for the "job". The Lazarus' friends are the members of the Russian Third Department (meaning Secret Service Department) the duty of which is to spy the Russian habitants to any plainly just the real spine of the shoes named government. Now in it see well, this way. This Lazarus-- Platon until his coming to America, occupied the office of the rector of the Kiev's Theological Academy, wherein are trained

the priests and bishops exactly of the same kind as he is. During the elections of the delegate member to the executive department from Kiev, the Kiev's black hundred (people betrayers, oppressors with the head of community's outside) elected him as a well known parrot of darkness and a friend of murders. This happened that thanks to the fact that the real people's friends divided themselves into parties and began to quarrel for their programs, and this resulted to the benefit of the black hundred and its Lazarus.

After departing from Kiev to St. Petersburg into the Duma, here this "primate" did not connect himself with the defendants of the offended and robbed people of the money robbed from which he stilled himself with the "miracles" i. e. with the officials, with the hangman Nicholas at the head.

With these murderers he was together against the offended people. In the Duma he made very dark and bloody thirty addresses defending upon the ground of the Holy Scripture falsified, the murderers and preening with his dirty feet the rights of all offended. The such, who denied the world, put himself up to his ears into the politics. How would you like this? Is not this first? And wishes everybody to believe that is Christian. Yes Christ God member of the Jewish or Russian parliament

For this treason and unthankfulness the sinners defenders of the people fixed his nose very well. This is exactly like in end Benkeville fable about a pig "that being under the century old oak with many acorns under feeded himself well and then layed down against the oak, slept well, got up, opened his eyes and began to spell the oak's roots. Looking upon this work the crow, that was at this time on the oak, said to him: "What are you doing? Don't you know that when you open the roots the tree is to die" "I do not see for this" said the pig. "Let it die, I care but for the acorns on which I live". "Ungrateful!" replied to this the oak, "if you could but lift up your long snout, you could understand that these good tasted acorns are growing upon me". The same with our Lazarus. After suching plenty of the people's blood he then begins to dig a hole under the people. As many times he began in the Dues with his dark address, he was always chased out the official tribune with the cries, "Away with the traitor, away with the spider."

After this he was much ashamed and hung down his nose knowing not where to get out and where to hide himself from the shame. Why? It was already impossible for him to return to his place or even other office, because he was entirely denounced for all "Russia Russia, as a deeper, and blacker traitor. That is why he died and got attinging.

off you have the faith you will arise even after death" is said in the Holy Scriptures. No sinner by this because he was sure that the head of the Russian Church the Russian God Nicholas, who according him will either take out the people's life or grant it, will raise him from the dead and will again make him not only the sinner but even the archbishop of darkness. This "God" is already, omnipotent all-knowing, because he keeps by himself, for the money robbed out of the people, the large band of national traitors black-smiths and murderers of the sinner as he himself is. They cover his so their leader, they spy and report to him the people and on his will they hang the people. This is the "God" who raised him from the dead--this black Lazarus--and sent him to America to creep upon it--to rob, according his usage, the poor working Unionist (non-Russian) people, either by force or craft. Then this Lazarus was raised from the dead the first to get joyful over the fall of the Platen's convent, and they are nice enough. This Lazarus often used to celebrate the "God's" Mass for those women. And he wonder as he is a man without faith. Then his friends got glad, the spinster in regular consolation or in the broad sleeves (hair) that he nicely saved out of the shame this dark Lazarus who was already attinging in Russia.

In this "greeting" it is said also that "when Lazarus

across them in the beams of the beam and the pharisee
 such of wickedness and hatred boiled up an account of
 this Lazarus for this lie Lazarus-- Platon will say
 you without salt. The Russian beak and pharisee (so-
 trepattans in the governmental bynd and other blshops).
 To jump out of the joy an account of raising from the dead
 of this black Lazarus, that they nearly screw out their
 feet. After his rising Lazarus of the bynagsl went over
 to one to the island of Cyprus and this Lazarus (after
 rising) went over the sea to America and creeps here sow-
 ing hardness and hatred.

"In this 'morning' the author says further: "Is not
 our Lazarus rising before our eyes? Yes, indeed he is
 rising, because everywhere it is felt already-- that kind
 of wind is blowing from him over America! trouble and
 hatred.

There is printed also -- he is the first inspiritor
 of the dark band of the wrong orthodox spies, with the
 out down names. He is first worker in the business in
 assisting the Uranian pockets. He is also the first pro-
 vector for us (Russian Pops) but not for the Ruthenians,
 because he fill up with the cents and dollars not only his
 pockets but does not forget our too, and sends also a
 part to Hiesoles in Russia, without exchanging dollars
 for roubles, which doubles the money."

Further the author says: "Happy we are having
 such a Bishop. It is warm with him for us. Can you
 feel no hunger and know us work. A good Bishop, very
 good. He does not charge any interest, but appropriates
 in advance everything for his own pocket without any
 account.

Further the 'author' says, "What he, he --- it
 is probably give and give, give everything ---. Not
 enough! Lazarus the last cents and dollars those taken,
 i. e. rots from poor and illiterate Ruthenians --- Uran-
 ians which are earned by hard work under the whole
 that does them, Lazarus, give them for this with the whole
 band of sub-Lazaruses? Are you a Christian or Atheist?
 A Good Atheist: does not touch the high doctrine of
 Christ-God, but notwithstanding he has a conscience be-
 And then?--then art and Atheist without a bit of con-
 science. What and does didst thou learned --- was
 not it in the spies' school? Is not thine father 'in
 Christ? Mr. Sudeykin, who has been sometimes at Kiev,
 and then at the head of the well-known to thee the Third
 Department (meaning the Secret Service Department), at
 St. Petersburg? Arent thou acquainted even a little with
 the ethics, and dost thou know what is morality and
 honesty? Surely it is not for thee but for the poor
 because thine ethics is in the stomach, morality in the

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lie and in the sewing of darkness, and thine humanity reveals itself in robbing more and more cents and dollars, l. o. in robbing the people as much as possible. In thine churches --- if it is allowed and is not a sin to name them so --- thou, instead of God's service and prayer, thou dignifiedest the exponents of the whole world except the Japanese, thine governing Russian synod, etc., even at the time of the "presentation of the Holy Sacrament" with the chalice at hand, in which, as you teach, are the Christ body and blood --- what is worshiped there? Not the Russian robbers? This is a terrible witchcraft and mockery over everything saint.

"In your addresses, you, Lazarus, with your anti-Lazarus, re sewing darkness and spreading hatred amongst strangers to you people to the effect that each fight other, and you to laugh with diabolical, hellish laugh. In this in the teachings of Christ? Or maybe I lie, but since is this true - the "Herit" and the "Postup" - not thine? Thou givest these your plagues to be printed. There, there is an entire hell, of which thou sayest that it will be "in another world". And in this, the "Herit" and still more the "rites" one, of which your "brothers" used to talk! It is perhaps the "Masters" "Herit", which you Russian Lazarus sake upon the illiterate fathers and their children. For

his blooded cents to you, Lazarus, thank so nicely to this people! It is just this! For my chest, I am whip-ped! Why you unbelittlers, exponents of the Russian communism, do full and people that he should give up his Lazarus and use the czarovist? What devil besides you Lazarus does read this Maszkovite language here in America.

"And for it how much of the golden time of the children is being lost for nothing, which time is never to be regained. And for all this you dragons are responsible. Who made the trouble if not you? The Ukrainian prima even you Maszkovite Lazarus denounce, they are the clean of the flesh and of the spirit of the Ukrainian people, and they serve their own people with the sincere heart, and the people understand them and loves them. In their school they teach them in their own language; they do not murder children, like you do, with the language strange to them. Why do you attack them like the dogs? You are not worthy even their sale -- you sell it. Dragons! Get out, don't murder the people, don't because the time of payment will come. Although years lie in waiting now, the truth will shine clearly and than not to you Maszkovite! Nearly everybody who is a good born in Russia, without any education, and without a bit of education is able to see a spy and is sent by the Russian government to America to proceed with its treasury

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politics. Find for me even one of those Lazarus with a smallest education - I will be glad to look upon him! but I am sure that cannot find, since I, being always in the relations with them, never met one. All are

, full of the evil; none other than I will have the best of them and will show to the readers their work and will show their conscience in its full madness and beauty. And then, the head Lazarus, was already in

Canada to start the business, and afterwards, having robbed them, as a racketeer the for his loss, to persuade them to go to Siberia? Repent thou omnibal, don't murder the innocent people! Perbid twice subleazzarus to use the languages in their further dog arguments and let them stop to bark as the dogs on the

War-laman priests and bishop. Usually you say, "Our intentions," but why they are yours, do they speak Moskovi language? Gather around these the swallows and pull out their skin off them, if they would with it, and do not teach the people strange so three by the languages, non-

same, and faith! And still better, gather together you Russian leadership and go to "Father" Russia. You have robbed enough of dollars exchange them for roubles and all right, and I am sure will distribute them to the saintly or better to see the hangman Mihalov to help him to hang and to rob the people, because his hands and feet

are already deep in people's blood, and he walks in it up to his knees, being unable to keep up a Russian community at once. He expects you and your help. Some of you will not as hangman, and the rest as it is usual in Russia will blame the dead peasant to the devil. Because here you will meet the poor fortune as your predecessor Lazarus. Tishoo. Run away as soon as possible."

MR. DARYAN: The article is signed "Kryzko Chaly".

REDUCT-EXAMINATION BY MR. BRITISH

Q Now, Chaly, you have been a reporter in Russia, have you? A Yes.

Q What was the name of the newspaper? A I wrote in the "Paga", "Kieraskaya Moyal", and "Dokalki".

Q Under what name? A I write, I don't remember under what name.

Q Did you write articles abroad under the name of Kryzko Chaly? A I once wrote under my own name once in a while.

Q Well, the name "Kryzko Chaly" is that the name you used in writing the articles? A I used it in "Paga".

Q That is, even abroad, in Russia? A Yes, sir.

MR. DARYAN: I suggest, it ought not to be suggested to him, he said he didn't remember. Now, he says, "Yes, sir", when you ask him, if he used "Kryzko Chaly".

Q Now, what did you mean by writing this letter, Pa-

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ple's Exhibit 7 in evidence?
MR. DANVANI: I object to that, that did he mean by writing it.

MR. BRITKIN: The District Attorney has opened the door, and the witness has the right to explain why he wrote this letter.

MR. DANVANI: He can state under what circumstances he wrote it, but the meaning speaks for itself.

THE COURT: I will sustain the objection to the question.

MR. BRITKIN: I except.

MR. DANVANI: We have no objection to his stating the circumstances under which he wrote it.

Q Now, just state under what circumstances you came to write this letter, People's Exhibit 7? A When I wrote this letter, I was counting upon the psychology and thinking of this man. I knew this man as a man without any education, and a man without a character. The people who always manage people I always take an interest in them, and try to find out their psychology for my own good, to illustrate his soul and character. I can show a letter from him after this. Also, if the Court will permit me, I also can point out on his deluge and the place where he was employed.

MR. DANVANI: I object.

MR. BRITKIN: I've said that.

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Q You have asked the priest to whom you had sent this communication to keep it confidential, didn't you?

MR. DANVANI: Yes or no. It speaks for itself.

A Although it is written so, it is not meant seriously.

Q Did you receive a reply to that letter from the gentleman, or from the priest that you asked that this communication be kept secret? A I received.

Q Have you got your letter? A I have it.

MR. BRITKIN: I offer it in evidence.

MR. DANVANI: I object to it. It has nothing whatever to do with the matter.

Objection sustained. Reception.

Q Suppose you look at it and see if--

MR. DANVANI: That is not proper.

THE COURT: It is not proper at all. This other letter is merely introduced as affecting his credibility.

MR. BRITKIN: I want to show the character of that person to whom that letter was addressed.

THE COURT: But his character is not in issue here.

MR. BRITKIN: All right, your Honor.

Q Now, Gandy, when you stated in that letter that water and services, all marshals back like boiling water, did you refer by that part of your letter, did you refer to the substance or rather to the Greek substance energy?

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MR. GARVANI: No, not the Greek orthodox, the Greek Catholic.

Q All right. Did you refer by that to the Greek Catholic or the Russian orthodox?

THE COURT: For your question.

Q In this part of your question, does that refer to the sect of which you are a member, or to the son of which Army is a member?

MR. GARVANI: Now, that is objected to, because he said although he was a teacher in the Greek Catholic Church, that he still is a Russian orthodox believer.

THE COURT: Well, I think the jury can understand it.

BY THE COURT:

Q Does it refer to Army's church or the church of the defendant? A I spoke in that letter in general, about this and the other. I spoke about Catholic and those, taking into consideration the man I was writing it to.

THE COURT: Notice that answer out.

Q But what church did those lines refer to?

THE COURT: That was the question put by counsel?

MR. SHITKIN: Well, that question is withdrawn.

THE COURT: Now, will until he answers the question.

MR. SHITKIN: The question is withdrawn.

THE COURT: Well, the Court has put it.

A About one end the other.

THE COURT: Well, the jury can pass upon the answer.

BY MR. SHITKIN:

Q What did you mean by stating in the letter that "if we will see you we will speak with you merely" A I said this, if I could not come face to face with him, because I was following him, I watched him, his psychology, as a man at the head of the people.

BY THE COURT:

Q Do you that Zozaka was your psychology, or whatever you meant by that? A I lived with him five months and I always watched his doings.

BY MR. SHITKIN:

Q Now, then, as to Pagan's Exhibit 6, appearing in this paper, that has been offered in evidence, what do you mean by the word "Zozaka"? A This is a local name in Russia, called by one nation to the other.

Q Now, Mr. Gault, in that letter, you speak of "Hansman Micholap". In what do you refer by "Hansman Micholap"?

A This is the man who appointed Platon as Archbishop in America.

BY THE COURT:
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Q Well, when was Nicholas, was it the Gear or was one else?
A The one that is at the head of everybody in Russia, is that?

BY THE COURT:

Q Well, that is the Gear, isn't it? A Yes.

BY THE COURT:

Q Well, who didn't you see at first? A I could not say otherwise.

BY THE COURT:

Q Now, in the letter you say, or at least the translation reads, "during the election of the Black Hundred to the Second State Department from Kief, the Kief's Black Hundred, people haterers and oppressors, with a head of porcupine's tail, elected him as a well known server of darkness, and a friend of murderers." What did you see by that?

THE COURT: Or rather, "When do you mean? I think the reading is plain enough."

BY THE COURT: Well, I think the witness has a right to explain.

THE COURT: Well, say his name he went by that. Ask him to what he referred by it. To make it plain to him, who was elected to the Duma.

BY THE COURT: Well, it is perfectly plain.

BY THE COURT:

Q What do you refer to as having been elected to the

BY THE COURT:
Dumy A Platon,

Q Well, who is Platon? A The Archbishop, the one that is here.

Q Do you mean Arseny? A Archbishop Platon, he is over Arseny also.

THE COURT: Now, you say was his name he meant by that translation.

BY THE COURT:

Q Now, what did you mean by the use of that phrase in that letter?

THE COURT: Mr. Seitz's last question is presented by the translator as follows: "Chiefly, in that letter you say, or at least the translation read 'during the election of the Black Hundred to the Second State Department from Kief, the Kief's Black Hundred, people haterers and oppressors, with a head of porcupine's tail, elected him as a well known server of darkness, and a friend of murderers.'" What did you mean by that?

A I want to say to this fact what says here.

Q Well, then, that is sufficient. Let us have the article.

THE COURT: The article speaks for itself.

BY THE COURT: It does, loudly.

Q A that article, was that written by you or a critic?

A I cannot explain that you or no.

Q Had you read anything concerning the persons that you wrote about in No. 13 of the "Suid", in Volume XIII of the "Suid"? A I don't remember the number that the article appeared in the "Suid", which in a very narrow way left the people which he draws in.

THE COURT: Never mind that. I object to that. Q You mean, as you stated everything it said in that article, didn't you? A I cannot explain it with you or no. BY THE COURT:

Q Well, did you mean it or not? A I had a copy near the top of the "Suid" and I was just drawing a parallel between the two.

THE COURT: That is all.
THE COURT: That is all.

Q A. P. P. L. W. H. B. L. O. E., a witness for the People recalled in evidence, testified as follows:
DIRECT EXAMINATION BY ME, CANNON:

Q Mr. Wenzel, when Kirsow came to your store in Bayfield to the first place, did you do any business with this man?
A No, sir.
THE COURT: I object on the ground that this is not proper evidence.

THE COURT: I will overrule the objection.
THE COURT: I accept.

Q Was Father Arseny ever in your store or house prior to the date that he came there to get the affidavit? A No, sir.

THE COURT: I object to that. Well a moment, please, I object on the ground that that is not proper evidence.
THE COURT: Well, I will exclude that. The other is correct, inasmuch as one of the witnesses testified that he had business with the monastery, and that is the reason why he did this thing for Father Arseny. That is the way I understand the testimony, and I think I am right on that.

THE COURT: Either he said he had business or he said Wenzel told him so.

THE COURT: Well, I do not know which way it was. You had better ask questions direct.

Q Now, when Kirsow saw them, did he say to you, "I have come here from Bayfield and we have written an article and some kind of a letter came to me and had scared me and frightened me, and I want to know about it"? Did he say that to you?

THE COURT: I object on the ground that that is not proper evidence, the witness having on direct examination stated that he had no conversation with this defendant.

THE COURT: Well, if that is so, I will withdraw the witness, if that is understood, on that statement I will

withdrew the witness. If defendant's counsel concedes he made the denial, that is exactly the testimony Mr. Mendel-son is prepared to give now, and there is no use of repeating it.

Q That is true, isn't it? You did not speak to him outside of setting on his feet, or something? A No, sir.

THE COURT: Well, then, that is all, Mr. Mendel-son. A B R I E D B R A V L E R K Y, being called and duly sworn as a witness on behalf of the people in rebuttal, identifies as follows:

DIRECT EXAMINATION BY THE COURT:

Q Mrs. Zdrovitsky, where do you live? A Bayfield.
 Q Are you a widow? A No, sir.
 Q Married? A Yes, sir.
 Q Was the child of Mary Krinitzky born in your house?

A Yes, sir.
 Q Were you the midwife who attended her?
 THE COURT: I object on the ground that it is not proper rebuttal.

THE COURT: That is purely preliminary.
 THE COURT: No, that is part of your case.
 THE COURT: I will allow it.
 THE COURT: I respectfully except.

A By whom? I went after the midwife.

Q You went? A I went after the midwife.
 Q Well, were you there at the time the child was born?

A Yes, sir.

Q When was the child born?
 THE COURT: I object as incompetent, immaterial and irrelevant and not proper rebuttal.

THE COURT: Well, if he does not consent it will strike it out. THE COURT says it is preliminary to come rebuttal. If not, I will strike it all out.
 A Just all.

Q How long before the birth of the child was Mary Krinitzky in your house?
 THE COURT: I object as incompetent, immaterial and irrelevant, and not proper rebuttal.

THE COURT: I will show in just one instant. If it is not it has all been struck out. It cannot affect the defendant if not admitted.
 THE COURT: I will overrule the objection.

THE COURT: I except.

A She was one week with me before the child was born, and after the child was born for one week she remained with me.

Q Now, before the child was born, just before this question was asked, before the child was born, did you have conversation with Mary Krinitzky concerning the father of her child, yes or no? A Across Kalmikoff was that Krinitzky.

MR. MITCHELL: I ask that the answer be stricken out.
 Q Just say yes or no, just did you have talks with her or not? A Yes.

Q Now I ask you to answer this question -- or rather, do not answer yet, because there will be argument on it, but before the child was born, when did she tell you was the father of her child?

MR. MITCHELL: I object to it be incompetent, immaterial and irrelevant, and so absolutely hearsay and not binding on the defendant and not proper rebuttal.

MR. GAWMAN: Now, may I be heard, if your Honor please? It is in evidence here, brought out in the direct testimony,

that the witness Mary Eribitsky testified that Andrew Preston was the father of her child. Then defendant's counsel proved that subsequent to the birth of the child, defendant proved that subsequent to this article, she had advised an affidavit in which she is alleged to have advised that Angus was the father of her child, hence that Andrew Preston was not.

I now desire to say that, prior to the time of the publication of the libel, prior to the time of the reading of the alleged affidavit, prior to the time when there was any notice to the defendant to make a false statement, she made the same statement which she has now made under oath, to wit, the statement that Andrew Preston was the

father of her child, and I rely upon the authority of the case reported in 119 New York, at page 618, which I will take the liberty of reading, a paragraph or two thereof to your Honor. This case is in the matter of the last will and testament of Edward D. Hendry, deceased, and the part upon which I rely is as follows: (Reading).

MR. GAWMAN: Now, I do not want to urge this too strongly, but it was my duty to lay this evidence before your Honor, and that is the authority upon which I rely, and I offer it for your Honor's consideration. It is in your Honor's observation as a matter of rebuttal, of course.

THE COURT: It is not strictly rebuttal.

MR. GAWMAN: As I say, I do not insist upon it. I leave it with the better and wiser judgment of your Honor.

THE COURT: I will sustain the objection to that question.

MR. GAWMAN: That is all.

MR. MITCHELL: That is all.

A. J. K. L. S. P. O. B. S. K. Y., being called and duly sworn as a witness on behalf of the People in rebuttal, testified through official interpreter forward as follows:

MR. GAWMAN: Do you know this child?

A Yes.

Q Did you ever have any talk with her about the relative

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of alleged relations between Father Arseny and Mary Kravitzky?

MR. BRITTON: Yes or no.

A No.

Q Did you ever tell him that you knew all about it?

MR. BRITTON: I object to the question, on the ground that it is immaterial, immaterial and irrelevant, that matter being now a matter and collateral, the District Attorney is bound by the answer given by the witness, and he cannot be contradicted.

MR. DANAHY: That is examining him on the alleged article. They put in the article and he said that the article upon which they say they relied, he said, there are a great many witnesses to this, even among the Church worshipping clergy, and I asked him to name these clergy.

MR. BRITTON: Yes, the question of the good faith of these defendants is for the jury and I will allow this question.

MR. BRITTON: I respectfully except.

A No.

MR. DANAHY: That is all. You may examine.

PROSECUTION EXAMINATION BY MR. BRITTON:

Q Now, Reverend Alexia Rodolofsky, where do you live?

A Beranton.

Q Beranton, Pennsylvania? A Yes.

Q Do you know one Mike ... of the bar, indicating pit-

refers Bilusdenko? A I do.

Q How long have you known him? A About a year.

Q Do you know where he lives? A I don't know where

he lives at present.

Q Where did he live when you knew him in Pennsylvania? A Westfield.

Q Did you ever say to Bilusdenko, prior to the publication of this article, and after the publication of this article, that you knew all about Mary and Arseny? A No.

Q How long have you known Arseny? A I know him from the old country.

Q Do you know what this prosecution is about? A I do.

Q Who brought you as a witness? A I was called.

Q When? A Friday.

Q No, this is Friday.

Q Well, when did you arrive in the city? A Wednesday.

Q Did you arrive here after this case was taken by before?

A I arrived on Wednesday.

BY THE COURT:

Q Of this week? A Yes, sir, this week.

THE COURT: Well, that is all I have to say to you now.

BY THE COURT:

MR. DANAHY:

Q Did you read last week? A No, no.

BY THE COURT:

Q How many days have you been in the city? A Yesterday is

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12 Q Well, now, look at him. I did not ask you to speak to him. I asked you to look at him. Is not that the Delaney you mean? A I know Delaney.

Q Well, is he the gentleman you refer to as Delaney as being the person that told you what testimony was given by Chaly concerning himself? A Is it Delaney that said to me?

Q That is what you said, and I am asking you? A I said that I was called out by Maltovetzky.

Q Did you understand the interpreter's question when he asked you to state in your own language who it was that told you about the testimony that Chaly gave in which your name was mentioned? A The testimony that Chaly gave, I don't know anything about. Father Maltovetzky told me that I was called here, that's all.

MR. BRITTON: No further questions. That is all.

L X O P Y V I L D I Y E R E E Y Z, being called and Chaly sworn as a witness on behalf of the People in rebuttal, testified as follows through Official Interpreter Bernhardt:

DIRECT EXAMINATION BY MR. BRITTON: Q Where do you live? A Glasgow.

Q Do you know this fellow Chaly? A No, I don't know Chaly. I know Korruthenko.

Q Well, that's the same thing. Did you have a talk with him about the alleged relations between Father Army and

11 the third day.
BY MR. BRITTON: Q Did you have a talk with Army about the testimony that he presented you to give here? A No.

Q Well, what was you told you were to come here for? A I was called out by the defendant.

Q What respondent? A Maltovetzky.

Q By Maltovetzky? By the Reverend A. Maltovetzky, is that the person you refer to? A Yes, sir.

Q Well, did you know what you were asking here for? A No.

Q And you never knew what testimony you were going to be asked or what questions were going to be asked of you up to the present time? A Not at all.

Q Weren't you told that Chaly had said that he had spoken to a number of the Reverends, you heard one of them, about Perry and Army? A That was said.

Q Well, who told you that? A Right here.

Q Who told it to you, Delaney or Army, or who, or Kilroy? A That the gentleman told you, indicating Mr. Kilroy, the lawyer in this civil case? A Delaney.

Q This gentleman here, so that there can be no mistake about it, indicating Mr. Delaney? A No.

Q Well, that is Mr. Delaney, isn't it? A No, I don't speak any English at all.

Mary Krutitsky

MR. BELMONT: I object to the question as irrelevant, immaterial and irrelevant, and not proper rebuttal.

Objection overruled. Exception.

A No, I did not speak to him.

MR. BELMONT: You may examine.

ORGANIZATION BY MR. BELMONT:

Q Your name is what? A Leonid Vladimirovich.

Q Where do you live? A Moscow.

Q Are you the priest at Moscow? A Yes.

Q Is your home located near the cemetery? A Near the church.

Q How far from the cemetery which was consecrated in July, 1908? A It is not far. About ten minutes.

Q Did you see Mary at the cemetery, at the consecration services?

MR. BELMONT: That is objected to as not proper cross-examination upon this subject, and resuming the entire case again.

MR. BELMONT: I am not limited to your questions.

MR. BELMONT: Yes, you are. I do not want to reopen the entire case again. In rebuttal I asked him if he had any conversation. This surely cannot go to his credibility, and he is raising his witness upon the main facts in the case.

MR. BELMONT: If that is true, I was misled by the answers.

MR. BELMONT: I am quite willing, if your Honor thinks it will throw any light on the case, I will withdraw the objection.

MR. BELMONT: I will withdraw the question.

THE COURT: Q Now read and state the exception.

MR. BELMONT: If the defendant thinks I will serve any purpose, I will withdraw the objection. It will only prolong the case.

MR. BELMONT: Well, perhaps that is so. I withdraw the question.

Q Now, however, how long have you known Mary Krutitsky? A I know her about two years.

BY MR. BELMONT:

Q Were you the priest there at the time of the consecration? A Yes.

BY MR. BELMONT:

Q Was asked you to come here as a witness? A Father Krutitsky.

Q How long have you been in the city of Moscow in this case? A Three days.

Q Where did you go to the cemetery? A On Wednesday.

Q Where did you go that week? A No.

Q Did you have any talk with Joseph about this case?

415-16

15
A No.
Q With any person at all before you were called as a witness on the stand? A No.

Q Do that you were called here as a witness, and you did not know what questions were to be asked of you? A I even did not know that I was going to be a witness.

Q Well, why did you come here? A Because I was called out. I was told to come here.

Q And do you know what this case is about? A I do not.

THE COURT: That is all.

MR. DAWYD: That is all. The People rest.

MR. DISTRICT: The defendant rests, and the defendant rests the motion made at the place of the People's case, that your Honor take this case from the jury and direct them to acquit, on the ground that the People here failed to make out any case.

THE COURT: The motion is denied.

MR. DISTRICT: I except.

THE COURT: Well, how long will you require to see up, Mr. District?

MR. DISTRICT: Well, if we can finish it to-night I am willing to see up.

THE COURT: How long will you take?

MR. DISTRICT: It ought to properly take an hour.

THE COURT: And Mr. District?

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MR. DISTRICT: I rest on your. I do not think we ought to finish it to-day. We can arrange our calendar properly for next week and submit it to the jury then, on Tuesday.

THE COURT: Monday will be a busy day, and we can not expect Tuesday morning for coming up and probably finish by noon.

MR. DISTRICT: And let it go to the jury then.

THE COURT: Let the jury have their lunch and they do come back and I can charge the jury, and they can give it then proper consideration.

Meanwhile, you are excused until half past ten Tuesday morning next. You need not come until Tuesday next.

Yes, be very careful in the meantime not to discuss this case with any relatives or with any associates, and do not come to any conference concerning it, until it is finally admitted to you in the court for your consideration.

(The Court thereafter addressed the further trial of the case until Tuesday, January 19, 1909, at 10:30 o'clock A.M.)

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New York, January 19th, 1908.

TRIAL RETURNED.

MR. CHRYSLER: I understand the sixth juror is still ill.

THE COURT: Well, I asked yesterday to have some inquiry made. There is no use keeping this jury now, Mr. Chrysler?

MR. CHRYSLER: No sir.

THE COURT: The Court has learned with regret of the illness of the sixth juror. I have reason to believe, however, that he will be able to resume his duties on Thursday morning, at half-past ten o'clock. We will therefore adjourn until then by consent of the District Attorney and Counsel for defendant.

Meanwhile be very careful not to discuss this case among yourselves, nor with anyone, and do not come to any conclusion on it until it is finally submitted to you by the Court for your consideration, which I hope will be on Thursday next. You may re-appear then.

The Court thereupon adjourned the further trial of the case until Thursday, January 21st, 1908, at 10:30 o'clock A. M..

New York, January 21st, 1908.

TRIAL RETURNED.
THE COURT: The stenographer will embody this report of Doctor McGuire in the record!

New York, January 19th, 1908.

Wm. Joseph F. McGuire,

Judge of the Court of General Sessions.

Your Honor: Subject to your order of this date, I visited Mr. Louis M. Heller, of 2316 West 93rd Street, who has been serving as a juror (No. 6) in Part I, and was become ill, certificate from his family physician, Dr. Paron, being submitted to your Honor, and report as follows: He has been a sufferer from locomotor ataxia, a spinal affection, for many years, which is characterized by a difficulty of motion in both lower extremities, due to loss of co-ordination. It is a chronic disease, progressive and incurable. He has in addition to this an acute muscular rheumatism, which I believe is an expression of Grippé, and which has in addition to his spinal affection, rendered him helpless. He is confined to bed, complains of severe neuralgic pains in both lower extremities; Pulse 80 per minute and weak; Temperature taken in mouth slightly above normal. During the necessary examination we had to assist him. His condition at present is such as to physically disable him for his

justice as a juror, without risk to himself, and I hardly think under the most favorable conditions he would be able to report before a week or ten days.

Respectfully submitted,

(Signed) Frank A. McGuire, M.D.*

MR. GARY: I move to adjourn, Doctor McGuire having reported that this man, the sixth juror, is still ill, and if he is able to come at all will not be able to come for a week; therefore, I move to adjourn this case further without the jury being called, until a week from to-day -- No, until next Wednesday! that will leave three days to make sure.

THE COURT: Now, will you represent the defendants,

Mr. Levine, in the absence of Mr. Baithley

MR. MAX LEVINE: Yes sir.

THE COURT: Do you consent to that, Mr. Levine, on behalf of Mr. Eniklin and the defendant?

MR. LEVINE: Yes sir.

THE COURT: Well, Gentlemen of the jury, on motion of the District Attorney and with the consent of the defendants' attorneys in this case, it will be postponed now, or adjourned until next Wednesday, January 27th, 1909, at 10:30 o'clock A. M., and you will be excused

from attendance until that time.

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

Now you are excused until next Wednesday at half-past ten o'clock, and we will take it up then early in the morning, so as to finish it that day, if we can get this other juror here.

The further trial of the case was then adjourned until Wednesday, January 27th, 1909, at 10:30 o'clock A.M.

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