

books there.

Q Speak a little louder? A He was writing at some books over there.

Q Was Mr. or Mrs. Schwartz there at the time? A Well, Mrs. Schwartz was always home and Mr. Schwartz came home at dinner time.

Q Was that during the day or in the evening? A Well, the day time.

Q Did he write in books of this size (showing witness book)? A Well, I—

THE COURT: The question is excluded.

MR. WEINBERGER: I have got to ask the witness what he was writing in.

THE COURT: There is a way of asking the witness.

Q What did you see him do? A He was writing there.

BY THE COURT:

Q What kind of books? A They were quite large.

Q How old are you? A Twenty.

BY MR. WEINBERGER:

Q How many books did Mr. Blaustein have in front of him when he was writing? A Well, I could not remember that exactly how many he had; it was more than two.

Q He had more than two? A Yes, sir.

Q More than two books, he was writing in one, but he

CASE 1160

had more than one there? A Yes, sir.

CROSS EXAMINATION BY MR. MAYNARD:

Q You said he had more than two books? A He was writing in one; he had three or four books there.

Q At that time could you read writing? A Yes, sir.

Q What kind of writing? A Well, I could not remember the writing; I did not look in the book.

Q That is not the question. In 1906 could you read writing? A I could.

Q What kind of writing? A Well, I could not read —

Q Could you read English? A No, sir; I could not read English then.

Q How long had you been in this country at that time?

A I was only two years in the country at that time.

Q You were sixteen years old at that time; you came here when fourteen? A Yes, sir.

Q Will you tell the jury where you came from? A From Hungary.

Q What part of it? A Well, what part of it?

Q Name the village or place? A Bemben.

Q Did Blaustein come from there? A I never knew Mr. Blaustein at home.

Q That is not the question. Did he come from there?

A I suppose so.

CASE 1160

Q Do you know? A I ain't sure of that.

Q You are an intimate friend of his sister? A I was.

Q You are, aren't you? A I am.

Q Did his sisters come from that place? A They did.

Q Did you ever see him there? A No, sir, I did not see Mr. Blaustein.

Q Did you get this job at Schwartz's through Mr. Blaustein? A Yes, sir.

Q You did? A Yes, sir.

Q You saw Mr. Blaustein writing in books at Schwartz's house? A I did.

Q Would you be able to identify the books? A Well, I didn't take much notice of the books.

Q That is not the question. Would you be able to identify the books? A No, sir.

Q No? A No, sir.

Q You don't know what they were, as a matter of fact, do you? A Because I —

Q Did you know that Mr. Schwartz was the owner of property at that time? A I did.

Q You knew about the 137th Street house? A I know he owned that house.

Q Did you know about the 110th Street house? A No, sir, nothing about that.

Q You don't remember about that? A No, sir.

CASE 77-1160
FBI

Q Did you ever see Mrs. Schwartz collect the rents from the 137th Street house? A She used to.

Q Did she turn those rents over to Mr. Blaustein in his house? A I do not know.

Q Did you ever see the money turned over to him? A No, sir, I don't know.

Q What books he was working upon, didn't she look over the books with him? A She was always with him.

Q Then she was working on the books with him that you saw, wasn't she? A Well, I didn't see her working, but she was always with Mr. Blaustein.

Q You did not see her ran a page over, that is about the size of it? A No, sir, nothing at all.

Q That is all you know about it? A Yes, sir.

Q You are a friend of Mr. Blaustein? A As much as to Mr. Schwartz.

Q You are a friend of Mr. Schwartz? A Yes, sir, from that I was there.

Q How long have you been away? A Well, I am away since that time.

Q Since 1906? A Yes, sir.

Q How soon after the books were in the house that you are talking about did you leave? A I saw them during the month of October or the beginning of November.

Q 1906? A Yes, sir, and I left in January.

CASE 221160

Q You were there only three months all told? A Yes, sir.

Q How recently did you visit the Schwartz household?

A Well, I was not there after that.

Q Never went back and saw them? A I was there about twice after I left them.

Q Very soon after you left? A Very soon, yes, sir.

Q You have not been there for years? A No, sir.

Q When did you see Mr. Schwartz before this trial began?

A I didn't see Mr. Schwartz for a long time, I couldn't remember whether I saw him.

Q Now, you have seen Mr. Blaustein frequently, haven't you? A I didn't see Mr. Blaustein not until the trial began, since the couple of days.

Q Are his sisters here in the City? A They are.

Q Are they friends of yours? A Well, I knew them well, but ---

Q Now, if they are your friends you don't object to that, do you --- if they are your friends say so? A Yes, sir.

Q Have you seen them frequently?

MR. WEINBERGER: I object to this.

A Not since the last four or five months.

Q Not since the last four or five months? A No, sir.

Q Have you ever talked over the trouble in which their brother was with them? A No, sir, never mentioned it.

Q Never heard it mentioned? A No, sir.

CASE 1160

Q Did you know Mr. Blaustein was in this trouble?

A Well, I knew it --- I was at the first trial.

Q That is, you mean you were in the Magistrate's Court in this proceeding? A Yes, sir.

Q You testified there, didn't you? A Yes, sir.

Q About these books? A Yes, sir.

BY MR. WEINBERGER:

Q The District Attorney asked you whether you could identify those books. Do you know what the word identify means? A Well, I don't know what the book holds.

Q Do you know what the word identify means? A No, sir.

Q Identify, if your Honor will permit me -- I want to tell the witness what it is. Could you recognize the books?

A Well, I couldn't very well recognize them only when I passed the table I remember I saw some little amounts of numbers and names, but it was a long time ago and I could not remember the writing.

Q How long was Mr. Blaustein writing in the books?

A About two or three days.

Q From morning until night? A Yes, sir.

BY MR. MAYNARD:

Q I understood that at that time you could not read English? A No, sir.

Q Do you read it now? A I do.

Q Now, one other question. You saw Mr. Blaustein at

CASE 1160

the house during those three months frequently in the evening? A Yes, sir.

Q He was there a great deal, wasn't he? A Yes, sir.

Q On very intimate terms with that family? A Yes.

Q You so understood? A Yes, sir.

BY MR. WEINBERGER:

Q Did you hear Mrs. Schwartz testify that Mr. Blaustein never worked in the house during the day? A I heard her.

Q That is not true? A No, sir.

(Objected to. Objection sustained).

Q Is it true?

THE COURT: That is for the jury.

BY THE SIXTH JUROR:

Q You testified that Mrs. Schwartz was always at home, never away, do you mean to say she never went away from the house to the factory? A Oh, yes, she did, but I mean at that time Mr. Blaustein was writing there.

MAX BLAUSTEIN, the defendant, resumes the stand:

DIRECT EXAMINATION CONTINUED BY MR. WEINBERGER:

Q How old are you, Mr. Blaustein? A Fifty years.

Q Are you married? A Yes, sir.

Q Is your wife in Court? A Yes, sir.

Q Do you live with your wife? A Yes, sir.

Q Have you any children? A Yes, sir.

CASE # 1160

Q How many children have you got? A Six.

Q And some of them are working?

MR. MAYNARD: I object to that. You have gone far enough. I object to this.

THE COURT: Objection sustained.

Q Do you belong to any Lodges?

(Objected to. Objection sustained).

Q Now, Mr. Blaustein, about those payrolls — now, will you tell the jury just how those payroll books were made out, and how the amounts were gotten at, and how Mr. Schwartz told you for what amount to draw the check?

MR. MAYNARD: I object to that as cumulative. This ground was all covered on the direct examination yesterday.

THE COURT: He may answer.

A What checks do you mean?

Q The checks, one check that you had for bearer and for cash. Just tell us how you got at that figure, what Mr. Schwartz told you about it.

THE COURT: Take up, for example, the week ending February 5th, have some solid ground upon which you can question the witness.

MR. WEINBERGER: I was questioning him as to the general scheme here.

MR. MAYNARD: I object to that upon the ground

CASE 1160

that it has already been covered; it is cumulative.
We surely have taken time enough in this trial.

THE COURT: Objection sustained.

MR. WEINBERGER: If your Honor please, I started it yesterday and then the District Attorney interrupted me.

THE COURT: My recollection is that the witness so testified yesterday as to the methods pursued by him in making the slips, the payroll slips, and so forth.

MR. WEINBERGER: But I never asked him how he got at the figures and what the payroll check was and what the bearer check should be.

THE COURT: I will allow him to answer that.

Q How did you get the figure for which you should make out the bearer check on the pay day? A Well, I never made out these checks from the payroll, but from the correct amount which belongs to the employees, so I told Mr. Schwartz so much and so much we need money for the employees in cash, and after he told me how much to draw for himself, so on account of this I made out this check.

THE COURT: He testified to that yesterday.

Q The same course --- you did the same thing on February 9th? A Yes, sir, always the same.

Q You told Mr. Schwartz the true amount of the payroll?

CASE # 1160

A Yes, sir.

Q Which was due to the employees? A Yes, sir.

Q Then asked him what. What did you ask him? A How much he wanted to draw for himself.

Q What did you do with this amount? A This amount which I drew, when I came home from the bank, and he took off this money, he told me to pad the payroll and give it to Mrs. Schwartz.

Q Do you remember in whose name you padded the payroll?

A Yes, sir.

Q Who are they? A One was Louis Sivirsky.

Q Who were the others? A The others were Frank Moscitelli and Louis Moscitelli.

Q Did Mr. Schwartz tell you that ---

(Excluded)

Q Did you ever have any talk with Mr. Schwartz about whose names you should pad?

MR. MAYNARD: I object to that as cumulative.

It was all gone over yesterday.

THE COURT: I will allow that.

A Yes, sir, Mr. Schwartz told me that all these employees which had help ---

THE COURT: That was gone over yesterday.

Question excluded.

Q Who had helped, which of the employees had helped?

CASE # 1160

MR. MAYNARD: I again object.

THE COURT: He so testified yesterday that the employees who had helped were Sivirsky and the two Moscitellis.

BY MR. WEINBERGER:

Q Now, Mr. Blaustein, do you remember February 10th?

A Yes, sir.

Q Do you remember whether you had any conversation?

MR. MAYNARD: I again object to this as cumulative.

Q With Mr. Schwartz and Mr. Sivirsky and Mr. Fox all together?

MR. MAYNARD: I object to this as cumulative. It has all been covered yesterday.

THE COURT: The witness denied that he had any conversation with Mr. Schwartz. Why don't you ask him the direct question.

Q Did you ever tell Mr. Schwartz in these words, "You have caught me" or any similar words?

MR. MAYNARD: I object to that.

THE COURT: He is entitled to have a specific denial.

MR. MAYNARD: It has already been given.

A I never told Mr. Schwartz those words, I don't know what those words mean.

CASE # 1160

MR. MAYNARD: You don't?

THE WITNESS: I know what they are, but I never used this word, I don't know what this word is meaning; I never told Mr. Schwartz something like that, I never had a consultation with Mr. Schwartz in that way.

Q Something like what? What is that? A "Kopt". The witness called it something like that; I don't know what that means, "kopt".

Q Did you use any word similar to that? A Never at all; I never -- the day I remember exactly what it was, and I never told Mr. Schwartz together, when Mr. Fox and Mr. Sivirsky was present.

BY THE COURT:

Q Was anything said on February 10th, or on any occasion prior to your arrest concerning the Sivirsky account by Mr. Schwartz to you? A No, sir.

Q Did Mr. Sivirsky in your presence state to Mr. Schwartz that for the week ending February 5th, 1909, he made 495 coats, for which he received \$51.97. Did Mr. Sivirsky make any such statement in your presence? A No, sir.

Q At any time? A No, sir.

Q Prior to your arrest? A No, sir.

Q Did Mr. Sivirsky say anything to Mr. Schwartz concerning the week prior to February 9, 1909, to the effect that

CASE # 1160

he made up coats for which he received \$53.88? A No, sir, not in my presence; I never heard about it.

BY MR. WEINBERGER:

Q Now, after you drew the money from the bank were you ever alone with the money?

MR. MAYNARD: I object to this again, if your Honor please. The identical question was asked yesterday.

THE COURT: Objection sustained.

Q Were you ever arrested before? A No, sir.

Q Outside of the charge when you were arrested in ---

THE COURT: The proper question was was he ever convicted. Anybody might be arrested.

Q Were you ever convicted of any crime? A No, sir.

Q In this country or in the old country? A Not in this country or in the old country.

Q Were you ever charged with any crime, to your knowledge?

A No, sir.

Q Do you find the word "expenses" on the payroll?

MR. MAYNARD: Do you want him to find it?

MR. WEINBERGER: Yes. Turn to February 5th.

A Yes, sir.

Q Do you see the word "expenses" there? A Yes, sir.

Q What was that item for? A Expenses -- that was on every payroll.

Q Did you put that item down by direction of Mr. Schwartz?

A Yes, sir. When I came to Mr. Schwartz as a bookkeeper, so he told me, he showed me the old books from the old bookkeeper, they put down the same thing for expenses for every week. You will find in these books sometimes \$200, sometimes \$150 expenses, and sometimes only \$100 expenses.

CASE # 1160

Q Do those expenses include the money that Mr. Schwartz took? A No, sir, Mr. Schwartz told me that these expenses would be in cash and after if he needs something to pay somebody, a bill or so, I would deposit the money again, but these expenses he got in cash every week.

Q Did you so deposit the money again? A Yes, sir, I used to deposit it if we had some bills to pay for gas or electricity, and so Mr. Schwartz gave me the money and I made the deposit in the bank to make good the checks for gas or ~~ex~~ electricity or some other expenses, but this money for the expenses was every week in cash.

Q So these items that you have here as expenses, do they represent actual expenses? A What do you mean?

Q What is the item of expenses?

MR. MAYNARD: Which item?

MR. WEINBERGER: In the payroll book dated February 9th.

MR. MAYNARD: February 5th.

THE WITNESS: It says, "All expenses, \$100."

Q Was that item "All expenses, \$100" -- does that mean actual expenses, business expenses? A No, sir.

Q You saw this payroll before this other? A (No answer).
BY MR. MAYNARD:

Q That is in your handwriting, isn't it? A Yes, sir.

MR. MAYNARD: I will offer that book in evidence.

CASE # 1160

It has been identified as in the handwriting of a son of this defendant. It is one of the payroll books in Schwartz's establishment.

(Marked People's Exhibit 6).

BY THE EIGHTH JUROR:

Q When a bill came for expenses to Mr. Schwartz, did you pay that or did he pay that out of part of the expenses?

A He gave a check.

Q What expenses do you mean? A Electric or gas.

Q He took in his pocket the money, he deposited the money, he gave a check against that money? A Yes, sir.

Q He drew it from the bank and kept it in his pocket?

A He drew those expenses.

Q Kept it in his pocket, he drew it from the bank, keeps it in his pocket and then deposits the same money? A Or his wife, I don't know.

Q You say that you drew that money from the bank for expenses? A Yes.

Q When he got a bill to pay expenses he deposited in the bank and paid the amount with a check? A Yes, sir.

Q That is the way you explain it? A Yes, sir.

BY THE SIXTH JUROR:

Q Was this payroll complete; did it contain the names of those who received money from Mr. Schwartz? A The only employes that was working by Schwartz --

CASE # 1160

Q Were you on there? A I am there also.

BY MR. MAYNARD:

Q What was your number? A 77.

BY THE COURT:

Q Did it also include Mr. Neworth, the jeweller? A He is included in the payroll.

Q But whenever money was paid to employes, to Mr. Schwartz, to yourself, or to the jeweller, the item of expenditure was put on the payroll, is that right? A Aside the expenses; I think.

Q Every item was put on the payroll? A Yes, sir.

Q Everything was entered on the payroll? A Yes, sir.

Q No money taken by anybody else entered on the payroll?

A Yes, sir.

BY THE SIXTH JUROR:

Q When you paid the Gas Company bill did you put a number there? A No, sir.

Q When you paid the jeweller did you put a number there?

A Yes, sir, because Mr. Schwartz gave me an order to put Neworth there to show that the payroll is larger by \$30 a week.

BY THE EIGHTH JUROR:

Q You told us you did that because it was a weekly payment and the Gas Company was a monthly payment? A This gentleman asked me why I --

CASE 27-1160

Q You said the last time that you were testifying that Mr. Neworth was a weekly payment? A Yes, sir.

Q He was getting it every week? A Yes, sir.

Q The Gas Company once a month, that is the reason you testified? A I don't know how much the gas bill will be or the electricity before that the bill comes.

BY THE SIXTH JUROR:

Q Now I would like to put the question over again. For any other expenses other than the Gas Company, had you any other concern that you don't deal with monthly -- any weekly bills? A The weekly bills wasn't at all in this payroll.

Q The jewelry bill was there? A Yes; the jewelry wasn't nothing only jewelry --

Q That was a weekly bill? A Yes, sir, because Mr. Schwartz told me to put this jewelry man on the payroll the same as all the rest of the employees with a number, a regular number, as an employee.

Q Did you have any other persons whose names appeared that were there represented with a number, by a number, without being an employee?

Q Similar to Neworth. Was the jeweller the only one who was not an employee? A Yes, sir, the jeweller was the only one.

BY THE COURT:

Q I would like to get one question clear before the jury.

CASE 1160

Tell the jury what items, if any, Mr. Schwartz told you to pad ~~the~~ the payroll with. Give the items? A Well, if I remember it was No. 48, with the name Frank Moscitelli and one was 49 with the name Louis Moscitelli, and one was with the name Louis Sivirski, and I suppose his number was 61.

Q What else? A Well, that is all what he gave to pad the payroll, and besides this was in 1908, the month of August, about in 1908, the month of February, he told me to give a regular name for Mr. Neworth, under the number 50, and pay him \$30 weekly.

Q Any other items? A Besides his own. He told me that was in the payroll, this money which he drew sometimes every week; he told me that was never in the payroll, this money which he drew sometimes every week; there was nothing in the payroll, not even one cent, his name isn't in the payroll at all.

Q If he wanted to pad the payroll why is it he didn't ask you to put his amount in the payroll? A Well, he told me every week before I went in the bank to draw the money how much to draw for himself.

Q And his item is not entered? A No, sir, not entered.

Q Wouldn't his item increase the amount of the payroll?

A In the expenses. It is in the book "expenses".

Q Is there any item of expenses in the book?

A Yes, sir.

CASE # 1160

Q For himself? A Yes, sir.

Q Now, you have been a bookkeeper for how long? A I was there four years.

Q You had experience with books? A Well, not very well.

Q You say that his purpose was that in the event that Heidelberg, Wulf & Company would ask him to pay his loan that he could show the books unto them? A Yes, sir.

CASE # 1160

Q And that he wanted them to show a condition of affairs so as to satisfy Heidelberg Wulf & Company that he could not afford to pay the loan? A Yes sir.

Q Is that right? A Yes sir.

Q Now if you were examining one book as you came to the item "All expenses \$100. on February 5th; and under January 29th "All expenses \$100.; and on der January 22nd \$100.; and under January 16, All expenses \$100.; and under January 8th all expenses \$100., and under January 1st all expenses \$100. and under December 18, all expenses \$100. and under December 11 all expenses \$100., and dated back for a period of 6 months showing the items of all expenses running from \$100. to \$200. and \$250. and \$300.---would you be apt to make any inquiry from the person what those items represented. A (No answer)

Q You say Mr. Schwartz's purpose was to pad the pay roll so that this Heidelberg Wulf & Company would examine the books the books would show a condition of affairs which would not permit Mr. Schwartz to pay the installment agreed upon as a result of the five or six thousand dollars indebtedness. If the books were examined for week in and week out and there is an entry in the books to the effect that one hundred or two hundred dollars were entered under the item of "All expenses" wouldn't Heidelberg Wulf & Company observe the item? A He will pay them expenses; he has expenses every week.

CASE # 1160

Q Of \$100. A Well, I don't know exactly.

Q Wouldn't that item be apt to attract the attention of anybody examining the book? A I did it because Mr. Schwartz told me.

Q If you were examining the books wouldn't it be apt to strike your attention? A Well I---

Q At the threshold of your investigation? A I would ask the man how the money was spent but I can't help it, your Honor, because---

Q I understand that. I want to get your explanation?
A That is what I said. He told me to mark down expenses and so I marked \$100. expenses.

BY THE FIFTY JUROR:

Q Mrs. Schwartz testified the other day that she only got \$50. every week. Why did \$100. appear? A I don't know what she testified, if it is true or not; I said that it isn't true; it isn't true when she gets more than \$100. a week.

Q She testified she only received \$50. A Well, what she testified I am not responsible for.

THE COURT: Let me have the Meseetelli book.

(Mr. Maynard hands the book to the court)

THE COURT: Take the item in this book which corresponds to the entry in the other book here.

CASE # 1160

MR. MAYNARD: February 12, 1909. Or October 23.

MR. WEINBERGER: Would your Honor permit me to finish my examination.

THE COURT: Yes, you may conclude your examination.

BY MR. WEINBERGER:

Q Now, did you ever go to a business college where you learned book-keeping? A No sir.

Q Are you an expert book-keeper? A No sir.

MR. MAYNARD: I object to this.

THE COURT: I will allow it.

Q You only kept books for Mr. Schwartz? A Yes sir.

Q When you came to Mr. Schwartz did you come as a book-keeper? A I was working there a year as a brush man, not as a book-keeper.

Q Did you ever keep any other books for Mr. Schwartz outside of these? A Besides these?

Q Outside of these pay roll books? A Nothing at all.

Q Did you ever keep any books for any business house?
A No sir.

THE COURT: He said he never did.

Q Now, you heard the testimony about these small books, 48 and 49. Did you ever make any alterations in those books? A No sir.

BY THE COURT:

Q Are all of the entries in 48 and 49 in your handwriting

CASE # 1160

4
A I will see them.

THE COURT: Hand them to the witness.

THE WITNESS: From the beginning.

THE COURT: Suppose you run them over.

THE WITNESS. Here is one item that is not in
my handwriting.

Q Designate the date? A This is the date of the 19th
of June. Here is a date the 19th of June, it says here an
item of \$10.78. That was not in my handwriting---the 19th
of June.

Q The date is not in your handwriting? A No sir,
the date, the amount, I don't know in what year it was, 1906,
because here is not mentioned the year only the month---not
the year.

Q Which was is that? A This year June 13th, 15th, 16th
17th, 18th, and 19th. The 19th is not in my handwriting.
BY THE SIXTH JUROR:

Q Is there any objection to the jury seeing that por-
tion of the handwriting which this witness claims is not his?

MR. MAYNARD: I will consent that the stenographer
indicate that part of the book by some mark. Do
you offer that as an exhibit?

MR. WEINBERGER: No.

MR. MAYNARD: Why don't you. It is a part of

240
CASE # 1160

your case. Let him mark as an exhibit that particular entry that is not in his handwriting.

Q Is there any other numbers or figures that are not your writing?

MR. MAYNARD: Are you going to offer that exhibit?

THE SIXTH JUROR: I want to get at this question of handwriting. I think I have a way of getting at it that most handwriting experts would claim, I think, to be the proper way. I would like to ask the witness to do something for me?

THE COURT: Well, Mr. Juror, I think it would be best to reserve doing that until counsel concludes his direct examination of this witness. There ~~was~~ will be no continuity to the record if there are too many interruptions. I would wait until the direct examination of the witness is finished.

THE SIXTH JUROR: It is not my wish to interrupt at all but I think the jury could arrive at the identification of the handwriting much more rapidly if I had similar head lines, whatever they may be, done by the witness at this time for the purposes of comparison when we go to the jury room.

THE COURT: Why not wait until the counsel is through with the witness.

CASE # 1160

344

SIXTH JUROR: Certainly.

Q Have you found any others which are not in your handwriting? A I am going over it now. Yes, I find another one on August 21st 1908.

Q Which is not in your handwriting? A Yes here is a number that is not in my handwriting. Here is one number, one number in the additions.

Q The total is not in your handwriting? A The total is my handwriting. But not all the total, one number is not in my handwriting.

Q What figure is that? A Number 80---number 8.

Q On what date is that? A On july---August 21st.

Q What year is that 1908? A Yes sir.

Q This seems to be---that does look like an alteration?
A Yes sir.

Q You did not make any alterations in that book? A
No sir; I never made any alterations.

Q Did you ever make any alterations in that other book?
A Well I am not through with this book yet.

Q You didn't make any alterations in that book? A No
sir.

THE COURT: You had better have him go through
with it. Go.

Q Go ahead?

MR. WEINBERGER: I wanted to save time.

CASE # 1160

THE COURT: I know, but it is very important for this witness to go through that book.

THE WITNESS: The same thing is on August 28th.

MR. MAYNARD: Any particular line.

THE WITNESS: The total amount---it is number 8 again. On September 4th 1908 it is here number 2 is not in my handwriting (201). It is to be how many coats at 9 cents a piece. It is here 201 coats at 9 cents and so the figure 2 is not ~~xxx~~ in my handwriting.

Q What date is that? A It was September 4.

Q Where the total is \$94.65? A Yes sir, the total \$94.65. The number is marked with a cross, and the same page has a 9 not in my handwriting in the total amount.

Q What page is that? A On the same page.

BY THE SIXTH JUROR:

Q As I understand it you claim that ever time a figure has been changed and the amount raised that the writing is not yours? A Well, I remember that I marked for every employee on Friday these books, and after I didn't see the books again.

Q The items you are looking at they are the items that have been raised in amount? A If I see that it is not my handwriting that is what I claim---it isn't my handwriting. This number is not in my handwriting. That is

CASE # 1160

all I claim. I don't say that this is not in my handwriting but some parts I say is not my handwriting.

BY THE TWELFTH JUROR:

Q If you are just identifying your own figures why does it take you so long. Are you doing multiplication and addition. A I want to go through the numbers---how many numbers are there on the page? A About 50 numbers or sixty numbers, I can't see every one at once.

Q They are items for six days each week? A But I want to see those numbers also.

Q Look at the totals? A Well the total is on September 4th 1908, the total amount is, the number is not in my handwriting. On September 11 1908 is also there, the number here is also not in my handwriting.

Q What number is that---that is not in your handwriting? A 8. September 18, 1908 . There is also a number not in my handwriting, the total.

Q What is the figure there? A \$70.47.

Q Which figure is not yours? A The 7. September 25th 1908 number 8 in the total is not in my handwriting. On October 2nd the number of 6 in the total is not in my handwriting.

BY THE EIGHTH JUROR:

Q Is it always the first number of the middle number? A It is the first number.

CASE # 1160

345

Q Always the first number? A Yes sir. On October 9th is the number 4 not in my handwriting. December 18 1908 is the number 3 not in my handwriting. On January 2nd here is the number 5, not in the total, the number of coats 5 here, that is not in my handwriting.

BY MR. MAYNARD:

Q What date is that? A January 2nd, 1909.

MR. MAYNARD: There was no payment on that date.

There is no such date on the pay roll? A That is what I see here; I don't know which is the pay roll or not.

Q January 1st and January 8 are the two dates? A Well here is January 2nd; this is January ---

Q This is January 8th, isn't it? A Here is January 2nd, 1909.

Q That is evidently the first? A Well here is January 8th and January 2nd I see here.

Q All right. Go ahead. A On January 8th has here a number of coats---number 3 that is not in my handwriting also. That is what I see here.

BY MR. WEINBERGER:

Q Did you make any changes in 49? A No sir nothing at all. I remember that I made no changes here at all. If perhaps sometimes an employee comes to me and said he figures more, ten, twenty, or thirty cents I figure it again and if I see he is right I give him the twenty cents

CASE # 1160

more, but never touch the books.

Q Now, Mr. Blaustein, did you have a conversation with Mr. Schwartz about this item of expenses, why you should put his money under the item of expenses?

MR. MAYNARD: I object to this again. We have had it three times.

THE COURT: Have you not asked that question.

THE WITNESS: I think I answered this question already.

MR. WEINBERGER: Before he answered as to what was included in this item.

THE COURT: You may answer the question.

BY MR. WEINBERGER:

Q Did you have a conversation with Mr. Schwartz with reference to this item of expenses? A He told me to mark expenses \$100. a week.

Q Did you ask him why he doesn't mark it "William Schwartz \$100. a week". A I didn't ask him why he don't want it William Schwartz---he told me, he gave the order to mark \$100. expenses and he wanted this money in cash and if he need to pay some bills he pays those bills in check, that is what he told me. I didn't ask Mr. Schwartz four or five times one thing. If he told me once.

Q Did you have these Moscatelli books in your possession or did you see them since you left Mr. Schwartz place? A

CASE # 1160

No sir.

Q You don't know where those books were? A No sir, I don't know; I saw the books only once by the Magistrate; that is all that I saw of the books.

MRL WEINBERGER: I had another book here that was marked Exhibit B.

Q Now, Mr. Blaustein this is the book that you rewrote (Referring to defendant's Exhibit B) in Mr. Schwartz' residence? A Yes sir.

Q You wrote it from where? A From this book.

Q From People's Exhibit B? A Yes sir.

Q Did you ever see this book before (Handing witness another book)? A Yes sir.

Q In your handwriting? A Not this book here.

Q That is not your handwriting? A No sir.

MR. WEINBERGER: Will the District Attorney of concede that that is one of the books ~~that~~ the complainant. I would like to offer it in evidence.

MR. MAYNARD: I object to that unless you identify ~~that~~ some thing in it written by this witness.

MR. WEINBERGER: If you concede that this book was in his possession?

MR. MAYNARD: It is not entitled to be admitted in this case.

CASE # 1160

MR. WEINBERGER: I will connect it. I don't know who wrote this book.

BY MR. MAYNARD:

Q What is that? A It is a cash book.

Q It is a cash book? A Yes sir; this book was the private cash book; I don't know who wrote it.

Q That is Mr. Schwartz cash book? A Yes sir, that is the private cash book.

Q It is not in your handwriting? A "National Butchers & Drovers Bank" it is not in my handwriting.

MR. WEINBERGER: If your Honor please I want to offer this book in evidence. I just see ~~xxxxx~~ here that this book goes from 1903 and I see a name here in this cash book--- I offer in evidence a book belonging to the complaining witness.

MR. MAYNARD: There is no proof of that.

MR. WEINBERGER: Will you permit me to call the complaining witness and ask him whether that is his?

MR. MAYNARD: Well for the purpose of your offer I will concede it is. I concede it though I don't know whether it is or not.

MR. WEINBERGER: I offer a book in evidence belonging to the complaining witness.

MR. MAYNARD: I object to any statement on your

CASE # 1160

part as to what it will show. You offer a certain book in evidence.

MR. WEINBERGER: I offer this book in evidence.

MR. MAYNARD: I object to it as incompetent.

There is no proof that it is in the handwriting of this witness or in the handwriting of the complaining witness. There is no proof in whose handwriting it is; it is not binding upon anything in this case and it is immaterial and irrelevant.

THE COURT: Objection sustained.

THE COURT: I understand this book was kept in 1903.

MR. MAYNARD: Yes sir.

THE COURT: Objection sustained.

MR. WEINBERGER: I offer this book because it was in use at a time when the defendant was in the employ of the complaining witness and part of this book is in the defendant's handwriting.

Q Is this in your handwriting (Indicating)? A Yes sir; this is my handwriting.

THE COURT: If there is anything in the handwriting of the defendant which is pertinent to this inquiry I will allow it.

MR. WEINBERGER: But if your Honor please that item that I wanted to call the jury's attention to is not

CASE # 1160

in the handwriting of the defendant.

THE COURT: It is immaterial.

MR. MAYNARD: If there is anything ~~that~~ ~~you~~ in that book in the handwriting of this defendant you may offer it in evidence and I will not object.

MR. WEINBERGER: I want to offer evidence that is in favor of the defendant; not that is against him.

Q Did Mr. Schwartz ever advance you money to buy jewelry before?

MR. MAYNARD: I object to that on the ground that it assumes that Mr. Schwartz did advance him money to buy jewelry.

Q I will add the words---before February 1909.

MR. MAYNARD: Frame your question again.

Q Did Mr. Schwartz ever advance you money to buy jewelry before February 1909? A Yes sir.

Q Can you remember when it was? A Yes sir.

Q About when? A It was in 1908, in the month of June or of July.

Q How much did he advance you? A \$200.

Q Did you pay him the \$200. A Yes sir.

Q How did you pay him? A Installments.

Q How big installments? A Well sometimes five dollars, some times \$7. sometimes \$8. a week, how much I was

CASE # 1160

able to pay I paid.

BY THE ELEVENTH JUROR:

Q Mr. Blaustein how was your office inside in the room situated? A What is that.

Q Was it simply a desk open to everybody? A I had a desk.

Q Without an enclosed partition? A I want to explain it to you. I had a desk inside in the shop but besides this I was sometimes in the office when we paid out the money in the envelopes, where we had some particular work to do, I went in the office.

Q Was there a separate office besides the desk? A Yes sir, besides the desk.

BY THE SIXTH JUROR:

Q Did you furnish a bond from any surety company? A (No answer)

Q When you entered this position as book-keeper I want to ask you if you furnished a bond to Mr. Schwartz, a surety bond of any kind, did you ever furnish that bond? A No sir.

CROSS EXAMINATION BY MR. MAYNARD:

Q When did you come to this country, Mr. Blaustein? A In 1904.

Q How old were you then? A I was then six years younger than I am to-day.

Q How old are you? A 50.

CASE # 1160

Q You were 44 when you came here? A Yes sir.

Q You told the jury that you had not been educated for a book-keeper. Had you been educated for any particular line of business? A I was a business man for myself.

Q But never a book-keeper? Did you keep your books for yourself? A Well.

What a

Q Regular books? A Business man needs for himself, so I kept myself.

Q How long did you keep books for yourself? A I was keeping for myself from 14 to 15 years.

Q Then you had some experience with books before you kept the books of Mr. Schwartz? A Yes sir, I had experience/

Q 14 or 15 years experience? A Yes sir.

Q Did Mr. Schwartz at first know that you had had such experience when he first employed you. A I don't know as he knows or not.

Q Did you subsequently tell him that you could keep books? A Mr. Schwartz knows that I was a businessman in the old country, and he took me for a book keeper after I was there a year.

Q After you were with him a year you were put on the books. Did you have charge of all of the books in the office, all of the books? A Well those books which I kept.

Q Now if you will answer my questions. Did you have charge of all of the books in the place of business of Mr.

CASE # 1160

Schwartz? A Well I don't know what kind of books it was at the place by Mr. Schwartz at that time when I came to him. as book-keeper; I had charge only of the books which I kept; I don't know what kind of books Mr. Schwartz had there before.

Q After you commenced to keep the books for Mr. Schwartz did you keep all of the books in which writing was made in his place of business? A Yes sir.

Q You were in charge of all of those books? A Yes sir.

Q All of the time? A Yes sir.

Q You prepared the pay rolls? A Yes sir.

Q You kept the cash book? A Yes sir.

Q You had charge of the check book, A Yes sir.

Q And Mr. Schwartz relied upon you to do all the writing that was done in his place of business? A Yes sir.

Q You drew checks to pay the bills? A Yes sir.

Q Submitted them for his signature? A Yes sir.

Q And then paid the bills? A Yes sir.

Q You kept in the cash book an account of those checks I assume? A Yes sir.

Q Is this the cash book, (Showing witness a book)?
A Yes sir.

THE COURT: That is an exhibit in this case?

MR. MAYNARD: Yes sir, it is exhibit 5 in this

CASE # 1160

case.

Q Now, taking the single month of January will you tell us what items you entered in the cash book representing the checks drawn by you. Start with January. A Bearer \$871.

Q What is the date? A January 15, 1909.

Q What is it? A \$871. a check.

Q To bearer? A Yes sir.

Q What is the next item? A Payroll checks \$497.28.

Q What is the next? A For Samuel Weinstein \$38.

Q Do you know what for, isn't it for rent---that didn't go into the pay roll, A No sir.

Q What was the next item? A A. Fishkin, \$13.

Q What is the date? A The same date.

Q What was that for? A Well, if I remember this man was an actor and he made a benefit in the theatre.

Q It was a check for a benefit? A Yes sir.

Q What is the next? A He got \$13.

Q Mr. Schwartz gave him \$13. A Yes sir. Then Raphael Lodge #2.

Q What was the date of that? A The same date.

Q What is the next item? A The next item January 7th Gas Company. \$3.80.

Q That is for the gas bill? A Yes sir for the gas bill in his house.

CASE #1160

Q What was the next? A The same date. "Pressing iron company \$6.30.

Q What was that for? A Well I don't remember that.

Q What is the next item? A Well the next item is on the same day. His ironing company a dollar.

Q What is the next? Read right on? A The next is January 12th bearer \$970.50.

Q What was that? A Well that was for to draw the money by a check.

Q For the pay roll? A Yes sir, for the pay roll.

Q What is the next item? A Pay roll check \$401.79.
Then

Q What is the total of the pay roll for that date, is it? A The total of the checks.

Q Well the checks, plus the bearer check represents the pay roll for that date, doesn't it? A Well, never was a bearer check made on account of the pay roll.

Q Well go a little further and see about it. A The same day after Finkelstein \$5.58.

Q What was that for? A I don't remember.

Q Well what is the next one. A Well the next one is the same date ~~Finkxxx~~ Singer Sewing Machine Company \$6.75.

Q What was that for? A Well I see Singer Sewing Machine Company, something, there was fixed something on a machine.

Q You had Singer machines in the building? A Yes sir.

CASE 77-1160

Q That is a repair bill, isn't it? A Yes sir.

Q Now what is the next? A The next is Equitable Life Insurance Company \$27.

Q What was that, Insurance premium? A Mr. Schwartz is insured and so he had to pay the premium.

Q You drew a check and paid his insurance in the Equitable Life? A Yes sir.

Q When was the next item? A The next was on the 14th of January "Gas Consumers Association " \$2.50.

Q That is another gas bill? A Yes sir.

Q What is the next? A The next is January 19, bearer \$808.50.

Q To bearer? A Yes sir; pay roll check \$509.39

Q Those two items are always the pay roll checks?

A Yes sir.

Q What is the next? A The next is Sholum Lodge \$8.

Q That was for assessment, was it in the lodge? A Yes sir. Or dues; he is a member in the lodge so he pays dues in the lodge.

Q What is the next? A Well, on January 20th New York Edison Company \$59.46.

Q What was that, the New York Edison Company. A That is for Electric light.

Q There at the store? A Yes sir; in the factory.

Q In the factory? A Yes sir.

CASE # 1160

Q Now what is the next? A January 25th bearer \$253.50, and the pay roll checks \$536.24.

Q That represents another pay day? A Yes sir.

Q Those two items? A Yes sir.

Q What is the next? A January 22nd Mr. Mt Sinai Hospital \$10.

Q What does that represent, a contribution to the Hospital Fund? A Well I don't know what it is. Mr. Schwartz told me to give them a check for \$10. But I didn't ask him. It is not my business.

Q What is the next item? A The next item is January 27th A. Kaufman \$30.

Q What is that for? A I don't know

Q What is the next? A January 27th L. Silverstone \$5.

Q What for? A I don't remember.

Q What is the next? A February 2nd bearer \$392.50 and the pay roll checks \$536.62 .

, Q That is another pay day? A Yes sir, another pay day.

Q Go ahead? A February 2nd San Tannenbaum \$250.

Q What is that for? A I don't know.

Q What is the next item? A February 2nd Sholun Lodge.

CASE # 1160

Q Was that \$250. letm by check? A Yes sir.

BY THE COURT:

Q Does your stub book show that? A Well I see that they are checks.

Q Did you make an entry on the stub book for that purpose the checks were given? A I marked only the name.

Q Have you got the check book here.

MR. MAYNARD: The stubs are here.

BY MR. MAYNARD:

Q This is February, is it? A Yes sir, February 2nd.

Q February 2nd? A Yes sir.

Q February 2nd. Sam Tannenbaum \$150. Is there anything to show what it was for? A No sir, I don't know what it was for. He told me to give him a check and so I gave him ^{if} a check, I didn't ask him what for; he told me to give him a check for somebody else for a thousand dollars, I would write a check for a thousand dollars; I don't ask him for what he means to give a check .

Q What did you enter up on the other side? A Pay roll checks.

Q What is this? A This is Tannenbaum \$250.

Q Is that the same Tannenbaum? A Yes sir, certainly. I wanted to know every time how much we had balance in the bank so I figured here on the other side how much we had as balance, if we were able to give a check to somebody. I

CASE # 1160

want to know how much is in the bank and I figured on the other side how much we had.

Q All in your handwriting? A Yes sir.

Q Now you have a bearer check on February 2nd? A Yes sir.

Q How much was that? A February 2nd \$892.50.

Q You changed that in here, didn't you? A I see it is changed but I don't remember what it was before it was changed.

Q Is that changed 9 your figure? A Yes sir.

Q Is that changed 2 yours? A Yes sir.

Q You admit those are yours? A Certainly.

Q Read the next item, A Pay roll check 5---I told you that already. February 2nd Sholum Lodge \$4.45.

Q That is dues again? A It must be something like that.

Q You are getting towards the end now. What is the next. A February 3rd Sam Weinstein \$38.

Q What is that? A Rent for the house.

Q What is the next? A February 9th Mutual Life Insurance Company \$23.69.

Q That is again premium on the policy, is it? A Mr Schwartz has that policy and so we paid by check.

Q What is the next? A The next is February 9th pay roll check \$541.42.

CASE # 1160

Q How did you determine the number of checks that you would have to draw? A For that pay roll.

Q That represents the pay roll for February 5th doesn't it? A Yes sir.

Q And you paid it out on the 9th? A Yes sir.

Q Now can you tell from your pay roll which ones got those checks? A Which ones got the checks? I can't remember now.

Q Now how did you determine that \$541. A Well when I made out the checks for the employees I figured out how much the amount of the checks is.

Q Did you make checks for the same employees every week? A No sir; sometimes I gave a check some times if the amount was more than \$10. if the employee made more than \$10. so I gave him a regular check, but if the amount was less than \$10. he gets the most in cash.

Q You never knew how much in checks to draw then? A No sir, when the pay roll was made already so I made the checks for some of the employees and after I figured how much the amount of those checks is and I entered this in the book, checks so much and so much.

Q Now after you had entered in the books that \$541. for the checks for this pay roll you entered something else. What was the next entry? A The next entry

CASE 77-1160

Q Yes? A Bearer \$1182.

Q Now, that, in connection with the checks, makes it \$1723.42, doesn't it? A I didn't figure it; I believe you.

Q Will you figure it; I would not want you to be misled into it. A It takes time, but if the District Attorney figures it---it must be something like this.

Q \$1182. and \$541.42. A Yes sir; \$1723.42.

Q Now here on this pay roll books here in \$1743.42, is that in your handwriting? A Yes sir.

THE COURT: What item?

MR. MAYNARD: \$1743. in pencil below there.

THE WITNESS: That is not my handwriting, the pencil.

Q \$1240.05 is in your handwriting? A Yes sir.

Q Have you any idea how that \$1723.42 is made up? A No sir.

Q You haven't the slightest idea? A No sir, not the slightest idea.

Q Now your son kept a part of the pay roll, didn't he? A Yes sir.

Q Upstairs? A Yes sir.

Q And this is in his handwriting? A Yes sir.

Q This \$501.70? A Yes sir.

Q For what week? A February 5, 1909.

CASE # 1160

Q Now, \$501.70 added to \$1240.05---A Yes sir.

Q How much does it make, A I didn't figure it.

Q Do it now, A All right.

Q You can do it right there, can't you, A \$1741.75.

Q \$1741.75? A Yes sir.

Q \$1741.75? A Yes sir.

Q Then was that what you needed that week for the pay roll? A For the pay roll I don't need it---I testified already that I never knew the pay roll, how much I needed for the pay roll from the books, only I figured always how much money I needed for the employees, and on a slip, I knew that this slip is correct and from the slip I had to pay out the employees.

Q Now did you have another book at this time which was correct? A That was the correct book.

Q This was the correct book? A Yes sir; but the slips I made.

Q They were not correct? A That was the book from which I made them correct slips---not the book only in the slips.

Q Was this book correct? A No, the book was not correct in so far because the book was padded so it was not correct.

Q Aside from the fact that there was certain matters

CASE # 1160

here that were padded the book was correct? A Yes sir; the book was so far correct that those employees which was not padded in the pay roll was correct.

Q Did you have a book which was absolutely correct, and which was not padded at all? A Only the slips.

Q Did you? A Only the slips was correct.

Q Only the slips? A Yes sir; from which we used to pay out the employees, it was only the slips was correct, the book was not correct.

Q Some of your employees like the Moscatellis had small books, didn't they? A Yes sir; these books.

Q These are the books? A Yes sir.

Q And week by week you made entries in those books?
A Yes sir.

Q Then on Friday you took those books from the employees? A Yes sir.

Q Those that didn't have books turned you in checks, didn't they. A Well when?--

Q You answer my question? A I want to show you.

Q Those employees who didn't have books turned you in something on Friday? A Yes sir.

Q Tell the jury what they turned in. A They turned in checks.

Q That is what they turned in? A Yes sir. Checks.

CASE # 1160

Q You have answered it, haven't you? A I want to explain to the jury.

Q They understand. We want to get at the truth.

THE WITNESS: We had checks, it was a little paper---

MR. MAYNARD: We have seen them and the jury have seen them in the hands of the witness.

THE WITNESS: Yes sir and on this paper was printed from one cent to one dollar; it was all kinds of checks one cent, two cents, ten cents, twenty cents, thirty cents and forty cents.

Q We ~~are~~ all know about these little square checks? A Yes sir.

Q Was that what the turned in? A Will you please let me explain. And besides those checks I had the checks in this form and this here paper (Indicating) only it was marked there for the pocket maker, for instance, if he had 208 coats, and on this slip was marked how the coats are to be made, what kind of facing the coat has to have, and every Friday the tailor who has checks---I meant before checks---and these papers I call checks, and the other ones checks, for I want the gentlemen of the Jury to understand me that there was two kinds of those checks. It was a slip of paper and there was afterwards a check surrounded by tin.

Q Checks? A Yes sir. So every Friday they bring

CASE # 1160

me to my desk all these checks and I figure out how many coats the pocket maker had, how many coats he made at 10 1/2 cents, how many coats at 11 cents and how many coats at 12 cents.

CASE # 1160

Q On Friday did you make up the pay roll? A No, sir.

Q When did you make up the pay roll? A When I was through with the employees, through the work, the checks, I was through with this work so I started on the pay roll.

Q The employees brought their checks and books on Friday?

A Friday, yes sir, around 5 o'clock, between 5 and 6 o'clock.

Q Then you started on the pay roll? A Yes, sir, I started on the pay roll; then I started on to figure out for every employee how much he made in this week.

Q Now, can you tell me when you started on the pay roll?

A On Saturday.

Q On Saturday? A Yes, sir.

Q After you had done all the figuring? A Yes, sir.

Q Did you start your pay roll in the book? A I had the books only --

Q Will you answer the question. I want you to answer that question. A Well, I can't answer that. I will explain you.

Q Did you make up that pay roll in this book? A In this book, yes, sir.

Q In this one? (showing witness a book) A Yes, sir.

Q That was after you made your computations? A Well, I am not --

Objected to.

CASE # 1160

Objection overruled. Exception.

Q Now, having made all of your computations, and being ready to prepare a pay roll, you used this book for your pay roll? A Yes, sir.

Q You entered the numbers and the names in the pay roll? A Yesm sir; but not the amounts.

Q You didn't put in the amounts? A No sir, beforehand how much somebody gets, this I couldn't say, I couldn't put in the pay roll, but when I was through with all the employees and I know how much everyone who was working on piece workk what was on piece work and how much he made; I was looking for the time for the week workers in the time book, how much hours he was working, how much his wages is per hour and after I was through with this I entered all those items in this book.

Q Did you some times put the numbers and the names in the book before you made the computation. Did you do your work in advance? A (No answer)

Q Did you sometimes put down the names and numbers and have them all ready to put the amounts down? A I didn't have them all ready.

Q You have answered? A Yes, sir.

Q Sometimes you had your book all prepared in advance? A Yes, sir; names and numbers.

Q Names and numbers? A Yes, sir.

Q Then after you made your computation on Friday, on

Saturday morning you were ready to put the amounts in? A I can't say whether Saturday morning, sometimes it was Saturday afternoon when I was through.

Q When you were through with your computations, you entered in this book right here the result of those computations?

A Yes, sir.

Q Now that is right, is it? A Yes, sir.

Q Then on the following Tuesday, you paid to those employees the amounts representing the result of your computations?

A Not from this week.

Q I don't care what you paid it from. Did you pay to the employees, the amount of your computations, yes or no?

A I paid for the employees on account of this amount --

MR. MAYNARD: I ask the Court to direct the witness to answer the question.

Q Did you, on the 9th of February, pay the employees, an amount which corresponded with your computations? A With my computations, but not of these books.

THE COURT: He did not ask you that question.

A THE WITNESS: With my computations, yes, sir.

BY MR. MAYNARD:

Q Now, when did you write out these pay checks? A The checks, on a Monday.

Q On Monday? A Yes, sir.

Q Where did Mr. Schwartz sign those? A When?

CASE # 1160

Q Where? A In his house.

Q He took them home with him? A Yes, sir.

Q Did he put them in his pocket for that purpose?

A Well, sometimes.

Q Did you? A I want to answer this question, Mr. District Attorney.

Q This was the 5th of February, 1909, did you put the checks in his pocket? A I don't remember if in his pocket or on the desk, I don't know where.

Q But you drew up on Monday, checks that represented \$541. and you put them on his desk or in his pocket? A Yes sir.

Q He took these home with him? A Yes, sir.

Q He signed them that night? A Yes, sir.

Q Gave them to you the next day? A Yes, sir.

Q Now what time did you fill up the pay roll check?

A Tuesday.

Q What time Tuesday did you draw the pay roll check?

A Between 2 and 3 o'clock.

Q Now, did you have any talk with Mr. Schwartz when he brought back the checks on Tuesday morning?-- or did he just lay them on your desk? A Yes, sir, and Mrs. Schwartz --

Q Where was he when you laid the other check down before him for his signature? A Where he was?

Q Yes. A When?

CASE # 1160

F-5

870

Q Tuesday. He gave you \$541. in checks in the morning?

A Yes, sir.

Q Then later you laid before him a check for his signature? A Yes, sir.

Q Now where was he? A The bearer's check? you mean.

Q Where was he? A Mr. Schwartz was by my desk.

Q Was by your desk? A Yes, sir.

Q At the time he signed that check? A Yes, sir.

Q Had there been any conversation with you? A No sir.

Q Not a word had been said? A No, sir.

Q At the time he gave you the \$541. dollar check--

A He gave me the 541.00 dollar check in the morning.

Q After he signed the check you went right over to the bank? A Yes, sir.

Q Got the money? A I was that day at the bank but I can't remember if I was alone in the bank.

Q Did you take that check to the bank that day and get the money? A Yes, sir; certainly, I don't know if I did or Mr. Schwartz did, but one or the other of us was in the bank I don't remember exactly if I was there.

Q Haven't you testified already that you went to the bank with that check got the money and that a porter went with you? A Yes, sir; I testified so.

Q Why don't you say it again? A Because I wanted to say --

CASE # 1160

Q Was it true when you first said it? A What day do you mean?

Q The 5th of February. A I was in the bank.

Q No question about it now? A No, sir; I was in the bank.

Q Mr. Schwartz gave you \$541.00 in checks and you had him sign an \$1182.00 check? A Yes, sir.

Q You went to the bank? A Yes, sir.

Q Got the money? A Yes, sir.

Q You counted the money in the bank didn't you?

A Well, I never counted it in the bank.

Q Didn't you? A No, sir.

Q Was the porter with you that day? A I suppose he was.

Q Where was the money put into the satchel? A By the window in the bank.

Q Did the cashier put it in or you? A The cashier put it on the window and I put it in the satchel.

Q You were alone putting the cash in the satchel?

A Yes, sir.

Q Then after the cashier put out the money you took it and put it in the satchel? A Yes, sir.

Q And Joe helped you carry the bag? A I gave the satchel to Joe.

Q To help carry it back? A Only Joe, not I, only Joe.

Q Joe carried it? A Yes, sir.

Q You walked along with him? A Yes, sir.

Q You did not touch the bag while Joe had it at all?

A No, sir.

Q But watched him all the while? A Yes, sir.

Q That is what you were there for? A Yes, sir.

Q Do you know that all of the money that you put in the bag went in to Mr. Schwartz's place? A Yes, sir.

Q No question about it? A No, sir.

Q Where did Joe put the bag when he got up stairs, did he give it to you? A Yes, sir, at the door from the office, and went about his business.

Q What did you do with the bag? A What I did with the money?

Q No, what did you do with the bag? A With the empty bag?

Q No. Joe gave you the bag with the money? A I put it on the table.

Q Whose table? A On the table in the office.

Q Whose desk? A Well, it was a desk, an office desk Mr. Schwartz's desk.

Q It was not on your desk? A It was in the office, not in the shop, that was in the office; I didn't pay money in the shop.

Q Not on your outside desk? A No, sir.

CASE 1160

Q Where was the desk where Mr. Schwartz worked, in the office? A Yes, sir.

Q You put that money on the very desk where you did the work? A Yes, sir.

Q Was Mrs. Schwartz then there? A Yes, sir.

Q What was the next thing you did? A They counted the money.

Q They? A She counted the money, if the money is correct.

Q She counted the money? A Yes, sir.

Q How did she know how much money there was there?

A Mr. Schwartz told her how much money is to be there because he signed the check and he knows how much money I have to draw.

Q You were the man that drew the money and you came from the bank with the bag and the money. Did you tell her how much money was in the bag? A Yes, sir. Mr. Schwartz told her.

Q How did he know? A He signed the check and say it is \$1000. He says "the bookkeeper went in the bank and he brings \$1000." for instance.

Q You were just ready to pay off these people, weren't you, that day on the 9th of February? A Yes, sir.

Q You had brought the money for that purpose, hadn't you?

CASE # 1160

A Yes, sir.

Q The first thing you did was to lay it out in 10's, 5's and so forth? A The first thing was to count the money.

Q Now, Mr. Blaustein, when you went to the bank charged with the duty of getting \$1182.00 for your employer, Mr. Schwartz, it was your duty to count the money, wasn't it, and know what was there? A In the office?

Q In the bank in the office or somewhere? A Well, I will tell you.

Q Where did you count the money? A I placed the money --

Q Where did you count that money? A The money was counted in the bank.

Q Where did you count the money? A I never counted the money.

Q You never counted the money. You mean to tell this jury that you would go to the bank with a check for \$1182. for your employer and not count that money? A Yes, sir.

Q That is what you mean to tell them? A Yes, sir.

Q That is your duty to your employer, is it? A Well I know positively that the money was counted.

Q Where? A Pardon me.

Q Did you get \$1182.00? A Let me answer. I know that if the bank has counted the money, it was counted a hun-

CASE # 1160

dred -- and on this package it says \$500. it was \$500.00; I haven't no long time to stay there and count the money , but I come home and so I put the money on the table and Mrs. Schwartz counted the money.

Q Mr. Schwartz counted the money? A No, sir, Mrs. Schwartz, I said, Mrs. Schwartz -- Mr. Schwartz was busy outside; he never was there at this time.

Q Was Mr. Schwartz -- A I did not finish.

BY THE COURT:

Q What you mean is when the cashier or the paying teller gave you \$1182.00 he gave to you all the bills in bundles?

A Yes, sir.

Q Upon which there was a slip of paper? A Yes, sir.

Q \$100.00, \$200.00 or \$500.00? A Yes, sir.

Q You counted the money roughly as represented in the bundles? A Yes, sir.

Q But you didn't count each bundle? A Yes, sir, I want to say only one more word. It was in 1907.

Q This is in 1909. A Well, I want to say that in 1907 once we counted the money, Mrs. Schwartz counted the money, and he said there is missing \$5.00. I counted the money again and it is missing \$5.00; he counted again the money and Mrs. Schwartz counted and there was missing \$5.00. At this time I remember that it was, the most of the money was in silver and gold, it wasn't bills at this time, it was a very heavy satchel, so I went back in the bank to the cashier and

CASE # 1160

told him that it is missing \$5.00 before we started to pay and so the cashier told me to bring him the paper in which the money was packed, and I went back in the office and I was looking for the paper and I found the paper, many papers, because it was \$50.00 in one package, and so I took those papers with me and showed it to him and he says "I can't help it, my dear sir, because the papers was there already". so I wanted to show you a sample of what way we counted the money. It was at that time missing \$5.00. Mr. Schwartz said "Well, we can't help it, \$5.00 is missing" so I gave him \$5.00 out of the other \$5.00 --

Q Now you are through? A Yes, sir.

Q Sure? A Yes, sir.

Q Now, on the 9th of February, 1909 you took a check for \$1182.00, the check which is in evidence here to the bank?

A Yes, sir.

Q That is the one that you took to the bank? A Yes, sir.

Q It called for \$1182.00? A Yes, sir.

Q You had an experience in the bank in 1907 and they had given you less than the amount of the check? A Yes, sir.

Q Now, when you presented that check to the bank did you count the money that they gave you, did you or didn't you?

A Never in the bank I didn't count the money only that I

CASE # 1160

thought --

Q You did or did not. Did you count the money? A No, sir.

Q You didn't know when you started back to Mr. Schwartz place whether you had \$1182.00 or not, yes or no? A No, I didn't know it.

Q You didn't know it? A I only know what I saw the cashier gave me \$100.00, I counted it \$100.00, if he gave me \$500.00, I counted that \$500.00; I counted the bands.

Q You had confidence and when the cashier turned out a bundle marked \$500.00, you took that for \$500.00? A Yes, sir

Q Whatever the next bundle was for you took that?
A Yes, sir.

Q When you were in the bank you are sure that you put in the bag \$1182., didn't you? A Yes, sir.

Q Then you did count your money, didn't you, in a way you counted your money, didn't you? A (No answer)/

Q In a way you counted your money, didn't you? A Yes sir, in one way; I saw only on the band that it is \$500.00, yes, sir.

Q Now after that when you got into the office of your employer and Mrs. Schwartz was there you had certain paraphernalia, you had some things that I have seen here somewhere-- this box was on the desk was it? A yes, sir.

Q And an envelope box like that? (showing witness a box)

CASE # 1160

A Yes, sir.

Q With the names already on the envelopes? A The names and numbers.

Q The names and numbers? A Yes, sir.

Q And amounts? A No, sir.

Q Didn't you put the amounts on the envelopes? A No, sir.

Q Just the names and numbers? A Yes, sir; I saw here a sample of this envelope, I would like to see the sample and let it be showed to the jury.

Q You say the names and numbers were written on the envelopes but not the amounts? A (Witness illustrates).

Q Is that a pay envelope? A Yes, sir.

Q That is one of the envelopes? A Yes, sir; that is the envelope, here was the number of the employee on one line, and on the other was the name of the employee.

Q This looks like an advertisement? A Yes sir, we used to get these for nothing, and so we used these envelopes.

Q That is the kind of an envelope with a gummed edge that you used? A Yes, sir.

Q That is not one that you actually used, because it is not numbered. Where did you put the number and where did you put the name? A The first line was the number and the second line was the name.

Q What was there on the third line opposite that dollar sign? A I never marked down that.

Q There was a dollar sign made there? A I never used it.

Q It was on the envelope? A Yes, sir, it was on the envelope.

Q There was a dollar sign, a place to write the amount, was there or not? A I see now it is there.

Q You see now it is there? A Yes, sir.

The Court then admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure and took a recess until 2 O'Clock.

AFTERNOON SESSION

New York May 13th, 1910.

(TRIAL RESUMED)

MAX BLAUSTEIN (the defendant) resumes the stand.

CROSS EXAMINATION BY MR. MAYNARD (Continued)

Q Mr. Blaustein, at the time that you commenced to pay off the employees on February 9th, 1909, did you have on the list, -- I mean at the time that you put the money in the envelopes, did you have on the desk before you \$541. in checks? A The checks were signed but Mr. --

Q Well, did you have those checks? A Yes, by the morning was the checks over --

Q Well, can't you answer one thing at a time? Have you any question as to the amount of checks that you had that day? A Yes.

Q That was \$541.42 and they were on the table, were they? A Yes, sir.

Q And you had a bearer check for \$1182. A Yes.

Q And that money was on the table? A Yes, sir.

Q At the time that you started to put it in the envelopes? A Before we started.

Q Now that you have answered, haven't you? Now, when you finished up and put the last check in this box here was

CASE # 1160

there any money on the table or any checks on the table when you finished up? A No, sir.

Q Did you make that entry in the pay roll for February 5th "Louis Sivirski, \$61.97"? A Yes, sir.

Q At the time you made that entry did you know that that was \$10.00 more than the amount the man was to receive?

A Yes, sir.

MR. MAYNARD: That is all.

BY THE COURT:

Q You say, with reference to the Moscostelli's and Louis Sivirski, that for several weeks prior to February 5th, 1908 you entered in Peoples' Exhibit 1, the pay roll book the sum of \$10.00 a week more than what these men were actually entitled to? A Yes, sir.

Q And in making those entries you did so at the request of Mr. Schwartz? A Yes, sir.

Q Now for example, in book #49, will you find an item here equal to the entry in the pay roll book?

MR. MAYNARD: Out of this book? (Indicating)

THE COURT: Yes. Take December 11, 1908.

MR. MAYNARD: (Showing)

THE COURT: Is this December 11?

MR. MAYNARD: Yes.

Q (Continued) The item \$51667 is that in your handwriting, the numbers? A The 5 is not mine.

CASE # 1160

Q The 5 is not yours? A No.

MR. MAYNARD: November 27 is perhaps the one you are looking for.

THE COURT: November 27, 1908?

MR. MAYNARD: 11/27/'08-- at the bottom of the page, shows it.

Q November 27, 1908, showing witness Peoples' Exhibit 4, book 49, issued to Louis Moscatelli, is the item \$40.28 in your handwriting? A The 4 don't look like mine.

Q The 4 does not look like yours. How about the item \$42.67 November 20th, 1908? A That is not my handwriting.

MR. MAYNARD: Talk up loud.

Q The 4 is not your handwriting? A No.

MR. MAYNARD:, November 13th?

Q November 13th, \$40.93; is the 4 in your handwriting?

A I think it is not my handwriting, but I am not sure it is not.

BY MR. MAYNARD:

Q You are not sure about that? A No.

BY THE COURT:

Q How about November 6th, \$47.54; is that in your handwriting? A I think.

Q It is. Well now, if \$47.54 is in your handwriting under date of November 6th, 1908, then you would enter in your pay roll book \$10.00, more, would you not? A Well, I

don't know if this is -- how much there is on this here.

Q Well, is this the actual amount which Louis Moscoetelli was entitled to, according to your entry? A I think that is my handwriting, but I am not sure.

Q Well now, will you look in the item in the pay roll book of November 6th, 1908. What is the entry in that book? A \$47.54.

Q Well then why didn't you enter under that item \$10.00 more? A Well, what is this?

Q This \$47.54? A Well, here was not -- I say I am not sure whether the 4 was there before.

Q I understood you to say that was in your handwriting? A I think that is in my handwriting, but I am not sure, I told your Honor.

Q Well, you are familiar with your figures, are you not? A Well, 4 everybody can write -- If I can read something I can know my handwriting, but a number I am not sure.

Q As I understand, you entered in the pay roll book \$10. more than what Louis Moscoetelli' received? A Yes, sir.

Q Is that right? A Yes, sir.

Q And if the amount in Moscoetelli's book was \$47.54, you would enter in the pay roll book \$57.54, is that right?

A Well that is what I mean to explain.

Q Well now, the item \$39.01, is that in your handwriting under February 12th, 1909? A Well, I am not sure on this

P-5

work; the 3 I am not sure.

THE COURT: Let me see. The date of the indictment is February 5?

MR. MAYNARD: February 5.

THE COURT: You need not bother about that, Mr. Witness. Strike it out, it is a subsequent time.

Q The item \$31.81, is that in your handwriting, February 5th? A yes, sir.

Q Yes? A \$31.81 here?

Q Yes. What is the entry in the pay roll book? A Well, it looks like my handwriting.

Q And in this book you entered \$41.81, is that right?

A Yes, sir.

MR. WEINBERGER: Speak a little louder.

A (Repeated) Yes, the book is marked \$41.81.

Q But in the November items which I have shown to you, have you observed that the amounts in Louis Moscetelli's book corresponds to the entries made in the pay roll book for the month of November; that there is no increase of \$10.00 per week in the account? A I did not hear that.

Q Did you observe in the November 1908 account, and comparing it with the pay roll book, that there is no increase in the items; in other words the item \$41 -- the item \$37.54, \$47.54, in Moscetelli's book there is a duplicate entry in the pay roll book for \$47.54? A Well, I am not sure that

CASE #1160

was in this book, \$47, but I told your Honor I am not sure --

Q Well, did you ever ask Louis Moscetelli to give you his book on a Wednesday; that is the day you testified; you have not asked him that?

MR. MAYNARD: I have not asked him that.

Q (Continued) Did you ever ask Louis Moscetelli to give you his pay roll book on a Wednesday? A No, sir.

Q Did you hear him testify you asked him for the book? A Yes, sir.

Q You want this jury to understand you paid Louis Moscetelli whatever amount is represented in the book; is that right? A Always what amount was in it.

Q Did you hear Louis Moscetelli testify on February 5th 1908 he received only \$31.81? A Yes.

Q You heard him so testify? A Yes, sir.

THE COURT: Now with reference to the jewelers account, Mr. District Attorney?

MR. MAYNARD: I will put the jeweler on the stand. I have stopped my cross examination of this witness so we might conclude this case. I will put the jeweler on the stand.

MR. WEINBERGER: What is that remark?

MR. MAYNARD: I said I shortened this cross examination in order to conclude this case.

386
F)7

BY MR. MAYNARD:

Q You testified, Mr. Blaustein, in the year 1906 you made duplicate accounts, Schwartz's accounts, and these are the duplicate accounts? A Yes, sir.

Q Did those books remain in your possession? A Not when I was not working.

Q Now, were they in your possession? A When I was working.

Q When you went home at night they were not in your possession? Did anybody else use those books except you?

A The books were in the office.

Q Did anybody else use those books except you? A Well, I told you --

Q Can't you say yes or no? A Well, I say when I was --

Q Well, were they or were they not used by anybody else?

MR. WEINBERGER: If you know.

MR. MAYNARD: Of course he knows.

Q You made every entry in both those books? A Yes, sir.

Q Did anybody else use the books? A I don't know if somebody looks in the books or not.

Q Did you see others using the books? A I was not only in the office; I have some work in the place also.

Q Mr. Blaustein, you knew that Schwartz could not read

CASE # 1160

writing, didn't you? A Well I know that he --

Q You think he could? A No, I do not say that he could.

Q Then why don't you answer the question? Do you know whether he could read figures or not? A Figures he knows, figures.

Q You are sure of that? Could he make computations?

A No.

Q Could he add or subtract or multiply? A No.

Q You are sure of that? A Sure.

Q Absolutely sure? A Yes, sir.

Q And you didn't see him multiply 37 by 27 here on the stand, did you? A Yes, sir.

Q Those were the figures, weren't they; 999; you saw him do it alone? A Yes.

Q And you tell this jury the man cannot make computations.

A Not computations, but figuring.

Q Well, that was figuring? A Yes, sir.

Q The only thing he could write was his name, wasn't it?

A Well, I never tried him, to give him a lesson.

Q Now Mr. Blaustein, do you mean before this jury to start at that question? Could Mr. Schwartz write anything?

A Well, I never saw him write only his name.

Q Only his name? A That is all that I saw.

Q You paid his bills by checks that he signed his name

CASE # 1160

to? A Yes.

Q That is all? A That is all.

BY THE COURT:

Q Mr. Blaustein, you say in your writing, which you gave to Mr. Schwartz, translated into English that would read that you affirmed that you owe him \$450.00 and that you agreed to pay him -- A Weekly.

Q Weekly \$10.00? A Yes, sir.

Q \$10.00 per week? A Yes, sir.

Q You were earning at that time, how much money?

A From him?

Q How much were you earning a week, \$20.00? A Yes, sir.

Q And you agreed to pay him \$10.00 a week for this jewelry, is that right? A Yes.

Q Why did you use the language, you affirmed that you owe him money? Why didn't you write in this statement that you had purchased jewelry; that in consideration, or words to that effect, of having purchased jewelry, that you would pay him \$10.00 a week? A Well, if your Honor please, I did not find it necessary to write in this letter --

THE SIXTH JUROR:

A little louder.

A (Continued) Well, Jury --

THE SIXTH JUROR: We want to hear.

MR. MAYNARD: This is all for the jury.

CASE # 1160

A Well, I don't want to read it is for jewelry, and I don't think it is necessary to read it is for jewelry. He told me he will pay this and if I will pay him in weekly payments, so I do not think it was necessary to read in the letter for what these payments will be; otherwise I would read it is for jewelry. I did not find it necessary to read it it is for jewelry. I wrote only that I am owing him \$450.00, which I want to pay him in weekly payments.

BY THE COURT:

Q You had no money in the bank? A No, sir.

Q Could you have afforded then, to have taken from your salary of \$20.00 a week to pay for jewelry, \$10.00 a week?

A Well, I was working and my two sons was working there also and my daughter is working also. My daughter is working and my sons was working, by Mr. Schwartz, so I figured I was able to pay him \$10.00 until I can pay off \$450.00.

BY MR. MAYNARD:

Q Had you bought directly from Mr. Newirth jewelry?

A What is that?

Q Had you bought jewelry from Newirth before that?

A I?

Q Yes. A I bought?

Q Had you, yes or no. A Yes, sir.

Q How did you pay him? A Well, Mr. Schwartz paid him and this time also --

Q You did not pay for the jewelry direct? A I bought after the jewelry which I had to pay just now, but I gave him \$2.00 weekly.

Q Do you owe Newirth for jewelry now? A Yes, sir.

Q And you are paying him installments \$2.00 a week?

A Yes.

THE COURT: Is there any objection to giving a letter to the Sixth Juror?

MR. WEINBERGER; No.

MR. MAYNARD: No.

BY MR. MAYNARD:

Q Haven't you paid Newirth, the jeweler, weekly installments for a long time? A Yes, sir.

Q How many years? A Well, I bought it at that time.

Q How many years have you been paying weekly installments?

A Well I don't remember exactly the date . I have not got the book by me; I do not remember exactly the day I bought.

Q Have you got the book there? A That is what I say, I have not got the book by me.

BY THE COURT:

Q How much jewelry did you purchase from Mr. Newirth for which you paid \$2.00 weekly? A I bought for my sister a pair of earrings at \$135.00, so after my sister is married, so Mr. Newirth he is going to her house to colle ct the money, not to my house.

CASE # 1160

THE SIXTH JUROR: I cannot hear that.

A (Continued) I bought for my sister a pair of earrings, so at that time my sister was a girl and after she is married, so Mr. Newirth is going to her house to collect the money.

BY MR. MAXNARD:

Q Well, you gave your sister \$135.00 worth of jewelry, didn't you? A Yes, sir.

Q Did you buy \$125.00 worth of jewelry for someone else?

A Yes, sir.

Q Who did you buy that for? A That is for my son's frau.

Q Your son's bride; how much did you pay a week on that?

A \$2.00.

Q Did you buy any other piece of jewelry for \$150.00?

A Yes, sir.

Q What was that? A That was a bracelet.

Q Who did you buy it for? A For my wife.

Q Now how much did you pay a week on that? A That is the \$2.00 what I paid.

Q Well, you mean that the \$135.00, \$125.00 and the \$150.00 making \$410.00 was your account with Mr. Newirth; now, is that right? A Now, I want to explain it to you. The \$150.00 and the \$135.00, that is my account, and I paid for these two pieces, \$2.00 weekly.

BY THE COURT:

Q How? By check? A No, by cash.

392

Q By cash? A I have not any bank account.

Q Did Mr. Schwartz guarantee those payments? A Whether Mr. Schwartz told him something that he can trust me, but I don't know if he did.

BY MR. MAYNARD:

Q Mr. Schwartz did not pay any of that money? A Not of this jewelry.

Q He did not pay any of the \$135.00, did he? A No.

Q You paid all this yourself? A Yes, sir.

Q And paid this in weekly installments to Mr. Newirth himself? A Yes.

Q And you still owe him some money? A Yes, sir.

Q Do you know how much? A I did not figure how much it is; it will be about \$100.00 more.

Q Have you bought anything from him since December, 1908?

A From December 1908?

Q Have you bought a single thing from Newirth since December, 1908? A No.

Q You have not? A No.

Q Then from 1908 until the present time you have been paying weekly installments to him? A Yes, sir.

BY THE EIGHTH JUROR:

Q You bought from Mr. Newirth those two articles, one amounting to \$135.00 and the other --

MR. MAYNARD: \$125.00

CASE # 1160

Q (Continued) Both \$260.00, both on payments of only \$2.00 a week, and if you want to buy a scarf pin for \$450.00 under the agreement to pay \$10.00 a week how did you come to buy for \$450.00, \$10.00 a week and for \$260.00, \$2.00 a week?

A That was the agreement between us.

Q For \$450.00 you paid \$10.00, and \$260.00, two articles, \$2.00 a week? A Well, Mr. Schwartz -- this was paid already. Mr. Schwartz told me he will pay Mr. Newirth the whole amount.

BY THE COURT:

Q The whole amount in cash, he will pay? A In cash?

Q He would pay him the whole amount? Mr. Schwartz will pay to Mr. Newirth the whole amount? A I think so, he wants to pay the whole amount for cash. Mr. Schwartz told me that if I want to buy this piece of jewelry I can buy and I have to pay him \$10.00 a week. How he agreed with Mr. Newirth he didn't tell me whether he would pay cash or check.

BY THE EIGHTH JUROR:

Q You want to pay \$10.00 a week on a \$450.00 article to pay off Mr. Schwartz? A Yes, sir.

Q And you wanted to pay \$2.00 on a \$260.00 article a week and you could not pay him off at \$2.00 a week? You could not pay him that? A That was the agreement.

THE EIGHTH JUROR: That is what I want to understand. That is all.

BY THE COURT:

Q You still owe him the money? A I owe him \$80.00 or \$90.00. I don't know what.

Q How much did you owe at the time that you proposed to purchase the \$450.00 pin? A Well at that time --

Q Yes. A I don't remember how much the amount was then.

Q Well, you were paying installments then, weren't you? A Well, I will pay him sometimes \$3.00 and give him sometimes \$2.00. It is about six or seven months ago when I pay him only \$2.00 a week.

Q So if you had purchased that article you would have been obliged to pay the \$10.00 installment and then the installment on the other articles of jewelry? A Yes, but the other articles my son is married now, so he pays for that.

Q You remember your lawyer when he made his address to the jury, that he stated in his remarks to the Jury that the reason for making the entries in the book was that Mr. Schwartz wanted to receive higher prices for the workmanship on the goods, is that so? A Yes, sir.

Q Is that also one of the reasons? A I think so, that is one of the reasons.

Q You told the jury that because Mr. Schwartz told you that he owed Heidelberg, Wulf & Co. \$5000. or \$6000., that he did not want that concern to press him for the payment of

CASE # 1160

that money, so for that reason the books were padded; is that right? A In 1906 that was what Mr. Schwartz told me.

Q In 1906? A Yes, sir.

Q Now, how about 1908? A 1908 he told me that I should pad the pay roll on account of this, that he starts to work on a new line of work and he wanted better prices on this work and he spoke with Mr. Gettinger, the superintendent of the house and told him he should try to make a profit if he would be able to make it on this price, all right; if not, if he sees he cannot make it on this price, after he will give him a raise.

Q You did not have your books padded during the whole year of 1908? A No, sir, 1908 was only Mr. Newirth's \$30.00 weekly padded, from 1900, -- from February, 1908 until 1909 padded.

BY MR. MAYNARD:

Q That was not padded; that was money actually paid.

A Well I mean, but he was not employed there, that is what I call padded.

BY THE COURT:

Q Isn't it true he told you to put Newirth's name on the pay roll because it was an item which was paid weekly; wasn't that the reason? A Well, the reason was only to show that the pay roll is larger.

Q Well, didn't he tell you to put Newirth down because

CASE 1160

it was an item which he would have to pay weekly? A He did not tell me that.

Q He did not tell you that? A No.

Q What was the name of the bookkeeper who succeeded you?

A Before I was there?

Q No, after? A After me, I don't know.

Q Wasn't it one of the bookkeepers who worked for Wulf, Heidelberg & Co., or Heidelberg, Wulf & Co? A I don't know the name. There was a young lady there but I don't know the name.

Q What was the average balance that Mr. Schwartz carried in his bank in his business account? A Well, there is every week a check from the firm and we made a deposit of this check and sometimes --

Q How much would Heidelberg and Wulf advance him every week? A Well, not the same amount every week.

Q Well, approximately? A Well, between \$1500.00 and \$2000.00

RE-DIRECT EXAMINATION BY MR. WEINBERGER:

Q Do you know, Mr. Blaustein, whether the increase of the padding was always the same; was the padding always the same or did you have to go to Mr. Schwartz every week and ask him?

A Mr. Schwartz told me I should not start to make the pay roll before he told me how much.

CASE 22-1160

Q Before you started to make the pay roll he told you?

A He always told me by who to pad the pay roll and how much.

Q So it was not every week that Mr. Moscatelli's pay was padded?

THE COURT: What was that?

MR. WEINBERGER: So it was not every week that

Mr. Moscatelli's pay was padded

A Well, I don't remember if it was, but he told me before I would start to make the pay roll, he told me he will tell me how much more to pad the pay roll and by which employees to pad the pay roll and when he did not tell me nothing, so I did not mark nothing on the book.

Q Now, Mr. Blaustein, in whose possession were these books -- I withdraw that-- were these books in your possession on the 16th day of February, 1909? A No, sir.

Q You never had them in your possession? A No, sir.

Q Did you have any talk with Mr. Schwartz about an increase of salary for you?

MR. MAYNARD: I object to this as cumulative. This was all gone over yesterday.

THE COURT: Objection sustained.

Q Did you have any talk with Mr. Schwartz about salary?

A About salary?

Q About your salary, yes. A I think it was about the 9th of February, 8th or 9th, I told him, "Mr. Schwartz, I am

CASE 1160