START

1768

vol. I

CASE

0739

CASE #1768

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part IV.

2028 vol. I

The People	
vs.	Before: HON. T. C. T. CRAIN, J., and a Jury.
ABRAHAM BEBKIN	

New York, October 21st, 1913.

INDEX.

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Annie Jacobs.....	2	35	..	..
Adjournment.....(37)...	..	..	..	..

Adjourned to Wednesday Morning, October 22nd, 1913, at 10:30

Frank S. Beard,
Official Stenographer.

Hon. T. C. T. Crain

CASE #1768

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part IV.

The People vs. ABRAHAM BEBKIN	Before: HON. T. C. T. CRAIN, J., and a Jury.

New York, October 23rd, 1913.

Appearances:

ASSISTANT DISTRICT ATTORNEY W. H. L. EDWARDS, FOR THE PEOPLE.

MR. SARASOHN, FOR THE DEFENSE.

INDEX.

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Annie Jacobs.....	...	125	165	Complainant
Barney Brodsky.....	172	176	...	Young Mrs in 22 [illegible]
George Pichkoff.....	186	189	...	" ...
Etta Jacobs.....	192	194	...	[illegible]

Adjourned to Friday Morning, October twenty-third, 1913, at 10:30

Frank S. Beard,
Official Stenographer.

0732
CASE #1768

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York. Part IV.

The People	
vs.	Before: HON. T.C.T.CRAIN, J., and a Jury.
ABRAHAM BEBKIN	

New York, October 24th, 1913.

Appearances:

ASSISTANT DISTRICT ATTORNEY W. H. L. EDWARDS, FOR THE PEOPLE.

MR. SARASCHN, FOR THE DEFENSE.

INDEX

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Etta Jacobs	...	203	207	209
Abraham Jacobs	211	218	239	244
Sarah Jacobs	250	254	256	...
Abraham Jacobs	...	257	...	...
Annie Brown	259	...	...	...

Adjourned to Monday Afternoon, October twenty-seventh, 1913

Frank S. Beard,
Official Stenographer.

CASE #1768

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part IV.

The People

vs.

ABRAHAM BEBKIN

B e f o r e :
HON. T. C. T. CRAIN, J.,
and a Jury.

New York, October 27th, 1913.

A p p e a r a n c e s :

MR. EDWARDS, FOR THE PEOPLE.

MR. SARASOHN, FOR THE DEFENSE.

I N D E X

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Annie Brown	292	322	...	...
Patrick K. White	325	...	...	...
Joseph T. Sauder	327	329	...	...
Bella Diamond	329	331	...	...
Harry Smith	332	...	...	...
Frank J. Seuminsky	335	...	...	...
Marion M. Goldman	356	...	...	...
Yetta Mosher	358	359	363	...
Annie Brown	...	363	375	...

Adjourned to Tuesday Morning, October 28th, 1913, at 10:30.

Frank S. Beard,
Official Stenographer.

07314
CASE #1768

0735

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part IV.

The People

vs.

ABRAHAM BEBKIN

Before:
HON. T. C. T. CRAIN, J. and a Jury.

New York, October 28th, 1913.

Appearances:

MR. EDWARDS, FOR THE PEOPLE.

MR. SARASOHN, FOR THE DEFENSE.

INDEX.

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Morris Bebkin	385	397	413	413
Rebecca Berger	426	...	...	...
Imke Minkoff	436	437	...	...
Rebecca Berger (Recalled)	440	446	455	456
Mary Perritz	458	463	...	...
Meyer Rubin	469	472	...	...
Jacob Cohen	477	487	...	...

Adjourned to Wednesday Morning, October 29th, 1913, at 10:30.

Frank S. Beard,
Official Stenographer.

CASE #1768

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part IV. 2028 vol. II

The People	
vs.	Before: HON. T. C. T. CRAIN, J., and a Jury.
ABRAHAM BEBKIN	

New York, October 29th, 1913.

Appearances:

MR. EDWARDS, FOR THE PEOPLE.

MR. SARASOHN, FOR THE DEFENSE.

INDEX

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Harry Cohen. Cross	...	501	509	...
Barnett Fine. Dir.	510	511	518	518
Samuel Guttenstein. S. M.	519	523	535	536
Joseph Kurtz	538	540	...	...
Samuel Boschneck. Dir.	548	551	...	...
Zelig Melamed	554	566	573	...
Abraham Belkan	574	602	625	627
Morris Leff	628			

Adjourned to Thursday Morning, October 30th, 1913, at 10:30.

Frank S. Beard,
Official Stenographer.

Hon. T. C. T. Crain

1235

CASE #1768

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part IV.

The People

vs.

ABRAHAM BEBKIN

Before: HON. T. C. T. CRAIN, J. and a Jury.

New York, October 21st, etc., 1913.

Indicted for violation of Section 70, Subdivision 1 and Section 2460 of the Penal Law.

Indictment filed July 15th, 1913.

A p p e a r a n c e s :

ASSISTANT DISTRICT ATTORNEY W. H. L. EDWARDS, FOR THE PEOPLE.

A. H. SARASOHN, ESQ., FOR THE DEFENSE.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank S. Beard,
Official Stenographer.

0732
CASE #1768

(A jury was empanelled and sworn)

(Mr. Edwards opened the case for the People)

THE PEOPLE'S TESTIMONY.

A N N I E J A C O B S , a witness called on behalf of the People, being duly sworn, testified as follows:

MR. EDWARDS: I think we will need the Interpreter here.

THE COURT: Very well.

(The witness was examined through the Official Interpreter, Mr. Rosenthal).

DIRECT EXAMINATION BY MR. EDWARDS

Q Now, what is your name? A Annie Jacobs.

Q And where do you live? A 37 Rutgers Street.

Q Annie, how long have you been in this country?

MR. SARASOHN: One moment. I ask that all witnesses be excluded from this room, on either side, and, if Mrs. Goldman is to be a witness, I ask that she be excluded.

MR. EDWARDS: She is not to be a witness, so far as I now know.

MR. SARASOHN: Notwithstanding the ruling in her favor, letting her stay in the Court Room last time, she took the stand.

MR. EDWARDS: She took the stand only in rebuttal, last time, and, unless something occurs in this case that makes it necessary to call her, she will not be called, this time.

0737
CASE #1768

THE COURT: Unless something in the proceedings makes it necessary for you to remain in the room, I will ask you to step into the next room, Mrs. Goldman.

A One day after Yom Kippur of this year it was two years that I have been in this country.

BY MR. EDWARDS:

Q And when you came to this country, from what country did you come? A From Minsk, Russia.

Q And who came over with you? A My sister and a brother of mine.

Q Where were your father and mother then? A In America.

Q Do you know how old you were when you came to this country? A Yes, sir.

Q How old were you?

MR. SARASOHN: I object to that as incompetent and immaterial.

THE COURT: Allowed.

MR. SARASOHN: Exception.

A Under seventeen.

Q Now, do you remember when you met the defendant, Abe Bebkin? A I don't know the month.

Q Well, do you know about how long it was before he was arrested? A About this time, a year ago.

Q Now, here did you meet him first? A InLiberty Park,

0738
CASE #1768

9736

at a picnic.

Q And after that did you see him often? A Yes, sir.

Q Where did you see him? A I used to make a date with him, and meet him at the corner.

Q And did you ever go anywhere with him? A For a walk; that's all.

Q Did you ever go down to Coney Island with him? A Yes sir.

Q And who else went with you, if you remember? A I and my sister and a cousin of his, Jake, and my friend Lena.

Q Now, did he ever come to visit you at your house, at your home? A Yes, sir.

Q Now, during this time that you were meeting him often, what did he talk to you about? A He spoke to me about marrying him.

Q Well, what did he say about that? A The first time I was walking with him in Delancey Street, and my father met us, and he told me that he didn't like him.

Q Who told you that? A My father.

Q Yes. Well, tell me what, if anything, it was that the defendant said to you about marrying? A I liked him and he liked me, but my father didn't like him, and so he said, "Come away from the house and I will marry you."

Q That is what Abe said; is that what you mean? A Yes, sir.

CASE #1768

Q Well, what did you do after that? A What do you mean, after that?

Q Well, after he said, "Come away from home, and I'll marry you, what did you do? A I said, "How can I go away from home? I have my parents at home," and he said, "Come away, anyway."

Q Yes. Now, how long was that before you left home? A I can't tell you exactly whether it was two weeks or a month.

Q Now, did you keep on seeing Abe after your father told you he didn't like him?

MR. SARASOHN: Now, I object to that. I object to the District Attorney calling this boy "Abe". There is no such person as "Abe" in this case, or any evidence that she knows any such person.

MR. EDWARDS: I am referring to the defendant.

MR. SARASOHN: Well, he has evidently a name.

MR. EDWARDS: But she has called him "Abe" and I adopted the name that she called him.

BY THE COURT:

Q By what name did you know the defendant? A Abe.

THE COURT: Objection overruled.

MR. SARASOHN: Exception.

BY MR. EDWARDS:

Q (Question repeated by the stenographer) A Sure.

Q Now, do you recollect the last time you took a walk with Abe, the defendant Abe? A I don't remember what month

0719

CASE #1768

it was.

Q Do you remember what day of the week it was? A Friday night.

Q And who went with you? A My sister.

Q And which sister is that? A Sarah Jacobs.

Q And where did the defendant Abe take you on that walk? A Delancey Street.

Q And how long did your sister Sarah remain with you? A Until Half past nine o'clock.

Q And then what did the defendant say? A My sister said to me---

MR. SARASOHN: Now, pardon me, at this stage, we will object to this question, on the ground that it appears that this defendant, or this witness, talks of a Friday, but doesn't know the month and the indictment charges a certain day and a certain month---but I don't want to mention in her hearing, because she will then mention it---but I now object on the ground that it is entirely incompetent, unless she fixes the time.

THE COURT: I understand your objection. It is overruled.

MR. SARASOHN: Exception.

A My sister said, "Annie, it's half past nine o'clock. Come home. Father said we must come home at nine o'clock." And Abe said to my sister, "Sarah, go home, and I'll bring Annie home, later."

0741

CASE #1768

07412

BY MR. EDWARDS:

Q And did your sister then go home? A Yes.

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

THE COURT: Overruled.

MR. SARASOHN: Exception. Now, if your Honor please that's the particular time charged in the indictment, and I think we ought to know the month and the date of the month. She says it is a Friday, but she doesn't know the date of the month, or the month,

THE COURT: It is received, subject to connection.

BY MR. EDWARDS:

Q And after she had gone home, what did the defendant say to you? A He said to me, "Come with me." I didn't know where to.

MR. SARASOHN: Now, I move to strike that out, that she didn't know where to.

THE COURT: Yes, I will strike that out, "I didn't know where to."

MR.SARASOHN: And now, I ask that the witness be required to speak out loud. She is whispering to the Interpreter, and I understand her, and so do some of the jurors, and we ought to hear just what she says, because it goes to her credibility.

THE COURT: You want her to talk louder?

MR. SARASOHN: Yes, sir; Ido.

THE COURT: It is unnecessary to comment on it. You

CASE #1768

have but to make the request. I will instruct the witness to speak louder.

BY MR. EDWARDS:

Q Now, when he said that to you, what did you and he do? A He put me on a car and Iwent with him to Brownsville.

Q Had you ever been in Brownsville before? A No.

Q And can you give us any idea of about how long it took you to get there?

MR. SARASOHN: I ask the Court to instruct the witness to talk louder.

THE COURT: You must speak loudly, so that you can be heard by all the jurors, and by the lawyer for the defendant and by the defendant. Talk louder.

A I don't know whether it was half an hour or three quarters of an hour.

BY MR. EDWARDS:

Q And when you got to Brownsville, where did you go to? A Into a bed room.

Q And do you remember what floor of the house that was on, how many flights of stairs you had to go up? A On the first floor. I don't know how many stairs.

Q Well, when you say the first floor, do you mean on a level with the street or up one flight? A One stairs up.

Q What sort of a room was that? A There was one door, (Indicating) in one direction, and another in another direction,

0757
CASE #1768

where went nobody.

Q Now, did you have to go into the apartment to enter this room, or did you enter it from the hall of the building? A From the hall.

Q Can you tell us about how large that room was? A Not very large, a narrow room.

Q And what furniture was in it? A A table, two chairs and a bed.

Q Were there any windows? A One.

Q And whereabouts in the room was that? A He told me that his aunt was living there.

Q Whereabouts was this window in the room? A I don't know. I think it was towards the street.

Q Well, what I mean is this: You said you entered this room through a door from the hallway, ---as you came in that door, whereabouts was the window? A As soon as one entered the door, there was the window.

Q You mean that the window was right in front of you as you came in the door? X That is the way I understand you? A I don't know how the window was located there.

Q Where was this other doorway that you speak of, besides the one you speak of. A It was the other side. (Illustrating with the left hand to the left side).

Q How large was the bed in the room? A I didn't measure it; Idon't know.

CASE #1768

Q Well, was it a double or single bed? That's what I mean? A I don't know.

MR. SARASOHN: Might I suggest, in order to get the witness to talk louder, that the Interpreter don't bend down to her?

THE INTERPRETER: I can't hear her---she speaks so low---without doing so.

MR. SARASOHN: Then stand a little way from her.

BY MR. EDWARDS:

Q Well, can't you indicate with your hands, telling us about how wide the bed was? A I don't know.

Q Now, Annie, just try to think for a minute, and see if you can't tell us how wide the bed was? Was it as wide as that? (Illustrating) Or as wide as that? (Illustrating) Or that? (Illustrating) A Sure it was a narrow bed.

Q Now, how long did you remain in that room? A Three days.

Q What time of the day was it when you first went there? A It was Friday night.

Q And did you remain in that room all that night? A Yes, sir.

Q And how about the next day, Saturday? A Also on Saturday.

Q And did you sleep there on Saturday night? A Yes, sir.

Q And Sunday---did you remain there all day Sunday? A No,

0745
CASE #1768

not the whole day.

Q And did you go back there to sleep, on Sunday night? A Yes, sir.

Q And when did you leave there? A Monday, about nine o'clock in the morning.

Q Now, that first Friday night that you were there, who slept in that room with you? A I and Abe.

Q Did you both sleep in that same bed? A Yes, sir.

Q Now, what, if anything, did the defendant Abe say to you on that Friday night, in that room?

MR. SARASOHN: Talk loud.

MR. EDWARDS: May counsel address his remarks to the Court?

THE COURT: Speak loudly, witness, so that you can be heard.

A What was the question?

Q (Question repeated by the stenographer).

MR. SARASOHN: I ask the Court to instruct the witness to talk loud. I can't hear a word.

THE COURT: Now, sit around here, for a moment, witness. You understand what I say, do you not?

THE WITNESS: (No answer).

THE COURT: This is a large room, and it is hard for a witness to make himself or herself heard, because it is a large room. When you answer the next question, you talk so thatevery-

CASE #1768

body hears you. Do you understand that?

THE WITNESS: (No answer).

(The Interpreter repeats the Court's instruction).

THE FIFTH JUROR: Would it be right to request the witness to take off her hat, so that we can see how she looks?

THE COURT: You want her to take her hat off?

THE JUROR Yes, sir.

MR. SARASOHN: And I suggest that myself, because the question of her age may become very important.

THE COURT: Very well. Take your hat off. Now, Mr. Interpreter, tell her that I can tell whether she is speaking about as loudly as she can, and that I will not tell her again to speak loudly. And you tell her that she must obey me. Now, go ahead.

(The last question is repeated by the stenographer)

A He said, "Don't be afraid, I'll marry you. Give me this."

BY MR. EDWARDS:

Q. And is that all he said? A I said, "How shall I give it to you, and afterwards you wouldn't marry me?" And he said, "Don't be afraid, I'll marry you."

Q And after that, did you sleep with him that night? A Yes, sir.

Q And did you sleep with him each one of the three nights you remained in that room? A Yes, sir.

Q Now, you said something about not staying in that room

CASE #1768

all day on Sunday. Where did you go on Sunday? A We went to a moving picture show.

Q And did the defendant go with you? A Yes, sir.

Q And how long were you away from the room? A We went away early in the morning.

Q And when did you come back? A About eleven o'clock.

Q In the morning? A No, in the night.

Q And where did you spend that whole day with the defendant? A First we went to a restaurant and had a meal, and then it was about two o'clock, and we went to a moving picture show, and from two o'clock we were sitting there until about six o'clock, and then again we went to a restaurant and had another meal.

MR. SARACEN: I ask your Honor to instruct the witness to speak loudly.

MR. EDWARDS: I think she is doing the very best she can.

THE COURT: Now, counselor, I understand and appreciate the importance of your hearing what the witness says, and also the importance of the jury hearing. The witness is a young woman, and talks under a sense of embarrassment, possibly. I have to take that into consideration.

THE THIRD JUROR: May I ask a question, your Honor?

THE COURT: What is it?

THE JUROR: Do you think that it would be wise for

0748
CASE #1768

the Interpreter to stand over here, and talk to her? (Indicating the counsel table)

THE INTERPRETER: Well, I have difficulty, if your Honor please, in catching the answers, even here.

THE COURT: Well, you may try that, Mr. Interpreter, though I have grave doubt on the subject.

MR. EDWARDS: And I have had frequent conversations with this young girl, and I think I never heard her speak so loudly as she did in the last two or three answers.

BY MR. EDWARDS:

Q Now, go on. A Then, at half past---

THE INTERPRETER: If your Honor please, I can't hear the witness at this distance, I can't catch a word that she says. I will stand some distance from her, at her side, if I may return to my original position.

THE COURT: You may step back.

A (Answer continued) Then we went for a walk, I don't know in what streets, and it was eleven o'clock, and he took me back to the room, and then I slept there with him.

BY MR. EDWARDS:

Q Now, when you went out on that Sunday morning, did the defendant say anything to you before you started? A No. I asked him something.

Q And what did you ask him? A I said, "Abe, you told me you were going to marry me on Saturday." He said, "Yes This

6176
CASE #1768

Saturday I can't do it, but next Saturday I will marry you."

Q Now, duringthe time that you were in this room, how often did you go out? A Only once.

THE COURT: Pardon me a moment. Do you mean out of the house or out of the room, Mr. Edwards?

MR. EDWARDS: Out of the room. Make that clear, Mr. Interpreter.

THE WITNESS: You mean into the street?

BY MR. EDWARDS:

Q Yes, into the street. How many times? A Once.

Q And how often did you go out of the room when you didn't go out on to the street? A I didn't go out of the room at all.

Q And did the defendant Abe remain with you all the time? A Yes, sir.

Q Now, on Monday morning, at what time did you leave that room? A About nine o'clock in the morning.

Q Now, during all the time that you were there, did you see any one else besides the defendant? A Yes, sir; his brother.

Q And what day was it that you saw his brother? A I don't know.

Q Do you remember how long you had been there? A I think it was on the second day.

Q That would be Saturday? A Yes, sir.

0750

CASE #1768

Q And do you remember what time of the day it was his brother came to the room? A No, it was in the evening, in the night.

Q And did he come into the room where you were? A Yes, sir.

Q And which door did he enter by? The one from the hall or the other one? A From the hall.

Q And what, if anything, did the defendant Abe say to his brother at that time? A He told him to go downstairs and take some water from the stand, and from that time he didn't come back any more.

Q Now, did you ever---during the time that you were in that room---did you at any time see the other door opened? A No, sir.

Q Did you ever try that door to learn whether it was locked or not? A I saw it was locked.

Q Did you see any one else besides the defendant's brother and the defendant himself while you remained in that room? A I didn't see anybody. The aunt asked him, "What kind of a girl have you got in the room there?" And he said, "It is a friend of mine."

Q Did you hear the aunt ask him that? A No; he told me that.

Q Did you ask him anything about his aunt, and why you didn't see her? A I didn't ask him anything. He told me

0751
CASE #1768

that an aunt of his was living there.

Q Now, when you left there, on Monday morning, where did you and the defendant, Abe Bebkin, go to? A To Number 22 Mangin Street.

Q Now, during the time that you were with the defendant in this room in Brownsville, you have told us that you slept with himeach night? A Yes, sir.

Q Now, will you tell us what, if anything---whether or not he had sexual intercourse with you on those nights? A Sure.

Q Now, when did he have sexual intercourse with you the first time? On which night? A It was Friday.

Q The first night you got there? A Yes, sir.

Q Now, how many times in all, on those three nights, did he have sexual intercourse with you? A About two times.

Q Now, Annie, had you ever had sexual intercourse with any other man or boy before that time? A No, sir; no.

Q You are sure of that, are you, Annie? A I am sure.

Q Now, on this Monday morning, when you left Brownsville with the defendant Abe, where did you go? A 22 Mangin Street.

Q Where was that? Was that in Brooklyn or New York, Annie? A New York.

Q Had you ever been to that house before, Annie? A No, sir.

Q Now, was it in the morning or afternoon that you went there from Brownsville, with Abe? A In the morning.

07512

CASE #1768

Q And did Abe say anything to you about where he was taking you? A He didn't say anything. And I asked him, "Where do you take me to?" And he said, "To New York."

Q And to what number on Mangin Street did you go with him? A 22.

Q Now, to what floor in that building did he take you? A On the fifth floor.

Q And to whose rooms did you go to there? A Annie Brown's.

Q Had you ever seen Annie Brown before that time? A No, sir.

Q And what did the defendant Abe say to Annie when he took you into her rooms, to Annie Brown? A "This is my girl. This is for business." And Ididn't know what it was.

Q Now, tell us how long you stayed in Mangin Street, that day? A The whole day.

Q Was there any one else there besides Annie Brown and the defendant? A Another girl.

Q What was her name? A Annie.

Q Did you know what her last name was? A No.

Q Well now, after this defendant Abe had said what you have just repeated, to Annie Brown, what did he do next? A Then he went downstairs and he stayed away about two hours.

Q Then did he come back? A Then he went downstairs, and I asked Annie what kind of business was this---

0753

CASE #1768

THE COURT: No. I will not receive conversations with Annie Brown, in the absence of the defendant.

MR. EDWARDS: No, you can't tell us, Annie, what happened between you and Annie Brown, unless Abe Bebkin was there, and so don't tell us anything that occurred between you in his absence.

BY MR. EDWARDS:

Q Now, when did Abe Bebkin come back? A In the evening.

Q Now, what did he say to you about the kind of business he wanted you to do there? A I should take men.

Q And when did he say that to you first? A. When I came there for the first time.

Q Well, what did he say you should do with men? A He told me to go with them.

Q Well now, after he told you that, what did you say about it? A I says, "I don't want to go," and he said, "Go," and I didn't know anything about it. If I had known it was that, I wouldn't have gone with him.

THE COURT: I will strike that out, "If I had known it was that, I wouldn't have gone with him."

MR. SARACEN: I make that motion.

THE COURT: Yes, strike it out.

MR. EDWARDS: I consent, sir.

BY MR. EDWARDS:

0754

CASE #1768

Q Now, Annie, tell us what happened there on that day, at Annie Brown's, the first day you got there? A He took me there, and then he went downstairs, and then he sent up men.

MR. SARASOHN: Now, I ask that that be stricken out, unless she knows it, that he sent up men.

THE COURT: Yes, I will strike out, "And then he sent up men."

MR. EDWARDS: May I ask your Honor's permission to ask how she knows, before it is stricken out, because I think it will prove to be competent?

BY MR. EDWARDS:

Q How do you know that he sent them up, Annie?

MR. SARASOHN: I object, because she has been taught to say that he sent them up and the answer of course will come.

MR. EDWARDS: And I object to any such remark on the part of counsel, because I regard it as positively unwarranted and absolutely insulting.

THE COURT: I will hear her answer.

A Because a boy came up, and Annie Brown asked him where he came from, and---

MR. SARASOHN: We object to that, as not being in the presence of the defendant.

THE COURT: Mr. Edwards, in the light of the answer, I cannot receive it.

MR. EDWARDS: Very well, sir.

0755
CASE #1768

BY MR. EDWARDS:

Q Was that something that was said when Abe Bebkin was not there? A No, he wasn't there at the time.

THE COURT: Then that is out, gentlemen.

BY MR. EDWARDS:

Q Now, during that day while you were there, did you stay with any men? A Yes, sir.

Q How many, on that first day, if you remember?

MR. SARASOHN: If you wouldn't bend down, Mr. Interpreter, she would talk louder.

A With three.

BY MR. EDWARDS:

Q Now, Annie, did they pay you anything for that? A No, sir.

Q Did they pay any one for it? A They paid Annie Brown and Annie Brown gave it to him.

Q Who do you mean by him? A To Abe.

Q Did you see Annie Brown give it to him? A Yes, sir.

Q Did you see how much money it amounted to? A No.

BY THE FIFTH JUROR:

Q Did he give you any money? A No.

BY MR. EDWARDS:

Q Now when you said, Annie, that you stayed with these three men, do you mean that you had sexual intercourse with them? A Yes.

07.52

CASE #1768

Q Now, did the defendant spend that Monday night in Annie Brown's apartment with you, the first night you were in Annie Brown's apartment? A No.

Q Did he go away for that night? A Yes, sir.

Q Now, we will come down to Tuesday. On Tuesday did you see the defendant Abe? A Yes, sir.

Q MR. EDWARDS: Oh, just one moment. To go back.

BY MR. EDWARDS:

Q You say that Abe Bebkin came to Annie Brown's rooms again on Mondaynight, did he? A Yes, sir.

Q Did you have any talk with him, that evening? A He spoke with Annie Brown in the bed room.

Q Yes. Did he ask you any questions about what you had been doing that day, at all? A Nothing.

Q He didn't speak to you at all? A No.

Q Where were you when you saw him come in and go out?

A In the house.

Q I mean, in what room, Annie? A In the front room.

Q Now, wheredid you sleep, that Monday night? A With the other girl.

Q And where did Annie Brown sleep? A In the bed in the bed room.

Q And what room were you and the other girl sleeping in?

A In the front room.

Q Now, on Tuesday, Annie, did you see the defendant Abe

07517

CASE #1768

0758

Bebkin? A Sure.

Q Now, what time that morning did he come there to Annie Brown's? A I can't say what time.

Q Well, was it in the morning or afternoon? A Afternoon.

Q Before evening?

MR. SARASOHN: Pardon me. To get the record straight, all of this is taken subject to the objection that it is to be connected with the date mentioned in the indictment?

BY MR. EDWARDS:

Q (Question repeated) A Yes.

Q Now, what happened on Tuesday, Annie, when he came? A I started to talk to him, "Why did you take me to such a house, where I have to take men?" And he said, "It's all right, I am going to marry you." I told him, "I don't care to marry you now any more. I want to go home," and he said, "You can't go home."

Q Now, did you see any more men on Tuesday? A Yes, sir.

Q How many, if you recollect; Annie? A I can't remember how many.

Q Did you have sexual intercourse with each one? A Sure.

Q Did you see whether or not they paid any money to any one? A To Annie Brown.

CASE #1768

Q Did you see what Annie Brown did with that money? A Yes, sir.

Q What did she do with it? A She gave it to Abe.

Q When he came there that afternoon? A They were talking, and talking about how much was made.

Q Well, tell us what you heard the defendant and Annie Brown say to each other, when he came in, that afternoon? A I didn't hear.

Q Did you hear them have any talk at all? A Yes, sir.

Q Well, what was it? A They were talking about how much she had made, whether I wasn't ashamed to make money, that's all.

Q And did the defendant tell you how much---no, I withdraw that. Did you see how much money Annie gave the defendant? A No.

Q Did he tell you how much she gave him at any time? A I didn't ask him, and he didn't tell me.

Q Now, on that Tuesday night, did you sleep alone, or did you sleep with some one there in Annie Brown's flat? A Alone.

Q Did the defendant Abe stay in the flat, that Tuesday night? A No.

Q Now, on Wednesday, did you see the defendant Abe? A Yes, sir.

Q What time did he come? In the morning or afternoon?

CASE #1768

In the morning or afternoon, on that day? A About four or five o'clock in the afternoon.

Q And did you have any talkwith him, about that time? A I spoke to him about the same thing, and he said, "Don't be in a hurry, I am going to marry you on Saturday."

Q And did you see any more men on Wednesday? A The five days that I was there, men came up.

Q Every day? A Yes, sir.

Q Can you give us any idea of how many men came up during the five days, Annie? A It is a shame to say it.

Q Well, tell us about how many, Annie, if you know? A Sure, I know.

Q Well, tell us, Annie? A (No answer).

Q Come, Annie, tell us. I know it isn't pleasant, but get it over with quickly. A (No answer).

THE COURT: Is the precise number material?

MR. EDWARDS: Well, not particularly, but I would like to get the approximate number.

MR. SARASOHN: I submit she says she knows, and I think we ought toget that answer.

THE COURT: She may answer.

A I'll tell you soon.

MR. SARASOHN: She is counting it up.

MR. EDWARDS: Now, I object to counsel's comments.

THE COURT: Now, no comments, counselor.

CASE #1768

THE WITNESS: I needn't count. I know the exact number.

BY MR. EDWARDS:

Q Well, tell us, Annie? A (No answer).

Q Annie, Iwouldn't ask you that question if Ididn't think I had to. Now, please tell us. A (No answer).

Q Why, Annie, you have only got to tell us a number. Tell us and get through with it. A I am ashamed to say,to say the number of men.

Q Now, Annie, just give us the number, and it will be allover with. It will be a great deal easier than taking all this time to get it. Now, come, Annie, tell us. A (No answer).

Q If I ask you some other questions first, will you tell me afterwards? A Yes.

Q Allright. Now, Annie, did the defendant spend any night with you at Annie Brown's apartment?

MR. SARASOHN: Well, I will object to that. She says she knows exactly the number.

THE COURT: Well, that question is temporarily withdrawn, I take it, by the District Attorney.

MR. SARASOHN: Yes, but she has said that she knows.

THE COURT: The question is temporarily withdrawn.

A Two nights.

BY MR. EDWARDS:

0761

CASE #1768

Q And were those Thursday and Friday nights, do you remember? A Yes.

Q And with whom did he sleep on those nights? A With me.

Q And in what room? A In the kitchen.

Q Now, do you remember anything that happened on either of those two nights? A Yes.

Q Now, tell us what it was, Annie? A Friday night I slept with Abe in the kitchen. About eleven o'clock, men came up.

Q How many men? A Two.

Q Yes? A And I was sleeping with Abe.

Q Now, Annie, were those two of the men that you saw testify at the last trial?

MR. SARASOHN: I object to that, on the ground that about twenty or thirty men witnesses testified at the last trial, and there was no identification at all.

THE COURT: You might describe them a little more fully.

MR. EDWARDS: Well, I have tried a good many cases since then, and seen a great many men, and I can't describe them more particularly, and I think they will be recognized by the jury when they appear here as witnesses, if they do appear.

BY THE COURT:

Q Did the two men that you are speaking of appear as wit-

CASE #1768

nesses at the last trial? A Yes, sir.

BY MR. EDWARDS:

Q Now, Annie, when these two men came up, did they come into the kitchen? A Yes, sir.

Q And did you hear what they said? A Yes, sir.

Q Well, just tell us what it was? A They came in, and there was another girl, by the name of Annie, and when they saw me, they said they would like to go with me; they didn't want to go with her.

Q Yes. Where was the defendant when that was said, Abe? A With me, in bed.

Q Yes. Go on. A Then Abe said, "Go with the men, go with them in the bed room, and take a dollar." I didn't want to go, and he said, "Go", and I went, because I couldn't help it."

Q Did you go with each one of the men? A Yes, sir.

Q And did they pay you anything? A Yes, sir.

Q How much did each man pay you? A One dollar.

Q And what did you do with those two dollars? A I gave it to Annie Brown and Annie Brown gave it to him. I don't know how much.

Q Well, did you see Annie Brown give part of it to him? A Oh, yes.

Q Well now, the next morning, Saturday morning, did you see the defendant? What time did the defendant go out, that

CASE #1768

morning? A Saturday morning he said, "I'm going away, and, when I come back, I will go and marry you." And then he didn't come any more.

Q Well, now, what happened on Saturday? A On Saturday evening, about six o'clock, there was a woman there. She asked me where I lived. She took pity on me because---

THE COURT: I think I will exclude that.

MR. EDWARDS: Yes, sir.

BY MR. EDWARDS:

Q I don't want to know what any one said to you in the absence of the defendant, but I want to know when the policemen came, what time on Saturday? A She went to my father and said--

THE COURT: No. I will not receive that.

BY MR. EDWARDS:

Q No. Don't tell what this woman said at all, Annie, but just tell us what happened about the Policeman, on Saturday? A Two detectives came.

Q What time on Saturday was that? Was that Saturday evening? A About six o'clock.

Q Now, who came with the detectives? A My father and my two brothers.

Q And who was placed under arrest, Annie? A I, Annie Brown and the girl.

Q The other Annie? A Yes, sir.

Q And was there any man there at the time, who was placed

CASE #1768

under arrest, too? A One man.

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

Q How long were you kept locked up, Annie? A Three days.

Q And then where did you go? A With Mrs. Goldman, to the Waverley House.

Q And how long did you remain at the Waverley House? A Three months.

Q Now, how long was it after you were arrested in Annie Brown's apartments that you saw the defendant Abe again? A I don't know.

Q Was it after you came out of the Waverley House, after you left the Waverley House? A Yes, sir.

Q Where did you see him? A In Monroe Street.

Q Who was with him? A Another girl.

Q And did you say anything to him? A Yes, sir.

Q What did you say to him? A I said, "Come here, Abe, do you want to ruin that girl also?" And she said, "That's not your business. He's my fellow."

Q Well, what did he say? A "Go away, you bum."

Q And after that, when did you next see him?

THE COURT: Mr. Edwards, before we passon, I will just say that I am a little in doubt as to that last item of testimony; I am a little in doubt as to the propriety of receiving it. I will take it under advisement, the conversation,

9170
CASE #1768

what she said to the defendant.

MR. EDWARDS: And what he said to her?

MR. SARASOHN: Yes, it is apparently testimony manufactured by herself.

THE COURT: Well, I will not now say that it is not receivable, but I will take it under advisement.

MR. EDWARDS: I think your Honor will take it. Judge Foster took it in the other case.

THE COURT: Well, you may call my attention to it later, and I will pass upon it.

BY MR. EDWARDS:

Q Now, when did you see him again after that, Annie? A I don't know.

Q Well, you did see him again, didn't you? A No, sir.

Q Well, weren't you present when he was arrested? A I was in the restaurant.

Q Did you see the arrest, did you see him at the time that he was arrested? A Yes, sir.

Q Well, that's what I want you to tell me about, Annie. That was the next time you saw him. Now, where was he when he was arrested? A In Monroe Street.

Q And who was there? A I'll tell you the whole story.

Q Yes. Go ahead and tell me the whole story, Annie.

MR. SARASOHN: I will object to the whole story. I will ask that she simply answer questions.

0769
CASE #1798

0767

THE COURT: Well, Iwill hear what she is going to say.

A My sister saw Abe, and she told my Mamma---

MR. SARASOHN: I object to that.

THE COURT: No, I will strike that out. I will not receive it.

BY MR. EDWARDS:

Q Now, Annie, don't tell us what anybody said to anybody else. Just tell me what you saw happen at the time of the arrest of the defendant, Abe Bebkin? A I didn't see anything, because I was in the restaurant. Only my sister told me.

Q Oh, then we don't want that. Now, Annie, when you were in Russia, living in Minsk, did you go to school? A No, sir.

Q Did you ever go to school before you came to this country? A No.

Q And when you came over here first, did you go to school right away or did you go to work first? A I went to work.

Q Do you remember where you worked first? A In Madison Street.

Q Do you remember the number? A No.

Q Do you remember the name of the people you worked for? A The name of the boss was Joe.

Q And what kind of work were you doing? A Children's

CASE #1768

cloaks.

Q Now, when did you first begin to go to school, Annie; when was the first schooling you ever had? A When I was arrested, then I went to East Broadway, to the Educational Alliance, for half a year.

BY THE COURT:

Q Did your mother teach you how to read, or your father? A Here or at home?

Q Anywhere? A Yes, here in America my little brother, who went to school, used to show me how to read.

BY MR. EDWARDS:

Q And that was after you came to this country? A Yes, sir; in America.

Q And that was before you went to the Waverley House, was it? A Yes, sir.

Q And before you were arrested? A Yes, sir.

Q But the first time you ever went to regular school was when you went to Night School, after you left the Waverley House, wasn't it? A Not to the Night School.

Q Well, Day School? I thought it was Night School. A No, Day School.

Q Now, how many are there in your family, Annie? A I and my father and mother and another sister, and three brothers.

Q And are you the oldest girl, Annie? A Yes, sir.

Q And are you working now, Annie? A Yes, sir.

0768
CASE #1768

Q Where are you working now? A I'll show my card. Here is the boss's card.

Q Is that the name of the company you are working for? A Yes, sir.

Q The Crescent Dress Company, of 114-116 West 27th Street? A Yes, sir.

Q And how long have you been working for them? A Six weeks.

Q And what work are you doing for them? A Dresses.

Q And how much do you earn there, Annie? A Six dollars a week.

Q Now, Annie, just tell me how many men in all you had intercourse with, sexual intercourse, at Annie Brown's? A Twenty.

Q You help your mother at home with the housework? And the care of the other children, Annie?

MR. SARASOHN: I object to that, as immaterial.

THE COURT: I will allow it.

MR. SARASOHN: We except.

A Yes, sir.

Q MR.EDWARDS: That is all, for the present.

THE COURT: I think we will take an adjournment now.

MR. SARASOHN: May I ask just a few questions, and then we can take the adjournment? I don't want the jury to go away with the entire impression made by the direct examination.

0769
CASE #1768

THE COURT: You may proceed.

CROSS EXAMINATION BY MR. SARASOHN:

Q Annie, have you testified to the truth this afternoon; did you tell the truth? A Yes.

Q Were you examined as a witness in the case against Annie Brown? A Yes.

Q How long ago was that, about? A I don't remember the month, but I think about nine months ago.

Q And how long after you were arrested were you examined as a witness in the case of Annie Brown? A I don't know.

Q It was nine months before to-day; wasn't it? A Yes, sir.

Q When you were examined as a witness in the case of Annie Brown, did you tellthe truth? A Sure.

Q Were you asked this question, when you were examined as a witness in the case of Annie Brown, in describing what you did in the place in Brooklyn, when you were a witness in the trial of Annie Brown, nine months ago, was this question placed to you, and did you make this answer:

"Q With whom did Abe Bebkin stop in that house? A He told me he was stopping at the house of an aunt of his."

A I said it here, too.

Q Well, but did you say so at the trial of Annie Brown?

A Yes.

Q Was the next question placed to you, and did you make

9170

CASE #1768

the following answer:

"Q At the house of that aunt, the two or three days you were with him, did you go out in the street? A No."

Was this question and answer put to you? Did you give such testimony in the Annie Brown case? A I can't remember.

Q Was this question placed to you, while you were a witness in the case of Annie Brown, "Q And, during the three days that you were there with Bebkin, how many times was Bebkin away from that room, how many times during that three days was he away? A He didn't go away. He used to go down and bring something to eat to my room." Did you so testify in the case of Annie Brown? A Yes, that's right.

Q Now, did you, in that trial of Annie Brown, or in the first trial of this case, before Judge Foster, ever say anything about your going out on Sunday with Bebkin to that moving picture show, and being out with him all day? A I don't know. I can't remember.

Q Is your memory better, to-day, as to what occurred in Brooklyn, than your memory was in August, when you swore before Judge Foster? A The same thing what I said before, I am saying now.

Q I am not asking you that.

MR. SARASOHN: She's dodging now.

MR. EDWARDS: I object to the comment of counsel.

THE COURT: Do you claim that it is not responsive?

CASE #1768

MR. SARASOHN: Yes.

THE COURT: And do you ask to have it stricken out?

MR. SARASOHN: Yes.

THE COURT: Strike it out.

BY MR. SARASOHN:

Q Annie, is your memory better to-day than it was in August, before Judge Foster? A I have the same mind now, and I am saying what I said before.

Q You say that your memory is the same as it was on the day that you testified before Judge Foster? A I don't know what it was at that time. I only know what it is at the present time.

THE COURT: Mr. Sarasohn, we will take an adjournment now.

MR. SARASOHN: All right, sir.

(The Court then admonished the Jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Wednesday Morning, October 22nd, 1913, at 10:30 o'clock).

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07712

CASE #1768

TRIAL RESUMED.

New York, October 22nd, 1913.

A N N I E J A C O B S , being examined through the same official interpreter, and her cross examination being continued, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. SARASOHN:

Q How long ago is it that you testified in the case against Annie Brown? A About a year, I think.

Q Is your memory any better to-day as to the facts that occurred in Brooklyn, one year later, than it was when you testified in the case against Annie Brown? A The same thing. What I know, Iam saying.

Q You now testify that you have given your testimony, yesterday, the same testimony that you gave in the case of Annie Brown? A I don't remember what I said in the trial against Annie Brown, but I know what I said yesterday.

Q Well, since you don't remember what you said in the trial against Annie Brown, over a year ago, how is that you claim to remember the things that occurred in Brownsville, in the Brownsville house, months before that?

MR. EDWARDS: I object to that.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

0713
CASE #1768

Q Well, do you say that you remember the occurrences that took place in the house at Brownsville that the defendant took you to? A Sure.

Q That you do remember? A Yes, sir.

Q But that which you testified in the trial of Annie Brown, a year ago, do you remember that? A Yes, sir.

Q Now, since you can remember it, at the trial of Annie Brown, when you were called as a witness, was this question placed to you:

"Q At the house of an aunt, the two or three days that you were with him, did you go out in the street? A No." Was this question put and this answer given by you?

MR. EDWARDS: Now, I call your Honor's attention to the fact that the identical question was asked, yesterday afternoon, as appears on page 36 of the minutes, and I object to it on the ground that it is sheer repetition, and that the question was then answered in full.

THE COURT: I think that is so, Counselor. I think you asked the precise question.

MR. SARASOHN: No, she got out of it, yesterday, by saying that she didn't remember what she testified.

MR. EDWARDS: Now, I object to the criticism of the witness in that statement of the Court, and I submit that he should be cautioned to make his objections and arguments properly.

0774
CASE #1768

9170

THE COURT: Well, I will allow the question to be put again.

(Question repeated by the stenographer)

A I don't know.

BY MR. SARASOHN:

Q That is, you don't know, or you don't remember? A I can't remember.

Q Well, which is the truth, that during those three days you were kept locked into the Brownsville room, or that you went out?

MR. EDWARDS: I object to that, as assuming facts in the question of which there is no proof.

THE COURT: Objection sustained.

MR. SARASOHN: We except.

THE COURT: I call your attention to the evidence, Counselor, as I recollect it, that there was no such testimony in the case that she was kept locked in the room.

MR. SARASOHN: Yesterday there wasn't, but, in the previous trial there was.

THE COURT: There is no testimony in this case, as it now stands, that she was kept locked in the room.

MR. SARASOHN: Of course not, because she has changed it for this trial. And am I not to be allowed to prove that she testified differently in the previous trial? I will show that in almost every fact she testified to, yesterday, she tes-

CASE #1768

tified to yesterday, she testified to differently then.

MR. EDWARDS: I protest against any such statement of counsel, as absolutely unfounded.

THE COURT: Yes, your remarks are objectionable, Counselor.

BY MR. SARASOHN:

Q Was this question put to you, and this answer made by you?

"Q And, during the three days that you were there with Bebkin, how many times was Bebkin away from that room? How many times during the three days was he away? A He didn't go away, he used to go down and bring up something to eat in my room?"

A That's right.

Q Then, if he didn't go away from the house, and he only used to come up and bring something to eat, how do you reconcile it with your testimony, yesterday, that, on Sunday, you went out to a moving picture place?

MR. EDWARDS: I object to that as argumentative. That is a matter of argument for the jury.

THE COURT: I think it is argumentative. However, you may start by asking, "How do you reconcile your testimony?"

BY MR. SARASOHN:

Q Well, how do you reconcile this statement of yours with your testimony of yesterday, that you went out to the moving

0717
CASE #1768

picture place, on Sunday, and were out all day Sunday?

MR. EDWARDS: I object to that, also, as argumentative.

THE COURT: I will allow it.

THE WITNESS: Yes, without me, he didn't go anywhere.

BY MR. SARASOHN:

Q Did you, in your testimony in the case of the People vs. Brown, over a year ago, did you mention anything about going out with him, that Sunday? A I can't remember.

Q Now, do you remember being examined as a witness at the first trial of this defendant, before Judge Foster, in the month of August of this year? A I don't remember the month, but I remember the trial.

Q It was a few months ago, was it not? A Yes, sir.

Q In the testimony given, a few months ago, did you ever mention anything about your going out on Sunday to the moving picture show?

MR. EDWARDS: That is objected to, as improper in form.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Did you state anything in your testimony given a few months ago, at the trial before Judge Foster, about your having been out with Bebkin on that Sunday?

CASE #1768

MR. EDWARDS: I object to that.

THE COURT: I think I will receive it as testing her recollection, and for no other purpose.

A I was not asked such a question, and I didn't say anything about it.

BY MR. SARASOHN:

Q At the trial in the case against Annie Brown, was this question put to you:

"Q Did you at any time try to leave that room during the three days?"

To which you answered:

"A Yes, I wanted to."?

A No, I didn't say that.

THE COURT: Now, you did not quite put that question, Mr. Interpreter. You asked her whether she had tried to go out, and she answered that she had, whereas her answer there, as given, was that she wanted to go out.

THE INTERPRETER: Her words meant "Attempted to", tried to go out.

MR. EDWARDS: No, "Wanted to go out". That was the answer as read by counsel.

(The question is repeated by the stenographer).

A Yes, I wanted to, but I couldn't.

MR. SARASOHN: All right; that's an answer.

BY MR. SARASOHN:

9778

CASE #1768

Q Now, a minute ago when I asked you if, a few months ago, at the trial before Judge Foster, you told anything about that Sunday going out, you said you didn't, because you weren't asked. Now, Iwill ask you whether you were asked at that trial this question:

"Q Where were you during those three days? A In a bed room.

"Q Were you locked in? A Yes."

Did you give this testimony, only three months ago, before Judge Foster? A Yes, I said it.

Q Well, if you were locked in for three days in a bed room, how could you have gone out, that Sunday, to a moving picture show?

MR. EDWARDS: I object to that as argumentative.

THE COURT: Sustained.

MR. SARASOHN: We take an exception.

BY MR. SARASOHN:

Q How do you reconcile this testimony, then, with your testimony given yesterday, that you walked out all day with him, on Sunday, and were to a moving picture show?

MR. EDWARDS: The same objection.

THE COURT: Overruled.

A I wasn't asked such a question before, and I didn't answer it.

BY MR. SARASOHN:

0219
CASE #1768

Q Well, were you asked this question before Judge Foster:

"Q Where were you during those three days?" And you answered, "In a bed room." And you were asked this: "Were you locked in?" And you answered, "Yes."? A Sure I was locked in.

Q But, if you were locked in, how do you reconcile that with your testimony, yesterday, that you went with Bebkin to a moving picture show?

MR. EDWARDS: I object to that as argumentative.

THE COURT: I will allow it.

A Sure I was.

MR. SARASOHN: I will ask that this answer be stricken out as not responsive, and that the question be repeated.

THE COURT: I will strike it out. The question may be repeated.

(The question is repeated by the stenographer).

A I don't understand what you mean.

BY MR. SARASOHN:

Q Well, at the trial, lessthan three months ago, before Judge Foster, was this question placed to you and did you make this answer:

"Q Do you tell us now that he kept you a prisoner during these three days? A Positively." Did you give that testimony, less than three months ago? A Sure.

0780

CASE #1768

Q Well, did he keep you for three days locked in that room in Brownsville? A No, sir; two days.

Q But, if he kept you for two days, how is it you testified---did you testify truthfully before Judge Foster, when you answered that he kept you a prisoner during three days?

MR. EDWARDS: Now, I object to that in that form, if the Court please.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q At the trial before Judge Foster, was this question put to you:

"Q How did you live during those three days? A Well, he used to bring up food." Did you make such answer? A Yes, sir.

Q Did you say anything---cross that out. Was that true? A Yes, sir.

Q Well, how do you reconcile, if you testified before Judge Foster that he used to bring food up in the room for three days, that you went around on Sunday to the moving pictures and a restaurant?

MR. EDWARDS: I object to that.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

0781
CASE #1768

Q Now, please explain, if you can, the testimony that you gave before Judge Foster, that positively he kept you a prisoner during these three days, and your testimony, yesterday, that, for one day, you went out to the moving picture place and to restaurants?

MR. EDWARDS: I object to that.

THE COURT: Sustained.

MR. SARASOHN: I except.

BY MR. SARASOHN:

Q Was this question placed to you in the trial before Judge Foster:

"Q Was Bebkin away during these three days? A He used to go out; locked the door and come back again. " A Yes, sir.

Q Did you make this answer? A Yes, sir.

Q Was that the truth? A Yes, sir.

Q Well, explain to this jury if, during these three days Bebkin used to go out and lock the door and come back again, how were you able to go to the moving pictures and to restaurants? A Well, he opened the door, and he called me to go with him. He didn't go out and lock the door and stay away. He went out and brought me something to eat, very soon after he went out.

Q Was this question put to you in the trial before Judge Foster, less than three months ago? "Q And the door was

CASE #1768

open, wasn't it? You could go out in the hallway and on the street, couldn't you? A No, when the door is opened, I'm going home."

Was that question put to you and did you make that answer? A Sure.

Q Well, what do you mean by that, "Sure"? I want to know just what happened. A Yes, I was asked such a question, and I answered that, if the door had been open, I would have gone home.

Q You now want to testify that you were locked in for two days, but, on Sunday, he took you out to the moving pictures and the restaurant, and you came back in the evening?

MR. EDWARDS: I object to that question, as bad in form.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q When I asked you, a few minutes ago, if you said anything about going out to the moving picture show and the restaurant, in the trial before Judge Foster, and you said you were not asked about it, when these questions that I have asked you, read to you, were put, weren't you asked about these very three days?

MR. EDWARDS: I object to that.

THE COURT: Sustained.

MR. SARASOHN: Exception.

CASE #1768

0716

BY MR. SARASOHN:

Q Did you want to go home? A Yes, sir.

Q Well, why is it, when you say, on Sunday, he took you out to the moving pictures, why didn't you go home? A I was green, and I didn't know where to turn and I didn't know where to go.

Q When you were on the streets did you see people? A Yes, sir; Isaw people there, but I didn't know to whom to apply, and I was afraid.

Q Pardon me, you say you were afraid. Were there any chains on you?

MR. EDWARDS: I object to that as frivolous.

THE COURT: I will let her answer.

MR. EDWARDS: Did your Honor get the language of the question? He asked her if she had any chains on her, and I submit that is too ridiculous a question to be permitted.

THE COURT: Well, there are various kinds of chains, for instance, watch chains, and other chains.

MR. EDWARDS: Well, I submit that he should specify what he means.

MR. SARASOHN: Well, from the attitude of the District Attorney, I am surprised. I thought we weren't in Russia, where a Jew is now being persecuted for ritual murder there, and the prosecution there will not give him a chance, and this prosecutor even beats the prosecutor over in Russia.

CASE #1768

MR. EDWARDS: Does your Honor think I am here to submit to that sort of statement?

THE COURT: The District Attorney may very well resent a statement of that kind. The Court certainly does. It is not a proper statement from you. Now, your question to this witness was on the very borderline, and I entertained a grave doubt as to the propriety of it, but, in order that I might not seemingly lean one way or the other, I concluded that I would let the question be put, and I will let the witnessanswer it.

(Question repeated by the stenographer).

MR. SARASOHN: Now, give her answer, the way she gives it. I want the jury to measure her intelligence.

A Was it necessary even to have chains on me?

BY MR. SARASOHN:

Q In the street, where you were going out with Bebkin, didn't you see people who looked like Jewish people? A Yes, sure.

Q Well, why didn't you tell those people, "Here, I want to go away. I live in Rutgers Street in New York. I live with my father and I want to go back?" A I didn't know to whom I should apply, and I didn't say anything.

Q In the moving picture place, did you see men, women and children? A I wasn't there alone.

Q You were there with Bebkin? A Yes, sir.

Q Did you at the same place see men, women and children?

CASE #1768

A Yes, sir.

Q Did you hear them talk among themselves? A They were talking, but I had no business to listen to their talk.

Q Well, in that conversation, didn't you hear some of them talking the Jewish language, the same language that you talked? A No.

Q Have you ever, either ten months ago in the trial of Annie Brown, or three months ago, in the trial before Judge Foster, have you ever said one word about that Sunday going out?

MR. EDWARDS: That is objected to.

THE COURT: Sustained.

MR. SARASOHN: We except.

THE COURT: You see, ordinarily, Mr. Sarasohn, that what a witness says on the stand is responsive to questions that are put. You may, therefore, interrogate the witness as to whether a certain question was asked, and a certain answer given.

MR. SARASOHN: But, if your Honor please, to show an inconsistent statement or an inconsistent attitude by a witness, which she takes at this trial, to another trial, may I not ask her if she didn't say that, because it is practically the same effect. The object of showing that the witness has made inconsistent statements, or acted inconsistently is to show the credibility of the witness.

0782
CASE #1768

0787

THE COURT: I have ruled on it, Mr. Sarasohn.

MR. SARASOHN: Does your Honor adhere to your ruling?

THE COURT: Yes.

MR. SARASOHN: We respectfully except.

BY MR. SARASOHN:

Q Since you were a witness in the trial before Judge Foster, have you compared it with your testimony in this case?

MR. EDWARDS: Now, may I ask the counsel to state what he means by that, so that it may be clear to the witness? I don't understand it.

THE COURT: Yes, I think I will, Mr. Sarasohn. She may not understand that.

MR. SARASOHN: All right, I will change the question.

BY MR. SARASOHN:

Q Since you have been a witness in the case before Mr. Justice Foster, have you, last week, spoken to Mr. Edwards about your testimony to-day? A I didn't see him until the present trial; no, sir.

Q Were you in his room about a week ago? A No.

Q Were you in any room in this building about a week ago? A No.

Q How many times have you come here with Mrs. Goldman, during the past month? A Twice or three times; I think three times.

Q Three times, besides to-day? A To-day I came with

CASE #1768

my father.

Q Before to-day, though, you came three times with Mrs. Goldman; is that correct? A Yes, sir.

Q And during those three times, did you talk with Mrs. Goldman about this case? A No.

Q Did Mrs. Goldman point out some of the funny things that you said before Judge Foster and tellyou at this trial how to act? A No.

Q Not a word? A No. I know myself.

Q Well, we'll see about that. When you were asked---

MR. EDWARDS: I object to counsel's comments.

THE COURT: Yes, make no comments at all, counselor.

BY MR. SARASOHN:

Q When you were asked, yesterday, with how many men you were with, those five days, you hesitated, you couldn't tell it at once. It took you about five minutes before you could tell that it was with twenty men; is that so? A Yes.

Q Well, now, at the trial of Annie Brown, over ten months ago, it didn't take you even a minute to tell exactly how many men you were with?

MR. EDWARDS: I object to that as a statement and not a question.

BY MR. SARASOHN:

Q Did you?

MR. EDWARDS: I object.

07818

CASE #1768

THE COURT: No, with the addition to it, I will allowmit.

A I didn't say it right away. I also waited until I gave the answer.

BY MR. SARASOHN:

Q Was this question placed to you in the case of Annie Brown:

"Q During those five days, how many men visited you?"

And you answered:

"A About twenty."

Didn't you make that answer in Annie Brown's case? Without any hesitation?

MR. EDWARDS: And I object to the question, because the statement of counsel is that there was hesitation, or intimates that there was, and the record doesn't show that. There is no evidence to show that they didn't have to wait for the answer perhaps for half an hour, there is no indication in the record.

THE COURT: I will allow the question.

MR. EDWARDS: Now, I want to have the record show that my objection is not to the question, but my objection is to the way the question was put, the statement made by counsel preceding it; and I think that it should appear on this record that there was nothing in the Annie Brown record, which counsel holds in his hand and which Ihold in my hand, that there is nothing to

0786
CASE #1768

indicate that there was any hesitation on the part of the witness, in answering the question.

MR. SARASOHN: And that's just what I claim, but she hesitated yesterday.

THE COURT: Now, it appears to be conceded on both sides that the record in the case of the People vs. Annie Brown contains nothing, of itself, indicating hesitation on the part of this witness in answering the question referred to. Is that so?

MR. EDWARDS: Or absence of hesitation, either.

THE COURT: Yes, or absence.

BY MR. SARASOHN:

Q Now, you were asked by me, in the trial before Judge Foster, less than three months ago, with how many men you were those five days, and did you hesitate that time, and tell me about twenty?

MR. EDWARDS: Now, I object to that question on the ground that the question and answer are not read, and counsel has the minutes.

MR. SARASOHN: That's not a proper objection, I say to your Honor.

THE COURT: Well, that is for the Court, and not you.

MR. SARASOHN: But it isn't necessary to have the minutes. It is only a matter of convenience. Any one who was present at the trial may testify.

0769
CASE #1768

THE COURT: Well, I will rule with you. I may say, Mr. Edwards, that I thought the law was precisely as you stated, but I remember that, last summer, I came across a case in which it was held, and I recall it, to be erroneous not to permit the examination.

MR. EDWARDS: Well, my understanding of the law was where counsel didn't have the minutes, he could go into it in the other manner, but, when he had the minutes, it was better form and practice to read the question and answer.

THE COURT: Yes, I think it is better form, but not compulsory. The case, as I recollect, was one in the Second Department. Now, go ahead, counselor.

MR. SARASOHN: And I took a case to the Appellate Division, some years ago, and I showed it to Judge Rosalsky, on that point.

THE COURT: Well, I have ruled with you, counselor. Go on.

(The question is repeated by the stenographer).

A. I didn't answer immediately. I also waited for a while before I answered.

BY MR. SARASOHN:

Q And you tell me that in my face?

MR. EDWARDS: I object to that.

THE COURT: Sustained.

BY MR. SARASOHN:

0791
CASE #1768

Q Yesterday, one of the jurors asked you a question, if you got any money from any of these men, to which you answered that you didn't. Is that so? A Yes.

Q That is as true as everything else that you have said?

MR. EDWARDS: That is objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Now, at the trial before Judge Foster, less than three months ago, was this question placed to you:

"Q And did they pay you? A Yes.

"Q How much? A A dollar a piece."

MR. EDWARDS: Now, I object to that question, because, knowing the record as I do, and having it in my hand, I see the unfairness of it, which lies in this fact---

MR. SARASOHN: Now, I object to that statement. That's an unfair statement. I am entitled to my question.

THE COURT: Now, pardon me. I only suggest to you, Mr. Edwards, before you put your objection on the record that possibly the ground that you desire to cover may be covered on re-direct.

MR. SARASOHN: Yes, on re-direct he can cover it.

MR. EDWARDS: But I think that it is one of the duties of the Court and the Prosecutor to protect the witness from trick questions. Now, he has asked a general question, if she so testified with respect to anything. Now, these questions were---

CASE #1768

MR. SARASOHN: Now, I object to that statement as a trick, because it gives the witness an opportunity to crawl out. I think that her testimony should be weighed like any other witness, and she should be cross examined like any other witness.

THE COURT: Now, pardon me. We will not indulge in language of that character. Mr. Edwards, I will hear you privately, in Mr. Sarasohn's presence, as to that matter.

(THE COURT THEN CONFERRED WITH COUNSEL ON BOTH SIDES)

THE COURT: Now, my attention is called to a circumstance which I have verified from an examination of the record. My attention has been called to the fact that the question before the last one put by counsel to the witness, accidentally proceeds from a misconception of what the testimony was; and, on the examination of the record, I have ascertained that the question of the juror, yesterday, related to money paid to the witness by the defendant.

MR. EDWARDS: Yes, sir; the Fifth Juror asked the question.

THE COURT: And, in the light of that circumstance, inasmuch as the purpose of the last question is to ascertain whether or not there has been a contradiction, the objection is sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

CASE #1768

Q Was this question placed to you yesterday afternoon, by Mr. Edwards:

"Q Now, Annie, did they pay you anything for that? A No, sir.

"Q -Did they pay any one for it? A They paid Annie Brown, and Annie Brown gave it to him."

Did you so testify here yesterday afternoon? A Yes, sir.

Q Now, I ask you if, in the trial before Judge Foster, less than three months ago, you made this answer to this question:

"Q And did they pay you? A Yes, sir.

"Q How much? A A dollar a piece."?

MR. EDWARDS: Now, I ask that it may be made to appear who was referred to in those questions, that he refers to now.

THE COURT: Yes, I think that is very proper.

BY MR. SARASOHN:

Q Now, when you were a witness before Judge Foster, were these questions placed to you---

MR. EDWARDS: Now, I submit that counsel should read what precedes that testimony, if he is going to refer to it.

MR. SARASOHN: And I protest against these constant interruptions, and these objections to my questions, which are perfectly proper. He prevents me in this way from cross examining the witness.

THE COURT: Mr. Sarasohn, will you please put a ques-

CASE #1768

tion to the witness? Put a question to the witness, and, if I think it is proper, I will allow it, if it is objected to. And, if I think the objection is well taken, I will sustain it. Now, proceed.

BY MR. SARASOHN:

Q At page 39, was this question placed to you:

"Q What was the fact? A Men used to come in. I used to go with them to the bed room, and, after we were through, they used to give me the money. I gave it to Annie Brown and she gave it to Bebkin." Did you so testify, less than three months ago, before Judge Foster?

MR. EDWARDS: And may I be permitted, if your Honor please, at this time, to know whether counsel has withdrawn the last question or not?

THE COURT: I consider it withdrawn.

MR. EDWARDS: If the record so shows, then I have no objection.

THE COURT: And she may answer this question.

A No, I didn't say that.

MR. SARASOHN: Will the District Attorney now concede that I am reading from the minutes of the trial before Judge Foster, and that such testimony is of record?

MR. EDWARDS: I will, if you will read the question before this, that explains this question, and which I will read on re-direct examination, if you don't see fit to read it.

CASE #1768

MR. SARASOHN: I will read it all then.

BY MR. SARASOHN:

Q Was this question put to you in the trial before Judge Foster:

"Q You stated, in answer to the District Attorney, today, that every man that stayed with you gave you a dollar, and that you gave that to Annie Brown, and that Annie Brown gave it to Bebkin. Is that the truth? A I didn't say that.

"Q What was the fact? A Men used to come in/ I used to go with them to the bed room, and, after we were through, they used to give me the money. I gave it to Annie Brown and she gave it to Bebkin."

MR. SARASOHN: Now, I have read it all, and I'll go on.

BY MR. SARASOHN:

Q Was the following question put to you in the trial before Judge Foster:

"Q How much money did they men give you? A A dollar, fifty cents."

Was that question put to you by me in the trial before Judge Foster, less thanthree months ago, and did you make that answer? A I didn't see any money at all. They gave the money to Annie Brown.

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

THE COURT: Granted.

CASE #1768

MR. SARASOHN: And, Mr. Interpreter, repeat the question.

THE INTERPRETER: She went on to say that only from three men she received money.

MR. SARASOHN: I move to strike out the answer.

THE COURT: I will strike it out.

MR. SARASOHN: I didn't ask as to the fact, but whether she so testified.

THE COURT: Yes, I will strike it out.

MR. SARASOHN: Now, may my question be repeated.

(Question repeated by the stenographer).

A I don't know.

MR. SARASOHN: That means that you don't recall that which happened less than three months ago, before Judge Foster?

MR. EDWARDS: I object to that, as argumentative.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Don't you remember what you testified to before Judge Foster, at a trial less than three months ago? A Sure, I can remember it.

Q And since you say sure, you can remember, I ask you now whether this question wasput to you at that trial:

"Q How much money did the men give you? A A dollar, fifty cents."

CASE #1768

A They didn't give me any money. I didn't see any money. Only from three men I received money.

Q Did you, however, testify before Judge Foster that the men did give you money, that some men gave you a dollar and that some men gave you fifty cents? A No.

Q Sure about that? A I can't remember.

Q Didn't you tell me, a minute ago, that you do remember what you testified to before Judge Foster, less than three months ago? A I can't remember that, because I didn't receive any money, and therefore I didn't say that.

MR. SARASOHN: I ask that the words "And therefore I didn't say that" be stricken out, as the conclusion of the witness.

THE COURT: Well, I will strike it out.

BY MR. SARASOHN:

Q If you did testify before Judge Foster, less than three months ago, that some men gave you a dollar, and some men fifty cents, was that testimony true or was it false? A I didn't say that, because I didn't receive any money.

Q Then, if it is in the stenographer's minutes, you say you didn't say it, and you testify that the stenographer put it in out of his head?

MR. EDWARDS: I object to that.

THE COURT: Sustained. You may separate the question.

8570
CASE #1768

BY MR. SARASOHN:

Q If this testimony that I have just read is in the stenographic minutes, you still adhere to your statement that you didn't say it, that you gave no such testimony? A I didn't receive any money and I didn't say it.

MR. SARASOHN: I ask that the first part of the answer be stricken out.

THE COURT: I will strike out the first part, "I didn't receive any money."

BY MR. SARASOHN:

Q Now, was this question placed to you in the trial before Judge Foster:

"Q And is that true now, what you have now testified, that each man gave you the money, you gave it to Brown and Brown gave it to Bebkin; is that true? A That's the truth." Did you so testify before Judge Foster? A I can't remember that.

Q Do you remember what you testified at the trial, less than three months ago, before Judge Foster?

THE COURT: Isn't that repetition, counselor? You have asked her that several times.

MR. EDWARDS: Yes, he has, time after time.

THE COURT: However, if you wish to press it, you may proceed. I will allow you to ask it just this once. A I said then that they didn't give me any money. They gave the

CASE #1768

money to Annie Brown. Only from three men did I ever receive money.

BY MR. SARASOHN:

Q When you were asked, yesterday, by Mr. Edwards, as to whether you got any money, and you swore that you didn't, did you mention about those three men, yesterday afternoon? A No, sir.

MR. EDWARDS: I call the Court's attention again to the fact that, on the page from which counsel says he is reading the testimony refers to a specific day, and not to any general question, and I therefore submit it is not a fair question.

MR. SARASOHN: It doesn't. That is an absolute misstatement.

MR. EDWARDS: I will show your Honor the record, since counsel suggests I lie, and I suggest that he might put it in more courteous language.

THE COURT: Now, gentlemen, a certain duty rests upon the Court, to maintain order, and remarks by one counsel about another that are disrespectful, are disrespectful to the Court.

MR. SARASOHN: Well, he made a statement about me, and I have the right to say that it wasn't so, because I have the minutes before me.

THE COURT: Now, just wait a moment. On two or three occasions during this trial, there has been a failure to show

0808
CASE #1768

proper respect to the Court by remarks which have been addressed by one counsel to the other.

There is a duty on the part of the Court, also, to protect counsel on both sides against remarks which are improper. Now, I shall discharge that duty and maintain order in the Court, and I shall discharge that duty to protect counsel on both sides.

MR. SARASOHN: That's all I ask. I ask to be protected.

THE COURT: And now I say this, at this stage, that, if anything of the kind occurs again during the progress of the trial, I will suspend the progress of the trial sufficiently long to initiate and entertain proceedings for the punishment of the offender as for a contempt of Court. Now, Mr. Stenographer, please read the pending question.

(It is repeated by the stenographer).

THE COURT: The point is whether the witness's attention was called to a particular day, was limited to that, and I will look at the record. Was it on page 21 of the record?

MR. EDWARDS: Yes, sir; that's the page that the counsel said to me.

MR. SARASOHN: Well, I have so much more important matters to cross examine about, and we will never get through in this way, and so I'll withdraw the question.

THE COURT: Very well. The question is withdrawn.

0801
CASE #1768

0802

BY MR. SARASOHN:

Q Annie Brown, or, rather, Annie Jacobs, did you remember what happened in Brownsville, and in Mangin Street, did you remember that at the trial before Judge Foster, as well as you do, to-day? A Yes.

Q And was your memory as to these occurrences just as good nine months ago, at the trial against Annie Brown, as it is to-day? A I'm not crazy. I'm in my senses.

MR. SARASOHN: I ask that that answer be stricken out.

THE COURT: Strike it out.

(The question is repeated by the stenographer).

THE COURT: Just answer that yes or no, please.

A The same thing.

BY MR. SARASOHN:

Q Now, you testified, yesterday, with great positiveness that Brown gave the money to Bebkin, is that the truth? A Yes, sir.

Q Will you swear to that? A Yes, sir.

Q When you were examined as a witness, ten months ago, in the case of Annie Brown, did you ever mention any such thing?

MR. EDWARDS: That is objected to.

THE COURT: Sustained.

MR. SARASOHN: We except. Will your Honor listen to argument on this crucial question? Here is a most serious

CASE #1768

charge, that this man got money from this prostitute, for her prostitution.

THE COURT: Iwill reconsider my ruling, and I will allow it.

MR. EDWARDS: Will your Honor hear me for a moment? My objection is based on the fact that, when a witness testifies, he testifies ordinarily in answer to questions. Now, counsel asks her, "Did you say anything about this in your testimony?" Now, it may well be that she was not asked about that, and I submit, if she didn't say anything about it and wasn't asked about it, it would reflect not at all upon her credibility.

THE COURT: We are just about at the recess hour. I have in mind an authority that bears on the question, and I will look at it during recess, and Iwill withhold my ruling and will rule in the light of that case.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until two o'clock.)

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CASE #1768

A F T E R R E C E S S .

A N N I E J A C O B S , on the stand:

THE COURT: Now, Mr. Stenographer, will you read the question that I was in doubt about?

(The question is repeated by the stenographer).

THE COURT: I think I will sustain the objection, Mr. Sarasohn.

MR. SARASOHN: To which we except respectfully, your Honor. It is one of the well known things of evidence, that a witness is called upon, and testifies to a certain state of facts, and the other side has the right to attack the credibility of the witness. Now, one of the main reasons for attacking the credibility of the witness is to do what? To establish an inconsistent act or any inconsistent words, inconsistent with her present testimony. Now, she testified here in detail exactly to the occurrences---

THE COURT: Now, that is the whole point, that the omission to say something is not necessarily inconsistent with the statement of the thing, on the present occasion, because what she has said, on the present occasion, is responsive to questions now put, and it must appear that the question, or a similar question, was put on the preceding examination.

MR. SARASOHN: But the act, if your Honor please---

THE COURT: You can show that, on the preceding examination, she was asked a general question, to state all that

CASE #1768

took place, or something like that, and that she thereupon omitted to mention what you now say she has testified to.

MR. SARASOHN: Yes, that's just what I claim. And, outside of that, the acts are so close together, the way the witness has put it, "They gave it to Brown and Brown gave it to Bebkin."

THE COURT: I will adhere to my ruling, counselor.

MR. SARASOHN: Yes, sir. And then I will adopt your Honor's suggestion, and put just such a question as your Honor suggested should be asked.

THE COURT: Very well.

BY MR. SARASOHN:

Q Were you asked this question, at the trial of Annie Brown:

"Q Who got the money? A Annie Brown."

Did you so testify in the case against Annie Brown? A I can't remember.

Q Now, I ask you, was your memory just as good as to the occurrences in Brooklyn and in Mangin Street, when you gave your testimony in the Annie Brown case as it is to-day?

MR. EDWARDS: I object to that question, as repetition.

THE COURT: I will sustain the objection, on the ground that that question has been asked several times, and answered.

0805
CASE #1768

MR. SARASOHN: We will take an exception.

BY MR. SARASOHN:

Q Now, do you remember the testimony you gave yesterday afternoon? A Yes, sir.

Q Were you, yesterday afternoon, asked this question by Mr. Edwards:

"Q Now, on Tuesday, did you see the defendant Abe Bebkin? A Sure."

Did you so testify, yesterday? A Yes, sir.

Q And was that the truth? A Yes, sir.

Q And did you see him on the Tuesday following the first Monday you went up into the Mangin Street house? A Yes, sir.

Q Now, I ask you was this question placed to you when you were a witness in the case against Annie Brown:

"Q How often, during those five days, did Abe Bebkin come in? A On Wednesday and Thursday."

A How could I have said that? On Friday he also slept with me.

MR. SARASOHN: I move to strike that out.

THE COURT: Strike it out.

MR. SARASOHN: Will you repeat the question, Mr. Stenographer?

(It is repeated by the stenographer).

A He was there on Monday, and Tuesday and Thursday and Friday.

THE COURT: Now, strike that out. Now, your answer

0802
CASE #1768

will be "yes", "no", or you don't remember.

A No, sir.

BY MR. SARASOHN:

Q No such question was asked of you? A No.

Q And you so testified, notwithstanding that question and answer is in the stenographic minutes?

MR. EDWARDS: That is objected to.

THE COURT: Sustained.

MR. SARASOHN: I respectfully except. May I offer the minutes in evidence at this stage, your Honor?

THE COURT: You will have to prove the minutes.

MR. EDWARDS: Oh, I will not make it necessary for him to prove anything in that respect. I have before me the official record in the Annie Brown case, which is from the files of the Clerk's Office, and I will consent to putting in evidence any part of those which counsel may use on cross examination. Not all the minutes, but anything that he may use.

THE COURT: Well, in this connection, it will be conceded that that is the fact, that, in the Official Minutes on file, it does appear that the question as now propounded by counsel was asked, and that the answer as indicated by counsel in his question was given, and that appears on page---

MR. EDWARDS: No, it appears on the minutes that it was given. I will concede that the minutes so read.

THE COURT: Yes, that is what I say. On what page

0807
CASE #1768

0868

does that appear, Mr. Edwards?

MR. EDWARDS: On page 78.

MR. SARASOHN: On page 78 of the official minutes, because my pages are numbered differently.

MR. EDWARDS: You have the testimony of only one witness, and this is the record of the entire testimony, numbered in sequence.

BY MR. SARASOHN:

Q Now, Annie, you told me that you never stayed with any person until that Friday night? A No, sir.

Q You are sure about that? A Sure.

Q And did you stay with Bebkin that Friday night and Saturday night and Sunday? A Yes, sir.

Q Did you use anything to prevent conception? A I didn't know about it, I didn't know anything about it.

Q Well, did you do anything? Yes or no? A No.

Q Had you ever been in that condition? Have you ever conceived, ever become in the family way? A No.

Q Your testimony is then that, the following week, you stayed with about twenty men in the Mangin Street house?

MR. EDWARDS: That is objected to, if your Honor please, as asking the witness to state what her testimony is or was.

THE COURT: Sustained. That is the testimony.

MR. SARASOHN: I except.

CASE #1768

BY MR. SARASOHN:

Q Did you have intercourse with twenty different men, the following week, in Mangin Street? A Yes, sir.

Q And you haven't become in the family way as the result of these connections? A No.

Q Each of these twenty men with whom you had intercourse was a Jew, wasn't he? Was of the Jewish faith? A I didn't look into their faces. I don't know whether they were Jews or Gentiles.

Q Well, did you speak to them? A No.

Q Well, how did you communicate with these twenty men, if you didn't speak to them? A I was sent, and I went.

Q When you were sent, were you sent into a room where these men were? A Yes, sir.

Q And, each time, what did you do when you were sent? A What do you mean, what I did?

Q What took place between you and the man that you say you had no talk with? A What should have happened?

Q I want to know what did happen, not what should have happened? A I don't know what you mean.

Q You told us that you didn't speak with either of these twenty men. I want to know whether you did anything with either of these twenty men? A I was together with themlike husband and wife.

Q During all that time, with each of these men, you had

CASE #1768

no talk with them? A No, sir.

Q Were you, during that week, with one man more than once? Of these twenty men? A No, single men, singly.

Q How large was this flat of Annie Brown's, in which you lived these five days? A A front room, a kitchen and a bedroom.

Q It was a three room apartment? A Yes, sir.

Q And in what room did you have these acts of intercourse? A A room next to the kitchen.

Q Well, you have named three rooms? Was that the kitchen, the front room or the bed room? Which room was it? A In the bed room.

Q And during these five days, was there another girl in the same apartment? A Yes, sir.

Q What was the name of the other girl? A Annie.

Q And during these five days did Annie also go with some men? A Yes, sir.

Q Now, any other girl besides Annie in that apartment? A No.

Q Now, you have told, yesterday, about that night that you say you were sleeping with Bebkin in the room, in the bed room, is that correct? A Yes, sir.

Q Now, when you are going from the hallway, what room do you first get into in that Brown apartment? A Into the kitchen.

CASE #1768

Q The kitchen? A Yes, sir.

Q And, from the kitchen, is there a bed room on one side? And the front room on the other side? A Yes, sir.

Q Now, about what time of the night was it that you were telling us, yesterday afternoon, that these two men came up while you were sleeping with Bebkin? A About eleven or half past eleven.

Q And was the apartment lit by gas or candles, or in any other way? A When there was no one there it wasn't lighted, it was dark, but when some one came in, she lit the gas.

Q Well, how long had you been sleeping with Bebkin, that night, before these two men came in? A I don't know.

Q And where was Annie Eisenstock at that time? A She slept.

Q Was she sleeping in the same bed room? A No, she was sleeping in the front room, on a lounge.

Q And when those two men came up, you saw the Missis light the gas, is that correct? A Yes, sir.

Q And you remained sleeping with Bebkin? A Yes, sir.

Q And then you told us about Annie Eisenstock, how these two men looked at Annie Eisenstock and didn't want her? A Yes, sir.

Q And then you told us that after, that these two men looked at you, and said that they wanted you. Now, tell this jury, if you were sleeping in the bed with Bebkin, how could

CASE #1768

0812

those two men have seen you in the bed with Bebkin?

MR. EDWARDS: We object to thatk if your Honor please.

THE COURT: Sustained.

MR. SARASOHN: We except.

THE COURT: She cannot tell how others could have seen her.

MR. SARASOHN: I thought, on cross examination, I could ask that question.

THE COURT: No, it is not allowed, sir.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Now, you stayed altogether with twenty men in these five days? A Yes, sir.

Q What did you do the rest of the time? A I was sitting there.

Q You were sitting there, waiting for customers? A No, sir.

Q Now, tell me this, Annie. When you were asked, yesterday, where you were working, you gave us an address, and also a card where you were working; didn't you? A Yes, sir.

Q Now, I will ask you ~~xhatkax~~ where you were working the month before this Friday before you met Bebkin, where were you working? A In Madison Street.

Q Yes. And please give me the number? A I don't know the number.

CASE #1768

Q And please give me the name of the man? A Joe.

Q And do you know any other name excepting "Joe" of the man that you claimed that you worked for before? A I was working on paper boxes.

Q Well, was this "Joe" the boss of the paper box business? A No, Joe was the boss of the children's clothing business.

Q Well, tell me the name of the boss of the paper boxes? A Bendelik.

Q And what street was that? A Canal Street.

Q What number? A I don't know.

Q Now, in the trial before Foster, didn't you hear me state that you had been in the Annie Brown flat for months before you met Abraham Bebkin?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Didn't you hear witnesses state, on the stand, before Judge Foster, testify to having met you in the Mangin Street flat months before you met Bebkin?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Now, I charge you now, I say that you have been, for months, before you met Bebkin, in the Brown flat. Now, give me

CASE #1768

the address of those people that you worked for before that time, and I will subpoena them and bring them to the Court, and, if I don't I'll apologize.

MR. SARASOHN: Give her that in Jewish, Mr. Interpreter.

MR. EDWARDS: I object to that question.

THE COURT: Sustained.

MR. SARASOHN: Exception.

THE COURT: Now, I may say, gentlemen of the Jury, that you will disregard entirely the last statement made by counsel. Now, proceed.

BY MR. SARASOHN:

Q Is that the best answer you can tell me, where you have been working for months before you met Bebkin; for a man named "Joe" in Madison Street, and a man named Bendelik, in Canal Street whose addresses you don't know. Is that the best answer you can give me? A Yes, sir.

BY THE COURT:

Q How long had you been in New York before you went to work anywhere? A For three months my father didn't let me go to work.

Q Were you three months in New York before you began to work? A Yes, sir.

Q For whom did you go to work when you went to work for the first time in New York? A I don't remember where it was,

CASE #1768

0816

where I worked for the first time.

Q Well, on what street? A I don't know that either. My older brother took me there.

Q What line of business? A Ladies' waists.

Q Now, how long did you work in that first place, about? A , I don't know; about six or seven months.

Q And you don't know what street that was on? A No, sir.

Q Do you remember the name of the man for whom you worked in that place? A No.

Q Wasit for a firm or for one man, if you know? A One man.

Q After you left that place, how long were you out of work? A I don't know; about two weeks.

Q And where did you go to work then? A Then I went to work on paper boxes.

Q Where was that place? A In Canal Street.

Q What number? A I don't know.

Q Between what streets? A I don't know.

Q Which side of Canal Street, the uptown or downtown side? A I don't know.

Q What is the name of the man who employed you there? A Bendelik.

Q What was his first name? A He wasn't called by the first name; he was called Bendelik.

CASE #1768

Q And how long did you work there? A About four months.

Q And what kind of work did you do there? A I was tending---I was in that part where they put the labels on boxes.

Q Was that the place that you were working at when you met the defendant? A Yes, sir.

Q And, with the exception of the place that you now have, those were the only two places in which you have worked, since you have been in New York; isn't that so? A No, three places outside of the one I am working now.

MR. EDWARDS: There is a Madison Street place that you have not asked about yet, if your Honor please, the last place she was in before she ~~XXX kixx~~ left home.

BY THE COURT:

Q What place were you working in at the time you left home? A In Madison Street.

Q What number? A I don't know.

Q What was the name of your employer there? A Joe.

Q What was his last name? A He wasn't called by another name; only by the name of "Joe".

Q And how long did you work there? A About seven weeks. Then my mother fell sick and I didn't go to work any more.

THE COURT: Proceed, Mr. Sarasohn.

BY MR. SARASOHN:

Q So that at the time that you first met Abe Bebkin, had

CASE #1768

you been working or had you not been working? A Yes.

Q Well, when did your mother fall sick then? A I don't remember the month, I don't remember the week.

Q Was it after you met Bebkin? A I had known Bebkin already at the time.

Q Now, ~~wx~~ you tell us, then, that at the time you met Bebkin you were working for a man named Joe, in Madison Street? A Yes, sir.

Q Where did you live at that time? A 37 Rutgers Street

Q Now, Rutgers Street crosses Madison Street, doesn't it? A Yes, sir.

Q Now, are you living there now? A No.

Q Where are you living now? A 84 Monroe Street.

Q Well, Monroe Street is the very first street below Madison Street, isn't it? A I don't know; about two or three streets, I don't know.

Q Don't you know that Monroe Street is the very next street to Madison? A Idon't know.

Q Now, how far from your home was it; this place that you claim you had been working at, in Madison Street?

THE COURT: You mean from the house on Rutgers Street?

MR. SARASOHN: Yes.

A At that time I didn't know, and I don't know now.

Q How long had you been working there? A About seven

CASE #1768

weeks.

Q Working there every day except Saturday? A Saturday I was working half a day, I believe.

Q Well, were you working there every daythese seven weeks, except Sundays? A I didn't work there every day because my mother was sick.

Q How long did you work there? A Altogether, it must be about seven weeks..

Q When you worked there did you go home to dinner? A Yes, sir.

Q Well, for about seven weeks, you went to that place in the morning, and came back for dinner, and then you came back home. Now, can't you tell me how near it is to your home? A I didn't count the blocks, and my father told me, "When you come home, you only ask for 37 Rutgers Street, and the people will tell you."

BY THE COURT:

Q About how long did it take you to walk from your house to the place you worked? A Five minutes or ten minutes, I don't know.

BY MR. SARASOHN:

Q Can you give us any other information as to where you worked at the time you met Bebkin, or before? A No.

Q Now, tell me this, Annie. Until the time you met Bebkin, you saw him at home, with your father and mother

CASE #1768

did you? A Yes, sir.

Q And are your father and mother of the Jewish faith? A Sure.

Q And you were brought up in this faith? A Yes, sir.

Q And you were the oldest girl of the family? A Of the girls, I was the oldest.

Q And you have been to the Synagogue, haven't you? A Where? At home?

Q No, I mean in New York City? A Yes, sir.

Q And you knew what it was to be married, didn't you? A I didn't know anything about it.

Q At the time you met Bebkin how old were you, as you say? A About seventeen years.

Q And you didn't know what a marriage ceremony was? A No, sir.

Q Never been to a marriage ceremony? A Yes, I was.

Q And didn't you speak with your girl friends, and at home about marriage? A No, I didn't think of such business.

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

THE COURT: I will let "No" stand.

MR. SARASOHN: Very well, sir.

BY MR. SARASOHN:

Q Well, at that time you were seventeen years old. And did you know that, after a man and a woman are married, that they then stayed together? A How could I have known that?

CASE #1768

Q Well, is your answer that you didn't know anything at all about that? A Surely not.

Q So you tell us then, that, at that time, you didn't know anything wrong in a man and woman sleeping together, unless they were married? A Yes, sir.

Q That you did know? A Yes.

Q Did you know, also, that, having as you said, afterwards seen marriage ceremonies, did you know that it was proper to be married, and then to have sexual intercourse? A Yes.

Q Now, that Friday night that you say you went out with him and your sister, for a walk, the night that you finally landed in Brooklyn; was that true? A Yes, sir.

Q Now, when he started out for a walk, he didn't say that he was going to get married, did he? A Well, I was walking with my sister. He didn't talk to me about anything.

Q Well, the first thing he did, that Friday night, was to start for a walk with you and your sister? A Yes, sir.

Q And about what time was that? A About eight o'clock.

Q And you started from your home? A Yes, sir.

Q And where did you go to? A To Delancey Street.

Q And up to Delancey Street your sister went along? A Yes, sir.

Q And up to that time he hadn't said anything about marriage, or going to get married? A All the time, I was thinking about it.

0820

CASE #1768

Q All the time when you were walking with your sister? A No, no.

Q Well, I am talking of that night, when you started out with your sister and the defendant. A I understand.

Q You understand that that is the night that I am referring to? A Yes, sir.

Q Now, when you reached Delancey Street, Bebkin said, your sister should go home and he would come back with you in about an hour, is that so? A No, my sister said it was half past nine o'clock, and father said we must be home at that time, and he said to my sister, "No, you can go home, and, later, I will bring Annie home."

Q Well, up to that time he hadn't said anything about getting married, had he? A No, sir; because I was walking with my sister.

MR. SARASOHN: I move to strike out that answer.

THE COURT: I will let "No, sir" stay in, and the balance is stricken out.

BY MR. SARASOHN:

Q Now, when you were in Delancey Street, will you tell me how far you were from the Williamsburg Bridge, when your sister was sent home? A I can't say; I don't know.

Q Now, after your sister went home that night, what was the next thing that happened between you and Bebkin; what did he say and what did you say? A He took me on a car, and---

0821
CASE #1768

Q Now, pardon me.

MR. EDWARDS: I submit that the witness should be allowed to complete her answer.

THE COURT: Yes, she may complete her answer.

MR. SARASOHN: And please tell her to talk loud, as some of the jurors understand Yiddish, and I think it is only fair to them and to myself that she should talk loud.

THE COURT: Yes, try to talk so that the jury can hear you.

A (Answer continued) "Your father doesn't like me, but I like you and you like me, and I will go to marry you on Saturday."

BY MR. SARASOHN:

Q Well, did he say that before he went on the car, or after? A When we were on the car already, he said it.

Q Well, what did he say to you before you went on the car? A He didn't say anything about that.

Q What did he say before you went on the car, I said?

A He said, "I'll marry you. Don't be afraid."

BY THE COURT:

Q Now, from the time that your sister left you until the time that the defendant, as you say, got on a car, what was said by the defendant to you, or by you to the defendant? What did you talk about, if you talked at all? A He told me that he would marry me; that I shouldn't be afraid; and I liked

0822
CASE #1768

him, and he liked me. I didn't know that he would take me into such business.

MR. SARASOHN: I move to strike that out.

THE COURT: Yes, strike that out, "I didn't know that he would take me into such business." And the jury will disregard it.

BY THE COURT:

Q What was the first thing that this defendant said to you that you can remember, after your sister left you, as you say? A I can't remember.

BY MR. SARASOHN:

Q When your sister left you, it was half past nine o'clock. Now, when did you intend to get home, that night? A I wasn't afraid about it at all. He was my boy, and I was with him, and so I didn't have to be afraid of anything.

MR. SARASOHN: I ask your Honor to strike that out and instruct the jury to disregrd it.

THE COURT: Well, I have some doubt about striking it out, but I will strike it out.

MR. SARASOHN: I submit that it was evidently a prepared speech.

MR. EDWARDS: Oh, I submit that the counsel's comments of that character should be withheld, and that he should be admonished not to make such comments.

THE COURT: Yes, they should not be made.

CASE #1768

MR. SARASOHN: May the question be repeated?

THE COURT: Yes.

(It is repeated by the stenographer).

A Another half hour, I thought.

BY MR. SARASOHN:

Q And how long a time elapsed from the time your sister left you and the time you took the car? A I can't tell you how much time it took.

BY THE COURT:

Q What was the first thing that you did after your sister left you? A He took me to the car.

BY MR. SARASOHN:

Q When he took you to the car, did he say anything to you? A No.

Q Did you say anything to him? A No.

Q Didn't you tell us, a minute ago, that you intended to get back home within half an hour. When you saw him taking the car, didn't you say anything to him? A No. He said to me that he would marry me.

BY THE COURT:

Q Did he say that while you were walking to the car? A Yes, sir.

BY MR. SARASOHN:

Q And did he then say to you that he was going on the car with you, for the purpose of marrying you? A Yes, on

0824
CASE #1768

Saturday.

Q But that was Friday night? A Yes. He called me. Because my father didn't like him.

MR. SARASOHN: I ask that that be stricken out.

THE COURT: I will leave "Yes, sir" in, and leave the balance out.

BY MR. SARASOHN:

Q Now, it was half past nine o'clock and you went with him on the car and did he say that he would marry you on the following Saturday? A He didn't say the following Saturday. He said on Saturday.

Q Well, it was half past nine on a Friday night and he said he would marry you on Saturday; is that true?

MR. EDWARDS: Now, I object to that as a repetition, if the Court please.

THE COURT: I will allow it.

A Yes, sir.

BY MR. SARASOHN:

Q Did he say where? In what Synagogue he would marry you? A No.

Q Did you ask him? A He said in Court.

Q Now, it was half past nine, and, if he said he would marry you on Saturday in Court, why didn't you ask him, "What are you going in the car, on Friday night, for?" A I didn't know.

0825
CASE #1768

Q Don't you know whether you asked him that, or is it that you don't remember whether you asked him or not?

MR. EDWARDS: I object to that. She replied to the question, if the Court please.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Why didn't you ask him, "Where are we going now?" A I asked him, "Where are you going to?".

Q And what did he say? A He said, "Don't be afraid, I'll take you to my aunt's."

Q Did you then ask him, Where the house was? A Yes, sir; he said in Brownsville.

Q And at that time, how long had you known Bebkin, about? A I can't tell you exactly; about three or five months.

Q At that time, on that Friday night, you had known Bebkin three or five months, and he had spoken to you about marrying you; is that true? A Yes, sir.

Q But, that night, when you had already known him three or five months, and he had already promised to marry you, had you known where he lived? A Yes, he said that he lived with his aunt, in Brownsville.

Q Then you had known where he lived, with his aunt in Brownsville, before this Friday night? A Sure, I knew it, during the time I had known him. He had told me he lived with

CASE #1768

his aunt.

Q Had you known before this Friday night where his father was? A Yes, he had told me.

Q What did he say? A He told me that his parents were in Europe; not here.

Q Had you known what his business was, this man you had known three or five months; yes or no? A Yes.

Q Did he tell you? A Yes.

Q Had you known this man that promised to marry you, where he was working? A No.

Q Had you known how much he was earning, this man who had promised to marry you? A No.

Q Now, on this Friday night, after he said he would marry you in Court, on Saturday, he then said, "We'll take a car to my aunt's home; is that right? A Yes, sir.

Q Didn't you tellhim, "It's half past nine already. My sister has gone home, and my father will expect me, and how will I get back home tonight?" A No.

Q Did you ask him how far it was, his home in Brownsville, by his aunt's? A Yes, sir.

Q What did he say? A He said about half an hour or three quarters of an hour.

Q Did he say half an hour or three quarters one way or that you could be back in half an hour? A There and back.

Q So that when you went on that car, that Friday night,

0824
CASE #1768

to Brownsville, you simply went there for half an hour, or three quarters, and then you would have come back to your home; is that right? A Yes, because I didn't know that he would do that to me.

MR. SARASOHN: I ask that that be stricken out, after the word "Yes".

THE COURT: I will allow the answer to stand as "Yes".

BY MR. SARASOHN:

Q Now, when you were going to Brownsville, that night, was it an elevated train or a surface car that you took? A Elevated train.

Q Can you tell us about where you took that Elevated train, that Friday night? A No, I don't know.

Q Are you sure you took it on Delancey Street? A I can't say.

Q Are you sure that it was on Delancey Street that your sister left you? A Yes, sir.

Q How long after your sister left you, about how longwas it that you took this train to Brownsville? A About five minutes or ten minutes.

Q Now, to take that elevated railroad train, about five minutes after your sister left you, did you have to climb upstairs? A No, downstairs, below.

Q You had to go downstairs? A Yes, sir.

Q Now, tell me, you had been before to the Williamsburg

0821
CASE #1768

Bridgo, before this Friday night; hadn't you? A No.

Q Now, can you tell about what time it was you reached Brownsville? A I don't know.

Q Now, can you tell us about how far from the station at Brownsville, after you had left the station, how far did you walk before you reached the house in which Bebkin took you? — A No.

Q Were the people still walking on the streets at that time? A No, it was a dark street. I couldn't see.

Q Well now, during the ride to Brownsville, didn't you ask what street it was that this man lived, this man that was going to marry you? A No.

Q And you were there three days and three nights, you say? A Yes.

Q And can you tell us now what street that was? A No. When they wanted to find it out, I and two detectives and my father and Mrs. Goldman went to look for it, and couldn't find it.

MR. SARASOHN: Now, I ask that that be stricken out, as not responsive to anything.

THE COURT: I will let it stand.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q How long after the time that you were arrested was it that you and your father and the two detectives tried to find

0825
CASE #1768

this street? A I don't know.

Q Is that the best answer you can make? A I don't know.

Q How long ago, counting from to-day, was it that you and your father and two detectives, as you say, went looking for that street? A I can't say how long.

Q And that's the best answer you can make? A If I don't know, I can't say.

Q Was it after the trial before Judge Foster? A I don't know,

MR. EDWARDS: I think, if you will say, instead of "Before Judge Foster", if you will say "Before Abe Bebkin's first trial", the witness may understand it better.

MR. SARASOHN: Yes, but I am content with that. However, put it that way, Mr. Interpreter.

A Oh, at that time they couldn't find Bebkin. He wasn't arrested as yet.

BY MR. SARASOHN:

Q I am asking you when it was, that, as you state, you claim you went looking for that street, and couldn't find it, and don't know where it was, and now I ask you if it was after the first trial?

MR. EDWARDS: I think she has answered it fully. She says that, at the time they were looking for the house, Bebkin was not arrested.

0816
CASE #1768

BY MR. SARASOHN:

Q Was it after the trial of Annie Brown that you went looking with your father and two detectives for that house? A Yes, sir.

Q How long after? A I can't say.

Q During those three days, you told us about being out on the street on Sunday, is that so? Were you out on that Sunday?

MR. EDWARDS: I object to that as already answered repeatedly.

THE COURT: Iwill allow her to answer it.

A Yes.

BY MR. SARASOHN:

Q Were you out the entire day that Sunday, or in the neighborhood of the whole day?

MR. EDWARDS: Objected to.

THE COURT: Allowed.

A No. Not all day.

BY MR. SARASOHN:

Q How much of that Sunday were you out, how many hours?

A We left the house about nine or ten o'clock in the morning and came back about eleven o'clock at night.

Q Then you were out all that day?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

0851
CASE #1768

BY MR. SARASOHN:

Q Now, were you in a moving picture show, that day? A Yes, sir.

Q And in two restaurants? A No, one.

Q And were you in that restaurant twice? A Yes.

Q And, when you went looking for thatplace with the two detectives, you couldn't find the restaurant, or the moving picture show? A No, I couldn't find it.

Q Did you try to find it? A Yes, sir.

Q And did you---can you give us any idea of how long did that ride take place in the elevated train from Delancey Street to Brooklyn? A I don't know.

Q Well, when you went off the elevated railroad station, did you ask him where he was going to? A Yes, sir.

Q And at that time you still intended to go back to New York that night, didn't you? A Yes, sir.

Q And he said he would take you to his aunt's house? A Yes, sir.

Q Now, can you tell us in any way what sort of a house that was? Did it have a stoop or was it a tall house? Tell us about that house. A There were two steps like these here (Indicating the steps of the platform) and then you came into a hall, and then you came into the flat.

Q Pardon me. This was a new neighborhood for you; you had never been there before? A No.

0852
CASE #1768

Q And, going from the depot or station to that home, did you notice anything in particular, any house, or fire engine house, or police station, or anything like that at all, or any church? A No, I didn't see any.

Q Now, we come to the house that you say you had to go up two steps to enter. Was there a light in the house at that time? A In the hall?

Q Yes. I thought I asked that in my question. A Yes, sir.

Q Well, how many stories did Bebkin go up? A One flight of stairs.

Q And you reached the first floor above the ground floor? A Yes; to the right hand.

Q And was there a light in that hallway, too? A No, sir.

Q About how many rooms did you see in that hallway? A He said there was one tenant on a floor.

Q And he said that tenant was his aunt; is that so? A Yes, sir.

Q Well, did he go into the room? A Yes, sir.

Q Was that room open? A No.

Q Was it locked? A Yes, sir.

Q And who opened it? A Abe.

Q How? A With a key.

Q And he took a key from his pocket and opened it? A

CASE #1768

Yes, sir.

Q Was that a hall room? A A hall room?

Q Yes, the room to which he took you, was that a hall room? A What do you mean by a hall room? I don't understand you.

BY THE COURT:

Q The key that he took out of his pocket, was that a key that opened the front door of the flat? A No, of the bedroom.

BY MR. SARASOHN:

Q And with a key that he took frrom his pocket in the hallway, he opened the room---a room that was a bed room with it? A Yes, sir.

Q Was that bed room dark as you came in? A It was dark.

Q Did you light the gas? A Yes, Abie lit it.

Q And then you found yourself in that hall bed room? A Yes, sir.

Q And you told us, yesterday, that one door of that room opened into the hallway, and there was a side door thatentered into the flat? A I don't know whether that door led into other rooms of the flat, but I saw another door.

Q Through the partition where that door was did you hear any voices of people on that floor. A No.

Q Now, up to that time did you still intend to go back to

CASE #1768

your home? A Yes, sir.

Q You had taken no clothing along with you other than you wore? Yes or no? A No, only what I had on.

Q Now, how long did you remain in that room before, as you say, Bebkin had intercourse with you? A What do you mean, now long?

Q An hour or two hours or three hours? A I didn't look at any watch or clock and I don't know.

Q And at that time how long had you known Bebkin? A About three or five months; I don't know exactly.

Q Tell us about how many times altogether had you seen him up to that Saturday night? A Three times a week.

Q Then, on your statement, you had seen him three times a week for three months or five months? A Every week.

Q Every week three times? A Yes, sir; and sometimes even four times a week.

Q Had he been introduced to your mother? A Yes.

Q Had he been introduced to your father? A Yes.

Q Now, tell us, up to this time, how many times had he been in your home, in the rooms of your father and mother? A Twice.

Q So that, in the entire three months to five months, when he saw you, say, three to five times a week, he had been to the rooms of your home only twice? A Twice or three times; that's all.

0835
CASE #1768

Q And how long had he stayed each time? Was it minutes or what? A He didn't come for minutes. He used to stay there three or four hours.

Q And when you say your home, do you mean sitting on the stoop, or being in the rooms of your father's apartment? A Where my father and mother were.

BY THE COURT:

Q You mean in the rooms? A Yes, sir.

BY MR. SARASOHN:

Q And each time, as you testifiedd, on all these three occasions, he had seen your father and mother, and spoken to them; is that so? A Not every time. My father didn't like him.

MR. SARASOHN: I move to strike that out.

THE COURT: Yes. I will strike out, "My father didn't like him."

BY MR. SARASOHN:

Q Now, how many times while he was in your home, did he actually speak to your father? A Once with my father; that's all.

Q So that, until this Friday night, Bebkin had only met your father once, and your father had met him only once, and your father said he didn't like him?

MR. EDWARDS: Objected to.

THE COURT: Sustained, because it is not in conformity

CASE #1768

with the proof.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Well, up to this time, the defendant had met your father only one time, and your father had met the defendant but once?

MR. EDWARDS: I object.

THE COURT: Sustained. She says that he had been there several times, but had only talked with her father once.

MR. EDWARDS: And I submit that counse l loses sight of the fact that the father of the witness met them in the street together once, besides that.

MR. SARASOHN: Now, I object to these interruptions. Because it is so easy for an unscrupulous witness to take advantage of these interruptions, to shape her testimony.

THE COURT: Kindly put a question, Mr. Sarasohn.

BY MR. SARASOHN:

Q During these two or three times that you say Bebkin was at your apartment, your home, how many times had he met your mother? A Only three times he was there.

Q Did he speak to your mother at all? A No.

Q And on how many of these three occasions did he speak to your mother? A He didn't speak to her at all.

Q Is your mother outside here, now? A Yes. Once, I believe he spoke to my mother.

Q Was that the same time that he spoke to your father? A

0837
CASE #1768

I don't know that. Once my father met him and me in Delancey Street, and my father told him, "Go away from her. I don't like you. I don't want you." So Bebkin told my father, "What's the matter? Don't you want me to go with your daughter?"

MR. SARASOHN: I submit that it isn't responsive to anything, and I---

THE COURT: Strike it out. Proceed, now, counselor.

MR. SARASOHN: Now, I intend to ask this question, with the utmost respect.

BY MR. SARASOHN:

Q Did you just now hear what Mr. Edward's said to his Honor about meeting somebody in Delancey Street? A No, I didn't listen to what they were talking. It isn't my business.

Q Aren't you interested? A In my case, yes. But in other things, I'm not interested, what they talked about.

Q What called your attention, just now, to telling us the conversation in Delancey Street?

THE COURT: I struck that out, you know, at your request.

MR. SARASOHN: Yes, sir; but I am asking her specifically about one particular instance.

MR. EDWARDS: There is nothing in the record now to which this question refers.

THE COURT: Well, we will have it in or out. If it

CASE #1768

is out, there is nothing to which your question can properly refer.

MR. SARASOHN: Very well, sir.

BY MR. SARASOHN:

Q Now, you say you were brought upin your father and mother's house in the Jewish faith. Did you know anything about such a thing as an engagement? A Yes.

Q And you had been at the engagement of your associates? A No.

Q Did ever any engagement take place between you and Bebkin? A No.

Q Was there any conversation between you and Bebkin in which an engagement was ever mentioned? A No.

Q Now, then, the first conversation either as to engagement or marriage---the very first definite conversation---was that you testified to, on Friday night, before you took the car, with Bebkin, when he said you were to be married on Saturday, in Court?

MR. EDWARDS: I object to that, because it is not according to the proof.

THE COURT: I do not recall any other conversation.

MR. EDWARDS: Why, within fifteen minutes, this witness has testified in a way that shows that it is not the proof, sir. With the Court's permission, I will refer your Honor to the proof that I have in mind.

CASE #1768

MR. SARASOHN: No, I will withdraw the question, to save time. I think I have much more important matters to go ahead on.

BY MR. SARASOHN:

Q Annie Jacobs, do you say that you were in that room that you have described, that Friday night, the following Saturday and Saturday night, and Sunday and Monday morning? A Yes, sir.

Q Did you, during any part of that time hear voices in the room adjoining? A No; if I would have heard voices, I would have said something.

Q After you came into that room, was that door locked or was it left open? A Yes.

BY THE COURT:

Q Referring now to the door by which you entered the room, was that door locked? A Yes, I mean that door.

BY MR. SARASOHN:

Q And you found yourself alone with a man in a room that was locked; is that so? A Yes, sir.

Q Had you ever before been in such a room with a man? A No.

Q That was the very first time? A Yes.

Q Now, did you ask him why he locked the door? A Yes, sir.

Q What did he say? A He said, "I don't want my aunt

0818
CASE #1768

to know that I have a girl in my room."

Q Didn't you say, a little while ago, that before you took the car, he said he went with you for the purpose of seeing his aunt? A Yes, he had told me that he was going with me to see the aunt.

Q And, when you came there, you say he locked the door and told you that he didn't want his aunt to know that you were there, is that so? A Yes, sir.

MR. EDWARDS: Now, may I ask a question for my own information? I understand some of this language, and I have a man well acquainted with the language sitting behind me, and it is my impression that the answer that the Interpreter interpreted, when she said, "Yes, he told me we were going to see the aunt" that the answer should be interpreted, "He told me that we were going to his aunt's house." Now, I would like to know whether I am correct in that, or whether I am wrong, because it makes a great deal of difference in the record.

THE INTERPRETER: I can't interpret the words that she used in any other way than I did, your Honor.

THE COURT: Well, proceed.

MR. EDWARDS: Well, may the question be repeated to the witness?

THE COURT: Yes. You may put the question again.

(It is repeated by the stenographer)

A Yes.

CASE #1768

BY MR. SARASOHN:

Q Now, when you got there, he locked the door, and when he locked the door, you asked him why he locked the door and he said, "I don't want my aunt to know that I have a girl here"? A Yes, sir.

Q Now, what did you answer to that? A I said, "What is it? You don't want your aunt to know?"

Q And what did he say? A He said, "I don't want it", and I didn't think that he will do such a thing to me.

MR. SARASOHN: I will ask that that be stricken out.

THE COURT: I will strike out the answer, beginning, "And I didn't think that he will do such a thing to me."

BY MR. SARASOHN:

Q When he said that the aunt was here, why didn't you say, "I want to meet your aunt, I want to meet the aunt of the man that I am to marry."? A I said it, but he said, "You can't see her."

Q Well, but did you say to him, "I have come out here to see the aunt?" A Yes, Isaid that.

Q And what did he say? A And then he wouldn't let me out.

Q Well, when he said, "You can't see the aunt," did you then try to go out? A Yes.

Q Now, just tell the jury what attempts you made? How did you try to get out? A I tried to open the door of the

0842
CASE #1768

bed room, but it was locked.

BY THE COURT:

Q Do you mean by that the door through which you had come into the room, or do you mean the other door? A The door through which I got into the bed room.

BY MR. SARASOHN:

Q Well, was the key still sticking there? A No, he had taken that out.

Q Well, give us an idea of how large that room is, entirely. Show it with your hands? A It wasn't a large room and it wasn't a small room.

BY THE COURT:

Q How many windows in it? A One.

BY MR. SARASOHN:

Q Did that window face the street? A Yes, sir.

Q Was the window open? A No.

Q Did you try to open it? Did you go and try to open the window? A I couldn't open it, because he was together with me.

MR. SARASOHN: I ask that that be stricken out, "Because he was together with me."

THE COURT: Strike it out.

BY MR. SARASOHN:

Q When you said you were trying to go out, you said you went first to the door, and found the door locked. Now, why

CASE #1768

didn't you go to the window, and try to open the window? A The window was also closed, locked.

Q Now, in going to the window, did you come across the other door, the door to the side (Indicating) The side door?

A What do you say?

BY THE COURT:

Q You have told us, as I understand, that there were two doors leading into this room, one the door by which you entered, and which you say was afterwards locked, and which you say you tried to open, and could not, and another door, is that so?

A Yes, sir.

Q Now, that other door, did you pass it in going to the window, if you went to the window? A It was not in such a way that I had to pass it. It was in another direction. (The witness indicates to the left).

THE COURT: Proceed, Mr. Sarasohn.

BY MR. SARASOHN:

Q On one side of that room was the door leading to the hallway; is that so? A That was the bed room.

Q Opposite that door was the window, leading into the street; isn't that so? A Which door?

Q The door through which you came in? A Yes.

Q And, on the side of that room was this door leading into a side room, is that so? A Yes, sir.

Q Now, that night, as you tried to go out, you tried the

0847
CASE #1768

door and it was locked, and you say you then went to the window and the window was locked? A Yes, sir.

Q Now, didn't you pass by that side door in going to the window? A No.

Q Well, as you tried that window, and it was locked, did you try the other door? A No.

Q Why didn't you? A Because I saw that the door was, anyway, locked.

Q Explain to us how you saw it was locked? A When he wanted to deprive me of my virginity---

MR. SARASOHN: I move to strike that out, because we are not up to that point yet and it is irresponsive.

THECOURT: Now, pardon me. You have asked her a question as to how she found out, as I understand, or how she saw that that door waslocked. Now, I will let her tell us how she saw it.

A I didn't let him do it, and I threw myself against the door, and found it was locked.

THE COURT: Well, I will let it stay in, that she threw herself against the door and found out in that way that that door was locked.

MR. EDWARDS: Do you mean to say that you strike out the early part of the answer, which is explanatory? I submit that, if part is stricken out, the part that remains doesn't show what the witness means, in any sense.

0879
CASE #1768

THE COURT: I will let the whole answer stand.

MR. SARASOHN: Exception.

THE COURT: I think, Mr. Sarasohn, taking it in its entirety, it is her explanation of how she found out it was locked. Go ahead.

MR. SARASOHN: Well, I'll withdraw the question, to save time, and I'll ask this question.

BY MR. SARASOHN:

Q Did you try to raise that window? A Yes, but it was locked.

Q With what? What caused the window to be locked? A I didn't see that.

Q How high from the street was that room, or that window? A I didn't look at that. It was as high as it generally is from the first floor.

Q From the street to the first floor, you mean? A Yes, from the street to the first floor.

Q And do you say you tried that window and it was locked? A Yes, sir.

Q Please tell this jury how it was locked. And you may illustrate by any window in this court room. A It was like this window here. (Indicating the side window, nearest the witness stand), with a piece of iron.

Q Is that your testimony?

MR. EDWARDS: Objected to.

0412
CASE #1768

0817

THE COURT: Sustained.

BY MR. SARASOHN:

Q Well, was the window locked by a sort of attachment similar to the window in this Court room? (Indicating) A Yes, sir.

MR. EDWARDS: May it appear on the record that that is an ordinary window catch on this window that she indicates?

THE COURT: Yes, an ordinary window catch.

BY MR. SARASOHN:

Q Well, why didn't you at once loosen that catch, and lift up the window? A I didn't know how.

Q Weren't there windows in the rooms in the apartment, when you lived at home? A Yes.

Q And was there a catch like that on the windows of your home? A No.

Q Had you never seen in any other home, in any other window, a catch on a window like that? A Where we are living now, now I know, because there are the same kind of things, on the windows.

Q But you will swear that, up to that Saturday night, you had never seen on any window in New York City a catch similar to that which was on that window? A I had never looked at it, and I didn't know it.

Q Well, when you tried to life that window, and you found it was locked, and you were alone with a man in the room, and

CASE #1768

he was threatening to rob you of your virginity, why didn't you strike at that window, break it? A He was holding my hands, I couldn't do it.

Q Was he holding both hands? A Yes, sir.

Q Why didn't you shriek? Now, tell that jury? A To whom should I have made an outcry?

Q Looking from that window, didn't you see people on the street? A No.

Q Going up from the station to that---cross that out. Going to that house, was that house alone in the winderness, or a forest, or were there houses on either side? A I didn't exactly look at it, but it seemed to me like a very quiet neighborhood.

Q I am not asking you about the neighborhood, but I am asking you whether, going to this place, you didn't notice houses on either side? A Not on both sides; on one side.

Q Going into that room, you told us, a little while ago, there was gas lighted in the hallway downstairs? A Yes, sir.

Q And there was also gas in the hallway on that floor? A No.

Q Didn't the fact that there was gas light lead you to believe that there were people living in that house? A No, sir.

Q When you were in there---cross that out. Up to that

0848
CASE #1768

time were you in the belief that the aunt lived there? A What do you mean by up to that time?

Q Cross that question out. At that time you knew that his aunt lived there, didn't you, on that same floor? A You mean at the time I went with him in the bed room? A

Q I mean the time that you were in the bed room with him, that Saturday night? A I didn't know, but he had told me so.

Q In talking of the aunt, did he tell you thatthe aunt had any children? A He didn't tell me anything about that.

Q Did you ask him? A No.

Q Did he tell you whether or not the aunt had a husband? A Yes.

Q Now, tell us why you didn't make any outcry at that time? A I was afraid to make a noise.

Q Afraid of what? A I don't know.

Q Is that the best answer you can make? A What else shall I answer?

Q So, as a matter of fact, did you at all make any outcry? A I made an outcry, but not very loud.

Q Well, did you make an outcry for the purpose of attracting attention, or just to satisfy yourself?

MR. EDWARDS: I submit that that question is unintelligible, if your Honor please.

MR. SARASOHN: I think it is very proper. She says

0848
CASE #1768

she made an outcry, but not very loud.

THE COURT: I think I will allow the question.

MR. EDWARDS: In the form in which it stands?

THE COURT: It is conceivable that a young person might seek to be in a position to say afterwards that she had made an outcry, without, at the same time, desiring that that which she did might be heard by others, and the thought suggested by that consideration, is, as I understand it, the thought underlying the question.

MR. SARASOHN: Yes, sir; that's it.

MR. EDWARDS: But I submit that any answer to this question will not in any sense, assure any of us what the witness meant to say, because I think it is not intelligible to the witness, even though carefully interpreted.

THE COURT: Well, I think it is rather above the seeming intelligence of the witness.

MR. SARASOHN: Well, I will withdraw the question, though I don't agree with your Honor as to the intelligence of the witness.

BY MR. SARASOHN:

Q Now, did you cry out, so that the people in the street could hear, Miss Jacobs?

MR. EDWARDS: I object to that. There may not have been any people there.

THE COURT: Sustained.

0850
CASE #1768

MR. SARASOHN: Exception.

BY THE COURT:

Q Did you cry out for the purpose of having people hear your outcry? A No, he wouldn't let me cry out loud.

BY MR. SARASOHN:

Q Now, you have told us that he held you with both hands. Now, you can't tell me that he put his hand on your mouth too?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Now, tell us what he did, when you say he wouldn't let you call out loud? A What did he do?

MR. SARASOHN: Will the steno rapher repeat the question?

(The question is repeated by the stenographer).

A He was holding my mouth with his hand.

BY MR. SARASOHN:

Q A minute ago, you told us with both of his hands, he held your hands?

THE COURT: I think you are mistaken in the testimony.

MR. SARASOHN: All right. I withdraw the question.

THE COURT: She said both of her hands were held by him.

BY MR. SARASOHN:

CASE #1768

Q Well, a minute ago you said that he held both of your hands. Is that the truth? A Yes.

Q Now, with what hand was he holding both of your hands? A Yes, sir.

Q With one hand or with two? A With one hand.

Q So that with one hand he held both of your hands? A Yes, sir.

Q And with the other hand he put it on your mouth? A Yes, sir.

Q Well, when you were in that condition, did you see the door leading into the other rooms, that side door? A Yes, sir.

Q Did you kick at that door? A I didn't reach that door; I didn't go to that door.

Q Was that room in which you found yourself, that hall room, any larger than this desk? (Indicating the clerk's desk) Look at that desk, or how much larger was it? A A little larger.

Q All right. And in what part of the room was the bed? A On the right side. (Indicating).

Q Near the window? A No, it was quite some distance from the window.

Q Was it sideways from the window or alongside of the window?

MR. EDWARDS: I object to that as unintelligible, if

0852
CASE #1768

the Court please. I don't understand it.

THE COURT: I think that the criticism of the question is proper. I do not think that it is understandable. Pardon me, do you want to find out the position of the bed in the room?

MR. SARASOHN: Exactly. I do.

BY THE COURT:

Q Now, you know that there is a part of the bed which is called the head of the bed?

MR. SARASOHN: Well, I think I can put it much faster, because I have been in the room myself once.

MR. EDWARDS: But the testimony doesn't show that the furniture may not have been changed.

MR. SARASOHN: No, it hasn't been.

BY MR. SARASOHN:

Q Was the bed right alongside of the window.

THE COURT: Why don't you ask, with respect to the window, where the head of the bed was?

MR. SARASOHN: Well, that would be still more unintelligible to her.

THE COURT: Very well. The suggestion to counsel is withdrawn.

BY MR. SARASOHN:

Q (Question repeated)

THE INTERPRETER: As to the word "Alongside", I will

0853

CASE #1768

have to use a German word for it.

THE COURT: Use a German word for it.

MR. SARASOHN: The Interpreter is right. I understand the German language, and there is no Jewish equivalent for the word "alongside" because it is a peculiar English word. A I understand what you mean. The question is whether the bed was standing alongside, on one side, the head or the foot of the bed.

BY MR. SARASOHN:

Q Well, which was it? A I don't remember.

Q Now, you were in that room from Friday night, Saturday, the whole day, Sunday and Sundaynight and Monday morning, and you still tell me you don't remember in what part of the room that bed was? A I don't know exactly where it was, whether it was this way or the other way. (Illustrating).

Q How many nights did you sleep on that bed? A Three.

Q What else was there in that room, excepting the bed?

MR. EDWARDS: Now, one moment. However, go on. I didn't catch the question.

A A table and two chairs.

BY MR. SARASOHN:

Q Was that time that you are talking of Winter, Spring or Autumn. A It was about this time of the year.

Q And the days were like these, like to-day and yesterday, as far as the weather was concerned? A Yes.

0857
CASE #1768

Q And wasn't the window open at any time during these three nights and days? A No.

Q All the time you were there, that window was never opened? A No.

Q. Now, I think you have told us before that Abe Bebkin locked the door? A Yes, sir.

Q And it remained locked all that Friday night, didn't it? A Yes, sir.

Q And it remained locked all that day Saturday, except when he went out? A Yes, sir.

Q And you never went out of that room, that entire night of Friday and that entire day of Saturday? A No, I didn't.

Q Sure of that? A Yes, sir.

Q Didn't you have occasion, during all that time, to have a call of nature? A No.

Q And all the eating that you had, during that time, you say was brought inby Bebkin? A Yes, sir.

BY THE COURT:

Q Did you go to the toilet at all while you were in that flat? A No.

BY MR. SARASOHN:

Q And all the eating that you had while you were in that flat was necessarily dry stuff, such as was brought in from a delicatessen store? A I didn't eat at all.

CASE #1768

Q When was the first time that you ate, after the Friday night that you went into the room? A Saturday.

Q What time on Saturday? A In the morning.

Q Who brought that in? A Abe.

Q How long was he away in getting this in, on Saturday morning? A About a quarter of an hour.

Q And that was your breakfast, Saturday morning? A Yes, sir.

Q And ~~xxx~~ did that consist of soup, or anything of that kind, or was it dry stuff? A No, no soup.

Q Well, didn't you hear any voices on that Saturday morning of the people who lived in the adjoining rooms? A Nothing at all.

Q After you had had that little breakfast that he brought up, Saturday morning, did you remain with him locked in that room? A Yes, sir.

Q How long? A The whole day.

Q What were you doing all day? A I was sitting and crying all the time.

Q And was he along with you, all that day? A Yes, sir.

Q When was the next time that he went out? A Sunday. And I went out with him.

Q So that he didn't bring in anything else to eat, except that Saturday morning. A Yes.

Q And he and you remained locked in that room from Sat-

CASE #1768

urday morning until Sunday morning? A Only he used to go out to bring up something to eat, and then come back again.

BY THE COURT:

Q How many times on Saturday did he go to get something to eat? A Three times.

BY MR. SARASOHN:

Q And each time how long did he stay out? A About a quarter of an hour.

Q And each time he brought dry stuff, did he? A Yes, dry stuff. I didn't eat it at all.

Q Did you fast? A Yes, sir.

Q And when was the first time you ate, after that Friday night? A On Saturday. I didn't eat much, I only had a bite; that's all.

Q Now, you were telling us that, up to that Friday night when you went into that room, you were chaste, you hadn't been with any man; is that the truth? A Yes, sir.

Q And, in two days later or three days later, in Mangin Street, you went into a room, and were with me, and you didn't ask who they were or what they were? Yes or no to that is the answer. A Yes.

Q Now, in the trial of Bebkin, before Judge Foster, you testified that you tried to get out all of those three days, but the door was locked. Is that the truth?

MR. EDWARDS: Iobject to the question, because it

0857
CASE #1768

contains an assertion, and not a question. He may ask her whether she so testified, and then ask her whether it is the truth.

THE COURT: Sustained.

MR. SARASOHN: Exception.

THE COURT: I think we will adjourn now for the day.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until Thursday morning, October 23rd, 1913, at 10:30 o'clock).

MR. SARASOHN: Now, your Honor, may I ask your Honor to caution the witness, also, not to talk with any one about the case; that she is under cross examination, and that she must not talk about the case. I don't know what good it will do, but I would like to have your Honor do that.

MR. EDWARDS: AAnd I would like to call your Honor's attention to the very improper remark of counsel, that he doesn't know what good it will do, but he would like to have your Honor do it.

THE COURT: Yes, that is improper.

MR. SARASOHN: Well, I asked your Honor to give the witness a certain instruction, not to speak about the case, now that she is being cross examined.

THE COURT: Yes, but the thing that was brought to my attention was that you said you didn't know what good it would do, and those remarks had better be left out.

CASE #1768

MR. EDWARDS: And I ask the counsel, through the Court, how much longer his cross examination is likely to last, so that I may be prepared with other witnesses.

THE COURT: Can you give such an information?

MR. SARASOHN: Yes, sir. I think about one hour.

THE COURT: Very well.

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CASE #1768

The People vs. ABRAHAM BEBKIN.

TRIAL RESUMED.

New York, October 23rd, 1913.

A N N I E J A C O B S , her cross examination being continued, testified as follows:

CROSS EXAMINATION (Continued) BY MR. SARASOHN:

Q When you were locked in that room in Brownsville, this Friday, Saturday and Sunday, did you look out through the window? A No.

Q At no time? A I had no business to look out of the window.

MR. SARASOHN: I ask that that be stricken out.

THE COURT: Strike it out.

(The question is repeated by the stenographer)

A No.

BY MR. SARASOHN:

Q So that all that time you were within the four walls of this little room? A Yes, sir.

Q Now, tell us whether there were any pictures on those walls? A Yes, sir.

Q How many? A Two.

Q Whose pictures were they, if you know? A Abie with his brother and Abie, alone.

Q Did I ask you about these pictures inyour trial before Judge Foster, or, rather, in the trial of Bebkin before Judge

CASE #1768

Foster, three months ago? A No.

Q Sure about that? A Yes, sir.

Q And your memory is clear on it? A Yes, sir.

Q Was there any wardrobe in that room? A Yes, sir.

Q Now, tell us what sort of a ward robe there was in that room? A Yes, Abe's clothes were hanging there.

Q Now, that isn't my question. My question is as to in what part of that room was the wardrobe? A As one goes into the bed room, that way (Illustrating by pointing to the right side).

Q Have you spoken, since the last trial of Bebkin, about the appearance of this room, to any one? A No.

Q You told us yesterday, I believe, that you don't know where that place was.

MR. EDWARDS: Now, may that be made more definite? If counsel means the Brownsville house, I think he should say so.

THE COURT: Yes, the house in Brownsville.

A I am saying now that I don't know.

BY MR. SARASOHN:

Q And did you testify, yesterday, that you and your father and two detectives were looking for that house, and didn't find it? A And Mrs. Goldman also.

Q And were you here in this Court Room, during the six or seven days of the first trial before Judge Foster? A Yes,

0861
CASE #1768

sir.

Q And didn't you hear in that trial witness after witness and the defendant, mention the number 327 William Street?

MR. EDWARDS: I object to that, as immaterial, whether she heard it or not. She is testifying to her knowledge at the time, not as to her knowledge, to-day.

THE COURT: I may be wrong, Mr. Edwards, but Ithink she hastestified---I haven't the minutes before me---I think she hastestified that it was since the last trial that she went over to look for it, and could not find it.

MR. EDWARDS: Your Honor is in error in that. She testified as to that, as to the trial of Annie Brown.

THE COURT: If that is so, I will sustain the objection.

MR. SARASOHN: Well, the point of the question is that she did not, though she had every opportunity.

THE COURT: I will rule exactly as I have ruled, unless it appears that the information that you now refer to was derived prior to or might have been derived prior to the time she went over.

MR. SARASOHN: If your Honor will pardon me, the point of my question is entirely different. Here is a woman who says she was in a room, and that, prior to the first trial, or before the arrest, she went to look for it, and couldn't find it. Now, I want to get it as a fact, that, three months ago,

0812
CASE #1768

she heard the number of the house mentioned, and, if her story was true, she would either have gone and seen that that was the room, or testified to it, and the fact that she didn't go is a fact that I ask the jury to consider.

THE COURT: Well, I will reconsider my ruling, and allow you to ask the question.

(Question repeated by the stenographer)

A I didn't hear it.

BY MR. SARASOHN:

Q Were you sitting with Mrs. Goldman, listening to the testimony? A I was sitting there, but I didn't hear it.

Q Was there anything the matter with your ears?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Tell us why you didn't hear it?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Now, Miss Jacobs, did you, on Tuesday, testify that you were locked in that room with Bebkin? A Yes.

Q And that you remained locked in, excepting for those moments when Bebkin walked out to get something, and he came back? A Yes.

CASE #1768

Q Now, when he was out, did Bebkin lock the door? A Yes, sir.

Q So that, during that time, that door was always locked, Friday, Saturday and Sunday? A Yes.

Q Now, did you also testify on Tuesday that his brother came in, on the second day? A Yes, on Saturday.

Q And were you asked this question:

"Q And which door did he enter by; the one from the hall or the other one?" And your answer was: "A From the hall door."?

A I didn't say that.

MR. SARASOHN: Now, I have read from the minutes of this trial, if your Honor please, page 15, and she says that she didn't so testify. Shall I read the question and answer again, Mr. Edwards?

MR. EDWARDS: No. It isn't necessary.

BY MR. SARASOHN:

Q Now, through what door did he enter that room? A From the bed room door. He also had a key.

Q I am not asking about a key, and you have anticipated me. I am asking you through what door into this bed room, through what door did Behkin's brother come in.

THE COURT: She said the bedroom door.

BY MR. SARASOHN:

Q And now, since you have told us that the door was locked,

CASE #1768

how did Bebkin's brother get into this room? A He had a key. And Abe asked him who it was, and he said his brother, and he opened it.

Q Who had the key? A Abe's brother.

Q If the brother had a key, then the first thing that happened was that he was in that room, wasn't he? A No.

Q Well, when was it this brother, that Abe Bebkin (Indicating the defendant) asked the other brother who it is? A On Saturday.

Q But I mean where was the brother. Was he in the room? Was he in the room already when Abe Bebkin asked him who is it? A No.

Q Where was that brother when Abe Bebkin asked him who it is? A In the hall.

Q And was he knocking at the door in the hall when Abe Bebkin asked who it is? A Yes.

Q How long was he knocking? A I don't know; perhaps a minute.

Q And after that brother was knocking, did Abe Bebkin go and open the door? A Yes, sir.

Q And when Abe Bebkin opened the door, the brother came in? A Yes, sir.

Q Then Abe Bebkin opened the door from the inside, with his key; isn't that so? A Yes, sir.

Q Then what did you mean, a moment ago, when you said

CASE #1768

that Abe Bebkin's brother had a key, and opened the door? A He was knocking at the door. With a key he started to open the door.

Q Who is "He"?

THE COURT: Don't interrupt. Proceed.

MR. EDWARDS: And I submit that the Interpreter should translate what has been told him, and not ask the witness to proceed with her answer.

THE COURT: Yes, Mr. Interpreter, proceed and translate what she has already said to you.

A (Answer continued) Abe's brother came there on Saturday, and started to open the door with a key. Abe asked who it was, and Abe's brother answered, "It's me", and then Abe took his key and opened the door.

BY THE COURT:

Q And when you say "his" key, whose key do you mean? A Abe's.

THE COURT: Now, proceed, Mr. Sarasohn.

BY MR. SARASOHN:

Q Did you tell us, a few minutes ago, that Abe Bebkin's brother had his own key? A I am saying it now.

Q Well, but whose key opened that door, that time? The key of the brother or the key of Abe Bebkin? A Abe Bebkin's key.

Q And how do you know that the brother of Abe Bebkin had

0876
CASE #1768

a key? A There was a knocking on the door, and a locking of the door, and Abe asked, "Who is that?" And he said, "It's your brother." Then Abe Bebkin took his key and opened the door with his key.

BY MR. SARASOHN:

Q When you say there was a knocking and a locking of the door, there was a key on the outside, the key of Abe Bebkin's brother, wasn't there? A Yes.

Q And, as that key was turning outside, Abe Bebkin asked, "Who is it?" A Yes, sir.

Q All that time, while that key was turning on the inside, did the door open?

MR. EDWARDS: I think I ought to object to that question. The witness has not said anything about a key turning on the outside. She cannot tell whether it was inserted in the lock or not, was turning in the lock or not. She said she heard a key outside.

THE COURT: Well, I will allow the question.

Q (Question repeated by the stenographer) A No.

BY MR. SARASOHN:

Q And, as far as you know, then, that key on the outside was not there?

MR. EDWARDS: I object to that as there is no evidence that the key was in the lock of the door.

BY THE COURT:

0867
CASE #1768

Q Did you see a key in the lock of the door at the time that you say you heard a knock on the door? Yes or no, now?
A I didn't see, but I heard something that sounded to me like a key in the lock.

MR. EDWARDS: That's just what I thought she said before, and meant.

THE COURT: Very well.

BY MR. SARASOHN:

Q Now, just before you claim that you heard that sound, was there any key sticking in the inside of the door?

MR. SARASOHN: I withdraw that question.

BY THE COURT:

Q In the room inside, in the inside of the room, at the time that you heard a knock at the door, are you able to say whether or not there was a key in the lock? A No.

BY MR. SARASOHN:

Q So that when Abe Bebkin started to open the door, did he take the key from his pocket? A Yes, sir.

Q Sure of that? A Yes, sir.

Q And by that time did you hear what sounded to you like the sound of a lock, on the outer side of the door?

MR. EDWARDS: I submit that that is hardly intelligible if your Honor please.

THE COURT: Sustained. Now, Mr. Sarasohn, you did not ask the question that you meant to ask, I think.

0868
CASE #1768

MR. SARASOHN: No, sir; I think not. I will withdraw the question.

BY MR. SARASOHN:

Q Did you hear the sound of a key, I mean? A Only on that Saturday.

Q And for how long did you hear the sound of a key? A For about two minutes. I don't know.

Q And all these two minutes the door didn't open? A No, sir.

Q Now, have you always been known by the name of Annie Jacobs? A No.

Q How long has your name been Annie Jacobs? How long have you been called Annie Jacobs? A Since I came to America.

Q And you came ~~wk~~ from what City? A Minsk, Russia.

Q And what was your name in Russia? A Nechame Podlipsky.

Q And all the time you were in Minsk, was that your name, Nechame Podlipsky? A Sure.

Q Now, when you came here, with whom did you come? A I, with a brother and a sister.

Q And your father and mother had already been here? A Yes, sir.

Q And how long had you been in Minsk, after your father and mother left there, left that City? A My mother has been

0869
CASE #1768

hers four years.

Q Pardon me. That's not my question.

THE INTERPRETER: I put the question as the counsel gave it, your Honor.

THE COURT: No, Mr. Interpreter, you intended to convey the thought expressed by the Counsel, but you did not ask his question. You put it differently. Now, the question will be repeated, and you will translate the answer just as she gives it. Your intention was commendable, but your method was not proper.

(The question is repeated by the stenographer to the Interpreter, and by the Interpreter to the witness.)

A I can't tell, because my father was here before my mother, in America.

BY MR. SARASOHN:

Q How long did you remain after your mother came to this country? A I was then about fourteen years old.

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

THE COURT: I will strike it out.

BY THE COURT:

Q How much time passed fromthe time your mother left Minsk until you left Minsk? A I don't know.

BY MR. SARASOHN:

Q Was it four years? A Four years.

0820
CASE #1768

Q So that four years prior to coming to America, you were in Minsk without any father or mother? A Yes, sir.

Q What were you doing these four years? A I was working on cigarettes.

Q That is, were you selling cigarettes? A As long as my mother was in Minsk, I was working with my mother and my sister; but, when my mother left Minsk, I was working for others.

Q But the four years immediately before you came to this country, you were working for others, making cigarettes and selling cigarettes, is that so? A I didn't do any selling of cigarettes, but the lady for whom I was working, making cigarettes, she sold them.

Q Well, were you working, though, in a place where they sold cigarettes? A Yes.

Q And you had been in that place for four years after your mother left for America, is that right? A No.

Q Now, before your Mother left Minsk---A Yes, I was working, but not in the same place allthe time.

Q But you were working during these four years---had you worked in more than one place? A I will explain to you.

MR. EDWARDS: Now, I submit that we want the translation of what the witness said.

THE INTERPRETER: The witness starts to talk about America.

CASE #1768

THE COURT: I will hear exactly what the witness says, and I will determine whether it is responsive or not, and, if I conclude that it is not, I will strike it out.

MR. SARASOHN: But there is no question at all before the Court, and I am about putting a question.

MR. EDWARDS: No. I ask that a translation of what the witness said be given before he puts another question.

THE COURT: Now, you have put a question to the witness, and she has said she would explain, and then you paused, and the Court inferred from your pause and attitude, that you were willing, in lieu of the categorical answer, to receive the witness's explanation, and the witness started to say something, and proceeded, when the Interpreter began to say something to the witness.

MR. SARASOHN: I most respectfully ask that the question and answer be read, because I believe that it admits of a categorical answer.

MR. EDWARDS: And I ask that the Interpreter be allowed to tell us what she said.

THE COURT: The counsel has a right to refuse an explanation from the witness, and insist upon an answer.

MR. EDWARDS: And the witness has already given her explanation, and it was up to the Interpreter to translate it, and then for the counsel to move to strike it out, if it was not responsive, and I ask that the Interpreter be instructed that

CASE #1768

it is no part of his duties to assume to interrupt the witness, but that it is his duty to translate what she says, and to interpret questions and answers.

THE COURT: I will have to ask you to do that, Mr. Interpreter. Now, you want that part stricken out?

MR. SARASOHN: Yes, sir.

THE COURT: It is out. Now, repeat the question, please.

(The question is repeated by the stenographer).

A Yes.

BY MR. SARASOHN:

Q But, was it in the same line of business, either making cigarettes or selling cigarettes?

MR. EDWARDS: Now, I object to the form of that question.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Was it in the same line of business? A Yes, sir.

Q Now, before your mother left for this country, had you been working then, too? A I don't understand the question.

Q Very well. Before your mother came to America, she lived in Minsk with you and the other children; is that so? A Sure.

Q Now, before your mother came to America, and when she

CASE #1768

lived with you in Minsk, did you work at that time also? A You ask me if I alone worked, or with my mother?

Q Either you alone or with your mother? A Sure I worked.

Q How many years? A When Iwent to work, I was about twelve or thirteen years old.

MR. SARASOHN: I move to strike that out, as irresponsive.

MR. EDWARDS: And I submit that it is responsive, sir.

THE COURT: I think I will allow it to stand. Another question, now. I think that I will allow it to stand. Now, you go ahead. Another question.

BY MR. SARASOHN:

Q How many years, or how many months, had you been working either for yourself or with your mother, before your mother came to this country? A I don't understand the question.

BY THE COURT:

Q You say that you worked, and you said, as I recall it, some time ago, that you worked with your mother before your mother came to America. Now, can you tell us how long you worked with your mother? A All the time that she was working, I was working with her. I don't know how many years or how many months that was.

CASE #1768

MR. SARASOHN: I ask that that part of the answer be stricken out, "All the time she was working, I was working." I want to get it in days or months or years.

THE COURT: No, I will let it stand. The effect of the answer is that she can't give it to you in days, months or years.

BY MR. SARASOHN:

Q Can you give us any idea at all for how many years before your mother emigrated to America, you had been working with her?

MR. EDWARDS: I object to that on the ground that the witness has already answered that she can't give it.

THE COURT: Well, I will let the question be put.

A I can't say; Idon't know.

BY THE COURT:

Q About how much time passed, if you can tell us, between the time your father left Minsk and the time when your mother left Minsk? A My father has been here fifteen years. I don't know how much time.

Q Well, were you working at the time your father came to America? A I didn't work. I was then a small child.

THE COURT: Go ahead now, Mr. Saraschn.

BY MR. SARASOHN:

Q Now, about how many years after your father left for America, did you start to work? A I can't say, Idon't know.

Q Can't you give me any idea? A I know that I was about

0176
CASE #1768

twelve years old, when I started to work.

MR. SARASOHN: Iwill ask that that be stricken out.

THE COURT: I will let it stand.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Can you tell us how long your father had been away to America when you started to work, how many years? A No, sir; I don't know. He left me when I was about three or three and a half years, as well as I know.

Q Now, during that time you were locked up, as you say, in that room in Brownsville, didn't you see any child, or any woman, or any one but the brother of Abe Bebkin, and Abe Bebkin? A I didn't see anybody but Bebkin and his brother.

Q Did you remember this thing that happened in Brownsville, did you remember that as well, nine months ago, when you testified in the case against Annie Brown, as youremember it to-day? A Why not?

Q Well, when you were a witness, some nine months ago, in the case of Annie Brown, was this question put to you, and did you make this answer:

"Q You didn't ask for any assistance from anybody in the house, did you, during the three days that you were there? A When Igo out into the hall, and the aunt happened to see me, and she asked him, "Who is this, the girl?' And he said, 'No, this is no girl, this is a friend of mine.'" A No. I will explain

0178
CASE #1768

that now.

Q No. You may explain after. And do you say that you didn't give such an answer, and that you were not asked such a question, notwithstanding the record of the stenographic minutes of the trial shows it.

THE COURT: There is no proof of that at all. You may elicit from her that she didn't say it. She says that she did not say it.

MR. SARASOHN: Well, shall I offer it in evidence now, this record, or when the defense is proceeding?

THE COURT: You will have to prove it.

MR. EDWARDS: I have stated that, at the close of the case, I will concede that anything that you have read from any record in these cases, has been correctly read, and so stands on the record. And that is a concession that I have promised to make, at the close of the case, to cover all that you read in this case, and so that you need not worry about the regular proof as to records.

THE COURT: You must prove it in the regular way. And you have now obtained from her a statement that she did not so answer. T

MR. EDWARDS: The only reason for the concession, if your Honor please, is to save the necessity of making the concession as to every question and answer that is read.

MR. SARASOHN: Then, shall I prove it now?

0874
CASE #1768

THE COURT: No, not now. You have asked her the question, and she has denied so testifying.

MR. SARASOHN: Very well, sir.

BY MR. SARASOHN:

Q Now, you were three days in that house in Brownsville, and do you know the name of the street? A No.

Q And do you know the number of the house? A No.

Q You were five days, though, in the house in New York, and you always mentioned 22 Mangin Street, don't you?

MR. SARASOHN: I willcross that question out.

BY MR. SARASOHN:

Q Had you ever been in the Mangin Street house before? A No.

Q Have you ever been there since? A No.

Q Did you ever know before these five days, as you testify, did you ever know that there was any such street as Mangin Street? A No.

Q Did Abe Bebkin, in the Brownsville place, mention anything about Mangin Street? A There was no necessity for him telling that; he took me there right away.

MR. SARASOHN: I ask that that be stricken out.

THE COURT: Strike it out.

BY MR. SARASOHN:

Q While you were in Brownsville, in that room, did he ever mention Mangin Street to you? Ever mention the number 22?

CASE #1768

A No.

Q Now, tell to this jury, and explain to them. You were three days in Brownsville, but you didn't even know the name of the street and don't know the number, and you were five days in Mangin Street and you at once know that it was 22 Mangin Street. Now, explain that.

MR. EDWARDS: I object, if your Honor please.

THE COURT: Sustained.

MR. EDWARDS: I have no objection to his asking her how she knew it was 22 Mangin Street, if he wants to.

THE COURT: Yes, counselor, you may ask that, if you desire.

MR. SARASOHN: No. Not now. I will ask that, a few minutes later.

BY MR. SARASOHN:

Q Who else was with you in this Mangin Street apartment? These five days? A Annie.

Q Another girl named Annie? A Yes, sir.

Q How long before these five days had you known her? A I didn't know her.

Q When was the last time you have seen her? A Only the five days. I didn't see her any more.

Q Which was the last day of the five days? A Saturday, on which day I was arrested.

Q And when you were arrested, was this other girl, Annie,

0876
CASE #1768

0810

also arrested? A Yes, sir.

Q And Mrs. Brown was arrested? A Yes, sir.

Q And you three were taken to Court? A Yes, sir.

Q Now, as far as you know, what happened to the other Annie? A They gave two dollars, and they were let go, but I wasn't let go.

Q When you say "they" do you mean Annie Brown and Annie Eisenstock? A Yes, sir.

Q Each of those two were fined two dollars? A Yes, sir.

Q And you were kept in prison? A Yes, sir.

Q How long did you remain in prison? A Three days.

Q That would have been until the next Tuesday? A I can't remember.

Q Don't you know what day would be three days after Saturday? A I think Tuesday.

Q Now, what happened to you after these three days? A Mrs. Goldman came and took me to the Waverley House.

Q From where did she take you to the Waverley House? A From the Court. I've forgot the name of the first Judge. He told her to take me.

Q Did you then---when was the next time you saw Annie Brown? A I saw her during the trial of Abe, here.

Q That was about three months ago? A I think so.

Q Had you never seen her before that? A No.

CASE #1768

Q Didn't you see her at her own trial, over nine months ago? A Yes.

Q You did see her then, nine months ago? A Yes, at the time that she was tried.

Q Didn't you see her before that time, nine months ago, when she was tried? A No.

Q Didn't you ever see her in the Essex Market Court or the Jefferson Market Court? A Yes.

Q Well, how long was that time, when you saw her in the Jefferson Market Court or the Essex Market Court, how long was that after the Saturday night when you were arrested? A I can't say; Idon't know.

Q Was it more than a week? A I think so. Two weeks or more; perhaps three weeks, I don't know.

Q You are sure it wasn't more than that? A I think so.

MR. EDWARDS: Now, if counsel really wants to fix those dates, it is a simple matter to fix them. I have all the papers right here, and he can refer to them.

MR. SARASOHN: Well, I will want it as a part of my case, later.

BY MR. SARASOHN:

Q Now, during these five days, were you also locked up in the rooms in the Mangin Street House? A Yes, sir.

Q Did you go out at all? A No.

Q Sure about that? A Sure.

CASE #1768

I only went out into the hall, but there were Italians, and I was afraid to talk to them.

Q That is, the other tenants of that building were Italians? A Yes, sir.

Q And you never went out, except into the hall? A No where else.

Q Sure about that? A Yes, sir.

Q As sure as about everything else you have said?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Did you get shoes during those five days? A Yes, sir.

Q Where did you buy the shoes? A I don't know.

Q And how far from this place, 22 Mangin Street was it, that you bought the shoes? A I can't know.

Q Well, wasn't it at some store that you bought the shoes? A Yes.

Q And wasn't it within those five days? A Yes, sir.

Q What day, as far as you remember? A I don't know.

Q And what did you mean, a few minutes ago, when you said you were locked in all these five days? A Yes, sure I was locked in. When the man came in, he locked the door, and when he went away Annie Brown locked the door.

0882
CASE #1768

BY THE COURT:

Q When you bought the shoes, were you alone, or were you accompanied by some person? A Annie went along.

BY MR. SARASOHN:

Q What Annie? A A girl who was there.

Q And she walked with you from that place in Mangin Street to the shoe store? A Yes, sir.

Q And you don't knowthe street wher e that shoestore was? A No.

Q Why didn't you then go back to your home? A Icouldn't find my home.

Q Did you know the street where your home was? A No, sir.

Q Didn't you say, yesterday, in answer to his Honor---

A I knew. My father had told me it was 37 Rutgers Street, but how to get there, I didn't know.

Q Did you ask anybody in the shoe store, "Please tellme how to get to 37 Rutgers Street?" A No. Because they spoke English, and Ididn't know how to talk to them.

MR. SARASOHN: I ask that everything after "No" be stricken out.

MR. EXWARDS: Isubmit that it is explanatory.

THE COURT: Strike it out.

MR. SARASOHN: No, I will let that stand.

BY MR. SARASOHN:

CASE #1768

BY MR. SARASOHN:

Q Didn't you meet any people at all in that shoe store who looked to you like Jewish people and to whom you could speak Jewish? A No. I didn't look for any, because they all spoke English.

Q Now, after you had gone down from the house in Mangin Street, on the street in Mangin Street, didn't you see some people there who looked to you as if they spoke Jewish? A I didn't hear anybody speak Jewish.

BY THE COURT:

Q About what hour of the day was it when you went to the shoe store? A It was in the night time.

BY MR. SARASOHN:

Q About what hour of the night? A About eight o'clock.

Q Now, do you know how far Mangin Street is from 37 Rutgers Street? A I don't know even now very well.

MR. SARASOHN: May it appear on the record, for those who don't live in that neighborhood, how many blocks it is?

THE COURT: If you gentleman can agree upon it, it may appear upon the record. Ido not know myself where it is.

MR. EDWARDS: I will try to do so, after the noon hour but I confess I don't know myself now.

MR. SARASOHN: All right.

THE COURT: You bear it in mind, counselor, and it may appear on the record.

CASE #1768

MR. SARASOHN: Yes, sir; I will do so, sir.

BY MR. SARASOHN:

Q You testified, yesterday, that, on that Friday night, when you started out, your sister went along, and you started out for a walk, is that so?

THE COURT: You are talking now about the Friday night on which she said that she went to Brownsville?

MR. SARASOHN: Yes, sir.

MR. EDWARDS: And I object to that, because it has been fully covered, Isubmit.

THE COURT: Well, it may be preliminary, and lead to something else. I will allow it.

A Yes.

BY MR. SARASOHN:

Q And you said, yesterday afternoon, that he never mentioned about going to Brownsville until after he had sent your sister back? A I am saying it now.

Q And is that the truth?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Did you say the same thing when you were examined as a witness in the first trial of this defendant, before Judge Foster?

CASE #1768

MR. EDWARDS: It is object to in that form.

THE COURT: I think I will sustain the objection. You have the stenographer's minutes there. You can interrogate her.

BY MR. SARASOHN:

Q Well, I will ask you this question. When you were a witness before Judge Foster, in the trial less than three months ago, did you make this answer to this question:

"Q Now, Annie, coming to that Friday that you say he took you to Brownsville, what did Bebkin say to you before you started out with him? A He said he wanted to marry me."

Did you make that answer to that question? A I don't remember.

Q Was this question put to you at that trial, before Judge Foster, lessthan three months ago:

"Q When he came for you, on that day, at eight o'clock in the evening, did he say anything to you about your leaving home? A Yes, sir.

"Q And did you go away with him, that night, for the purpose of leaving home?"

THE INTERPRETER: May I ask you to put but one question at a time?

THE COURT: Mr. Sarasohn, if you will have the kindness to hand the minutes to the Interpreter, he can read from them.

MR. SARASOHN: Yes, sir; I will. Now, put the first

CASE #1768

question to her.

(The question is repeated by the Interpreter to the witness)

A Yes, sir.

MR. SARASOHN: I may say now, as bearing on the credibility of this witness's story, that I ask that your Honor direct the jury to go, in the presence of a Court Officer, to examine that room in Brooklyn where she says she was confined, and also to look at the Mangin Street house, and that neighborhood, in particular.

THE COURT: Well, you may renew your application, and I will hear you then at length upon it, and the District Attorney.

MR. SARASOHN: And did you put the second question to her also, Mr. Interpreter?

THE INTERPRETER: (The Interpreter repeats the question).

A Yes, sir.

BY MR. SARASOHN:

Q How do you reconcile that with your testimony of yesterday afternoon, that you went out for a walk, and then he sent your sister home, and afterwards he told you to take a walk to his aunt's house in Brooklyn?

MR. EDWARDS: I object.

THE COURT: I will allow the question.

CASE #1768

A Yes.

BY MR. SARASOHN:

Q Are both true? A Yes, sir.

Q Explain how it is so?

MR. EDWARDS: That's objected to.

THE COURT: Well, I will allow her to answer.

A What shall I explain?

BY MR. SARASOHN:

Q If, as you testified before Mr. Justice Foster, that you went away with him that night for the purpose of leaving home, how did you testify, yesterday, that you went away for a walk with him and with your sister, and that afterwards the sister was sent home, and that then he told you to take a ride for about an hour to Brooklyn, and then come back?

MR. EDWARDS: I object.

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

MR. SARASOHN: As to the form of it?

THE COURT: The question proceeds upon the assumption that there is an inconsistency between that which she testified to in a certain record, upon the trial before Judge Foster and what she said on this trial. On this trial, as I recall it, she has testified, in substance, that he suggested to her marriage, after the sister had gone home, or had left them on Delancey Street.

CASE #1768

MR. SARASOHN: No, if your Honor please.

THE COURT: Now, I recall that that is the fact. She now says that, so far as her mind was concerned, she contemplated going away from home, at the time she left the house. I do not see that there is any necessary inconsistency.

MR. SARASOHN: If your Honor please, as far as yesterday's testimony is concerned, she testified that she never thought, that night, of leaving home. On the contrary, yesterday's story was that he kept her there practically by force. Her story, yesterday, was that she went out for a walk with the sister and with him, and nothing was mentioned about leaving home; and then, after the sister went away, he asked her to go to the aunt's house.

THE COURT: Very well. Call her attention to the item of testimony that you refer to. I think I will myself ask the witnessa question, to clear this matter up, if possible.

MR. SARASOHN: I think I have it now.

THE COURT: I will ask her this question now.

BY THE COURT:

Q At the time you left your father's house, with your sister, on the Friday evening that you have testified about, did you at that time, that is to say at the time you left your father's house, intend to go away from it, and not return to it? Now, yes or no to that? A Yes.

CASE #1768

BY MR. SARASOHN:

Q Now, was this question put to you, yesterday afternoon, and did you make this answer:

"Q So that, when you went on that car, that Friday night, to Brownsville, you simply went there for a half hour or three quarters, and then you would have come back to your home; is that right? A Yes, because I didn't know that he would do that to me."? Did you so testify? A I wasn't asked such a question, yesterday. This I ~~kkm~~ said yesterday, but what I was asked, to-day, I was not asked yesterday.

BY THE COURT:

Q You left your father's house on a Friday evening, accompanied by your sister and by the defendant, and, later on that evening, you were near or on Delancey Street with your sister and the defendant; is that so? Yes or no? A Yes, sir.

Q And it was that evening that you took the car with the defendant, and went to Brownsville? A Yes, sir.

Q Now, at the time that you left your father's house, on that evening, had you already made up your mind to leave it, and not come back to it at all? Now, yes or no? A Yes, sir.

BY MR. SARASOHN:

Q And was this question asked you, yesterday afternoon:

"Q Now, when you reached Delancey Street, Bebkin said your sister should go home, and he would come back with you in about

CASE #1768

an hour; is that so? A No, my sister said it was half past nine o'clock, and Father said we must be home at that time, and he said to my sister, 'Now, you can go home, and, later, I will bring Annie home.'"? A Yes.

Q And was this question placed to you:

"Q Well, up to that time, he hadn't said anything about getting married, had he? A No, sir; because I was walking with my sister."? A Because this was settled already at home.

THE COURT: Now, I will ask her a question, and you pay attention to me.

BY THE COURT:

Q Before the Friday afternoon or evening on which you left your house, with your sister and the defendant, had the defendant on that day or at any time before that spoken to you about leaving your father's house? A Yes, sir.

THE COURT: You may proceed, Mr. Sarasohn.

BY MR. SARASOHN:

Q Did you testify, yesterday, in answer to this question as follows:

"Q Did he say half an hour, or three quarters of an hour, one way, or you should be back in half an hour? A There and back."? A Yes, sir.

Q And then was the question placed to you by me:

"Q So that, when you went on that car, that Friday night,

CASE #1768

to Brownsville, you simply went there for half an hour or three quarters, and then you would have come back to your home; is that right? A Yes; because I didn't know that he would do that to me?"

A Yes, but I will explain it.

THE COURT: I want to say to you now, Mr. Sarasohn, that I understand that the cross examination of this witness is necessarily a somewhat protracted one, and I want to allow you every latitude. Now, I think that you have just about reached the limit.

MR. SARASOHN: It is certainly tedious work for my side.

THE COURT: I have given it careful consideration.

MR. SARASOHN: And, if I have not convinced the jury as to her credibility or incredibility, I fear much further cross examination will not do it. However, just one question.

THE COURT: Because, if we just go back over testimony given on another day, we will not advance much.

BY MR. SARASOHN:

Q Do you remember, when you came here to Ellis Island? A Yes, sir.

Q And were you placed in a line of other Emigrants and asked certain questions by the Emigration Officer? A Yes, sir.

Q Was the question asked you, what was your occupation?

CASE #1768

A Yes, sir.

Q What answer did you make? A That I was making cigarettes.

Q Didn't you answer that you were a dressmaker? A No, sir.

Q And, if the records of Ellis Island are brought here, as they were brought before Judge Foster--- A Yes, may be, because I remember now my father had written to Russia, that, if I should come here, I shouldn't say I was a cigarette maker, but that I was a dressmaker, but whether I did say it or not, I don't remember.

Q But in that letter that your father had given, did he give any reasons why you should say you were a dressmaker and not a cigarette maker?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q At the same time that that Immigration Officer asked you what your business was, and you say you may have answered that you were a dressmaker, did he ask you how old you were?

A Yes, sir.

Q Had your father in that letter written to you in Minsk worte to you what age you should state?

MR. EDWARDS: I object to that if your honor please.

CASE #1768

The evidence is that this witness couldn't read, and, even if she could, the contents of a letter written to her before her emigration would not be material.

THE COURT: I will sustain the objection.

MR. SARASOHN: May I ask the ground? If she can use that letter---

THE COURT: Yes, I do not see how it is material whether the father wrote her as to a statement to be made as to age, or not.

MR. SARASOHN: But she has used that letter to make an explanation why she said she was a dressmaker, and I think it is only in fairness to the witness that she might say that he told her to misstate her age.

THE COURT: You may interrogate her respecting what she said as to her age.

MR. SARASOHN: I will ask her that question next.

THE COURT: No, that question comes first in order.

BY MR. SARASOHN:

Q Now, what did you state to this Inspector at Ellis Island, when you came over here, when he asked you how old you were? A Not yet seventeen.

Q And what is the year below seventeen?

MR. EDWARDS: I object to that, if the Court please. I think the jury knows that, without asking the witness the question.

CASE #1768

THE COURT: Well, as testing her intelligence, I will allow it.

A On the 20th of March, I was eighteen years old.

MR. SARASOHN: I will ask that that be stricken out.

THE COURT: Strike it out.

MR. EDWARDS: Well, I submit that, if the question was admitted to test the witness's intelligence, the answer should stand as given. If that is the only purpose of the question, it seems to me that the answer is the only indication.

THE COURT: I will let it stand, by consent.

MR. SARASOHN: Yes, let it stand.

THE COURT: I will let it stand by consent.

BY MR. SARASOHN:

Q Tell me what is the age immediately under seventeen years? A I can't count, I don't know.

Q When you were working in cigarettes in Minsk, did you ever have occasion to count cigarettes? A My employer has told me that I had to put in one hundred (100), in a certain package, and, when I filled up that package, I knew it was one hundred (100).

Q But did you count them up to the one hundred? A My employer has showed me once how to do it, and I knew how.

Q But tell me how old were you before you were seventeen years old? A I was three, and four, and I was twelve years old, and now I am eighteen.

CASE #1768

Q And why was it that, at Ellis Island---pardon me. Then you know those years, three, four, twelve and eighteen?

A Yes, sir.

Q Well, when you were asked at Ellis Island how old you were, why didn't you say you were below eighteen? A Because I wasn't yet eighteen.

Q What is the year below eighteen? A Seventeen.

Q And what year is below seventeen? A I think it is sixteen.

Q Do you think or are you sure about it? A Yes.

Q So that, at Ellis Island, when you came over here, and, as you say, you were below seventeen, you were sixteen, weren't you? A No, more than sixteen.

BY THE COURT:

Q Do you mean sixteen and some months? A I don't know.

BY MR. SARASOHN:

Q Well, did you tell that Inspector that you were sixteen and some months?

MR. EDWARDS: Oh, I submit she has told us what she told the Inspector, that she was not yet seventeen, was under seventeen.

MR. SARASOHN: But that is what Mr. Edwards says, and not the witness.

MR. EDWARDS: No, it isn't what Mr. Edwards says, but what the witness says.

0867
CASE #1768

THE COURT: Well, I will allow the question.

(The question is repeated by the stenographer).

A I only told him that I wasn't yet seventeen. I didn't speak to him about months at all.

BY MR. SARASOHN:

Q And tell me when was this that you were at Ellis Island? A That's about two years ago.

Q Two years ago? A Yes, sir.

Q In what month? A On this Yom Kippur, it was two years.

Q And by Yom Kippur you mean the Jewish Fast Day of Attonement? A Yes, sir.

MR. SARASOHN: Shall we agree that the Day of Attonement falls usually in October?

THE COURT: On the 11th of October, according to the Calendar of this year.

MR. EDWARDS: And it was shown on the last trial that Yom Kippur, in 1911, was on October 2nd, and the Ellis Island records I think showed that she landed on the third of October. Didn't they, Mr. Sarasohn?

MR. SARASOHN: Yes, I think so. And we can put it in right now; can't we?

MR. EDWARDS: Well, when you begin to put in your case, you can put it in regularly. I expect to finish this case before the end of the mohth, and I don't want to have you

0807
CASE #1768

put to the necessity of putting in any more formal proof than is necessary, just to save time.

BY MR. SARASOHN:

Q One further question. What is it that makes you remember Mangin Street, Number 22? A I heard there that it was repeated.

Q By whom? A When Abe Bebkin sent up a boy, Annie Brown asked him who sent him up and he said "Abe Bebkin".---

MR. SARASOHN: I move to strike that out.

THE COURT: No, she is giving you the explanation.

MR. SARASOHN: Very well.

A (Answer continued) And Annie Brown asked, "Have you got my address?" And the boy answered, "Yes, I have got the address. Abe Bebkin gave me the address, 22 Mangin Street."

MR. EDWARDS: May I ask the Interpreter whether frequently she has used the word "Hascka" in referring to Annie Brown, and which she has translated as "Annie". If so, I ask that he use it whenever she uses it.

THE COURT: Very well.

MR. SARASOHN: Yes, and that only means the pet name for "Annie", just as "Millie" would be the pet name for Mildred.

MR. EDWARDS: And may I suggest that, if he is going to testify, Mr. Sarasohn take the stand and be sworn?

BY MR. SARASOHN:

Q And now you say that you recall the number, 22 Mangin

CASE #1768

Street, from the circumstance that you heard it mentioned there.

MR. EDWARDS: I object to that as already asked and answered.

THE COURT: I will allow it.

A Yes, I heard it every time; every time the men came up they said "22 Mangin Street".

BY MR. SARASOHN:

Q And how many times did they come up, and say that, those men? A All the five days.

Q And you say that you had known Annie Brown only those five days?

MR. EDWARDS: I object to that, as already covered repeatedly.

THE COURT: Sustained.

MR. SARASOHN: Well, I want Annie Brown brought into Court, to see if she will repeat the answer in her presence, that she has only known her five days. I understand that she is outside, and I would like to have her brought in.

THE COURT: She may be brought in for identification. I will allow her to be brought in for identification.

MR. SARASOHN: Now, I object to the witness leaving the stand while Annie Brown is being brought in.

THE COURT: Now, I understand that the witness has made some request to go somewhere,

0816
CASE #1768

MR. SARASOHN: And I suggest that a Court Officer should go with her, when she goes out just at the moment when Annie Brown is brought here.

MR. EDWARDS: Now, Isubmit that, if this witness, after the long session that she has had here, desires to go to the toilet, she ought to be permitted to go.

THE COURT: Now, pardon me. It is allowed, and she may be taken through the anteroom. Now, step down there and pass along.

(The witness returns to the stand).

BY MR. SARASOHN:

Q Is this the woman mentioned in your testimony as the woman in the Mangin Street house, Annie Brown? (Indicating a woman at the Bar). A Yes.

Q Is this the woman that you say took the money that each of the twenty men that you had intercourse with gave? A Yes.

MR. SARASOHN: Now, the woman having been identified, I ask that she leave the room. She is a witness in the case.

THE COURT: Yes, Annie Brown may be taken back.

BY MR. SARASOHN:

Q Now, hadn't you been to her house, to her place, for months before you ever met Bebkin? A No, sir.

MR. SARASOHN: That's all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

CASE #1768

Q Now, Annie, I just want to ask you one or two questions. First, do you recollect, on the first trial of Abe Bebkin, these questions being put to you, and giving these answers, on page 40 of the record, just following the questions that Mr. Sarasohn read to you on page 39:

"Q So that, when you testified in the case against Annie Brown, that you didn't see how much money was paid, you testified falsely; is that correct? A From three men I received the money myself, and they are witnesses in the case.

"Q And from the other seventeen men? A I didn't see; the money was paid to her." A Yes, sir.

#Q Now, Annie, Counsel asked you if there had been any engagement between you and the defendant. Will you please explain to us what you mean by engagement?

MR. SARASOHN: I object to that, if your Honor please, as immaterial, irrelevant and incompetent.

THE COURT: Overruled.

MR. SARASOHN: We except.

MR. EDWARDS: I ask it because it has a special meaning in the Jewish language.

THE COURT: I will allow it.

MR. SARASOHN: Exception.

A There was no engagement between him and me.

BY MR. EDWARDS:

Q Well, just what is an engagement, Annie? A (No an-

1960
CASE #1768

swer.)

BY THE COURT:

Q What do you understand by an engagement?

BY MR. EDWARDS:

Q What do you understand by an engagement, Annie? A It is something that is not the marriage yet.

Q But it is a formal meeting between the families; is it not, and an agreed engagement in public; is it not?

MR. SARASOHN: Objected to.

THE COURT: Sustained.

MR. EDWARDS: Well, may we have the word defined by the Interpreter, so that we may know what it means among Jewish people? All that I want is to have something on the record to show what it is.

MR. SARASOHN: There is no objection to that.

THE COURT: Then I will allow it.

THE INTERPRETER: It is a gathering of the families interested, and an announcement that it is the intention of such and such people to get married, and so they are recognized as intended to be married.

BY MR. EDWARDS:

Q And now, Annie, when you were in the Brownsville room, as you have described, with the defendant Bebkin, on that first Friday, did you at that time love the defendant?

MR. SARASOHN: Well, I object to that, as calling for

2969
CASE #1768

the conclusion of the witness's mind.

THE COURT: I will receive it as bearing on her conduct, her frame of mind.

MR. SARASOHN: We except.

A Sure I loved him, before he had done that to me.

BY MR. EDWARDS:

Q Did you trust him?

MR. SARASOHN: We object to that, for the same reason.

THE COURT: Oh, I think I will sustain that objection.

BY MR. EDWARDS:

Q Did you believe at that time that he would marry you, as he told you he would?

MR. SARASOHN: I object to that as immaterial, irrelevant and incompetent, and not within the issues here.

THE COURT: I will allow it.

MR. SARASOHN: Exception.

THE COURT: I will receive it, as bearing on her conduct.

MR. SARASOHN: But this isn't a seduction case.

THE COURT: I will receive it as bearing on her conduct. You have asked her as to why she did not do ~~such~~ certain things, with a view to escaping from the room, and I will allow it.

MR. SARASOHN: Exception.

A I believed that he would marry me in the proper manner.

BY MR. EDWARDS:

CASE #1768

969

BY MR. EDWARDS:

Q Now, Annie, when you were in that room, when you had occasion to go to the toilet, what did you do?

MR. SARASOHN: I object to that, as assuming a state of facts not in proof.

THE COURT: Well, I understand your objection.

BY THE COURT:

Q When you were in that room, instead of going to the toilet, what did you do?

MR. SARASOHN: And I respectfully object to that question, too.

BY THE COURT:

Q What did you do, if anything---

THE COURT: Well, you see, Mr. Edwards---

MR. EDWARDS: I simply asked what did she do in place of going to the toilet, if your Honor please.

BY THE COURT:

Q When you had occasion to go to the toilet, what did you do, in place of going there?

MR. SARASOHN: I respectfully object and except.

A He used to bring in such a large chamber pot. You didn't ask me this question in such a manner, yesterday.

BY MR. EDWARDS:

Q No, that's true. And when you say he brought that in, whom do you mean? A Abe Bebkin.

CASE #1768

Q And did he also empty it afterwards? A Yes, sir.

Q Now, Annie, when you came over here, you have said that your name was Nechame Podlibsky. Will you say what your father's name was? A Why, his name is Abraham Jacobs.

Q Well, what was his name before he came over to America? A I was then a child, and I didn't know how he was called there.

Q But, when you came to America and found your father, you found that he was called here Abraham Jacobs; is that right? A Yes, sir.

BY THE COURT:

Q By what name was your mother known in Russia? A Itta.

BY MR. EDWARDS:

Q Now, Annie, Mr. Sarasohn asked you with respect to this question and answer, which he read from the record of the trial of Annie Brown:

"Q You didn't ask for any assistance fromany one in the house, did you, during the three days that you were there? A When I go out into the hall, and the aunt happened to see me, she asked him, 'Who is the girl?' And he said, 'No, this is no girl; this is a friend of mine.'" And you said then to Mr. Sarasohn that you would explain that. Will you tell us what your explanation is, what explanation you were about to offer? A I didn't go into the hall, and I didn't see any

CASE #1768

aunt. Abe went into the hall and he told me that his aunt had asked him what kind of a girl that was, and that he answered that it wasn't a girl; that it was a friend of his.

Q Well, that was something that the defendant told you; is that it? A Yes, sir.

THE COURT: We will take a recess now.

MR. EDWARDS: That is all. That is the end of my re-direct examination.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until two o'clock.)

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CASE #1768

A F T E R R E C E S S .

A N N I E J A C O B S , her re-direct examination being continued, testified as follows:

RE-DIRECT EXAMINATION (Continued) BY MR. EDWARDS:

Q Annie, I want to ask you just one more question, and please answer it yes or no. Is this defendant Bebkin your husband? A He isn't married with me.

MR. EDWARDS: That is all.

MR. SARASOHN: May I ask if any of the jurors desire to ask a question?

THE COURT: You may step down, if that is all.

MR. SARASOHN: Now, may I ask your Honor to send for that record, which is in the Clerk's Office, the minutes of the first trial before Judge Foster?

MR. EDWARDS: On August 1st, 1913, the trial began.

THE COURT: You may send for them, Mr. Gallagher.

---oooOooo---

B A R N E Y B R O D S K Y , of 298 Monroe Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Brodsky, what is your business? A Cutter by hats and caps.

Q Try and speak as loud as you can. That last gentleman over there in the corner wants to hear you. For whom do you

CASE #1768

work? A For Goldman &. Finkelberg.

Q And where is their place of business? A 23 Bleecker Street.

Q Now, did you ever go to 22 Mangin Street? A Yes, sir.

Q When was it that you went there, if you recollect? A Last October.

Q You mean a year ago this month, October, 1912? A Yes, sir; October, 1912.

Q Do you remember what day of the week it was? A I don't remember the date, but I remember the day was, I think, on Tuesday or Friday, I can't remember which.

Q Now, just tell us to what floor of that house you went, 22 Mangin Street? A On the top floor.

Q And do you know whose apartment it was? AA No.

Q How did you---what did you do when you got there? Did you knock on the door? A I knocked on the door and they let me inside.

Q And, when you went in, what sort of a room did you enter into? A What do you say?

Q What room was it you came into? A The kitchen.

Q And was any one in that room? A Yes, it was in there a lady and a girl, and a ~~xxxx~~ couple was sleeping in the folding bed.

Q Now, when you say "A couple," what do you mean? A I mean a girl with a fellow:

8660
CASE #1768

Q Well, tell us what happened when you got there? A I went up there----

Q Well, about what time was it? A It was between half past ten and eleven.

BY THE COURT:

Q In the evening? A Yes, sir; in the evening.

BY MR. EDWARDS:

Q Now, just tell us what happened there? A I went up there with a friend of mine---

Q By the way, what was your friends name? A George Pitchkoff. We went in there and we went right in the house, and then we met a lady there and a girl.

THE COURT: If you will kindly talk a little louder, you will make it easier for the jurors. Will you do that, please? Now, talk to them, so that they will hear you.

A (Answer continued) And so I went in there, and I seen a lady and a girl, and I seen a couple sleeping in the folding bed.

Then there was a girl, she wanted to stay with us and we didn't like her, and so we wanted to walk out, and so then the girl from the folding bed called us back, and we walked in back, and she was t-lking something to the fellow.

BY MR. EDWARDS:

Q To the fellow in bed with her, do you mean? A Yes, sir, and I don't know what, because I didn't hear it, because

CASE #1768

they were laying covered up, and then she says she will stay with us.

Q Yes? A And we walked in and stayed with her and walked out.

Q Well, did you pay her anything? A Yes, sir.

Q How much? A One dollar.

Q Would you know that girl if you saw her again? A Yes, I seen her now. I never knowed her before, but I seen her in the Court.

Q Yes. You saw her in Court at the last trial? A Yes, sir.

MR. EDWARDS: Do you wish me to call her in for identification?

MR. SARASOHN: Surely. And, after the witness has given her testimony I don't see that there is any necessity of the witness staying out.

BY MR. EDWARDS:

Q Is that the girl that you saw that night? (Indicating Annie Jacobs) A Yes, sir.

MR. EDWARDS: That's all. You may go out, Annie.

MR. SARASOHN: May I ask that she remain in Court now?

THE COURT: She can go right into that side room there.

BY MR. EDWARDS:

CASE #1768

Q Now, did you see the face of the man who was in bed with the girl? A No, sir.

THE COURT: I think it had better appear, for the purposes of the record, that the witness identified Annie Jacobs.

MR. EDWARDS: Yes, sir.

MR. SARASOHN: And I don't see why she shouldn't stay in the Court Room all the time, having given her testimony.

THE COURT: I have decided the matter, and she will remain in this outer room, and, whenever you want her for the purposes of identification, she will be brought in.

BY MR. EDWARDS:

Q So that you didn't see the man's face who wasin bed with her? A No, sir; because he was laying covered up.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. SARASOHN:

Q Just one or two questions. When you first came there you first spoke to the other girl, another girl named Annie; is that so? A I don't know; I can't tell you the names so well.

Q No. Well, you spoke to another girl? A Yes, sir.

Q And you didn't like her? A No, I didn't like her.

Q And, as you were going out, you heard a girl's voice? A Yes, sir.

Q Is that the girl's voice you heard? A That's the girl that was laying in the bed.

9116
CASE #1768

Q Exactly. That was the girl, Annie Jacobs? A Yes, sir.

Q And what did her voice say to you? A She said she wants to stay with us.

Q In what language? A In Jewish.

Q And then you came back? A I heard she was talking to the fellow something before she called us.

BY MR. EDWARDS:

Q Before she called you the first time? A Yes, sir.

BY MR. SARASOHN:

Q Now, how many rooms are there? A Three.

Q And when the door opens from the hallway, into which room do you go? A The kitchen.

Q And then there was a bed room inside of it? A Yes, sir.

Q And in that bed room the girl and the man were sleeping? A No, they were sleeping in the kitchen.

Q They were sleeping in the same room that you entered into? A They were sleeping in the first room I went in.

Q They were sleeping in the first room you went into? A Yes, sir.

Q That was the kitchen? A Yes, sir.

Q On a bed or a couch? A On a folding bed.

Q On a folding bed? A Yes, sir.

Q And in that same room was the other girl? A Yes, she

0912
CASE #1768

was sitting by the table.

Q And in the same room was the Madam of the house? A Yes, sir.

Q They were all in that same room? A Yes, sir.

Q And, when you first came in, you had a talk with some body. With whom did you first speak? A With the girl. She was sitting by the table.

Q And, as you were speaking to her---how near was that bed where the other girl was? A Oh, about two feet away, in the same room.

Q It was a small room, was it? A Yes.

Q A small room in a tenement house? A Yes.

Q So that the girl could practically hear everything that you said to this other girl, Annie? A Perhaps she did, I don't know.

Q But the bed was only two feet away? A Yes, it was a small room.

Q Now, when she went out to stay with you, did she go to another room? A Yes, sir.

Q And you and your friend---were you together with a friend? A Yes, sir.

Q And you and your friend and the other girl, Annie, and the Missis remained in the kitchen? A Yes, sir.

Q To what room did you go? A To the next room.

Q And was there a bed in the next room? A Yes, sir.

CASE #1768

Q And how long did you remain in there? A Oh, about ten minutes.

Q And during those ten minutes you talked to her? A No, I didn't have nothing to speak to her.

Q Well, didyou say anything about the weather, or whether it was nice or bad weather, or how she gets along there? A She didn't ask me nothing, and I didn't spoke to her nothing.

Q Was it all in pantomime? Do you know what I mean by that? Was anything said at all? A No, she didn't spoke nothing, and I didn't spoke nothing.

Q Did she ask you for any money? A Yes, sir.

Q Did she say how much? A One dollar.

Q She said one dollar? A Yes, sir.

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

Q Did you give the money in the same room in which you had the intercourse? A The same room that I stayed with her in.

Q And what did she do with the money as far as you know? A I didn't see nothing what she done with the money.

Q Now, tell me, were you there more than once? A Only once.

MR. SARASOHN: That's all.

THE SECOND JUROR: If your Honor please, if the question is proper, I would like to ask the witness how he came up

CASE #1768

there, and where he got the address from and what caused him to go up there?

MR. SARASOHN: I have no objection. I join with you, Mr. Juror, in asking that.

BY MR. SARASOHN:

Q Who gave you the address? A One night I went downstairs, and between the fellows I heard there was a sporting house, and they told me what number, and I and my friend went up there.

BY MR. EDWARDS:

Q Was that in the barber shop downstairs? A Yes, sir.

BY MR. SARASOHN:

Q You were there on Tuesday night? A I can't tell you exactly when it was, what day.

Q Well, how many days before the night you were there, had you heard that that was a sporting house? A That same night.

Q That same night? A Yes, sir.

Q At night time? A Yes, between half past ten and eleven o'clock.

Q Had you ever seen this man before in your life? (Indicating the defendant) A No, I never seen him in my lifetime before.

BY MR. EDWARDS:

5160
CASE #1768

Q You mean that you had never seen him to know him? A No, sir.

BY THE THIRD JUROR:

Q When you first went into that room, who spoke to you first? A The lady from the house.

Q And there was another lady there? A Yes, sir.

Q And you didn't like any of those two? A No, sir.

Q And then when you wanted to go out again, did any of those two call you back? A Yes.

Q Did they tell you to come back? A Yes.

Q And then afterwards you spoke to the other girl? A Yes, sure. They asked me to come back, and then I spoke to the girl.

BY MR. SARASOHN:

Q Now, what happened first. After you didn't like that girl Annie, you were going out. What happened first? The girl from the bed said, "I'll stay with you." Or what? A Well, she was talking something to the fellow, and I didn't hear what and then she called us back.

Q The girl in the bed? A Yes. And she said, "You just wait a minute and I'll stay with youse."

BY THE COURT:

Q When you started to leave, what person spoke first? You had gone in, as you have told us, with your friend, and you saw this girl sitting by the table, and you saw the Madam, who kept the house, as you say? A Yes, sir.

9169
CASE #1768

Q And you didn't like the appearance of the girl sitting by the table, and you started to leave? A To leave.

Q Now, when you started to leave, who was it that first spoke to you, or said anything? A The girl.

Q And when you say "the girl", what girl do you mean? A The girl from the folding bed.

Q The girl who had been or was in the folding bed? A Yes, sir.

BY MR. SARASOHN:

Q The same girl that was just called in here? A Yes, and she was speaking first something to the fellow and then she said, "I'll stay with youse." She called us in, as she spoke to the fellow.

BY THE THIRD JUROR:

Q Did she speak to the fellow before she called you in? A Yes.

Q Was your back towards the people when you were going out, or your face? A Yes, my back.

Q So you don't know who spoke? A No, but I heard the girl call us back.

Q Well, you said your back was turned, how do you know? A No, when I turned around, I seen she called us back. She called us in, and so I seen she was talking.

BY MR. EDWARDS:

Q What the ~~xxxxx~~ gentleman wants to know is how you

CASE #1768

know whether it was the madam or the other girl who called you, before the complaining witnessfirst spoke to you? A Well, she said, "What are you going out for?" That girl said that, and I said, "Because we don't like to stay with that girl." And then she was talking something to that man, and we didn't hear it, and then she said she would stay with us.

BY THE EIGHTH JUROR:

Q In what language did you talk to the two women, when you first went in? A Jewish. I spoke all the time in Jewish, and they spoke in Jewish, those women.

BY MR. SARASOHN:

Q Now, about how large was the entire room? Give us an idea with your hands. A The room must be just like this (Illustrating) just like that, just like those seats. (Indicating the jury box).

BY THE COURT:

Q Just the size of the jury box? A Yes, sir; I mean as large as that jury box and then as wide as that. (Indicating the further end of the clerk's desk.)

BY MR. EDWARDS:

Q Was it a big room? A Well, you couldn't call it a big room, but it wasn't a small room.

BY THE COURT:

Q How many windows did it have? A I couldn't say

CASE #1768

I didn't see no windows, Ididn't notice any. I think it was one window.

BY THE THIRD JUROR:

Q Did you hear anybody unlock that door when you knocked to get in, when you first went to this house, and before you went in, was the door locked? A Yes.

Q And you had to knock? A Yes, I had to clap on the door.

BY MR. EDWARDS:

Q And who opened the door for you? The Madam? A I didn't hear; I don't know. - I think so.

BY THE THIRD JUROR:

Q Was it locked with a key, do you mean? A Yes, on the inside.

BY MR. EDWARDS:

Q And you heard the key turned when you knocked, did you? A Yes, sir.

BY THE FOURTH JUROR:

Q You say that the other two girls that you saw, you didn't like them at all? A No.

Q Well, this girl that you stayed with, did you ever see her before? A No, sir.

Q Sure about that? A Sure.

Q And did you know there was somebody else there? You say you were ready to go out; were you? A Yes, I was ready

CASE #1768

to go out.

Q And somebody told you that there was somebody else up there, besides those two you saw? A No, we asked the lady, and she said there was a couple laying in the bed, and they are going to get married.

Q And you never saw this Annie Jacobs prior to that time? A No.

BY THE COURT:

Q Had you ever seen Annie Jacobs before that day, or that evening? A Never in my life.

BY MR. SARASOHN:

Q Pardon me. I'll ask you this question. Had you been to other sporting houses before this? A Oh, certainly.

Q And was there anything unusual in a sporting house, the door being locked at ten o'clock at night?

MR. EDWARDS: I object to that. The witness isn't an expert on that subject, I submit. At least, he has not been shown to be.

MR. SARASOHN: I will modify this question.

BY MR. SARASOHN:

Q At all of the places of that kind that you have been at, was the door locked at ten o'clock at night?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

CASE #1768

MR. SARASOHN: I asked the question because I know what is in the juror's mind, I think.

THE COURT: Why, it was the entrance door of the home of this woman who is known as Annie Brown, and the door was locked.

MR. SARASOHN: But I want to show that there was nothing unusual about that, that's all.

MR. EDWARDS: That is all.

THE COURT: That is all, young man.

G E O R G E P I C H K O F F , of 292 Monroe Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Pichkoff, what is your business? A I work now for my father in the grocery line.

Q And where is your father's place of business? A 292 Monroe Street.

Q Now, do you rememberever going to 22 Mangin Street? A Yes, sir.

Q In what year was that? A 1912.

Q And do you remember what month? A It must have been about the month of October, thefirst part of October.

Q And do you remember what day of the week it was? A What's that?

Q (Question repeated) A Oh, it must have been about

CASE #1768

Tuesday or Friday, some of those days.

Q Tuesday or Friday? A Yes, sir.

Q And you don't remember which one? A No, sir.

Q Now, at what time of the day or night did you go there? A Between half past ten and eleven.

Q Now, what floor did you go to? A Top floor.

Q How did you come to go up there? A Iwent down in the street, that night, and I had been told by some of my friends that there is such a house at 22 Mangin, and I went up there.

Q Was that the same night that you went up there? A Yes, sir.

Q And who was with you? A Barney Brodsky.

Q And what did you do when you got there? A We knocked at the door and a lady opened the door for us.

Q Now, when you went in there, tell us what happened? A And we went in, and I seen a lady and a girl, and a girl and a boy asleep in a bed.

Q Yes. Now, did you see the man's face in the bed? A No, sir.

Q Would you know him if you saw him again? A No, sir.

Q Then go on and tell us what happened? A Well, the lady wanted us to stay with that other girl, and we didn't want to, and we made an attempt to go.

0922
CASE #1768

Q What do you mean by that? A We attempted to walk out of the door. And I asked that lady who is the girl who is sleeping there, and she said, "They are a couple that is going to be married soon," and while we made an attempt to walk out, the girl is talking something to that fellow, and then she said she is going to stay with us.

Q She first spoke to the fellow in the bed with her and then said she would stay with you? A Yes, sir.

Q Did you hear the man speak to the girl in the bed? A Yes, sir; but I didn't hear what he said.

Q And then what happened? A We both stayed with her.

Q Where? A In the bed room.

Q And did you pay her anything? A A dollar.

Q And did you see what she did with the dollar? A No, sir.

Q And how long were you in the bed room with her? A Oh, for about five or six minutes.

Q And who went into the bed room with her first, you or Brodsky? A Brodsky.

Q And you waited until he came out and then you went in, did you? A Yes, sir.

Q Now, when this man in the bed spoke to the girl in the bed, did you hear what he said to her? A No, sir.

Q Did you hear what she said to him? A No, sir.

Q Do you know the name of the girl that you stayed with

CASE #1768

there? A I didn't know before; I know it now.

Q You know her name now? A Yes, sir.

Q When did you learn it? A Since I am coming to Court.

Q You testified at the last trial; did you not? A Yes, sir.

Q And what is her name? A Annie Jacobs.

MR. EDWARDS: Does your Honor think it necessary to call her in? The witness identified her at the last trial, and does so, by name, now. What have you to say to that, Mr. Sarasohn?

MR. SARASOHN: I think she had better be brought in. And I would like to ask my questions of this witness in the presence of the girl, too.

MR. EDWARDS: I don't think you ought to be allowed to do so. The girl has been through enough now. Call in Annie Jacobs.

BY MR. EDWARDS:

Q Is that the girl to whom you have reference? (Indicating the complaining witness) A Yes, sir.

Q Had you ever seen her before that night? A No, sir.

Q Did you ever see her again until you saw her in Court, after that night? A No.

Q You didn't see her again after that night until you saw her in Court? A No.

MR. EDWARDS: That is all.

0217
CASE #1768

CROSS EXAMINATION BY MR. SARASOHN:

Q In what language did this girl, Annie Jacobs, the one you now identify as Annie Jacobs, in what language did she say, "I'll stay with you."? A Jewish.

Q And how long were you inside in the room with her? A About five or six minutes.

Q And did she ask you for the money? A Why, certainly.

Q How much did she say? A A dollar.

Q And did you give it to her? A Yes.

Q Do you know what she did with it? A No, sir.

BY THE COURT:

Q You say it must have been a Tuesday or a Friday night. Why do you say that? A I beg your pardon, your Honor, I can't tell what day it happened.

Q I know, but you mentioned either one of two days in the week. Have you any reason for picking out those days? A Why, I don't remember if it was Tuesday night when I was supposed to go to a meeting, or Friday night, when we closed our store early.

BY MR. EDWARDS:

Q And it was one of those two nights? A Yes, sir.

Q Because one night you had to go to a meeting? A Yes, sir.

Q And the other night you closed your store early? A Yes, sir.

0215
CASE #1768

BY MR. SARASOHN:

Q Have you ever seen this man before? (Indicating the defendant) A No, sir; only in the Court.

Q While you were with this girl for five or six minutes in what language did you speak to her? A In Jewish.

Q Did you say anything in particular to her? A No, sir.

Q Did you ask her how long she had been in the place? A No, sir.

BY THE FIFTH JUROR:

Q Before you went up to the fifth floor at 22 Mangin Street, did anybody tell you in particular about this girl, or simply did you take a chance to find anybody at all? A Well, nothing particular, but I had been told there is a place up there.

Q And that was all that you were told, that there was a place like that up there? A Yes, sir.

Q But you didn't know anything at all about any particular girl? A No, sir.

BY THE THIRD JUROR:

Q I want to know whether, when you saw those other two girls, when you first went in, those were the first two that you saw, and you didn't like any of those, and then you started to go out; didn't you? A Yes.

Q And then one of those two called you back, didn't they? Spoke to you first? Who spoke to you first as you went out?

0626
CASE #1768

A As soon as I made an attempt to walk out, why, the girl from the bed herself, she herself spoke to me.

Q She called you? A Yes.

BY MR. EDWARDS:

Q And that was after she had spoken to the man in the bed, as you have told us? A Yes, sir.

MR. EDWARDS: That's all.

MR. SARASOHN: No further questions.

E T T A J A C O B S, a witness called on behalf of the People, being duly sworn and examined through the same Official Interpreter, Mr. Rosenthal, testified as follows:

THE INTERPRETER: The witness says she wants to rest for a few momemts. She has been sick all the week.

THE COURT: She may do so. We will wait until you are rested.

DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, where do you live? A I lived before in 37 Rutgers Street, but now I live in Monroe Street, and I don't know the exact number.

Q Now, how long have you been in this country, Miss Jacobs? A Four years.

Q And where did you come from in the old country? A From Minsk.

Q What was your husband's name in the old country? A Abraham Jacobs Podlipsky.

0927
CASE #1768

Q Now, did he come to this country before you did? A Sure.

Q How much before, how long before you came did your husband come? A He has been here already sixteen years.

Q And was it after he came to this country that he changed his name? A Yes, here he changed his name.

Q Now, is Annie Jacobs your daughter, Mrs. Jacobs? A Yes, sir.

Q Now, how old is Annie now? A She was eighteen years twenty days in the month of Adar.

THE COURT: Well, we will have to have on the record when that was.

MR. EDWARDS: Well, I suppose the Interpreter can tell us, and Mr. Sarasohn will concede it. Is there any objection?

MR. SARASOHN: None at all.

MR. EDWARDS: As we did at the last trial.

THE INTERPRETER: Adar is about February or March.

BY THE COURT:

Q That is to say, she was eighteen years old in February or early in March last, is that so? A Yes, sir.

BY MR. EDWARDS:

Q Now, how old was Annie when she came to this country, Mrs. Jacobs? If you remember? A Sixteen years.

Q - And do you remember when she came? A Yom Kippur, the Day of Attonement, two years ago.

0928
CASE #1768

Q Now, do you remember when it was that Annie left your Rutgers Street home? A I don't remember exactly. It is a year ago, in the winter, a year ago.

Q Do you remember what day of the week it was? A Friday night, Friday evening.

Q How long was she away from home? A About five days.

Q Do you remember what day it was that Annie was arrested in the Mangin Street house? A Yes, sir.

Q What day was it? A Saturday night.

Q Was that the day after she went away or a week later? A A week later.

MR. EDWARDS: That's all.

CROSS EXAMINATION BY MR. SARASOHN:

Q Mrs. Jacobs, what city do you come from? A Minsk.

Q And where is that? A In Europe.

Q But what country in Europe? A Minsk is in Europe.

Q Is it in Russia? A Russia, certainly.

Q Now, tell me---cross that out.

MR. SARASOHN: I ask that Annie Brown be brought in.

THE COURT: Yes, bring her in.

BY MR. SARASOHN:

Q Did you know most of the Jewish people in Minsk? A Those that I was acquainted with, I knew, but not the others.

Q Do you know any persons in New York who come from Minsk? A I don't know anybody. I have been here three or four years

0926
CASE #1768

and I have no business with any one.

Q Now, I will ask you this question meanwhile. At the time that Annie left your home, was she working? A I don't understand what you mean.

Q Well, was Annie working at that time, or was she at home? A (No answer).

BY THE COURT:

Q Did she go out to any employment outside? A She was at home all the time. She was working in the house, because I didn't feel well.

BY MR. SARASOHN:

Q Well, about how many months before that Friday that she went away, had she been working in the house? A All the time since she came to America.

Q Why, wasn't your daughter working? A She did go to work, but otherwise she didn't go out at all.

Q I will ask you this. Look at this lady, this woman, and tell me whether you knew her fromMinsk. (Indicating Annie Brown, standing at the bar). A No, sir.

Q Did you ever see her in Minsk? A No, Ididn't see her. I don't remember her; I didn't know her from Minsk.

THE COURT: Now, that refers to Annie Brown. Annie Brown may go back.

BY MR. SARASOHN:

Q Have you heard that she comes from Minsk? A I didn't

CASE #1768

hear about it, and I don't know her.

Q After the arrestof your daughter, didn't you and your husband talk about the place where your daughter was found, and the woman that keeps that place? A Nothing, no talk about that at all.

Q Now, Mrs. Jacobs, you were telling us that, that about that Friday when Annie left your home, she hadn't been working, because you were home, sick; is that so? A Yes, I was sick.

Q Well, for about how many months was that, that Annie didn't go out working, but remained at home? A A couple of months.

Q During those couple of months, did she go out and do the marketing? A Sure.

Q You were home, sick? A Yes, I was in bed.

Q And you were in bed for about three months? A Two months I was sick; I couldn't leave the house.

Q And during those three months, she went out to the grocer, the butcher and the baker, and carried on the house? A Yes, there was nobody else to do it.

Q Are you sure this was two months, or did this last longer than two months? A I can't remember.

Q All right. Before this time, where was the place you said she was working? A In Madison Street she worked.

Q What number? A I don't remember the number.

Q Were you over there? A No, sir; I wasn't there. But

CASE #1768

the girls came with her from work.

MR. SARASOHN: I object to the latter part of the answer, and move to strike it out.

THE COURT: Yes, I will leave in, "No, I wasn't there", and the rest of the answer will be stricken out.

BY MR. SARASOHN:

Q What time of the morning did Annie go away from home when she worked at Madison Street? A Half past seven.

Q And when did she come back? A Six o'clock, a quarter after six.

Q And how long did that take place, how long did she work in that Madison Street place? A Several weeks. I don't remember how many. She stuck a needle from the machine into her hand, and for that reason she had to stop working.

Q About how long did she stop working, after the time she stuck the needle in her hand by the machine? A One week. And then she returned to work.

Q So, altogether, how long did she work in that Madison Street place? A I don't remember, it seems to me about one month.

Q Well, what other place did Annie work? Since she came to this country? A I don't know anything about streets. I have a stand, and I didn't know much about it.

Q What kind of a stand did you have? A I was all the time at the stand, and I couldn't notice everything.

CASE #1768

Q That's it, you couldn't pay very much attention to Annie, could you, while you kept that stand? A Oh, why didn't I pay attention to her? She didn't go nowheres.

THE SECOND JUROR: Your Honor, the Interpreter didn't put that question right. He says, "Did you look at her?" That certainly doesn't mean whether she paid any attention to her. There is a German word that expresses that.

THE INTERPRETER: Well, if you wish me to speak German to the witness, I will. It is much more convenient for me.

MR. SARASOHN: Well, to save time, I will withdraw the question.

BY MR. SARASOHN:

Q Then you say that you can't tell us any other place where she worked since she came from Europe, because you were attending to your stand?

MR. EDWARDS: Objected to, because it is a statement of counsel, rather than a question.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Well, you were mainly at the stand then, most of the time; were you? A No, I wasn't at the stand all the time. I was in the house, too.

Q Well, did you have a stand? A Yes, sir.

Q And when you said, a moment ago, that you were always at the stand, and couldn't pay attention to Annie, what did you

CASE #1768

mean? A Who said that? I said that, keeping a stand, but she had nothing to do with the stand. My husband was keeping the stand.

Q Now, didn't you say, a few minutes ago, in answer to a question, this: "I was all the time at the stand and couldn't notice everything?" A That was a mistake. I don't go to the stand at all. She used to be in the house with me.

Q. Now, I didn't ask you any question, but, if you desire to say anything, I have no objection.

THE COURT: Put another question, now.

BY MR. SARASOHN:

Q Now, Mrs. Jacobs, you have other children besides Annie have you not? A Sure.

Q Some younger and some older? A Two boys, I have.

Q And how many girls? A Two---three boys.

Q And two girls? A Five children altogether.

Q What is the name of the other girl? A Sarah.

Q And now, please tell me when she was born? A (No answer).

Q What is your answer to that question?

THE INTERPRETER: The witness asked me what is the month before the Hebrew month of Eller.

A I forgot the month.

BY MR. SARASOHN:

Q Now, when you were asked what month Annie was born in,

CASE #1768

you said that it was the twentieth day in the month of Adar. Now, why can't you tell us what month Sarah was born in? A Two weeks in the month of Ab.

Q Now, when was Sam born? A Two weeks before the Hebrew Passover,

Q When was Harry born? A On Yom Kippur.

Q On the very day of Yom Kippur? A Yes, sir.

Q And Selig, when was he born? A Three days after Pesach, after Passover, but not in the same year.

Q Now, tell me this. So, with the exception of your daughter Annie, and your daughter Sarah, the other children were just born right on a Jewish Holiday or on a certain day before a Jewish Holiday?

MR. EDWARDS: I object to that as entirely immaterial, and not within any of the issues in this case.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Tell me the Jewish month. What month was Harry born in? A In the month of Ellul.

Q Well, you said the month of Ellul, because that is the month of Yom Kippur?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

CASE #1768

BY MR. SARASOHN:

Q Now, tell me, Mrs. Jacobs, have you ever kept any records of the dates of the births of your children? A My husband has written it down, but he lost it.

Q When did he lose it? A When he went to America.

Q How long ago did your husband go to America? A He has been here sixteen years.

Q So that record was lost sixteen years ago? A I can't know it. How can I know that?

Q Well, how was it kept? In a book or on a paper? A This belongs to my husband; it doesn't belong to me, it isn't my business.

Q Yes, you say keeping the records, knowing when your children were born, you say that that belongs to your husband, not to you?

MR. EDWARDS: I object to that. She said that the keeping of the record was the business of her husband.

THE COURT: Sustained. Keeping the record of the births of the children, you may ask.

BY MR. SARASOHN:

Q Can you read? A No, sir.

Q Can you write? A No, sir.

Q Can your husband read or write? A No, he can't read or write either.

Q Well, how did you keep those records, if you or he can't

CASE #1768

read or write?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: I press the question.

THE COURT: It is argumentative, counselor.

BY MR. SARASOHN:

Q Well, tell me the nature of those records? What were those records? A When a child was born, he wrote it down.

Q But you just now told us that he couldn't write. A Oh, there was one in the store who can write, and, whenever a child was born, he used to go over to that man, and that man would write it down.

THE COURT: We will adjourn for the day now.

---oooOooo---

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Friday morning, October 24th, 1913, at 10:30 o'clock.).

---oooOooo---

0931
CASE #1768

THE PEOPLE VS. ABRAHAM BEBKIN.

TRIAL RESUMED.

New York, October 24th, 1913.

E T T A J A C O B S , her cross examination being continued, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. SARASOHN:

Q What store have you reference to? A I didn't say a store.

Q Well, where was the man that you said your husband would go to, each time a child was born and have it written down? A I don't know. I don't know exactly. There is a man who used to write it down.

Q Who was the man? A I don't know.

Q Why did you say, yesterday, that there was one in the store who could write, and every time a child was born, he would go over to that man, and he would write it down?

MR. EDWARDS: I object, because the witness has already stated that she did not use the word "store."

THE COURT: Sustained.

BY MR. SARASOHN:

Q Tell me what year you were married? A I don't remember in what year, but I remember how many years, about.

Q What year was this daughter Annie born? A I can't say by the year.

Q How many years had you been married when your husband

CASE #1768

left for this country? A About eight years.

Q And during these years---A I don't understand exactly what you mean and how you figure.

Q How many years passed by between the time that you were married and the time that your husband left for America? A My husband had left me in Minsk, for sixteen years; this I know.

MR. EDWARDS: Now, may I ask what the witness means? May the Interpreter repeat that.

A. (Answer continued) Since he left Russia, and came to America, sixteen years have passed.

BY MR. SARASOHN:

Q Well, how many children did you have altogether? A Five.

Q And all the children were born in Minsk? A Yes, sir.

Q Was there not a period of two years between each child? A The two older children were born two years apart, but the other children about a year apart.

Q Then the three younger children were born just a year apart, just one year after the other? A Not exactly a year; a little more than a year.

Q Now, tell me this. Now, is this City of Minsk that you come from a large city? A Sure, it's a large city.

Q And, when a child is born in Minsk, isn't there a report made to the Police Department, or the other government officials?

0936
CASE #1768

A I don't remember anything about that, and I don't know much about that.

Q Well, you gave birth to five children there? Can't you tell me when these children were born if either you or the mid-wife gave a report to the Government authorities of the birth?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: I will withdraw the latter part of the question.

BY MR. SARASOHN:

Q Did you, after you gave birth to these five children in Minsk, did you report to the Police Officials or the Government Officials, either, a record of the birth? A Well, this doesn't belong to a woman.

THE COURT: Just answer it yes or no.

MR. SARASOHN: I will ask that that be stricken out.

THE COURT: Strike it out.

MR. EDWARDS: I submit that the apparent meaning of that is that that was not one of her duties as a woman, and I think it is a proper answer, and that it should stand.

THE COURT: I think not. Answer it yes or no.

A No.

BY MR. SARASOHN:

Q You did not? A No, sir.

Q Now, don't you know that in Russia, this reporting of

CASE #1768

the births is a very important matter? A Iknow that this doesn't belong to me. It belongs to my husband. That is his business.

Q All right. Don't you know that in Russia the government keeps the strictest records of births, because each male child is compelled to do military duty, when he reaches a certain age?

THE COURT: How is this material, as to its being a part of her duty to make a report?

MR. SARASOHN: It is very material on the question of age. I tried a case recently where the judge refused absolutely to make any finding, unless the record of the government was brought.

THE COURT: In the light of the circumstance that it now appears that it formed no part of her duty to make a report, the evidence is not received.

BY MR. SARASOHN:

Q Do you know if your husband made any reports to the government on the birth of either of these five children? A The date of the birth was written down, but my husband has lost the paper, either here or at home.

Q And you say you don't remember by whom it was written down, do you? A I don't know anybody, I don't know.

Q And was the same paper kept in your family, and each time a child was born, your husband had somebody write on it?

A I don't know anything about that.

CASE #1768

MR. SARASOHN: That's all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, Mrs. Jacobs, did Annie ever stay away from home all night before the Friday that you told us she left home, prior to her arrest?

MR. SARASOHN: I object to that. There is no claim made bytthe defense that she did.

THE COURT: Mr. Edwards, I will allow you to recall this witness, if it develops that a claim of this kind is made.

MR. EDWARDS: Well, I did hope that I could save this witness from coming hereagain, and from closing up her house, because all the family are here now, about.

THE COURT: I will sustain the objection.

BY MR. EDWARDS:

Q Now, Mrs. Jacobs, where did you do your marketing?

MR. SARASOHN: Objected to as entirely immaterial.

THE COURT: I will allow it.

MR. SARASOHN: We except.

BY MR. EDWARDS:

Q On the same street? A Yes, sir.

MR. SARASOHN: I object to that as leading, and move to strike out the answer, because it was evidently an attempt to help the witness.

THE COURT: I will allow it to stand.

MR. SARASOHN: Exception.

0412

CASE #1768

BY MR. EDWARDS:

Q And where was the grocery at which you purchased your groceries located? A Right opposite us, acrossthe street.

Q Now, before you came to this country,did Annie work, while she lived at Minsk?

MR. SARASOHN: I object to that as not being rebuttal.

THE COURT: Overruled.

MR. SARASOHN: Exception.

THE COURT: It was brought out by you, counselor, in the examination or this witness.

MR. SARASOHN: We take an exception.

A Sure.

BY MR. EDWARDS:

Q And what did she work at? A On cigarettes.

Q And did any other members of the family work at the same work? A A I and Sarah, yes.

Q And where did you work, At home or in some one else's place? A In my home.

Q Now, how many years havepast since youwere married? A It was twenty-three years on Legdomer.

THE INTERPRETER: Well, that is thirty-three days after the second day of Passover.

MR. EDWARDS: And about what month does that come in, for the sake of the record, Mr. Rosenthal, about when does

0945
CASE #1768

that come in the year?

THE INTERPRETER: Well, Passover, this year, was on April 22nd. So you have to count thirty-three days from April 22nd.

MR. EDWARDS: Yes, it would have been about the latter part of May of this year, then?

THE INTERPRETER: Yes.

MR. EDWARDS: That is all.

RE-CROSS EXAMINATION BY MR. SARASOHN:

Q When you went to America, did you leave the girl Annie in Minsk? A Yes, sir.

Q And how many years were you here before Annie came over? A Two years.

Q Now, when you were telling us that Annie worked on cigarettes, you referred to the time before you came to America? A She started to work on cigarettes when she was a girl about twelve years old.

MR. SARASOHN: I ask that that answer be stricken out as not responsive.

THE COURT: Well, I think I will let it stand. It is fairly responsive.

MR. SARASOHN: I will ask the question again, if your Honor please.

BY MR. SARASOHN:

Q When you told us that Annie worked cigarettes, are you

0960
CASE #1768

referring to the time before Annie came to America?

THE COURT: Now, yes or no to that.

A She was working at cigarettes at the time that I was there, and she also worked cigarettes after I left Minsk.

BY MR. SARASOHN:

Q After you left Minsk, you were in New York City, weren't you?

THE COURT: Do you want that stricken out, that she worked also cigarettes after she left?

MR. SARASOHN: Yes, I would like to have it stricken out.

THE COURT: Then I will strike it out. She can only testify to what she knows, when she was in Minsk. I will receive her testimony as to what took place while she was in Minsk.

MR. SARASOHN: Yes, sir; but she ants to testify as well to what she doesn't know, when she wasn't in Minsk.

MR. EDWARDS: And I move that the comment of counsel be stricken out.

BY MR. SARASOHN:

Q Now, when you went to America, and left your daughter at Minsk, with whom did you leave her? A With a brother of mine.

Q And that brother is married, I assume? A Sure, he has a family.

0960
CASE #1768

Q And did you leave the other girl Sarah there also?

A Yes, sir.

MR. SARASOHN: That's all.

MR. EDWARDS: That's all.

THE INTERPRETER: This woman would like to go home now, she says, because there is no one to take care of the home.

THE COURT: Mr. Sarasohn, there were some questions which Mr. Edwards was going to put to this witness, but refrained, upon your objection, because, perhaps, not strictly receivable at this stage of the case, and it is conceivable that the People may have to recall her.

MR. SARASOHN: No, sir; I don't want her.

THE COURT: Very well. She may go.

MR. SARASOHN: Now, if your Honor please, may I state, before any other witness is sworn, I would like to inform the Court that I have had some difficulty in subpoenaing the officials on Ellis Island.

MR.EDWARDS: And I told Mr. Sarasohn that I would concede, that I would consent to the reading in at the proper point in the case, of the testimony of the officials who appeared here on the last trial, from Ellis Island, together with the records which were then read into the case, and I made that same statement yesterday.

MR.SARASOHN: Very well, if the stenographer has that statement on the record, that is satisfactory to me.

CASE #1768

ABRAHAM JACOBS, a witness called on behalf of the People, being duly sworn, testified as follows:

THE INTERPRETER: This witness says that he can't explain well in English, and he would like to speak in Yiddish.

MR.SARASOHN: We respectfully object. This witness has been in the United States for sixteen years and ought to be able to speak English, and probably is, but thinks that he can gain some advantage by not speaking English.

MR.EDWARDS: I protest against that remark of the counsel.

MR. SARASOHN: Then I ask that the Court examine this witness as to his ability to speak the English language, before he allows him to speak through the Interpreter.

THE COURT: I will do that.

BY THE COURT:

Q What is your name? A (No answer).

Q Do you understand me? A I can understand, but I couldn't speak English well, I can explain better in Jewish.

Q Now, will you just try for a moment. What is your name? A Abraham Jacobs.

Q Whereabouts do you live? A Now?

Q Yes, now? A 84 Monroe Street.

Q How long have you lived there? How long have you lived at that place in Monroe Street? A Where I lived before?

0417
CASE #1768

Q No. Where you live now, how long have you lived there? A About two months.

Q How long have you been in New York? A All the time in New York, since I came from Europe.

THE COURT: It is very possible that this witnessmay understand a good many of the questions as they may be put to him in English. It is also apparent to the Court that he speaks English imperfectly, and perhaps will not be able to express himself, and the interests of justice seem to suggest that he should be allowed to talk in that language with which he is most familiar.

MR. SARASOHN: We most respectfully except.

(The witness is examined through the Official Interpreter, Mr. Rosenthal).

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live, Mr. Jacobs? A 84 Monroe Street.

Q Now, Mr. Jacobs, how many years have you been in this country? A Sixteen years.

Q When will the sixteen years be up? A Thanksgiving will be sixteen years.

Q From where did you come? A From Minsk.

Q That is in Russia, is it not? A Yes, sir.

Q Now, what was your name when you were in Russia? A Abraham Jacob Podlipsky.

Q And when did you change that name to Abraham Jacobs?

0948
CASE #1768

A Since I came here.

Q Jacobs was your middle name before, or, rather, Jacob? A Yes, sir.

Q Now, is the girl Annie Jacobs your daughter? A Yes, sir.

Q And where was she born? A In Minsk.

Q Can you tell us when herbirthday comes? A According to the Jewish Calendar, it is twenty days in the month of Adar, which comes out about the month of March.

Q And how old is she? A She was eighteen years.

Q And when was she eighteen? A Last March.

Q Now, do you remember when she came to this country? A Yes, sir.

Q When was it? A Last Yom Kippur, the Day of Attonement, was two years.

Q And where were you living when she arrived here? A 37 Rutgers Street.

Q Now, had you ever seen this defendant before he was arrested? A Yes, sir.

Q When was the first time that you saw him, as nearly as you can recollect? A It was in Delancey Street, corner of Market and Delancey Street.

Q And who was with him? A Annie.

Q Was that before or after Annie left home? A Before.

Q About how long before? A About a couple of months.

CASE #1768

About two months, sure.

Q Did you have any talk with him at that time? A I didn't talk to him at all. I only told Annie to go home.

Q Well, afterwards---how long after that did you go home? A I was talking to a man, and about five or ten monutes later I went home.

Q Yes, and did you find the defendant there when you got there? A I found him sitting on the stoop and the girl and my wife were standing on the stoop.

Q Now, did you ever see the defendant again after that? A Yes, sir; he was in my house.

Q Yes. How often? A I have seen him twice or three times; I am not quite sure.

Q Well now, can you tell us what day of the week it was that Annie left home? A Friday evening.

Q And how long after that didyou see her again for the first time? A The following Saturday night.

Q And that was how many days after she left? A About eight days.

Q Now, where did you see her when you saw her again on the Saturday after? A Ifound her in 22 Mangin Street.

Q And who went to 22 Mangin Street with you? A I and my two boys, and two detectives and two policemen.

Q Yes. And whereabouts in the building 22 Mangin Street did you find her? A On the top floor, in the rear.

CASE #1768

Q And who else was in the apartment at the time? A The Missis and another girl, and two men or boys, I don't know exactly.

Q Now, just tell us what was done there at the time you took Annie away from the 22 Mangin Street house?

MR. SARASOHN: One moment. I might suggest that it wasn't in the presence of the defendant. He should be asked if he was there.

MR. EDWARDS: I don't ask the conversations, only what occurred there.

THE COURT: I will allow himto state what happened.

MR. SARASOHN: We except. May I ask that the jury be informed---it is very important---if the defendant was there at the time?

MR. EDWARDS: Well, let us get to it in the ordinary course of examination, I suggest.

A When I came in, I saw my daughter Annie there, and I pointed her out to the officers, that that was my daughter.

Q And then what happened? A There was a man named Lipschutz there and he started to fight with the officers.

Q And then, finally, he was taken to the station house, was he? A Then finally Lipshutz was taken, and the two girls and the woman.

Q And this defendant was not in the apartment, was he? A No, sir.

CASE #1768

Q Now, when after that did you next see this defendant?

A I didn't see him until I saw him in Monroe Street, when he was arrested.

Q Well now, just tell us the circumstances surrounding his arrest, just what you saw yourself.

MR. SARASOHN: I object to that, unless he first gives the date. We want to know the date of the arrest, and how many months after that it was, after the girl was found in Mangin Street.

MR. EDWARDS: Well, we will have to fix that later by other witnesses perhaps.

THE COURT: I will allow the question.

MR. SARASOHN: We except.

A I was upstairs. I was sleeping and then my wife came andsaid---

THE COURT: No, not what your wife said.

MR. EDWARDS: Yes, please caution him, Mr. Interpreter, that he must not say anything that was said to him.

A (Answer continued) I saw him in Monroe Street, and I went up to him and I told him, "You are a nice man. You took my girl from a decent house."

MR. SARASOHN: Pardon me. We had the record of the first trial here yesterday. Is it here now?

MR. EDWARDS: It is on the Clerk's desk. I wish you wouldn't interrupt.

CASE #1768

A (Answer continued) "And you took her to 22 Mangin Street, to make a living for you."

BY THE COURT:

Q What did he say when you said that to him? A He said, "Go on, you son-of-a-bitch."

BY MR. EDWARDS:

Q And then what did you do? A I got hold of him, and I said, "I will not let you go." I was looking for a policeman to have him arrested, and then a whole crowd attacked me, and they threw me down on the ground, and my elbow was hurt and my hat was broken, and my shirt was torn.

Q Now, what became of the defendant? A And he tore himself away and he ran away.

Q And then what happened? A I was tired out, I couldn't run, but my boy ran after him, and a policeman caught him in Henry Street.

Q Now, which boy of yours was that? A Sam.

MR. EDWARDS: That's all.

CROSS EXAMINATION BY MR. SARASOHN:

Q Jacobs, how many months after this Saturday, when you found your girl in Mangin Street was it that you made this arrest?

A About five or six months, I think.

MR. EDWARDS: Well, can we agree upon the date?

MR. SARASOHN: Yes, I want to get those dates, anyway, before the jury. What are the dates?

0951
CASE #1768

MR. EDWARDS: Whatever the original papers show.

MR. SARASOHN: But let it show on the record, so that the jury may know it.

MR. EDWARDS: I will concede whatever dates appear on the original papers.

MR. SARASOHN: Well, his Honor has the original papers, may I have them, your Honor?

THE COURT: Certainly. Here they are.

MR. SARASOHN: Then let's do it right now. The papers show that the arrest was on the 29th of June, 1913.

MR. EDWARDS: No, that was the date of the complaint, but I think the arrest was the night before.

MR. SARASOHN: And is it agreed that the date of the trial of Annie Brown was December 23rd, 1912?

MR. EDWARDS: I think it began on the date, but I think it ran over to Christmas Eve. It was finished, late that night. I think that is right.

MR. SARASOHN: And we yesterday agreed that the date of this arrest was October or November 2nd.

MR. EDWARDS: Well, we will have the officer here, and he will inform us exactly on that point.

BY MR. SARASOHN:

Q If the date of your going to that Mangin Street house, and finding your daughter there was in November, it was more than six moths later that you found the defendant on the street,

0960
CASE #1768

and caused his arrest, wasn't it?

MR. EDWARDS: I object to that. It is purely argumentative, the two dates being on the record.

MR. SARASOHN: Well, I think I would rather have it from the witness directly.

BY THE COURT:

Q Well, do you want to correct your testimony where you said that it was about five or six months afterwards that the arrest was made? A Five or six months, sure, but perhaps more. If it was in November---I can't figure it out exactly.

BY MR. SARASOHN:

Q And you were on the street and caused his arrest, he was walking on Monroe Street? A No.

Q Was he flying?

MR. EDWARDS: I object to that as frivolous on the part of counsel.

A He was with a girl and he went into a store, in a sausage store, and he had a bundle.

Q Well, how far was that from the place where you were living? A About half a block.

Q And had your daughter Annie before that time told you that she had seen Bebkin on that same street, in Monroe Street, half a block from you?

THE COURT: Yes or no to that.

A Yes, she had told me.

0955

CASE #1768

BY MR. SARASOHN:

Q And had your daughter told you that he was keeping company with a girl on Monroe Street, half a block from you, and was engaged to her?

MR. EDWARDS: I object to that. The only possible bearing it could have, I submit, would be to contradict the girl, and no such question was put to her, and no foundation was laid.

THE COURT: It may have a bearing on the length of time that elapsed before this defendant was arrested, and the reasons for it.

MR. EDWARDS: But the elapsed period of time is a definite one, and the jury can determine it from the dates in evidence, without the assistance of this witness.

THE COURT: And inference may possibly be drawn from this by the jury as to the validity of the charge against the defendant, arising from the circum stance that he was not placed under arrest until a certain day.

MR. EDWARDS: True, but it has no bearingon this point. He is asked if his daughter told him something, and I submit it is incompetent, as hearsay, and that the proper place to learn them was from the daughter, if she knew them, and it is a mere subterfuge to get them in, this way. And, if it is a fact, it may be proved properly.

THE COURT: Iwill tell you, Mr. Edwards, why I am

0952
CASE #1768

inclined to receive it.

Ordinarily a statement of that kind would not be receivable, because it would be hearsay, but there are situations in which it is competent to show what information a witness received, as bearing upon the witness's conduct; that is to say, you may show whether or not a witness was informed or told respecting a certain thing, not as bearing on the truth of that which may have been told him, but as influencing, if you please, what he did.

It is not proof, of course, of the truth of the statement-as to that, it would be clearly hearsay and inadmissible. But it does, if you please, have a bearing on his conduct, which conceivably has some bearing on the circumstances, and more particularly on the time that the arrest was made.

MR. EDWARDS: And then I ask that the Court instruct the jury that it has no bearing on the truth or falsity of the fact.

THE COURT: I tell you that, gentlemen. This is not received in evidence at all, to show that, in point of fact, the defendant was previously in the neighborhood or was in the habit of being in the neighborhood. It is merely received as bearing upon the information conveyed, if any, to this witness, as affecting this witness's conduct. That, perhaps, is not very plain to you, but it is about as plain as I can make it. I will let him tell in that way, and you may interrogate

0960
CASE #1768

him.

MR. SARASOHN: I withdraw this question, for the present.

BY MR. SARASOHN:

Q When you saw Bebkin, these five or six months after that time you arrested your daughter in Mangin Street, were you alone or was anybody with you? A My girl---

Q Which girl? A My daughter.

Q Which daughter? A The younger one.

Q And who else? A And a lady friend, a girl friend of hers.

Q And you say you saw Bebkin go with another girl; yes or no? A Yes.

Q And you saw Bebkin go into a store with the other girl? Can't you kindly answer yes or no? A No. He went into the store, and the girl was waiting outside.

Q Now, had you seen that girl before? A No, I had not.

Q Didn't you know that that girl lived in the same block with you? A No, I had never seen her.

Q Did you say you waked up from sleep? A No, I was in the house, but I had gotten up already from my sleep.

Q What time of the day was it? A It was between four and five o'clock.

Q Between four and five o'clock? A I am not sure of

0958
CASE #1768

the time, but it was between four and five o'clock.

Q Inthe afternoon? A Yes, sir.

Q Now, tell us this. You told us that you had met Bebkin once before at Delancey Street, with your daughter. Is that correct?

THE COURT: Yes or no, now.

A Yes, that was the first time.

BY MR. SARASOHN:

Q What time of the day was that? A In the evening, about seven or eight o'clock.

Q At night? A Yes, sir.

Q And that was the very first time you ever saw Bebkin? A Yes, sir.

Q You didn't speak to him? Yes or no? A He came up to me, and asked me why didn't I let my daughter go with him, and I said, "Who are you?"

Q Pardon me. Up to that time you had never seen him? A No.

Q So while you were walking on Delancey Street, this man comes up to you and says, "Why don't you let me go with your daughter? Is that so? A Yes, sir.

Q And what was your answer? A I asked him "Who are you that you ask me why I don't let her go with you?"

Q And what answer did he make to this? A He didn't answer anything but left, he went away.

CASE #1768

Q And how far was your daughter away when this conversation took place? A As far as from the witness stand to the wall. (Indicating the side wall of the Court).

Q And, when he went away, did he go back to your daughter? A No, I was having a conversation with a man.

Q And that was at Delancey Street and where? A Delancey Street, corner of Orchard.

Q And about how many blocks from 37 Rutgers Street, where you lived? A About seven blocks.

Q You kept on talking with the man? A Yes, sir.

Q And did youwatch where your daughter was going? A I told her to go home, and she went home.

Q Well, Ithought you said she was as distant from you as that door is? (Indicating the side door of the CourtRoom) Did you talk all through that distance? A As I met---when I met both of them, I told my girl right away to go home, and she started to go, and, when the defendant went away, he was as far away as I have indicated.

Q And when you her at Delancey Street with this man, whom you had never seen before, did you ask her, "Who is this man that you are walking with?" A Yes.

Q Now, when you came back to your home, you say you found Bebkin on the stoop? A Sitting on the stoop, yes.

Q Did you have a talk with him then? A No, sir; I did not.

CASE #1768

Q And when was the next time you saw him? A He came up on Saturday to my house.

Q Do you remember that Saturday that you went up to Mangin Street? A I remember.

Q Did you see your daughter there? A Yes, sir.

Q And you hadn't seen her for about eight days? A Yes, sir.

Q And what did you say to your daughter Annie on this Saturday night? A I told her, "Why did you leave home? Go home".

Q Didn't you tell her, "Go home"? A Ididn't say "Go home." Isaid, "Why did you leave home?"

THE COURT: Counselor, you are bringing out what might otherwise not be receivable.

MR. SARASOHN: Yes, I know, but I have the record before me of the other trial, otherwise I wouldn't do it.

THE COURT: Well, proceed.

BY MR. SARASOHN:

Q You testified to this point, what you asked her in the Mangin Street house, and what she told you. Did you swear to that at the trial of Annie Brown? A Yes.

Q And do you remember to-day just as well as you did at that time? A Perhaps yes, perhaps no, perhaps I forget some things.

Q Well, is it a fact that the first words you said

CASE #1768

when you were inside, to your daughter, were, "What's the matter, you leave home?" A Yes.

Q And she said, "I want to stay here. I don't want to go home," is that so? A She said, "I would like to remain, I would like to stay here," afterwards, I asked my daughter---

MR. SARASOHN: Did the jurors hear that?

BY MR. SARASOHN:

Q I am not asking you about afterwards. You can explain later everything you want. Afterwards, there was a general fight, was there not? Answer my question yes or no, if you can? A Yes.

Q And the fight was between you and the other two men and the police officers, and the place was raided?

MR.EDWARDS: Objected to as assuming something not in proof.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q At any time on that night was Bebkin there, the defendant Bebkin? A No, but the Missis told me---

MR. SARASOHN: I object to that, what the Missis said.

THE COURT: Sustained.

MR. SARASOHN: And will your Honor instruct the witness to answer the question directly?

0962

CASE #1768

THE COURT: Now, witness, wherever you can answer a question by yes or no, or by saying that you don't remember, answer it in that way, because it makes the examination shorter. Where you want to explain, an opportunity will be given to you on re-direct.

BY MR. SARASOHN:

Q When you say the "Missis" told you, do you mean Annie Brown? A Yes.

Q When you came there, and you saw that "Missis" didn't you recognize here, that she was a countrywoman of yours that she came from Minsk? A No, I had never seen her before in my life.

Q When did you see her the last time? A Here in Court.

Q At the trial of the first case?

THE INTERPRETER: What does that mean?

MR. SARASOHN: At the first trial of this case?

A No, at the trial of her own case.

BY MR. SARASOHN:

Q At the trial of her own case you saw her? A Yes, sir.

Q And did you see her after that? A No, I don't remember.

Q Didn't you see her in the District Attorney's Office? A No, I don't remember.

Q Let me refresh your memory. Didn't you see her, about

CASE #1768

two weeks ago, in Mr. Edwards's room? A No.

Q Did you see her, about two weeks ago, in any room of the District Attorney? Yes or no? A No, I didn't see her any more.

Q Did you see her in the Tombs? A No.

Q Do you know a man named Lipshutz, the same man that you saw in that house in Mangin Street? A I know him from Mangin Street. That's the first time I have seen him.

Q But since that time you have spoken to him on several occasions; haven't you? A No, sir.

Q Didn't you speak to him two or three weeks ago? A No.

Q Didn't you tell him, two or three weeks ago that, although no one was allowed to see Annie Brown, that you had that much influence, and that you spoke to Annie Brown? A No, he is a liar. I have never spoken to him or said that to him.

Q Didn't you tell Lipshutz that you had such influence, that, while most of the jurors were for his acquittal, this defendant's acquittal, in the first trial, you had so much influence, that you succeeded in keeping him in prison for a second trial? A No, it's a lie. I never said that.

Q Now, Mr. Jacobs, we come to another important point. How long are you in this country? A Next Thanksgiving Day it will be sixteen years.

Q And all your children were born in the Old Country, in

CASE #1768

Minsk? A Yes, sir.

Q Can you read and write? A A little Yiddish.

Q And when you say a little Yiddish, can you read a little Yiddish and write alittle Yiddish? A Plain Yiddish I can write and read.

Q What do you mean by plain Yiddish? Print or script? A If the writing is plain, and not illegible, then I can read it.

Q How old were you when you left Minsk? A About twenty-nine or thirty years.

Q And during the time you were married, your wife gave birth to five children? A Yes, sir.

Q Now, do you know that in Minsk, as well as in other cities of Russia, the regulations and laws are that every child that is born must be reported to the Police, and a Givernment Record kept?

MR. EDWARDS: I object to that, as not a question, but a statement.

THE COURT: Sustained. Put it in the form of a question.

BY MR. SARASOHN:

Q Do you know that---do you know that in Minsk, as well as in other cities of Russia, the police regulations are strict that the birth of every child must be reported to the police and recorded? A If it is ever done, it is done by the Mohel.

0965
CASE #1768

That is the one who performs the circumcising or circumcision, or the midwife, but not everybody is doing it.

Q But while you were married to your wife in Minsk, she gave birth to five children; is that true? A Yes, sir.

Q Did you report to the Police the birth of this girl? Annie Jacobs? A No.

Q Did you report to the police the birth of any of your other children?

THE INTERPRETER: Well, the witness went on further to say that, for a girl, it isn't necessary to inform anyone.

THE COURT: Do you want that stricken out?

MR. SARASOHN: Yes, sir.

THE COURT: Strike it out.

MR. EDWARDS: Well, I submit that the counsel asked what the law was, and I submit it is a fact, and I was going to call an expert on the subject.

THE COURT: It is not responsive to the question asked, and therefore, it is out. Now, go ahead.

BY MR. SARASOHN:

Q Did you report to the Police or other authorities in Minsk the birth of either one of your five children? A No, sir.

THE COURT: Now, just yes or no to these questions.

BY MR. SARASOHN:

Q Did you keep a record of the birth of your children?

0962
CASE #1768

A When I was at home, I have written it down, but when I left Minsk, then it got lost.

Q Where did you write it down when you were at home?

A It was one of the parts of the Bible, on the cover. I have written it down inside.

Q And in what language did you write it down? A Yiddish.

Q So you say you had a Bible there at home, and on one of the covers you wrote the dates and the names of each of your children? A Yes, that year. (Illustrates with the Bible in the hands of the Interpreter). There is generally one leaf next to the cover, which has nothing on, which is without any print, and which is clear, and on this I wrote.

Q And when you went to America, did you take that Bible along? A I only took along my Talith---my praying shawl--- and my tepholin.

MR. EDWARDS: Well, what does that mean? For the sake of the record, Mr. Interpreter?

MR. SARASOHN: The English word for "tepholin" is "phylacteries". It is mentioned in the Bible.

THE INTERPRETER: It is like straps which are bound around the arm, in praying (Illustrating).

BY MR. SARASOHN:

Q Now, taking along your praying shawl and your tepholin, didn't you take your Bible along with you, too? A The Bible

0967
CASE #1768

isn't used very much, because, for praying purposes, you don't use the Bible. But the other things I needed for praying.

Q Did you take along a prayer book? A Yes, a small prayer book I took along.

Q And that was the last time you ever saw it? A Yes, sir.

MR. SARASOHN: I think that is all.

BY THE THIRD JUROR:

Q I want to ask you this. When you came into that house and you spoke to the girl, and she said, "I don't want to go home" did you ask her why she didn't want to go home?

MR. SARASOHN: I don't object to it, but I might instruct the juror, under the law, that it isn't proper.

MR. EDWARDS: I submit it is entirely proper.

THE COURT: I am inclined to think it is competent, because you asked for the conversation.

MR. SARASOHN: Well, I have no objection, anyway, because I don't want to let the jury think I am keeping anything out. I want them to get everything.

A Yes.

BY THE THIRD JUROR:

Q And what did she say? A She said that she would go with Able to Court and he wuld marry her.

MR. SARASOHN: Now, I ask your Honor to instruct the jury, the same as you did for the District Attorney, that this

CASE #1768

is no proof that Abe said so, but only that she said that to the father.

THE COURT: Yes, I so instruct you, gentlemen of the jury.

THE SECOND JUROR: According to the testimony, when he left Russia, Annie was two and a half years old, and I want to know the age of the child after that, the youngest one, and the one next to that.

MR.SARASOHN: Yes, that's very proper, and I should have asked that question, and I'll ask it now.

BY MR. SARASOHN:

Q What is the name of your youngest child? A Harry.

Q And how old was he at the time you left Russia? A About three weeks, less than three weeks.

THE COURT: Now, do you want the age of the next to the youngest, Mr.Juror?

THE SECOND JUROR: Yes, sir.

BY MR. SARASOHN:

Q And how old was the one next to Harry? A Sarah.

Q How old was Sarah when you left Europe, or left Minsk? A Less than a year and a half.

Q Well, how much less than a year and a half? A About three or four months less than a year and a half. I'm mistaken. She was about one year and four months.

Q Now, what child was above that one? A Annie.

CASE #1768

Q Was there not a younger daughter, Sarah?

MR. EDWARDS: He has just told you about Sarah.

MR. SARASOHN: I will withdraw that question.

BY MR. SARASOHN:

Q Now, I will ask you this. At the trial of Annie Brown, when this question of age came up, you said that Annie was twenty years old---no, seventeen years old, and her birth day was on the 20th of March; is that correct?

MR. EDWARDS: I object to the question in that form.

THE COURT: Yes, I think, as you have the record there, Mr. Sarasohn, you had better turn to it.

MR. SARASOHN: All right, sir; I will do it right now.

BY MR. SARASOHN:

Q When you were a witness in the case of Annie Brown, was this question placed to you and did you make this answer: "Q What is her birthday? A Her birthday is the last,-She was seventeen the last of March, the 20th of March." Was this question put to you and did you make this answer? A I don't remember.

Q Now, in Russian did you know anything about calling a month the month of March or April or any of these months? A While I was in Russia, I called the months by the Russian names.

Q Didn't you keep track, when you were in Russia, living in this Jewish community of Minsk, of the months by the Jewish

CASE #1768

names of the months? A Yes, I used the names of the month in the Hebrew language, but I knew that they corresponded to the months, like March and April.

Q Why, isn't it a fact that on the Jewish Calendar, every third year, there are two months that are called Adar; isn't that so? A Yes, leap year. That's right.

Q. And how many days in each month has the Jewish Calendar?

THE COURT: Is that material to any issue here?

MR. SARASOHN: Yes, sir; it is very important.

A Twenty-eight or twenty-nine.

Q What is that? What month in the Jewish calendar has twenty-nine days?

THE COURT: I think I shall consider that this is not material.

A Give me a calendar and I will tell you exactly.

BY MR. SARASOHN:

Q Isn't it a fact that every Jewish month has twenty-eight days, and in the third year we have an extra month?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: That is all from this witness.

BY THE FIFTH JUROR:

Q Annie is older than Sarah, isn't she? A Yes, sir.

Q How much older is Annie than Sarah? A A little more

0971
CASE #1768

than a year, a year and a couple of months.

THE SECOND JUROR: I just want to get some information. I don't want to appear to be too officious.

THE COURT: Not at all. I want you to understand, Mr. Juror, you and every other juror, that you have the right to put questions to the witnesses. Now, it may be that the questions, under the rules of evidence, may not be receivable, and if so, and if counsel objects to the question, and the objection is wellfounded, I will sustain it, and exclude the testimony, and the question.

THE JUROR: This is the question that I want to ask. When the witness met Bebkin, in company with his daughter, at the corner of Delancey Street, and he told his daughter to go home, I would like to know if the witness knows if she went home alone?

MR. SARASOHN: And I think it is a very proper question.

MR. EDWARDS: May I say that he testified that he found the defendant and his wife and daughter on the stoop of his house when he got home, about five minutes later.

THE JUROR: But I want to know whether she went home alone, or in the company of the defendant.

MR. EDWARDS: Will you frame the question, or do you want the Court to frame it.

THE JUROR: I would like to have the Court do it.

0272
CASE #1768

BY THE COURT:

Q Did you see your daughter on the occasion referred to in the act of walking towards your home? A Yes, sir.

Q And you saw her at the time that she was about as far away from you as you are from that wall now, where you are now sitting? A Yes, sir.

Q Now, did you see her as she was walking, after she got further away from you than that? A When she was as far as I indicated, as far as this wall (Indicating). Then she stopped and waited.

Q Now, did you see what the defendant did at that time? A He immediately went in the diredtion of where the girl was.

Q And how close did you see him get to her? A I didn't see.

Q Now, how soon after that was it that you got back to your own stoop? A About five minutes after that.

Q And at that time you say the defendant and your daughter, and as I recall it, your wife, were on your stoop? A Yes, sir.

THE COURT: I thinkthat is as close as we can get to it; gentlemen.

THE FOREMAN: That is, within five minutes after she was told to go home, she was at home?

MR. EDWARDS: Yes, that is the testimony.

(The Court then admonished the jury in accordance with section 415 of the Code of Criminal Procedure and took a recess until two o'clock).

0975
CASE #1768

AFTER RECESS.

ABRAHAM JACOBS, on the stand:

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Mr. Jacobs, did any one report the birth of any one of your children to the Police in Russia, as far as you know? A Perhaps my mother, while she was living. But she is now dead. I don't know.

Q But I ask you whether you know of your own knowledge that any one did so; that is all? A No.

Q Now, as a matter of fact, at the time you left Russia, was it required of you to report the birth of a girl child?

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

THE COURT: I think I will allow it.

MR. SARASOHN: May I ask that the question be repeated, and I will point out the viciousness of the question?

THE COURT: I remember the question. Now, what was the trouble with it.

MR. SARASOHN: He doesn't say, as far as he knows, he puts it into his mouth to tell this jury what the law of Russia is, and every one of the jury and I know it is to the contrary, or at least some of the jury. He asks him what the regulations were at the time.

THE COURT: Well, I suppose it is as far as he knows.

MR. SARASOHN: Then if he will put that in, I don't object.

0276
CASE #1768

MR. EDWARDS: Well, I will put it this way, then.

BY MR. EDWARDS:

Q At the time you were living in Russia, and up to the time that you left, did you know of any law or Police Regulation which required you to report the birth of a female child, a girl child? A There was no necessity of doing that, but, if it was ever done, it was either done by the Mohel, the one who performs the ceremony of circumcision, or the midwife.

Q Now, how long before the defendant Bebkin was arrested, had you been looking for him?

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

THE COURT: Overruled.

MR.SARASOHN: We except.

A I think about eight months.

BY MR. EDWARDS:

Q Now, when did you begin to look for him? A Why, from the evening when Annie Brown was arrested.

Q Now, what did you do in looking for him, what effort did you make to find him?

MR. SARASOHN: I won't object to what he did, but I object to what he said to some people, because that will give him a chance to say something that is prepared against us.

MR. EDWARDS: Now, I object to that comment of counsel. It is unnecessary. The question asks for what he did.

0976

CASE #1768

THE COURT: The question was proper.

MR. SARASOHN: It was certainly proper, but I didn't want him to say anything that he said to some one else.

THE COURT: And I will hear the answer.

A My girl was arrested, and, after I had her home, after I took her home, I asked in the Essex Market Court---

MR. SARASOHN: I object to thatas hearsay, not being in the presence of the defendant.

THE COURT: Well, he may say that he made certain inquiries of certain people.

A I asked the Assistant District Attorney Lockhart what I should do to find this boy, and he said---

THE COURT: No, not what was said.

BY MR. EDWARDS:

Q Now, don't tell what he said but what did you do?

A He sent me to Mrs. Goldman.

Q And did you have a talk then with Mrs. Goldman?

THE COURT: Now, yes or no to that?

A Yes.

BY MR. EDWARDS:

Q And after you had had a talk with Mrs. Goldman, what efforts did you make to find the defendant? A Two detectives---one is named Seumansky---the two detectives and Mrs. Goldman went to Brownsville.

BY THE COURT:

CASE #1768

Q With you? A Yes, sir; with me and the girl.

BY MR. EDWARDS:

Q Do you mean Annie by "the girl"? A Yes, sir.

Q And do you remember how long this was after Annie Brown was arrested? A It was a couple of days.

Q And do you remember what time of the day you started for Brownsville? A Seven o'clock in the morning.

Q And where did you go in Brownsville, if you know? A Bebkin had said to a boy that he lived in---

MR. SARASOHN: We object to that, your Honor, as hearsay and improper.

THE COURT: Yes, unless you heard it said by the defendant.

MR. SARASOHN: Unless the jury want to hear it. If they do, I won't object, because I don't want to keep out any testimony. The law has provided for certain things, and I only object to what the law doesn't provide.

THE COURT: Mr. Sarasohn, you are not addressing the Court.

MR. SARASOHN: Well, any time that I make an objection to any testimony, if any juror wants that testimony to be heard, as I was saying, I will withdraw my objection, and I only object because the law has provided certain protection against false evidence for a person accused of crime, and that is why I make the objection.

0977

CASE #1768

MR.EDWARDS: And I again object to the remarks of such a character.

THE COURT: Now, Mr. Sarasohn, if you see fit to interpose an objection at any time, I will rule upon the question, and the ruling will not depend at all upon any attitude of the jury. Now, go ahead.

A (Answer continued) A boy told me---

MR. SARASOHN: Now, the Court has sustained an objection to that, Mr. Interpreter.

MR. EDWARDS: May counsel address the Court, and not instruct the Interpreter?

THE COURT: Mr. Interpreter, You may caution the witness that he must confine himself strictly to what is an answer to the question.

MR. EDWARDS: Yes, what he did, not what anybody said to him.

THE COURT: Yes, give him that instruction.

A We went to look for him in Grafton Street, and we couldn't find him.

BY MR. EDWARDS:

Q And where is Grafton Street? A In Brownsville.

Q Yes, and to what other streets did you go, if anywhere?

A Then we brought the girl, and she said---

THE COURT: No, I will not hear what she said. She said something, and then what did you do?

0678
CASE #1768

MR. SARASOHN: I will withdraw any objection to anything that she said.

THE COURT: I will not receive it. Now, that ends that. Proceed.

A We went around to other places, and we couldn't find him, and we went back again.

BY MR. EDWARDS:

Q What time did you get back? A It must have been about noon.

Q And what else did you do before this defendant's arrest, in an effort to find him? Don't tell what anybody said, but only what you did after that? A I used to go to Delancey Street, expecting to meet himthere on the car, where he might be riding.

Q And the first time you saw him was the time that you had him arrested, as you have described? Is that right? A Yes, sir.

Q Now, I am not sure whether I have asked you this question before. How old was Annie when you left Minsk? A About two years and a half.

MR. EDWARDS: That's all.

RE-CROSS EXAMINATION BY MR. SARASOHN:

Q And you had below Annie two other children when you left Minsk?

MR. EDWARDS: Objected to, as already asked and ans-

0179
CASE #1768

wered.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Now, when you testified in the case of Annie Brown, in December last, as to what your daughter told you in the Mangin Street House was your memory as good in December as it is now, ten months later?

MR. EDWARDS: I object.

THE COURT: Sustained. I will limit you to what was brought out in the direct.

BY MR. SARASOHN:

Q Now, when you testified in the case of Annie Brown to what your daughter said to you in Mangin Street, was this question put to you and did you give this answer:

MR. EDWARDS: I object on the ground that it is apparently infringing upon the last ruling of the Court.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q In answer to a Juror's question, this morning, you said that when you met your daughter in the Mangin Street house and you asked her what was the matter, why she left home, your daughter said she wanted to stay there and didn't want to go home, and you said something else, that Annie said Bebkin had

CASE #1768

promised to marry her. Now, I ask you if you testified in December, when you were a witness---

MR.EDWARDS: Iobject to it on the ground that it is bad in form, and is not directed to any matter that was gone into on the re-direct examination.

THE COURT: Well, I will tell you, Mr. Edwards. I think that the question to which reference was made was a question put by the juror, after Mr. Saraschn had completed his examination, and I think, therefore, in fairness, the same rule ought to apply.

MR. EDWARDS: That first question of Mr. Sarasohn was directed to a question which Mr. Saraschn asked on cross examination. I think the record will show that.

THE COURT: I recall that a question was asked by a juror on that subject.

MR. EDWARDS: Yes, sir. And the question is, "Did you say that? Did you say anything about that? On your last examination?" Now, I submit that that is not a proper method of getting at that particular question. There is a proper way to do it, and he can do it perfectly well. Whether or not this witness said anything about it, will depend upon whether he was asked about it.

THE COURT: Well, the contention of Mr. Sarasohn is that he was asked about it, and that his answer didn't cover this statement. I think I will allow that.

CASE #1768

A I don't remember. Perhaps yes or no.

BY MR. SARASOHN:

Q Will you testify that you said so?

MR. EDWARDS: That is objected to. The witness has answered the question.

THE COURT: Sustained.

MR. SARASOHN: Well, I want to get that in. Will your Honor rule now or later?

THE COURT: Do you claim that, on the trial in which Annie Brown was the defendant, that she was asked a question which called for---

MR. SARASOHN: This is the question: "Q What happened when you went inside?" And, in answer to that, he gives in full detail all that happened, and he doesn't mention this thing.

MR. EDWARDS: And I object to that statement of counsel. And the Court will realize that, when Annie Brown was on trial, this defendant was not a defendant, and there is a great deal of evidence, which, had it been offered in that case, would have been ruled out, because this defendant was not on trial, and it had nothing whatever to do with the defendant Annie Brown's trial. And Mr. Delehanty is certainly a man of sufficient experience in the trial of cases to appreciate that fact. And there are many matters that have been brought out on this trial, that could not have been properly brought out

0816
CASE #1768

in the Annie Brown trial, and that is why this is so unfair.

MR. SARASOHN: Now, will you hear me further?

THE COURT: It is not necessary, because I understand that whole matter, but I will hear you.

MR. SARASOHN: But, I realize that we have here a jury as well as your Honor, and that ultimately this case may or may not go to the jury, and jurors are only men, and I have observed in my experience that jurors are compelled to listen to counsel's arguments on different questions, and sometimes they form an impression one way or the other on a question of law.

THE COURT: This jury will not. Now, go ahead and talk to me.

MR. SARASOHN: The importance of this question will be seen when this question is read: "What happened when you went inside?" That was the question addressed to the witness, and, when that witness answered that question, he wasn't supposed to know who was on trial, Bebkin or Brown. And it was his duty to tell the truth, and he never mentioned this fact. And now, ten months later, when Bebkin is on trial, he puts in this fact, and I think that is an ~~xxxxxxx~~ inference that they will consider as to his bona fides.

THE COURT: Now, I understand your contention. I understood it originally. You contend that a question put to him, on the trial of Annie Brown, and which called for a response which could have led him to have made the statement that

CASE #1768

he has now made, in answer to a question put by the juror, but he did not make it, and you have called my attention to that question, which you contend would, in the natural course of things, have embraced that statement. Now, it does not appear to me that it would.

MR. SARASOHN: Yes, that's exactly it.

THE COURT: In fact, I ruled favorably to you, permitting this evidence, on a mistaken assumption; on the assumption that the question in the Brown case called for a statement such as the witness was called upon here to make, in response to the question of the juror.

MR. SARASOHN: Can there be any broader language than that question, to tell what happened when he went there?

THE COURT: I have ruled, counselor.

BY MR. SARASOHN:

Q Telling us about the Delancey Street conversation with Bebkin, you say he came up to you and asked you "Why don't you let me go with your girl?" And you asked him, "Who are you?" And then he went away. Now, is that the truth?

MR. EDWARDS: I object to that as not proper recross examination.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q One of the jurors---in answer to a question of one

CASE #1768

of the jurors---you testified that, when you left Minsk, that youngest child was just three weeks old. Please tell us what caused you to leave Minsk at that time?

MR. EDWARDS: I object to that as not proper re-cross examination.

THE COURT: Sustained.

MR. SARASOHN: We except. That is all.

MR. EDWARDS: That is all.

S A R A H J A C O B S, a witness called on behalf of the People, being duly sworn and examined through the same official interpreter, Mr. Rosenthal, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Sarah, you are a sister of Annie, are you? A Yes, sir.

Q And are you older or younger than Annie? A I am younger.

Q And how old are you? A Seventeen.

Q Now, do you remember the day of the week when Annie left home? A Friday night.

Q And were you with her on that evening? A Yes, sir.

Q And did you see the defendant, that evening? A Yes, sir.

Q And where did you see him? A In Delancey Street.

Q And who was with you at the time? A Annie Jacobs.

Q And then tell us what happened when you met him? What

CASE #1768

did he say and what did you say and what did you do? A Friday night, we took a walk, and went to Delancey Street. My father had told us to be at home by half past nine o'clock. While we were walking, I looked at a clock, and I saw it was half past nine.

Q Now, who was walking? That is what I want to get at? A Annie and Abe and I.

Q Now, what I want to find out is, where you and Annie and Abe met, that evening, to take a walk? A In Delancey Street we came together.

Q And about what time in the evening was that? A About eight o'clock.

Q And how longdid you three walk together? A About an hour and a half or two hours.

Q And then what happened? A While we were walking, I said, "Annie, it's half past nine o'clock, Father has said we should be at home. I said, "Annie, come home, it's half past nine o'clock," and Abe said to me, "You go home, and I'll bring her home myself."

Q And what did you do then? A And I said, "Annie, will you go home?" And he said, "You go home, and I'll bring her home."

Q And what did you do after he said that? Did you go home? A I left them and went home.

Q Now, when did you next see Annie after that? A When

CASE #1768

a woman came to say that she was---

MR. SARASOHN: Objected to.

MR. EDWARDS: Now, I appreciate the viciousness of her statement of what the woman said, and I did not ask for it. Now, don't tell what the woman said.

BY MR. EDWARDS:

Q But when was it that you saw Annie? A I don't remember. I saw her afterwards, on the following Saturday.

Q You mean a weeklater? A Yes, sir.

Q Now, did you see the defendant again after that before he was arrested? A I saw him once. He was walking with a girl in Delancey Street. When he saw us, he ran away, to the subway, right away.

MR. SARASOHN: Give me the Jewish word for that? Was it "ran away"?

THE INTERPRETER: Yes, "He ran away".

BY MR. EDWARDS:

Q Now, did you see him on the night he was arrested? A I saw him in the day time.

Q Well, what time of day was it that he was arrested? A About four o'clock it was.

Q And where were you? A Near our store.

Q And where was that? A 94 Monroe Street.

Q And what did you do when you saw him? A When I saw him walking with a girl, I went to the store, and I said, "Mam-

CASE #1768

ma, here's Abe," and my mother went to call my father.

Q Now, did your father come down? A Father came down immediately.

Q And then what happened? A And Abe was in Number 100 Monroe Street.

Q Yes. And where was the girl? A She was with him.

Q Inside the store or waiting outside? A With him in the house there.

Q Well now, what happened next? A My father came down and Abe went into a delicatessen store, and my father was waiting until he came out.

Q Yes? A And then he came out. I told my father to go and ask him what he had done with his daughter.

MR. EDWARDS: Now, don't tell us what you said to your father.

MR. SARASOHN: I make no objection.

BY MR. EDWARDS:

Q Tell us what happened, not what was said by any one. A I saw my father go up to Abe and start to talk to him, and what Abe told him I can't say.

Q Now, tell us what happened next? Not what any one said, but what happened? A He started to fight with my father, and my father was holding on to him with one hand, and in the other hand he was holding money. While my father washolding him, he started to tear himself away from my father, and there

CASE #1768

was a large crowd, who attacked my father, and they tore my father's shirt and his hands, and they broke his hat, and they threw down my father and he ran away.

Q. Who is "he"? A Abe Bebkin.

Q Yes, and what happened then? A When he ran away, my brother saw it, and he ran after him, and the policeman came and caught him.

Q Now, when you say your father was holding money in his hand, just describe what you mean? A Because he was holding him only with one hand. When they saw that my father was holding him only with one hand, his bunch took him away from my father.

Q But where was your father's other hand. That was what I wanted to get at? A With the other hand, he was holding his hand on the pocket where the money was. (Illustrating) He was afraid the money would be taken away from him.

MR. EDWARDS: Your witness.

CROSS EXAMINATION BY MR. SARASOHN:

Q At the time that Bebkin was arrested, did your father keep a restaurant? A Yes, sir.

Q Where? A 94 Monroe Street.

Q And where was Bebkin when you saw him, that day? A He was walking around in Monroe Street, with a girl.

Q On the same block that your father kept the restaurant?

A Yes, sir.

CASE #1768

Q Hadn't you seen that girl before? A I saw the girl before, when he walked with her in Delancey Street.

Q How long before was that? A I don't remember.

Q Hadn't you ever seen that girl, excepting that day when he was arrested and that day when he walked with her in Delancey Street? A No.

Q Didn't you know that girl---Cross that out. Did that girl live in the same block, within a few doors of your place? A I don't know.

Q How long had you been living there in Monroe Street? A About two months.

BY MR. EDWARDS:

Q Do you mean now or then? A Yes, now.

BY MR. SARASOHN:

Q I am asking now of the time the arrest was made, at the time that you saw Bebkin walking around on that block in Monroe Street, and your father kept a restaurant, how long had he kept a restaurant at that time? A I don't remember, I think about a month or three weeks.

Q And from what place had you moved in? A From 37 Rutgers Street.

Q And how far is that from this place, 37 Rutgers Street, to 94 Monroe Street? A One block.

MR. EDWARDS: Now, may I suggest that the Interpreter ask how far it was from Rutgers to Monroe Street? Perhaps the

6660
CASE #1768

witness didn't understand the question.

(The question is repeated by the stenographer).

A I don't know, but I think one block.

BY MR. SARASOHN:

Q And you lived at 37 Monroe Street all tie time from the time your sister went away until you moved to 94 Monroe Street?

A Yes, sir.

MR. SARASOHN: That's all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Monroe Street crosses Rutgers Street; does it not? A Yes, sir.

Q And Number 37 Rutgers Street is how far from the river?

A I don't know myself.

Q And when you go from 37 Rutgers Street to 94 Monroe Street, how long does it take you to walk? A Two minutes.

Q And you have to turn the corner from Rutgers Street into Monroe Street, don't you? A Yes, sir.

MR. EDWARDS: That is all.

MR. SARASOHN: That is all. I omitted to cross examine the father as to his alleged efforts, during those eight or nine months, to find the defendant, and, if Mr. Edwards has no other witness, ready just now, I might cross examine him. I would like to have him recalled, unless the jury think it unnecessary.

THE COURT: I will recall him.

CASE #1768

A B R A H A M J A C O B S , being recalled for further cross examination, testified as follows:

CROSS EXAMINATION (Continued) BY MR. SARASOHN:

Q Jacobs, please answer my questions yes or no. Were you putting in something when you say you tried to find Bebkin from November of last year until June of this year? Did you ask your daughter if she knew where Bebkin was working? A Which daughter?

Q Which daughter would you be likely to ask as to the place where he worked?

MR. EDWARDS: I object.

THE COURT: Objection sustained. You mean the daughter Annie, do you not?

MR. SARASOHN: Yes, sir.

THE COURT: Then add it to the question.

MR. SARASOHN: I do. And may the question be repeated as changed?

(The question is repeated by the stenographer as amended.)

A I asked her, and she told me that he had told her that he was working on skirts, where, she didn't know.

Q Did you go to any skirt house in the City of New York, trying to find out whether Bebkin worked there? Yes or no? A In Brownsville I was, in the Skirtmakers' Union. There I was.

Q Did your daughter tell youthat he worked in New York

9660
CASE #1768

City or Brownsville? A In Brownsville.

Q Did you ask your daughter if, in all the talks she had with Bebkin, whether she knows where any of his relatives lived? A I did ask, and she said that he had an aunt in Brownsville.

Q Did your daughter tell youthat she knew of no other relative of Bebkin's, except this aunt in Brownsville? A She said that all that she knew was about the aunt that he had taken her to. That's all she knew about it.

Q And when your daughter went with you to Brownsville, did you say that she took you to Grafton Street?

MR. EDWARDS: I object to that, because the record will show what the witness said.

THE COURT: Sustained.

MR. SARASOHN: Does your Honor rule upon that objection?

THE COURT: I will sustain the objection.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q After Annie Brown was arrested, did you go to her, and tell her that you ought to make some money by this thing? A I never saw her.

THE COURT: That is not within the scope or purpose of the inquiry for which, as I understand, the witness was recalled.

CASE #1768

MR. SARASOHN: That is within your Honor's discretion, of course, being new matter. However, that is all.

A N N I E B R O W N , a witness called on behalf of the People, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Annie, on December 31st, 1912, you were convicted of abduction, were you not, before Judge O'Sullivan and a jury? A Yes.

Q And after that conviction you were sentenced by Judge O'Sullivan for a term of not lessthan three years, nor more than five years and six months,and a fine of a thousand dollars, were you not? A No fine.

Q Well, the fine was remitted afterwards? That is correct, is it? A Yes, sir.

Q And you were brought down from Auburn State Prison for Women to testify in this case, were you not? A Yes, sir.

Q Now, Annie, you have never been convicted of any other crime than this one; have you? A Only for this, that's all. Never in my life.

Q Now, do you recollect the day when the Police Officers broke into your apartment and arrested you, the first time? A Yes, Saturday.

Q Do you remember the day of the month? A This I don't remember.

CASE #1768

Q Who was in your apartment at the time---Now, where was that apartment, Annie, what was the address? A 22 Mangin Street.

Q On what floor? A The top floor.

Q And when the officers broke in, who was in the apartment? Besides yourself? A I and Annie Eisenstock, and Annie Jacobs, and four children of the Italians were playing on the floor, from next door.

Q Yes. Well, any one else? A And Itsky Lipshutz, my friend, was sitting there; and a boy; I don't know him.

Q Now, Annie, did you know this defendant? A Yes, sir.

Q And was Annie Jacobs in your apartment on the day before the Saturday that the raid was made, that previous Friday? A The Friday before Saturday?

Q Yes? A Yes.

Q Now, on that Friday night, where did Annie sleep? A In my house.

Q Well, now, in which room? A In the kitchen.

Q And what kind of a bed did she sleep in, in the kitchen? A An iron bed, which can be put together and taken apart.

Q Do you remember two young men coming in there, that evening? A Which evening?

Q That Friday evening, when Annie was sleeping in the kitchen?

CASE #1768

MR. SARASOHN: Objected to as immaterial, irrelevant and incompetent. The only testimony is that some men came in there, on Tuesday evening.

MR. EDWARDS: No. The boys said it was either Tuesday or Friday, and they are not able to say which day it was, and the girl states that it was on Friday night.

THE COURT: Objection overruled.

MR. SARASOHN: Exception.

(Question repeated by the stenographer)

A On Friday, there were no men in my house.

Q Well, which evening was it, Annie, that two men came into your apartment, and Annie Jacobs was in bed in the kitchen?

MR. SARASOHN: Objected to.

THE COURT: Sustained.

BY MR. EDWARDS:

Q Now, did two men come in, any evening that week, while Annie was in bed in the kitchen? A I didn't see any men there, only Annie pointed out two men and told me I should say that they had come up.

MR. SARASOHN: Now, I want that repeated, that answer.

MR. EDWARDS: Oh, I don't think that it is necessary to have the answers repeated, if your Honor please.

THE COURT: Does any juror want to have it repeated.

THE FIFTH JUROR: Yes, sir; I didn't hear it.

CASE #1768

THE COURT: It may be repeated.

(It is repeated by the stenographer).

BY MR. EDWARDS:

Q Now, who slept with Annie in the kitchen, on any of the nights that she slept in the kitchen? A This man. (Indicating the defendant), because she dragged him by force.

MR. EDWARDS: I move to strike that out.

THE COURT: I will strike out the latter part of the answer, "Because she dragged him by force."

BY MR. EDWARDS:

Q Now, how many nights did the defendant sleep with Annie in the kitchen? A Two nights.

Q Which two nights were they? A Thursday night and Friday night.

Q And did he remainall night both nights? A Yes, sir.

Q Now, when was it, Annie, that you first met this defendant? A When she came with him.

Q When was that, Annie? A That was five days before I was arrested.

Q And do you remember the day of the week? A It was a Monday.

Q Now, what did this defendant say to you when he and Annie came in there, on Monday?

MR. SARASOHN: Now, give her answer.

CASE #1768

A He didn't say anything.

BY MR. EDWARDS:

Q Didn't he speak to you at all? A I don't know him. How can I talk to him?

Q Why, you met him then, didn't you? A She had been in my house, two years before, one night before. Now it is two years.

MR. EDWARDS: I ask that the answer be stricken out. And I ask your Honor to instruct the witness to answer the questions.

THE COURT: I so instruct the witness.

(The question is repeated by the stenographer).

A He didn't know anything about my house. She brought him up to me.

MR. EDWARDS: I move to strike out the answer.

THE COURT: Motion granted.

BY MR. EDWARDS:

Q Now, didn't you meet him at the time when he came into the house with Annie? A Yes, sir; because he was there with the girl.

Q And do you mean to say that you didn't speak to him at all? A She introduced him to me. I didn't know him.

Q And then how long did he remain in your rooms? A He came on Monday. I was in bed already. It was about seven o'clock in the evening,-the same evening, at eight o'clock, they

CASE #1768

went away.

Q Well, I asked you how long they remained, Annie. Can you answer that question? A About one hour.

Q Yes. And when did you next see them? A Tuesday. I got up in the morning, and I went to my husband.

Q And where was he? A My husband was in Brooklyn, in a prison.

Q Well now, I ask you, Annie, if you saw this defendant and Annie Jacobs on Tuesday, and if so, when? Can't you answer that question? A Tuesday, Annie Jacobs came to my house, and she fell on the floor, near the door, drunk.

Q Well, I asked you, Annie, if you saw this defendant and Annie Jacobs, on Tuesday. Will you please answer the question? A Him I didn't see. I saw her.

Q All right. When didyou next see him? A Wednesday night.

Q Well, now, what time on Wednesday night did he come to see you? A Six o'clock.

Q And how long did he remain? A About an hour and a half, sitting and talking to one another.

Q Yes, and then what did he do? A And then he went home.

Q And when did you next see him? A Thursday.

Q And what time did you see him on Thursday? A After six; about seven o'clock.

9969
CASE #1768

Q And how long did he remain on Thursday? A He was in my house from eight o'clock.

Q Yes. How lon did he remain? A Until the next morning, because she wouldn't let him go home.

MR. EDWARDS: I ask to have that stricken out, the "because".

THE COURT: Yes, strike out"Because she would not let him go home."

BY MR. EDWARDS:

Q And what time did you see him on Friday morning? A I don't know. I didn't look at the clock. About eight or half past eight o'clock.

Q And when did you see him again on Friday? A He slept there Friday night with her. Because she took offhis cap and hid it away.

MR.EDWARDS: Now, I move to strike out the "because" clause.

THE COURT: Yes, strike it out.

BY MR. EDWARDS:

Q And how, how long did he stay, that time? A Until about five o'clock in the morning.

Q Yes. And were you up to see him off at five o'clock in the morning? A I didn't see him.

Q Now,Annie, go back to the Monday when this defendant came in there with Annie Jacobs, and tell me what he said to

1001
CASE #1768

you?

MR. SARASOHN: I object to that, upon the ground that the witness has sworn twice that he didn't say anything, but that Annie brought him up, and it is improper for a Public Prosecutor, or an attorney on the other side, to continually pop up questions like these, after she has answered on a certain subject.

THE COURT: I will allow it.

MR. SARASOHN: Exception.

(The question is repeated by the stenographer)

A He didn't say to me anything. I can't say anything because he didn't tell me anything.

BY MR. EDWARDS:

Q Now, let's see if I can't refresh your recollection, Annie. Where did you first meet Abe? A When she came with him, in the evening.

Q What do you call him, Annie? A Abe Bebkin.

Q You call him Abe, don't you, when you speak to him? A I heard her call him so.

Q And so you called him Abe, too?

MR. SARASOHN: I object to that. It doesn't appear that this woman had any conversation with this man, but he wants to put in her mouth the name "Abe" and make the jury believe that they knew each other, and the question is entirely improper.

1061
CASE #1768

1002

THE COURT: Objection overruled.

MR. SARASOHN: Exception.

BY MR. EDWARDS:

Q Now, Annie, didn't you know Abe Bebkin for two months before your arrest?

MR. SARASOHN: I object to that, because it isn't the proper form of a question, and she has testified that she never knew him until Annie brought him up, that Monday night, or that Monday morning.

THE COURT: I will allow the question.

MR. SARASOHN: We except.

A No.

BY MR. EDWARDS:

Q Didn't you testify, on the last trial of Abe Bebkin, in August, before Judge Foster, in Part III Court Room?

MR. SARASOHN: I object to that, if your Honor please. This being a witness brought here by the Prosecution, he can't cross examine his own witness.

THE COURT: Well, there are occasions, you know, counselor, when that can be done.

MR. SARASOHN: But it don't appear here that this is one of those occasions.

THE COURT: There are occasions, when a person is allowed to cross examine his own witness, or to examine as one might examine a witness who is being cross examined. I will

CASE #1768

allow her to answer this question.

MR.SARASOHN: Exception.

(The question is repeated by the stenographer).

A Yes.

BY MR. EDWARDS:

Q Didn't you testify then, on that trial--

MR. SARASOHN: I object to that, first, unless he reads the question and answer. Your Honor will recall that he applied that rule to me.

MR. EDWARDS: If counsel will wait about a minute, he would see that I am going to read the answer, the question and answer, and he needn't object on that ground.

MR. SARASOHN: But this is the very witness that they expect to get a conviction on, their most important witness, and they can't cross examine this witness, I submit.

THE COURT: I understand your objection, and I will allow the question.

MR. SARASOHN: Exception.

BY MR. EDWARDS:

Q Now, didn't you testify in this way---do you recollect these questions being put to you and your giving these answers:

"Q Do you know this defendant, Abe Bebkin? A Yes.

"Q How long have you known him? A Two months before my arrest.

"Q And where did you first meet him? A He came in to

1091
CASE #1768

ask for Annie Eisenstock, and came with Becky, a woman by the name of Becky, he came in with, and asked for Annie Eisenstock.

"Q That was about two months before your arrest, was it? A Yes."

Now, yes or no, Annie? A Yes.

Q Then, Annie, didn't you also testify---A But it isn't the truth.

MR. EDWARDS: Now, there is no question pending.

THE WITNESS: I was asked to say so.

BY MR. EDWARDS:

Q All right, Annie. Who asked you? Now tell us all about it, Annie? A Her father spoke to me and she spoke to me and the Probation Lady.

Q Now, who do you mean by the Probation Lady? A Mrs. Goldman.

Q Do you mean to tell us, Annie, that Mrs. Goldman asked you to give testimony in any case?

MR. SARASOHN: I object to the question, especially the last part of it.

THE COURT: Objection sustained.

BY MR. EDWARDS:

Q Who do yousay made up this story that you told in the last trial, Annie? A Her father, the girl herself, the girl's sister, and the Probation Lady.

Q Yes. Now, is there no one else? Are you sure that

1064
CASE #1768

you have given us all of them? A Yes, sir; that's all.

Q Now, let's see which part each one of them took. Now, what did the fathe r say?

MR. SARASOHN: I object to that. The indictment charges this man with having committed certain offenses, and---

THE COURT: I understand the situation perfectly. There is a general rule that examining counsel cannot impeach his own witness, but there are situations where the Court reaches a conclusion as to the relations of the witness on the stand, to the person who calls the witness, where the examining counsel, if he pleads he is taken by surprise by a statement which is at variance with a former statement, and under those circumstances, the Court permits counsel in its discretion, an examination which is really somewhat in the nature of cross-examination. That is allowed now.

MR. SARASOHN: I understand that rule perfectly, and I have asked Courts to apply it in my favor, too. But this is outside of the usual thing. I can readily see that he can ask her this---this is the limit---Haven't you given testimony otherwise?---and then submit the testimony to her. But he can't wander off into another issue, which means another crime entirely.

THE COURT: Well, I will merely suggest, Mr. Edwards, that you do not travel too far afield.

MR. EDWARDS: But here this woman says, "Four peo-

1005
CASE #1768

ple have made me commit perjury", and I think it is not only my right, but my duty to find out who they are.

THE COURT: Well, I will allow one or two questions.

MR. SARASOHN: Well, you see my objection is not to keep out any testimony, but I object---

THE COURT: You object because you regard the testimony as legally incompetent?

MR. SARASOHN: Yes, sir and too remote.

THE COURT: I will allow the question.

MR. SARASOHN: Exception.

(Question repeated by the stenographer)

A Sunday, I was brought here from Albany, and Monday I was brought into a place---it seemed to me it was the office of the District Attorney---or a kind of a Court---I don't know what it was, and there were sitting the Grand Jury, and the Grand Jury asked me whether I was the one who came from Albany. I said yes, that I was. Then they asked me whether I was guilty in regard to the girl, and the Probation Lady had told me, in case whether I would be asked whether I was guilty, to say that I was guilty.

MR. SARASOHN: May we ask Mrs. Goldman to come in, to be identified as this Probation Lady?

MR. EDWARDS: There will be no question of identity, you need not worry about that, Mr. Sarasohn.

BY MR. EDWARDS:

1062
CASE #1768

Q But my question is, what did the father say, Annie? And you haven't answered that question yet. A The father, as soon as he saw me, put his arms around my neck (Illustrating) and he begged me to save his girl, and say that the boy had brought her into my house, and that she was a nice, decent girl, and I shouldn't say anything bad about her; I should say everything bad about him. And he said, "Although we have put you in a prison for five years, for nothing, we will try to get you out of it."

THE SECOND JUROR: The Interpreter didn't finish the answer she gave.

MR. EDWARDS: The juror says that you didn't finish her answer, the answer that she gave. Give it in full, please.

THE INTERPRETER: The witness says now---

THE SECOND JUROR: That wasn't the answer before.

MR. EDWARDS: The juror says that the witness said something in addition, that you did not translate.

THE SECOND JUROR: The witness said---finished her answer by saying "if you will help us convict this man, we will help you to get out of prison afterwards."

THE INTERPRETER: Well, she was talking, and I had to stop her to translate. That may have been the cause of my omitting that.

BY MR. EDWARDS:

Q Now, was there anything further said? A And I should-

1002
CASE #1768

n't say what she was in Europe, and what was said about her, I shouldn't say anything. I should say everything on Abe Bebkin, and then he would help me get out of prison.

Q Now, when was this, Annie? A Monday it was.

Q Well, I know, but where were you at the time? A I came Sunday from Albany, and Monday I was called here.

Q That was the Monday after you came down from Auburn? A Sunday I was brought from Albany.

Q Well, it was the next day, was it? A Yes, sir.

Q And that was over here in the Tombs? (Indicating) A Yes, sir.

Q Well, whereabouts in the Tombs did you see Mr. Jacobs? A I was brought into Court. There I saw him, and there was standing the Probation lady. I wouldn't tell you any lies. Even the Detective was standing there, who had arrested me.

Q Now, Annie, this was the day after you got down from Auburn, was it? A Yes, sir. Sunday I was brought here, and Monday I was taken.

Q Now, I want to know where you were when you first saw Mr. Jacobs? A You mean when I was brought from Albany?

Q Any time that he said these things that you have just told us about. A In Court. The Probation lady and a man had brought me from Albany.

Q What Probation lady came down from Albany with you? A I don't know. I don't know her. A very nice lady.

1001
CASE #1768

Q Well, who else did you see at this time when you say Mr. Jacobs said all this to you? A I saw the father and the probation lady, Mrs. Goldman, and the sister and Annie Jacobs.

Q Now, what I want to get at is, where were they? Were they in the Grand Jury Room, where all the Grand Jurors were sitting around a large round table? (Illustrating) A No; where the Grand Jury was, I was alone.

Q Well, now, which room were you in? A It was like a Court. It had benches like here.

Q Yes, benches running right across the room? A Yes, sir.

Q And weren't there many persons there? A I didn't notice that; I didn't see many. Several people were there. I don't remember exactly how many.

MR. SARASOHN: Don't you think we have gone far enough, your Honor? I object to that as being tooremote. I will join with Mr. Edwards, after this case is through, if he is in earnest, in any proceeding against these people for perjury.

MR. EDWARDS: I submit this isn't the time for a stump speech, sir.

MR. SARASOHN: This is getting to be altogether too remote, because, if counsel can show that he was surprised, he can show certain acts, but he can't go on a fishing excursion.

THE COURT: Well, I will tell you now, Mr. Edwards,

1008
CASE #1768

the only reason that the Court might have for excluding it is because it might confuse the issues; but, if you want to proceed further, you may do so.

MR. EDWARDS: Why, I am bound to proceed further. I have no option.

MR. SARASOHN: Yes, and this poor man has been in prison for ninety-one days, an innocent man, after a majority of the jurors had declared him not guilty, just because this man went to this woman to bribe her to commit perjury.

THE COURT: Now, you will remain without making such comments again during this trial, from this time on. I have borne with your conduct with considerable patience. You are a practitioner of considerable experience, and you know that this is absolutely improper. If you wish to object, I will entertain any objection and listen to any argument.

MR. SARASOHN: Then I respectfully ask that your Honor exclude this.

THE COURT: I have ruled upon the proposition now. I will allow the testimony in.

MR. SARASOHN: We take an exception.

BY MR. EDWARDS:

Q Now, do you remember this question being put to you on the last trial of this case, and this answer being given by you:

"Q Well, when was the next time after that that you saw

CASE #1768

Annie Jacobs? A The next day she came again with him.

"Q Well, how often did you see her? A Abe Bebkin and Annie and a friend of his came to me in my house. He said to me, 'This is my girl. I'm goingto marry her.'" Did you so testify? Yes or no? A Yes, at his trial, I said it, but I was taught to say it.

Q Is that one of the things Jacobs told you to say? A Yes, sir.

Q Now, do you remember this question being put to you and this answer being given by you:

"Q Did he tell you where he had brought Annie from? A He said to me that she had slept three nights in his room.

"Q And did you know where his room was? A No.

"Q And what else did he say to you about Annie when he brought her in there? A He said that he was going to marry her, for the purpose that she should make a living for him."

MR. SARASOHN: We object to that question, on the ground that this jury might be likely to think this is evidence against the defendant, at this trial.

THE COURT: This is being received, gentlemen of the jury, merely as bearing on the credibility of this witness.

A I did say that, but it isn't the truth.

BY MR. EDWARDS:

Q Did Mr. Jacobs tell you to say that, too? A Mrs. Goldman and the whole population asked me to say that.

1911
CASE #1768

Q Well, just give us the names of the whole population, Annie? A Mrs. Goldman, the father, and the same girl, the drunkard, and the sister.

Q And that is all, is it? A Yes, sir.

Q Now, Annie, do you remember these questions being put to you, and your giving these answers:

"Q Well now, what I want to get at is, how many nights did Annie and the defendant, Abe Bebkin, sleep in your apartment? A Three or four nights.

"Q And where did they sleep? A In the kitchen." Do you recollect those questions being asked and did you give those answers to those questions?

THE COURT: I don't think that is within my ruling, Mr. Edwards. I will not allow that.

MR. EDWARDS: May I ask the reason for that, your Honor?

THE COURT: This witness was interrogated by you as to whether she had, at the time the defendant came into the apartment, any conversation with him, and she denied that she had spoken to him.

MR. EDWARDS: Yes, sir.

THE COURT: And said that he was introduced to her upon that occasion.

MR. EDWARDS: Certainly.

THE COURT: And then, for the purpose of refreshing

1012
CASE #1768

her recollection, you invited her attention to several things which are said to have appeared in the record of the first trial of this defendant, indicating that she had had some talk with him.

MR. EDWARDS: Yes, sir; but this is on a different point, and she has already testified on it.

THE COURT: Now, this is excluded, ad not within the principle of my ruling.

BY MR. EDWARDS:

Q Now, Annie, do you recollect this question being put to you, and the answer being given by you:

"Q And what, if anything, happened while Annie was staying in your rooms, those three or four days?"

MR. SARASOHN: I object to that.

MR. EDWARDS: And you will find that this is a statement made by the defendant, and it is within your ruling.

BY MR. EDWARDS:

Q (Question continued) "A He told me I shouldn't leave the house, as I wanted to go to work, that I should stay at home, and he would bring up the men that he knew, so that I needn't be afraid of anything."

MR. SARASOHN: I object to that.

THE COURT: No, I think that is competent, Mr. Sarasohn.

MR. SARASOHN: All right. I will bow to your Honor's

CASE #1768

ruling.

A Yes, but it isn't the truth.

BY MR. EDWARDS:

Q Yes, and who was it who told you to say that? A Annie Jacobs told me to say that.

Q Annie Jacobs told you to say that? A Yes, sir.

Q Now, do you recollect this question and answer, Annie:

"Q Do you remember any nights when Abe and Annie were in bed together, when men came in to the apartment? A Yes. I didn't want to let them into the house, and he said, 'Don't be afraid. I saw these men in the day time, I know them.'" And do you recollect that, immediately following the next question, the two men, Brodsky and Pichkoff were brought up, and you were asked if you knew them?

MR. SARASOHN: I object to that as entirely too remote, and not within the issues.

THE COURT: Well, I will receive it as bearing upon the statement which she made here, as I understood, that she had had no conversation with the defendant.

MR. SARASOHN: Exception.

A Yes, but it isn't the truth. The father told me to say that, so that he should go and marry her and it would be better for me.

BY MR. EDWARDS:

Q Now, will you please tell me where you ever saw Pich-

1017
CASE #1768

koff and Brodsky, before that day, in the Court Room?

MR. SARASOHN: We object to that, if your Honor please on the ground that there is no testimony that she saw them anywhere, except in the Court Room, and as entirely too remote.

THE COURT: Sustained. She says now that it wasn't the truth.

MR. EDWARDS: But she says that she identified them, and the father told her to do so, and I want to know whether that is the truth, and find out where she saw them before so as to identify them.

THE COURT: I will sustain the objection.

BY MR. EDWARDS:

Q Well, I will ask you the question, Annie, did you, at the last trial of the defendant, identify Brodsky and Pichkoff?

MR. SARASOHN : Objected to as immaterial, and not within the principle of your Honor's ruling.

THE COURT: Objection sustained.

BY MR.EDWARDS:

Q Now, Annie, during the time that Annie Jacobs was in your apartment, how often did men come in to see her?

MR. SARASOHN: We object to that, because that would be a case involving Annie Jacobs.

THE COURT: Overruled.

MR. SARASOHN: We except.

A Didn't see any men, because I wasn't in the house at all.

1915
CASE #1768

I was all upset on account of my husband, who was in trouble.

BY MR. EDWARDS:

Q But you were in the house at night, weren't you? A And in the night time, there were no men.

Q You never saw any men come in there?

MR. SARASOHN: I object to that, as not binding on the defendant. It doesn't appear that the defendant was present.

THE COURT: Overruled.

MR. SARASOHN: Exception.

A Only one man, who came with the defendant, who was his friend.

BY MR. EDWARDS:

Q Yes, what was his name? A I don't know.

Q What did you call him? A I didn't call him. I didn't see him. I only saw him once with my own eyes.

Q Now, did you have any other conversation with the defendant at all, excepting those that you have told us? A I didn't talk to him about anything. Ididn't see him. I used to come home in the evening, tired out, from my husband, and then I threw myself down in my bed.

Q Well, did you hear any talks between Abe and Annie?

A Thursday night, when Abe Bebkin came, and wanted to go away, she grabbed his hat from his head, and wouldn't let him go. And here is the man (Indicating the defendant) and I will say it

1917
CASE #1768

MISSING PAGES
282

Goldman.

Q Now, Annie, you never knew Annie Jacobs to stay with any man in your apartment, is that right?

MR. SARASOHN: We object to that, if your Honor please as not within the issues in this case.

THE COURT: Overruled.

MR. SARASOHN: We except.

A I can't say what she did. I wasn't in the house. I am willing that every tenant should be asked in the house about it, and they will say that I wasn't in.

BY MR. EDWARDS:

Q Did you see any man come into the apartment, and go into the bed roomwith her during the time that she was in your apartment, from Monday to Saturday?

MR. SARASOHN: We object to the question because it calls for acts done not in the presence of the defendant and not binding on us.

THE COURT: Overruled. It bears on the character of the premises.

MR. SARASOHN: And we are not charged with maintaining those premises.

THE COURT: Under the indictment, it is competent.

MR. SARASOHN: We except.

A I did not.

THE COURT: Do you mean other than the defendant?

CASE #1768

MR. EDWARDS: Well, I didn't exclude him in the question, but I had that in mind.

BY MR. EDWARDS:

Q Now, how many nights did you see her sleep in the kitchen with this defendant? A Two nights.

Q Now, you paid the rent for that apartment, didn't you, Annie? A Sure, I lived there fifteen months in those rooms, on the fifth floor. There were three tenants. Iwas the fourth.

Q Yes, you rented the rooms; didn't you?

MR. SARASOHN: We object to that, as already answered.

A Yes, fifteen months I lived there.

BY MR. EDWARDS:

Q And did you ever receive any money from Abe Bebkin?

A No, I didn't receive a cent off him.

Q Never got a penny from him? A No, not even half a penny. From her I received money. She gave me two dollars for rent---one dollar and a half for rent and fifty cents for eating, on Friday and Saturday.

Q And that's all you got? A Yes, sir. And the Italian woman saw how I got the two dollars.

Q Now, Annie, to go back to your conversations with the defendant. Do you recollect these questions and answers being asked you, and your replying to them, on the last

CASE #1768

trial:

"Q Did you receive any money yourself after the men had gone? A Yes, Abe Bebkin gave me about eighty or eighty-five cents.

"Q Did he say what it was for? A To help me pay the rent.

"Q And did he tell you where he got it? A No, he didn't say."

A Yes, I said it, but I was told to say it.

Q Now, who told you that? A The father and the Probation lady told me to say that.

Q Well, which part did the father tell you and which part did the probation lady tell you? A The probation lady told me, "You must say everything as I tell you, because I brought you into your misfertune, and I will get you out of it."

Q I see. Now, Annie, how long had Annie Eisenstock lived with you in that apartment? A From Monday to Saturday.

Q No, I mean Annie Eisenstock? A Seven or eight months.

Q Now, what was Annie Eisenstock's business, Annie?

MR. SARASOHN: I object to that, if your Honor please. We are going beyond the issues now.

MR. EDWARDS: I submit it goes to the character of the apartment, if your Honor please.

THE COURT: Now, the inquiry is a proper one. The

1019
CASE #1768

question may not be strictly proper, because it may call for the conclusion of the witness, but she may testify to what she saw her do.

MR. SARASOHN: We except.

BY MR. EDWARDS:

Q What did you ever see Annie Eisenstock do for a living, Annie? A She paid me three dollars a month rent and she used to go away at six o'clock in the morning and come home at six o'clock in the evening, and what she did, I don't know.

THE COURT: Of course, Mr. Sarasohn, the defendant must be connected with it. But it is competent, and is competent to show the general character of the place, as bearing upon the charge as contained in the indictment.

MR. SARASOHN: Pardon me, your Honor, that would be so if the indictment was against the defendant for keeping a house of ill fame, but this is a charge of compulsory prostitution.

THE COURT: Yes, and the character of the place that the girl was taken to, if she was taken to it, bears upon the truthfulness or probability of that charge.

MR. SARASOHN: We except.

BY MR. EDWARDS:

Q Now, what time were you arrested, Annie, on this Saturday night? A I don't remember, seven o'dock, I think, I don't remember.

I.O.28

CASE #1768

Q Now, who was that man who in the apartment? A Which man?

Q Well, you say Lipschutz was there, and another man. Now, who was the other man? A I don't know. He came with Annie Jacobs. I don't know him. I don't know who the man was. Itsky Lipschutz, I know.

Q Well, who was the other man? A I don't know him. It was the first time I saw him.

Q Well, what time did he come in there, that evening? A I came home about four or five o'clock and he came with her, about an hour later.

Q Yes, and did you have any talk with him? A Who?

Q Him? A I didn't talk to him at all.

Q Now, Annie, have you told us everything that you can remember that you said to Abem or he said to you, in that week? A I didn't speak to Abe about anything, and he didn't speak to me about anything.

Q Now, do you recollect this question being asked you on the last trial, and your giving this answer: "Q Now, do you recollect a talk that you had with Abe about your breaking up housekeeping, after your husband was arrested, and what he said? A He told me that there was no necessity for me giving up the house; that he was going to marry the girl, and he will leave the girl in the house for business, and afterwards he will become partners with me in the business. He said, 'In.

1021
CASE #1768

America it isn't hard to make a dollar,' And even I myself in case it should be busy could take the place of a girl and the man wouldn't be any the wiser, and I could make some ~~x~~ money myself."

Do you recollect that question being asked you and that answer being given by you on the last trial? A Yes, I said it, but I was told to say so.

Q When? A On the Monday when I was called to the trial---not to the trial---but to the District Attorney's office.

Q Yes, I see. The Monday after you came down from Auburn? A Yes, sir.

Q Now, Annie, when did you come down from Auburn? A Sunday.

Q Well, I know, but how many months ago? A About three months, I think; perhaps more.

Q Don't you remember in what month you came down here? A I can't read and I can't write. I don't know.

Q Do you remember what season of the year it was when you came down from Auburn? A It was summer time. It was warm.

Q Now, you were sent up to Auburn on the 28th of February 1913, or the day following, weren't you? A It is possible.

MR. SARASOHN: If your Honor please, may I suggest that I have a very important engagement, this afternoon, and may I ask your Honor to adjourn now? It is after the hour of ad-

1021
CASE #1768

journment. And will your Honor give me the forenoon or the afternoon on Monday, because I have one case that I must try, on that day, or suffer a severe loss.

THE COURT: Now, how about Tuesday?

MR. EDWARDS: Well, is that a case in the Special Sessions, if your Honor please?

MR. SARASOHN: Yes, in the Special Sessions.

MR. EDWARDS: And I submit that that case could be readily adjourned there, and that this case should not be adjourned on account of a case in that Court, which can be arranged with the District Attorney's Office very readily that you should have an adjournment on account of this case.

MR. SARASOHN: But it would prejudice my client's interests, if it isn't disposed of at once, and he has informed me that, if I am not ready to try the case on Monday, he will employ other counsel.

THE COURT: Now, let us see what we can do on Tuesday.

MR. SARASOHN: We might sit until seven o'clock, and get along as far as we can.

THE COURT: Will you, gentlemen of the jury, if it is considered desirable, make your arrangements so that on Tuesday we may sit until a quarter of six? I want to convenience you, gentlemen, as far as possible, in fact, I want to convenience everybody, if I can.

1023
CASE #1768

THE FOREMAN: You say to hold a session on Tuesday until six o'clock, or a quarter of six?

THE COURT: Yes.

THE FOREMAN: And on Monday too, your Honor?

THE COURT: If we adjourn this case now, until what time on Monday, Mr. Sarasohn, shall we adjourn it?

MR. SARASOHN: Say one o'clock. The case will surely be disposed of by that time, if Mr. Edwards will assist me.

MR. EDWARDS: I have already suggested all the aid that I can give. I offer to have the case adjourned until the conclusion of this case.

THE COURT: Well, I will tell you. It is possible that Mr. Sarasohn is so situated that it may be of advantage to him to try the case in the Court of Special Sessions, on Monday, and I will consider that.

Now, gentlemen, when we adjourn, to-night, we will adjourn, so far as this case is concerned, until one o'clock on Monday; and we will sit on Monday in this case, if the evidence requires that we should sit so long, from one o'clock until a quarter of six.

And you are admonished not to converse among yourselves upon any subject connected with this trial, or to form or express any opinion thereon, until the same is submitted to you.

You are excused until one o'clock on Monday.

THE FIFTH JUROR: Then on Monday morning, your Hon-

1021
CASE #1768

or, we don't have to show up?

THE COURT: No, not until one o'clock.

THE FOURTH JUROR: Did I understand that until a quarter to six, we will sit on Monday?

THE COURT: Yes, until a quarter of six.

(The further trial of the case was adjourned until Monday afternoon, October 27th, 1913, at one o'clock.).

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1021
CASE #1768

1621

THE PEOPLE vs. ABRAHAM BEBKIN.

TRIAL RESUMED.

New York, October 27th, 1913.

A N N I E B R O W N , her direct examination being continued, testified as follows:

MR. SARASOHN: May I ask your Honor, before we proceed, that your Honor send for 118, 146 and 63 Appellate Division?

THE COURT: Will you have the kindness to give that memorandum to an Officer, and they will be sent for?

DIRECT EXAMINATION (Continued) BY MR. EDWARDS:

Q Annie, do you remember the day of the month when you came down here from Auburn Prison? A The month I don't know, but the day was Sunday.

Q And it was the next morning, Monday morning, that you were taken before the Grand Jury; was it not?

MR. SARASOHN: We object to that, if your Honor please, as entirely immaterial, irrelevant and incompetent, and not within the issues in this case. Will your Honor allow me to state my position as far as this testimony is concerned?

THE COURT: Yes, certainly.

MR. SARASOHN: Now, the ancient rule of common law was that, when a party produced a witness on the stand, he vouched for his truth, and he was not allowed to impeach or contradict him.

That rule has been modified in our State to permit a

CASE #1768

party who puts on the witness, when he appears to be hostile, or if he is surprised by his testimony, to contradict the testimony of that witness by other witnesses.

But the rule has never been relaxed sufficiently to permit a party to put a witness on the stand, ask him a question, get an answer which is not satisfactory, and then go on cross examining him as to statements made by the witness outside of this Court, or attack his general character.

There has been one other exception made, such as, in criminal cases, where a police officer has made an affidavit in writing, or has given testimony at the first trial, and, at the second trial, there has been a complete change. Then the District Attorney is entitled to call his attention to that, for the sole purpose of refreshing his memory, "Now, Mr. Officer, you testified so and so. Look at that paper," and he refreshes his memory.

But he can't go on and try out another issue, as to whether this witness is testifying falsely, or the issue as to what caused this witness to change his or her testimony, or attack his or her character generally, by impeaching him.

Now, your Honor is as familiar as I am with the difference between contradicting and impeaching a witness. We contradict him by other witnesses, and we impeach him by showing hostility, or bias, or by a prior conviction, or by bad reputation, or for having made statements inconsistent with his present

1021
CASE #1768

statements.

THE COURT: I think your general statement of the law is correct. I am agreed with you on your statement of the law. You have stated the law just about as I understand it.

MR. SARASOHN: Well, I have endeavored to do so. Now, interrogating her about what happened coming back from Auburn is not material. Now, he wants this woman to prove certain acts against the defendant, and she says that he didn't do these acts, and he might go further and ask her to say whether or not she has previously testified to this or that, but he can't go into entirely different issues.

THE COURT: When this witness answered, as she did answer on a number of occasions, that she did testify a certain way on a previous occasion, then, if I had pursued what is technically the custom of practice, I would have excluded any explanation by her, as to how she happened to so testify, and I would have stricken out, certainly, upon the objection of the District Attorney, any explanation in that ~~record~~ regard,---If she had any explanation to make as to how she happened to so testify, after having admitted that she so testified, I would have allowed you to bring it out on your cross examination of the witness, and then, after it had been brought out, the witness could have been further interrogated on the subject by Mr. Edwards. As a practical matter, and without objection, it appeared to me not undesirable to pursue the course that I did, for

1021
CASE #1768

the sake of brevity, thinking that it would not prejudice the People, on the one hand, or the defendant, on the other.

This witness has offered, and it has been received without objection, certain explanations for the way she admits having testified on a certain occasion, and I am regarding it now, for the purposes of this examination, as though that explanation had been given by this witness on her cross examination by you; and I am now allowing her to be interrogated as to that explanation, just as I would have allowed it in the regular course, if the fact had been made apparent on cross examination, and he was now cross examining her on that explanation. Your objection is therefore overruled, and you are allowed an exception.

MR. SARASOHN: We take an exception.

THE COURT: I consider, in other words, that the explanation, or attempted explanation, has been elicited from this witness as to how it happened that she gave certain testimony on a previous occasion, and now she is being interrogated in that regard.

MR. SARASOHN: The only point is this---I don't care to appear to be technical, because I hate technicalities---but I fear that the jury may be confused by the different issues.

THE COURT: Mr. Saraschn, if this case goes to the jury, it will go under a charge which will make it plain to

I 021

CASE #1768

every man sitting in that box, from the Foreman to the Twelfth Juror, exactly the purpose of this evidence, and the limitations upon it.

And, perhaps, it is just as well to say, at this time, that what this witness may have testified to on a previous occasion, but not on this trial, is not proof of the facts set forth in that testimony; in other words, it is not as though she said that which she said before, on this occasion, and it is merely received in order that the witness, when confronted with those statements, may have an opportunity to either adhere to her testimony as now given upon this trial, or of changing it upon the refreshing of her recollection. Now, you may proceed, Mr. Edwards.

MR. SARASOHN: We take an exception.

(The last question is repeated by the stenographer).

A Yes.

BY MR. EDWARDS:

Q Now, how long did you wait in the anteroom of the Grand Jury Room before you went into the Grand Jury Room? A About an hour or an hour and a quarter.

Q Now, how soon after you came into the waiting room, outside of the Grand Jury Room, did you see Mr. Jacobs and Annie?

MR. SARASOHN: We object to that, if your Honor please, because it is outside of even your Honor's last ruling. This is an effort to show that her testimony in a former trial was true,

1030
CASE #1768

and that the testimony she gives here is not true.

THE COURT: I will hear you as to the competency of the evidence, Mr. Edwards.

MR. EDWARDS: If your Honor please, last Friday, she testified, at considerable length, in response to my questions, and I was taken by surprise at the extent to which her hostility went, and I was so surprised by it that I did not make such a specific statement on the record as I should have, but I judged from the rulings of the Court that the Court appreciated that fact; and I asked the witness as to conversations as between herself and the defendant, and she denied having had any; and then your Honor permitted me, and I think properly, to go over her testimony on the former trial, to refresh her memory as to testimony she gave then as to certain conversations had, and, in the course of so questioning her, she volunteered the statement that she had been procured to tell the story which she did upon the last trial by three persons, Annie Jacobs, Abraham Jacobs and Mrs. Goldman. Now, she also testified that her interviews with them were during the time when she was awaiting the call of the Grand Jury, on Monday morning, after her arrival here, and I am now attempting to find out from her just when she saw these individuals, before she went into the Grand Jury.

MR. SARASOHN: And that leads us into a new issue entirely.

THE COURT: Now, pardon me. I can pass upon it.

1051
CASE #1768

MR. EDWARDS: That is the purpose of these questions, and they will be followed by questions, for the purpose of seeking further to refresh her recollection as to conversations that she testified to before the Grand Jury.

THE COURT: Now, suppose, having put a series of questions along that line, and she having made a series of answers to those questions, what relevancy would the testimony have? What would be the effect of it? What would be the bearing of it?

MR. SARASOHN: Yes, that's the question.

MR. EDWARDS: Why, I think that there is a very distinct and apparent bearing on the charge that she makes here, of having been suborned to testify as she did on the former trial, a statement which, if believed by this jury would, of course, lead them, in the performance of their duties, to reject the People's entire case, on the ground that it was all tarred with the same brush, if I may use a colloquialism.

THE COURT: Now, suppose her charge in that regard is unfounded, in other words, suppose that the explanation, the reason she assigns for having given, as she says, untrue testimony before, is shown to be an untrue reason, what of it? And, when I put that question I am merely putting it to you in order that I may rule, if possible, properly on this offer.

MR. EDWARDS: Well, I am forced to confess that I don't just get the force of the Court's question.

1032
CASE #1768

THE COURT: In other words, we will say that here a witness on the stand testifies in a certain way, and, when confronted with the testimony given by her on a previous occasion, admits that she gave it, but says that it was untrue, and assigns a reason as the reason why she gave it, and testimony is offered to show that that reason which she now assigns for the giving of testimony which she now says is false is, in itself, a false reason, what of it? As bearing upon the issues in this case?

MR. EDWARDS: Well, I was assuming from the ruling of the Court, already made, to-day, and, as I understood the ruling of the Court on Friday, that this testimony would be taken as though these accusations of the witness had been drawn out on the cross examination, and that she was now under re-direct examination. I appreciate the fact that this line of examination would be proper after a cross examination, rather than as part of the direct, just as your Honor announced that you thought yourself, to-day.

THE COURT: Yes. But now we will assume, for the purpose of my ruling that that is exactly the situation; that her explanation has been elicited on cross examination, and that you are now interrogating her with a view of eliciting testimony showing the falsity of that alleged explanation. What is the bearing of that?

MR. EDWARDS: Why, I think it has a very distinct bearing upon the credibility of this witness, and the weight

1052
CASE #1768

and effect that the jury will give her testimony, in any respect in which it is not corroborated and borne out by other evidence in the case.

THE COURT: Well, the tendency of it is to establish the commission by her, you may say, of an additional perjury upon the witness stand; is that so?

MR. EDWARDS: Yes, sir; that would be true; that would be one of the incidental effects of the testimony.

MR. SARASOHN: But she has given no testimony for the defense.

THE COURT: Now, pardon me, I will hear Mr. Edwards, and then I will hear you.

MR. SARASOHN: Ithought your Honor was finished, pardon me.

THE COURT: I am treating, Mr. Sarasohn, as I told you, her explanation as though it had been elicited by you on cross examination, and I have done that for the sake of brevity; and I am disposed to pass upon the pending question as though---

MR. SARASOHN: Even then it wouldn't be admissible, if your Honor please, because you would have before you always as your guide the indictment, the charge, and, after I am through with my cross examination, the gentleman would ask these very questions on re-direct, and I would make my objection, and your Honor would say, "Mr. District Attorney, we are wandering away from the charge. The charge is not that she hascommitted per-

1037
CASE #1768

jury, but whether Bebkin has done certain acts, and this witness has said that these acts didn't take place." Now, what has that got to do with when the change in the testimony took place?

THE COURT: You see, Mr. Edwards---and I am really trying to reason it out with you, and I would be very glad if you will follow me as far as possible---the establishment of the fact, if it could be established, by testimony, that the explanation which she now makes of the alleged falsity of her previous testimony was an untrue explanation would not bring that testimony before the Court in the sense of making it subject matter upon which a verdict could be predicated in this case.

MR. EDWARDS: You mean the testimony given in another case?

THE COURT: Yes.

MR. EDWARDS: No, certainly not.

THE COURT: Then, that being so, how is it material as to the explanation being true or false?

MR. EDWARDS: Your Honor must appreciate, I submit, that this woman is in a distinct and peculiar sense in the position of, substantially, a co-defendant, with the defendant on trial, and my calling her is exactly as though I called a co-defendant, and placed him on the stand as a witness for the People; and I told the jury in my opening, that it would be quite apparent to them that the witness was a hostile witness, and not one who was called by choice.

1035
CASE #1768

1032

THE COURT: Well, suppose you were successful in the establishment, if you please, after interrogating her and other witnesses, that the explanation that she has given of the reason for giving false testimony before is an unfounded and untrue explanation? In other words, suppose that all that were in the case, what would be its pertinency? From what angle of the case could it possibly be considered by the jury? We will say that the testimony is in, and I am about to charge the jury, and I have to direct their attention to the pertinency of that evidence. Now, what is it?

MR. EDWARDS: I should think that your Honor would charge that it was to be considered by them solely as bearing on the credibility of this witness.

THE COURT: And as militating against her credibility?

MR. EDWARDS: It is for their judgment as to that, whether it was for or against. I am treating it as a general subject now, perhaps, rather than a concrete subject.

THE COURT: I understand.

MR. EDWARDS: Now, is there any other point that your Honor would like to have me discuss?

THE COURT: Mr. Edwards, I should be very much afraid that it would be legal error to allow it. I will withhold the ruling on it, and take the matter underadvisement. I want to aid both sides in the presentation of the case, as far as pos-

CASE #1768

sible.

MR. EDWARDS: Well, I call your Honor's attention to the language of Judge Peckham, of the Court of Appeals, in the case of Becker vs. Koch, 104th New York. That is the case under the authority of which I was attempting to proceed.

THE COURT: Mr. Edwards, if you will kindly follow me for a moment, and, if you do not understand what I have in mind, if you will just let me know frankly, then I will go over it again.

What I had in my mind was this. You prove that the reason that she gives for having, as she says, testified falsely before, was untrue, and that proof might raise an inference that she had not testified falsely before.

MR. EDWARDS: Yes, sir.

THE COURT: And that that which she said before was true. But, as that testimony could not be brought before this jury as affording a basis upon which a verdict could be predicated, what useful purpose would be served, even if a belief could be created that, as a matter of fact, it was true?

MR. EDWARDS: Why, as I have already stated, because, it would simply have a bearing on the general credibility of this witness. And I think that, in calling a witness of this kind, and calling that witness as this witness is called, I think it is my duty to offer this proof, unless the Court rules it out. I have always believed that the confusion which exists

1037
CASE #1768

among the authorities as to the position in which the Prosecutor finds himself in examining a hostile witness, has produced the result that the position of the prosecutor has not been sufficiently distinguished from the position of the lawyer representing a client in a civil litigation. When I call a witness to the stand in civil litigation, I say, "This is a witness that you can believe. I say that for the Court and jury. But the Public Prosecutor occupies a quasi-judicial position, he is seeking the truth; he is not seeking to convict this man. The People of the State of New York don't want this man convicted, unless he is guilty. All that the Public Prosecutor has to do is to submit all the facts in his possession as to the charge against the defendant, and he does not say to the Court and Jury, "Here is a witness that you can believe," but he says, "Here is some of the evidence that has come to me in the course of this prosecution, and I will submit it to you, and I'll leave you to determine what bearing it has on the guilt or innocence of the defendant." But I submit that the Public Prosecutor does not take the same attitude as the lawyer who produces a witness in his client's behalf, in a civil action.

THE COURT: Well, suppose we concede that that is a proposition that not only has a foundation in reason, but is supported by an authority that the Court ought to follow. Now, from that viewpoint, is this evidence receivable?

MR. EDWARDS: It seems to me that, from that view-

CASE #1768

point, it is the Public Prosecutor's duty, when he puts a reluctant and adverse witness on the stand, to show to the jury not only what that witness testified to, but all that he can obtain as to the credibility of that witness, to enable the jury to say whether or not they will believe any part of that witness's story.

THE COURT: Now, by this particular testimony, you are endeavoring to show that her assigned reason for the alleged falsity of her prior testimony is an untrue reason; isn't that so?

MR. EDWARDS: My object is to elicit from her, with some ~~sk~~ greater degree of definiteness than she has given it, the time at which she says she was induced to give this false testimony, and the circumstances surrounding the inducement.

THE COURT: Then upon her answers, concievably there might be introduced testimony to show the explanation given by her of the alleged falsity of her testimony is, in itself, an untrue explanation?

MR. EDWARDS: Yes, that is quite possible.

THE COURT: Now, suppose that it should appear that, upon this trial, she has given an untrue explanation of the alleged falsity of the prior testimony, what bearing has that?

MR. EDWARDS: Why, it shows, at least, that she has given false testimony under oath, does it not? And isn't that a material fact bearing upon the credibility of any witness who

1036
CASE #1768

is called?

THE COURT: Well, that is a step towards further discrediting her as a witness?

MR. EDWARDS: Yes, sir; it is in the line of testimony affecting her credibility, of course.

THE COURT: And is, in substance, what she has already testified to?

MR. EDWARDS: Yes, sir.

THE COURT: In other words, she herself has said that, on a prior occasion, she gave false testimony under oath?

MR. EDWARDS: Yes, sir; she has. And she has offered to give an explanation of the reason why she gave that false testimony. As a matter of fact, this particular question is one that was asked, in effect, on Friday, and the only reason why I am asking it again is because I was not perfectly certain in my own mind as to what her answer indicated.

THE COURT: The question is, partly, whether, in the light of the statements made by this witness, the People had not an interest in showing that her charges, which are, in reality, of collusion, should be refuted.

MR. SARASOHN: But not in this case, your Honor. Please bear in mind that this is the trial of Abraham Bebkin.

THE COURT: Well, this man who is on trial is entitled to a fair trial.

MR. EDWARDS: Certainly.

1919
CASE #1768

1941

THE COURT: But that is not a one-sided proposition; there are two sides to it. The People are entitled to a perfectly fair opportunity to present the facts to the jury. Now, are they not entitled, in the light of things which this witness has said, to introduce testimony, if they can, refuting what may be called an insinuation?

MR. SARASOHN: Against somebody else not connected with the prosecution, not even the complainant or the defendant, having nothing to do with the issue in this case? Are the People in a better position then, than if, we will suppose, that they hadn't called her?

THE COURT: It bears upon the good faith of the prosecution, does it not?

MR. SARASOHN: Oh, no. Abe Bebkin is on trial, not the prosecution. Supposing they didn't call Annie Brown at all, and we hadn't calledher at all, and then they called Annie Brown on the witness stand and asked all these questions, would that be competent? This is what happened in the Dixon case, 118 Appellate Division. There the People didn't call a witness who had testified in the first trial, evidently knowing that the witness had changed his mind, and then the case for the People was rested, the defendant not calling her, and then the People called her in rebuttal, and this is what the Court said as to that: (Reads).

Now, this rule that my friend has stated about the

CASE #1768

law being different because he is a Prosecutor, exists only in his imagination. Your Honor knows that the rules of evidence are the same in criminal as in civil cases, and the prosecutor's stands in just the same position as the counsel for the Plaintiff.

THE COURT: I think the authorities sustain you, and the abstract reasoning is in Mr. Edwards' favor, and, of course, I will follow the authorities.

MR. SARASOHN: Yes, sir. What is the effect of all this? To bring before the jury her former testimony, which is not in evidence here; and then he goes on to cross examine. But, of course, if your Honor rules with me, I will not say anything more.

MR. EDWARDS: But has your Honor ruled?

THE COURT: No, I have not ruled. My remark was made in the light of your last objection, Mr. Saraschn.

MR. SARASOHN: Now, here is a consideration. I know your Honor is giving us an absolutely fair trial, and a fair trial means a single issue, and the issue is, did Bebkin do certain acts. And he calls certain witnesses, and this witness says he hasn't done those acts.

Now, either he has gained by this witness, or he hasn't gained by this witness. But he can't go on now, under the guise of bringing before this jury this witness's former testimony and practically bringing hearsay testimony as to that;

1942
CASE #1768

and he cannot attack the credibility of the witness, because there would be no object in it. What bearing would it have? Just as your Honor asked him.

Every question asked in a trial, when submitted to cross examination, must answer this question: Does it bear either remotely or directly on the issue involved; and in this case it is whether Bebkin did certain acts.

Now, when he asked her if she had seen him at 22 Mangin Street, that was a proper question, and what Bebkin was doing there was a proper question.

But this question as to what happened in the Grand Jury room was a different transaction. Let us assume that her motives are the worst in changing her testimony, how does it bear on the issue in this case, how does it show that Bebkin did anything? that Bebkin did anything charged in the indictment?

Because, after all, that's what we are investigating now, and the worst or the best that can be said is that he is not favored by the testimony of this witness. That is the fact of it.

THE COURT: No, the fact of it is that the statement of the witness is an attack upon certain witnesses who were produced by the People, and the question of the credibility of those witnesses is to be passed upon by the jury. Shall the Court allow it to be passed upon with this assertion of this

1943
CASE #1768

witness unrefuted, if the People are in a position to refute it? Or shall the Court allow it to be passed upon, after the People have had an opportunity to refute an assertion which is in reality, an assertion against the credibility of witnesses whom they have already produced?

MR. SARASOHN: I will answer that. The issue of the credibility of a witness can be presented in only one way, that is, on cross examination you can show either bad reputation or previous conviction, and, having done that, the other side has the right to rehabilitate the character of the witness, as it is called, by calling witnesses to prove good character, or showing a pardon after conviction.

THE COURT: Now, I will tell you, gentlemen, that I consider that the desirable way of settling the matter would be the striking out, by consent, of that portion of her answers which purports to give an explanation of why she says she testified falsely before.

MR. SARASOHN: And I consent to that.

THE COURT: Now, if you do not agree as to that, upon further consideration---and I have given the thing now some thought,---I shall allow the matter to be gone into, not because it is proof, if you please, that she gave a false explanation or a false reason for the alleged falsity of her previous testimony, because that would permit of the inference that her testimony was true, and, therefore, bring it be-

1941
CASE #1768

fore the jury, but because the evidence goes to the character of witnesses heretofore produced by the prosecution.

MR. SARASOHN: - But I haven't attacked them on that point, if your Honor please. I have only attacked these witnesses, Annie Jacobs and the father, as far as having made inconsistent statements. I have not offered proof here of previous convictions, to impeach them, though in the previous trial I had offered certain testimony of that kind; I offered proof of previous convictions against those witnesses, but I didn't do it in this case.

MR. EDWARDS: And I protest that that is a false statement, if your Honor please. He never did anything of the kind, and I move that that statement be stricken from the record.

THE COURT: Now, that is stricken out, and any statement of that kind will be disregarded by the Jury.

MR. SARASOHN: Now, if the gentleman has cooled off, I'll go on.

MR. EDWARDS: And I object to that statement of this gentleman, also, and ask that he address his remarks to the Court, and cease to criticise me.

THE COURT: Now, gentlemen, we will proceed in an orderly way. I may say that it would have been better for Mr. Edwards not to have characterized that statement as false, and it would have been better for you not to have made it.

1919
CASE #1768

MR. EDWARDS: But I think it was my right and my duty to stamps as false a gross misstatement of the record in the other trial, to which he referred.

MR. SARASOHN: Yes, I suppose Mr. Edwards has a very strong desire to prevent me from presenting my side of the case.

MR. EDWARDS: And I object to that statement of the counsel, which is not founded in fact, but which is entirely unfounded.

THE COURT: Now, proceed, Mr. Sarasohn.

MR. SARASOHN: There are methods of attacking the credibility of a witness, and the law has pointed those out. It has pointed out one way of it by showing a previous conviction, and also by showing bad reputation.

Now, as to the first of these two ways. If a party to any action seeks to affect credibility by proof of bad character or proof of previous convictions, only then does the other side become entitled to give proof to sustain the good record or reputation, or to show that the conviction was unjustified.

And, replying to your Honor, I call your Honor's attention to the fact that, even in that situation, it could not be competent. I haven't attacked the character of Annie Jacobs either for a former conviction or for general bad reputation, and I haven't attacked the character of the father, Mr. Jacobs, either for a prior conviction or bad reputation. Not having done that, their character, as far as that is concerned, is not

I.O.46
CASE #1768

at issue.

I have only attacked them for making inconsistent statements, and, as to that, the former record is in evidence. And, on the theory that suggests itself to your Honor, I submit to your Honor, as a lawyer, that that testimony would in no way become competent, and for the very reason, for the very vice that we must guard against, not to bring in any other issue than the one on trial.

THE COURT: Mr. Edwards,-what is the objection to striking out her alleged explanation?

MR. EDWARDS: Striking out what, sir?

THE COURT: Striking out that part of her answer, those portions of the answer, which purport to assign a reason.

MR. EDWARDS: The objection to it is just this, sir. If you will recollect, on Friday, after the first few dozen times that she volunteered that explanation, I move to strike it out, and your Honor struck it out. But it was so often repeated that I was forced to let it stand; and I submit that, if the record stands as it did on Friday, I think it would be impossible to strike it out effectively. If I thought your Honor could do that so as to secure its non-consideration by the jury in this case, I would gladly do that, but I don't believe it can be done legally, as a practical matter.

MR. SARASOHN: And I am sure that your Honor will charge the jury, after having stricken out that testimony, so

1917
CASE #1768

that neither side will be prejudiced by it. I don't see any impossibility of doing it. It wasn't responsive. Then there is another argument as to allowing a lot of testimony, so that I could ask about it on cross examination, but I will tell your Honor now that I will not ask about it on cross examination. Now, I move that all those answers be stricken out, as not responsive.

MR. EDWARDS: And I submit that that motion lies in my mouth, who asked the questions, and not in the mouth of counsel, who didn't ask the questions.

THE COURT: I think it does, Mr. Edwards.

MR. SARASOHN: I think that fact, that counsel asked a question, and that the other counsel feels aggrieved by the answer, that is, that it isn't material testimony, it is just as much his right to move to strike it out.

MR. EDWARDS: I would be glad to tell the jury why I don't feel that I ought to make the motion to strike it out, if the Court ~~kx~~ cares to hear me.

THE COURT: I will be very glad to hear you.

MR. EDWARDS: I am in the position now of trying a case for the second time, and I did all the work in the preparation of this case personally, and here this witness on the stand whom I have examined carefully---

MR. SARASOHN: And I object to such a statement in the hearing of the jury. It ~~max~~ is manifestly unfair.

1048
CASE #1768

THE COURT: Pardon me a moment. The jury may withdraw.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and directed them to retire to the anteroom, until recalled to the Court Room).

(The Court then conferred with counsel on both sides)

(The jury returned to the Court Room).

THE COURT: The Court has reserved its ruling on this question, and Mr. Edwards will proceed with his examination of the witness.

DIRECT EXAMINATION CONTINUED BY MR. EDWARDS:

Q Now, Annie, Iwant to see if I can refresh your recollection with respect to conversations with the defendant Bebkin. When you were before the Grand Jury, do you recollect this question being asked you and this answer being made by you to the Grand Jury:

"Q. What did he"---that is, the defendant---"tell you about Annie Jacobs? A He is going to marry her, and he'll do business with her.

"Q Did he say anything about opening a disorderly house? A Yes, he did.

"Q What did he say about that? A I can state that Bebkin said that he would marry Annie Jacobs, and, right after he married her, he would open up a whorehouse, and do business

1048
CASE #1768

with Annie Jacobs."

MR. SARASOHN: We object to that, as an attempt to get testimony before this jury that is not legally admissible and competent in this Court.

THE COURT: I will receive it merely for the purpose of refreshing her recollection as to her testimony, that she had no conversation with the defendant.

MR. SARASOHN: We except.

A No, the Grand Jury asked me whether I was a prisoner, whether I came from Auburn, whether I was in the case of Abe Bebkin, and he had brought to my house the girl; "And you are guilty about the girl." The Probation Lady had told me---

THE COURT: No, I will not receive this.

BY MR. EDWARDS:

Q So that you didn't say any of that before the Grand Jury, Annie?

MR. SARASOHN: I object to that as a repetition. She says that she didn't say it.

THE COURT: I will allow it.

MR. SARASOHN: Exception.

A No, I didn't say that.

BY MR. EDWARDS:

Q Now, Annie, do you remember Mr. Kaminsky, a Probation Officer---

MR. SARASOHN: We object to that as immaterial, ir-

1058
CASE #1768

relevant and incompetent, and not within the issues in this case.

THE COURT: I will receive it, and if I conclude it is not proper, I will strike it out.

A Who is Kaminsky? Is he the one that brought me from Auburn?

BY MR. EDWARDS:

Q No, he is the Probation Officer that Judge O'Sullivan sent over to see you, while you were awaiting sentence in the Tombs. A It was a Jewish man who came to see me.

Q Yes, and you had a good many talks with him about your case, didn't you?

MR. SARASOHN: I object to that as immaterial, irrelevant and incompetent. This is clearly incompetent. Suppose she did have those talks, are they admissible against us? She says she knows the man, and then he says, "You had many talks with him, did you not?"

THE COURT: Objection sustained.

MR. EDWARDS: This is merely introductory, if your Honor please.

BY MR. EDWARDS:

Q Now, do you remember this gentleman who stands at the end of the desk there, who came in with Mr. Kaminsky to see you; don't you? (Indicating Mr. Halpern)

MR. SARASOHN: Objected to.

1951
CASE #1768

1052

THE COURT: Allowed.

MR. SARASOHN: We except.

A I don't know. I have forgotten.

BY MR. EDWARDS:

Q Now, didn't you make---

THE COURT: Do you want the person referred to identified on the record?

MR. EDWARDS: Yes, sir; it is Mr. Halpern, Mr. Kaminsky's assistant.

BY MR. EDWARDS:

Q Now, didn't you make a statement about Abe Bebkin to Mr. Kaminsky?

MR. SARASOHN: I object to that. If the statement itself would be incompetent, wouldn't the fact that she made one be incompetent? It is entirely immaterial to the issues in this case. The thing we are trying is what Abe Bebkin did, not what she said, not statements that she made. These statements would be competent only if we tried to attack her. We haven't done it.

MR. EDWARDS: This is also merely for the purpose of refreshing her recollection as to conversations she had with Bebkin, your Honor.

THE COURT: I will receive it for that purpose.

MR. SARASOHN: We except.

A They asked me where he was, and I said I didn't know.

CASE #1768

MR. SARASOHN: I will ask that that be stricken out, as not being material to this issue.

MR. EDWARDS: It is not responsive to the question.

THE COURT: Well, I will strike it out.

MR. SARASOHN: But, going on this way, we shall never get through.

THE COURT: No, if you will aid the Court, Mr. Sarasohn, the case will, perhaps, not be unduly prolonged.

BY MR. EDWARDS:

Q Now, on the 24th of January, 1913, did you not say to Mr. Kaminsky, and speaking about this defendant Bebkin: "Abe Bebkin remained in my house three days, and when I objected, he told me that he will marry Annie Jacobs, next Monday, and will take rooms for her, and keep a disorderly house"?

MR. SARASOHN: I object to that as immaterial, irrelevant and incompetent, and an attempt to bring forth testimony which is not in this trial, and an attempt to influence the jury by testimony which can't be admitted, and isn't admissible against the defendant.

THE COURT: I am receiving it merely for the purpose of refreshing her recollection as to whether or not she had a talk with Bebkin, she having denied that she had a talk with him.

MR. SARASOHN: We except.

THE COURT: Now, yes or no?

1053

CASE #1768

A No.

BY MR. EDWARDS:

Q Now, Annie, isn't that your mark at the end of that paper, and didn't you swear to it before Mr. Kaminsky? (Indicating).

MR. SARASOHN: We object to that as immaterial, irrelevant and incompetent.

A Yes, sir; that's my mark.

BY MR. EDWARDS:

Q And didn't you swear to that before Mr. Kaminsky?

MR. SARASOHN: Objected to as immaterial, irrelevant and incompetent, and not one of the issues in this case.

THE COURT: Objection sustained.

(It is marked People's Exhibit 1 for Identification)

BY MR. EDWARDS:

Q Now, Annie, this date that I am referring to, the 24th of January, 1913, was about three weeks after you were convicted before Judge O'Sullivan, and while you were awaiting sentence over in the Tombs; wasn't it?

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

THE COURT: Well, it is preliminary, and I will allow it.

MR. EDWARDS: And I haven't finished my question yet.

MR. SARASOHN: And he isn't keeping his word, your

1957
CASE #1768

Honor. He promised not to ask questions that didn't come within your Honor's ruling.

MR. EDWARDS: And I object to the remark of counsel, as unfounded.

THE COURT: Yes, you must not be personal. Now, no remarks. Proceed.

MR. EDWARDS: And I want the record to show what I said to the Court, that, while the jury were out of the room, I said that I would confine my examination to questions to refresh her recollection as to conversations with Bebkin, and the identification of several witnesses, to whom I claimed she had made statements, bearing on that subject.

THE COURT: I will allow it.

MR. SARASOHN: Exception.

A Yes.

BY MR. EDWARDS:

Q And you have no recollection of saying to Mr. Kaminsky, in words or substance, what I have just read to you from this statement? A I can't remember.

MR. SARASOHN: Now, tell her to stop talking. She has answered the question.

THE COURT: Now, that is all. You have answered.

BY MR. EDWARDS:

Q Do you remember the name of the man who brought you down from Auburn Prison? A I do not.

1055
CASE #1768

MR. EDWARDS: Call in Patrick K. White, who is in the next room.

BY MR. EDWARDS:

Q Is that the gentleman who brought you down from Auburn? (Indicating) A Yes.

Q That's the gentleman who brought you down? A Yes, sir.

THE COURT: The name of the gentleman?

MR. EDWARDS: Patrick K. White, your Honor.

BY MR. EDWARDS:

Q Annie, when was the last time that you saw Mrs. Lipschutz? A It was before my sentence.

Q And when did you last hear from her? A I didn't hear anything from her.

MR. EDWARDS: That is all.

THE COURT: Any cross examination?

MR. SARASOHN: Only one or two questions.

CROSS EXAMINATION BY MR. SARASOHN:

Q Annie, what City do you come from? A From Minsk.

Q Annie, how long have you known Annie Jacobs? A Two years.

Q Did you know her from Minsk? A I heard of her but I don't know her; didn't know her.

Q That is, you heard of her in Minsk? A Yes, sir.

Q That is, you are a countrywoman of Annie Jacobs and

1052
CASE #1768

her father? A She is also from Minsk.

Q Do you know from what City Bebkin comes? A I don't know.

Q Well, you surely never heard from him in Minsk; did you?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Did you hear from him in Minsk?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Now, you say that you have known Annie Jacobs for two years? A Yes, sir.

Q Now, tell us how you first came to meet her? A Rosie Landers a girl fromMinsk, came with her to my house.

Q How long was that before the time you were arrested in 22 Mangin Street on that night? A About a year's time.

Q And how long was that before the time that you first saw Bebkin? A She came with him.

Q But I mean the time she came with the girl fromMinsk? How long was that before you ever saw Bebkin? A Surely about a year.

1917
CASE #1768

Q And, during that one year, did Annie Jacobs come up often? A No, I didn't see her any more.

Q One day, while going to visit your husband, who was in prison, did you meet Annie Jacobs, who was on the street? A I saw her in Rutgers Street, and I didn't speak to her. She was standing there with her sister.

Q Now, since the time that you have been brought back from Auburn, where have you been? A In the Tombs.

Q Have you received any visitors?

THE COURT: Now, yes or no to that.

A No, Ididn't receive any visitors, and I didn't receive any letters.

BY MR. SARASOHN:

Q Now then, since the last trial, has anybody spoken to you about this case? A Nobody.

MR. SARASOHN: I ask the District Attorney to concede upon the record that he gave special orders, so far as this woman was concerned, that no visitors should be allowed to speak to her.

MR. EDWARDS: I will concede nothing, because I don't know what the fact is.

THE FOURTH JUROR: If the Court please, the affidavit which she has recognized as her mark, that affidavit, was that read to her in Jewish or was it read in English, and did she understand the contents of that affidavit?

1951
CASE #1768

THE COURT: It is not in evidence in the case. It is merely marked for Identification. It is not in evidence.

MR. SARASOHN: And let it be known on the record that I don't object to the Juror's question. And that's all.

P A T R I C K K. W H I T E, of Auburn, New York, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Mr. White, what is your business? A Prison guard.

Q And what prison? A Auburn Prison, New York.

Q When you were called in here, a few moments ago, for identification, did you see the woman on the stand? A No, sir; I didn't see her.

Q Do you know Annie Brown? A Yes, sir.

Q And she identified you as the man that brought her down from Auburn State Prison. Do you recollect when you brought her down? A Yes, sir; July 13th.

Q And that was a Sunday night, was it not? A Yes, sir.

Q And when you reached New York, where did you leave her for safe keeping over night? A In the Tombs.

Q And when did you next see her? A On the following morning, at ten o'clock.

Q And where did you take her from the Tombs?

MR. SARASOHN: I object to this as immaterial, irrel-

1059
CASE #1768

PAGES NOT IN ORIGINAL

1060

evant and incompetent.

THE COURT: This is evidence along the line of that on which I reserved decision, Mr. Edwards, and I do not feel disposed to hear any further evidence on that line, at the present time.

MR. EDWARDS: Why, if your Honor please, this is for the purpose of showing the arrival of Annie Brown here, and being taken before the Grand Jury, and what was done with her between the time she arrived at the Grand Jury Room and the time that she went before the Grand Jury.

MR. SARASOHN: And it has no materiality to the issues that we are trying against this defendant.

THE COURT: Now, pardon me. The only bearing that the testimony has is as bearing on the truthfulness or untruthfulness of her explanation. I think I will not receive it at this stage. I am in doubt as to the propriety of receiving the evidence, and, being in doubt, I will not take it.

MR. EDWARDS: Well then, Iam afraid I will have to ask you to stay over night, Mr. White. I wanted to let you go back, tonight, but I'm afraid I can't do it. That's all.

MR. SARASOHN: That's all.

J O S E P H T. S A U D E R, of the Seventh Precinct, a witness called on Behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

CASE #1768

Q Lieutenant Sauder, you are a Lieutenant of the Municipal Police Force of this City, are you not? A Yes, sir.

Q Are you still---what precinct were you attached to in June, 1913? A Seventh Precinct.

Q Were you on Desk Duty the night that the defendant was arrested? A Yes, sir.

Q Or the late afternoon? A Yes, sir.

Q Do you recollect when he was arraigned before you at the desk? A Yes, sir.

Q And do you recollect the conversation which you had with him at that time? A Yes, sir.

Q And will you state it, please? A During the---

THE COURT: Now, twelve men would like to hear you. See how they are trying to do it. Just talk so that they can.

A (Answer continued) When the defendant was brought before me at the desk, I questioned him in regards to the case, and, during the conversation he stated to me that he took this girl to a house in Brownsville, and they were there two or three days, and from there the girl took him to a house in Mangin Street.

BY MR. EDWARDS:

Q Is that all the conversation you had with him? A Yes, sir; that's about all the conversation I had with him.

MR. EDWARDS: Now, that's all. He is your witness.

THE COURT: Any cross examination?

1911

CASE #1768

1912

CROSS EXAMINATION BY MR. SARASOHN:

Q Officer, did you take down in writing what he said? A No, sir.

Q And that was in June of last year, was it? Or June, rather, of this year? A Yes.

Q About four months ago? A Yes, sir.

Q And since that time you have spoken to many people, have n't you? A Yes, sir.

Q You speak, each day, to a number of people? A Yes, sir.

Q And you are testifying about this frommemory; are you not? A Yes, sir.

MR. SARASOHN: That's all.

MR. EDWARDS: That's all.

B E L L A D I A M O N D , of 302 Broome Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Miss Diamond, where do you live? A 302 Broome Street.

Q Do you know Annie Jacobs? A Yes, sir.

Q Where did you first meet her? A Well, in the place of business.

Q Did you both work in the same place? A Yes, sir.

Q Where was that place? A 192 Canal Street.

CASE #1768

Q And what was the name of your employer? A Bendelik & Company.

Q And what business were they in? A Paper boxes.

Q And how long were you both working there? A Six or seven months.

Q And when did you leave, do you remember? A Why, they had a fire up there, and we had to leave; I don't remember the date.

Q Well, do you remember about how long ago it was when you and Annie worked there together? A It was some time last year, I think, or over that.

Q It was a year or more ago, you think? A Yes, a year or more ago.

Q Did you ever meet this defendant? A Yes.

Q Where did you ever meet him? A Well, she brought him down to the house.

Q Well, when was that; do you remember? A On September 14th.

Q What year? A 1912.

Q And where were you living at that time? A At 302 Broome Street.

Q The same place you are living now? A Yes, sir.

Q And did you have---did you three have a talk there? The defendant Abe and Annie and you? A Yes, sir.

Q Do you recollect anything special that he said, that

1911
CASE #1768

evening? A Well, he said that Annie was his girl, and that he liked her and was going to marry her.

Q Is that all of the conversation that yourecollect, that night? A Yes, sir.

MR. EDWARDS: Your witness.

CROSS EXAMINATION BY MR. SARASOHN:

Q Who was there? A You and Annie and Bebkin? A Yes, sir.

Q Nobody else? A Nobody else.

THE SECOND JUROR: May I ask this witnessa question? I don't know whether it is proper. Is there any particular instance or happening that brings the 14th of December---September to her mind?

BY THE COURT:

Q How do you happen to remember that date? A Because we all went to the ball.

BY MR. SARASOHN:

Q What ball? A Stephanosky.

Q Where was that ball? A 106 Forsythe Street.

Q New York City? A Yes, sir.

Q You mean you and Bebkin and Annie Jacobs went to the ball? A Yes.

Q And you say you worked together with Annie Jacobs for six months? A Yes.

Q And during those six months, was that the only ball

1967
CASE #1768

that you went to with her? A That was the only ball.

Q 108 Forsythe Street you say it was? A Yes, sir.

Q And how far was that from where Annie Jacobs lived? A Well, a couple of blocks, but it's only around the corner from where I live.

Q And you live on Forsythe Street? A No, on Broome Street.

Q And did you go to visit Annie Jacobs? A She come to my house.

Q She come to your house? A Yes, sir.

MR. SARASOHN: That's all.

MR. EDWARDS: That is all. Now, I can only say that two police officers, who were here this morning, and were told to return, are not here now, though they were both directed to be here at half past one.

MR. SARASOHN: I willconsent to the reading of their testimony in the other trial.

MR. EDWARDS: Very well.

"H A R R Y S M I T H , of the Seventh Precinct,being called and duly sworn---"

MR. SARASOHN: No. One moment. Yes, I will withdraw any objection.

MR. EDWARDS: (Mr. Edwards reads the testimony of Officer Smith, as follows:)

"H A R R Y S M I T H , of the Seventh Precinct, being called

1065
CASE #1768

and duly sworn as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Officer, you are an officer of the Municipal Police Force of this City? A Yes, sir.

Q Do you know the location of 32 Mangin Street? A No, sir; I don't.

Q Do you know where Mangin Street is? A Yes, sir.

Q That is in the County of New York? A Yes, sir.

Q And you also know where Ruthers Street is, that is in the County of New York? A Yes, sir.

Q Did you place the defendant under arrest? A I did.

Q Try and speak so that the last juror can hear you. On what date was it you placed him under arrest? A On the 28th day of June of this year.

Q And where did you arrest him? A 192 Henry Street.

Q Just tell the jury the circumstances under which you placed himunder arrest? A I was standing at the corner of Pike and Henry Streets, and I noticed the crowd of people running through Monroe Street, just two blocks below, and they ran up Pike Street from Monroe, and through Madison down towards Market Street, and a tall young man came running up to me and says, "Officer, there is a man down there that I want arrested. He was going under the bridge. You had better go down this side'---meaning down Henry Street---'and head him off

1062
CASE #1768

there', which I did; and the defendant came running up Henry Street, and I placed himunder arrest at the request of this young man, which Ifound out afterwards to be named Jacobs.

Q That was, afterwards, you found out that he was one of the Jacobs' boys? A Yes, sir.

Q And, later on, you saw Mr.Abraham Jacobs, did you not? A Yes, sir.

Q And what did you do with this defendant, after you had had a talk with Abraham Jacobs? A I removed him to the station house, Seventh Precinct.

Q At the station house,what was done? A He was arraigned before the Desk Lieutenant, and his pedigree taken.

Q And who was the Desk Lieutenant at that time? A Lieutenant Sauder.

Q What, if anything, did the Lieutenant say or the defendant say? A. He said to the lieutenant that he had taken this girl to an address in Brownsville.

Q Did he give the address? A I will refer to memorandum book. 327 Williams Avenue, Brownsville.

Q Yes. And what else did he say? A And he admitted taking her there. He stated,further, that he had gone with her and his cousin to the Mangin Street address, 22 Mangin Street.

Q Did he give the name of his cousin? A No, sir,h e didn't.

I 0617

CASE #1768

Q Now, is that all that he said that you recollect? A That's all.

Q That is, bearing on this case? A Bearing on the case.

MR. SARASOHN: No questions. We concede that everything that he said is true."

"F R A N K J . S E U M I N S K Y , of the Commissioner's Office, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police Force of this City, are you not? A Yes, sir.

Q And have been for how long? A Three years.

Q Did you, with Officer Lewin and Abraham Jacobs, go to 22 Mangin Street on some day of last year? A Yes, sir.

Q On what date was that? A November 2nd.

Q What day of the week was that? A That was Saturday night.

Q Now, just tell us what occurred when you got there?

MR. SARASOHN: I object to that, as immaterial, and not binding on us, it not appearing that the defendant was there.

THE COURT: Well, I will receive it as bearing on the character of the premises, with that limitation.

MR. SARASOHN: We except. As far as the character

CASE #1768

of the premises, that's one of the reasons why I handed up to your Honor the 107th New York. The Court of Appeals says that the character of the premises is practically immaterial, as they construe Section 70 of the Penal Law, and the only question is as to whether or not he had sexual intercourse or not.

THE COURT: Overruled.

MR. SARASOHN: Exception.

A (Answer continued) About eight P. M. in company with Officer Lewin and Police Inspector Cahalane---

MR. SARASOHN: I object. You can't put in evidence the character of the premises by something that occurred while the witness was there.

THE COURT: He may testify as to what happened in those premises, not what was said.

BY MR. EDWARDS:

Q Yes, omit anything that was said by any one. A

MR. SARASOHN: Exception.

A (Answer continued) In company with Police Inspector Cahalane and Abraham Jacobs and his two sons, we went to the premises Number 22 Mangin Street, to the top floor, on the left hand side, rear apartment, where we knocked at the door, and, after waiting about a minute or two, the door was opened by one Annie Brown Upon entering the said premises, we found Annie Jacobs, the complainant, and another woman by the name of Yetta Eisenstock, and a man named Jacob Lipschutz, and another man named Benjamin

1968
CASE #1768

Cohen.

BY MR. EDWARDS:

Q Yes. Now go on. Did anything else happen after you got in there? A Why, on the complaint of Abraham Jacobs we arrested Annie Jacobs.

Q Yes. A And, while making the said arrest, the man Lipschutz and a woman named Annie Brown and Yetta Eisenstock started a fight, and refused to allow us to leave the premises with Annie Jacobs, and we arrested them all for interfering with officers.

Q And took them to the station house, did you? A Yes, sir.

Q And what became of the two women, Annie Brown and Annie Eisenstock?

MR. SARASOHN: Objected to, as not binding on the defendant.

THE COURT: Allowed.

MR. SARASOHN: Exception.

A We arraigned the two said female prisoners at the Magistrates' Court, and they were fined two dollars apiece for disorderly conduct. And we arraigned Annie Brown, and her case was transferred to the Third District Court, and in that Court, on the following day, she was put on probation, and we arraigned the said Jacob Lipschutz at the Third District Magistrates' Court and he was held for the Court of Special Sessions, and the Court

1912
CASE #1768

of Special Sessions sent him to the City Prison for ten days.

Q And this was on Saturday, November 2nd, 1912? A Yes, sir.

Q That you made the arrest of Annie Brown and those other persons in the premises 22 Mangin Street? A Yes, sir.

MR. EDWARDS: That is all.

MR. SARASOHN: No cross examination.

MR. EDWARDS: Now, if your Honor please, the People have completed their case, with the exception of one short witness, outside of the witnesses that your Honor is reserving decision on. Is Miss Mosher outside there? There is no answer. She has been sent for and she will be here shortly. She is the forewoman in a place where Annie Jacobs worked, and it is only for the purpose of proving that she worked there.

MR. SARASOHN: We will concede that, at some time in her life, Annie Jacobs worked.

MR. EDWARDS: Thank you. We will prove when and where she worked in her life. And with that exception, and with the exception of Mrs. Goldman and Mr. White, whom I called and whose testimony is subject to your Honor's ruling, the People close their case.

THE COURT: Would you like to confer with Mr. Taylor in regard to that evidence?

MR. EDWARDS: Yes, sir; I can do that in a very few minutes.

1071
CASE #1768

THE COURT: I think I can now entertain with propriety such motions as the defendant's counsel sees fit to make, because I do not think that any matter that may come into the case later will affect my rulings on those motions.

MR. EDWARDS: No, sir; I think not.

THE COURT: Now, if you care to make your motions, counselor, I will hear them.

MR. SARASOHN: Yes, sir; I make a motion to direct the jury to acquit, on the ground specified in the indictment, on the specific ground that there is no corroboration offered by the prosecution to make out either of the acts charged in the indictment.

Of course, your Honor will remember that I could not make this motion in the last trial, because Annie Brown gave this testimony, but, with her testimony on that subject eliminated, I can make that motion now, I believe, properly. This indictment consists of---

THE COURT: Now, just allow me to make a suggestion to you, and then you may follow it or not as you may be advised. Suppose you direct my attention to the points to which youconcede the evidence should go under the first count of the indictment, namely, the count charging abduction, and then the respect in which you consider that there is a failure of corroboration in respect to that count; and then the points to which, in your opinion, the evidence should go, as to the other counts

1917
CASE #1768

in the indictment, and where the evidence fails in that regard.

MR. SARASOHN: Now, the first count charges abduction. Prior to this decision which I have handed to your Honor, I understand that some judges have construed that section to be, that it wasn't necessary, to sustain a conviction under that count, that the woman was taken for prostitution, or that she was taken for promiscuous intercourse, but they held that the single act of intercourse was sufficient to sustain a conviction under that section.

Now, has your Honor before you Section 70?

THE COURT: I have, yes.

MR. SARASOHN: And will your Honor kindly read the first and second subdivisions, to get my point clearly?

THE COURT: This indictment, as I construe it, is under the first subdivision.

MR. SARASOHN: Yes, sir. And has your Honor read both subdivisions?

THE COURT: Yes.

MR. SARASOHN: Although the charge in the case which I handed up to your Honor was under the second subdivision, yet the phrase that they construe is the identical phrase used in the first subdivision, "for the purposes of prostitution, or, not being her husband, for the purpose of sexual intercourse." These are the words of the first subdi-

1071
CASE #1768

vision, and in the second subdivision it reads, "for the purposes of prostitution or sexual intercourse."

So that what the Court of Appeals construes in the 207th New York, construing that subdivision, must apply with equal force to the second subdivision.

THE COURT: The contention of the People will undoubtedly be that there was evidence in the case to support the theory that he took her there for both purposes. That would be their contention.

MR. SARASOHN: Exactly. And I am prepared to accept their contention. But what testimony to support that contention there is, comes from the mouth of Annie Jacobs. Striking out her testimony, there is not a single word as to that point.

Surely the father doesn't corroborate her, nor does the sister, nor does the Police Officer. There isn't a single word of corroboration that he took her there for prostitution. And your Honor recalls the case of Page, 147th New York.

THE COURT: Pardon me, don't you overlook the testimony of the two young men?

MR. SARASOHN: Certainly. But they don't identify this man. They don't corroborate her in that way.

THE COURT: And don't you overlook an item of evidence given by Annie Brown, in that connection?

1071
CASE #1768

MR. SARASOHN: Why no, if your Honor please. That's the very point. I am very glad that your Honor called my attention to this fact. Is that phrase was construed in the old way, all that they would be required to prove would be the actual act of sexual intercourse, and then I would say, "Annie Jacobs' testimony, supported by that of Annie Brown, makes out a case to go to the jury." But it makes out what? A single act of sexual intercourse with Annie Jacobs, but not the crime charged in this indictment.

THE COURT: Now, suppose we concede, for the purposes of argument only, that it is necessary that the People should prove, under that first subdivision, not merely that the complaining witness was taken there for the purpose of sexual intercourse, but also for the purpose of prostitution. Now, is not the condition of the testimony this, or at least might it not be argued that it is this: That she testified to having been taken there, and that she testified to being in bed there on a certain occasion with the defendant?

MR. SARASOHN: Yes, sir. But, as to the taking, she isn't corroborated. She is contradicted. Annie Brown says that Annie Jacobs brought him there.

THE COURT: And that, on a certain occasion, she was in bed with this defendant in the flat, according to Annie Jacob's testimony. Now, according to Annie Brown's testimony, she was in bed with this defendant on a certain

I 0715
CASE #1768

occasion in this flat.

MR. SARASOHN: Yes, sir.

THE COURT: Now, according to the testimony of the young men, on a certain occasion, when they went there, she was in bed with a man, whom they did not see. Now, if she was in bed, on one occasion, in that flat, with a man, and Annie Brown has testified that she was in bed with the defendant, then the defendant was the person who was in bed with her at the time these young men went there, and if he was the person who was in bed with her at the time these young men went there, that is some evidence of a corroborative nature, the People claim. That is the argument of the People, counselor, as I understand it.

MR. SARASOHN: Yes, sir; and it is very fine spun I admit. But, when you examine the evidence of corroboration, you must examine each particular witness, or each particular point.

Now, Annie Jacobs charges that the defendant took her there for the purposes of prostitution, but she isn't corroborated as to any specific point ~~xs~~ by any witness.

Annie Brown's testimony, I believe, we must now take as true, on a motion of this kind, and Annie Brown says these two men weren't there at all, and these two men say they were there. But that issue has nothing at all to do with establishing that the defendant took her there for the purposes of

CASE #1768

prostitution.

THE COURT: Now, you refer to this case of Hovey as an authority that that must be proved as well?

MR. SARASOHN: Yes, sir. Your Honor can see that they discharged the defendant on habeas corpus, on preliminary examination.

THE COURT: Now, the facts in that case were different from the facts in this case.

MR. SARASOHN: But that was the first case where they defined the section. I think Judge Bartlett wrote a dissenting opinion.

THE COURT: The contention in that case was that the act was perpetrated on the highway, and in this case, a house of ill fame.

MR. SARASOHN: But both counsel in the case had put great stress on whether it was a house of ill fame. But the Court of Appeals said the house makes no difference; the question is, was it for the purpose of prostitution, whether it was a road house or a saloon, or anything else.

THE COURT: Well, I will look at it carefully, and see. Can't the character of the place, as disclosed by the evidence, be taken into consideration as to the purpose for which he took her there?

MR. SARASOHN: But that is a thing that is not disclosed by the evidence, I claim. The character of the place

1071
CASE #1768

is disclosed by the neighbors, who have means of knowing. But the testimony shows only that two policemen and two brothers and the girl's father went up to the top floor of a tenement house, and knocked on the door, and, when they opened the door, they found the girl, a girl by the name of Annie Jacobs; and they take that girl, and Annie Brown and Lipschutz fight the officers, so that they shall not take the girl away, and that is all.

THE COURT: But you omit the testimony of the two young men, who state that they heard in the immediate neighborhood, in that very building, as I recall the testimony, in the store on the ground floor, as I recall, something about the character of that house, and, as a result of that information, went up to visit this house, and their visit resulted in their having sexual intercourse in that flat with the complainant; at least, that is their testimony.

MR. SARASOHN: Yes, sir; that's the testimony. But your Honor should bear in mind what the Legislators had in mind when they passed this law. They wanted to stop the using of women for commercial purposes, and whether that was done in a house of ill fame, or an ordinary bed room, or in a hallway, was immaterial.

Now, if this defendant, assuming everything that the Prosecution has stated, and all the inferences that they have drawn, are true, what do they establish? That these persons

CASE #1768

went to 22 Mangin Street, and had an act of sexual intercourse, and the mere fact that that act occurred in a house of prostitution, wouldn't prove that the girl was kept there for use, for commercial purposes. Does your Honor follow my reasoning?

THE COURT: Yes. The case that you directed my attention to, the People ex rel Hovey, against The Warden, 207th New York, in that case, the facts were dissimilar from the facts in the case at Bar.

The matter came up on an appeal by a Warden of the City Prison from a decision sustaining a writ of habeas corpus discharging the relator from custody; and Section---the Section of the Statute which was under consideration was Subdivision 2 of Section 70 of the Penal Law. The Subdivision under which the first count of the indictment in this case was framed was Subdivision 1 of that Section. The language of the subdivision is similar, but not identical.

If it be held that it is necessary for the People to show---

MR. SARASOHN: Will your Honor pardon me? Will you send for one further authority, the 70th Appellate Division, the Miller case? This will answer your Honor's proposition that the character of the house as a house of ill fame is material or important.

THE COURT: Yes. Well, I will send for it.

I 021

CASE #1768

MR. SARASOHN: It is on page 592.

(Continuing)

THE COURT: / Under Subdivision 1 of Section 70, that the complaining witness was taken to the house on Mangin Street for the purpose of prostitution, there is testimony in this case, coming, in part, from two young men who were witnesses on this trial, who said that they had visited the house, and, in part, from Annie Brown, from which it is possible to draw the inference that Annie Brown's apartment was a house of prostitution or of ill fame. The defendant will be presumed to have intended the natural and necessary consequences of his acts; and, if he did take the complaining witness to that house, the character of the house may be considered as bearing upon the purpose for which he took her there.

In the same connection could be considered the testimony of the two young men, as to the circumstances under which they say that they had sexual intercourse with the complaining witness.

I think, Mr. Sarasohn, that I will overrule your motion, in so far as it relates to the evidence in its bearing under the first count of the indictment. Now, do you make any motion under any of the other counts?

MR. SARASOHN: I tell Your Honor frankly that I am surprised by your Honor's ruling, and that I am completely taken by surprise. Now, if I make that motion as to the other three counts, and your Honor should [illegible] my motion, I'll [illegible]

1080

CASE #1768

in a worse position than ever before, because the jury have heard the evidence, and your Honor might tell the jury a thousand times to disregard it, but it will be in their minds.

I am sure, if I had made a motion to elect, the District Attorney would have vigorously opposed it, and your Honor would have, perhaps, denied it.

And now I feel that, to make a motion to dismiss the other three counts, will do us more harm than good. Suppose that you grant the motion, I will be unable to give any evidence as to what occurred in Brownsville; and, if your Honor should send me to the jury on this one count, wouldn't our position be much worse for us?

THE COURT: Now, of course, it is not for me to suggest, Mr. Sarasohn, the course to be pursued by you. Testimony has been given in this case respecting what is said to have taken place in a certain flat in Brownsville, and, of course, that being in the case, as the indictment now stands, evidence is competent, if you go into your defense, bearing upon that. It has only been received as evidence in the case as to what occurred in Brownsville, as bearing on the circumstances under which the complaining witness got into the house in Mangin Street.

MR. SARASOHN: Do I understand your Honor that, even if these three other counts were taken from the jury, I would be still permitted to show by other testimony, to

CASE #1768

contradict Annie Brown, as to what occurred in Brownsville?

THE COURT: I do not see why you shouldn't be? It bears on her credibility, does it not? She hastestified to certain things. Now, if you can show that, in that regard, she has given testimony which is not true, that certainly is competent.

MR. SARASOHN: Well, under that ruling, I now move that your Honor direct the jury to acquit or to take from the jury each of the other three counts of the indictment, excepting the first count, on the ground that there is no testimony before the Court corroborating the testimony of the complainant, Annie Jacobs.

THE COURT: Well, in what particular?

MR. SARASOHN: In the particular that the ingredient of each and every one of the other counts is the act of the defendant of causing or inducing Annie Jacobs to be a prostitute. I believe that is the language of the indictment. Now, aside from Annie Jacobs' testimony there is not a line or word of testimony corroborative of her as to this element of the crime, even as far as these two boys are concerned.

THE COURT: In the second count he is charged with inducing, or compelling, or enticing her to lead a life of prostitution.

MR. SARASOHN: Yes, sir. And, striking out the testimony of Annie Jacobs, where is there any testimony to

1082
CASE #1768

establish this element? That he either induced or enticed or coerced her?

THE COURT: Well, I am only answering your suggestion. There is the testimony, if you please, of the young men.

MR. SARASOHN: Well, in the first place, both of these young men contradict the girl. Annie Jacobs says that, while she was lying there, one night, with Bebkin, two men came in, and the defendant Bebkin told her to go out and do it, and these two young men contradicted her in this respect,--and they were interrogated very sharply on that point by the jurymen---they say this, that they went in there, and were about leaving there, and they heard a girl say---not a man's voice---but a girl saying, "Come back", and that was the very girl Jacobs.

And they don't say that he compelled her, and there is not a word or a single act done by the defendant, or in his presence, that would induce her, or entice her into that house of prostitution. And they don't identify this defendant at all, and their testimony doesn't show that the defendant was there at all.

THE COURT: The testimony of the young men alone does not, and, of course, alone, it would not be sufficient to go to the jury on that subject.

MR. SARASOHN: And Annie [illegible] goes to the other

1983
CASE #1768

extreme, and she says that nothing of the kind happened.

THE COURT: Annie Brown says that there was a time when the defendant was in bed in that house with the complaining witness.

MR. SARASOHN: Correct, but that's all she says, but she didn't say that she saw those two men there. But how does that have a tendency to show that he induced her to prostitute herself there, or live a life of prostitution? Not a single word, or act of his is in evidence to show that he induced or procured her to do that.

THE COURT: Well, hasn't the jury the right to draw certain inferences from the testimony?

MR. SARASOHN: Yes, but only such inferences as arise from the evidence. If you will apply that rule far enough, you will see that---suppose that we furnished no evidence at all---the jury can only draw such inferences as are proper from the testimony actually before them. And your Honor knows the rule that, wherever two inferences are to be drawn, one of innocence and one of guilt, the law always says that the inference of innocence should be drawn; while, in civil cases, there are certain situations where a jury might draw inferences, but in a criminal case it is limited.

Now, here is a woman---let's see the testimony---omitting Annie Jacobs, if your Honor will, entirely, upon this

CASE #1768

motion---here is a woman named Annie Brown, who says Bebkin was sleeping there with her, and she says, furthermore, that Annie Brought him up. And here are two young men who say that they came up, and they saw two women that they didn't like, and, as they came out that same girl, Annie Jacobs, called them back and said, "I'm going to stay with youse," and she stayed with them. Now, how does that in any way justify the conclusion that he in any way induced, enticed or compelled or coerced her?

THE COURT: Mr. Edwards, what is the item of testimony that will take this case to the jury, under the second count?

MR. EDWARDS: Under the second count of the indictment?

THE COURT: Yes. I mean to say, what is the corroboration of the complaining witness?

MR. EDWARDS: Why, the corroboration starts with the very fact of the day when Annie Jacobs left her home, and it continues with the fact that, on that evening, she was in the company of Bebkin, and that, on that evening, at Bebkin's suggestion, her sister left her in his care, to be brought home later, after her sister had told her that her father wanted them to return home at half past nine o'clock, and she ought to return home then.

Then we passon to the time when she was brought to

1981
CASE #1768

the 22 Mangin Street house, and she says that was on the following Monday.

Annie Brown says that they came there on the following Monday.

The girl then says that, while there, she had intercourse with twenty (20) men. On that particular point, she is not corroborated.

It comes down to Friday, and Annie Brown says that Bebkin, the defendant was not in her flat on Tuesday, but he was on Thursday and Friday, and slept all night with Annie Jacobs, in the kitchen. Now, Annie Jacobs says the same thing, and she adds to that the fact that two men came up there on that evening, and the defendant Bebkin directed her to stay with them, and she did, and that Bebkin told her to ask a dollar apiece from those two men, and she did ask for a dollar, and got a dollar apiece from each man.

MR. SARASOHN: But there is no such testimony in the case, I contend.

THE COURT: Now, pardon me. I am listening now to Mr. Edwards. Proceed.

MR. EDWARDS: And these two young men have testified that they went up to that flat, that they came into the room, and they looked at the other women and didn't like their appearance, and they turned their backs in the room to go out, and then heard a woman's voice call to them. One of them says

1012
CASE #1768

that it was the girl who was in the bed, and both of them say that, before she called to them, they heard her speaking with the man in bed with her; all of which is susceptible of the inference that it is exactly the story that Annie Jacobs told.

We have the details of how much they paid, and so on, which fully corroborate that story.

THE COURT: I think it is a question for the jury, Mr. Sarasohn. I deny your application.

MR. SARASOHN: All that we can do is to except. And I assure your Honor we will not even appeal, we can't appeal, and I don't know what position I'm in now, I'm sure, but I make the same motion as to the third and fourth counts, if your Honor please.

THE COURT: The same ruling.

MR. SARASOHN: We except. May I submit that your Honor send for the 162nd New York, the People against Page, before your Honor finally decides this matter?

THE COURT: I may say, Mr. Sarasohn, that, at the end of the entire case, you may renew your motions and I will give them very careful consideration. Now, Mr. Edwards---

MR. SARASOHN: Pardon me, your Honor. In view of your Honor's ruling, I would like to recallAnnie Brown, and ask her about her testimony at the first trial, because your Honor can readily see, owing to the wide latitude that you

1961
CASE #1768

gave to Mr. Edwards, that I am in this terrible position, that, although I don't know this woman, and never saw her before, because she has changed her testimony, we are in a worse position than we were before, and we are entitled now to show what she testified to at her own trial, and show that that agrees with that which she now testifies.

THE COURT: Well, now, if you want to bring her back, I am going to allow you to.

MR. SARASOHN: Yes, sir; for this purpose; simply as a conclusion of the cross examination.

THE COURT: Mr. Edwards, I thought we were in a position where you could call the remaining witnesses formally, and then I might recall Annie Brown.

MR. EDWARDS: Yes, sir; I would like to do that, because Annie Brown is always available, and the other witnesses are kept away from their work.

THE COURT: Because it is conceivable that, after Annie Brown's examination by Mr. Sarasohn, I may not be disposed to rule as I am about to rule.

MR. SARASOHN: No, I don't think that any question that I will ask will at all change the position that this case is in.

THE COURT: I do not know, Mr. Sarasohn, what you propose to ask, and, of course, I shall have to rule in the light of your cross examination.

1081
CASE #1768

MR. EDWARDS: Well, of Miss Mosher isn't here, and she doesn't respond, then your Honor might have Annie Brown recalled.

THE COURT: Mr. Edwards, if you make a formal offer of testimony, I will entertain it, and rule upon it.

MR. EDWARDS: Well, I think I can do the other just as quickly, but I will do just as your Honor suggests. My other witnesses are right here.

THE COURT: Very well.

MR. EDWARDS: Will you call Mrs. Goldman, please?

M A R I O N M . G O L D M A N , a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Mrs. Goldman, where do you live? A 38 West 10th Street.

Q And you are an Investigator and Probation Officer for the New York Probation Association, are you not? A I am an investigator for the New York Probation Association.

Q And that is the Association which has Waverley House, up here on West Tenth Street, is it not? A Yes, sir.

Q Now, Mrs. Goldman, do you recollect the morning of the 14th day of July, which was a Monday, when Annie Brown was brought by Mr. White to the Grand Jury waiting room for witnesses?

MR. SARASOHN: I object to that as entirely immate-

1081
CASE #1768

terial, irrelevant and incompetent, and as touching a collateral matter.

THE COURT: Well, it is a preliminary question. But I take it you produce this witness, Mr. Edwards, for the purpose of introducing testimony tending to show that certain things which the witness Annie Brown said transpired, and in which this witness took part, did not transpire?

MR. EDWARDS: I have produced this witness, as I did the witness White, to show that Annie Brown was brought to the Grand Jury Room, that Monday Morning, after she came here from Auburn, and no one was allowed to speak to her until she was taken in hand by Mr. Berg, of the District Attorney's Office, who had charge of the investigation, and was taken before the Grand Jury.

THE COURT: I think I will exclude it. This is the position of this matter as it stands now. The witness Annie Brown testified in answer to certain questions on the direct examination in a certain way, and her attention being called to certain contradictory testimony given by her on a previous trial, she said she gave it, but it was false, and she was then allowed, without objection, to assign a reason for her giving false testimony, and that explanation or reason reflected upon the character of two people called by the People as witnesses and the District Attorney has offered to show by the witness White and by the witness now on the stand, that the reason assigned by the

witness Annie Brown is false. The testimony is objected to as introducing a collateral issue, and as being irrelevant on the trial of this indictment. The objection is sustained.

MR. EDWARDS: That will be all, Mrs. Goldman.

Y E T T A M O S H E R, of 278 Henry Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Miss Mosher, what is your business? A Boys' blouses.

Q With whom are you working? A With Annie Jacobs.

Q No. But who are you working for now? A For Stulzer.

Q Where? A 283 Madison Street.

Q And what is their business? A Boys' blouses.

Q And what is your business with them? A Finishing.

Q Are you forelady in the place there? A Yes.

Q Do you know Annie Jacobs? A Yes, sir.

Q Did she ever work there? A Yes, sir.

Q When? A Last Fall.

Q And where was the firm's place of business then, at that time? A The same place as now.

Q And that is on what street? A 283 Madison Street.

Q And how long did Annie Jacobs work there? A Five or six weeks.

1911
CASE #1768

1962

Q And do you remember when she left? A The last of October.

Q The latter part of October, a year ago? A Yes, sir.

Q And you don't know the exact date? A No, I don't.

Q Was she in your department, did she work under your supervision at the time? A Yes, sir.

MR. EDWARDS: That's all.

MR. SARASOHN: That's all---Pardon me, just one question.

CROSS EXAMINATION BY MR. SARASOHN:

Q Who brought you here? A Me?

Q Yes? A I was called from the Court.

Q Did you get a paper from the Court? A Yes, sir.

Q Let me see the paper? A I gave it at the door.

Q Who handed you this paper? A A gentleman.

Q Do you see him here? A I'll look around. I don't recognize him. I don't see him here.

Q When was the paper handed to you? A Half an hour ago.

Q Before that paper was handed to you, did you speak to anybody about this case? A About this case?

Q Yes? A Yes, sir.

Q With whom? A With people.

Q What people? A I don't know who they are.

Q Well, when did you speak about this case? A Friday.

CASE #1768

Q Where? A In the Court.

Q Oh, were you in Courton Friday? A Yes, sir.

Q And did you get a subpoena on Friday too? A Yes, sir.

Q Now, why didn't you say so?

MR. EDWARDS: And I object to the comment of counsel.

THE COURT: Well, now, proceed.

BY MR. SARASOHN:

Q Now, did anybody speak to you about this case before Friday? A Before Friday?

Q Yes? A Yes.

Q Who? A A lady.

Q What is the name? A I don't know exactly her name.

Q Did you see Mrs. Goldman, the Investigator? A I don't see her now, no.

MR. SARASOHN: Will you call in Mrs. Goldman?

BY MR. SARASOHN:

Q Is this the woman? (Indicating Mrs. Goldman) A Yes, sir.

Q When did you speak with her about the case? A About last Fall, at the time Annie Jacobs left, about a month later. I don't remember exactly the time, because I have something important to do besides that.

1961
CASE #1768

Q And what is your business? A Boys' blouses.

Q What is your particular business there at that factory? A Finishing.

Q And how many people work there? A About fifteen or twenty.

Q And you are one of the fifteen or twenty? A Well, I have something to say there if I want to. The boss goes out and leaves the place to me.

Q Do you keep books there? A We do, but the boss keeps the books.

Q Well, is there any book or scrap of paper which will show that Annie Jacobs worked there? A I don't think he marks the names on the books.

Q Is the boss here, to-day? A No, sir.

Q What makes you think he doesn't mark the names in the books? A Because I see when he gives out the pay. Sometimes he marks down the names and sometimes he doesn't.

Q Isn't there a list of the workingmen and working girls there? A Yes.

Q Well, wouldn't her name be on that list? A I don't think so.

Q Well, is there any scrap of paper or any book that would show that she ever worked there? A Well, I have another girl that knows she worked there.

Q Is she here now? A Yes.

I 967
CASE #1768

Q How old are you? A Twenty-two.

Q How long did you know Annie Jacobs? A While she worked there.

Q And how long did she work there? A About five weeks.

Q Did you ever know her before? A No, sir.

Q And didn't know her afterwards? A No, sir.

Q And never was in her house? A No, sir.

Q And all that you know is that, after Annie Jacobs left there, this detective---this Investigator, I mean, Mrs. Goldman, came to your place and had a talk with you? A Yes, sir.

Q And were you called at any of the trials before? A No, sir.

Q You were just called on Thursday for the first time? A No, sir; on Friday.

Q On Friday? A Yes, sir.

Q Can you tell us when she started work? A I can't remember.

BY THE TENTH JUROR:

Q Did Mrs. Goldman tell you what to say, did she ask you any questions? A No, sir.

Q What did she say? A She asked if Annie Jacobs worked in the place, and if she was good, or anything like that.

Q And she didn't force anything on you to say? A No, sir.

BY MR. SARASOHN:

1065
CASE #1768

Q And it is about a year ago that you spoke to Mrs. Goldman, that time, wasn't it? A Yes, sir.

Q And have you spoken to Mrs. Goldman since? A No, sir.

Q And Mrs. Goldman came up to your place? A Yes, sir.

Q And she, of course, talked politely to you? A Yes, sir.

Q And she didn't, as the juror suggests, force anything on you to say? A No, sir.

Q She talked politely to you? A Yes.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q And you came down here on Friday, and I saw you in my room? A Yes, sir.

Q And I talked with you about the case? A Yes, sir.

Q Now, did I force you to say anything in this case? A No, sir.

MR. EDWARDS: Now, the People rest, if your Honor please.

MR. SARASOHN: Now, before the People rest, I would like to have Annie Brown recalled, because your Honor understands our position. We deny that we were there, that night, when those two young men were there, or anything of the kind testified to by those two young men occurred.

THE COURT: Very well, you may recall her.

A N N I E B R O W N , being recalled for further cross examination, testified as follows:

1962
CASE #1768

1917

CROSS EXAMINATION (Continued) BY MR. SARASOHN:

Q Now, Annie Brown, tell me how long you are in this country? A About six years.

Q And how long since you have been arrested? A About a year, perhaps more; I don't know. New Year's was my trial, New Year's night.

Q And how many months were you in prison before your trial, on New Year's night? A Five months.

Q Now, when you were arrested, where were you living? A The first time?

Q No, I mean the second time? A In Broome Street.

Q What number? A I don't remember the number.

Q Well, how long had you been living there then? A Two days.

Q And where had you been living before that? A In 22 Mangin Street.

Q And how long had you lived in 22 Mangin Street? A Fifteen months.

Q Now, you told us you were five years here before you were arrested. What were you doing during those five years? A Three years I was working in a place.

Q In a place? Do you mean as a servant? A I was a cook.

Q Tell us the place where you were working as a cook? A Mr. Belitzky, in East Broadway, in a restaurant.

Q And how long did you work there? A Eight or nine

CASE #1768

months.

Q And where else did you work? A Uptown. I worked for an actress. It was a family, and I was still green. I worked there for ten months.

Q So that up to the time that you moved into Mangin Street, had you been at work as a servant girl, as a cook? A I got married from the place of Mr. Belitzky.

Q And did you then start to live in Mangin Street? A I lived in Monroe Street, with Mr. Feinberg.

Q And what was your husband's business? A An expressman.

Q Was Mrs. Belitzky in Court at your trial? A Yes, he and she, both of them.

Q And have you seen either Mr. or Mrs. Belitzky since you came back from Auburn? A No, I can't write any letters because I can't write. She would come running to me, if I would write. She would give away her life for me.

Q And she is the lady that you worked for? A Yes, sir.

Q And you say she knows you and thinks well of you? A Yes, sir.

MR. EDWARDS: Now, I object to that as an indirect way of attempting to call a character witness, and as not relating to anything brought out on the direct examination.

THE COURT: Objection sustained.

1068
CASE #1768

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Now, do you remember the time that you were tries, last December? A On New Year's eve was my trial.

Q And when you were a witness on your trial you told the truth, didn't you? A Yes, sure.

Q In that trial, was this question placed to you:

"Q Annie Jacobs testified that she came to you with a young man by the name of Abe Bebkin, and that Abe Bebkin said to you that he brought Annie Jacobs there for business? A No, I never saw Abe Bebkin in my house. That boy that was a witness here, that boy I saw in my house."

A Yes, sir.

Q And that was the truth? A Yes, sir.

Q What you testified on your trial, was that the truth?

A Yes, sir.

Q When you were a witness in your trial, was this question asked:

"Q Do you know anybody by the name of Abe Bebkin? A Yes, I know him because he was pointed out to me, that young man, as her young man.

"Q When? A On a car when I came from Brooklyn, as I said before."

A I gave such an answer, yes, but the truth is---

MR. SARASOHN: Now, I will ask that everything be

CASE #1768

stricken out after the answer "Yes". She is a hostile witness. She is a hostile witness and I am cross examining her as to a statement that she made on the witness stand.

THE COURT: Yes. I will sustain the objection. She has answered the question.

MR. EDWARDS: And I submit that her answer should be given, and then he can move to strike it out.

THE COURT: Yes, but I think it is evident that she is going to add something that is not responsive.

BY MR. SARASOHN:

Q Was this question put to you at your trial:

"Q Do you know Annie Jacobs, the complaining witness in this case? A I know her from Europe."

MR. EDWARDS: That is objected to as not proper cross examination on anything brought out on the re-direct examination.

THE COURT: Objection sustained.

MR. SARASOHN: We except.

THE COURT: It is not that you cannot elicit testimony on that question from the witness, but it is because it is not brought out on the direct.

MR. SARASOHN: But I brought it out on the cross. I asked that question, if your Honor please. She only said that she heard of her from Europe, and I want to refresh her memory by a question and answer at her own trial.

CASE #1768

THE COURT: You claim that she made a statement on that trial that differs from a statement made in this trial?

MR. SARASOHN: Yes.

MR. EDWARDS: But I think he has not asked her whether she knew her in Europe.

MR. SARASOHN: Oh, yes, I have, at the very beginning of my cross examination.

(The stenographer repeats the testimony)

THE COURT: I will allow it.

A Yes, Iwas asked this question and I answered this way because she asked me, on the patrol wagon---

THE COURT: Well, I will not allow it.

BY MR. SARASOHN:

Q Now, was this question placed to you and did you make this answer at your trial:

"Q But you met the girl Annie Jacobs in Minsk? A Yes, sir.

"Q And how many times did you meet her there? A Every day I used to see her. I worked in a place and she used to bring, every day, cigarettes to the man of the place."?

A Yes.

MR. SARASOHN: I move to strike out the answer, anything after the word "Yes".

MR. EDWARDS: But now may I ask how the Court can strike out an answer that we haven't heard? When we don't know

CASE #1768

whether it is relevant or competent or not?

THE COURT: Yes, we will take the full answer on the record. It is more regular.

A (Answer continued) When we are arrested, I started to cryn and she said, "I'll tell you what to say. Say that Iwas working at cigarettes, and that I was bringing cigarettes to your house, there where x you were working in the place, I was bringing cigarettes." That's what she told me to say.

BY MR. SARASOHN:

Q Who do you mean by "She"? When you say "She" told you to say that? A Annie Jacobs.

Q Was this question put to you at your trial in December: "Q When, for the first time did you meet Annie Jacobs in New York? A I came from the Tombs in Brooklyn. My husband was staying there in the Tombs and, while coming from the Tombs, all of a sudden, I felt somebody grab me from behind around, throwing her arms aroun me, and saying, 'Hello', and I looked around and says, 'Who is there?' And I saw Annie Jacobs." Did you so answer? A Yes, sir; I said it. But she told me to say that at the trial. I can say that to her face.

THE FIFTH JUROR: May I ask the witness a question?

THE COURT: Yes.

BY THE FIFTH JUROR:

Q Did you give the address, 22 Mangin Street, to Annie Jacobs, when you first met her in New York? A I didn't see her

CASE #1768

at all. She came up with a friend of hers to my house. My friend has a lover, and she knows the people around there. She went to her mother's home and she came to my own house.

MR. EDWARDS: I object to that because it is clearly hearsay.

THE COURT: Yes, strike out everything that is not responsive.

BY MR. SARASOHN:

Q Now, Annie, when Annie Jacobs first came to your house in Mangin Street, it was about a year before you ever met Bebkin, and didn't she tell you when she first came there how she knew you lived at 22 Mangin Street? A Her friend told her that I had married and lived in Mangin Street.

Q What was the name of her friend? A Rosie.

BY MR. EDWARDS:

Q Rosie Landers? A Yes, sir.

BY MR. SARASOHN:

Q In your first trial, in December last, wasn't this very question put to you, and didn't you so answer it:

"A I said, 'Well, I married my husband, but he is now arrested,' and she asked me where I lived, and I said 22 Mangin Street." Didn't you so testify in last December? A I didn't answer that because at that time my husband wasn't arrested.

Q But did you answer, as a witness in your trial, while your husband was arrested, you walked up the street, at met Annie

CASE #1768

Jacobs, and she asked you where you lived, and you gave her the addressin Mangin Street? A I didn't answer that, because she knew it: She was there a year before. She knew my house.

Q At the time that you were on trial, was there not a witness in the case called Bennie Cohen?

MR. EDWARDS: I object to that.

MR. SARASOHN: It is preliminary to the next question and answer that I desire to ask.

THE COURT: Well, it is merely preliminary. You still insist upon your objection?

MR. EDWARDS: I think my objection is perfectly good. He is asking her what witnesses testified at her trial.

THE COURT: Well, ask your next question, and then I can tell whether it is proper or not.

BY MR. SARASOHN:

Q At your trial, in December, wasn't this question put to you, and didn't you make this answer:

"Q How long was this Bennie Cohen, who was here on the witness stand, how long was he in the house, that time?" And your answer was, "Bennie came with her"---meaning Annie Jacobs--- "and I asked her who was the boy, and she said, 'It's my boy, I came with him.'"?

MR. EDWARDS: I object to that, as it does not refresh her memory as to anything, and is not in reference to anything that she was asked on her direct examination.

1191
CASE #1768

THE COURT: Well, you may ask her if she knows a man by the name of Bennie Cohen.

BY MR. SARASOHN:

Q Do you know a man named Bennie Cohen? A Yes.

Q Now, I ask you was this question placed to you at your trial;

"Q How long was this Bennie Cohen, who was here on the witness stand, how long was he in the house at that time? A A Bennie Cohen come with her"---meaning Annie Jacobs---"and I asked her who was the boy, and she says, 'It's my boy. I came witn him.'"?

MR. EDWARDS: I object to that.

THE COURT: I do not see that that refers to the occasion that is referred to in this trial.

MR. SARASOHN: Oh, yes, it does.

THE COURT: Don't you see that you have got to ask her a preliminary question asto whether this girl ever came to the house with Bebkin?

MR. SARASOHN: Yes, and she testified to that on Friday, and now we want to show a different statement.

THE COURT: Well, ask her if she ever came to the house with ~~Sobkin~~ Bebkin.

MR. SARASOHN: I don't want to ask her that.

THE COURT: The fact that she might have come there with a person named Cohen is not necessarily inconsistent with

1165
CASE #1768

the fact that she may have come there with Bebkin, because the occasions may have been different.

MR. SARASOHN: Yes, sir; I see that now.

THE COURT: You have got to show that she was referring in that testimony to the occasion on which she says now that the complaining witness came with this defendant.

MR. SARASOHN: I thought that she said on Friday that the first time she came there was with this defendant, and I want to contradict that statement by the fact that, on her own trial, she said she came with Bennie Cohen.

THE COURT: Well, I will look at the record of the testimony.

MR. SARASOHN: Yes, sir; on Friday afternoon.

THE COURT: And I may say that it has been a little hard to keep the testimony in mind from the circumstances under which it is was given. Will you refer me to the testimony?

MR. SARASOHN: Surely, I will refer you to the testimony.

THE COURT: You say that the first time she ever saw Annie was when Annie and the defendant now on trial came in together?

MR. SARASOHN: No, sir; but the first time within a week or a month of the time of the arrest.

MR. EDWARDS: No, it was prior to the day of the arrest, I submit.

9111
CASE #1768

THE COURT: You can take this record, Mr. Sarasohn, and, if you can point it out to me, I will consider it.

MR. EDWARDS: Was I correct, sir, in saying that it referred to the day of the arrest?

THE COURT: Apparently so.

BY THE COURT:

Q Do you remember the day on which you were arrested?

THE COURT: Ask her that, Mr. Interpreter. Yes or no.

A Yes, Saturday.

BY THE COURT:

Q Do you remember seeing a young man by the name of Bennie Cohen on that day? Yes or no? A Yes, sir.

Q When you saw him, that day, did he come into your house? Yes or no? A When I came home, Ifound him with her in the house.

Q And when you say "With her", whom do you mean? A Annie Jacobs.

Q Did you see Bennie Cohen, on the day of your arrest, come into your house, in company with Annie Jacobs? Yes or no? A No.

BY MR. SARASOHN:

Q Didn't you, at your first trial---at your own trial---in December---wasn't this question placed to you, and didn't you make this answer

CASE #1768

"A No, I never saw Abe Bebkin in my house. That boy that was a witness here---" meaning Bennie Cohen---"that boy I saw in my house."

A I said that, yes.

Q Now, I want nothing else except yes or no. Now, that's an answer. At your own trial was this question put to you and did you make this answer:

"Q. Annie Jacobs testified that she was in your house five days; is that true? A No, five minutes, but not five days?"

A I said five days.

Q And you say then, notwithstanding the stenographer's minutes of your trial show that you said "Five minutes" and not five days?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: We except.

THE COURT: There is no proof before the Court that the minutes say so.

MR. SARASOHN: Well, I will be able to prove that, though, as I understand it?

THE COURT: Proceed.

MR. SARASOHN: That's all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Annie, who told you that, if Abe went out free, you would go out free?

1108
CASE #1768

MR. SARASOHN: I object to that as assuming a state of facts not proven, and simply an endeavor to---

THE COURT: Objection sustained.

BY MR. EDWARDS:

Q Annie, when you were taken fromthis room, to-day, after examination, and taken down to the pen., didn't you say to the officer who took you down that, if Abe went out free, you were going out free?

MR. SARASOHN: I object to that, under the ruling that your Honor made, it is entirely immaterial, and is an attempt to impeach the witness.

THE COURT: I will allow it.

MR. SARASOHN: We except.

A No.

BY MR. EDWARDS:

Q Isn't this man here now the man who took you downstairs? (Indicating a Court Officer) A No, here is the man (Indicating another officer).

Q Well, didn't this officer see you downstairs in the pen? A He saw me, but I couldn't speak English to him.

Q And didn't you make the same remark that I have just quoted to you, to this officer, downstairs? A No, I only spoke half Russian and half---I only asked him if that is the man who will take me back to Auburn.

Q Now, Annie, didn't you say to him, in words or substance,

6119
CASE #1768

downstairs in the pen, that, if Abe went out free, you were going out free? A No, sir.

Q No one has ever told you that, have they, Annie? A What?

Q What I have just asked you, if you didn't say to the Officer? A I told him that a man came for me from Auburn.

Q Did any one ever tell you that, if Abe went out free you would go out free? A No.

Q Now, who is this Rosie Landers that you have been talking about? A Mrs. Goldman knows her. I sent Mrs. Goldman to her.

Q Well, who is she? Where did you first know her? A I know her fromMinsk.

Q Yes, and how long has she been in this country, do you know?

MR. SARASOHN: I object to that as entirely immaterial.

MR. EDWARDS: It may help me to find her. That's why I asked, your Honor.

MR. SARASOHN: Oh, then, I withdraw the objection.

A About three years I know her. I don't remember exactly.

BY MR. EDWARDS:

Q And where did she live when you last saw her? A In Rutgers Street, with her mother. But now she got married, about a year and a half ago.

Q And whereabouts in Rutgers Street did her mother live?

CASE #1768

A 56 Rutgers Street.

Q Do you know where she moved to when she got married? A Mrs. Goldman knows, because, at my trial, I sent her to find out whether she was in my house.

MR. EDWARDS: Now, I move to strike out that answer as irresponsive, and ask that the question be repeated.

THE COURT: It is out.

MR. SARASOHN: Will your Honor permit me to argue upon it?

THE COURT: It is not necessary.

BY MR. EDWARDS:

Q Now, will you tell me where she moved when she was married A To the Bronx. Mrs. Goldman knows, because I sent her there.

MR. EDWARDS: I move to strike that out.

THE COURT: Motion granted.

BY MR. EDWARDS:

Q Do you know where she moved to in the Bronx? A I don't know.

BY THE COURT:

Q Did you at any time know her address in the Bronx? A No, I was never there.

MR. EDWARDS: That is all.

MR. SARASOHN: That is all.

THE COURT: I shall consider that your motions are made now, Mr. Sarasohn.

CASE #1768

MR. SARASOHN: Your Honor, may I not state this? There was a question she answered, this afternoon, that throws an entirely different light on my motions.

She testifies now as follows: I had asked her if the following testimony was true, at her first trial:

"Annie Jacobs testified that she came to you with a man named Abe Bebkin, and that Abe Bebkin said to you that he had brought Annie Jacobs for business, is that true? A. No, sir; I never saw Abe Bebkin in my house. The boy that I saw in my house was that boy who was a witness here."

And she testified that that was true, this afternoon.

THE COURT: From my examination of the record, Mr. Saraschn---

MR. SARASOHN: But she denies that she ever saw Abe Bebkin in her house.

THE COURT: Well, assuming that her testimony in that regard is conflicting, it will be for the jury to say which they believe.

MR. SARASOHN: Now, if your Honor please, I have been on this trial seven days, and there is nothing in this case for me, and I press this motion so as to be able to go back to earn a livelihood, and I felt that that motion would be granted, and I felt astounded that your Honor thought that there was enough to send this case to the jury on the testimony of Annie Brown.

THE COURT: I have not decided to send the case to the

CASE #1768

jury, on the testimony of Annie Brown.

THE COURT: I have not decided to send this case to the jury on the testimony of Annie Brown, but upon all the testimony in the case at this stage of the trial, it did not appear to be a proper case for the direction of a verdict, and I told you that you might renew your motion at the end of the entire case.

MR. SARASOHN: But I understood that, in answer to my objection that there was no corroboration, that your Honor said that the corroboration lay substantially in the testimony of Annie Brown.

THE COURT: I think you are in error as to that. I have alluded to the testimony of Annie Brown, and to some other testimony that there was in the case, the testimony of the two young men.

MR. SARASOHN: But the testimony of these two young men, I am sure your Honor will not consider as corroborating Annie Jacobs, when they don't corroborate her, and don't identify the defendant, and they don't swear that they identify the defendant.

THE COURT: Mr. Sarasohn, I do not think that it is desirable to discuss the question of fact. I recall the testimony in the case reasonably well, and I have reached the conclusion, after a pretty careful consideration of it, as careful as I could give, that it was a case that should go to the jury.

CASE #1768

as it now stands.

MR. SARASOHN: Pardon me. Your Honor says, as it now stands. You know that, no matter what kind of proof it is, it must go to the jury, even if we bring ten thousand witnesses who will disprove everything that Annie says, but we will go to the jury, just the same.

THE COURT: No, there is a provision of the Code of Criminal Procedure, Section 410, which gives the Judge, under certain circumstances, the power to direct a verdict.

MR. SARASOHN: I didn't know that. Even where there is a conflict in the evidence? I didn't know that.

THE COURT: You may look at Section 410. (Reads) In other words, the Court may make that disposition of the case, after the testimony is in on both sides.

MR. SARASOHN: And I understood that a good deal of the criticism that hasbeen directed at this Court was for directing acquittals, when they had no such power.

THE COURT: The Code provides that they may advise the jury to acquit.

MR. SARASOHN: But that is tantamount to saying that they may direct.

THE COURT: Well, we will not discuss that matter now. That is the Section that I refer to.

MR. SARASOHN: I think I will briefly open the case, and then I will ask your Honor to adjourn until tomorrow.

CASE #1768

THE COURT: You don't want to go on now?

MR. SARASOHN: I may I will briefly open the case to the jury now, and I would rather, after I open the case, go on tomorrow.

THE COURT: Well, open the case, and see how you feel about it afterwards.

(Mr. Saraschn then opened the case for the defense)

THE COURT: Mr. Saraschn, do you not think that you can go on now?

MR. SARASOHN: I would like to have the District Attorney concede that the distance of the house in Mangin Street from the house in Rutgers Street is about eleven blocks, ordinary blocks.

MR. EDWARDS: I can't concede that, because I don't know how many blocks it is, and some of those blocks down there are quite long blocks.

MR. SARASOHN: Well, this is the Blue Book, giving the streets and the distances in New York. 22 Mangin Street is between Broome and Delancey Streets.

THE COURT: Now, walking in a northerly direction on Mangin Street, would 22 be on your right side or left side?

MR. EDWARDS: I haven't the slightest idea, your Honor.

THE SECOND JUROR: It's on the east side, the even numbers, your Honor.

CASE #1768

MR. SARASOHN: So that walking from 22 Mangin Street down to Grand Street is one block and a half.

MR. EDWARDS: Well, between one and two blocks. State it correctly, if you are going to put it on the record.

MR. SARASOHN: Yes, it is at 590 Grand Street, where it starts. We will now go to Grand Street. 590 Grand Street appears to be on the other side of Mangin Street, and 599 is Monroe Street, the beginning of Monroe Street. We will call that half a block or a block, between 590 and 599.

MR. EDWARDS: Something less than a block, I should say.

MR. SARASOHN: Yes, nine buildings, nine numbers.

MR. EDWARDS: If the Court please, I will concede what the book shows, not the counsel's argument.

MR. SARASOHN: Very well, then. We'll go to Monroe Street.

MR. EDWARDS: I think if we could get a map from the City Directory, in the morning, and let it go before the Jury, it would be much clearer to the jury.

THE COURT: Well, we will take the number of blocks and then pause on that. And it is taken subject to verification by a map.

MR. EDWARDS: I thought the counsel had something by which we could get at it, without arguing back and forth as to every page.

CASE #1768

MR. SARASOHN: 312 Grand Street is at Corlears Street, and then comes Jackson Street, Scammel, Gouverneur, Montgomery, Clinton, Jefferson, with Rutgers Place between, then comes Rutgers Street. I think that's all I care to do to-day, your Honor.

THE COURT: I am told that Judge Swann has quite a number of sentences to impose tomorrow. How many, Mr. Clerk?

THE CLERK: Twelve, your Honor. Of course, he may not sentence them all, but there is that number awaiting him.

MR. SARASOHN: How about this case proceeding at one o'clock as to-day, your Honor?

THE COURT: No, we will proceed in the ordinary way.

Gentlemen of the Jury, you are admonished not to converse among yourselves upon any subject connected with this trial, or form or express any opinion thereon, until the case is submitted to you.

The Court stands adjourned until tomorrow morning at half past ten.

MR. SARASOHN: In view of the sentences, may we come an hour later?

THE COURT: No, I think not. I say that, because I am obliged to say that, because, as a matter of fact, I don't know whether Judge Swann will be here or not.

(The trial was then adjourned until Tuesday Morning, October 29th, 1913, at 10:30 o'clock.)

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CASE #1768

THE PEOPLE VS. ABRAHAM BEBKIN.

TRIAL RESUMED.

New York, October 28th, 1913.

M O R R I S B E B K I N , of 327 Williams Avenue, Brownsville, a witness called on behalf of the defense, being duly sworn and examined through the Official Interpreter, Mr. Rosenthal, testified as follows:

MR. EDWARDS: Now, if the Court please, before proceeding with the examination of this witness, may we complete what we were occupied in doing, yesterday afternoon, when we adjourned, namely, determining on the record the relative positions of Mangin and Rutgers Streets? As I understood it, yesterday, the statements read in by counsel---

THE COURT: Mr. Sarasohn, there is no objection to that? And then it will appear altogether in the record?

MR. SARASOHN: Not the slightest.

MR. EDWARDS: Well, I would suggest that we place in evidence that portion of the map of the Borough of Manhattan, City of New York, which appears in the front of this year's Trow's Directory, which covers the lower portion of New York.

THE COURT: Is that agreeable, Mr. Sarasohn?

MR. SARASOHN: Absolutely.

THE COURT: That will be done. It will be marked in evidence.

(It is marked People's Exhibit 2 in evidence).

CASE #1768

DIRECT EXAMINATION BY MR. SARASOHN:

Q Did you give your name? A Yes, sir.

Q And your age? A Eighteen years of age.

Q And where do you live? A 327 Williams Avenue.

Q Where? A Brownsville.

Q Is that in Brooklyn? A In Brooklyn.

Q Are you related to this defendant? A A brother.

Q And what are you doing for a living? A I am working at brass beds.

Q And you have been working up to the time, and excepting the time, that you are a witnesshere in Court? A Allthe time.

Q How long are you in this country? A Two years and three months.

Q How long before you came, did your older brother, Abe, come to this country? A Less than two years.

Q That is, Abe Bebkin went away from the Old Country two years before you did? A Yes, sir.

Q And are you living at home with your parents? Cross that out. And what place do you come from? A From Chernigoff.

Q And what part of Europe is that? A It's in Europe.

Q Where in Europe? A In Russia.

Q Chernigoff is in Russia? A Yes, sir.

Q Do you know where Minsk is? A I was never there.

Q Don't you know that Minsk is in Poland? A I don't know

Q Now, over in Chernigoff, are your father and mother liv-

CASE #1768

ing? A Yes, sir.

Q And have you sisters and brothers there? A I have five sisters and two more brothers.

Q Now, after Abe Bebkin was here for a year or two, did he send over the money for your passage to come over here?

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

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Well, when you came over here, with whom did you start to live? A With my aunt, at my aunt's, with my brother.

Q And since you came over from the Old Country, until today, have you been living with your aunt? A Yes, sir.

Q Where is that? A 327 Williams Avenue.

Q What part of the floor do you occupy? A The first floor.

Q No, what part of the first floor? A There is only one tenant on the first floor.

Q Well, that first floor, there is only one tenant, and that tenant is your aunt, and what part of her rooms do you occupy? A The bed room towards the street.

Q Is that the hall bedroom? A It goes into the hall, but we go through the apartment, because it is closed towards the hall.

CASE #1768

Q Now, since the time that you came here until the time that your brother was arrested, did you and your brother sleep in that hall bed room; did you and your brother occupy that hall bedroom? A All the time together.

Q Did you sleep there in the same bed? A The same bed.

Q And did you sleep there in the same bed with your brother in that hall bed room from the day you came over to this country until the day Bebkin was arrested? A The whole time we were sleeping together.

Q Was there at all any exception, any time when Bebkin didn't sleep there? A No exception. All the time we were sleeping together.

BY THE COURT:

Q Do you mean every night? A Every night.

Q From the time you arrived until the time of Bebkin's arrest? A Yes, sir.

BY MR. SARASOHN:

Q And you say you arrived here how long ago? A Two years and three months.

Q Now, was there any time at all that Bebkin worked somewheres uptown in New York, and that he didn't sleep there for a week or two? A One month before Passover he didn't sleep.

MR. SARASOHN: May we agree upon what month Passover was?

MR. EDWARDS: The 22nd of April, last year, I believe.

1121

CASE #1768

MR. SARASOHN: Yes, the 22nd of April of last year.

BY THE COURT:

Q That is to say, for one month before the 22nd of April last, your brother did not sleep in the hall bed room that you have been talking about with you? A For one month he didn't sleep there, because he was working uptown and he couldn't get home.

BY MR. SARASOHN:

Q You say uptown. Do you mean uptown in the Borough of Manhattan, City of New York? A Yes, sir.

Q And was that exactly for a month, or was it for a week or two; do you know? A During the month he used to come home once in a while, and other nights he used to sleep uptown.

Q Now, tell me, how do you get into that hall bed room that you and Bebkin occupied in this Williams Avenue house? A Through the house, through the apartment.

Q Through what rooms? A First to the kitchen and then through a bed room, and then through the front room, and then into the hall bed room.

Q How was that hall bed room shut when you left there? A It was with a bolt.

Q With a bolt? A Yes, sir.

Q When you went into that hall bed room, or when you wanted to go out of that hall bed room, how did you go?

MR. EDWARDS: I object to that as immaterial, now this

CASE #1768

witness went out of the hall bed room.

THE COURT: Yes, you may ask him the means of exit.

BY MR. SARASOHN:

Q What was the means of going in and out of that hall bed room? A We used to go through the kitchen and the other rooms and go in and out the same way.

Q That is, by means of the front room of your aunt's apartment, which adjoined that bed room? A Yes, sir.

Q Did you ever have a key of that hall bed room?

MR. EDWARDS: I object to that as immaterial, whether this witness had one or not.

THE COURT: I will receive it.

BY MR. SARASOHN:

Q Did you ever have any key of that hall bed room? A No, sir.

MR. SARASOHN: Give us his full answer. What did he say?

THE INTERPRETER: I didn't understand it.

(The question is repeated by the stenographer).

A No, I had no key.

BY MR. SARASOHN:

Q Did you ever enter that room by means of a key? A No, never.

Q Now, your brother was arrested---

THE COURT: On the 28th of June.

CASE #1768

MR. SARASOHN: Yes, the 28th of June.

BY MR. SARASOHN:

Q Now, outside of that month in which he did not appear sometimes, because he worked in New York, uptown, did you sleep with him in that bed every night for the past two years before that twenty-eighth of June? A Every night.

BY THE COURT:

Q I call your attention in that connection particularly to the month of October, 1912, and I ask you whether you are able to say that your brother slept with you in that bed on every Friday night during that month? A Every night.

BY MR. SARASOHN:

Q Well, does that include every Friday night? A Yes, every Friday night.

Q Did you see this girl Annie Jacobs in Court? A I saw her passing through, once or twice.

THE COURT: Mr. Sarasohn, I will interrupt you for a moment, to ask another question in the same connection.

MR. SARASOHN: And I invite your Honor to ask any question, and I beg your Honor to ask any question.

BY THE COURT:

Q Now, when you say that your brother Abraham slept with you every night during the month of October, 1912, what do you mean? That is to say, was he in bed with you for the entire night, each night during that month, or were there [illegible]

1127
CASE #1768

during the month when he was with you for only a part of the night, and not the whole night? A The whole night we were sleeping together.

BY MR. SARASOHN:

Q About what time of the night did you retire? A What's that?

Q About what time in the evening did you retire? A About ten or half past ten.

Q And when did you get up in the morning? A A quarter of six.

Q In the morning? A Yes, sir.

Q And when you got up in the morning at a quarter after six you both started to work, you both went to work? A I had to be in the shop about seven o'clock, and I had to ride.

Q Now, tell us in what part of the room was the bed? A It was standing by the window.

Q It was standing alongside of the window? A Just as the window runs, that's the way the bed was running.

BY THE COURT:

Q Was either side of the bed up against the wall? A It's a small room, so that the bed touches two walls.

Q A person wanting to get out of the bed, could he get out of it on either side, or as there one side of it that was up against the wall? A At one side was the window, and he couldn't get out by that side.

I-125
CASE #1768

BY MR. SARASOHN:

Q When a person was lying in the bed, could he look from the window out into the street?

MR. EDWARDS: I object to that, as improper in form.

THE COURT: Well, Iwill receive it.

A Yes, everything could be seen that was going on in the street through that window.

BY MR. SARASOHN:

Q That is, was the bed on a level with the window? A Even with the window.

BY THE COURT:

Q Did you always sleep on the same side of the bed, or sometimes on one side or sometimes on the other? A We slept together, and it happened once on one side and another time on the other side.

Q That is to say, sometimes you slept nearer the window than your brother and sometimes he slept nearer than you; is that right? A Yes, sir.

BY MR. SARASOHN:

Q Did you do anything in that room, each night, you and your brother, before going to sleep? A We used to take lessons, every night, from a boy.

Q In what? Lessons in what? A To read and write English.

Q Well, from whom did you take those lessons? A From my

I 128
CASE #1768

aunt's boy. His name is Sam.

BY THE COURT:

Q What is his last name? A Sam Lefi.

BY MR. SARASOHN:

Q Is that the same man that you were staying with? A Yes, sir.

Q Now, during all that time that you slept in that room, each night, Bebkin, did you ever see the girl Annie Jacobs there? A She came once, on a Friday night.

Q. That's not my question. We will come to that.

MR. EDWARDS: Now, I submit that the answer should be translated, for the purpose of determining whether it is competent or not. The counsel is speaking from the Jewish version of the answer; and I don't think that is a proper method.

THE INTERPRETER: I translated all that the witness said, your Honor.

THE COURT: Do you say that, Mr. Interpreter, that you have translated every word that the witness said?

THE INTERPRETER: Yes, sir.

THE THIRD JUROR: If your Honor please, I would ask that the witness be told to speak louder, because some of us understand that language.

THE COURT: Now, you are told, witness, to speak so loud that all the jury can hear you. Do you understand that?

THE WITNESS: Yes, sir.

1127
CASE #1768

BY MR. SARASOHN:

Q Was Annie Jacobs in that bed room at any time in the month of October last?

MR. EDWARDS: Objected to.

THE COURT: Sustained. You may ask him whether he ever saw her in that bed room.

MR. SARASOHN: He has said already that she wasn't there, and he was there every night.

BY THE COURT:

Q Well, did you see Annie Jacobs, on any night in the month of October, 1912, in that bed room? A I didn't see her in October.

BY MR. SARASOHN:

Q Did you see her in the bed room at any time in your life-time? A I never saw her in the bed room.

BY THE COURT:

Q Did you ever see her at any time in any room in your aunt's flat in Brownsville? A Yes, sir; I saw her once in the dining room of my aunt's flat.

BY MR. SARASOHN:

Q What night was that? A Friday night.

Q About what time? A About half past eight.

BY THE COURT:

Q What month of the year? A In August.

Q Of what year? A 1912.

1128
CASE #1768

BY MR. SARASOHN:

Q Now, tell us the occasion on which you saw her, on this Friday night of August, 1913? A When I came home on Friday night, before subber, my brother wasn't there. I asked where my brother was, and---

MR. EDWARDS: Now, I object to anything that anybody said to the witness.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Did you afterwards, on that same evening, see your brother in that dining room?

THE COURT: Yes, or no.

A Yes, he came.

BY MR. SARASOHN:

Q About how long afterwards? A About eleven o'clock.

Q Did you ever---at what time did you see Annie Jacobs in that dining room?

MR. EDWARDS: I object to that as already answered. She has already told us that it was 8:30.

THE COURT: I will allow it.

A Between half past eight and nine o'clock.

BY MR. SARASOHN:

Q And who was with her? A My brother, my aunt, my uncle and I, and the two children.

Q Was there any conversation had at that time? A He came

CASE #1768

and he introduced her to the aunt. Then he went and took an umbrella and a raincoat, and they drank a glass of tea and they went away.

Q And the next time he came back was it eleven o'clock? A Eleven o'clock.

Q Did he come back alone? A Alone.

Q And did he sleep with you that night, the same as any other night? A Yes.

Q And did you ever see Annie Jacobs there at any other time than this Friday night that you have just told us about? A Up to the last trial, Ididn't see her.

MR. SARASOHN: Your witness.

CROSS EXAMINATION BY MR. EDWARDS:

Q What ~~night~~ year was it that you came to this country? A 1911.

Q And what month did you come in? A In July.

Q And what day of the month? A I don't remember the exact date, but I think it was between the 7th and 10th.

Q What ship did you come on? A I have forgotten the name.

Q What line did the ship belong to?

MR. SARASOHN: I object to that as immaterial. Does the gentleman contend that he never came over at all?

THE COURT: Now, I will allow the question. I will allow it as testing his memory and accuracy.

CASE #1768

MR. SARASOHN: We except, if your Honor please.

A The South Russian Line---the South Russian Line.

BY MR. EDWARDS:

Q And you don't remember the name of the boat? A No, sir.

Q So you have lived over at 327 Williams Avenue, with your aunt, Mrs. Leff, for about two years and three months, haven't you? A Yes, sir.

Q And during that time you and your brother have always occupied this hall bed room? A Yes, sir; all the time.

Q Now, how large a room is that hall bed room? A As long as the jury box. (Indicating).

Q And about how wide? A It is wider than the box. (The witness indicates from his foot to the end of the jury box).

Q Now, what furniture was in that room? A A bed, two chairs and a closet.

Q What do you mean by a closet, a wardrobe? A Yes, and a table, a small table.

Q How large a bed was that? A About as long as this jury box is wide.

Q Yes, it was about as long as an ordinary bed, you mean? It was about as long as the width of the room, wasn't it? A A little smaller than the width of the room.

Q And how wide was the bed? Show with your hands? A About that wide. (Illustrating).

CASE #1768

MR. EDWARDS: About three and a half feet, Mr. Foreman?

THE FOREMAN: I should say about three feet. But he works in brass beds, he ought to know.

BY MR. EDWARDS:

Q You work in brass beds, you say. Now, tell us whether this was a single, double or three quarter bed, or what? A It was a four foot bed, wider than a single bed. It was a three-quarter bed.

BY MR. EDWARDS:

Q Was it a three-quarter bed? A Yes, sir.

Q Is it the same bed that is in the room now? A Yes, sir.

Q Now, what else was in that room? A [illegible] and a table and a wardrobe.

Q Well, you have told us all that. Anything else in the room? A Nothing else.

Q Now, the furnishings in that room, to-day, are the same as they were a year ago, aren't they? A The same furnishings.

Q Now, is there anything else in that room that you haven't told us about? A A satchel.

Q Yes. Anything else? A No.

Q Nothing at all? A No.

Q Now, how many doors---A Now there is a bicycle, because I bought a bicycle.

CASE #1768

Q Yes, I see. How many doors to that room? A Two doors.

Q And where do the two doors open? Into what other rooms of that apartment?

MR. SARASOHN: I object to that, if your Honor please, as being confusing, and assuming a state of facts not proven. He hasn't testified that two doors open into the apartment.

THE COURT: Suppose you ask him into what the other doors open?

MR. EDWARDS: All right.

BY MR. EDWARDS:

Q Now, into what do the other two doors open?

MR. SARASOHN: I object to that. He hasn't said there were two other doors.

BY MR. EDWARDS:

Q Now, into what do each of the two doors that you have mentioned open? A One door leads into the hall, and the other door leads into the front room of the apartment.

Q And what is that front room used for? A The children are playing there in the day time and they sleep there in the night time.

BY THE COURT:

Q What was it used for in the month of October, 1918? A The children used to do their lessons there, and we used to have our lessons there.

CASE #1768

Q We are talking now about the room into which you say the door from the hall bed room, in which you slept, opened. What was that room used for in the month of October, 1912? A The children used to play there, and in the night time they slept there.

BY MR. EDWARDS:

Q Now, is that a fact? Are you sure that the children always slept in that front room?

MR. SARASOHN: We object to that, as being immaterial, your Honor.

MR. EDWARDS: It is very material, as it will develop in this case, if your Honor please.

THE COURT: I will allow it.

MR. SARASOHN: We except.

A They used to sleep there most of the time, with the exception of the winter time, when it was very cold, then they used to go to the bedroom to sleep.

BY THE COURT:

Q As far as you know, the only persons---did any persons sleep in the room during the month of October, 1912? A Yes, sir; at that time the children slept there.

BY MR. EDWARDS:

Q And you are sure of that, are you? A Yes, sir.

Q Now, how many other rooms are there on that floor in that apartment? A There was a bed room, a kitchen, a dining

CASE #1768

room and another bed room.

Q And how many people in the family? Your aunt and your uncle and how many children? A There were seven children.

THE COURT: Mr. Edwards, I suggest that you make your questions relate to the month of October, 1912, is you will.

MR. EDWARDS: Of course, your Honor will appreciate the fact that counsel didn't call his witnesses in the same order that he did, the last time, and I think your Honor will find that all of this will be material.

THE COURT: Very well, I will withdraw the suggestion then.

A And two married.

BY MR. EDWARDS:

Q And the two married children don't live at home, do they? A No, sir.

Q Are there five that live in the house? A Five children, yes.

BY THE COURT:

Q Who were living in that flat in the month of October, 1912? A My aunt, my uncle, with the family, and I and my brother.

Q Your aunt, your uncle, yourself and your brother? Now, who else? A And other children.

Q How many? A Five.

CASE #1768

1136

BY MR. EDWARDS:

Q Now, you testified, did you not, in the first trial of your brother's case, in August? A Yes, I was a witness.

Q And your uncle, Morris Leff, wasalso a witness, was he not? A Yes, sir.

Q Did you hear your uncle, Morris Leff testify? A No, sir.

Q Were you in the room when he was on the stand? A No, sir.

Q Now, tell us where you have worked since you have been in this country? A After my arrival here, for three weeks, I didn't work.

Q Yes. Well, where was the first place you worked? A The first place was the United Metal Bed Company.

Q Yes. Where was their place of business? A In Humboldt Street.

Q And where is that? Brooklyn or in New York? A In Greenpoint, Brooklyn.

Q And how long did you stay there? A About seven months.

Q Where did you go to work after that? A To Nagler's Brass Works.

Q Where is that? A In South Fifth Street. And afterwards he moved to 626 Driggs Avenue, Brooklyn.

Q Yes. And how long did you remain there? A I am working there all the time.

CASE #1768

Q You are still there; are you? A Yes; even to-day I did some work there.

Q Yes. Now, where was your brother working in Manhattan at this time when you say he did not sleep at home? A In 17th Street.

Q In 17th Street? A Yes, sir.

Q For whom was he working? A For Alexander Bloch and another boy. They were contractors, and he was working for them.

Q Yes. That's what I wanted to get at. Where were they contracting? A In 17th Street, in the shop.

Q Yes. Now, what month was it that he was away from home? A In the month of April.

Q What year? A 1912---1913.

Q This last April? A Yes, sir.

Q And what part of April was it? A Several days of April had passed.

Q Well, how many days---how many nights in that April did he sleep away from home? A Perhaps about twenty nights.

Q And during that time did he come home at all? A He used to come home every Saturday night, and spend at home Sunday, and then he used to go back to work.

Q Now, do you remember testifying at the last trial? A Yes, sir.

Q Do you recollect Mr. [illegible]'s putting this question to you on the last trial, and you giving this answer:

CASE #1768

"Q You have testified that, some weeks, some time before Passover, last year, that Bebkin worked in New York overtime, and didn't come to Williams Avenue. I ask you how long did this take place, how many weeks or months? A About ten or twelve days."

Do you remember that testimony? A I don't remember what Isaid at the last trial.

Q Well, will you say that you didn't so testify at the last trial? A I don't say that I didn't say it.

Q Well, what do you say about it?

MR.SARASOHN: We object to that, if your Honor please.

THE COURT: I will allow him to answer.

MR. SARASOHN: We except.

A I think it is right the way I am saying now.

BY MR. EDWARDS:

Q Well, are you sure about it? A Yes.

Q And will you stats whether or not you testified on the last trial as I read to you? A I don't remember that I said it.

Q Now, what month was it that you saw Annie Jacobs, as you have stated, in your aunt's apartment? A In the month of August.

Q Yes. What day in August? A It was on a Friday night, about the middle of August.

Q What makes you so sure it was a Friday night? Because

CASE #1768

on a Friday night we have a different supper, and there are different surroundings, on Friday night, because my uncle stops working earlier, and it is the beginning of the Sabbath, and we all have supper together.

Q But you had that every Friday night, hadn't you? A Yes, sir; every Friday night.

Q Well then, what has fixed this particular Friday night in August in your mind? A Because in July I came to America and it was about a month later, it was about a month after my arrival.

Q Why, you didn't come---did you come to this country in 1912; did you tell us that? A No, 1911.

Q Well, this was August 1911 or 1912 that you are talking about, when you saw Annie there? A 1912.

Q Now, in what rooms did Annie Jacobs go in your apartment during this Friday evening that you say you saw her there? A She was in the kitchen and in the dining room. In no other room.

Q She didn't go into any other room at all; did she? A No.

Q And when, on that night, did your brother come home? A Around eleven o'clock.

Q And so that he---what time did he leave the apartment with Annie? A Before nine.

Q And he returned home at eleven, you say? A Yes,

CASE #1768

sir.

Q Now, what did you and your brother do on the 25th of October, 1912; do you remember?

MR. SARASOHN: I object to that, if your Honor please, the witness hasn't testified that he did anything on the 25th of October. We haven't endeavored to identify that date. He has only said that every night---

THE COURT: I will allow it, as testing his memory for particular dates.

MR. SARASOHN: May I step out for a moment? And I don't want to interrupt the examination. He may go on with his questions in my absence.

THE COURT: No, if you are going out, we will suspend until you come back. And, if any jurors want to retire, they may do so.

(Mr. Sarasohn returned to the Court Room and the Jurors returned to the jury box).

(The question was repeated by the stenographer).

A What day was it? What day was it the 25th of October fell on?

THE COURT: Do you mean the day of the week?

BY MR. EDWARDS:

Q I want to know if you recollect? A I mean what day of the week it was?

Q Well, do you recollect what day of the week it was? A

CASE #1768

No.

Q Do you remember what happened on the 26th day of October, 1912? A I don't know what day it was.

Q Well, I'll tell you. That was a Saturday. A On Saturday we went to a theatre, to a vaudeville show.

Q Well, do you remember that you went to a vaudeville show on Saturday, October 26th, 1912? A Yes, sir.

Q Well, what did you do on Saturday, the week before that, the 19th? A We used to take a walk, to go to a moving picture show.

Q Well, you mean that is what you did on most Saturday nights; not on that particular Saturday night; don't you? A On that Saturday night I remember we went to Liberty, to a vaudeville show.

Q Well, what makes you remember that particular Saturday so well? A You ask about the 26th of October, the Saturday?

Q Yes. What makes you remember that Saturday so well? A I know in that week, the 26th of October, we went to see a vaudeville show.

Q Well, now what did you do on the next Saturday after the 26th of October, you and your brother?

MR. SARASOHN: Well, I will object to that. And may I suggest, if we have fifteen or twenty witnesses, if we go into this kind of examination, we will keep on with this case for several months? And I don't know what I shall do, if we go. I

CASE #1768

don't know how I shall make a living. I have to close up my office. The City pays him, and doesn't pay me.

THE COURT: The examination is a very ordinary and proper one, and has not transgressed the limits. And now we will proceed.

A We used to go every week to take a walk in the street, and go to a moving picture show or vaudeville show.

BY MR. EDWARDS:

Q And is that why you say you did it on the 25th of October? A I remember that in that week in October, between the 20th and the 26th, we went to see a vaudeville show.

Q Well, what vaudeville show did you go to see, the next week? A The next week we went to a moving picture.

Q Well, whereabouts? What moving picture show did you go to see?

MR. SARASOHN: I object to that, if your Honor please. Next he will ask him xx what he saw at the moving picture place.

THE COURT: Overruled. It is to test his memory. There is a limit to it, and you have not quite reached it yet, Mr. Edwards.

A In Pitkin Avenue.

BY MR. EDWARDS:

Q Yes. And what did you go to see that time? A We either went to a moving picture show or took a walk; I don't remember which now.

CASE #1768

Q You don't remember which now? A No, sir; we took a walk in the street and afterwards we went to a moving picture show.

Q And how often have you been to see your brother since he has been in the Tombs? A About eight times.

Q When was the last time? A It was on Yom Kippur.

Q Of this year? A Yes, sir.

THE COURT: That was the 11thof October?

MR. EDWARDS: Yes, sir.

BY MR. EDWARDS:

Q Now, did you talk to him on that day about this case? A Yes.

Q And did you talkabout what you were going to testify to? A I told himI am going to tell all I know.

Q I asked you whether you and your brother talked over what you were going to testify to? Yes or no? A No.

Q And, before the last trial, did you also go to see your brother in the Tombs? A Yes, sir.

Q And did you have a talk with him then, about what you were going to testify, on the last trial? A No.

Q Had no talk with him at all? A We talked about it, how he came into trouble, being innocent.

Q Didn't you talkabout what you were going to say in the case? A No.

Q And didn't he tell you to forget that day in October

CASE #1768

when you came into his bed room; when Annie Jacobs was there? And he told you to go out and buy yourself a glass of soda water at the stand, and forget to come back? A It never happened, and he never told me that.

Q Now, you have been taking lessons in speaking and reading English for a year and a half? A Yes, sir.

Q Do you speak English pretty well? A I understand, but I can't speak well.

Q Well, now, how old were you when you came over to this country? A Sixteen years.

Q And your brother was how old when he came over here?

MR. SARASOHN: I object to that. The younger brother can never testify to the age of the older brother, because he certainly could not have been present at the birth.

THE COURT: Oh, I will allow him to answer. He may say what the reputation was, if he knows.

A Also about sixteen years.

MR. SARASOHN: Exception.

BY MR. EDWARDS:

Q And so that he is about two years older than you; is he? A Yes.

Q Now, isn't it a fact that a younger brother must do as his older brother tells him to? A Yes.

MR. EDWARDS: That's all.

BY THE SECONDJUROR:

CASE #1768

Q During the month of October, 1912, was there any night that the witness slept in any other room in that apartment, or away from the apartment? A No.

THE ELEVENTH JUROR: Your Honor, the witness has stated that the connecting door between the hall bed room, which is described as a nursery, was fastened by a bolt. Is it proper to ask upon which side of that door the bolt was?

THE COURT: Yes.

MR. SARASOHN: Pardon me. The juror misunderstood that question. He said the bolt was on the door leading into the hall.

THE JUROR: I didn't so understand him.

THE COURT: Now, we will find out.

BY THE COURT:

Q Now, you have spoken about a bolt on the door of the hall room leading into the front room. Do you remember that? A Yes, sir.

Q Was there a bolt, in the month of October, 1912, on that door? Now, yes or no? A No.

Q You mean that there was no bolt on that door at all? A No.

Q There was no bolt on that door in the month of October, 1912? A No.

THE COURT: Now, young man, I want you to pay attention to me.

CASE #1768

MR. SARASOHN: May I ask a question also?

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q And was there any lock on that door, on the connecting door between the hall room and front parlor? A As in all the doors, a plain lock.

Q Was that door ever locked, that connecting door between the hall room and the front parlor?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Did you ever see it locked? A It was never locked.

MR. EDWARDS: Now, I move to strike out the answer. The witness may say that he never sawit locked, but not that it was never locked.

THE COURT: I will strike out the answer.

BY THE COURT:

Q You never saw it at a time when it was locked; is that so? A Never.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q Now, Bobkin, have you got a picture of yours anywhere? A We have a picture together.

Q You and your brother? A Yes, sir.

Q Where is that picture? A In our house.

MR. EDWARDS: Yes, that is all.

BY MR. EDWARDS:

CASE #1768

Q In your room? A Yes, sir.

MR. EDWARDS: That is all.

BY THE COURT:

Q Now, young man, I want to ask you a few questions. How many rooms do you say were in the flat occupied by your uncle and family, and yourself and brother, on Williams Avenue, in Brownsville, how many rooms?

MR. SARASOHN: Will your Honor pardon me a second. I deem it but justice to the defendant, in view of this gentleman's question, about the picture, to say that, at the first trial, Annie Jacobs never mentioned that picture.

MR. EDWARDS: I object to any such statement. She was not asked about it.

THE COURT: I will not receive the statement. It is not called for. I will listen to you at any time that it is proper, Mr. Sarasohn.

MR. SARASOHN: But I think there must be some time when the jury should know that, that I asked her about it, and she didn't say any thing at all about it.

THE COURT: Now, pardon me. I will hear no such statement as that, and it is stricken out.

BY THE COURT:

Q Now, one of those rooms had a window or windows that looked out on Williams Avenue, is that so? A Two in the front room and one in our bed room.

CASE #1768

Q So that the bed room which you say was occupied by yourself and your brother Abe, in the month of October, 1913, was a room which adjoined the front room, which had a window looking out on to the street; is that so? A Yes, sir

Q Did the front room have a door opening out on to the Public Hall of the building? A Yes, sir; but that door was obstructed; something was placed against the door.

Q That is to say, there was some article of furniture inside of the room, which prevented persons from going through that door, fromthe public hallway into the front room; is that so? A Yes, nobody could pass through that door.

Q Whereabouts in the apartment was what you call the dining room? A As one comes in, he comes into the kitchen, then there is a door leading to the dining room.

Q What is on the other side of the dining room? A The windows of the dining room lead out into the yard.

Q Yes. But there is the kitchen, and a door leading from the kitchen into the dining room. Now, the kitchin is on one side of the dining room. Is there any room on the other side of the dining room? A There is a room where my uncle and aunt are sleeping.

Q That you call the bed room? A Yes, sir.

Q Now, what room, if any, in that flat is on the other side of that bed room? A There is a bed room where the older boy sleeps.

CASE #1768

Q Now, what room, if any, is on the other side of the bed room in which your aunt's older boy sleeps? A The front room.

Q. So that, starting at the back of the house, the first room is the kitchen, and the next room is the dining room, and the next room the bed room occupied by your uncle and aunt, and the next room the bed room occupied by the oldest son of your uncle and aunt, and then comes the front room, and to the side of the front room, and also having a window looking out onto the street, is the hall bed room occupied, as you say, by you and your brother? A No, not on that side; on the other side.

Q Now, we will start with the kitchen. What comes next to it? A On the one side of the kitchen comes the bed room, and on the other side of the kitchen there is a little passage, and there is a toilet.

Q And then what comes? A The bed room, and the front room, and our bed room.

Q So that the room at the back of the house is the dining room, is that so? A Xxx, xxx yes or no? A That's the dining room.

Q And then comes the kitchen? A At first, one enters into the kitchen, and then into the dining room.

Q And the dining room and kitchen are side by side; is that so? A If one comes into the kitchen, there are two doors, and one door leads into the dining room and the other

CASE #1768

leads into the bed room, The front room and the other rooms.

Q So that, starting with the back of the house, the first room is the dining room, is that so? Yes or no? A Yes, the room is there, but no one can enter that room without going into the kitchen.

Q Now, the next room to that is the kitchen? Yes or no A Yes.

Q And next to that the bed room, which was occupied by your uncle and aunt? A No; from the dining room there is a door leading into the bed room.

Q There are two doors leading from that flat, opening out from that flat into the public hall, is that so, through which a person can pass, one from the kitchen and one from the hall bed room occupied by you and the defendant? A Nobody comes through any other door, except through the door leading in to the kitchen.

THE COURT: Mr. Sarasohn, I will not interrogate this witness further about this apartment, if you propose, during the trial, to put on somebody who is familiar with the location of those rooms, and capable of explaining their situation, as this witness seemingly cannot.

MR. SARASOHN: I certainly shall, your Honor. I made the proposition that all the jurors be taken in a body to that little bed room, if they so desired.

THE COURT: No. It is a plain proposition. If you

CASE #1768

propose to put a witness on the stand who will explain the location of those rooms, I will not interrogate this witness further in that regard.

MR. SARASOHN: I positively will do that.

THE COURT: Otherwise, I will keep on until I find out.

MR. SARASOHN: I positively will do that.

BY THE COURT:

Q Now, young man, in the month of October, 1912, did anybody sleep in the dining room of that flat? A No.

Q Anybody sleep in the kitchen? A No.

Q Who, besides your uncle and aunt, if any one, slept in the bed room that you call their bed room? A Nobody else.

Q Who, besides your cousin Sam, slept in the room that you have ~~xxxxx~~ spoken of as his bed room? Anybody? A Not Sam, but Abe, the older boy, slept there. Nobody else.

Q Now, who slept in the front room, if anybody, in the month of October, 1912? A Sam and Henry and Ilyushia.

Q And how old was Sam in the month of October, 1912? A He was then twelve years, because this year they celebrate his thirteenth birthday.

Q Now, did any other brother, younger than Sam, sleep in that room.

A One was older.

Q Which brother was that? A Henry.

I-151
CASE #1768

Q How old was Henry? A Fifteen years.

THE COURT: That is all I want to ask you. Does either of you gentlemen want to ask him anything?

MR. EDWARDS: Yes, sir.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q Now, you say that three children slept in that front room. Now, see if I can refresh your recollection by reading a question and answer of your uncle on the last trial.

MR. SARASOHN: Objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q I have just one question. Now, the bed is on a level with the window, you have testified?

THE COURT: You have gone over that, Mr. Sarasohn.

BY MR. SARASOHN:

Q How high is that window from the street?

MR. EDWARDS: Well, I think we will agree that it is one flight of stairs up, and two steps up from the street, and I think the jury can figure how high it is.

THE COURT: Yes, I think that is near enough, counselor.

BY THE EIGHTH JUROR:

Q I understood you to say that there were five children living at home now? A Yes, sir.

Q You spoke of Sam occupying one room, and three children

CASE #1768

occupying the front room. Where was the fifth child?

BY THE SECOND JUROR:

Q Yes. You testified that there were four, but you didn't finish the name of the fourth child. I wanted to call the attention of theCourt to that at the time. The Interpreter didn't give it.

THE INTERPRETER: Yes, I was spelling that name when the Court asked a question.

BY THE COURT:

Q How many children were living in that flat in the month of October, 1912? A Five children.

Q And what was the name of the oldest? A Abe.

Q And about how old was he in that month? A About 19 years.

Q What was the name of the next oldest child? A Henry.

Q And about how old was he in that month? A About 15 years.

Q And what was the name of the next oldest child there? A Sam.

Q And about how old was Sam in that month? A Twelve years.

Q And what was the name of the next oldest child? A They are twins. Ilyushia and Zuni.

Q Girls or boys? A Two boys.

Q How old are they? A About nine years.

CASE #1768

Q In which room did Abe sleep in the month of October, 1912? A In the bed room.

Q You mean the bed room that was not occupied by your uncle and aunt? A My uncle and aunt didn't sleep there.

Q What room did Henry sleep in in October, 1912? A In the front room.

Q And Sam, what room did he sleep in in October, 1912? A In the sameroom, the front room.

Q And the twins, in which room did they sleep in in that month? A Also in the front room.

MR. SARASOHN: Has your Honor finished?

THE COURT: Yes.

BY THE THIRD JUROR:

Q Now, going into the hall room from the hall, through that door that leads into the small room occupied by you and your brother, I want to know on what end that other door is that led into the larger room, whether it was nearer the window or nearer this end? (Illustrating) A Nearer to the door.

BY THE FOREMAN:

Q Was it diagonally opposite or to one side or the other? The door leading into the apartment, not the one leading into the hall? Was that on the left as you enter by the hall door, was that on your left hand side or right hand side, going directly opposite? A I don't understand.

THE COURT: I don't think that that is quite plain,

1154
CASE #1768

Mr. Foreman.

THE FOREMAN: Perhaps not.

MR. EDWARDS: May I frame a question to express the foreman's meaning, if I can?

THE COURT: Yes. And, if it is not what you want to ask, Mr. Foreman, please say so.

BY MR.EDWARDS:

Q Assuming that you came into the hall bed room, which was occupied by you and your brother Abe, from the door leading from that bed room into the hall, as you enter through that door into that room, is the door which leads from that room into the front room on your right hand or your left hand? Or directly in front of you?

MR. SARASOHN: I will object to that question. Directly in front of him was the window. It was a little bit of a room. I think it is very plain, unless the juror didn't understand the testimony.

THE FOREMAN: I haven't been able to understand the locations in that room yet.

BY THE COURT:

Q Now, we will say that you have come from the hallway into the room that you are sleeping in, and you are facing the window in that room. Is the door leading into the front room to your right or left hand side? Yes or no now? A Yes. Then there is a window right opposite.

CASE #1768

Q Now, is the door leading from the hall room into the front room, as you stand in that room, facing the window in that room, on your left hands side or your right hand side? A On the left side.

BY THE ELEVENTH JUROR:

Q Does that door leading from the hall, does it open to the left; this way (Illustrating), so as to hide that connecting door, or does it open that way, leaving that door in full view?

BY MR. EDWARDS:

Q Does it swing to the right or the left in the room, or out into the hall?

THE COURT: You are referring, Mr. Juror, to the door leading from the hall into the bed room?

THE JUROR: Yes, sir. Whether it swings out into the hall as you enter, or into the room, the door leadingfrom the hallway of the building into the hall bedroom.

THE COURT: That is to say, the door that one would pass through in going fromthe hallway into the hall bed room?

THE JUROR: Yes, sir.

THE COURT: And the question is whether the door opened and swung towards the front room or away from the front room.

THE JUROR: Yes, sir.

THE COURT: Now then, answer that question.

BY THE COURT:

Q Did you ever see the door leading from the hallway into

CASE #1768

the hallwbed room open? Yes or no? A No.

Q Do you know on which side of that door the hinges are? Yes or no? If you don't remember, say so. A It seems to me that the hinges are on the left side.

BY MR.EDWARDS:

Q As you come in?

THE THIRD JUROR: I don't think that he understands what the hinges are.

THE COURT: Now, will you kindly go, Mr. Interpreter, to that door there, and point out what the hinges are. (Indicating the side door of the Court Room.)

(The Interpreter indicates the hinges on the side door of the Court Room to the witness).

BY THE COURT:

Q Now, you are standing in the hall, and are looking at that door leading from the hallway into that bed room. Now, as you stand there, looking at the door, can the hinges be seen from the hallway or not? Now, yes or no, or you don't remember? A I never noticed it.

THE COURT: Now, then, you don't know. That ends it.

BY THE TENTH JUROR:

Q Did you and your brother have a key to that apartment? A No, sir.

Q Well, your aunt had to get up whenever any one of you came in late? A We never came late; but, when we happened

CASE #1768

to come late, then some one let us in.

Q You never came in late? A No, sir.

Q Wasn't your brother ever out late at night, at picnics or parties or anything of that kind? A To picnics he used to go, but he always came home early.

Q What do you call early? A Eleven, before eleven.

BY MR. SARASOHN:

Q Whenever he did come home late, who opened the door?

MR. EDWARDS: I object to that, as tooindefinite.

THE COURT: Sustained.

MR. SARASOHN: Exception.

THE FIFTH JUROR: May it please your Honor, Iam a builder, and I pretty well know the character of the house---

THE COURT: Just ask him the question, Mr. Juror.

THE FIFTH JUROR: I was only going to say that I can easily show how the house is laid out, with a little sketch.

THE COURT: Well, Mr. Sarasohn says that he is going to put on the stand a witness who is better informed as to this matter than this witness.

MR. SARASOHN: But when they get into the jury room, he can explain the situation of the house, how it is laid out?

MR. EDWARDS: Yes, if he is familiar with the house, this particular house.

THE COURT: No, I do not understand the significance of the suggestion.

CASE #1768

MR. SARASOHN: No, and I didn't understand before that we were on trial for the size and location of the rooms, and, if we keep on this way, it will take us months and months before this trial comes to an end. I thought Abe Bebkin was on trial for compelling the complainant to be a prostitute, but it appears now that the house and the rooms in the flat are on trial here.

THE COURT: Now, Mr. Sarasohn, you will discontinue remarks of that character. They are entirely uncalled for. Are you through with this witness?

MR. SARASOHN: Yes, sir; Iam.

MR. EDWARDS: So am I, sir.

THE COURT: Then the witness may step down.

R E B E C C A B E R G E R , of 28 Canal Street, a witness called on behalf of the defense, being duly sworn and examined through the same Official Interpreter, Mr. Rosenthal, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q Mrs. Berger, do you know this defendant Bebkin? (Indicating the defendant) A No, I don't know him.

Q And do you know me or any one else connected with this case? A No, sir.

Q Did you send a postal card to me, through having read about this case in the newspapers?

MR. EDWARDS: I object to that as immaterial.

CASE #1768

BY MR. SARASOHN:

Q Stating that you had information about this case?

MR. EDWARDS: I object to it as immaterial.

MR. SARASOHN: I surely have the right to show how the witness knows comes here, the surrounding circumstances. I got a letter from her and---

THE COURT: Well, Iwill allow it. You have called her. Now, yes or no?

A Yes.

THE COURT: Just answer yes or no, when you can.

BY MR. SARASOHN:

Q Now, tell me---Cross that out. How long are you in this country? A Four years, less one month.

Q Are you living with your husband and children? A I have seven children. Six are married, and one is a boy, not married.

Q Now, where did you come from? A From Minsk.

Q From Minsk? A Yes, sir.

Q Now, do you know a girl named Annie Jacobs?

THE COURT: Now, yes or no to that.

MR. SARASOHN: I will ask that Annie Jacobs be produced here.

MR. EDWARDS: This witness was not a witness at the last trial, and, if she is produced, I ask that she be produced in a proper line-up, for identification.

CASE #1768

MR. SARASOHN: What's that?

THE COURT: The request is that, if she is brought into the Court Room, she be brought in with other persons. That seems to be areasonable request.

MR. SARASOHN: I have no objection.

THE COURT: Now, is the Captain of the Part in the Room?

THE INTERPRETER: May I get an answer to this question? I haven't got an answer yet.

THE COURT: Yes, she may answer. Now, yes or no to that?

THE WITNESS: I know the girl, but whether her nam is Jacobs or something else, I don't know.

MR. SARASOHN: Now, your Honor will remember that Jacobs testified that, in the Old Country, his name was different.

THE COURT: Now, I remember the testimony. I will now instruct the Captain of the Part, as to producing the witness Annie Jacobs.

BY THE COURT:

Q Under what name did you know the person that you are talking about? A It's all the same to me, whether I am to speak Russian or Yiddish.

THE COURT: What language did she start to talk in?

THE INTERPRETER: She started in German and then swi[tched]

CASE #1768

sd to Yiddish.

THE COURT: Now, ask her what language she speaks best

THE INTERPRETER: She says it is just the same, Jewish or Russian

THE COURT: Well, now, you talk to her in Jewish.

BY THE COURT:

Q Now, ask her under what name she knew the person she is talking about? Now, answer that question. A She had many names, Fannie and Annie.

Q But under what last name did you know the person that you are talking about? A Fannie.

Q What family name, if any, did you know the person by that you are talking about? A I didn't know the family, and I had no business with her.

BY MR. SARASOHN:

Q Did you see her here in this country, did you see her in this City? A Once I saw her, at a wedding.

MR. SARASOHN: Now, I ask that Miss Jacobs be brought in.

THE COURT: I am making arrangements to have her brought in.

MR. SARASOHN: And shall I proceed to ask her further about that woman?

BY MR. SARASOHN:

Q Now, tell me for how many years you have known her?

1912
CASE #1768

THE COURT: I think perhaps it will shorten the examination.

MR. SARASOHN: And I want to do anything to shorten it, if your Honor please. What is your Honor's suggestion to shorten the trial?

THE COURT: Well, I was going to say that we might wait and see if this witness does identify her, because, if she does, you may interrogate her, and, if not---

MR. SARASOHN: Well, I had a witness, Imka Minkofi at the last trial, who has since gone to San Francisco, I understand, and the other witness is on the same line of evidence as this one is called on, and it is very short, and I ask that I be allowed to read that before the jury. It's on page 153 to page 161 of the record of the last trial. It's only eight pages, and I can read it while the other witness is being brought in.

THE COURT: Now, I will see if Mr. Edwards has any objection.

MR. EDWARDS: The objection would be based entirely on the admissibility. If your Honor will look at the record, you will see the purpose for which he was called, and his testimony was excluded entirely at the last trial, as soon as it became apparent, Judge Foster ruled it all out.

MR. SARASOHN: No, I don't think he did.

MR. EDWARDS: If your Honor will read it, you can

CASE #1768

the point, and perhaps your Honor can rule upon it, without having anything said in the presence of the jury.

THE COURT: Yes, Iwill read it, and I will determine.

MR. SARASOHN: Does your Honor wish to hear any argument from my side?

THE COURT: Now, Iam looking at it. Just one moment, counselor. Mr. Saraschn and Mr. Edwards, I would like to speak to you.

(THE COURT CONFERRED WITH COUNSEL ON BOTH SIDES)

THE COURT: Now, Mr. Edwards do you take any objection to the reading of the testimony, based on the absence of the witness?

MR. EDWARDS: May I glance over it for a moment, and see what is in it? It was given months ago, and I have tried a good many cases since.

THE COURT: Very well, it is about recess time. Suppose you take the hour to consider that, Mr. Edwards?

MR. EDWARDS: I don't think I shall need as long as that.

MR. SARASOHN: Well, it's only five minutes before recess, and your Honor could instruct this witness to come back at two o'clock.

THE COURT: You come back here at two o'clock, witness. Tell her to be back in that chair at two o'clock.

MR. EDWARDS: Now, I have no objection to reading the

CASE #1768

counsel's statements, and the discussion between the Court and counsel on both sides, and the questions that were not answered. If the counsel will confine himself to reading the matters that were accepted in evidence on the direct, and I to do the same on the cross, I have no objection. And I urge the objection that I made before Judge Foster, on the other trial, and I understand your Honor overrules that objection, and your Honor having made that ruling, I have no objection to the reading of the testimony, but I ask that the Court instruct Mr. Sarasohn that he read no question that was not answered, and no statement by counsel on either side, and no comments of counsel, and no objections.

THE COURT: Now, you are limited that way.

MR. SARASOHN: Ithink that, as far as the colloquy is concerned, I think I should read it.

THE COURT: Now, I will not allow you to read any question that was not answered, or any colloquy, or any ruling. But, having glanced at that record, I will receive it, and the Jury will be instructed as to the purpose for which it is received, after it is in.

MR. EDWARDS: And will your Honor recall, for a moment, the witness Morris Bebkin? Iwant to ask the Court to give him certain instructions.

THE COURT: I will direct him to be brought back.

MR. SARASOHN: This is outrageous. I have seen murder

CASE #1768

cases tried, but I have never seen anything like it. What's the matter with this case? They do such things here.

THE COURT: No comments as to the method of trial, counselor. That is a reflection upon the Court.

MR. EDWARDS: Will your Honor, at my request, instruct the witness Morris Bobkin, that, now that he has been on the stand, he is not to discuss this case with any other person, he is not to tell any one what he has testified to, nor discuss the case with any witness who will be called in this case. And the men that I refer to particularly are Jacob Cohen a cousin of the defendant, and a man named Fein.

MR. SARASOHN: And I would join with that, but, when Annie Jacobs was on the stand, and she went out, she wasn't given that direction, and the old man Jacobs wasn't given that direction, or the sister, and here is one set of rules made for one set of witnesses, and not for another. I want fair play for one side as well as the other.

THE COURT: Mr. Sarasohn, did you make any similar suggestion to the Court, when the other witnesses had left the stand?

MR. SARASOHN: Yes, sir.

THE COURT: Don't you know perfectly well that Iwould have given the same direction with regard to those witnesses?

MR. SARASOHN: Your Honor will pardon me. Isaid that, after a witness had given his testimony, I asked that she re-

CASE #1768

main there. What was in my mind? I didn't want her to go out, and talk to the other witnesses, and your Honor denied my request. Doesn't your Honor remember that I made that request, that the witness should be allowed to remain here, and that was the very reason, that, if I had my eye on the witness she couldn't go out and tell the others.

THE COURT: Gentlemen of the jury, I am drawing no distinction between the witnesses called for the People and the witnesses called by the defense. They all stand absolutely alike before me. I know of no greater or more urgent reason for cautioning a witnessproduced for the defense than would be present in my mind in cautioning a witness called by the People. If Mr. Sarasohn had made the request which Mr. Edwards now makes in connection with any other witness, that request would have been as readily granted, as I now grant this request. You will not talk about the case with anybody until the case is finished. Tell him that.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until 2:30 o'clock.)

THE COURT: Now, gentlemen, inasmuch as Judge Swann is to be here at 2 o'clock, to impose certain sentences, you are excused until half past two o'clock, and the Court will take a formal recess until two o'clock. The Bench will be occupied from two until half past two by Judge Swann.

CASE #1768

A F T E R R E C E S S .

MR. SARASOHN: I will have to ask your Honor to adjourn at four o'clock, or shortly after, because I have some urgent business to attend to.

THE COURT: The shorter we make the working hours of the day, the longer we make the duration of the trial.

MR. SARASOHN: But your Honor knows what a busy law office is, and mine is a busy office. You know what a law office is.

THE COURT: Yes, and I know what a Court Room is. I shall sit, to-day, until five o'clock, Mr. Sarasohn. Now, you may proceed.

MR. SARASOHN: When we adjourned, gentlemen, I was about to read the testimony of that witness. May I proceed to do it? And then I will recall the woman.

THE COURT: Yes.

MR. SARASOHN: Now, gentlemen of the jury, I will say this as to this testimony---

MR. EDWARDS: No, I object to the counsel making any statement whatever. I stipulated only that the testimony, with the limitations prescribed by your Honor, be read.

THE COURT: Yes, it may appear that the testimony is read pursuant to a stipulation, the witnessnot being obtainable. Now, proceed and read the testimony.

MR. [illegible] reads the testimony as follows:)

CASE #1768

"I M K E M I N K O F F , called and duly sworn as a witness on behalf of the defense, testified through the Official Interpreter Rosenthal, as follows: (Residence 492 Water Street)

DIRECT EXAMINATION BY MR. SARASOHN:

Q How old are you? A Twenty-one years.

Q How long are you here? A Three months.

Q From where do you come? A From Minsk, Russia.

Q Had you been living in Minsk all these twenty years before you came here? A All the time in Minsk.

Q Are you the young man that Annie Jacobs identified yesterday as being the cousin of Mrs. Chernin, for whom she worked? A Yes, sir.

Q Now, did you know Annie Jacobs in Minsk? A Yes, sir.

Q How many years have you known her, how long have you known her? A Since childhood. When I was ten years old she was working at cigarettes.

Q That was eleven years ago she was working at cigarettes? A Yes, sir; eleven years ago.

Q For whom was she working? A She worked for a cousin of mine, in our store.

Q About how many years did you know her as working for your store? A About eight or nine years. She was working for our store.

Q Well, do you remember during the time, or afterwards, seeing her anywhere else than in your store? A Afterwards,

CASE #1768

my cousin, Chayenna, started business for herself, and then she, Annie Jacobs, worked for her and for my cousin.

Q Well, did you see her at any other place excepting in those places, working at cigarettes? A Yes, sir.

Q Where? A I saw her in the house of one Esther Taran, the family name is Lavin.

CROSS EXAMINATION BY MR. EDWARDS:

Q When did you come to this country? A May 9th, this year.

Q Now, do you know Sarah Jacobs, Annie's younger sister? A Yes, sir.

Q Did you see her on the street after the arrest of Bebkin, and speak to her, in this City? A Yes, I did.

Q Was that before you got a job, after you came to this country? A I have been working here since the second day after I arrived in this country.

Q When was that? A Friday, the ship arrived, and Saturday I was taken from the ship, and Monday I went to work, and I have been to work since then.

Q What month was that? A The month of May.

Q And how long have you known Bebkin or Belkin? A I don't know him.

Q What friends of his do you know? A No one.

Q Who was it that offered you fifty dollars to take the stand and testify in this case? A Nobody offered me anything.

CASE #1768

nobody spoke to me about it.

Q Well, how is it that you are here, if no one spoke to you about it? A I read in the Jewish paper that story about Nechame Jacobs.

Q And to whom did you go when you saw that?

THE INTERPRETER: The witness continues. I went to Number 11 Rutgers Street, a restaurant which is frequented by people who come from Minsk. There I am having my meals.

Q When you read that in the paper about Annie Jacobs, you recognized it right away as the Annie Jacobs you knew in Minsk; is that right? A Yes, I knew it right away.

Q Hadn't you seen her since you came to this country? A Yes, I spoke to her. I was in their restaurant, and in the restaurant I wrote down the address where I lived, and gave it to her.

Q When was that? Before or after you read this in the newspaper? A Before I read it in the newspaper.

Q How long before? A About two weeks before.

Q Now, what other members of the family did you know in Minsk? A Why, a sister and a younger brother.

Q What is her younger brother's name? A I don't know his face; I don't know his name.

Q Well, can you give me his name? A No.

Q What is her mother's name? A I don't know.

Q What is her father's name? A I don't know.

CASE #1768

Q What is her older brother's name? A I don't know that. They are older than I am.

Q Well, what is her second brother's name, who is older than she is? A I only know three of the family, Annie, her sister, and the younger brother.

Q I thought you said you had known Annie ever since you were children together? A Since childhood, yes.

Q Well, did you live near each other in Minsk? A Well, the City is small.

Q Well, did you live near to them in Minsk? A One knows the other.

Q Did you live near the Jacobs family in Minsk? A Not far.

Q Well then you saw allthe family, didn't you? A The whole family I didn't see, only the three that I have mentioned.

Q Didn't you just say, a few minutes ago, that you had known Annie since she was a child, for the past ten or eleven years? A Yes, sir.

Q And you never saw the rest of the family, except her younger brother; you never saw her mother? A No. Here I saw her.

Q You never saw her in the old country? A No.

Q Well, didn't everybody know everybody else in Minsk? A The younger generation, they know each other.

Q Well, what was Annie Jacobs' name in Minsk, under which

CASE #1768

you knew her? A Nechame.

Q How did you know then, when you saw it in the newspaper, how did you know it was Nechame? How did you know it was the same girl? A The boys in the restaurant told me that Nechame was already sent over the water, the other side of the water.

Q And that was how you knew that Annie Jacobs was Nechame, is that right? A Yes, sir; that's why I knew that it was her, a girl from Minsk."

(Mr. Sarasohn read only the direct examination of this witness and Mr. Edwards read the cross examination.)

MR. EDWARDS: Do you want to read the next witness's testimony also, the testimony of Max Schmittman?

MR. SARASOHN: No, I will have him here.

R E B E C C A B E R G E R, being recalled to the stand:

THE COURT: Now, it may appear on the record that there are seven young women in line in the Court Room. Do you want to ask her any question?

MR. SARASOHN: Yes, sir; I do. And I would like to have her come down here. I will first put the question.

BY MR. SARASOHN:

Q Do you identify here in Court the same woman that you have testified about, this morning, Annie Jacobs?

THE COURT: She may step down there and she may go over and stand at the rail.

BY MR. SARASOHN:

CASE #1768

Q Come over and point her out if you can? A There she is. (Indicating)

THE COURT: She has pointed out the third young woman from the end, she has pointed out Annie Jacobs. Now, take the stand again.

DIRECT EXAMINATION (Continued) BY MR. SARASOHN:

Q Now, tell me what was your business in Minsk? A I had a beer saloon, and my husband had a horse, and he was delivering beer to different people, to private houses, and so on.

Q And did you help your husband in Minsk in the business of delivering beer? A Yes, sometimes I used to carry it, and collect the money.

Q And until four years ago, when you came to this country, did you spend all your life in Minsk? A Twenty-five years I lived in Minsk, and the other time I lived in a small town.

Q But when you left Minsk, four years ago, was Annie Jacobs still there?

THE COURT: Yes or no.

A I don't know.

BY MR. SARASOHN:

Q How long before you left Minsk for this country had you known Annie Jacobs? A When my husband left, Ikept on the business of selling beer in a private way, and selling beer to private houses, where there were people who wanted beer.

THE COURT: Now, that is stricken out. Now, you pay

CASE #1768

attention to the question and answer it. Now, the stenographer will repeat the question, and you will answer it.

(The question is repeated by the stenographer).

A Well, perhaps a month or a few weeks before, I saw her. I only saw her twice altogether, in two houses.

BY MR. SARASOHN:

Q Tell us in what houses you saw her? A I saw her in a restaurant kept by---

MR. SARASOHN: Pardon me, Mr. Interpreter, she didn't say that. Will you ask her that again.

(The question is repeated by the interpreter)

A I saw her in the house of Esther Taran. She kept a card house where girls used to come with boys; and she used to buy beer from me, and so I went to that house.

Q And have you seen her in any other house besides that of Esther Taran? A Also in a private house I saw her. A girl was keeping girls in a quiet way, and she also used to go there.

Q Had you ever---when you saw Annie Jacobs in one of these houses, did you have a talk with her? A She used to hide, and I asked her, "Why do you hide?" And she said, "It's none of your business."

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

MR. SARASOHN: It is a conversation she had with Annie Jacobs, and it is proper testimony, I submit.

THE COURT: I think it is proper to show that she had

CASE #1768

a conversation with her, but what the conversation was is not material. The answer is stricken out.

MR. SARASOHN: Except that she had a conversation with her?

THE COURT: Yes, except that she had a conversation.

BY MR. SARASOHN:

Q Now, you told us how long you were in this country? A Four years, less one month.

Q And was your husband here before? A Yes, two years before me.

Q And did you come here with all the children? A I came with one girl. My husband came with the children.

Q What is your husband's business? A Bread.

Q And you live where? A We are buying bread from a baker, and we sell it.

Q Now, since you have been here for four years, have you met the same girl here? A Once I met her at a wedding. She was dancing with my girl.

MR. SARASOHN: May she be permitted to state what occurred at that time?

BY MR. SARASOHN:

Q Now, what occurred at that time?

MR. EDWARDS: I object to that.

MR. SARASOHN: Question withdrawn.

BY MR. SARASOHN

CASE #1768

Q Did you see her at any other time than at the wedding, when she was dancing with your daugnter? A She was in my house.

Q How many times in your house? A And I chased her out.

THE COURT: Strike that out, "And I chased her out."

BY MR. SARASOHN:

Q How many times did you see her in your house? A She was in my house several times, but I only saw her once.

Q Did you ever see in this country more than on these two occasions, the first time at the wedding and the second time when you found her in your house? A No.

Q Did you say anything to her when you saw her in your house in this country? Yes or no?

MR. EDWARDS: Yes, or no. I submit that should be the answer.

BY MR. SARASOHN:

Q Yes or no?

THE COURT: Now, yes or no to that. Now, just sit around here. Now, I have told you to answerthe questions either yes or no or you don't remember. If you disobey, I'll lock you up. You tell her that.

(Question repeated by the stenographer).

MR. SARASOHN: But she hasn't the trained mind of a lawyer.

MR. EDWARDS: No, and counsel puts his questions in a

CASE #1768

way that will draw out these answers, and some of the jurors understand the language.

A I chased her out and I told her she couldn't come to my house any more.

MR. EDWARDS: I move to strike that out.

THE COURT: I will strike it out.

BY MR. SARASOHN:

Q Now, Mrs. Berger, did you know in Minsk those people who knew the father of Annie Jacobs, Abraham Jacobs?

MR. EDWARDS: I object to that as immaterial.

THE COURT: Sustained.

MR. SARASOHN: I want to show the bad reputation that the father had for truth telling. The father is a material witness as to age, and I submit I can prove that bad reputation for truthfulness by those who knew him in that country, and that also she knew.

THE COURT: I will allow it for that purpose.

A I don't know him. People said he isn't a fine man.

MR. EDWARDS: I object to that and move to strike that out.

THE COURT: I will strike that out. Now, one moment. Mr. Edwards, I hardly know what to do with the witness.

MR. EDWARDS: Well, I think the Interpreter failed to translate all that you said to her, the last time. Your Honor told her that you would lock her up and the Interpreter failed to

CASE #1768

translate that, I think.

THE INTERPRETER: I translated it, your Honor.

THE COURT: No, you did not, and I was about to call your attention te the omission. Now, tell this witnessthat, unless she just answers the questions, that Iwill lock her up. Now, you tell her that in her language.

(The question is repeated by the stenographer).

A I don't know the father.

BY MR. SARASOHN:

Q And I know that you don't know the father, but Iam asking you whether you knew those people who knew the father? A No, I don't know.

MR. SARASOHN: That's all. You may examine.

CROSS EXAMINATION BY MR. EDWARDS:

Q Where did you live in Minsk? A On Petropavolosky Street---that is, on Peter-Paul Street. I had a beer saloon.

Q And is that the only place you lived while you were in Minsk? A I was living in the house of a Gentile by the name of Girilovitch, and also Golovatch, and in the house of a Hebrew by the name of Enchis.

Q Now, Madam, what Iwant to know was your address in Minsk, not the names of the people you lived with? What street did you live on? A The house of Enchis is on the High Market.

Q That is what is called the Government Market over there, is it not? A Zaharrow Street and Klibane Street.

CASE #1768

Q And that market that you speak of, is that called the Government Market? A Yes, sir.

Q And did you ever live on Magazine Street? A No.

Q Well now, on the Government Garden or Market, you had a shanty where you sold soda water, didn't you? A Yes, sir.

Q And what other business did you run there at that shanty? A I had no other business there. My children were working, and there was a carpenter shop there.

Q You didn't sell beer, did you? A Yes, beer and vodki.

Q I thought you just told me you sold soda water there?

MR. SARASOHN: I object to that as immaterial.

THE COURT: Overruled.

MR. SARASOHN: Exception.

A I have soda water and beer and whiskey and also something to eat.

Q And didn't you also keep two girls, for the purposes of prostitution, in that shanty? A I had a servant there, a gentile xk girl who used to do the washing and cleaning there, and look after the children.

MR. EDWARDS: I move to strike that out, and ask for an answer to the question.

THE COURT: Motion granted.

(Question repeated by the stenographer).

A No, I had only a servant.

CASE #1768

BY MR. EDWARDS:

Q Did you have two girls in that shanty, whom you kept there for purposes of prostitution? A No, no; only a servant.

Q And didn't you reside at one time during the twenty-five years that you were in Minsk on Magazine Street? A No.

Q And didn't you there, on Magazine Street, keep a house of prostitution, in which you had six girls? A No, no.

Q And did you not where you have told us that you lived, on Klibana Street, did you not also operate there a house of prostitution, where you had six girls? A No, whiskey and beer I had there.

Q Now, what is your name? A Rivka.

Q How do you spell it? A It's the same as Rebecca, in English.

Q What is the Jewish form of it? A Rivka.

Q And what is your last name? A Berger.

Q Are you the mother of "Hymie" Berger? A Yes.

Q And how old is he?

MR. SARASOHN: I object to that, if your Honor please, as immaterial.

THE COURT: I will receive it.

A About twenty-seven.

BY MR. EDWARDS:

Q And you know Annie Brown, do you not? A No.

CASE #1768

Q Whyy your son "Hymie" Berger is a friend of Annie Brown's husband, isn't he?

MR. SARASOHN: I object to that, as assuming a state of facts not proven.

MR. EDWARDS: I call the Court's attention to the fact that it is put in the form of a question, not a statement.

THE COURT: I will allow the question.

MR. SARASOHN: We except.

(Question repeated by the stenographer).

A No.

BY MR. EDWARDS:

Q Did you ever meet Henry Brown? A He doesn't come to me and I don't talk to him.

Q Have you ever seen him?

MR. SARASOHN: We will object to that, if your Honor please.

THE COURT: I will allow it.

MR. SARASOHN: We except.

A Who?

BY MR. EDWARDS:

Q Henry Brown? A No, I don't know such a person.

Q Now, Minsk is a pretty small town, isn't it? A It's a large town.

Q Why, you knew everybody who lived in the Jewish Quarter didn't you? A No.

CASE #1768

Q Did you know Mrs. Jacobs? A No, I don't know her now even.

Q Do you know Sarah Jacobs? A Nobody.

Q Now, where do you live here? A In Canal Street.

Q When did you move into Canal Street? A Two months ago.

Q And what number in Canal Street do you live? A Number 28.

Q And where did you live before you went there? A In Cherry Street, 274, I lived all the time.

Q Yes. And on what floor did you live in that house? A On the third floor.

BY THE COURT:

Q Just give me the number again in Cherry Street? A 274 Cherry Street, near a stable.

BY MR. EDWARDS:

Q Now, isn't it a fact that at 274 Cherry Street you ran a house of prostitution in your flat? A No. You can ask the tenants.

Q And when did you live in Clinton Street? A Ionly lived two months in Clinton Street and then there was a fire, and I left there.

Q That was 176 Clinton, wasn't it? A That's right, 176.

Q Now, when did you first meet Itsky Lipschutz?

MR. SARASOHN: Objected to as assuming that one met him

CASE #1768

and knows him.

THE COURT: Sustained.

BY MR. EDWARDS:

Q When did you first meet Itsky Lipschutz, if you ever met him?

MR. SARASOHN: Objected to.

THE COURT: Sustained.

BY THE COURT:

Q Did you ever meet Itsky Lipschutz? A I don't know who he is.

BY MR. EDWARDS:

Q Do you know Mrs. Lipschutz? A No.

Q Now, how long ago was it when you last Saw Annie Jacobs in Minsk? A It is four years ago already since I left there, four years less one month.

Q And how long before you left Europe did you last see Annie? A In the winter I saw her, and then Ididn'tsee her any more.

Q Well, how long was that before you left Minsk? A As I said before, a month, or two or three weeks; Idon't know exactly the time.

Q Well, now, what name did you know Annie by in Minsk? A Fannie or Fanally.

Q Was the family name Fanally? A No, that wasn't the family name. The family name I don't know.

CASE #1768

Q Now, you never knew Mrs. Jacobs, did you? A No, sir.

Q Now, when was it that you first read about this case in the newspapers? A This week, and another week I read it in the Warheit.

Q When did you first see it in the Warheit? A I don't remember.

Q Well, what name do they call Annie by in the Warheit? A Jacobs.

Q Now, how often have you read about this case in the Warheit? A I can't remember.

Q Did you read about it last summer? A I don't remember. Perhaps I may have read it, I don't remember.

Q Well, you always read the Warheit, don't you? A Some times I do and sometimes I don't.

Q But you don't remember seeing anything about this case, last summer? A I don't remember.

Q Well, to whom did you first speak about it when you read about it? A Ispoke with my son-in-law and with my daughter.

Q Well now, one moment. I don't want what any one said to you. A The girl with whom she danced.

Q Now, whose house was this wedding at? A In a hall.

Q Well, whereabouts, what hall? A I don't remember the hall.

Q Well, in what street was the hall? A I don't remember. Iwas green at the time.

CASE #1768

Q Well, who was getting married? A A countrywoman of mine, a girl from Minsk.

Q Well, what was her name? A (No answer).

BY THE COURT:

Q What was her name? A Her first name was Rochke, her family name I don't know.

BY MR. EDWARDS:

Q Why, don't you know who her father and mother were? A The father had died long before. Her mother she still has.

Q Do you know her mother? A She is here, but I don't know where she lives.

Q Well, don't you know her name? A Molke.

Q Is that her family name? A No, this is her name.

Q What is her family name? A I don't know.

Q Didn't you know her in Minsk? A Yes.

Q And you didn't know her name? A No.

BY THE COURT:

Q What was she called in Minsk? A The daughter was called Rochke and the mother Molke, and her wedding was here.

BY MR. EDWARDS:

Q Didn't she have any family name? A I don't know. I had no business with her.

Q Why, you went to her daughter's wedding, didn't you? A I was invited, because she is an orphan and is alone here, that Ishould go to the wedding, and Idid.

CASE #1768

BY THE COURT:

Q Well, where did she live? A She lived in Rutgers Street. She was a housekeeper there, the mother.

BY MR. EDWARDS:

Q Well, what number in Rutgers Street? A I don't know.

Q Well, what was the name of the man the girl married? A I don't know; I didn't know him.

Q What was his first name, if you didn't know his family name? A I don't know him; Idon't know. I was invited to the wedding, and I went.

Q Who invited you? A The daughter, the bride, and the mother.

Q But you don't know what their name is? A How shall I know?

BY THE COURT:

Q Can you give us the name of any person, other than Annie, that you saw at that wedding?

MR. SARASOHN: We'll have it from the next witness.

A My daughter may be able to find it out. I don't know. I can't.

BY THE COURT:

Q Did you go alone to that wedding or with any one? A With my daughter.

CASE #1768

Q And what is her name? A Mary.

Q And she lives with you at 28 Canal Street? A No, she is married.

BY MR. EDWARDS:

Q And how old is she? A Eighteen years.

MR. EDWARDS: That's all.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q Just one question. What is your daughter's married name--Mary? A Perritz.

Q And she is outside; is she? A Yes, she brought me over here. Ididn't know my way.

BY THE TENTH JUROR:

Q Did you have one daughter to bring you here or two daughters, two women or one woman? A I had only one. The older daughter doesn't know her.

Q And you only came with one daughter to Court? A Yes, sir.

MR. SARASOHN: And that is so, Mr. Juror.

THE JUROR: I saw her with two people outside, and I saw you talking to them, too.

MR. SARASOHN: No, sir; not at all. Only with her daughter. Iwas talking with several witnesses out there, of course I was; it was my duty to do so.

THE JUROR: Oh, yes, I saw her with two women outside.

CASE #1768

MR. SARASOHN: Now, I will examine as to that.

BY MR. SARASOHN:

Q You came with your daughter from home? A Yes, sir; I came with my daughter, because I didn't know my way here.

Q Did you come with anybody else except your daughter here? A No, alone with my daughter.

THE JUROR: Two women had the same kind of shawls on.

THE COURT: Oh, well, we will not go into that. You may step down.

MR. EDWARDS: I have just one question to ask.

RE-CROSS EXAMINATION:

BY MR. EDWARDS:

Q When you came here, this morning, where were you, whereabouts in the Court House? A I don't know where I was led to, where I was standing, I don't know where it was.

Q And weren't you just outside of this Court Room, sitting on the steps, going upstairs, with your daughter? A I was sitting on the stairs, and I was going outside.

Q Yes. And you and your daughter both went into the Probation Officer's Room outside here where Annie Jacobs was sitting, didn't you? A I didn't see Annie Jacobs.

Q Why, Annie Jacobs was in that Probation Officer's Room all the morning, and you went right in there; didn't you?

MR. SARASOHN: Objected to.

CASE #1768

THE COURT: Sustained.

A The room was empty.

BY MR. EDWARDS:

Q And a lady there had to put you out of the room, didn't she?

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

THE COURT: I will allow it. Yes or no, now.

A Yes, a dark lady, with a hat, chased me out.

BY MR. EDWARDS:

Q Yes. And your daughter said that she wanted to see Annie Jacobs, didn't she? A I don't know.

BY MR. SARASOHN:

Q Did you see Annie Jacobs before you saw her here in the Court Room? A No, I didn't see her.

MR. SARASOHN: That's all.

MR. EDWARDS: No further questions.

MR. SARASOHN: In view of the Tenth Juror's statement that he saw me talking with this witness, this morning, I ask your Honor to instruct the jury that it is my duty to talk to witnesses, and it is my right, as wellas the District Attorney's to talk to his witnesses, and he hasabout eight assistants to do that, too.

THE COURT: Yes, it is the right of counsel in any case to talk with a witness before he puts that witness on the stand, just as it is the right of the District Attorney to in-

CASE #1768

terrogate any witness before he puts that witness on the stand.

M A R Y P E R R I T Z , of 46 Jefferson Street, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q How long are you living there? A About eight months.

Q Are you married? A I am married August it will be two years.

Q You must talk louder. I can't hear you at all. Were you ever a witness in Court before? A No, I never was.

Q Are you a daughter of the last witness, Mrs. Berger? A Yes, sir.

Q And how long are you in this country? A Four years.

Q And did you come with your mother from the Old Country? A Yes.

Q From what city did you come? A Minsk.

Q And since you come here have you been living in the City of New York? A Yes, New York City.

Q Since last August, a year ago, you have been married? A Yes, sir.

Q And before that did you live with your mother? A With my sister I used to live.

Q Where did your sister live? A 38 Jefferson Street.

Q And is that a married sister? A Yes, sir.

Q And where did you live before? A I took rooms at No

CASE #1768

Jefferson Street.

Q Now, when your mother first came to this country, where did you live? A Who? My mother?

Q Yes? A In Monroe Street.

Q And did you live there with her? A Sure.

Q And how long did you live there? A I don't remember exactly.

Q I wish one of your older brothers was here, owing to the question that this man (Indicating Mr. Edwards) asked, a little while ago of your mother. He asked her when she lived in Monroe Street, if she hadn't kept a bad house.

MR. EDWARDS: Now, I object to that. I never mentioned Monroe Street to the last witness.

BY MR. SARASOHN:

Q After your mother left Monroe Street where did she move? A 274 Cherry Street.

Q And this man (Indicating Mr. Edwards) asked your mother whether, when she lived in Cherry Street, she kept a bad house---

MR. EDWARDS: Now, I object to that as bad in form.

THE COURT: Now, I think that is a question you may ask the witness, without regard to the question that was put before. You see what I mean?

MR. SARASOHN: No, I don't. You see I am so worked up at the idea of a mother of nine children being asked such a question.

CASE #1768

THE COURT: Now, pardon me. You may ask the witness, if you desire to do so, whether the house in which her mother lived at 274 Cherry Street was a bad house.

THE INTERPRETER: Have I to ask her that?

MR. SARASOHN: No. I don't think it is proper for me to ask her that.

THE COURT: Very well. That ends that.

BY MR. SARASOHN:

Q But in the house at 274 Cherry Street with whom did your mother live? A With my father and all the family.

Q And did you live there, too? A Yes; my brothers, too. I have a married sister and a married brother, and I used to live there.

Q And how long did you live there? A Moved in and out, about two years altogether.

Q And where did you move next? A Grand Street.

Q What number? A 304.

Q And how long did you live there? A Well, I can't say exactly. Some months.

Q Well, how long did you live in Grand Street altogether? A That's where I was married, and then I moved to my sister's, and my mother moved another place.

Q Now, how old are you now? A Me?

Q Yes? A Nineteen.

Q And when you came here you were fifteen years old? A

CASE #1768

Yes, sir.

Q And before that you lived with your mother in Minsk? A Why, sure.

Q Did you know Annie Jacobs in Minsk? A No.

Q Did you ever meet her here? A Yes.

Q When? A It was before Easter, but I don't remember exactly how long. We went to a wedding, I went with my mother to a wedding. I wasn't invited, but I went with my mother. And that girl that got married came from Minsk, too, and so I was dancing with her.

Q Pardon me. You say a little before Easter. Was that this year Easter or 1912 Easter? A 1912 Easter.

Q And had you met or known Annie Jacobs before that? A No.

Q But you just met her and danced with her because she was a girl of your size? A Yes, and I was dancing with her, and my mother comes over and says, "Keep away from that girl."

MR. EDWARDS: I object to that and move to strike it out.

THE COURT: Strike it out.

BY MR. SARASOHN:

Q Now, while you were dancing with her, did your mother come over and say something?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

CASE #1768

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Now, after you danced with Annie Jacobs at this wedding, didyou ever see her again? A Yes, she used to come up in my house.

Q About how often? A Every Saturday, for me to go out with her.

BY THE COURT:

Q You mean to say that, after you saw her at the wedding, she came to the house in which you lived, on Saturdays, for the purpose of having you go out with her? A Yes, sir.

BY MR. SARASOHN:

Q About how many times did that take place; how many times did she come on a Saturday night? A She used to come up sometimes in the day time and the night, too, but she used to come when my mother wasn't at home, because my mother wouldn't let her come up.

MR. EDWARDS: I object to the latter part of the answer, and move that it be stricken out, beginning with, "Because my mother wouldn't let her come up."

THE COURT: Strike it out.

BY MR. SARASOHN:

Q Now, can you give me an idea of how many times she used to come up to your house, after you first danced with her at the wedding? A Oh, often; ten times positively.

CASE #1768

Q And did your mother see her any of these ten times? A No, sir; the last time she saw her and she told her to go down, because she said---

MR. EDWARDS: I object.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Did your mother ever see Annie Jacobs when she came to your house, excepting the very last time? A No.

Q And, after the time that your mother saw her, did Annie Jacobs ever come to your house? A No?

MR. SARASOHN: You may examine.

CROSS EXAMINATION BY MR. EDWARDS:

Q What is your first name? A Mary.

Q And your last name? A Perlitz.

Q How do you spell it? A I can't say it myself, because I can't read.

Q Where do you live now? A 46 Jefferson Street.

Q And when was it you started to live with your married sister? A It was August 20th.

Q Of what year? A It was 1912.

Q 1912? A Yes, sir.

Q A year ago last August? A Yes, sir.

Q Was that before or after you were married? A When I was married, I went to my sister's.

Q Did you go there before or after your marriage? A Af-

CASE #1768

ter my marriage.

Q And how long did you live at 38 Jefferson Street with your sister? A About five months.

Q And where did you live then? A 46 Jefferson Street.

Q And you have been living there ever since? A I live there now, at 46 Jefferson Street.

Q And you moved there from 38 Jefferson? A Yes, sir.

Q And when did you move there? A I don't know; but I have lived there about seven or eight months already.

Q Now, how old were you when you left Minsk? A I was fifteen.

Q Fifteen years old? A Yes, sir.

Q And when is your birthday? A I was eighteen, in July.

Q This last July? A This last July, I was eighteen years old.

Q Then you are not nineteen yet? A I am going on nineteen.

Q And you have been in this country for how many years? A Four years.

Q And so, when you left Minsk, you were about fourteen and a half years old? A Yes, sir.

Q Now, when did you go to this wedding where you met Annie? A It was about a month or two months before Easter. I don't remember which.

CASE #1768

Q And was that before you were married? A Yes, when I was a girl yet.

Q And who was married? A She comes from the same country where I come from.

Q And what was the girl's first name? A Rosie.

Q Rosie? A Yes, sir.

Q And do you know her last name? A No, may be my mother knows it, I don't.

Q Was she a friend of your mothers? A No, sir; just a friend from Minsk.

Q What was her parents' name? A Idon't know the parents' name. I know her mother's first name.

Q What is that? A Malke.

Q Where does she live? A She lives on Rutgers Street.

Q Now, what is the English translation of Malke? A I don't know.

Q Now, where was this wedding? A That wedding was in 209 East Broadway, I guess.

Q What number? A I guessit was.

Q Don't you know? A 209 East Broadway.

Q Are you sure of that? A Yes, sir.

Q And what sort of a place is that? A That's between Jefferson and Clinton.

Q So that you were not invited to the wedding, but your mother was; is that the way it was? A Yes, sir.

I-168
CASE #1768

Q And you went with her? A Yes, sir.

Q Now, did you ever see the girl that was married in Minsk? A This girl, no.

Q You never knew her in Minsk? A No.

Q And had you ever seen her in this country? A Sure.

Q And you met her first after she came over from Minsk? A Who did I meet?

Q I say, you met this girl after she came to this country from Minsk? A I met her in America.

Q Yes, that's what I say? A Yes.

Q When did you first meet her? A I don't remember. She come up often to my mother's house.

Q Did her mother come, too? A Her mother, sure.

Q Where did they live? A Where did they live?

Q Yes? A In Rutgers Street.

Q What number? A I don't know the number.

Q And what was the name of the man she married? A I don't know the name. I met him at the wedding the first time and the last time. But I don't remember it, his name.

Q Well, where does she live now? A She lives uptown, but I don't know the house. I wasn't interested in this girl. I was a young girl myself, and I came to enjoy myself at the wedding, with my mother.

MR. EDWARDS: I move to strike out the latter part of the answer as not responsive.

CASE #1768

MR. SARASOHN: In view of the cross examination, I think it is very responsive.

THE COURT: I will let it stand.

MR. EDWARDS: Well, the question was, "Where does she live?" if the Court please.

THE COURT: Well, I know, but I think it throws some light.

BY MR. EDWARDS:

Q Now, do you remember when you lived in Minsk? A Sure.

Q And did you go to school over there? A Sure.

Q Where did you go to school in Minsk? A

BY THE COURT:

Q Young lady, will you have the kindness to talk loudly, so that we can hear you? Don't be afraid. Nobody is going to hurt you.

THE WITNESS: Well, I am afraid, you know, I should tell a lie, if I go fast, and I don't want to tell a lie. I used to go to the Hotsky School. I don't knowif you heard about it.

BY MR. EDWARDS:

Q Now, how long before you came to this country did your father come? A About two years before.

Q And how many of you children are you? A We are nine.

Q And are you the youngest? A Yes, sir.

I 269

CASE #1768

Q And how many of them came over when you came over? A Before came my brother, my sister, with three brothers, and then came my father, with one brother.

Q Did your father come first or did you come first? A My father.

Q Well, how many in the family came over with your father? A My father, with one child, one boy.

Q Which child was that? A The boy. He is twenty or twenty-one years old now.

Q And how long after that did you and your mother come over? A Two years around.

Q And who came over with you and your mother? A Myself and my mother.

Q And when did the rest of the family come over? A They come over before my father and sister and three brothers.

Q They came over alone? A Yes, sir.

Q And your father came over with one brother? A Yes, sir.

Q And that accounts for five children? A Yes.

Q And you came over with your mother, and that accounts for six? A Seven.

Q And when did your father---when did the other two come over? A Two are dead.

Q Now, that's the order in which your entire family came over? A Yes, sir.

I 201
CASE #1768

I 202

Q And do you remember in what month you came? A I remember it was the month after the holidays.

Q Well, after what holiday? A Next month will be four years we are here.

Q What ship did you come by? A With the Russian Asiatic Company.

MR. EDWARDS: That's all.

MR. SARASOHN: That's all, unless one of the jurors wants to ask her a question.

M E Y E R R U B I N , of 64 Montgomery Street, a witness called by the defense, being duly sworn and examined through the same Official Interpreter, Mr. Rosenthal, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q Meyer, tell me, what is your business? A Skirt Operator.

Q Sit back in your chair, will you. How long have you been in that business? A I was always, all the time, in this business, as a skirt operator, and I also kept a dancing hall.

Q Where is that? A The Grand Palace Hall.

Q Where is that? A Grand, corner of Allen.

Q How long did you keep that hall? A One year.

Q From when? A From 1912 to 1913.

Q Don't you keep it any more? A No.

Q Now, do you know Annie Jacobs? A Yes, Iknow her.

CASE #1768

Q How long have you known her? A I know her from the time that I was keeping that dancing hall., when she used to come up.

Q How often did she used to come up? A Once a week or twice a week as it happened. I can't remember how many times she used to come up.

Q Do you know anything about October 25th, anything about a particular thing in your dancing academy, October 25th.

MR. EDWARDS: I ask that he answer yes or no.

A Yes, I can remember.

BY MR. SARASOHN:

Q What was the event at your dancing hall on October 25th 1912?

MR. EDWARDS: Now, I object to this, until counsel fixes the time when this man kept this dance hall. The only mention of dates has been in the question of counsel, which he answered.

BY THE COURT:

Q When did you stop running the dancing hall? A The first of May, of this year.

Q The first of May of this year you gave up running the dancing hall? A Yes, sir.

Q Now, for how long a time had you run it before May of this year? A One year. From May until the May that I gave it up.

I 203
CASE #1768

THE COURT: Very well.

BY MR. SARASOHN:

Q Now, was there any event in that dancing hall on October 25th, 1912? A On October 25th, I gave the hall to three boys for a benefit they were running for themselves.

Q Were you there on October 25th, 1912? A I didn't go there at the beginning of the evening, but I came there later, about ten or half past ten.

Q And when you came, later, didyou see Annie Jacobs? A No, but the boys told me---

MR. EDWARDS: Now, I object to what anybody said to him. He was just about to tell what the boys told him.

THE COURT: Of course it is objectionable, but we adopted the rule, at the beginning of the trial, that the Interpreter should translate everything that was said by the witness.

MR. EDWARDS: But I interrupted the answer in time, understanding the answer as far as it had gone.

MR. SARASOHN: Well, I will not press it.

BY MR. SARASOHN:

Q I will say this, Mr. Witness. Did you see Annie Jacobs on the next dancing night? A No, sir.

Q Did you see her the next day? A No, I didn't see her.

Q When did you see her the next time after October 25th?

1201
CASE #1768

A A long time I didn't see her.

Q Did you ever have any conversation with Annie Jacobs, in which she referred to you as to something that happened to her in that dancing academy on October 25th?

MR. EDWARDS: I object to that.

MR. SARASOHN: I am entitled to refresh his recollection.

THE COURT: I am inclined to think it is objectionable.

MR. SARASOHN: We except.

THE COURT: I don't think it can lead to anything that will be receivable in this case.

MR. SARASOHN: Why, it is most important. If your Honor will bear with me I will tell your Honor what it is. I don't want the jury to hear this. I respectfully press the question.

THE COURT: I think I will sustain the objection.

MR. SARASOHN: That's all from this witness.

CROSS EXAMINATION BY MR. EDWARDS:

Q Where is this dance hall?

MR. SARASOHN: We object to the characterization, "dance hall".

MR. EDWARDS: Well, that's what I understood him to call it.

THE COURT: One is just as good as the other.

1205

CASE #1768

A 73 Allen Street, corner of Grand and Allen Streets.

BY MR. EDWARDS:

Q And in October, 1912, did you run that dance hall? A Yes, sir.

Q Are you any relative to Jacob Savage? A Iam not a relative to him, but I rent the hall from him.

Q So that you kept that hall, didyou? A I and two more partners.

Q Well, who were your partners? A They were partners, but they didn't take any active part in it?

Q Who were they? A Golub and Turetzky.

Q Now, you didn't testify in the first trial of this case, in August, did you? A No, this is the first time, to-day.

Q Now, who were the men for whom the benefit was given on the 25th of October? A Three boys. The name of one was Harry Farber.

Q Harry Farber? A Yes, sir.

Q Where does he live? A I don't know.

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

Q Well, what did you give him a benefit for?

THE COURT: I don't see how that is material.

A Because they asked me---they helped me to give lessons in dancing.

BY MR. EDWARDS:

Q Then you do know Harry Farber? A I do.

I 206

CASE #1768

Q And did he work for you? A Yes, sir.

Q How long? A All the time that I was keeping that dancing hall.

Q And where is his address, where does he live? A This I don't know.

Q Where did he live at the time that he worked for you? A I don't know where he lived. I know he used to come to my hall, to dance, and he helped me to teach.

Q Yes, and who were the other two? A The name of both was Harry Cohen.

Q Two Harry Cohens, were they? A Yes.

Q And where did they live? A I don't know where they live.

Q You don't know where they live? A No, sir.

Q Neither of them? A No, sir; I only knew they were coming to my hall.

Q Well, did they help to give dancing lessons too? A Yes, sir.

Q Now, what book did you keep at your dancing hall?

THE COURT: I don't see that this is material, Mr. Edwards.

MR. EDWARDS: It is very material, on fixing the date, I submit.

THE COURT: This witness has testified, as I understand, that he did not see--

1207
CASE #1768

MR. SARASOHN: Exactly. I produced him to---

THE COURT: That he has not seen her there at any time. I regard it as immaterial.

MR. EDWARDS: Well, may I say a word or two before you finally rule?

THE COURT: Yes.

MR. EDWARDS: I have tried this case before, and I know just what the other witnesses, who will be called, will testify to, and I am examining this witness in the light of that knowledge, and to avoid recalling him.

MR. SARASOHN: But we may not call any other witness on that branch. That's just what prolongs a case of this character. If I put a witness on the stand, and your Honor excludes the testimony that I ask for, then he goes right on with something else.

MR. EDWARDS: I am going into nothing but the accuracy of the date, and we have here the keeper of the hall, who is the best qualified witness to fix the date, I think.

THE COURT: Well, but it does not appear to be material at this time. If it becomes necessary, you will have to recall him. I will exclude it now.

MR. EDWARDS: And I have very strong reasons for not wanting to recall him, and I urge the Court, with great earnestness, to permit me to cross examine him as to that one date, the date on which there was a dance at the hall.

208
CASE #1768

THE COURT: Well, proceed.

BY THE COURT:

Q How do you fix the date of the dance at that hall?

THE COURT: Ask him that, Mr. Interpreter.

A You mean when I gave to them the hall to run the ball?

BY THE COURT:

Q How do you know that that benefit was on the date that you named, and not on another date? A I remember that I gave them that date.

Q Did you keep books at that time? A We only kept books to enter the amount of money received. Otherwise we had no books.

BY MR. EDWARDS:

Q Did you issue any invitations to that ball? A I hadn't to send out any invitations, because it didn't belong to me; it belonged to them.

Q To your knowledge, were any sent out? A They used to print throw-aways, and distribute them among their friends.

Q Did they do that for that ball, do you know? A Yes, sir.

Q And do you know who had charge of it? A Of what?

Q Of printing these throw-aways and of distributing them? A They had those throw-aways printed in the same place where I had my printing done, somewhere near Clinton Street, but I don't know the number.

I 206

CASE #1768

Q And how many benefits did you give at your hall in the course of the year that you ran it?

MR. SARASOHN: I object to that as immaterial and irrelevant, and wandering away from the issue.

THE COURT: Yes, it strikes me as immaterial. Sustained.

MR. EDWARDS: That's all. May that witness remain in the Court Room, sir, the witness who has just been excused?

THE COURT: No, he may step outside.

J A C O B C O H E N , of 621 Stone Avenue, Brooklyn, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q Cohen, are you related to the defendant Bebkin? A Yes, sir.

Q What relationship are you to him? A Cousin.

Q And how old are you? A Eighteen or nineteen.

Q And how long are you in this country? A Seven and eight.

Q You mean seven years? A Seven and eight.

Q And did you know Bebkin since he came here? A Yes, sure; and I know him from the Old Country, too.

Q And did you pal with him when he came here? A Sure, yes.

Q And have you been in Detroit, Michigan? A Yes.

1218
CASE #1768

Q And were you working there? A Yes.

Q And did I telegraph to you to come as a witnessin this case in this Court? A Sure, yes.

Q And since this case started you are in New York? A Sure, yes.

Q Now, do you remember some Saturday afternoon going out with Abe Bebkin to a picnic? A Yes.

Q Do you remember when that picnic took place? A It was in the middle part of July.

Q Of what year? A 1912.

Q And where was the picnic? A In Liberty Park.

Q And what time did you go there? A We went there about four or five o'clock.

Q It was an afternoon affair? A Yes, sir.

Q And, while you were there with him, was that the first time you met Annie Jacobs? A Sure, yes.

Q And who was she there with? A She was with her friend.

Q And didyou or he know them before you met them there? A No, sir.

Q And did you pick up their acquaintance at that picnic? A Yes. We asked them for a dance, and so we went with them to dance.

BY THE COURT:

Q And when you say she was with a friend, do you mean that

211
CASE #1768

she was there with a girl or a man? A No, she was with a girl.

BY MR. SARASOHN:

Q And how long did you remain with her, that is, you and Abe Bebkin and Annie Jacobs and her friend? A We was there until nine or ten o'clock.

Q And that was the first time you ever met them? A Yes, sure.

Q Now, didyou take her home, that night? A Yes, sir, sure.

Q Now, tell us what happened on the way going home? A Well, we took them home, and at the train to go to New York, both of them girls were going to New York---one was living up-town, up in 112th Street, or something like that, and the other one lived downtown in Rutgers Street.

Q Which one lived in Rutgers Street, do you remember? A Annie Jacobs.

Q And the other girl? A Her name was Lena.

Q And she lived uptown? A Yes, sir.

Q And you both brought them back from the picnic to New York City? A Yes; and I took my girl home, the one I was dancing with, and he took his girl, the one he was dancing with.

Q And you started in New York City? A Yes, sir.

Q And he went down to Rutgers Street with his girl? A Yes. And we were riding in the car coming to New York, and they

1212
CASE #1768

said they would like to go out tomorrow, and they said they would like to go to Coney Island tomorrow, and I made up an appointment to meet them at ten o'clock, and so I went over first to the girl uptown and took her and then went downtown.

And so, coming from the train, we met Annie Jacobs, with her sister, walking on the avenue there, on Grand Street, and, as soon as she saw us she went back to her house, and she had taken her hat, and when she took her hat she says, "My sister wants to go, too, and the five of us was going down to the Island.

Q And that was the very second day you met her? A Yes, that was on a Sunday.

And then we went away to Coney Island and stood there till seven or eight o'clock, and went home.

And so he took Annie Jacobs home with her sister, and I took the girl Lena home.

And so I made with her an appointment on Wednesday, and I came around on Wednesday, and that was the last day I talked to her.

MR. EDWARDS: I object to that as immaterial, if the Court please.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Well, you have told us what happened between Annie and her sister and Abe Bebkin and yourself on Sunday? A Yes, sir.

215

CASE #1768

Q Now, after those two days---on Saturday, meeting her at Liberty Park, Sunday at Coney Island---when did you next see her? A On Friday evening, about three weeks after.

Q Where was that? A Annie Jacobs was with Abe Bebkin for a dance.

Q Where was it? A In Star Hall.

Q Where is that? A In Brownsville.

Q And did you find them there? A No, I was in there first.

Q And then he came in with Annie Jacobs? A Yes, sir.

Q And you haven't seen her since that last Sunday? A No, sir; I haven't seen her, for the three weeks.

Q And what happened then? A And, after the dance, she had to go home to New York, and Abe had to take her home, and I was walking with them to the station. In walking, she said; "If you don't mind, Jack, everybody wants you should come to the picnic tomorrow. I have a friend for you." And she said to Abe Bebkin that I should positively go along to the picnic, and so I came around, that next day---

Q Did she say to what picnic you were to go? A To Liberty Park.

Q And did she say that you should come around when? A Around five o'clock. And Abe should go, and she has a friend for me.

Q And that was on Friday night you said that? A Yes,

I 211

CASE #1768

sir.

Q And that was the third time you saw her? A Yes, sir, the third time.

Q Now, can you tell us about when that picnic starts at Liberty Park? A That must start about four o'clock.

Q And so she told you to come on Saturday? A Yes, sir.

Q And on Saturday did you make an appointment with Bebkin to go with Annie Jacobs? A Sure. I met him in his house.

Q When? A About half past four.

Q About half past four? A Yes, sir.

Q When you say in his house, it was in Brownsville? A Yes, in Williams Avenue.

Q And then did you come to New York? A Yes.

Q And where did you go to in New York? A We was going to Annie Jacobs. So, coming to her house, she seen us coming, and she come over to us and she said, "All right, boys, I am ready to go. I'm going for my friends."

Q Now, what language was she talking? A She was talking Jewish, Yiddish.

Q Was she talking English, too? A No, just a small word, sometimes.

Q And you found her before you reached the house, and she said, "Come, let's go to my friends"? A Yes.

Q And where did you meet her? A In Rutgers Street.

Q On Saturday afternoon? A Yes. It was about a quarter

1215
CASE #1768

to five or five o'clock.

Q And up to this time had you ever known there was such a place as 22 Mangin Street? A No, sir.

Q Or that there was such a woman as Annie Brown? A I never seen her.

Q Now, tell us, on this Saturday afternoon, where did she take you? A To 22 Mangin Street. And we went over with her, and we were walking through Grand Street, and we was walking about twenty minutes, and I said, "We can do better with the car," and she said, "All right. It's only another three or four blocks. Let's walk over." And we went over to 22 Mangin Street.

Q What kind of a house was that? A A big frame house--no, a big house.

Q A tenement house? A Yes, sir.

Q And to what part of it did she take you? A It was near the Bridge there.

Q I know, but what part of the house? A On the top floor, the fifth floor.

Q Now, tell us what happened there on the top floor in that house? A Well, we come over, and the door was locked, and Annie Jacobs knocked at the door, and she asked her, "Who's that?" And she said, "It's Annie."

Q Did you hear a voice ask who was there? A Yes, and she let us in. And that was that woman, Mrs. Brown, and another

1212
CASE #1768

girl was in there.

Q Had you ever met Mrs. Brown before that? A No, I never seen her.

Q And you met Mrs. Brown too? A Yes.

Q And another girl? A Yes. And Annie Jacobs came in and she introduced us.

Q Did she use the names? Did she say, "This is Annie Brown."? A She said, "That's Mr. Bebkin, and that's Jacob Cohen," and she introduced us to Annie Brown and the other lady there.

Q What was her name, the other lady? A I don't remember her last name. Her first name was Annie.

And so we were sitting there talking, and Annie Jacobs asked the other Annie if she wants to go to a picnic, and so she said, "If you want, boys, let's have a picnic here."

Q Who said that? A The other Annie.

MR. EDWARDS: I move to strike that out.

MR. SARASOHN: It was in the presence of the complaining witness.

THE COURT: I think I will let it stand.

BY MR. SARASOHN:

Q Now, what happened between Annie Jacobs and the other Annie and Bebkin and you? When the other Annie said, "Let's have a picnic here."? A And I asked, "What kind of picnic?" And so she took me in the bed room.

I 2 17

CASE #1768

BY THE COURT:

Q Who took you in the bed room? A The other Annie.

BY MR. SARASOHN:

Q And where was Annie Jacobs? A Annie Jacobs was in the front room.

Q Pardon me, what room did you first enter? A That was the kitchen.

Q The kitchen? A Yes, sir.

Q And were you all sitting in the kitchen? A No, we went in the next room.

Q You were all sitting in the front room then? A Yes, sir.

Q And was it in the front room that the other Annie said, "We can have our picnic here."? A Yes, sir.

Q Now, how far was Annie Jacobs sitting away from the other Annie when she said that? "Why, we can have our picnic here."? A Annie Jacobs was sitting near Bebkin, and the other Annie was sitting in the next chair to my chair, and she said, "Let's have the picnic here, boys." And I went in the next bed room with her, and she asked me for half a dollar and I gave it to her, and when we were through, then she said, "That's the picnic."

Q And did you give her the half dollar? A Sure.

Q And did you have intercourse with this other Annie, did you have that picnic? A Yes, sir.

CASE #1768

1219

Q And was that the last time you ever saw that house? A Yes, I wasn't there any more.

Q And was that the last time that you saw either Annie Brown or Annie Jacobs or Annie Eisenstock? A Yes, that was the first time and the last time.

Q When you came out of that "picnic", where was Bebkin? A He was sitting in the front room.

Q He was still sitting with whom? A With Annie Jacobs.

Q And with whom else? A And with the woman from the house.

Q Annie Brown? A Yes, sir.

Q Did you hear anything? Was there any conversation between the woman of the house and Annie Jacobs and Abe Bebkin, after you came out? A The woman of the house said to Annie Jacobs and to him, "What are you sitting like rummies? Go ahead with the same thing," and so ~~they both~~ she pulled them into the bed room.

Q And how long did they stay there? A About eight or ten minutes.

Q And afterwards did he come out? A Yes, sir.

Q And when he came out did he join you in the other room? In that front room? A When he came out, we were sitting four or five minutes, and then we went away.

Q And you left the girl there, Annie Jacobs and the other

CASE #1768

I 220

women? A Yes, we left them there.

Q And as you were going down, what did Abe Bebkin say to you, or what did you say to Abe Bebkin, about your adventures?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: We except. You may examine.

CROSS EXAMINATION BY MR. EDWARDS:

Q How many times did you go out with Abe and Annie and Lena? A I went out with Annie, that's the first time, and the second time is when we went to Mangin Street. One time we went to Coney Island, and then to Mangin Street.

Q (Question repeated) A With Lena, once.

Q You saw Lena and Annie at the Liberty Park picnic in July, didn't you? A Yes.

Q That was once; wasn't it? A That was the first time.

Q And you made an appointment with her for when? A For Sunday, to go down to Coney Island.

Q And you and Lena and Annie and Bebkin went down to Coney Island? A Yes, sir.

Q And what time did you go there? A It was before one o'clock.

Q And what time did you come home? A We came back to New York about seven or eight o'clock.

CASE #1768

Q And then you took Lena home, I suppose, and Bebkin took Annie home? A Yes, sir.

Q And you also took Lena home on Saturday night, after the Liberty Park picnic? A Yes.

Q And you went to get Lena at her house on Sunday, before you went to Coney Island? A Yes, we went first to Lena, and then we went downtown.

Q Where does she live? A She lives uptown.

Q Well, whereabouts? A I don't know. It's about 100th Street.

Q Well, how did you get there? A Well, it's so long a time, I don't remember now.

Q Well, you testified in this case in August, didn't you? A Well, it's between 112th and 113th.

Q East or west? A East.

Q Do you know the number? A Yes, I remember the number. It's about 277, if I remember.

Q 277? A No, 177.

Q East or west? A East.

Q What street? A I don't remember. It was about 112th Street.

Q How did you get there? A I was there the first time she took me over there.

BY THE COURT:

Q Did you walk? Did you go in a car or how? A No, we

I 221

CASE #1768

went by train.

BY MR. EDWARDS:

Q What kind of a train? A The Third Avenue.

Q Elevated? A Yes, sir.

Q What street did you get out at? A I don't remember exactly; 111th Street, I think.

Q Are you sure about that? A I don't know exactly if it was that station.

Q You don't know what street it was at? A No, sir.

Q Now, where is that Star Hall in Brooklyn? A Pitkin Corner of Christopher.

Q Is that in Brooklyn? A Yes, sir; it's in Brownsville.

Q And how far is that from where Abe Bebkin lives? A Well, it's about eight or nine blocks, I think.

Q And who runs the Star Hall? A Jake Pearl.

Q Who ran it at that time? A Jake Pearl.

Q When did Alexander Black stop running it? A I don't know exactly.

Q You know he did run it; don't you?

MR. SARASOHN: I object to that. If he had asked him if he knew who ran it, I wouldn't object.

MR. EDWARDS: I did ask him that question.

THE COURT: I will allow it.

MR. SARASOHN: Exception.

1222

CASE #1768

(The question is repeated by the stenographer).

A Who?

BY MR. EDWARDS:

Q Alexander Black? A Yes.

Q How long have you known him? A Oh, I know him for about two years.

Q And Abe knows him? A Yes.

MR. SARASOHN: Objected to.

THE COURT: Sustained.

MR. EDWARDS: Now, if your Honor please, that is another witness in this case, and it is very material to bring out that matter from this witness.

THE COURT: Well, you will have to bring it out, at the proper time.

MR. EDWARDS: But the witness isn't mine, and I can't bring him back here.

MR. SARASOHN: If this witness is needed, the District Attorney can have him at any time. He is his cousin.

BY MR. EDWARDS:

Q You have been at this trial ever since it started, haven't you? A I wasn't here yesterday.

Q You were here the day before yesterday? A The day before yesterday, there was no trial here.

Q Well, last Friday you were here, weren't you? A Yes, sir.

I 223

CASE #1768

Q And on Thursday you were here, weren't you? A Thursday?

Q Yes? A Yes.

Q Now, you were here, also, on the 23rd and 24th and 22nd of October, weren't you? A When? October?

Q Yes, this month, right here in this Court Room? A I don't remember. I know I was here Friday.

Q You were here Wednesday, Thursday and Friday, weren't you? A Wednesday I wasn't here.

Q Now, Barnett Fein, he has also been here, hasn't he? A Yes.

Q Now, will you be kind enough to tell me whether or not on last Thursday or Friday, you did not pass Barnett Fein some money? A What's that?

Q Didn't you hand to Barnett Fein some money? A No, sir.

Q Will you swear to that? A Yes, sir.

Q And haven't you and Barnett Fein been out here in the corridor ever since this case started? A What do you mean?

Q Ever since the testimony began to be taken in this case now on trial, in which you are testifying? A I don't know what you mean by that? I couldn't understand what you mean by that.

Q Well, I couldn't make it any plainer.

BY THE COURT:

I 225

CASE #1768

Q The place outside the door is spoken of as the corridor. It is the hall. Have you been in the hall since the case began? Do you understand that? A When?

BY MR. EDWARDS:

Q The taking of testimony in this case began on Tuesday, the 21st of October, 1913. A I wasn't here Tuesday.

Q Now, when was the first time you began to come here? A I think it was Wednesday or Thursday.

Q Now, with whom were you talking on Monroe Street, on the evening of the 23rd day of October, last Thursday evening? A In Monroe Street? I wasn't talking with nobody.

MR. SARASOHN: Iobject to that as entirely immaterial. I am not interested in that. We'll never finish this trial, at this rate.

THE COURT: I will allow the answer to stand.

BY MR. EDWARDS:

Q Weren't you walking with two men, about your own age? A Oh, it was a holiday evening. He had to go up to his friend, because there was for my brother a party in the holidays.

Q Never mind that. You were there with two other men, weren't you?

MR. SARASOHN: I object to that as immaterial, if the Court please.

THE COURT: I will allow it.

MR. SARASOHN: Exception.

I 225

CASE #1768

1226

BY MR. EDWARDS:

Q Now, on Thursday the 23rd of October, weren't you walking with two men? A Yes, sir.

Q And who were those two men? A They were friends of mine.

Q Who were your two friends?

MR. SARASOHN: I object to it as immaterial.

THE COURT: I don't know what it may lead to. It may show something derogatory to the witness. Now, I will allow it.

MR. SARASOHN: And even that part of it wouldn't bind the defendant.

THE COURT: I cannot tell.

BY MR. EDWARDS:

Q (Question repeated) A One fellow was a boarder with my brother, and the other fellow he introduced me to.

Q Well, didn't you walk past 94 Monroe Street, and, seeing Annie Jacobs and her sister Sarah, on the other side of the Street, didn't you point out Annie Jacobs to the two men that you were with, and say to them, in words or substance, "There is the girl. Don't forget her."? A No, sir; I didn't.

MR. SARASOHN: I object to that as entirely immaterial irrelevant and incompetent, and as not bearing on the issues of the case. I certainly would do that, if I saw a friend of mine.

CASE #1768

THE COURT: The only bearing that it possibly has is as possibly showing the zeal or interest of the witness in this case.

MR. SARASOHN: And we concede his zeal. He is a cousin of his.

THE COURT: Now, that is all there is to it.

BY MR. EDWARDS:

Q Now, isn't it a fact that one of those two men who were walking with you on that night, was Meyer Rubin? A Who?

Q Meyer Rubin. A No, sir.

Q Now, will you swear to that? A Yes, that's a big mistake.

MR. SARASOHN: We object to that, if your Honor please, because Meyer Rubin---

THE COURT: Now, pardon me. He says it was not Meyer Rubin.

BY MR. EDWARDS:

Q Now, what was the last name of this girl Lena? A I don't know; Idon't remember.

Q You don't remember that? A No.

Q You are Abe's cousin; aren't you? A Yes.

Q And do you live anywhere near him? A I live in Stone Avenue.

Q What is the name of your employer in Detroit? A Izzy Alebeth.

1224
CASE #1768

Q How do you spell it? A I don't know.

BY THE FIFTH JUROR:

Q How do you spell it in Jewish? A (The witness spells it in Jewish).

THE FIFTH JUROR: Izzy Alebeth, it is.

BY MR. EDWARDS:

Q And what is his address in Detroit? A I can't remember.

Q You can't remember his address? A No, sir.

Q Well, didn't you just come from Detroit to testify in this case? A It's over three months.

Q It's over three months? A Sure.

Q And when did you come here? A In the middle part of July.

Q And this case was tried on the first of August, wasn't it? A I think so.

Q And how long had you been working in Detroit when you came down here? A I was working with that party about a few weeks, and then I went with a man in partners.

Q And what was his name? A Morris Zaslow.

Q And what was your address? A My address?

Q Yes? Up there, in business? A Oh, the address in business?

Q Yes? A 236 Columbia Street.

Q 236 Columbia Street? A Yes, sir.

I 228

CASE #1768

Q And what was your line of business? A Herring business.

Q Well, what kind of business is that? A It's fish business.

Q Selling fish? A Yes, sir.

Q And you and Morris Zaslow owned the business; did you? A Yes, sir.

Q And how long had you been in business there? A We had been in business about---about a month.

Q And how long had you been in Detroit altogether? A Altogether it was about seven months---seven weeks.

Q Seven weeks? A Yes, sir.

Q And xen when you came down here, didyou close out your business? A Sure, Ithought it is going to take two or three days for the trial, and I have seen it would take longer, and I wrote him a letter that Iwouldn't come back, that I must wait for the trial.

Q And did you sell all your interest in the business? A All the goods we bought for cash, and so we sold out.

Q And what have you been doing since you have been back here? A Working in the shop.

Q Where? A 39 East Broadway.

Q Who are you working for there? A Cohen.

Q What's the first name? A Solomon Cohen.

Q And what line is he in? A Overalls.

I 225
CASE #1768

Q Overalls? A Yes, sir.

Q And what do you do for him? A I'm an operator.

Q And where do you live? A I live in Stone, 621 Stone Avenue.

Q And how long have you lived there? A I lived there since I came back from Detroit, Michigan, and before also. All the time I live with my sister there.

Q You lived there with your sister, do you? A Yes, sir, with my sister.

Q Now, you can't remember Lena's number and street uptown; can you? A The street I don't remember.

Q Well, how is it then that you remember the address 22 Mangin Street, if you were there only once? A Well, first I got directed, and then I seen the number in that street, and then I knew the house. I reminded myself that is the house.

Q Well, when you went from Rutgers to Mangin Street, how did you go? A We went straight down from Grand Street.

Q And how many blocks did you walk? A This I don't know.

Q About how many blocks? A About twelve blocks.

Q About twelve blocks? A Yes, sir.

Q And you have been over that ground a good many times in the last three months; haven't you?

MR. SARASOHN: I object to that as assuming a fact not proven.

I 23 B
CASE #1768

THE COURT: Allowed.

MR. SARASOHN: Exception.

A I was only there once.

BY MR. EDWARDS:

Q Well, when did you go there, when you reminded yourself of the address? A I never was there.

Q Well then, how did you remind yourself of the address? A Eh?

Q (Question repeated) A Well, I reminded myself by the papers.

Q What papers? A The Warheit.

Q Oh, you read that also in the Warheit? A I did, yes, sir.

Q And was that the first notice that you had that your cousin was arrested?

MR. SARASOHN: Objected to.

THE COURT: Allowed.

MR. SARASOHN: Exception.

A Well, my sister wrote me a letter about him, that he got arrested, and she wrote me all about what it is, and so I knew the man was innocent, and I tried my best to come down here for a witness.

BY MR. EDWARDS:

Q And then the first you heard of it was not from reading it in the Warheit; was it? A No; when I come down here, I

231
CASE #1768

read it in the Warheit.

MR. SARASOHN: I object to that.

THE COURT: Allowed.

MR. SARASOHN: Exception.

BY MR. EDWARDS:

Q Now, what was it you first learned by reading the Warheit, regarding this case? A What do you mean?

MR. SARASOHN: I object to that. It doesn't appear that he read anything when he first arrived about it.

THE COURT: Overruled.

MR. SARASOHN: Exception.

A I knew about this case.

BY MR. EDWARDS:

Q Before you read the Warheit? A Yes; about Abe Bebkin, because I knew she pulled him up, and I read the letter of my sister in Detroit.

Q Then you didn't need to read of it in the Warheit?

MR. SARASOHN: Objected to.

THE COURT: Sustained. We have gone far enough in this direction.

BY MR. EDWARDS:

Q Now, when was it that you read of this case in the Warheit?

MR. SARASOHN: Objected to.

THE COURT: Allowed.

I 232

CASE #1768

MR. SARASOHN: Exception.

A When I came down here. I don't know if it was before the trial started. Yes, it was before the trial.

BY MR. EDWARDS:

Q Was it before or after the first trial? A Oh, it was before the first trial.

THE COURT: We will suspend here.

---oooOooo---

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Wednesday Morning, October 29th, 1913, at 10:30 o'clock.)

---ooooooo---

CASE #1768

THE PEOPLE VS. ABRAHAM BEBKIN:

TRIAL RESUMED.

New York, October 29th, 1913.

THE COURT: Gentlemen, so that you may govern yourselves accordingly, and communicate with any persons that you may desire to communicate with, at the recess, I may say that, the probability is that the session will be longer than usual.

H A R R Y C O H E N , on the stand:

CROSS EXAMINATION (Continued) BY MR. EDWARDS:

Q Now, Cohen, how near is your address, 621 Stone Street to the place where the defendant lived? A He lives in Williams Avenue.

THE COURT: If you will have the kindness to talk so that the twelve jurors will hear you, they will be obliged. Now, repeat that.

A (Continued) He lives at East New York and I live in Brownsville, Stone Avenue. It is about ten or twelve blocks.

BY MR. EDWARDS:

Q Yes, and you have been to his house a great many times to visit him; haven't you? A Yes, sir.

Q And you have also visited his brother? A Yes, sir.

Q And what is his address? A 327 Williams Avenue.

Q And what floor does he live on? A First floor.

Q Do you mean by that the ground floor or one flight up

1236
CASE #1768

A That's the second floor. That's the first floor---

Q One flight up, you mean? A Yes.

Q Now, what was the number of Annie Jacobs' house, where she lived when you knew her? A I was never to her house. But it is 37 Rutgers Street.

Q How do you know that, if you were never to the house? A Because I know it.

Q How do you know it? A Because it was in the papers.

Q Oh, you read it in the papers? A Yes, sir.

Q What paper did you read that in? A In the Warheit.

Q When? A When they wrote about that case.

Q And when was that? A It was the first trial, and it was now also.

Q Now, isn't it a fact that you went to 22 Mangin Street twice? A No, sir.

Q Are you sure of that? A Yes, sir.

Q Do you remember the second day of November, when Annie Brown was arrested? A When? Do I remember what?

Q Do you remember that day? A No, sir.

Q That was a Saturday? A I don't remember. Idon't know.

Q Do you remember the second of November, a Saturday? A I don't know.

Q Well, isn't it a fact that, after Annie Brown and Annie Jacobs and Annie Eisenstock had been arrested, that you went up

I 237
CASE #1768

to Annie Brown's apartment after she had been fined, and had gotten out of the police court, to find out from her what had happened to Annie Jacobs? A I don't know about that.

BY THE COURT:

Q Did you do it? A No, sir.

BY MR. EDWARDS:

Q Now, what day was it that you went up, as you say, with the defendant and Annie Jacobs to Annie Brown's apartment at 22 Mangin Street. A That was on Saturday.

Q What? A That was on Saturday.

Q Well, what day of the month was it? A That was the first week in August.

Q Of what year? A 1912.

Q Now, weren't you up there in the latter part of October, 1912, and didn't you go up there with the defendant Bebkin? A No, sir.

Q And didn't you go into Annie Brown's apartment, and didn't the defendant tell Annie Jacobs that you were his cousin? A I don't know what you mean.

MR. SARASOHN: I will object to the forms of these questions. Now, it is an old time way of examining---

THE COURT: You need not argue about it. Do you object to the form of the question?

MR. SARASOHN: I do.

THE COURT: Suppose you divide your question. Mr.

Edwards?

MR. SARASOHN: And may I also ask your Honor to instruct the jury that to ask the witness if he didn't do certain things and he says he didn't, and then he shouldn't go on further, and ask himabout it any more? For instance, I can infer that a man committed murder, if I want to, in my questions.

THE COURT: Well, the jury will attend to the witness only, to his answers, and that is all that they have to consider, not the questions. The answers are evident, but not the questions. I will allow the question. Yes or no now?

A I don't know exactly what you mean by this.

BY THE COURT:

Q Did Bebkin, at a time when you and he were together in Annie Brown's apartment, say to Annie Jacobs in your presence and hearing that you were his, Bebkin's cousin? A Yes, that's the way he introduced me.

Q Who introduced you? A Annie Jacobs. When I went up the first time she introduced me as a cousin.

BY MR. EDWARDS:

Q Now, Iam asking you with respect to the time in the latter part of October, in the last week of October, between the 25th day of October and the second day of November? A No, I wasn't there any more at that time.

Q Now, you said you went there---

MR. SARASOHN: We object tothat. That is a trick

1239
CASE #1768

question, I submit.

MR. EDWARDS: It is not a trick question. I only want to refresh his memory as to the details of the occurrence.

MR. SARASOHN: But he answered that yesterday, time after time. We will never finish this case, if that is to go on in this way.

THE COURT: I will hear the next question.

BY MR. EDWARDS:

Q Now, bear in mind that I am referring to a time between the 28th of October, Monday, and the second of November Saturday, 1912? And no other time. Didn't this defendant at that time tell Annie Jacobs to have sexual intercourse with you, and not to charge you anything, because you were his cousin, and did you not have sexual intercourse with Annie Jacobs? A No, sir.

MR. SARASOHN: May I ask your Honor to instruct the jury that there is no such evidence either in that record or any where else?

THE COURT: No, I am not going to give any instruction of that kind. It is uncalled for. He has asked the question and he says no, and that ends it.

BY MR. EDWARDS:

Q Now, when you and the defendant went to Annie Brown's house, as you have testified that you did, with Annie Jacobs, on this occasion, whenever it was, who was the first person.

I 240
CASE #1768

you spoke to after you got into Annie Brown's apartment? A We were sitting a little while, and Annie Jacobs was talking all the time.

Q Well, who was the first person to whom you spoke? A It was the girl what was in there, Annie.

Q And what was Annie's name? A I don't know the second name.

Q You don't know her name? A No, sir.

Q Do you know her first name? A Annie.

Q They were all Annies, were they? Annie Brown, Annie Jacobs and Annie Eisenstock? A Yes, sir.

Q And did you see any one else there in that apartment? A No, sir.

Q Well now, whatwas the first thing that Annie Eisenstock said to you?

BY THE COURT:

Q What was the first thing that was said to you by the Annie whose last name you say you don't know? A She said, "If youwant to have a picnic, boys, come with me in the bed room." And she asked me for half a dollar, and I went in the bed room.

BY MR. EDWARDS:

Q Yes, you went into the bed room and paid your half a dollar? A Yes, sir; I went in.

Q Now, when you came out what happened? A It happened

1241
CASE #1768

so, then Mrs. Brown said to Annie Jacobs and him (Indicating the defendant) "Why are you sitting like dummies? Why don't you do the same thing?"

Q And thenthey went into the bed room too, did they? A Yes.

Q. And how long did they remain there? A About the same time.

Q And did you see what the Annie to whom you gave the fifty cents did with it? A She hide it.

Q Well, tell me what she did with it? A I don't know what she did with it. She took it off me. She hides it.

Q Well, where did she hide it? A I didn't see exactly where she hides it.

Q Now, when you came out of the room with her, you came out into the kitchen where Annie Brown was? A Out into the front room.

Q Didn't that bed room open off the kitchen? A I don't know what you mean.

Q Well, when you enter the apartment which room do you enter first? A That was the kitchen.

Q And where was this bed room? A That was the next room from the kitchen.

Q On which side? A As soon as you come in there, it's on the left hand.

Q And where was the front room? A On the right hand.

CASE #1768

Q And when you came out of the bed room, then, you came out into the kitchen? A Yes, sir.

Q Was anybody there? A No, sir.

Q And where did you go then? A In the front room.

Q And who was in there? A Was sitting there Abe Bebkin and Annie Jacobs and Mrs. Brown.

Q And then you say that Annie Jacobs and the defendant went into the bed room? A Yes, sir.

Q And who were there then with the two Annies, Annie Brown and Annie whose last name you don't know? A I was.

Q You were? A Yes, sir.

Q All right. Now, what if anything happened there? A Nothing.

Q Nothing atall? A No, sir.

Q Did you hear Annie Brown say anything to the other Annie? A No, sir.

Q And this was what time of day? A I don't remember exactly what time.

Q Well, was it in the mornong or afternoon or evening? A It was in the evening.

Q It was in the evening, was it? A Yes.

Q You were going to this picnic at Liberty Park in the evening, with the two Annies; were you? A Yes.

BY THE COURT:

Q What do youcall evening? A After dark.

I 241
CASE #1768

BY MR. EDWARDS:

Q After dark? A Yes, after it gets dark, yes.

Q Now, after the defendant came out of the bed room with Annie Jacobs, what did you all do? A Well, he stood a little and then he asked me, "Come on, we'll go home and we went away.

Q Yes. And what became of Annie Jacobs? A She was left in the house.

Q And you never saw her again? A No, sir.

MR. EDWARDS: That's all.

MR. SARASOHN: Do any of the jurors desire to ask any questions?

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q One question I want to ask you, Cohen. That Saturday that you went and met Annie Jacobs near her home and then went to Mangin Street, about what time was it you met her at her home?

MR. EDWARDS: Objected to, as already covered.

A It was after five.

THE COURT: I will allow him to answer, I will let the answer stand.

MR. SARASOHN: That's all.

THE COURT: Step down. The next witness.

MR. SARASOHN: I desire to make a complaint, if your Honor please, that Mrs. Goldman is outside, and she officiously

I 211
CASE #1768

interferes with our witnesses.

THE COURT: I will not hear any complaint of that kind, in the hearing of the jury. You may come up here, and tell me what you have to say, in the presence of Mr. Edwards.

(The Court confers with counsel on both sides).

B A R N E T T F I N E, of 1351 Eastern Parkway, a witness called on behalf of the defense and being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q What is your name? A Barnett Fine.

MR. SARASOHN: And now I hear that they have scattered all our witnesses, and we have none here, and I can't call a single witness, because they have driven them all away.

THE COURT: Gentlemen of the jury, I ask you to disregard that statement. It was one that ought not to have been made in your presence. Nothing of the kind takes place.

BY MR. SARASOHN:

Q Now, what is your business? A Manufacturing overalls and shirts.

Q Where? A In the City of New York.

Q What is the name of your firm? A M. Fine & Sons.

Q Do you know this defendant Abe Bebkin? A Yes, sir.

Q Did he work for you? A Yes, sir.

Q How long did he work for you? A He worked about--

I 245

CASE #1768

between three and four years.

Q When did he start to work for you, if you remember? A He started to work for me since he emigrated to this country; that is, the minute he came down here, I took him in as a learner at the trade.

Q What trade was that? A Overalls.

Q And how long did he work for you? A From three to four years.

Q And when did he stop? A In 1912, last year.

Q And what part of the year? A The latter part of October.

Q And up to that time had he worked at your place every day? A Yes, sir.

Q What were his hours? A From half past seven to six.

MR. SARASOHN: He is your witness.

CROSS EXAMINATION BY MR. EDWARDS:

BY MR. EDWARDS:

Q What did you pay him? A What's that?

Q What did you pay him? A Piece work. He was a piece worker.

Q Well, what did he earn a week on an average with you? A Well, between fifteen and seventeen and eighteen. It all depends.

Q Well, what was the average, about? A About sixteen

I 248
CASE #1768

a week.

Q And what were his hours? A About nine or nine and a half.

Q What? A From seven thirty to six.

Q And did he work every day during that time? A Yes, sir.

Q And then he left you of his own choice did he? A His own will.

Q Yes. Now, what days in the week did he work? A From Sunday until Saturday, until Friday night.

Q From Sunday to Friday night? A Yes, sir.

Q Did he work on Sundays? A Yes.

Q All day? A Nine months in the year we work the whole day; only in the warm months, June, July and August, we work half a day.

Q And that was so in every June, July and August? A Yes, sir.

Q And can you give us the exact date when he left you? A About the latter part of October.

Q Can you give us the date? A I can't give you the date exactly.

Q Haven't you any books to show when he worked for you? A Well, I don't keep no records.

Q That is customary in your trade, is it not, where a man works by piece work? A I keep the pay roll cards for

I 241
CASE #1768

a week or so, and---

Q And then you destroy them?

MR. SARASOHN: Now, I object to the interruption. Let him answer.

A If there is no mistake in the pay roll cards, if no one makes a complaint on his pay roll, then I don't keep no track of it no more.

Q And then you have no way of telling from any records of books that you keep in your business, what day he started working for you or what day he quit working for you? A I have none, as far as records or books.

Q Now, do you recollect when this defendant came to this country? A Not exactly the date.

Q Do you remember the season of the year? A I couldn't very well tell. I know it is a story of four years, about that.

Q And you don't remember the time of the year he came? A I do not.

Q Now, Mr. Fine, you are not any relation to this defendant, are you? A I am.

Q What? A I am.

Q What is your relationship? A Cousin.

Q On which side? His father's or mother's side? A His mother is a sister to my mother.

Q I see, and that is how you came to take him in as a

I 245
CASE #1768

learner; is it not? A That's right.

MR.SARASOHN: Talk loud to this jury. They don't hear your answers, but they hear the questions.

THE WITNESS: I beg pardon, gentlemen, I thought you would hear me well.

BY MR. EDWARDS:

Q Well, you are interested in this defendant's case, are you not? A Yes, to a certain extent.

Q Well, to what extent? A Well, being that he worked for me and he is a relation of mine, I certainly must have an interest.

Q Well, you took so much interest, that you have been here every day during the trial, haven't you? A No, sir; I am here sometimes, because, being I am so near, only a few blocks away.

Q You were here on Wednesday? A Yes, sir.

Q And on Thursday? A Well, I jumped up once in a while here, being so close.

Q Were you here last Thursday, Mr. Fine? A Idon't remember the days, whether I was or not.

Q Well, weren't you here every day after Tuesday of kast week, except Saturday? A I was here Friday last.

Q And weren't you here Thursday also? A It is possible. I wouldn't say yes or no. I jump up, because I am so close here.

1245
CASE #1768

Q And weren't you here Monday of this week? A Monday of this week?

Q Yes. Why, that's only day before yesterday. Can't you remember? A Well, may be I was. I wouldn't say yes or no. Possibly I was.

Q And you can't remember whether you were in this Court house on Monday of this week, ormnot? A Well, I think I was.

Q Well, don't you know whether you were or not? AWell I can't tell you exactly, because I jump up and down, here.

Q Well, if you can't recollect whether you were here or not on Monday last, at the trial of your cousin, how can you remember that he left your employ in the latter part of October of last year.

MR. SARASOHN: Objected to.

THE COURT: Sustained.

BY MR. EDWARDS:

Q Now, were you here yesterday? A Yes, sir.

Q And you have been out here in the corridor for a considerable part of the days that you have been here have you not? A Yes, sir.

Q And you have been talking with the defendant's brother, Morris Bebkin? A Yes, sir.

Q And other witnesses in the case? A Talking in general; not about the case.

1258
CASE #1768

Q Not a word about the case? A Not a word.

Q Not a word about the case, now think? A Talking in general.

Q Not a word about the case? A No, not at all.

Q Not a word? A No, sir.

Q And with what other witnesses besides Morris Bebkin, have you talked? A Well, I have talked to several, those that were here.

Q Well, with whom? A I couldn't remember the names. I don't know their names.

Q Why, are the Leffs any relation to you? A Yes, he is my uncle.

Q And to what member of the Leff family have you been talking since you have been here, in the corridor? A Mr. and Mrs. Leff.

Q And how about the boy, Sam? A Well, they were together in the corridor, yesterday, and I talked with them yesterday.

Q And have you talked with the boy Sam Leff?

MR. SARASOHN: I object to that. Now, the rule is that a counsel examines a witness about certain matters, and then the other side has the right to bring out matters that he has forgotten, or failed to expatiate about. But, now, I called him for the purpose of showing that Bebkin worked for him from the day he came over until October. Now, he can

I 251
CASE #1768

show relationship only as to Fine.

THE COURT: He has the right to ask witnesses questions that may show bias or interest, if he chooses to. Do you wish to proceed, Mr. Edwards?

MR. EDWARDS: Yes, sir; just a few questions.

BY MR. EDWARDS:

Q (Question repeated by the stenographer) A Not exactly to the boy, but I talked to Mr. and Mrs. Leff about general matters, not about the case, and he was there, too.

Q Now, did you talk to Sam Leff at any time about this case since you have been here? A No.

Q Not at all? A Not at all.

Q Now, what other witnesses have you spoken to? A I spoke to many more people standing in the corridor.

Q (Question repeated) A I don't know their names.

Q Why, you were here all through the last trial, weren't you? A I was here as a witness to the last trial.

Q Yes. And you were here, as you have been this time, almost every day; weren't you?

MR. SARASOHN: I object to that. He is telling him something. He is not asking him a question.

THE COURT: I will allow it.

A I don't remember the last trial.

BY MR. EDWARDS:

Q You don't remember it at all? A I remember I was

I 252
CASE #1768

here as a witness, but I won't say about the last trial, that I was here almost every day or not.

Q But, Mr Fine, that was only the first of last August? A Now, gentlemen, I am a business man, and I have many business matters in my head, and I can't remember matters of this sort.

Q I see. And so you don't regard this case as a matter of any importance at all?

MR. SARASOHN: Objected to.

THE COURT: Sustained.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q Just one further question. Did the cousin from Detroit, did he ever give you any money, either outside of this Court Room or anywhere else? A No, sir.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q Can you say the same about Morris Bebkin? A If you will ask me, I will explain to you.

Q No. Can you state that Morris Bebkin never gave you any money here, out in this corridor? A He exchanged a dollar with me.

MR. EDWARDS: That's all.

BY MR. SARASOHN:

Q Now then, explain that fully.

MR. EDWARDS: I object tothat.

THE COURT: I will allow it.

I-253

CASE #1768

A Now, gentlemen of the jury, some day this week, I happened to be in the corridor and Mr. Morris Bebkin, the brother of this defendant, the young brother, asked me to change him a dollar and I changed him a dollar, and Mrs. Goldman, the Probation Officer, saw that, and the minute she saw that, she ran right in to tell it.

THE COURT: Now, strike that out, as to Mrs. Goldman.

BY MR. SARASOHN:

Q Did he give you a paper dollar? A Yes, and I gave hima silver dollar for it.

BY MR. EDWARDS:

Q And when was that? A That was some day of this week.

Q Now, on Thursday of last week, what money did he give you, that day, before the adjournment hour of the Court, just outside of this Court Room? A He exchanged a dollar some time last week.

Q But you said it was this week just now, didn't you? A I can't remember if it was this week or last week. I don't remember. You know I have much business to think of.

MR. EDWARDS: That's all.

S A M U E L G U T T E N S T E I N , a witness called on behalf of the defense, residing at 284 Madison Street, being first duly sworn, testified as follows:

1254
CASE #1768

DIRECT EXAMINATION BY MR. SARASOHN:

Q Guttenstein, how old are you? A Nineteen.

Q Now talk loud. Iwant that last gentleman to hear you.

THE COURT: Don,t be afraid now, young man. Try and talk so that the jurors can hear you.

BY MR. SARASOHN:

Q With whom are you living? A With myself.

Q With yourself or your parents? A Myself.

THE THIRD JUROR: We can't hear him at all.

THE COURT: Will you kindly talk so that the last gentleman on this jurycan hear you, and then all the others can hear you? This is a large room and there is a good deal of noise. Now, talk loudly and don't be afraid. No one will hurt you.

BY MR. SARASOHN:

Q With whom are you living? A With my friend.

THE COURT: The Twelfth juror does not hear you. Say it over again.

A I live with my friend.

THE THIRD JUROR: Talk loud, loud.

THE WITNESS: I live with my friend.

BY MR. SARASOHN:

Q Where are your parents? A In Europe.

Q And what do you work at? A Overalls.

CASE #1768

Q And how long have you been in this country? A Four years.

Q Do you know a girl named Annie Jacobs? A Yes, sir.

MR. SARASOHN: I ask that Annie Jacobs be brought here.

BY MR. SARASOHN:

Q Do you know the place, 22 Mangin Street? A Yes, sir.

Q Do you know a man named Mr. Melamed? A Yes, sir.

Q Well, what is his business? A He is a coal man.

Q And was it Melamed that gave us your address? A Yes, sir.

MR. EDWARDS: I object to that, if your Honor please, and move to strike out the answer.

THE COURT: Objection sustained. Strike out the answer.

BY MR. SARASOHN:

Q Now, when you talkof Annie Jacobs, is this the girl you mean? (Indicating Annie Jacobs) A (No answer).

THE THIRD JUROR: Perhaps his sight is bad.

MR. SARASOHN: Yes, perhaps his sight is bad. Let Annie Jacobs step inside here.

THE COURT: Yes, let her come right in.

THE WITNESS: Yes.

BY MR. SARASOHN:

CASE #1768

Q That is the girl? A Yes, sir.

Q Did you ever see that girl in Mangin Street? A Yes, sir.

Q Tell us what floor? A Thefifth floor.

Q And how many times did you see her in Mangin street? A Three times.

Q And what was the first time? A The first time was in July, the first days of July.

Q Of what year? A Last year.

Q 1912? A Yes, sir.

Q And did you have intercourse with her? A Yes, sir.

Q And when was the second time you saw her? A The second time, I saw her in Liberty Park.

Q Did you speak to her then? A No, sir.

Q And when was the third time you saw her? A The next month.

Q Where? A 22 Mangin Street.

Q Do you mean in August? A Yes, sir.

Q And did you have intercourse with her the second time you saw her in August, too? A I saw her the second time in Liberty Park.

Q No, the third time? A In 22 Mangin Street, I saw her.

Q And did you have intercourse with her that time, the third time? A Yes, sir.

I 257
CASE #1768

Q And did you pay her? A Yes, sir.

MR. SARASOHN: He is your witness.

CROSS EXAMINATION BY MR.EDWARDS:

Q Wheredo yousay you live? A 284 Madison Street.

Q And how long have you lived there? A I lived there six months.

Q Still living there now? A Yes.

Q Who is the janitor of those premises? A I don't know.

Q What? A I don't know.

Q You live there with your friend? A Yes.

Q Who is your friend? A My friend is Mr. Fall.

Q How do you spell it? A I don't know how to spell it.

BY THE COURT:

Q What is his first name? A Bennie.

BY MR. EDWARDS:

Q Is it Fall, F-a-l-l? A Yes, sir.

Q You don't know the janitor? A No, sir.

Q Who is the janitor? A A man and a woman.

Q Wheredo they live? A Downstairs.

Q Well, ~~xxx~~ what is their name? A I don't know.

MR. SARASOHN: Now, I object to that, as not be - ing proper cross examination.

THE COURT: Well, he says he does not know.

1258
CASE #1768

BY MR. EDWARDS:

Q Did you ever speak to the janitor or janitress? A No, sir.

MR. SARASOHN: I object to that as not proper cross examination.

THE COURT: Well, he is, practically, trying to find out whether he lives there or not.

BY MR. EDWARDS:

Q Where do you work? A 1 and 3 Walker Street.

Q And for whom? A Mr. Nelb.

THE COURT: Will you please answer the questions somewhat louder, so that the jurors can hear you?

BY MR. EDWARDS:

Q Now, will you tell is the name of your employer again so that we can hear it and understand it? A (No answer).

BY THE COURT:

Q Who do you now work for?

THE INTERPRETER: Mr. Naroff.

BY MR. EDWARDS:

Q And what is your position with him? A I work on a machine, I am an operator.

Q You are an operator on overalls? A Yes, sir.

Q And where did you work before that? A Iwas working in Brownsville, for Guttman Brothers.

Q And when did you first meet Abe Bebkin? A Idon't

CASE #1768

know him.

Q You never met him in your life? A No, sir.

Q Didn't you know him in Brownsville? A No, sir.

Q Where did you live in Brownsville? A 1361 East New York Avenue.

Q 1361 East New York Avenue? A Yes, sir.

Q And you never met Abe Bebkin out there at all? A No, sir.

Q Do you know his brother, Morris? A No, sir.

Q And you never met him either? A No, sir.

Q Now, when did you first meet Annie Jacobs? A The first days of July.

Q Of what? A The first days of July.

Q And what year? A Last year.

Q 1912? A Yes, sir.

Q And where did you meet her? A In 22 Mangin Street.

Q Yes. And who else did you meet there? A There was another girl in there; two girls was in there.

Q And what was the other girl's name? A Idon't know

Q You don't know her name? A No, sir.

Q And who else was there? A An old woman, a woman.

Q A woman? A Yes, sir.

Q And what was her name? A I don't know.

Q And who went up there with you that time? A I was up there myself.

1260
CASE #1768

Q Yéu went up there alone? A Yes, sir.

Q Now, you had never seen Annie Jacobs before? A No, sir.

Q Now, when you went in there, tell us what happened? Who was the first person who talked to you? A I spoke to the other girl; not this one, the other one.

Q The other girl? A Yes, sir.

Q Well, which one? The woman of the girl? A The girl.

Q Well, what did she say to you? A She told me, "What do you want?" And I told her the coal man sent me up.

Q Now, when did you first hear about this case? A (No answer).

THE COURT: Ask him that, Mr. Interpre ter).

A When I read it in the Warheit.

BY MR. EDWARDS:

Q And when was that? A Oh, it's about four months.

Q And when did you meet Annie Jacobs up in that house? A (No answer).

Q And when you met Annie Jacobs up in that house, who told you her name? A (No answer).

Q Who told you her name? A The coal man told me I shall ask for "Annie".

Q He didn't tellyou the last name? A No, sir.

Q When you read this in the Warheit, whatt name did you

CASE #1768

see there? A Anne Jacobs.

Q And you had never heard her last name before? A No, sir.

Q And how did you know that it was the girl that you stayed with in 22 Mangin Street? A The coal man told me.

Q Oh, you went right to see the coal man, did you? A No, not right away.

Q Then your reading it in the Warheit din't show you that that was the case that you were interested in, did it? A (No answer).

THE COURT: Translate that to him.

A When I read it in the Warheit, I thought right away it was the case of the girl that I was there with in the house.

BY MR. EDWARDS:

Q Well, then, what did you do?

MR.SARASOHN: I object to that. He assumes that he did something, and he asked himwhether he heard of it, and he said he readit, and that it was the same place, and he has testified that the coal man sent him there, and told him to ask for "Annie" and afterwards told him that it was the Annie who was in this case.

THE COURT Overruled.

MR. SARASOHN: Exception.

A I told my fellow workingman that I thought I knew the girl that I was there.

I 2162

CASE #1768

BY MR. EDWARDS:

Q Yes. Well, how did you come to become a witness in this case? A (No answer).

BY THE COURT:

Q Are you able to answer that question in English? A No, sir; it's too hard for me.

THE COURT: Then speak in your own languageto the Interpreter.

(The question is repeated by the Interpreter).

A When I read it in the Warheit, I told my fellow workingman that I thought I knew the girl in that case.

BY MR. EDWARDS:

Q And is that how you cameto be a witness in this case?

MR. SARASOHN: I object to that, because he has interrupted the witness. He was just answering the question and the Interpreter had only told the first part of it and was going to giwe the second part, when he was interrupted.

THE COURT: I think you are in error.

MR. SARASOHN: I ask your Honor to refer to the Interpreter, whether that is so?

BY THE COURT:

Q How did you happen to be a witness in this case, if you cantell us? Now, take your time and talk to the Interpreter. A I told the workingmen that I thought I knew the girl in that case. About a week later, a man came to the

CASE #1768

shop and asked for a boy named Sam Guttenstein, and he came up to me and asked me whether I knew a girl by the name of Annie Jacobs, who had lived in Number 22 Mangin Street. I told him that I knew a girl by the name of "Annie" but I didn't know her second name. I told him that I could find out her second name; that I would go around to the coal man because the coal man had sent me up there.

BY MR. EDWARDS:

Q Yes. Now, where was the coal man at that time? A I had met him in 96 Orchard Street.

Q And was that where he had his place of business? A No. He happened to be there with a countryman of ours. I happened to meet him there.

Q And who was the countryman?

MR. SARASOHN: We object to that, if your Honor please, because he is now switching off from the matter of examination, and the witness hasn't been permitted to state how hw happened to come here.

THE COURT: He has explained it in full.

A Manderlbauer, he was the countryman of ours.

BY MR. EDWARDS:

Q Well, on what occasion did you see him there? A Every time that I went from work and I didn't go home, I used to go to that place, and I happened to go there and met him there.

Q What sort of a place is that? A There lives a coun-

I 261
CASE #1768

tryman of mine whom I know fromEurope and I used to go up there and wash myself, because I live far away in Brownsville.

Q Now, you told us that you saw Annie Jacobs three times? A Three times I was in 22 Mangin Street, and, between the first and the second time---after the first time I saw her in Liberty Park.

Q And when was the last time you saw her and where did you see her? A Why, I saw her in 22 Mangin Street.

Q Now, do you recollect having testified at the last trial? A Yes, sir.

Q Now, have you told us about every time that you ever saw Annie Jacobs, until you saw her in Court? A Until I saw her in Court, I saw her three times in Mangin Street and ~~ex~~ once in Liberty Park.

Q And that's all; is it? A Yes, sir.

Q Now, do you recollect testifying at the first trial of this case? A Yes, sir.

Q Now, do you recollect this question being put to you by Mr. Sarasohn, and your giving this answer:

"Q Now, the first time you saw her in Mangin Street was in July; are you sure about that? A Yes."

A Yes.

Q That's correct, is it? A Yes.

Q And do you recollect this question being put to you and your giving this answer:

CASE #1768

"Q How long after this first time in July when you were there in Mangin Street, and saw her on the top floor, was it that you saw her again? A Two weeks later I saw, on Saturday, at a picnic, at the Ladies' Waistmakers Picnic." Is that correct?

A Yes.

Q And then that was the second time? A Yes, sir.

Q And that's the time that you refer to as the Liberty Park picnic, is it? A Yes, sir.

Q Now, do you recollect this question being put to you, and giving this answer:

"Q Now, how long after those, or that time you saw her at the ladies' wait makers' picnic, did you see her again in the Mangin Street house? A About three weeks later, in the month of August." Is that correct? A Yes, sir.

Q Now, do you recollect this question being put to you and your giving this answer:

"Q How long after that was the last time you saw her? A The last time I was at a party in Goerck Street, with friends of mine. It was the 26th of October, on Saturday night, I was there. I was there at the party until nine o'clock, and then several friends together we went downstairs, and they went away and I said, 'I have to go to a place in Mangin Street', and I then went there/ That was the last time." Do you recollect that? A Yes, sir.

I 2612

CASE #1768

Q Well now, you told me a moment ago, that you only saw her three times, and that those were the only times?

THE COURT: Three times in Mangin Street and once in Liberty Park.

MR. EDWARDS: That isn't my recollection of his testimony, your Honor.

BY MR. EDWARDS:

Q Well, four times altogether---three times in Mangin Street and once in Liberty Park---if that's correct, though I understood you to say three times altogether; now, is that the truth? A Yes.

Q Now, do you recollect this question being put to you and your making this answer:

"Q Did you see Annie Jacobs that time, the 26th of October? A She was there, and another girl." Do you remember that testimony? A Yes, sir.

Q Now, do you remember when you read of this case the first time in the Warheit? A No, sir.

Q Have you got a copy of that paper? A No.

Q Now, did you have any friends who lived at 25 Goerck Street? A Yes.

Q What was his name? A Melamed.

Q That was the coal man? A No, his brother.

Q He was a friend of yours; was he? A Yes, sir

Q And you knew him pretty well, didn't you? A (No

I 261
CASE #1768

answer).

(The question is repeated through the Interpreter)

A Yes, when I came to America, I came right straight to him.

Q Yes, you knew him in the Old Country and knew his family in the Old Country, didn't you? A Yes.

Q Where did you work before you worked for this man you say you now work for? Mr. Naroff, at 1 and 3 Walker Street? A For Guttman Brothers.

Q And how long did you work for them? A For about three months.

Q And before that, where did you work? A I worked by pants.

Q And when did you work on pants? A Before Iwas working for Guttman.

Q Yes. And what year was it? A 1911.

Q And for whom did you work before that---for whom did you work then? A Wolf Abrahamson.

Q And whereabouts was that? A In Seventh Street.

Q Now, when you worked in Brownsville, who did you work for? A By Guttman.

Q Did you ever work for Fine? A Yes.

Q How long ago was that? A About three years.

Q And fine's place is right next to Boschnek's place, was it not? A Yes, sir.

I 261 5611

CASE #1768

Q And both places were in Brownsville; weren't they?

A yes, sir.

Q And did this defendant work for Boschnek at the time you worked for Fine? A I don't know; I never saw him.

Q Well, d dn't he work for Fine while you were working for Fine. A (No answer).

MR. SARASOHN: I object to that. He says he never saw this man before.

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

A I was working for Fine on the first floor, and there are two floors there, and I worked there about three months, and I never saw him.

BY MR. EDWARDS:

Q Well, what year did you work for Fine? A Three years ago.

Q Well then, wasn't this defendant working for Fine at that time, and didn't you know him?

MR. SARASOHN: Objected to.

THECOURT: Allowed.

MR. SARASOHN: Exception.

A No, sir.

BY MR. EDWARDS:

Q Well, how many employees did Fine have?

BY THE COURT:

CASE #1768

Q At the time you were working there? A On the floor on which I was working, about thirty men.

BY MR. EDWARDS:

Q And about how many men in the whole establishment? A I don't know exactly, but I believe about fifty or sixty people.

Q But you neverknew this defendant? A No, sir.

MR. EDWARDS: That is all.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q Hadn't you ever seen him before you saw him in Court? A No, sir.

Q Does the Warheit, a Jewish paper, come out every day? A Yes, sir.

Q And didn't this Warheit have columns and columns about this case in August and this month, about this case? A (No answer).

(Question repeated through the Official Interpreter).

A Not very much was written about it.

MR. SARASOHN: That's all.

BY THE FIFTH JUROR:

Q Do you know the man that came to see you while you were working in Walker Street? A Yes, sir.

BY THE THIRD JUROR:

Q Who is he?

BY MR. SARASOHN:

I-2176
CASE #1768

Q Do you see him here? A Yes, sir.

MR. SARASOHN: I'll give the name of the man to the Stenographer. It's Mr. Phillip Gordon.

MR. EDWARDS: I have just one more question.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q Just before you came on the stand, when Fine came out of the Court Room, youwere standing here in the corridor, weren't you?

MR. SARASOHN: We will object to that question. This system of spies as to every witness that comes in and out, is entirely unfair. It savors of Russia and Siberia. I never heard of it being done before.

THE COURT: Iwill allow the question.

A Yes.

BY MR. EDWARDS:

Q And Mr. Gordon came up to you; didn't he? A Yes, sir.

Q And patted you on the shoulder, didn't he? A No, sir.

Q And didn't he call you in? A Yes, he called me in.

Q Right outside of this door, when I was standing outside by the door, and watching you, did that happen? A He came and called me in here, yes.

THE COURT: I take it, Mr. Sarasohn, that Mr. Gor-

I-211
CASE #1768

don is associated with you?

MR. SARASOHN: Yes, sir; he is the one that got the witnesses for me.

THE COURT: Mr. Gordon has the same right to go out and call in witnesses, that the Assistant District Attorney has.

MR. EDWARDS: I am not questioning that. I only asked him about an occurrence that happened right in my view.

BY MR. EDWARDS:

Q Now, after Mr. Gordon came and spoke to you, and put his hand on your shoulder, didn't you and Mr. Gordon and Barnett Fine and Jacob Cohen go off together to the left hand side of the door, and have a whispered conversation, before you came into the Court Room?

MR. SARASOHN: I object to that.

THE COURT: Allowed.

MR. SARASOHN: No, I didn't go anywhere. I was standing there, and he called me in.

BY MR. EDWARDS:

Q And didn't you, while you were standing there, didn't you have a whispered conversation with Gordon, Fine and Cohen, the cousin of the defendant?

MR. SARASOHN: I object to that.

THE COURT: Allowed. Yes or no, to that.

MR. SARASOHN: We take an exception.

I 2172
CASE #1768

A I spoke about a boy. Idon't know who he is.

J O S E P H K U R T Z , of 22 Mangin Street, a witness called on behalf of the defendant, being duly sworn, testified as follows, being examined through the same Official Interpreter, Mr. Rosenthal.

DIRECT EXAMINATION BY MR. SARASOHN:

Q And what is your business? A Baker.

Q And how long have you been living at 22 Mangin Street? A Three years I have been living there.

Q On what floor? A Before, I lived on the fourth floor, now, on the first.

Q Now, while you lived there, during the past year, did you hear anything of what was going on in the apartment upstairs on the top floor, kept by Annie Brown?

MR. EDWARDS: I object to that.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

Q Did you ever go to that apartment? A Once I was inside.

Q When was that? A About a wash line, Iwent in there ~~ex~~ once.

Q And when was that, about what time? A This was about eight days, or fourteen days before the patrol wagon took her away from there.

I 2713

CASE #1768

Q When you were there, that time, whom did you see there in those rooms? A I saw there two girls. They slept there until about nine or ten o'clock, before dinner.

MR. SARASOHN: I ask that Annie Jacobs be brought in.

THE COURT: Bring her in.

BY MR. SARASOHN:

Q Well, did you ever seethose girls at other times in that house? A I saw them every time going up.

Q For about how long, ~~fro~~ for about how many months did you see those girls going up there? A Last year, before Passover, I saw them.

Q Now, look at this girl. (Indicating Annie Jacobs) Is that the girl that you saw? A This one and another one; one older than this one.

Q And had you seen that girl before passover of last year? A Yes, eight days or fourteen days before Passover I saw her.

Q Did you see that girl going upstairs to the top floor?

THE COURT: The complaining witness may now step out.

A I saw her, every time, going up with the other girl, a blonde woman, taller than this one.

BY MR.SARASOHN:

CASE #1768

Q And did you make a complaint to the landlord against that house?

MR. EDWARDS: That is objected to. I haven't any objection to any general reputation. My objection relates to his making a specific complaint, but I have no objection to the general reputation of the apartment, if he knows it.

THE COURT: Objection sustained.

MR.SARASOHN: Exception. No further questions.

CROSS EXAMINATION BY MR. EDWARDS:

Q Now, how long did you live in 22 Mangin Street? A Three years I have been living there.

Q Who is the owner? A I don't know the proprietor, I know the lessee, and his name is Cohen.

Q Well, is it a man or a woman? A A man and a woman.

Q Yes. Isn't the name of the owner, or the lessee, rather, Sadie Cohen? A I can't say. I only know the name Cohen.

Q Doesn't she live right next door, in 24 Mangin Street? A Yes, sir.

Q She leases both houses; doesn't she? A Both houses.

Q Now, what is your business? A My business?

Q Yes? A Baker.

Q And where is your shop? A Oh, I am working for another man.

I 215

CASE #1768

Q Yes. Well, where are you working? A I was working at that time in 17 Ridge Street.

Q Well, where are you working now? A I don't work now at all.

Q How long have you been out of work? A About three months.

Q You didn't testify in the last trial of this case; did you? A No.

Q Now, where were you working in October, 1912? A In Ridge Street.

Q And for whom? A I can't remember the name of the boss.

Q And how long didyou work there? A Four months.

Q And can you tell us any one you worked with there? A I can't; I don't know the names.

Q Now, do you work at night or during the day time? A At night time.

Q And you sleep at home during the day? A In the day time, I was at home all day.

Q Yes. Now, what hour do you go to work, or did you go to work in October? A Six o'clock.

Q Yes. And when did you return from work? A About four o'clock in the morning.

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

Q Got a wife and family? A Yes, sir.

I 2172

CASE #1768

I 2717

Q And what floor did you live on last October, in 22 Mangin Street? A Fourth floor.

Q And how many tenants are on a floor in that building? A Four tenants.

Q Now, what was the name of the woman who ran the apartment on the fifth floor? A I don't know; but I would recognize her if I would see her, because I made a complaint against her that she was keeping a bad house.

Q Yes. How long had you been on the opinion that she kept a bad house there?

MR. SARASOHN: I object to that as immaterial. It isn't proper cross examination. I called him for one purpose, to show that she had been there for weeks and months before, and now he asks him how long he was of that opinion, as to that apartment being a bad house, when your Honor excluded it on his objection.

MR. EDWARDS: No. I stated distinctly that I had no objection to proving the general reputation, if it could be done.

THE COURT: I will allow it, as bearing on the reputation of the place.

MR. SARASOHN: We except.

A About eight days or fourteen days before Passover, I saw strange girls going up.

MR. SARASOHN: Maywe fix the date for the record and

CASE #1768

for the jury, the day when Passover comes?

THE COURT: Yes.

THE INTERPRETER: Passover of last year, 1912, was April 2nd to April 9th, inclusive.

BY MR. EDWARDS:

Q You mean April, 1912? A Yes, this Passover was a year.

Q Now, how long had you noticed the strange girls going in and out? A All the time, in the evening, before I went to work, Isaw two girls going upstairs.

Q Yes. And when did you see them coming out; when you camehome from work? A When I got up from sleep, sometimes I saw them at ten or eleven.

Q In the mornings, you mean? A Yes, sir; before dinner.

Q Now, was that all you noticed, girls that you didn't know, going into the apartment? A I noticed that, when the girls started to go upstairs, men started to go upstairs.

Q I see. Did you ever talk it over with any of the other tenants in the house? A Yes.

Q And how long did that condition of affairs continue?

MR. SARASOHN: I object to that as immaterial, not being cross examination about any subject touched in the direct.

THE COURT: Well, I don't think it is cross exam-

1271
CASE #1768

ination. I will sustain the objection.

MR. EDWARDS: Does your Honor mean that, merely because you do not consider it cross examination, I may not go into it?

THE COURT: I do.

MR. EDWARDS: Is there any rule of law that prevents me making this witness my own, if I so desire?

THE COURT: I do not say that there is a rule of law, but I do say that it is within the discretion of the Court whether he will allow a certain witness, at a certain stage, to be examined about certain matters.

MR.EDWARDS: Well, I bow to the Court's ruling.

BY MR. EDWARDS:

Q Well now, when was the first time that you claim that you saw Annie Jacobs? A Annie Jacobs?

Q Don't you know who Annie Jacobs is?

MR. SARASOHN: We object to that question. We had the girl brought in, and she was identified by him.

THE COURT: I will allow the question.

A I don't know them by name. If I saw them Iwould know them.

BY MR. EDWARDS:

Q Well, when did you first see the woman who ran that apartment? A I saw her all the time, and every week I asked her---

1278

CASE #1768

MR. EDWARDS: I object to any conversation between the witness and Annie Brown.

THE COURT: Sustained. I will allow to stay in that he saw her every week.

BY MR. EDWARDS:

Q When did you first see her? A Idon't remember.

Q How long was the tenant in the house? A Six or eight months, or perhaps more. I can't tell.

Q And when was the first time that you claim to have seen the girl that you have seen here in the Court Room? A It was eight or fourteen days before Passover.

Q That was a year ago, this last April? A Yes, sir.

Q Were you there at the house when the patrol wagon came? A No, I was away at work.

Q So that you don't know anything of your own knowledge about that; do you?

MR. SARASOHN: I object to that. He says he was at work when the patrol wagon came.

THE COURT: Well, he may have been at work in his own house.

MR. SARASOHN: No, he testified before that he was working somewhere else.

THE COURT: I will allow the question.

MR. SARASOHN: We except.

A I was told that.

I-260
CASE #1768

I 281

BY MR. EDWARDS:

Q When was the last time before the day the patrol wagon came that you say that you saw the girl whom you have seen here in Court, to-day?

MR. SARASOHN: Iobject to that, because the witness stated this, that he didn't see the patrol wagn, but that he was away at work, and heard of it.

BY THE COURT:

Q Well, how long after the day that you heard the patrol wagon had been there was it that you saw the girl? A A couple of days; perhaps two or three days.

BY MR.EDWARDS:

Q Yes, and how many days in succession had you seen her before that day? A I saw her every day, because I am a working man.

THE COURT: I think you misunderstood him, Mr. Interpreter. I think he said that he couldn't say he had seen her every day.

THE INTERPRETER: He says now, "No, I can't say that I saw her every day."

BY MR. EDWARDS:

Q And all that you saw of her was when she passed you in the hallway, going upstairs or downstairs, is that the fact? A When she went up with the other girl, and, in a short time, men started to go upstairs.

CASE #1768

MR. EDWARDS: I move to strike out the volunteered statement of the witness as to men.

THE COURT: I will strike it out, and leave in that she went upstairs with another girl. That is in.

BY MR. EDWARDS:

Q Now, since the time that this woman who ran this apartment that you have been telling us about left the house, on the day that you heard the patrol wagon came, have you ever seen hersince?

MR. SARASOHN: I object tothat as immaterial.

THE COURT: I will allow it. This refers now to Annie Brown?

MR. EDWARDS: Yes, sir; Annie Brown.

THE COURT: And I will allow it. Go ahead now.

MR. SARASOHN: Exception.

(The question is repeated by the stenographer).

A (No answer).

BY THE COURT:

Q Have you seen, since you heard that the patrol wagon was at the house, that woman who, you say, kept that flat?

A No.

BY MR. EDWARDS:

Q Didn't she come back there to her apartment, after she was discharged in Court? A Afterwards I saw her, and afterwards she was taken away again.

CASE #1768

MR. EDWARDS: That's all.

MR. SARASOHN: I have no further questions.

BY THE THIRD JUROR:

Q I want to ask this witness if he ever saw this woman that he saw here in Court go into that house alone?

THE COURT: Put the question to him, Mr. Interpreter.

A No, most of the times with the other girl.

BYTHE FOURTH JUROR:

Q Well, I want to ask the witness has he ever seen this girl, Annie Jacobs, the one he recognizes, ever going up into the house with any man? A Never with a man; only with the second girl, with the other girl.

Q Well, I might put the question in another way, if it pleases the Court. Have you ever seen Annie Jacobs, this girl, come out of the house with any man? A No, never.

S A M U E L B O S H N E C K, of 217 Snedeker Avenue, Brooklyn, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q What is your business, Mr. Boshneck? A Manufacturer of overalls.

Q And what is the name of the firm? A S.Boshneck.

Q You are the boss yourself? A Yes, sir.

Q And where do you keep your place of business? A217

I 283
CASE #1768

Snedeker Avenue.

Q And how long have you kept it there? A For the last year and a half in that place.

Q Do you know Abe Bebkin? A Yes, sir.

Q Has he worked for you? A Yes, sir.

Q He worked for you on the day that he was arrested, up to the day that he was arrested? A He worked up to about the latter part of June.

Q The latter part of June? A Yes.

Q Have you your books to show until what day he worked? A Yes.

Q You may look at your books and refresh your memory and tell us what day he worked for you last?

MR. EDWARDS: Now, may I find out whether this book is in this man's handwriting or whether he knows anything about the entries made?

MR. SARASOHN: Well, I will call your Honor's attention to something that I know your Honor knows, that he need not refresh his memory from the book at all.

THE COURT: But they have the right to cross examine the witness as to what it is.

MR. SARASOHN: Oh, certainly.

THE WITNESS: He took his pay on June 24th and then he worked a few days after that, about three or four days after that, and then his brother came for his pay, about July

I 281
CASE #1768

seventh.

BY MR. SARASOHN:

Q Now, up to June 24th, how long had he been working? When did he commence? A In the beginning of May of the same year, he commenced to work.

Q That is to say, he worked from May until several days after June 24th? A Yes, sir.

Q And what was he doing? A Working as an operator.

Q And what were his hours? A Ten hours a day.

Q And did you know what his reputation was among his fellow workingmen? A No.

MR. EDWARDS: I object to that as to form. But I will withdraw the objection. He says he didn't know.

THE COURT: You have the right to interrogate him. You may show that he knows other people who know this defendant.

BY MR. SARASOHN:

Q Do you know people who know Abraham Bebkin? A (No answer).

BY THE COURT:

Q Are you acquainted with people who also know this defendant? A Yes, sir.

BY MR. SARASOHN:

Q Well, do you know, being acquainted with people who know him, do you know the reputation that the defendant bears

I 215
CASE #1768

among people that know him? A I can't tell you that.

Q You don't know? A No.

Q You were his boss, and you simply know how long he worked for you? A Yes, sir.

CROSS EXAMINATION BY MR. EDWARDS:

Q And where was your place of business when he worked for you? A 217 Snedeker Avenue, Brooklyn.

Q And where is that? A Brooklyn.

Q Anywhere near Brownsville? A It's near Brownsville; yes, right near Brownsville.

Q Right near Brownsville? A Yes, sir.

Q And your factory, at one time, was right next door to Mr. Barnett Fine's, wasn't it? A Yes, about three or four blocks away.

BY THE COURT:

Q How far was your factory from Mr.Fine's factory? A About three or four blocks.

BY MR. EDWARDS:

Q Now, can you tell me when the defendant went to work for you? A When he started to work?

Q Yes? A In the latter part of May.

Q Well, will your books tell you when that was? Can't you refresh your recollection from your books? A Well, I haven't the time when he started in, but about in the early part of May. I only took along with me, the day when he

I 282
CASE #1768

stopped. But it was from early in May.

BYTHE SECOND JUROR:

Q What year? A This year.

BYTHE FOURTH JUROR

Q Now, I want to ask you a question. I believe that is the stub book of your check book that you have there, isn't it? A Yes, sir.

Q And you have a specific date in there? A Yes, sir.

Q Just when you paid the defendant a certain amount of money? A Yes, sir.

Q Well, how many times does his name appear in the stubs of your check book? A This check book is from June 4th, beginning, and further up.

BY THE COURT:

Q In other words, you have not brought with you to this Court House the book which would show, as you claim, the time when the defendant began the work for you? A No, sir; I didn't bring it.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q Does this book tell you---this book which you hold in your hand show the payment to Bebkin every week from June 4th? A Yes, sir.

Q To the 24th? A Yes, sir.

MR. SARASOHN: Ithink that is what the fourth juror wanted to know.

I 2917
CASE #1768

THE JUROR: Yes.

THE WITNESS: June 4th, once.

BY THE JUROR: May I ask how much that payment was, may it please the Court?

THE COURT: Yes.

A Ten dollars and sixty-five cents.

BY MR. EDWARDS: Do you want to know how many days that covers?

THE JUROR: Yes.

THE WITNESS: That is the whole week. And June 10th $14.00, and June 17th, $8.14.

BY MR. EDWARDS:

Q $8.14? A Yes, sir; $8.14. June 24th, $13.39.

Q How much was due him when his brother came for it? A July 7th, $10.37.

Q And that covered four days work? A yes, because he didn't put all the bundles of work in, that time, and so he had $10.37 on July 7th.

Q It averaged about ten dollars a week? A Yes, sir.

BY THE SECOND JUROR:

Q I would like to know whether the month of June is a busy month in your line? A Well, it isn't very busy, but we work full time.

BY MR. EDWARDS:

Q And you can't tell whether he worked every day, can you?

CASE #1768

A Yes, every day.

Q Full hours? A Full hours, yes.

MR. EDWARDS: That's all.

MR. SARASOHN: That's all.

Z E L I G M E L A M E D , of 22 Mangin Street, a witness called on behalf of the defense, being duly sworn, testified as following, through the same Official Interpreter, Mr. Rosenthal.

DIRECTEXAMINATION BY MR SARASOHN:

Q How long have you lived there? A I have been living there the second year.

Q Now, do you keep a coal cellar there? A Yes, sir.

Q Where did you live before that? A Clinton Street.

Q And when did you move into 22 Mangin Street? A A year ago, two weeks after Scheveouth.

THE INTERPRETER: That was May 22nd of last year.

BY MR. SARASOHN:

Q And when you moved in there, was there a woman named Annie Brown living there on the top floor? A I don't know what hernname was, but she was on the top floor.

Q Did you see any of the girls that were there? A Yes, sir.

MR. SARASOHN: I ask that Annie Jacobs be brought in.

THE WITNESS: One girl I recognized from Clinton

I 281
CASE #1768

Street.

BY MR. SARASOHN:

Q That is, you had seen that girl in the place where you lived, in Clinton Street? A Yes, sir.

Q Where had you seen her in the place that you lived in 2 Clinton Street? A In 22 Clinton Street, on the first floor, in the rear.

Q And who lived in 22 Clinton Street on the first floor, in the rear, before you moved to 22 Mangin Street?

MR. EDWARDS: I object to that as immaterial.

THE COURT: I will suspend my ruling now for a moment. Go on. The witness you called for is in the Court.

BY MR. SARASOHN:

Q Did you ever see this girl before? (Indicating Annie Jacobs) A Yes, sir.

Q Where? A In 22 Mangin Street, on the top floor rear, to the left.

Q And did you see her in the house in Mangin Street as soon as you moved in there? A No, I moved in on Tuesday, and I saw her there on Sunday.

Q But from the time that you movedin until the time the place was raided, how often did you see that girl in that apartment? A I saw her until eight days or two weeks after Succoth.

1290
CASE #1768

MR. SARASOHN: May the Interpreter kindly tell us what day that was?

THE INTERPRETER: Succoth, in 1912, was September 26th. It lasted eight days.

BY THE COURT:

Q Were you ever yourself inside of any of the rooms occupied by Annie Brown on the top floor of 22 Mangin Street? Now, yes or no to that? A I was, every second day.

BY MR. SARASOHN:

Q What were you doing, every second day? A I got acquainted with her, and she told me to come up. She bought of me a box of seltzer water and ice, and she bought coal after the holidays.

BY THE COURT:

Q So that you used to go upstairs to take into her rooms things that she bought; did you; is that so? A Yes, sir.

Q And you began to do that about when? A The first week, on Saturday, I brought her a piece of ice.

Q And, on the average, about how many times a week would you go inside of the rooms of Annie Brown? A Three times, and sometimes four times a week.

Q Did you, on any one of those occasions, see Annie Jacobs inside of any one of those rooms? A I saw her and another girl.

CASE #1768

Q Well, inside of the rooms of Annie Brown? A Yes, sir.

MR. SARASOHN: Now, will the Interpreter kindly give me the dates again of Scheveouth and Succoth?

THE INTERPRETER: In 1912?

MR. SARASOHN: Yes.

THE INTERPRETER: Scheveouth was Wednesday, May 22nd and Succoth came on Thursday, September 26th, lasting eight days.

BY MR. SARASOHN:

Q So that, from two weeks after Schevouth, which was May 22nd, when you moved in there, until two weeks after Succoth, did you see this Annie Jacobs in there, together with the other girl, about three or four times each week? A Yes, sir.

Q Now, did Annie Jacobs ever come down to your coal cellar during that time? A She used to come down to order a piece of ice or order seltzer water.

MR. SARASOHN: That is all.

BY THE THIRD JUROR:

Q I want to know whether you are sure which one it was; whether it was Annie Brown or Annie Jacobs, the girl you saw here, that came down to order the ice? A The smaller one, this girl. Both girls used to come down, and this one used to come in to order a piece of ice.

I-262
CASE #1768

BY MR. SARASOHN:

Q When you say "this one" you mean the girl you identified here? A Yes, this girl.

MR. SARASOHN: Any other juror want to ask a question?

BY THE EIGHTH JUROR:

Q Did you at any time send any men up there? A II sent up one by the name of Sam Guttenstein.

BY THE FOURTH JUROR:

Q How long had you known of this place, of these rooms with girls in them, how long had you known of that place? A I knew her already from Clinton Street.

BY THE COURT:

Q And when you say "Her" who do you mean? A Annie Jacobs. She was in 22 Clinton Street. In Mangin Street she asked me---

MR. EDWARDS: I object to that.

MR. SARASOHN: You object to what Annie Jacobs said to him?

MR. EDWARDS: Of course I do.

THE COURT: The question of the juror does not refer to knowing any persons, but as to knowing of the rooms.

BY THE COURT:

Q How long had you known that the rooms on the top floor of 22 Mangin Street, that you went into with ice, were

I 2615
CASE #1768

used as a house to which men were brought? A On that Saturday.

Q And when you say "that Saturday", what do you mean?

MR. SARASOHN: No, he said he moved in on a Saturday, and on the following Saturday he learned of it.

A On Tuesday I moved into the cellar, and Saturday I was upstairs already.

BY THE COURT:

Q Do you mean to say that you found it out on your first visit to those premises? Yes or no now? A I had known her from Clinton Street, and she told me I should come upstairs.

BY MR. SARASOHN:

Q Who is the "her"? A Annie, the smaller one, who was here in the Court Room.

Q That is, had you known her before you moved into Mangin Street?

MR. EDWARDS: Objected to, as already covered.

THE COURT: I will allow it, but make it plain.

A Yes, I knew her from Clinton Street.

BY MR. SARASOHN:

Q Now, who lived at 22 Clinton Street, at the place where you saw her?

MR. EDWARDS: Objected to as immaterial.

THE COURT: Sustained.

I 261
CASE #1768

MR. SARASOHN: Exception.

BY THE COURT:

Q When was it that you saw, so far as you can remember, for the first time, Annie Jacobs? A It was about two or three weeks before Passover. The lady in Clinton Street told me---

MR. EDWARDS: I object to that, to what the lady in Clinton Street said.

THE COURT: Sustained.

BY THE COURT:

Q Now, I asked you a plain question, and, if you can, give me an answer. When was it, if you can remember, when you first saw Annie Jacobs? A Two or three weeks before passover, in Clinton Street.

Q And that was before you moved to 22 Mangin Street? A Yes, sir.

Q Now, when you saw Annie Jacobs in Clinton Street, whereabouts did you see her? Inside of a house or outside on the street, for the first time? A In the house.

Q On what floor? A The first floor.

Q Of what house? A 22 Clinton Street.

Q And how many times did you see her in Number 22 Clinton Street before, as you say, you saw her in Mangin Street? A Twice.

THE COURT: Go ahead, counselor.

CASE #1768

BY THE FIFTH JUROR:

Q Did you see any man going up to the first floor in 22 Clinton Street, while Annie Jacobs was in there? A Yes, sure.

BY MR. SARASOHN:

Q And did you know what kind of an apartment that was in 22 Clinton Street, where you saw Annie Jacobs for the first time?

MR. EDWARDS: I object to that, as to form.

THE COURT: Sustained.

MR.SARASOHN: I asked if he knew what kind of an apartment it was.

THE COURT: Do you mean how many rooms?

MR. SARASOHN: No, the character of the place. Does your Honor permit me to show that?

THE COURT: I will allow you to show, if you can, what the nature of that place was.

MR. SARASOHN: And I want to show that by the witness.

MR. EDWARDS: I object to the question as to form.

THE COURT: I sustain the objection, as to form.

BY MR. SARASOHN:

Q Did you know the people generally who lived in that house, 22 Clinton Street, at the time you lived there?

THE COURT: Now, yes or no.

1294
CASE #1768

I 251

A Sure.

BY MR. SARASOHN:

Q Did you, at the time that you lived there, did you speak with those people about this apartment on the first floor where you saw Annie Jacobs?

THE COURT: Yes or no?

A Yes.

BY MR. SARASOHN:

Q And from what you have spoken to those people about that apartment in Clinton Street, can you tell us what the reputation of that apartment is? A About suhh a business I didn't talk with the tenants.

Q I didn't ask you about what business you talked with the tenants. I am asking you if you can tell us what was the reputation among the other tenants of that apartment, in which you first saw Annie Jacobs? A They were all hollering that, on the first floor, it was a bad house that she kept.

MR. EDWARDS: Well, Isuppose that's about as well as he can answer a question like that.

BY MR. SARASOHN:

Q And in that house you say you saw Annie Jacobs twice?

A Twice, yes.

Q Did you ever, before this trial started, see this man, or did you ever know him? (Indicating the defendant)

CASE #1768

A No.

Q Did you ever see me or speak to me? A No.

Q Have you got any interest at all in this case in giving your testimony, excepting that you are called as a witness, and that you are to tell the truth? A That's all.

MR. SARASOHN: That's all Iwant to ask.

THE COURT: Mr. Edwards, would you rather begin your cross examination after recess?

MR. EDWARDS: I am perfectly willing to take an adjournment now, if it meets the Court's convenience.

THE COURT: We will take a recess for half an hour.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until half past one o'clock.)

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CASE #1768

AFTER RECESS.

MR. SARASOHN: If your Honor please, it seems that the last witness isn't here. He probably didn't know that the recess was only for half an hour. I suggest that we put another witness on the stand mean while, to save time, and, when he comes in, we can put him back on the stand for cross examination.

THE COURT: You may do that.

MR. SARASOHN: Mr. Bebkin, take the stand.

THE COURT: Here is the last witness. He has just come in.

MR. SARASOHN: Then we will reserve the defendant. He may come back here.

MR. EDWARDS: Ifyour Honor please, in reading the record of yesterday's session, I find that whatI assumed appeared on the record doesn't appear there. In this case, I stated when Iconsented to the reading of the testimony of the witness Minkoff, that I pressed the objection that I made before Judge Foster, on the other trial. Now, you will recollect that Mr. Sarasohn and I had a private conference with your Honor here.

THE COURT: Yes. And I think thatshould appearon the record, what your objection was.

MR. EDWARDS: Yes, sir; nothing was said openly, and therefore it doesn't appear.

CASE #1768

THE COURT: Yes, it may be incorporated in the record of this trial, with the objection, as taken in the words used on a previous trial.

MR. EDWARDS: May I state it now, so that it may go on the record here?

THE COURT: I may say, Mr. Edwards, that it is conceivable in the light of the evidence here, that you may want to phrase your objection a little differently.

MR. EDWARDS: Yes, sir; that may be. But I think it ought to appear on this record.

THE COURT: Yes, I think so.

MR. EDWARDS: And the objection was an objection to the introduction of any evidence on this trial, the purpose of which was to show, or would tend to show, any prior unchastity on the part of the complaining witness. And my reasons for the objection are two. First, because there is no allegation in the indictment of prior chastity; and, secondly, that not being in issue in the case, and counsel for the defense having interrogated the complaining witness with respect to it on the stand, it is a matter as to which he is bound by her answers.

THE COURT: Well, I may say, in overruling the objection, that it is not an element to be proved under the first count in the indictment, nor, as I recall the law now, under the subsequent counts in the indictment, that the complaining

I 368
CASE #1768

witness was chaste at the time of the alleged commission of the offenses; in other words, other offenses, which by possibility, may be committed upon or in connection with a girl, not at the time of the commission, or alleged commission, chaste. But I receive it as bearing, in the first place, upon the credibility of the witness in her capacity as a witness on this trial, and as bearing possibly upon the credibility of the mother and father of the complaining witness, so far as they may have testified to facts from which an inference may be drawn as to the character of the complaining witness, and, as bearing, in the light of the nature of the charges contained in the indictment, upon the general probability as to their truth.

Z E L I G A M E L A M E D , being cross examined, testified as follows:

CROSS EXAMINATION BY MR. EDWARDS:

Q Now, Melamed, how long have you lived at 22 Mangin St? A It's the second year.

Q You testified on the first trial of this action, did you not? A Yes.

Q Now, who was the Missis in this apartment on the fifth floor of number 22 Mangin Street? A A tall woman.

Q Yes. What was her name? A I don't know the names of any of my customers.

Q Well, how long had you been delivering coal to her?

1361
CASE #1768

A Coal I didn't sell very much there, but ice and seltzer I sold there, the whole summer.

Q And you don't know her name at all?

MR. SARASOHN: I object to that, as having been answered.

THE COURT: I will allow it.

MR. SARASOHN: We except.

A I don't kn know, but she still owes me about ninety cents.

MR. EDWARDS: I move to strike that out, the latter part of the answer.

THE COURT: "I don't know" stands. The balance is out.

BY MR. EDWARDS:

Q Now, did you ever meet her, the Missis, as you call her? A The Missis I always met in the street.

Q Well, didn't you know her by sight? A Yes, sir.

Q Now, do yourecollect this question being put to you on the last trial, and you making this answer:

"Q (By Mr. Sarasohn) And is this woman here, (Pointing to Annie Brown) was that the Missis? If you don't see her good enough, step down and look at her. A The Missis I never met. I know the girl."?

A Yes.

Q So that you didn't know Annie Brown when you saw her on the last trial, did you?

1302
CASE #1768

MR. SARASOHN: I object to that, as assuming a state of facts not proven.

THE COURT: Overruled.

MR. SARASOHN: We except. The assumption that he draws is entirely unfair to us. When he was asked to look at her, he said he never met the Missis, but he didn't say that he couldn't identify the girl.

THE COURT: I will allow the question.

MR. SARASOHN: We take an exception.

A I couldn't recognize her because she was differently clothed, dressed. At home, she had a shawl around her shoulders.

BY MR. EDWARDS:

Q Now, do you recollect this question being asked you by me on the cross examination, at the last trial at page 218:

"Q How long had you seen that girl" (Referring to Annie Jacobs) "in the Mangin Street house before the patrol wagon came? A Two days before I saw her, on Thursday, and on Saturday the patrol wagon came."

MR. SARASOHN: I object to that. He has testified to the same thing, to-day.

THE COURT: Overruled.

MR. SARASOHN: Exception.

A I didn't answer this way; it wasn't so.

BY MR. EDWARDS:

Q You didn't give that answer? A No.

1303
CASE #1768

Q Now, how long have you known Samuel Guttenstein? A Since he was a child.

Q You knew him in the old Country, didn't you? A Sure.

Q And how long have you been in this country? A It's the fourth year.

Q And how long has he been here, do you know? A He came here before me.

Q Yes. He lived with your brother when he first came here, didn't he? A Yes, sir.

Q And how long have you known Joseph Kurtz? A Since I moved to the cellar in Mangin Street.

Q Yes, when did you first speak to Joseph Kurtz about this case?

MR. SARASOHN: I object to that as assuming that he has talked with him. There is no such testimony.

THE COURT: Sustained.

BY MR. EDWARDS:

Q When, if at all, did you talk to Joseph Kurtz about this case? A The first trial, the first time I saw her.

BY MR. EDWARDS:

Q Was he here at the first trial? A No, sir.

Q Well, where was it that you talked to him then? A There, in Mangin Street.

Q And was that before or after you had testified? A After I was a witness.

1303
CASE #1768

Q Yes. And then whom did you tell about Joseph Kurtz, if any one? A To nobody.

Q Who was the first person that came to you about this case? A This gentleman (Indicating Mr. Gordon.)

Q And when was that? A This summer.

Q Well, before the first trial or after it? A Before the first trial.

Q Now, where did you first speak about this case to Samuel Guttenstein?

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

BY MR. EDWARDS:

Q If at all?

THE COURT: Now, that is not the question that was asked atall, Mr. Interpreter.

BY THE COURT:

Q In the first place, did you ever talk to Samuel Guttenstein about this case? A Never.

BY MR. EDWARDS:

Q You never spoke to him about it at all, about this case? You are sure about that, are you? Now, Melamed, I want you to be sure about it? A No, I only saw him at my brother's, at a party.

Q Well, when you saw him at your brother's, at a party, did you talk to him about this case?

I-305
CASE #1768

MR. SARASOHN: I object to that as immaterial. What has that got to do with Bebkin?

THE COURT: I will allow him to answer yes or no.

MR. SARASOHN: We except.

A No.

BY MR.EDWARDS:

Q Now, when was that party at your brother's?

MR. SARASOHN: I objectto that as immaterial.

THE COURT: How is it material?

MR. EDWARDS: It is a matter brought out by Samuel Guttenstein when he was on the stand.

MR. SARASOHN: But how does that affect the issue?

THE COURT: Now, pardon me. It was brought out on your cross examination, was it not?

MR. EDWARDS: It was brought out in connection with the testimony of the witness, given on his first trial, on his direct.

THE COURT: Sustained.

BY MR. EDWARDS:

Q What sort of a party was that at your brother's?

MR. SARASOHN: I object to that as immaterial.

THE COURT: Sustained.

BY MR. EDWARDS:

Q Who was pres ent at that party?

MR. SARASOHN: I object to that as immaterial.

1302
CASE #1768

I 307

THE COURT: I do not see the materiality of it, Mr. Edwards.

MR. EDWARDS: Well, I----

THE COURT: Sustained.

MR.EDWARDS: Well, I would rather not state in the presence of the jury or the witness, what the materiality is, but, if I did not deem it so, I would not ask it.

BY MR. EDWARDS:

Q Who was present at this party?

MR. SARASOHN: I object to that.

THE COURT: This was a party at whose house?

MR. EDWARDS: This witness's brother's house.

THE COURT: Sustained.

BY MR. EDWARDS:

Q Now, where was your brother living at the time that the party was given?

MR. SARASOHN: I object to that as immaterial.

THECOURT: Allowed.

MR. SARASOHN: We except.

A At 25 Goerck Street.

BYMR.EDWARDS:

Q And what year was that party?

MR. SARASOHN: I object to that as immaterial.

THE COURT: My rulings are all based on the theory that it was matter brought out on the cross examination of

CASE #1768

the witness, not on the direct?

MR. SARASOHN: Yes, sir; this was brought out on the cross examination.

THE COURT: Sustained.

MR. EDWARDS: Well, I will call the Court's attention to this fact, perhaps, that the matter was brought out in what I believed to be a perfectly proper cross examination, in the way of comparing the testimony on an entirely material feature, between the testimony given by Guttenstein on this trial and whathe said on the other trial; and, after his attention was called to it, he said he recalled the fact, and the occasion, and I submit that it wasn't new matter brought out on cross examination.

MR. SARASOHN: He was asked how he came to be a witness in this case, and I think Guttenstein said they were talking about the matter at a party.

MR. EDWARDS: No, that wasn't it at all.

THE COURT: I will sustain the objection.

MR. EDWARDS: That is all.

RE-DIRECTEXAMINATION BY MR. SARASOHN:

Q Have you ever had intercourse with this girl, Annie Jacobs, the girl you saw here?

MR. EDWARDS: Objected to as not proper re-direct examination.

THE COURT: Sustained.

I-308
CASE #1768

MR.SARASOHN: Exception.

BY MR. SARASOHN:

Q Did you ever have a talk with the girl, Annie Jacobs when she was in the Clinton Street place?

MR.EDWARDS: We object to that as not proper re-direct examination.

THE COURT: I am inclined to think it is not proper re-direct examination, and Iwill sustain the objection.

MR.SARASOHN: Very well, sir, we except.

A B R A H A M B A L K I N, indicted as ABRAHAM BEBKIN, the defendant, of 327 Williams Avenue, Brooklyn, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q Now, see whether you can talk English, and, if you don't understand something, the Interpreter will Interpret it to you. How long are you in this country? A Four years and three or four weeks.

Q And where do you come from? A Chernigoff.

Q And what part of the world is it? A Russia.

Q Now, you must talk louder.

THE COURT: Now, Balkin, will you have the kindness to speak loudly enough so that every juryman hears you? Do you understand me?

THE DEFENDANT: Yes, sir.

THE COURT: Now, try to do it. Keep your voice up. Talk right up.

1306
CASE #1768

BY MR. SARASOHN:

Q With whom are you living in Brownsville, at 327 Williams Avenue? A My uncle and aunt and my brother.

Q And how long have you been living there? ASince I am here.

Q And how long after you came over did your brother come over? A About two years later.

Q Did you send for your brother? A Yes, sir.

Q Did you send him the money to come over? A Yes, sir; I sent him the money and a ticket.

Q Now, when you came over here, since you came over here and until the day you were arrested, what were you doing? A I was an operator on a machine; I was working on overalls and skirts.

Q And where did you start to work when you came to this country? A M. Fine & Son.

Q Is Fine a relative of yours, a cousin? A Yes, sir; his father is my uncle, and his son is a cousin of mine.

Q Now, how long did you work for Fine? A About three weeks---about three years.

Q And what did you start at? A I was a butcher in my uncle's store.

Q How long were you in your uncle's butcher store? A About four weeks.

Q And after working there in that butcher store for

CASE #1768

Fine? A Yes.

Q And what did you start at? A Overalls.

Q Well, what did you start to work at? A A month after I came here.

Q No. But did you start to make overalls right away? A Yes, sir.

Q And you learned the business there, did you? A Yes, sir.

Q And how long did you stay there? A Until last year, last October.

Q Until last year, October? A Yes, sir.

Q Now, when you left Fine, did you go to work immediately somewheres else? A Yes, Iwas working for two contractors.

Q Where? A In Seventh Avenue and 24th Street.

Q What was the name? A Sparks & Foster.

Q And what day did you stop working at Fine's? A The last part of October.

Q Do you know what day of the week? A It was a Friday.

Q And when did you commence working for this new firm, Sparks & Foster? A The next Sunday.

Q So you were out of work just two days? A Yes, sir

BY THE COURT:

Q Pardon me, October of what year? A 1912.

CASE #1768

1312

BY MR. SARASOHN:

Q Now, why did you stop working at Fine's?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Now, how long did you work for this other firm of Sparks & Foster? A About six months.

Q Until when? A Until the last part of April.

Q 1913? A Yes, sir.

Q And then where did you go to work? A In Brownsville.

Q For whom? A Mr. Boschneck.

Q The gentleman who was here, this morning? A Yes, sir.

Q And did you work in his place until you were arrested? A Yes, sir.

Q Now, when you left this place at Sparks & Foster, how long were you idle before you got work at Boschneck's? A Only one day.

Q And so, since you have been in this country, you have been working every day, excepting the two days that you were idle between the time that you went to work for Sparks & Foster? A Yes, except Jewish holidays.

Q Do you know Annie Jacobs? A Yes, sir.

Q And she has sworn here that, on a certain Friday, you

CASE #1768

and her sister and she started out to take a walk, and you walked as far as Delancey Street and then you sent the sister home---

MR. EDWARDS: I object to that as not proper in form and not the proper method of getting the answer from him.

THE COURT: Well, call his attention to a specific day.

MR. SARASOHN: But that's the difficulty. Her statement was so general. How can we deny anything specific, which is not alleged specifically?

THE COURT: You can't.

MR. EDWARDS: Before your Honor rules, I would like to call your Honor's attention to some facts.

THE COURT: I wish you would, Mr. Edwards.

MR. EDWARDS: It is proven in this case that the arrest took place on the second day of November, a Saturday, 1912.

MR. SARASOHN: You are mistaken entirely. Oh, pardon me.

MR. EDWARDS: If the counsel would curb his impatience, we would save some time. It is proven in this case that Annie Jacobs left home on a Friday; that she was arrested a week from the following day, a Saturday. Now, that specifically fixes the date of the Friday as to which Annie Jacobs testified, and the date of which she was unable to

CASE #1768

give, and fixes it as the 25th of October.

THE COURT: I think it is better to put the question that way.

MR. SARASOHN: Yes, anything to save time. I only want to get the facts before the jury; that's all.

BY MR. SARASOHN:

Q Now, Mr. Bebkin, Annie Jacobs has swornthat, on a certain Friday, which the District Attorney says was the 25th of October, that you, she and her sister started out to walk, and you stopped in Delancey Street, and you told the sister to go home. A No, sir; it was in August.

Q Did any such thing take place in October? A No, sir.

Q Did you ever go out with Annie Jacobs and her sister, some time in August? A (No answer).

THE COURT: Now, will you payattention to the questions, and answer them if you can by yes or no.

A No, sir.

BY MR. SARASOHN:

Q Now, Annie Jacobs further swore that, on the same Friday night of October 25th, after sending the sister home, you again took a walk with her---took an elevated train and went with her to your room over in Brooklyn. Did any such thing take place? A It wasn't in October, it was in August, last year.

CASE #1768

Q Now, I am talking of October.

THE COURT: Now, strike it out. Now, you pay attention to the questions, and answer.

(The question is repeated by the stenographer).

A No, sir.

BY MR. SARASOHN:

Q Was there any time in your life that you and Annie Jacobs started to take a walk, and you walked to Delancey Street, and then you sent her sister home? A It was last year, in August.

Q Well, we'll get to August, afterwards. Now, Annie Jacobs has further sworn that on this Friday, which the District Attorney says was October 25th, after you came there to Brownsville, to your room there, you locked the doors, and that you had intercourse with her in that room. Did any such thing ever take place? A No, sir.

Q Did you ever sleep with Annie Jacobs in your hall bed room in Brownsville? A Never.

Q Did you ever bring Annie Jacobs to your hall room in Brownsville? A No, sir.

Q To your knowledge, was Annie Jacobs ever in your hall room, in Brownsville? A Never.

Q Annie Jacobs has further sworn that you kept her there, that she was locked in there Friday night, and all day Saturday. Did anything like that take place? A No, sir.

CASE #1768

Q And she has further sworn that she was locked up there and on Sunday you took her and took her out to moving picture places? A No, sir.

Q And that, on Monday morning, you brought her down to Mangin Street? A No, sir.

Q And that you brought her in there, and that you met a woman there, and said to that woman, "I bring her here for business."? A No, sir.

Q And that men came there, and that you sent them there, and you told her to have intercourse with them? A No, sir.

Q And she has further sworn that you were sleeping there with her one night, and that two men came in, and you told her to stay with those two men, did any suhh thing ever take place? A No, sir.

Q Now, when did you first meet Annie Jacobs? A I meet her last year, in July, at a picnic in Liberty Park.

Q And who was with you when you met her? A My cousin, Jake Cohen.

Q The same one who was a witness here yesterday? A Yes, sir.

Q And was anybody with her? A No.

Q You just started to dance with her? A I was asking for a dance and I was dancing with her.

Q Did you dance with her? A Yes, sir.

Q And Cohen danced with her partner? A Iwas dancing

CASE #1768

1512

with Annie Jacobs, and he was dancing with her lady friend.

Q And how long did you stay with her---how long did you spend in her company---that Saturday afternoon? AAbout three or four hours.

Q And was Cohen, your cousin with you? A Yes, sir.

Q And at the end of that time what did you do? A We was dancing there, and we had a few sandwiches, and, about nine o'clock, we all went home.

Q Pardon me, did you go to New York? A Yes, sir.

Q Did you accompany them home? A Yes, sir.

Q In New York, did you all separate, you and your friend, or did you all come together to New York? A Well, he went with her uptown, the girl he was with, and I went with Annie Jacobs to her house.

Q And when was that? A The first Saturday night, when I meet her.

Q Now, before you separated that Saturday night, did you have any talk, all you four, as to when you should meet again? A Yes.

Q Now, what was said about that? A Whenxxxx we was riding in the train, we made anappointment for the next day, Sunday, we should all go to Coney Island.

Q And for what time was the appointment made, about? A About ten or eleven o'clock.

Q In the morning? A Yes, sir.

CASE #1768

Q Did you work, that following morning? A Yes, I was working.

Q And how did you make an appointment for ten or eleven o'clock then? A Well, I worked about two hours, because it was something special to finish.

Q You worked two hours because it was something special to finish? A Yes.

Q And you were working piece work at that time, were you? A Yes, sir.

Q And did you meet her on the following morning? A Yes, sir; my cousin came to me, and we took along Annie Jacobs' lady friend.

Q Do you know what street that was where her lady friend lived? A No, I don't.

Q You know it was uptown, though? A Yes, uptown ~~xxxxxxxxxx~~ some place.

Q Your cousin first met you? A Yes, sir.

Q And you went to that lady friend uptown? A Yes, sir.

Q And then you went to Annie Jacobs' place? A Yes, sir.

Q And what time did you reach there, that Sunday? A About twelve o'clock.

Q And where did you go that Sunday? A When we were near her house, about two or three blocks from her house, and

CASE #1768

when she sees us, she was with her sister and she comes over to us,and then she went upstairs and took her hat and the whole five went down to Coney Island.

Q Yes, you took her sister along too, to Coney Island? A Yes, sir.

Q Well, how long did you stay there? A Well, about seven or eight o'clock at night.

Q Now, tell me the third time you met her? A I made an appointment with her for next Saturday, and I came to her next Saturday. Icame near her house, and I didn't see her near her house, and I went upstairs---she told me where she lived---and I came upstairs and I asked for her, and If ind her in the house.

Q And what happened there? A There was her father and mother and two or three brothers and hersister, and so we had a talk there.

Q How long did you talk there together, do you remember? A Oh, about twenty or thirty minutes.

Q And did the father say anything? A He didn't say nothing.

Q And was that the first and only time you were in that house? A Yes, sir.

Q And was that the first and only time you ever spoke to the father? A Yes, sir.

Q And was that the first and only time that you ever

CASE #1768

saw the mother? A Yes, sir.

Q Now this third time---A Excuse me. Isaw the mother the first time. That was the first time I saw her mother and father.

Q Yes. And that was the only time? A Yes, sir.

Q Now, did you go anywhere the third day you saw her? A I went with her for a walk, and after, we went into a moving picture place.

Q In what street? A In Grand Street.

Q In New York? A Yes, sir.

Q And about how long were you with her, this Third time? A Until about half past nine.

Q Until about half past nine at night? A Yes, sir.

Q And when did you go to her home again? A I brought her back home, and then I went home.

Q And when was the fourth time that you saw Annie Jacobs? A The next Saturday.

Q Now, tell us where you saw her? Had you made an appointment with her? A I made an appointment with her that she would wait for me near her house, and, when I came near her house, she was waiting for me.

Q And was anybody with her? A No, sir.

Q And what did you do the fourth time? A The same night, I took a walk, and went to a moving picture show.

Q Pardon me. Did you go upstairs, the fourth time?

CASE #1768

A No, sir.

Q You were only upstairs the third time? A Yes, sir.

Q And when did you see her the fifth time? A Well, I made an appointment with her. I had special two tickets for a dance.

Q And where did the dance take place? A In Brownsville.

Q And where? A Pitkin Avenue and Christopher.

Q And what is the name of the hall? A American Star Hall.

Q Now, you made an appointment that she should meet you on the following Friday, did you? A Yes.

Q To go to a dance? A Yes, sir.

Q And did you meet her on that next Friday? A Yes, sir.

Q Where? A Near her house.

Q And when, at what hour? A Half past six or seven o'clock.

Q Now, who was with her? A Nobody.

Q And what did you tell her? A I told her if she is satisfied to go up with me for a dance, and she says yes.

Q And did you then start to go? A Yes.

Q That was that Friday night? A Yes.

Q Was the sister along then? A No, sir; she was alone.

I 321
CASE #1768

Q And where did you go? A In Delancey Street. And I took the elevated and went with her to Brownsville.

Q And was that the first and only time you went to Brownsville with her? A Yes, sir.

Q And what happened? A And we was riding there, and it started to rain, and, when we came to the Eastern Parkway Station, she said, "Where do you live?" And I said, "I live three or four blocks."

Q What station was that? A The Sutter Avenue Station.

Q And not the Eastern Parkway Station? A No, sir.

Q Now, you must talk slowly and loud. No one can hear you. Now, tell us what happened when you were near the Sutter Avenue Station, between you and Annie Jacobs? A She asked me where I lived, and I told her about three or four blocks, and so I went with her to my uncle's house, 327 Williams Avenue, where I live.

Q And what time did you reach your uncle's house, that night? A About half past seven.

Q And was that the first and only time that youwent with her to your uncle's house? A It was the first time and the last time.

Q And was that the first and only time, as far as you knew, that she entered your building, the first time that she entered your house; was that the first and only time, as

I 322
CASE #1768

far as you know, that she was in your house? A Yes, sir.

Q Now, tell us, when you came into your uncle's house, on that rainy night, who was there? A When I came upstairs there was my uncle and aunt and two children; and, after we were sitting there about fifteen or twenty minutes, my brother came in, and, about twenty-five minutes after, I took my brother's raincoat and I went with herdownstairs, and went out for the dance, in the same hall where I had the two tickets.

Q And in what part of your uncle's apartment were you sitting, that night? A In the dining room.

Q Did you ever take her into any other part of your uncle's apartment, except the dining room? A To the kitchen and dining room only.

Q And do you remember about what time it was you left home, after you got your rain coat or umbrella? A About ten minutes past eight.

Q And where did you go with her? A To a dancing place.

Q What place? A The American Star Hall.

Q And how far was that from your home? A About seven blocks.

Q Now, how long did you remain with her at the American Star dancing hall? A About two hours.

Q And did you meet anybody there? A Yes, I meet my cousin there, Jake Cohen. And I was dancing with her, and my

I 325
CASE #1768

cousin was dancing with her, and, about ten o'clock, she says she has got to go home and the three of us went down and he took her to the station.

Q And what station did he take you to? A To the Sutter Avenue Station.

Q Yes, your cousin took you there with Annie Jacobs? A Yes. And she said to him, "If youwant to go, tomorrow, to a picnic, I have got a lady friend for you. Come tomorrow with Abe, and we'll all go to the picnic."

Q And she said that to him on the Sutter Avenue Station? A Yes, before we came to the station.

Q And who first mentioned about going to a picnic on the following day? A Annie Jacobs.

Q And she said she had a lady friend for your cousin? A Yes, sir.

Q And what did your cousin say to that? A He said, "All right."

Q Now then, did you take her home that Friday Night? A Yes, I took her home and he went back.

Q He went back where he lived? A Yes, sir.

Q And did you make an appointment as to where to meet on the following Saturday? When did you make up to meet her next? A Next day.

Q At what time? A About four or half past four.

Q And at four or half past four did you meet your cousin,

I 327

CASE #1768

Cohen? A Yes, sir.

Q Where? A He came over to my house.

Q Over in Brooklyn? A Yes, sir.

Q And both of you went from Brownsville to New York? A Yes, sir.

Q And do you remember about the time you got over here in New York, to Annie Jacobs' home? A About half past four or five.

Q And when you both got near her home, where did you see her? A She was near her home and she came over to us and she said, "We are ready to go."

Q And what did you and your cousin say? A And so we went all three.

Q And did she say where you were going? A She said "We'll go to my lady friends and then we'll all go to a picnic."

Q She said, "We'll go to my lady friend's and then we'll all go to a picnic."? A Yes, sir.

Q Did you and your cousin ask where the lady friend lived? A Yes.

Q And what did she say? A She said Mangin Street.

Q Was that the first time that you ever in your life were in Mangin Street? A Yes, the first time.

Q Up to that time had you ever been in a house in Mangin Street? A No, sir.

321
CASE #1768

Q Or had you ever known before that time that there was such a woman as Annie Brown? A No, sir.

Q And next what happened? A And we started to walk and my cousin said, "Better we take a car," and she said, "No, it isn't very far."

And, when we come to 22 Mangin Street, my cousin said may be she better see her lady friend first, if she will go with us, and she said, "No, let's all go up, all three."

And we went up to the top floor and she knocked on the door and somebody said, "Who is that?" And she said, "That's me, that's Annie."

And we went inthe flat and we meet a woman and another girl.

Q Now, had you ever been before in that house in Mangin Street? A No, sir.

THE COURT: Now, pardon me, will you try to fix, right there, about what date that was?

BY THE COURT:

Q About what date was it when you went first to 22 Mangin Street? A August.

Q What part of August? A The middle part of August.

Q And in what year? A 1912.

BYMR. SARASOHN:

Q Now, were you ever in that Mangin Stert house after that Saturday, August, 1912? A Never.

I 321

CASE #1768

Q It was the first and only time? A Yes, sir.

Q Now, as the door opened on this Saturday afternoon, after Annie Jacobs knocked, how many people did you see in thatplace; who did you find there? A A woman and a girl.

Q Have you seen since the woman again? A Yes, at the first trial.

Q And was that the same woman who was a witness here last week, Annie Brown? A Yes, sir.

Q You saw the same woman there? A Yes, sir.

Q Now, tell us more about the girl. How did she look, as far as you can remember? A I don't remember.

Q Then you saw the woman and the girl? A Yes, sir.

Q And Annie Jacobs came into that room with you and your friend, Cohen, your cousin---who spoke first? A When we came up in this house the girl, Annie Jacobs, introduced the old lady---introduced us to the old lady.

Q How did she introduce you? A "This is Abe Bebkin" she gives my name---I give her my name.

Q And did she introduce your cousin? A Yes, sir.

Q And did she introduce the other girl? A Yes.

Q And then you sat down there? A Yes, sir.

Q Now, tell us what was said between you and your cousin and Annie Jacobs and Mrs. Brown and the other girl? A We was just talking there for about fifteen minutes.

Q Just general conversation? A Yes. And then Annie

I 321

CASE #1768

Jacobs asked the other girl if she wants to go to a picnic.

Q Yes. And then what happened? A And she said, "We don't have to go to a picnic. We could have a picnic in here."

Q Who said that? A The other girl.

Q And, up to this time, had you suspected that that place in Mangin Street was anything but a proper place? A No.

MR. EDWARDS: I object to that, what he suspected.

THE COURT: I think I will let it stand. It means, did he have any idea.

MR. SARASOHN: Yes, that's just my idea.

BY MR. SARASOHN:

Q Up to this time, when the other girl sadd, "We can have our picnic here," did you have any idea at all as to what kind of a house that was?

MR. EDWARDS: Objected to, as immaterial, what idea he had.

THE COURT: I will allow it.

A No, sir. Ididn't have no idea what kind of a house it was or what kind of a girl Annie Jacobs was.

MR. EDWARDS: I move to strike out the latter part of the answer.

THE COURT: Motion granted.

BY MR. SARASOHN:

Q And what happened then? A My cousin says, "What do

I 28
CASE #1768

you mean we can have our picnic here?" And she said, "Come here," and she called him in the bed room, next to the kitchen and I heard her ask him for money.

Q And did you remain with Annie Jacobs? A Yes, in the front room, all three, and I was surprised.

MR. EDWARDS: I object to the latter part of the answer and move to strike it out.

THE COURT: Objection sustained. Strike it out.

BY MR. SARASOHN:

Q Now, did you say anything to Annie Jacobs, or did she say anything to you, after that other girl said to your cousin, "We can have our picnic here." A No. She didn't say nothing. And, after my cousin and that girl went out, the woman of the house said to me, "What are you sitting there for, like a damn fool? You could have the same thing."

Q And how long was your cousin and that girl away, when they went out, in the other room? A About seven or eight minutes.

Q But you did hear her ask for money? A Yes, sir.

Q And all this time that they were in the other room, were you saying anything to Annie Jacobs? A No, I didn't say nothing. She was just talking with the other woman.

Q She was talking with Annie Brown? A Yes, sir.

Q Now, do you remember when your cousin came back with the girl, when he came back from the other room? A Yes.

CASE #1768

Q Now, when did Annie Brown say this to you, "Why are you sitting there like a damn fool?" Before or after she came back?

MR. EDWARDS: Objected to.

THE COURT: Allowed.

BY MR. SARASOHN:

Q Do you understand my question? A (No answer).

(It is repeated by the stenographer).

A After the other girl went out of the room with my cousin.

BY MR. SARASOHN:

Q That is, after the other girl went out of the room with your cousin, and left you with Annie Jacobs? A Yes; after she went out of the room where she was with my cousin.

Q Oh, I see now. And what did you say as to that, when Annie Brown said that? A I didn't say nothing. I started to laugh---the girl Annie Jacobs started to laugh, and she said, "If you want to, let's go. We can have the same picnic what they had."

Q And when Annie Jacobs said, "Come, we can have the same picnic as they had," what did you do? A I went there with her in the same room that my cousin was before, and the first thing she asked me for money.

Q What did she say? A She says she has got to give the old lady money.

Q She said she had to give the old lady money? A Yes,

CASE #1768

sir.

Q And did she say how much? A I asked her how much she wants, and she said fifty cents.

Q And did you give her fifty cents? A Yes.

Q And did you give her that money before you stayed with her? A Yes, I have.

Q And after you gave her the money, did you have inter_course with her? A Yes, sir.

Q And about how long were you there? A About ten minutes.

Q Now, when you were through with her, when you and she were finished, did you go back to the room where Annie Brown was? A Yes, and when I was with her in the room, I asked her what is she doing here, and she says---

MR. EDWARDS: Objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q While you were with her in the room, did you have any talk with Annie Jacobs? A Yes, sir.

MR. EDWARDS: Objected to.

THE COURT: Allowed.

BY MR. SARASOHN:

Q Tell us what she said to you, what Annie Jacobs said to you.

MR. EDWARDS: I object to that, what Annie Jacobs

CASE #1768

said to him.

THE COURT: On what ground?

MR. EDWARDS: Why, on the ground that this is not a conversation that has any bearing on the issues in this case. The facts are what we areinterested in. The witness may testify to facts, but I submit that it is too much to ask the People to meet him on imaginary conversations.

MR. SARASOHN: Now, of course, the last part of that objection was entirely improper. I might just have well have objected to the three nights' conversations with Annie Jacobs. They were all purely fictitious and imaginary.

THE COURT: Now, pardon me. I have heard sufficient. I think Iwill exclude it, Mr. Sarasohn.

MR. SARASOHN: Does your Honor say you will exclude it?

THE COURT: Yes.

MR. SARASOHN: And may I ask upon what grounds your Honor excludes it? Because otherwise I would make a motion that allthe conversations with Annie Jacobs---that Annie Jacobs testified she had with Behkin in the room in Brownsville, be stricken out. I understand the rule is the same way, and all of her conversations would have to be stricken out.

THE COURT: This witness doesn't purport now to be telling us about anything that transpired in the month of October, 1912. He purports to be giving the details of

CASE #1768

something which he says took place in the month of August, 1912, and I do not see how a conversation between him and the witness, assuming that it took place in the month of August 1912, has a bearing upon the chargecontained in this indictment, and for that reason it is excluded.

MR. SARASOHN: Oh, pardon me, your Honor. But a few moments ago, you said you would admit testimony as to her previous chastity, first, as to her credibility and second as to the general probability of her story, and I submit this goes to her previous chastity, and it is competent to show her credibility, and the probability of her story.

THE COURT: I think I will exclude it.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Well, when you went away, after you had intercourse with Annie Jacobs, did you leave her there or did you go away from her, on going away from Mangin Street? A I went with my cousin downstairs.

Q And you left her there? A Yes, sir. Iasked her---

MR. EDWARDS: Objected to.

THE COURT: Sustained.

BY MR. SARASOHN:

Q From that Saturday, in the middle of August, when you saw her in Mangin Street, did you ever go out with Annie Jacobs again? A No, sir.

CASE #1768

Q Did you ever see her again? A Yes, I see her about six or seven months ago.

Q Six or seven months ago? A Yes, sir.

Q Well, after that day in August, did you continue working in the same place you worked before? A Yes, sir.

Q And did you live in the same place you lived before? A Yes, sir.

Q Were you out of the City of New York for one day? A No, sir.

Q Did you go around in the evening, did you go around the place, around Monroe Street, where Annie Jacobs formerly lived? A For the last six months, I used to go every Saturday in Monroe Street.

Q Well, what six months? The six months before you were arrested or before to-day? A Before I was arrested.

Q Yes, for the six months before you were arrested, you went every Saturday to Monroe Street? A Yes, sir.

Q And who did you see there? A My girl lady friend lives there. She is just married about seventeen or eighteen months.

Q Now, pardon me. After the time that you met Annie Jacobs in August, did you afterwards meet a girl and become engaged to her?

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

137
CASE #1768

THE COURT: If you had shown that the fact of an engagement, if there was one, was brought to the attention of the complaining witness, before the arrest, I would have allowed it. But my impression is, that, as far as those witnesses were interrogated about it, they denied knowing anything about it, and therefore it is immaterial. Objection sustained.

MR. SARASOHN: We except to your Honor's ruling.

BYMR. SARASOHN:

Q Well, you say you went to see your girl? A Yes sir.

Q And that your girl had a friend livingon Monroe Street? A Yes, sir.

Q Well who was your girl? What is her name?

MR. EDWARDS. Objected to as immaterial.

THE COURT: I will allow it.

BY MR. SARASOHN:

Q What is the name of your girl? A Ida Moletzky.

Q Now what do you mean when you say your "girl"?

MR. EDWARDS: Objected to.

THE COURT: Sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q Well, did Ida Moletzky have a friend who lived on Monroe Street? A Yes, sir.

Q And, every Saturday for six months before your ar-

CASE #1768

rest, you used to go with your girl to Monroe Street? A Yes, sir.

Q And you used to go out together, did you? A Yes, on Monroe Street.

Q And how many times bfore your arrest did you see Annie Jacobs on the street, after August, until your arrest? A Six or seven times.

Q Did she ever come over and speak to you? A No, sir; she used to see me---

THE COURT: No. You have answered.

BY THE COURT:

Q Did you go with Annie Jacobs to the apartment of Annie Brown, at 22 Mangin street, on Monday October 28th, 1912? Now, if you understand that question, you will answer either yes or no? A No, sir.

Q Were you in that apartment of Annie Brown on the night of Thursday, October 31st, 1912; yes or no? A No, sir.

Q Were you in that apartment on Friday night November 1st, 1912? A No, sir.

BY MR. SARASOHN:

Q Did you ever receive money from Annie Brown? A No, sir.

Q Did you ever receive money from Annie Jacobs? A No sir.

CASE #1768

Q Well, was there anytransaction in the flat in Mangin Street where money passed, except in August, when you gave Annie Jacobs fifty cents? A No.

MR. SARASOHN: You may examine.

CROSS EXAMINATION BY MR. EDWARDS:

Q Now, when was it that you were working for Fine? A Since I came here.

Q How long did you workxfor him? A Three years.

Q And when did you quit Fine? A The last part of October.

Q What date in October? A I don't know.

Q 1912? A Yes.

Q What date in October? A The last days, the 28th or 29th.

Q The last days, the 28th or 29th? A Yes, sir.

Q What day of the week was it? A It was Friday night.

Q And then where did you go to work? A Seventh Avenue and 24th Street.

Q For whom? A Alexander Black. He was a contractor.

Q And you didn't work for Sparks& Foster, did you? A They were working for Sparks and Foster and I worked for them.

Q And how long did you work for Black? A Six months.

Q Now, who is the owner of the American Star Hall, in Brownsville? A I don't know.

Q Wasn't he the owner of that dance hall, Black, in

CASE #1768

Brownsville, in October, 1912? A I don't know.

Q Didn't he live in Brownsville? A Yes.

Q And didn't you know him in Brownsville? A I didn't know him until I started to work for him.

Q You never saw him in Brownsville until you started to work for him? A No, sir.

Q Although you went to the American Star Dancing Hall? A Yes, sir.

Q You started to go to the Star Dancing Hallbefore you knew Black, didn't you? A Yes.

Q So that you stopped working for Fine on a Friday night didn't you? A Yes, sir.

Q And when did you go to work for Black? A Monday.

Q So that you were out of work from the end of your working day on Friday until the time you started to work on Monday morning? A Yes, sir.

Q And what Friday in October was that? A The last Friday of October.

Q The last Friday of October? A Yes, sir.

Q Now, this day that yousay you first met Annie Jacobs, what month was that? A July.

Q And what day of the week was it? A Saturday.

Q And when was the next time that you met Annie Jacobs? A Sunday, the next day.

Q And what time did you have the appointment with her

CASE #1768

for, on Sunday? A Twelve o'clock.

Q Now, think it overcarefully, and tell me your best recollection as to the time? A I had an appointment for twelve o'clock.

Q Now, what time did you stop work, that morning? A Ten o'clock.

Q Ten o'clock? A Yes, sir.

Q And what time did you meet Annie Jacobs? A About a quarter to twelve or twelve.

Q Do you remember testifying to those facts at the last trial? A Yes.

Q Do you recollect this question being put to you by Mr. Sarasohn, and your giving this answer:

"Q About what time did you meet Annie Jacobs that Sunday? A About two o'clock." Do you remember that answer? A Yes, sir.

Q Was that true? A I don't remember; I don't know.

Q Well, did you meet her at two o'clock or eleven or twelve o'clock in the morning? A In the morning, twelve o'clock.

Q Now, do you remember this question:

"Q That Sunday had you worked, that Sunday morning? A Yes, half a day." Do you recollect then? A Yes, I was working from seven until ten.

Q And you hadn't worked half a day then?

CASE #1768

MR. SARASOHN: We object. The witness calls it a half day. I don't see anything in that.

THE COURT: Well, sustained. He has given the number of hours.

BY MR. EDWARDS:

Q Well, what were your hours at Fine's, where you were then, you say? A From seven to six; ten hours a day.

BY THECOURT:

Q What were your hours on Sunday, at Fine's? A In busy times I used to work half a day.

Q What do you call half a day? A To twelve or one, sometimes.

BY MR. EDWARDS:

Q And isn't it a fact that you worked all day Sundays except during the summer months at Fine's? A No, sir.

Q That isn't so? A No, sir.

Q Now, how often did you see Mr. Jacobs? A Mr. Jacobs?

Q Yes? A I seen him once.

Q Only once? A Yes, sir.

Q Where was that? A In his house.

Q And that's the only time you ever met him? A I met him one time in the street.

Q Yes. When was that? A When he had me arrested.

Q And is that the only other time you met him? A Yes,

I-348
CASE #1768

sir.

Q Now, do you recollect this question being asked you, on the first trial:

"Q Where did you see her the next time---" referring to Annie Jacobs, "A Two weeks later, on a Saturday.

"Q Where and how? A I went to her house, and I didn't find her near her house, and I went upstairs.

"Q Well, when you say upstairs, do you mean in the apartment where she lives? A Yes, sir.

"Q Who did you see there? A The father and mother and two brothers and her sister and her." Do you remember that? A Yes, sir.

MR. SARASOHN: I object to that, as being exactly the way he testified, to-day.

THE COURT: Well, it may lead to something. I will allow it.

BY MR. EDWARDS:

Q Now, is that the time that you refer to, that you saw the father in the house, and that was the only time, up to the time of your arrest? A Yes, sir.

Q Now, do you remember this question being asked, and this answer given:

"Q Had you met th father before that time? A Yes." A No, I don't.

Q Wasn't it a fact that you had seen him before that

CASE #1768

time, and met him? A I don't remember.

Q Now, the next question and answer:

"Q When? A We came home fromthe moving pictures, and we met the father in Delancey Street."? A I don't remember exactly.

Q Well, do you remember meeting her father in Delancey Street? A I don't.

Q Do you remember this question and answer:

"Q What happened between you and the father and her, that evening? A The father told her to go home. Iasked her who that man was, and she said her father." Do you remember that? A No, sir.

Q Do you remember the incident of meeting the father in Delancey Street, and that incident occurring? A I don't remembe r.

Q You have no recollection of that at all, have you? A No, sir.

BY THE COURT:

Q Do you remember any time when you met her father on Delancey Street, when he said to her to go home; do you remember any time when that happened? A Idon't remember meeting the father.

BY MR. EDWARDS:

Q Now, you say you saw the father again at the time of the arrest. When was that? A About eighteen weeks ago.

1342
CASE #1768

Q And what month was it? A June.

Q And what partof June? A The last part of June.

Q Do you remember the date? A The twenty-seventh or twenty-eighth.

MR. SARASOHN: I object to it, because it is on record.

THE COURT: I will allow theanswer to stand.

BY MR. EDWARDS:

Q And what time of the day was that, or night? A It was about four or five o'clock in the evening.

Q And where was it? A In Monroe Street.

Q And where were you? On the street or in a building or where? A Well, when I came out of a delicatessen store he came over to me and he said, "I'm going to have you arrested,"and I said, "What for?" And He said, "I'll tell you after," and I said, "All right." And then a lot of people, men and women that knows me, said, "What do you want to arrest him for? We see him here, every Saturday."

MR.EDWARDS: And I object to that and move to strike it out as irresponsive to the question.

THE COURT: Well, it may be competent, but it is not responsive to the question. Objection sustained.

MR.EDWARDS: And do I understand that it is stricken out.

THE COURT: Yes.

1345
CASE #1768

BY MR. EDWARDS:

Q Now, did Mr. Jacobs say anything more than you have repeated to us? A No.

Q Now, do you recollect being asked this question by Mr. Sarasohn on the last trial:

"Q By Mr. Saraschn: Since that Saturday, two weeks in August, when you left, after giving her that half dollar, have you ever seen her again in your lifetime until about four months ago, when you saw her upon the car? A No, I came home and told my aunt about what kind of a girl she was, that I had thought she was a decent girl, and I didn't see her any more until about four months ago, when I was here in Essex Street, and once in Rutgers Street, and once in Delancey Street, when I was walking alone, and once she saw me in Monroe Street, with a girl. She didn't touch me; she didn't do anything to me. Six weeks ago her father came to me and said, 'I want to have you arrested' and I asked him, 'Why do you want to have me arrested?' He said, 'I have been looking for you for quite some time, and I couldn't find you.'"
Do you recollect giving that testimony?

MR. SARASOHN: In justice to him, to the defendant, why don't youread further?

MR. EDWARDS: I will, in a moment.

BY MR. EDWARDS:

Q Do you recollect giving that testimony? A Yes, sir.

CASE #1768

Q Well, is that a fact? Did he say, "I have been looking for you for quite some time but I couldn't find you?" A Yes, he said it.

Q He said it? A Yes, sir.

MR. SARASOHN: Now, read further.

MR. EDWARDS: The rest of the answer has no bearing on the question.

MR. SARASOHN: Then I will read it.

MR. EDWARDS: And now I object to counsel reading further in the answer. As it is, I have read a good deal of that answer that was extraneous to the question, it's a very long answer to a short question. Your Honor will recall that the question was whether the father said anything further to him, and I have read all that bears on the question.

THE COURT: I will sustain the objection.

BY MR. EDWARDS:

Q Now, how many times did you go to see Annie Jacobs altogether, and how long did you go with her? A I seen her about five times.

Q Five times only? A Yes, sir.

Q And on how many Saturdays did you meet her and take her to moving picture shows? A Two Saturdays.

Q Why, didn't you tell us, a few minutes ago, that you had been going to see this girl of yours on Monroe Street, every Saturday for six months? A Which girl do you mean?

1345
CASE #1768

MR. SARASOHN: Objected to. I object to it as absolutely uncomprehensible.

THE COURT: I will sustain the objection. I think that he was referring in his testimony, if I recollect it right to other girls.

MR. SARASOHN: Yes, sir; to his present engaged girl.

THE COURT: Yes, I think the question is one that the witness might not understand.

BY MR. EDWARDS:

Q Didn't you testify on your direct examination, in answer to Mr. Sarasohn's question, this afternoon, that for six months before your arrest, you had been going, every Saturday, to see your girl on Monroe Street?

MR. SARASOHN: Oh, no. He said his girl had a friend living on Monroe Street, and Mr. Edwards didn't catch that.

THE COURT: I will allow the question.

BY THE COURT:

Q Now, did you say that or not? A I said it, but my girl lives in Brownsville, and every Saturday I used to go to her lady friend in Monroe Street.

BY MR. EDWARDS:

Q For six months before your arrest? A Yes, sir.

Q And how soon after you last saw Annie Jacobs did you begin to come over to Monroe Street with your girl from

CASE #1768

1342

Brownsville every Saturday? A (No answer).

BY THE COURT:

Q How much time passed between the time when you last saw Annie Jacobs and the time when you began to go with your girl over to her friend's house in Monroe Street? A About three months, I guess.

BY MR. EDWARDS:

Q About three months? A Yes, sir.

Q So that you began to go with this girl in Brownsville in October, 1912?

MR. SARASOHN: I object to that. Three months after August isn't October.

MR.EDWARDS: No, I should have said November, 1912.

(The question is repeated as amended.)

A No, not until January.

BY MR.EDWARDS:

Q Not until January? A Or November. I don't remember.

Q Well, don't you remember when you first began going with this girl, Ida Moletzky, that you mentioned, from Brownsville? A Yes, I guess it's about eight or ten months.

Q Well, that would be December, wouldn't it? A Yes, sir.

Q Now what were the names of the woman and the girl to whom you say Annie Jacobs introduced you in 22 Mangin Street? A Annie Brown, and the other girl was Annie.

CASE #1768

Q Well, what was the other girl's last name? A I dont know.

Q Why, didn't you hear it? A No.

Q You didn't hear it at all? A No, sir.

Q Did you hear Annie Brown's last name? A Yes, sir.

Q And when, in August, was that? A About a week or two weeks in August.

Q Well, what was the day of the week? A Saturday.

Q And what was the day of the month? A August.

Q But what dayof the month was it? A Saturday.

Q I mean was it the first, second, or third, or twenty third or twenty-fourth of the month? A It was the second week.

Q And you can't give the date; can you? A I can give youthe day. It was Saturday.

Q Now, how often have you seen Annie since the time you say you saw her in Mangin Street, Annie Jacobs? A I saw her about six months ago.

Q How many times? A Six or seven times.

Q Six or seven times? A Yes, sir.

Q Where did you first see her, and when was it? A I seen her in Essex Street.

Q Yes. Whereabouts on Essex Street? A And Delancey.

Q What? A Essex and Delancey.

Q Yes. That is one. Now, when were the other times?

1348
CASE #1768

A Another time I seen her on Delancey Street.

Q And whereabouts on Delancey Street? A I don't know exactly. In Delancey Street.

Q In Delancey Street? A Yes, sir.

Q And where was the other time? A In Rutgers Street, near her house. I passed her house.

Q Yes. Now, where else? A And twice or three times on Monroe Street.

Q Twice or three times where? A Monroe Street.

Q Yes. Now, anywhere else? A No, I am not sure any more. Six or seven times.

Q You don't remember any other places? A No, sir.

Q Now, when did you come to this country? A About four years and two or three weeks---four weeks.

Q And you went right away to live with your aunt and uncle, Mr. and Mrs. Leff? A Yes, they sent for me.

Q How many brothers in your family? A They have seven.

Q Well, who are they? A Bennie, he's married,

Q That is the oldest one? A Yes, sir.

Q And he doesn't live at home, does he? A No, sir.

Q Well, I want those who lived at home in October, 1912? A There was Henry and Sam and Abe. Abe was the oldest.

Q Yes? A And Ilyushia and Zuni.

Q That was five children? A Yes, sir.

I-345
CASE #1768

Q And your uncle and aunt? A Yes, sir.

Q And who else was in the household? A Me and my brother.

Q Well, that was nine people? A Yes, sir.

Q And on what floor was your uncle's apartment? A The first floor.

Q The only tenant on that floor? A Yes, sir.

Q And how many rooms in that apartment? A Six rooms.

Q And what were they? A The first, when you came in, was the kitchen, and after, the dining room and then a bed room and on the other side a bed room and the front room and the hall room, the hall bed room.

Q And that's the one you occupied? A Yes, sir.

Q How many doors are there entering that room? A Two doors.

Q And on what did each door open? A (No answer).

BY THE COURT:

Q When you went out of the room through those doors, into what places would you go? A In the kitchen.

Q If you were in the hall bed room and you passed out of one of the doors in the room, into what would you go? A The front room.

Q And if you passed out of the other door of the hall bed room, into what place would you go? A In the hall.

BY MR. EDWARDS:

I 350

CASE #1768

Q Now, about how large was that room? A About as big as the jury box.(Indicating)

Q About the size of the jury box? A Yes, sir.

Q What furniture was in the room? A There was a bed, and two chairs and a table and a closet.

Q What do you mean by a closet? A For clothes.

Q Well, it was a piece of furniture, was it not, a ward robe to hang clothes in? A Yes; in the wall.

Q Now, have you told us everything that was in that room? A Yes, that's what Itold you.

Q Have you told us everything? A And three pictures.

Q Yes, what were they pictures of? A My father and mother in the old country, and my own picture, and I was with my brother in one picture, andanother picture I was alone.

Q Yes. There was a picture of you and Morris hanging on the wall? A Yes, sir.

Q Now, how large was that bed? A It was from here to here. (Illustrating).

Q Well, show us with your hands. Measure it out that way? A Well, from here to there. (Indicating the post of the jury box to the back of the jury box.)

Q It was as wide as that? A It was that long.

Q Well, but how wide? A About ~~x~~ that long. (Illustrating).

Q Can you tell us how many feet wide it was? A No, I

I 351

CASE #1768

can't.

Q It was a double bed? A Two men could sleep in it.

Q Well, was it a double bed? You know what a double bed is? A It looked like a double bed.

Q Do you think it was? A Yes, sir.

Q All right. It was a double bed, you think? A Yes, sir.

Q Well now you had been living over there for four years about? A Yes, sir.

Q And during that time how many nights had you slept away from home? A I don't remember exactly, about fifteen or twelve; I don't know.

Q Well, during what period of time was those fifteen nights? A Because I was working on Seventh Avenue and 24th Street.

Q During the whole four years, you never stayed out at night, unless you were working somewhere else? A No, sir.

Q And where were you working at that time? A Seventh Avenue and 24th Street.

Q For whom? A Alexander Black.

Q Alexander Black? A Yes, sir.

Q And during what months was that? A November, December, January, February, March and April, I was working there.

I 352
CASE #1768

Q Of what year? A Last year.

Q 1912? A Yes, sir.

Q Why, didn't you go to work for Alexander Black in last Friday October, 1912? A The ~~first part~~ of October I started to work, for six months.

Q And you were never away from home until you started to work for Black, were you? A No, sir.

Q And the nights you were away from home were while you were working for Alexander Black? A Yes, sir.

Q Exactly. And you went to work for him in October, on the last Friday in October, did you? A Yes.

Q And you worked for him six months? A Yes, sir.

Q And in which month did you spend some nights away from home? A It was in April, before I started to work for Boschneck.

Q Didn't you tell me just now it was in November and December, that the nights that you stayed away from home were in the months of November and December, 1912? A No, sir; I wasn't away from home.

Q There is no reason for your changingyour testimony now, is there?

MR. SARASOHN: I object to that, as containing the assumption that he is changing it.

THE COURT: Oh, I will allow the question.

BY THE COURT:

CASE #1768

Q During what month was it that you were working for Black, that you did not sleep in Brownsville, but did sleep elsewhere? A In April.

BY MR. EDWARDS:

Q Now, when did you quit working for Black? Didn't you quit in April? A Yes.

Q Now, how long had your brother Morris been in this country? A It is more than two years; it is about two years and ten months.

Q And during that time had he been living at your aunt's house also? A Yes, with me together.

Q And do I understand you to say that Annie Jacobs was never in your bed room in Brownsville? A Never.

Q You are sure of that, are you? A Sure.

Q Now, do yourecollect the name of Annie Jacobs' friend with whom she was, the day you met her at the Liberty Park picnic? A The first name I know.

Q What was it? A Annie.

Q Her friend's name was Annie, was it? A Yes.

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

Q Where did she live? A Some place uptown, I don't know.

Q Well, you went there once, didn't you? A Yes, but I don't know.

Q And you can't remember the address of a place you have

CASE #1768

1355

been to only once? A I don't.

Q Well, how do you recollect the address 22 Mangin Street, because you say you were only there once? A Well, of course I know it good, because I hear it about a hundred times.

Q But you didn't know it until you were told after your arrest; is that right? A No, sir.

Q Now, how old are you, Bebkin? A The first of last May I am past twenty years.

Q Well, do you mean May, 1913? A Yes, sir.

Q 1913? A Yes, sir.

Q You were only twenty years old in May, 1913? AYes, sir.

Q Now, do you recollect the time you were arrested? A Yes, sir.

Q Do you remember being taken beforethe City Magistrate? A Yes, sir.

Q Do you remember certain questions being put to you by the clerk? A Yes, sir.

Q And do you remember his asking you your age? A Yes, sir.

MR. SARASOHN: We object tothat as entirely immaterial, if your Honor please.

THE COURT: Oh, I will allow it.

MR. SARASOHN: The age given at that time would have no bearing now.

CASE #1768

THE COURT: I will allow it, as testing his accuracy.

MR. SARASOHN: Very well.

BY MR. EDWARDS:

Q Now, I call your attention to the signature of "Abraham Bebkin" there. (Indicating) Is that your signature?

A Yes, sir.

Q But you don't spell it that way, do you? A No, sir; I spell it "B-e-l-k-i-n".

Q And do you remember the clerk asking you how old you were and you said twenty-one? A Yes, sir.

Q And how old were you then? A I was past twenty.

Q Well, that was on June 28th. Were you 20 in May 1913, or were you twenty in May, 1912?

MR. SARASOHN: We object to that.

THE COURT: Allowed.

MR.SARASOHN: Exception.

A The first of May, 1913, I passed twenty.

BY MR. EDWARDS:

Q And that was nearly a year after your arrest? A Yes, sir.

Q And then you were nineteen when you answered that question in the Magistrates' Court; weren't you? A I was twenty.

BY THE COURT:

1356
CASE #1768

Q When were you twenty? A The first of May I was twenty years.

BY MR. EDWARDS:

Q Well, then, will you tell me why you told the Cler k in the City Magistrates' Court that you were twenty-one?

MR. SARASOHN: Objected to as immaterial, irrelevant and incompetent and as calling for the operation of the witness's mind.

A (No answer).

BY MR. EDWARDS:

Q Will you answer that question?

(Question repeated by the stenographer).

THE COURT: Allowed.

MR. SARASOHN: Exception.

A Because I am going on twenty-one. I told him I was going on twenty-one.

MR. EDWARDS: Yes, if your Honor please, I think he means that, that he was past that.

BY MR. EDWARDS:

Q Then you mean to tell me that you were not twenty-one, but were past twenty, isn't that right? A Yes, sir.

Q That is acommon way of giving the age among your people, is it not?

MR. SARASOHN: Objected to.

THE COURT: Sustained.

I-357
CASE #1768

MR. EDWARDS: Your Honor will realize the reason for asking it, when I say that counsel makes quite a point that the girl told the Immigration authorities that she was going on seventeen when she came here, and therefore her age appears as seventeen, recorded as seventeen.

THE COURT: Well, it may be that they both stated their ages incorrectly.

MR. EDWARDS: Well, but I don't think that either of them knowingly stated it incorrectly.

THE COURT: No, they both may have inadvertently and unintentionally misstated it, or intentionally.

MR. SARASOHN: Yes, intentionally, because a man always wants to appear older than he is.

BY MR. EDWARDS:

Q Now, do you or do you not know that it is a common think with your people to give your age as the age of your next birthday after you have passed one birthday? Do you understand the question? A Yes.

Q Then will you answer that question?

MR. SARASOHN: Objected to.

THE COURT: Overruled.

A It doesn't cost me any money, and when he asked me my age, I tell him I am twenty-one.

BY MR.EDWARDS:

Q Now, do yourecollect testifying on that subject in

1358
CASE #1768

the last trial, in August? A Yes, sir.

Q Do you remember this question and answer:

"Q Now, didn't you tell the clerk when he examined you in the Magistrates' Court, that you were twenty-one? A I told the clerk I was past twenty, going on twenty-one.

"Q And that's what you told him? A I told him I will be twenty-one years old.

"Q That is, you were going to be twenty one yaars old? A I told him I will be twenty-one, next May."

Do you recollect that testimony?

MR. SARASOHN: I object to that , as not being any contradiction of anything that he said to-day.

THE COURT: I will allow it. Now, pass on to something else.

A I don't remember. I told him I am going to be twenty-one.

BY MR. EDWARDS:

Q Now, do you remember giving that testimony on the first trial of this case? A I do remember it.

Q You do? A Yes.

Q And you did give it? A I told him I am twenty-one.

Q No. That's not the question. Did you give that testimony on the first trial?

MR. SARASOHN: We will concede that he did, to save

1356
CASE #1768

time.

THE COURT: You concede that he did?

MR. SARASOHN: Yes, sir.

MR. EDWARDS: All right then. That is all.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q Belkan, just a few questions---

THE COURT: Do you want to ask him any questions?

MR. SARASOHN: Only one.

BY MR. SARASOHN:

Q In all your talks with Annie Jacobs, the four or five times that you saw her, did you ever speak to her about her age? A Yes.

Q And what did she say?

MR. EDWARDS: Objected to as immaterial.

THE COURT: No, I will not go into that.

MR. SARASOHN: Your Honor has allowed her to testify as to her age. Can't we show that she said to him what her age was?

THE COURT: If, as a matter of fact, she misrepresented her age to him, and this defendant honestly believed that she was over the age of eighteen, and not under, it would not as a matter of law, affect the matter at all.

MR. SARASOHN: No, but on the question of credibility, on that point, that's all. I would like to close, this afternoon, if I possibly can.

CASE #1768

THE COURT: It depends largely upon yourselves, gentlemen. It does not rest with me.

MR. SARASOHN: I think I should have asked him about a key, whether he ever had a key.

THE COURT: Then you may bring him back and interrogate him as to that. The defendant may take the stand again.

A B R A H A M B E L K A N , indicted as ABRAHAM BEBKIN, being recalled for further re-direct examination, testified as follows:

RE-DIRECT EXAMINATION CONTINUED BY MR. SARASOHN:

Q Bebkin, did you ever have a key of that hall bed room? A No, sir.

Q How did you get into the hall bed room or out of it? A Through the kitchen.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q There was---was there not a lock on that door when you lived there? A The lock from the other side?

Q Was there a lock on the door? A No, it wasn't no lock.

BY THE COURT:

Q Now, I want you to understand, Bebkin, you are not asked whether it was locked, you are asked whether there was a lock on that door, speaking now of the door going from the hall into your hall bed room. A (No answer).

CASE #1768

Q Do you understand that? A Yes.

THE COURT: Translate it to him.

(Question repeated by the Interpreter).

A It had no lock.

BY MR. EDWARDS:

Q Well, was there no door knob on the door? A On the inside of the room there was a bolt.

Q But was there not a knob on the door? A Yes, there was a knob.

Q Well, was there not a knob, as a part of a lock, set into the door? A Yes.

Q Wasn't there a key hole in that lock? A No, sir; yes, there was a hole.

BY MR. SARASOHN:

Q Did you ever use that key hole? Did you ever put that lock into that key hole?

THE COURT: You mean, I suppose, did you ever put the key into that hole?

MR. SARASOHN: Yes, sir.

(The question was repeated as amended)

A No, sir.

BY THE TENTH JUROR:

Q Was there any article of furniture up against that door? A Which door?

Q Against the door leading into the hall? A No, it

1362
CASE #1768

wasn't none.

Q Nothing blocked that door? A No.

MR. SARASOHN: That's all.

BY THE EIGHTH JUROR:

Q Do you say that there was a photograph of yourself and your brother in that room? A Yes, sir.

MR. SARASOHN: Now, I will ask you this question. Were you sitting here with me at the first trial, before Judge Foster?

THE WITNESS: Yes, sir.

BY MR. SARASOHN:

Q And do you remember how Annie Jacobs described that room, at the first trial before Judge Foster? A Yes, sir.

Q And do you remember that she didn't mention that picture at all? A Yes, sir.

MR. EDWARDS: Now, I object to that and ask to have the answer stricken out.

THE COURT: Objection sustained. Strike it out.

M O R R I S L E F F , of 327 Williams Avenue, East New York, a witness called on behalf of the defense, being duly sworn and examined through the same Official Interpreter, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q Mr. Leff, what is your business? A Butcher.

Q And are you also known as a Shochet? A No.

CASE #1768

MR. EDWARDS: May we have it explained what it means, for the benefit of the jury?

THE INTERPRETER: It is one who is killing animals used for food, according to the regulations of the Mosaic Law.

BY MR. SARASOHN:

Q What is your answer? A No.

Q Now, where do you live? A 327 Williams Avenue, Brownsville.

Q And how long have you lived there? A Eight years.

Q With whom? A In 327, I havebeen living four years, but I have been eight years altogether on that block.

Q What is your business? A A butcher. Before I was in 319, the same street.

Q Is Abe Bebkin related to you? A Yes, sir.

Q And has he been living with you? A Four years, since he came to America; he lived with me.

Q Did you send for him? A Yes, I sent him a ticket, a steamship ticket.

Q Now, tell me what room did he occupy, what part of your apartment did he occupy? A In the front bed room.

Q And has he occupied that front bed room, as far as you remember, every day since he came over here, until the day he was arrested?

MR. EDWARDS: That is objected to, if your Honor

CASE #1768

please, unless some means of this man's knowing is shown.

THE COURT: Sustained.

BY MR. SARASOHN:

Q Have you lived in that house every night since Bebkin came over here? Until he was arrested? A Yes, sir.

Q And have you seen Bebkin almost every night since he came over here, until the day he was arrested? A In the morning, when I used to get up, I used to see him every morning, but, before Passover, about ten nights, eight or ten nights, he wasn't there.

MR. EDWARDS: I move to strike out the answer, as not responsive to the question.

THE COURT: Well, he means that for eight or ten nights he did not see him?

MR. SARASOHN: Yes, sir.

THE COURT: I will so construe it, and let it stand.

BY MR. SARASOHN:

Q Now, tell me, in that little hall bed room, who sleeps in the room besides the defendant Abe Bebkin? A He and a brother of his.

Q And do you use that bed room for any purposes in the day time? A I don't use it, because I am in the butcher store, but my children do. They do their lessons there when they come from school.

MR. EDWARDS: I object to that and move to strike

CASE #1768

out the answer, because he can't know what his children did when he was not there.

THE COURT: I will strike out all after "I do not use it."

BY MR. SARASOHN:

Q Now, ~~praxeed~~ preceding the arrest of Bebkin, did you ever see your children use that room? A Yes, I come from the store about four o'clock, and I come up once in a while from the store to my apartment, during the day, and then I see my children, and their books are there, and they are there sometimes.

Q When you say their books, do you meantheir school books? A Yes, sir; they are there.

Q On Friday night, October 25th, of last year, was there any girl in that room, in that hall bed room?

MR. EDWARDS: That is objected to.

THE COURT: Sustained. You mayask whether he saw or heard any girl in that room; or, if you show that he was inside the room you may ask him---

MR. SARASOHN: Very well.

BY MR. SARASOHN:

Q On Friday, October 25th, 1912, did you see any girl in that room? A I didn't see her there. Idon't remember whether it was the 25th of October---it was in the month of Ab, it was on Friday evening, he knocked at the door and I

CASE #1768

was sitting in there with my wife---it was after supper--- and he says, "I can introduce you to this friend of mine." And she was sitting about ten minutes, not more than fifteen and then he went and put on his rain coat and went away.

And then the aunt said to him, "Abe, will you come home soon?" And he said, "In an hour or an hour and a half" and he came home about eleven o'clock. He came alone and he went to bed. He was asked where he was going to; and he said to a dancing place.

MR. EDWARDS: I object to this conversation, if your Honor please, and move to strike it out.

THE COURT: Yes, sustained. Strike them out.

BY MR. SARASOHN:

Q Now, on that Friday night, what room was Annie Jacobs in, in your flat?

MR. EDWARDS: May we not have the date fixed?

MR. SARASOHN: He said it was in August.

MR. EDWARDS: No, he mentioned some Jewish month.

THE WITNESS: It was after the ninth of Ab.

THE INTERPRETER: And that month starts on August 4th and lasts until September 2nd.

BY MR. SARASOHN:

Q At this time, in what room was that girl? A In the kitchen, where we were eating.

Q Was that girl ever in the hall room or bed room?

I 3917
CASE #1768

MR. EDWARDS: I object.

THE COURT: Sustained.

BY THE COURT:

Q On that evening, did you at any time see the girl go into the hall bed room? A No, she went away. She went into the kitchen and then she went out of the house.

BY MR. SARASOHN:

Q Did you ever see that girl at any other time than this Friday that you have spoken of? A No, only here in Court.

Q During last year, during the year before Bebkin was arrested, how did you spend your Saturdays? Wherewere your Saturdays spent? A You mean how I used to spend my Saturdays?

Q Yes?

MR. EDWARDS: I object to that as immaterial.

MR. SARASOHN: We want to show that he was there every Saturday and that girlcouldn't have been in that room without him seeing her.

THE COURT: Very well, I will allow it.

A Friday night, Iclose up the store, and I go up in my house, and I wash and clean myself, and I go to the Synagogue, to pray.

BY MR. SARASOHN:

Q And what do you do Saturday morning? A And then

CASE #1768

I come home and eat my supper, and then sometimes there is company---I have married children---they come and they spend their time in the house, and about eleven o'clock we go to bed.

Q And what do you do on Saturday?

MR. EDWARDS: Now, if your Honor please, I press my objection to this general statement. Ifhe asks about any particular Saturday, it is another matter.

MR. SARASOHN: But, if I ask about any particular Saturday, he will pop up withan objection. I have been held to the strictest rules by him.

MR. EDWARDS: And I submit that there is not the slightest foundation for any such statement.

THE COURT: No, thatis very improper. There is no occasion for criticism or comment at all. Now, ask a question.

BY MR. SARASOHN:

Q Mr. Leff, have you stayed at home every Saturday of last year? A Every Saturday. Saturday being the only day of rest that I have, I get up and go in the morning to the Synagogue to pray and I come home and spend my time with the children, and my married children, and I don't leave the house.

BY THE COURT:

Q Were you at home, that is to say, inside of your flat

CASE #1768

on Friday night, October 25th, 1912? A I don't remember October 25th. I am always at home.

Q You can't fix any definite time? A No, sir.

MR. EDWARDS: Now, if your Honor please, I would be very glad if the Court would have the witness repeat the answer to the last question of Mr. Sarasohn's to the witness. I think I caught something that was not repeated by the Interpreter.

THE COURT: Well, it may be repeated.

(It is repeated by the stenographer and the interpreter.)

A Every Saturday,---it may be that I may go away a half an hour or an hour to a child, to visit a child, if they don't happen to come over to my house.

BY MR. SARASOHN:

Q Do you ride on a Saturday? A No, sir.

Q That is forbidden by the Jewish religion, isn't it? A Yes; I don't ride on Saturday.

Q Now, could a girl have been in Bebkin's room on a Friday night, and the entire day Saturday, without you having seen her?

MR. EDWARDS: That is objected to.

THE COURT: Sustained.

MR. SARASOHN: Exception.

BY MR. SARASOHN:

1378
CASE #1768

Q Did you see that room in which Bebkin lived, that hall room, did you have occasion to see it every Saturday of last year?

MR. EDWARDS: Objected to. The particular Saturday is not objected to, if he can place the date.

THE COURT: You may ask him whether he went into that room, or looked into that room on those days.

BY MR. SARASOHN:

Q Did you either look into Bebkin's room, or go into Bebkin's room, on Saturdays of last year?

MR. EDWARDS: I object to that, unless the date is fixed.

BY MR. SARASOHN:

Q On each and every Saturday.

MR.EDWARDS: Objected to as too general.

THE COURT: I will allow it.

A During the other days I got up in the morning, and I prayed every morning, and I looked from the window---

MR. EDWARDS: If your Honor please, I submit that this witness is telling about a different room, and it has nothing to do with the hall bed room.

THE COURT: Well, I will hear his answer.

A (Answer continued) And I look through the window to see if, perhaps, some one has brought meat to my store. But Saturday I sleep a little longer. I get up about seven

137
CASE #1768

o'clock. Then I look in and I find that he is sleeping alone, because his brother works on Saturday. He doesn't work on Saturday.

MR. EDWARDS: Now, I submit that the answer is not responsive, and has nothing to do with the question.

THE COURT: Well, he says he looked into the room in which the defendant was sleeping, on Saturday mornings. That will remain in.

BY MR. SARASOHN:

Q Have you looked, on any morning, Saturday morning, into that room, the defendant's room, on any Saturday morning, during the past year, and seen a girl there?

MR. EDWARDS: Objected to.

THE COURT: Allowed.

A I have never seen a girl there. If I had seen a girl I wouldn't keep him in the house a year.

MR. EDWARDS: I object to that and move to strike it out, "If I had seen a girl I wouldn't keep him in the house a year."

THE COURT: Yes, strike it out.

BY MR. SARASOHN:

Q Now, how do you enter that hall room? A From the hall and the front room. But from the hall it is always locked, on the inside, with a bolt.

Q It is bolted? A Yes.

I372

CASE #1768

Q And how do people go in and out of that room? A Through my kitchen.

MR. SARASOHN: Heis your witness.

CROSS EXAMINATION BY MR. EDWARDS:

Q What room do you sleep in, Mr. Leff? A In the bed room which is in the rear.

Q Now, when youget up in the morning to pray, near whatwindow do you stand? A I go to the front room, because the air is better there, coming from the street.

Q And who sleeps in that front room? A My children.

Q Now, do you recollect testifying on that point at the last trial? A Yes. I was asked questions; I don't remember what questions.

Q Do you remember my asking you some questions? A Yes. They asked me questions, but I don't remember which one asked me.

Q Do you remember my asking you this question, and your giving this answer:

"Q What room do you sleep in? A There is a bed room back of the dining room, where I sleep." Do you recollect that answer? A Yes, sir. There is a dining room, and adjoining is the bed room, and there I sleep.

Q And do you recollect this question being asked you and this answer given:

"Q And that is where you get up, every morning, to go

1373
CASE #1768

to pray? A I get up everymorning, at half past four, and I stand at the window in my room and pray."

MR. SARASOHN: We object to that as being nothing inconsistent or contradictory to what he has testified here.

THE COURT: Well, I will allow it.

MR. SARASOHN: Exception.

A No, no; Iwill swear to God, no, I didn't say that, because I pray in the front room, and I go there.

BY MR. EDWARDS:

Q Now, I will read you the next question and answer:

"Q Near the window in your room? A I go to the front room, because it isairy and large." Now, I will just add that, and perhaps you will not be so worried about it.

MR. SARASOHN: I object to that. There is nothing inconsistent there.

THE COURT: Objection sustained.

MR. EDWARDS: It is merely preliminary, if your Honor please.

THE COURT: Now, then, confine yourself to something that you claim is inconsistent.

MR. EDWARDS: Well, the next question is the one that I think shows a clear misunderstanding or inconsistency. I ask that he be allowed to answer this question.

THE COURT: Well, I will allow it.

A I don't remember if the question was asked or not, but I

1374
CASE #1768

never pray there.

BY MR. SARASOHN:

Q Did you go into the front room to pray? A I put on my talith.

THE FOURTH JUROR: Some of the gentlemen of the jury may not know what you mean.

THE INTERPRETER: It is a praying shawl.

THE COURT: I am very much obliged to you, sir.

A (Continued) I put on the praying shawl and the phylacteries in the dining room, and then I go into the front room to pray.

BY MR. EDWARDS:

Q Then the testimony that I read to you was practically---

THE FIFTH JUROR: I don't think he finished the answer of the witness, your Honor.

MR. EDWARDS: Will you give all of it, Mr. Interpreter?

A (Answer continued) I put on the praying shawl and the phylaceteries and went in the front room, because it is airier there, and I looked through the window, and perhaps some one calls for the butcher, or brings something for me, and I don't want my wife and children to wake up.

MR. EDWARDS: Now, I move to strike it all out as not responsive.

THE COURT: I will let it stand.

1375
CASE #1768

BY MR. EDWARDS:

Q Now, do you recollect this question and answer being put to you immediately following:

"Q Well, who sleeps in that front room? A No one sleeps in the front room, with the exception of now, when the weather is warm, a child might lie down for a while.

"Q But no one sleeps regularly in that front room? A No, nobody." Did you so testify.

MR. SARASOHN: One moment, I object to that as not being in any respect inconsistent.

THE COURT: Overruled.

MR. EDWARDS: Do you make any claim that I misread that testimony?

MR. SARASOHN: No, but there is nothing inconsistent with his testimony, here to-day.

THE COURT: Now, I will allow the question. It is clearly a proper question to be put. He may answer it.

BY MR. EDWARDS:

Q Now, yes or no. Iask for an answer yes or no to that question.

MR. SARASOHN: And I object to the manner and tone of the District Attorney.

THE COURT: Now, the witness will be still and silent until the question is repeated to him. Now, you will answer that question in one of three ways: You will either

1372
CASE #1768

say yes or you will say no or you will say that you do not remember. Now, one or the other.

A I don't remember.

THE COURT: Now, that is an answer. Something else now.

BY MR. EDWARDS:

Q Now, what time do you go to the Synagogue on Saturday morning? A Half past eight or a quarter of nine.

Q And what time do you come home? A Half past eleven or sometimes twelve.

Q Do you go to the Synagogue again in the evening? A Yes, sir.

Q And what time do you go in the afternoon? A In the summertime, I go at six o'clock, because the day is longer, and in the winter time at four o'clock.

Q What time did you go in the month of October?

BY THE COURT:

Q That is this month. What time do you go this month?

A Four or half past four.

BY MR. EDWARDS:

Q And how late do you stay? A Until six, until the end of the evening prayer.

Q Now, this defendant didn't work on Saturdays, didhe?

A No.

Q And so you didn't wake him up on Saturday mornings,

1317

CASE #1768

did you? A No.

Q And how about Morris? You didn't wake him up on Saturday mornings either, did you? A No.

Q Now, do you also get up at half past four on Saturday morning, and pray in the front room? A No, Saturday morning I get up at seven, and I do the praying in the Synagogue.

Q And you don't do any business on Saturdays, do you? A No, no business on Saturday.

Q Now, you have no special recollection of the 25th or 26th days of October, 1912, have you? A No.

Q Now, this door from the hall bed room, in which this defendant slept, into the front room, was that door kept open or shut? A As it happened. Most of the time open.

BY THE COURT:

Q Have you not a piece of furniture in the front room of that apartment that stands up against that door, referring now to the door that leads from the front bed room into the hall bed room? A No.

Q Was there such a piece of furniture against that door in the month of October, 1912? A No, never. We used to pass there. There is a door leading from the hall into the front room. Against that door there is a piece of furniture, on the inside.

THE COURT: I may say that the questions that I

137
CASE #1768

just put I put under a misapprehension, and an erroneous recollection of the evidence on my part. I now recall the testimony in that respect related not to the door leading from the bed room used by the defendants into the front room, but it was the door leading from the front room into the hall If I had remembered the testimony correctly, I would not have put the questions.

MR. SARASCHN: And, as it is, he has testified to that same effect, your Honor.

(The last question of the District Attorney is repeated)

BY MR. EDWARDS:

Q And wasn't it closed usually? A No, I never noticed it closed. Whenever I happened to see it, it wasn't closed.

Q Now, do you recollect this question being put to you on the first trial, and your giving this answer:

"Q Didn't you say, a few minutes ago, to Mr. Saraschn, that, as you went into the front room, you passed through Bebkin's bed room? A His door leads and is adjoining the front room, and, when I go in the front room, I pass his door.

"Q And does that door stick a little when you open it? A It is open; sometimes it is closed." Did you so testify?

1378
CASE #1768

MR. SARASOHN: Objected to, as not inconsistent with anything here.

THE COURT: Sustained. The evidence discloses that the door referred to there is the door leading from the hall into the hall bed room.

MR. EDWARDS: May I show your Honor the record, because your Honor is in error about that. It is the door from the front room into the hall bed room, and it is referred to as the door of Bebkin's room, that he passes, as he goes into the front room.

THE COURT: Mr. Edwards, I beg your pardon, I think you are right.

MR. EDWARDS: Well, I am very much obliged to you, that you beg my pardon, because I shouldn't like the Court to think that I put a proper or unfair question knowingly, because I never did such a thing in my life.

THE COURT: The record may not be entirely plain, but I am inclined to think on an examination of it that Mr. Edwards is right, and that the door referred to is the door leading from the hall bed room into the front room, and not the door leading from the hall bed room into the hall.

MR. EDWARDS: Now, if there is any question as to the clearness of the record, or any doubt in the Court's mind I will turn back to the question and answer in the direct examination to which that referred, because I don't want to

1318
CASE #1768

remain under any suspicion in the eyes of the Court that I ever put an improper or unfair question consciously.

THE COURT: Mr. Edwards, it is unnecessary to state that the Court believes that you would not intentionally put to any witness an unfair question. I entertain no doubt about it now.

THE INTERPRETER: Your Honor, before I translate this question, may I ask you privately a question as to the idiomatic meaning of the word "passing" whether it is going by or through, because that is very important and may change the entire meaning, and, therefore, I will not translate this question until your Honor tells me the idiomatic meaning of this word.

MR. EDWARDS: The same interpreter translated before, and never made any difficulty about it.

THE INTERPRETER: Well, I don't want to make a mistake, your Honor.

THE COURT: Well, you may put it to him both ways and see what he has to say.

THE INTERPRETER: May I see the record as to that question?

MR. EDWARDS: And that is no part of the answer, but it is a part of the question, and your scruples will, therefore, have no effect upon the result.

A I mean passing by the door.

CASE #1768

MR. EDWARDS: Did you read to him both questions and answers? MY question began here and it ran down to here (Indicating) And this answer and that answer are the two important things in it, not that question that you are making so much fuss about.

THE INTERPRETER: Well, it is immaterial to me what questions I ask.

MR. EDWARDS: Well, it is very material to me, and very important to me, that you ask the proper questions.

THE INTERPRETER: Well, if Mr. Edwards gets excited, and is disposed to insinuate something, I cannot help that.

MR. EDWARDS: I am insinuating nothing, but, at the last trial, this very interpreter translated this matter clearly and distinctly, and did not make a long speech in the hearing of the jury and in the hearing of this witness, who understands English very well.

THE INTERPRETER: I only want to say to Mr. Edwards that he is wrong, that, at the last trial, I did not interpret this.

THE COURT: Now, go ahead and translate that, if you please. The stenographer will repeat the question and answer as originally put, the question will be repeated by the stenographer as originally put, and you will translate that to the witness.

CASE #1768

(The question is repeated by the stenographer).

A I can't remember now.

THE INTERPRETER: And then the witness goes on, invoking God, and saying---

THE COURT: Well, that is all. I will receive it.

MR. EDWARDS: Now, may we know what the witness has been talking about all the time that he has been talking to the Interpreter?

THE COURT: Now, the witness will be quiet.

MR.EDWARDS: Well, I don't see why, if the jury are to have the benefit of what he has said, because some of them at least, understand the language, it should not be translated and should not appear on the record, for the benefit of all the jury.

THE COURT: No. The jury will disregard it entirely.

BY MR. EDWARDS:

Q And isn't it a fact that that door was sometimes open and sometimes closed? A I don't know.

MR. EDWARDS: That's enough.

MR. SARASOHN: Does any juror want to ask a question?

THE FOREMAN: No.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q Now, tell me this, Mr. Leff, did your little children

CASE #1768

sometimes sleep in that front room, during the year? A Two children always sleep there, but the two small ones not all the time. If it is very warm they go in there and lie down there.

MR. SARASOHN: That is all. Now, I have other witnesses, but I think, in order to get through with this case I am willing to waive summation, and call no other witnesses, and have your Honor submit it to the jury at once.

THE COURT: This case will be summed up, if it goes to the jury.

MR. SARASOHN: May I very respectfully submit that it be submitted to the jury now, whether this jury want any summing up?

MR. EDWARDS: I think counsel has forgotten what he said to me yesterday, when he asked permission to read the testimony of one of the witnesses in the case, and I also said that I would consent to have the testimony of another witness read, and he said he was going to call that witness.

MR. SARASOHN: Well, I am willing not to call any other witness, if your Honor will send the case to the jury now. Though I have just called this woman to the stand, if I can save any time, I will not even call her.

THE COURT: Now, yes or no. Do you want to call her?

MR. SARASOHN: Does your Honor understand my posi-

CASE #1768

tion? If I can save tomorrow for my private business, I will not call her, but will close now.

THE COURT: It is for you to determine, sir.

MR. SARASOHN: I will call her.

M A R Y L E F F , of 327 Williams Avenue, Brooklyn, a witness called on behalf of the defense, being duly sworn and examined through the same Official Interpreter, Mr. Rosenthal, testified as follows:

THE COURT: Now, I may say, gentlemen, that I will sit as late as you gentlemen wish me to sit, to convenience you.

THE SECOND JUROR: I don't like to be out of order, but, if we can possibly get the case, tonight, it would be well, because we have a great deal of business to attend to.

THE COURT: As far as I am concerned, I am willing to have an evening session.

MR. SARASOHN: And I ask your Honor to ask the jury if they want a summing up speech.

THE COURT: No, it is for you to determine, Mr. Sarasohn, whether you want to sum up or not, and it is for the District Attorney to determine whether he will sum up or not.

DIRECT EXAMINATION BY MR. SARASOHN:

Q Are you the wife of the last witness? A Yes, sir.

Q Tell me this. Abe Bebkin, is he related to you? A

I 385

CASE #1768

He is a nephew of my husband.

Q And has he been living in your place for the last four years? A Yes, sir.

Q And has he been occupying the hall bed room there? A Yes, sir.

Q And have you been in that hall bed room where he sleeps, every day, during the year before he was arrested? A Every day.

Q What did you do there every day? A I used to clean the room and take up the clothing that my children used to throw around there.

Q And what time did you do that? A After my children would go to school, then I had time to do it.

Q Did you ever see any girl in that room? A Never.

MR. EDWARDS: That is objected to.

THE COURT: I will allow her to answer.

MR. EDWARDS: Any girl, ever? If the Court please, I think that is entirely too broad.

THE COURT: Yes. Objection sustained. Strike it out. Strike out the answer.

BY MR. SARASOHN:

Q Now, within the year before Abe Bebkin was arrested at any time did you ever see any girl in that room? A During the year before he was arrested, I didn't see any girl in that room.

CASE #1768

Q How does that room open? A The entrance is from the kitchen. First one comes into the kitchen and from the kitchen comes the bed room and then comes the front room and from the front room a door leads into the bed room.

Q Did you ever see that girl Annie Jacobs? A I saw her once.

Q When? A Last year, in the month of Ab.

Q Now, tell us what you said to her and what she said to you when you saw her in the month of Ab, which means August? A She came Friday night, after supper. Somebody knocked at the door and I said, "Who is it?" And somebody said, Abe said, "Aunt, open the door."

And he came in with a girl and he said, "Aunt, I can introduce you. This is a friend of mine."

And he went into the dining room and was there about ten or fifteen minutes and then he went into the bed room and took a rain coat, because it was raining, and then they went away.

And I asked him, "Where are you going to?" And he said, "Aunt, I will come home soon. I am going to a dancing place."

I said, "I will lock the door," and he said, "If I wouldn't be home before eleven o'clock, you needn't let me into the room."

MR. EDWARDS: Does your Honor think all these con-

I 387

CASE #1768

versations are material?

A (Answer continued) And he came in about eleven o'clock.

BY MR. SARASOHN:

Q How many years are you married? A Twenty-seven years.

Q And how many children? A Seven children. One son and one daughter married. And I have five boys still at home.

Q Two married and five still at home? A Yes, sir.

MR. SARASOHN: That's all.

CROSS EXAMINATION BY MR. EDWARDS:

Q Now, Madam, you don't---you keep all the rules of your religion, don't you? A Yes.

Q And you don't do any workcfrom sundown on Friday until Sundown on Saturday night, do you? A I have a decent good husband, and it is a decent good house, and I don't do any work from Friday afternoon to Saturday afternoon, sundown.

Q And when do your children go to school? A The two younger ones about eight o'clock and the two older ones about nine o'clock.

Q And it is after they go, is it not, that you have time to do your housework? A Yes, sir.

Q Now, who was present in the kitchen on this Friday night in August when the defendant brought this girl Annie

CASE #1768

Jacobs up to your apartment? A My husband was sitting there and a boy, my boy, and his brother was sitting there.

Q His brother was sitting there when he came in, was he? A Yes, sir.

Q Are you sure of that? A Because my boy hadn't gone out of the room, because he wanted to give him a lesson in reading and writing in English.

MR. EDWARDS: That's all.

MR. SARASOHN: That's all. Now, under the stipulation, I am going to read the testimony of the Official from Ellis Island.

MR. EDWARDS: And may I ask the defendant, without having him take the stand, just from his seat, two questions that I omitted on his cross examination?

THE COURT: Certainly.

MR. SARASOHN: Bebkin, you can stand up.

MR. EDWARDS: It will take but a moment.

BY MR. EDWARDS:

Q Who was in your aunt's apartment when you took Annie Jacobs there, as you claim, in August.

THE COURT: You had better come back to the chair.

(The question is repeated by the stenographer.

A There was my uncle and the aunt and my brother came in after. That's what I remember.

Q Now to whom did you introduce her? A To my aunt.

CASE #1768

Q And she was the only one you introduced her to? A Yes, sir.

Q Do you recollect this question being asked you on the first trial of this action and this answer being given by you on your direct examination when Mr. Sarasohn was questioning you:

"Q Tell us what happened at this time between you and her on that Friday night at 327 Williams Street? A I came up, and I found my aunt there, and the boys and my brother came in later, and I introduced her as a friend of mine.

"Q To whom did you introduce her? A To my aunt." Did you give that testimony, and do you recollect it, and was it correct? A When? Just now?

Q On the last trial. A I don't remember exactly.

Q You don't recollect? AA No, sir.

Q You won't say that you didn't give it? A No, I won'T say that I didn't give it.

MR. EDWARDS: That's all.

MR. SARASOHN: Now, I want to read in evidence the entry made at Ellis Island, at the time of the arrival of Annie Jacobs.

MR. EDWARDS: And my recollection is that I told counsel that I would consent to have it read into the record as it was before, and for the same purpose. And my recollection is that the purpose of it, as stated by the Court at the

I-366
CASE #1768

time was that it bore on nothing but the question of age, and could be used only for that purpose, and was read to the stenographer, so that the jury could not hear all of it, and only that portion of it referring to age was used.

MR. SARASOHN: Oh, no; and she stated that she was a dressmaker.

MR. EDWARDS: Very well as tothat. And there is a great deal of the testimony of the witness that is not to be read. And it must be read, also, as the testimony was read yesterday, eliminating the arguments of counsel.with the Court, or unanswered questions, and all questions which were excluded upon objection.

MR. SARASOHN: Yes, I will agree to that. Now may we go on?

THE COURT: Yes.

MR. SARASOHN: This is the testimony of William E. Zunker, taken at the former trial, gentlemen, at page 23 of the record of the former trial. I will read it, omitting all arguments and rulings of the Court.

MR. EDWARDS: And the Court limited the further testimony of the witness as I have previously indicated.

THE COURT: And I will limit it to that.

MR. SARASOHN READS AS FOLLOWS:

W I L L I A M E . Z U N K E R , called and duly sworn as a witness on behalf of the defense, testified as follows:

CASE #1768

(Residence 76 Bay 26th Street, Brooklyn)

DIRECT EXAMINATION BY MR. SARASOHN:

Q What is your occupation? A I am chief of the Statistical Division, Ellis Island, United States Immigration.

Q Now, in response to a subpoena, have you brought the original records of Ellis Island, showing the arrival of immigrants in the months of September and October, 1911? A Yes, sir.

Q Have you at my request looked up the record of the arrival of Nechame Podlibsky?

BY MR. EDWARDS:

Q Now, just yes or no. He asks you if you have looked it up. A Yes, sir.

BY MR. SARASOHN:

Q I ask you to show that to me. A (The witness indicates)."

MR. EDWARDS: Now, may I read my examination there?

MR. SARASOHN: Certainly.

"BY MR. EDWARDS:

Q These records show certain facts obtained by questioning the immigrant himself, do they not? A Yes, sir.

Q That is one source of information? A Yes, sir.

Q And it isn't sworn to or verified in any way? A No.

Q And no effort is made to verifyit; it is merely the statement of the person himself landing in this country? A

CASE #1768

Yes, sir.

BY THE COURT:

Q Who kept this record? A The record is prepared by the steamship companies and then when the immigrants get to Ellis Island, the several questions that are on there are propounded to the immigrants, and they answer.

BY MR. EDWARDS:

Q Did you ask this particular person, whose name counsel has mentioned there, these questions? A Did I? No, sir.

Q Did you receive the answers? A No, sir.

Q Did you make this record? A No, sir.

MR. EDWARDS: Now then I have a further objection here, there appear to be entries here with respect to three individuals. I ask then if counsel is offering all three of them.

THE COURT: There will be no possible harm in reading into the minutes the three, and we will determine, before we receive them in evidence, and competency of their receipt.

(The following is received as Defendant's Exhibit A for Identification)

"MR. EDWARDS: (Reading) Steamship President Grant sailing from Hamburg, September 20th, 1911, and arriving in New York October 3rd, 1911:

Line Number 11, under the 'Family Name', Podlibsky,

CASE #1768

under the "Given name", Nechame; under "Age, years and months" Seventeen years."

MR. EDWARDS: I object to the statement of the employment only because it appears in the testimony in this case, and is unnecessary. And I will concede on this record in return for asimilar concession from Mr. Sarasohn, that every word of testimony that he has read from any record on the previous hearing, of any witness, and every witness of which he has read such testimony, has been correctly read by him, as it appears in the Official Stenographer's Minutes of those hearings. And will you make that concession, Mr. Sarasohn?

MR. SARASOHN: Yes.

MR. EDWARDS: And will you please do it, Mr. Sarasohn, for it is necessary to give me the benefit of it. If not I will have to call the stenographer.

MR. SARASOHN: I will make it, and I will adopt your language as my own.

THE COURT: Well, I may say that the concession proposed does not put either of you gentlemen in the same position as though the stenographer had taken the stand and testified that his transcript of his minutes was correct, and that the minutes were taken correctly.

MR. EDWARDS: And I will concede that, too.

MR. SARASOHN: And I will make the same concession.

I-367
CASE #1768

THE COURT: In other words, I understand that you make now, in Court, Mr. Sarasohn, with respect to the testimony taken on previous trials, and read by Mr. Edwards here, a concession which is identical with the concession made by Mr. Edwards, with respect to testimony read by you?

MR. SARASOHN: Yes, sir. And the question now is shall we read it before the jury or shall we consider it read, and submit it to the jury.

THE COURT: I think that, unless there is a desire on the part of the jury to hear it read, it need not be.

MR. SARASOHN: Now, I will state it to the jury.

MR. EDWARDS: And I submit that the counsel should not be allowed to sum up again.

THE COURT: No, you will say nothing at this point, counselor.

MR. SARASOHN: And now I rest.

MR. EDWARDS: Are you going to call the witness whose testimony I told you you could read?

MR. SARASOHN: I am not. I rest.

MR. EDWARDS: And I am not prepared to put in rebuttal tonight, if your Honor please, and I would like to have an adjournment until tomorrow morning. Counsel told me that he had many witnesses to call, and therefore I did not have any rebuttal witnesses in attendance.

CASE #1768

THE COURT: And I take it, possibly, Mr. Edwards, even if your witnesses were here, we could not possibly get through tonight.

MR. EDWARDS: No, sir, not unless we sat up all night.

MR. SARASOHN: And then do I understand that the District Attorney will not waive summing up? That he will not waive summing up in this case?

MR. EDWARDS: You may understand perfectly that I will not waive the summing up.

MR. SARASOHN: And I am willing to go to the jury now.

MR. EDWARDS: And I am not, and I will waive none of the rights of the People. If I had had any idea that counsel would have rested his case, without calling other witnesses that he called at the last trial, I would have been prepared, but I have no witnesses in rebuttal now here in Court. I will probably have four orfive witnesses in rebuttal.

MR. SARASOHN: Then there may be sur-rebuttal, your Honor. I have quite a number of witnesses.

THECOURT: Well, it rests with counsel on both sides as to that.

THE COURT: Gentlemen of the jury, you understand that you are admonished not to converse among yourselves on

I 362
CASE #1768

any subject connected with this trial, or form or express any opinion thereon until the case is submitted to you.

The Court will stand adjourned until tomorrow morning at half past ten o'clock.

(The further trial of the case was then adjourned until Thursday Morning, October 30th, 1913, at 10:30 o'clock.)

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1362

CASE #1768

1368

THE PEOPLE VS. ABRAHAM BEBKIN.

TRIAL RESUMED.

New York, October 30th, 1913.

REBUTTAL.

ALEXANDER H. KAMINSKY, of 50 West 112th Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q What is your business, Mr. Kaminsky? A I am the Head of the Department of Jewish Prisoners in State Institutions, and Probation Officer of the Jewish Protectory and Aid Society, and I act by assignment as the Probation Officer of the General Sessions.

Q Now, in connection with your duties, did you see Annie Brown when she was in the Tombs, awaiting sentence, after her conviction? A I did, sir.

Q Did you see her more than once? A I saw her several times, before and after the imposition of the sentence.

Q Now, at whose request did you see her? A When at first I saw her, it was by assignment.

Q From the Court? A From the Hon. Judge O'Sullivan. And the second times---the times after her conviction, I saw her at the request of a gentleman who was her former employer, and who was introduced to me by means of a letter of one Dr. Runge, the Head Surgeon of the Jewish Protectory---of the

CASE #1768

Jewish Maternity Hospital, who is my personal physician.

Q Now, Mr.Kaminsky, you speak Jewish? A I do, sir.

Q And in your talks with Annie Brown did you speak to her in that language? A I did, sir.

MR. EDWARDS: Now, if the Court please, I have informed the Court, in private, of the purpose for which I have called Mr. Kaminsky. I did so in my desire to be prefectly fair to the defendant. I stated to the Court what I wished to prove, and the Court informed me that he would not accept the evidence. I, therefore, ask the Court whether he wishes me to make a formal offer of proof, or whether he wishes to rule on my statement of the offer made in private.

THE COURT: I think, Mr. Edwards, you will have to ask some question which will be the basis of a legal objection.

MR. EDWARDS: I wanted to do it that way, because I didn't wish to ask any further questions than the Court desired me to.

MR. SARASOHN: Then general question, "What conversations did you have?" would bring up the point.

BY MR. EDWARDS:

Q Did you, on the 24th of January, 1913, have a conversation with Annie Brown? A I can't fix the exact date, unless I see a deposition that I took from her.

Q You did, however, take a deposition from her, did you not? A Yes, sir.

CASE #1768

Q I show you People's Exhibit 1 for Identification, and ask you if the reverse of that refreshes your recollection as to the date, and whether you can now state the date? A Yes, sir; it was the 24th day of January, 1913.

MR. EDWARDS: Now, I am a little at a loss about how to put a question, the next question, except by putting in it more than would be fair to the defendant to put in it. I think I will ask this general question---

THE COURT: I may say, Mr. Edwards, that I think this will bring it out sufficiently plain upon the record.

MR. EDWARDS: I think your Honor appreciates that I don't want to ask the specific question that I should ask.

THE COURT: You have produced this witness, and you contemplate interrogating him respecting x certain statements, which, it is said, the witness Annie Brown made to the witness who is now on the stand, and the general purpose would be the impeachment of Annie Brown's testimony, in part, and the Court feels that, under the rules applicable to the examination of witnesses, Annie Brown having been a witness produced by the People, it is not competent to show by way of impeachment that she may have, upon some occasion prior to the one upon which she was testifying, made a statement inconsistent with her testimony.

MR. EDWARDS: The only modification of the Court's statement would be that I intend to interrogate the witness as

1468
CASE #1768

to the specific statements that I called Annie Brown's attention to.

THE COURT: And, under the rule as stated in the case of Kask Koch, 104th New York, it is excluded.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. SARASOHN:

Q Now---

THE COURT: Do you want to interrogate the witness?

MR. SARASOHN: Only on one subject.

BY MR. SARASOHN:

Q Can you tell us whether Annie Brown has been permitted to see any visitors since she was brought from Auburn here, except the District Attorney?

MR. EDWARDS: Objected to, unless the witness knows.

A I can't tell you.

BY MR. SARASOHN:

Q When you speak of Mr. Belitsky, her former employer, you know he keeps a restaurant there, doesn't he? A Idon't know that.

Q Well, you havelived in that neighborhood for some years, haven't you? A Well, I don't know all the restaurant keepers in the neighborhood.

Q Were you born there? A No, but I have lived there for about ten years.

THE COURT: Well, he does not know. That is all there

140
CASE #1768

is to that.

BY MR. SARASOHN:

Q Well, you know that I have lived there for about ten years, don't you? A Yes.

Q And that's quite a restaurant, isn't it, corner of Clinton Street and East Broadway? A On the northeast side?

Q Yes. A Now I know what you refer to. Yes.

Q And then you certainly must have known Belitsky by sight for many years? A Yes.

Q And Belitsky told you that Annie Brown worked for him; didn't he?

MR. EDWARDS: I object to that, what Belitzky told him.

THE COURT: Oh, I will sustain the objection.

BY MR. SARASOHN:

Q Didn't Belitzky---

THE COURT: Counselor, you cannot get in anything that Belitsky said to this witness.

MR. SARASOHN: And, as that is the purpose of my question, that's all. May I ask Mr. Edwards, through the Court, whether there is a certain paper, prepared by Mr. Edwards, the petition for a writ of habeas corpus to bring down Annie Brown?

MR. EDWARDS: I didn't prepare it, and it should be in the possession of the Warden of the Tombs, I should think.

MR. SARASOHN: No, I think I have seen it in the papers

CASE #1768

here.

MR. EDWARDS: I don't know. I may have signed that petition, but it was merely a formal matter, anyway, and, if I did, I have forgotten it.

S T E L L A A . M I N E R , of 38 West 10th Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Miss Miner, what is your business? A I am Assistant, the Assistant Secretary of the New York Probation and Protective Association.

Q Kindly speak to the last juror, Miss Miner? A I am the Assistant Secretary of the New York Probation and Protective Association, and Superintendant of Waverley House.

Q Now, do you recollect the girl Annie Jacobs, who was for a time an inmate of Waverley House? A Yes.

Q Can you tell me the date of her admission to that House? A She was first admitted on November 11th, 1912.

Q And when did she leave the house? A January 17th, 1913.

Q And when you took her into the house, did you send her to any institution for physical examination? A I did.

Q Where to? A She was sent to the New York Hospital.

Q She was examined, and by what physician, if she was examined? A By Dr. Tomkins.

CASE #1768

Q And you afterwards received a report from Dr. Tomkins, covering the examination, did you? A I did.

MR. EDWARDS: She is your witness.

THE COURT: Any questions?

MR. SARASCHN: Well, I might ask her for the report, if she has it.

MR. EDWARDS: I have the doctor here, I will call him next.

CROSS EXAMINATION BY MR. SARASOHN:

Q But you received a report, didn't you? And have you got that report with you? A I have no signed report with me.

Q Well, what unsigned report have you? A Yes, I have an unsigned report.

Q Well, let me see it.

MR. EDWARDS: I object to it, as we have the Doctor here.

THE COURT: Yes, it is not competent.

MR. SARASCHN: Yes, and th question is whether the original report would be competent, I submit.

THE COURT: Now, pardon me. I think it is competent to show that, when this lady speaks of a report, Mr. Edwards, she refers to a particular paper, and, for that purpose, Iwill receive it, not as evidence of what it contains itself, but as explaining what is meant by this lady when she uses the word "report".

1407
CASE #1768

MR. SARASOHN: Certainly. And, in connection with that, I desire to look at it.

MR. EDWARDS: Well, may we find out first whether it is a report received by the witness fromDr. Tomkins, and written and signed by Dr. Tomkins? Or are they notes, made on the records of the Institution, as a result of a further report of the Doctor?

BY THE COURT:

Q When you say, Miss Miner, that you got a report from the doctor whom you have named, what do you mean by that? A I sent a card of the date when she was taken to the hospital.

Q And you got some paper from him? A I sent a card.

Q And you received it back? A Yes, sir.

Q And was certain writing upon it? A Yes, sir.

MR. SARASOHN: Now, I offer the card.

THE COURT: Now, may the Court look at the report, and see whether it is a proper one under the circumstances? Isubmit that, as it is not a signed report, it is not an official report from the doctor.

BY MR. EDWARDS:

Q It is simply a way of keeping the records of Waverley House, is that so, Miss Miner? A Yes, sir.

BY THE COURT:

Q And you would like to have it returned to you? A Yes, sir.

1401

CASE #1768

Q To complete your records? A Yes, sir.

THE COURT: It mayappear on the record that the witness produced a card.

MR. SARASOHN: And may I look at the card in behalf of the defendant?

THE COURT: You may.

MR. EDWARDS: I haven't the slightest objection to putting it in evidence.

MR. SARASOHN: Well, I see it has nothing to do with this case, and I don't offer it.

MR. EDWARDS: Now, I offer it in evidence, sir.

MR. SARASOHN: No objection.

THE COURT: Now, there being no objection, it will be received in evidence. And I suggest that it be transcribed on the record, so that the card may be returned.

MR. EDWARDS: Yes, sir, I think that is a very good suggestion.

(It is marked People's Exhibit 3).

THE COURT: It is received merely as explaining what the witness means by a report.

"People's Exhibit 3:

11/13/12 1931 N.Y.H.

Jacobs, Anna

Hymen torn

No evidence of disease..

1401

CASE #1768

(Mr. Edwards reads the Exhibit to the Jury).

BY MR. EDWARDS:

Q What do those letters stand for, N.Y.H? A New York Hospital.

Q And the date is the eleventh month, thirteenth day, 1912? A Yes, sir.

MR.SARASOHN: That's all.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, Miss Miner, do you send all girls received at Waverley House for medical examination?

MR. SARASOHN: I object to that as immaterial.

MR. EDWARDS: The purpose is to explain the report.

THE COURT: Yes, I will receive it in that view.

MR. SARASOHN: We take an exception.

A It is customary.

BY MR. EDWARDS:

Q And what is the purpose of having the examination made, from the standpoint of Waverley House directly?

MR. SARASOHN: I object to that as entirely immaterial.

THE COURT: Sustained.

A We keep---.

THE COURT: No, I will not receive that.

BY THE COURT:

Q You do have it done customarily? A Yes, sir.

BY MR. EDWARDS:

1402
CASE #1768

Q And do the rules of Waverley House permit you to retain therein any girl suffering with venereal disease?

MR. SARASOHN: I object to that as entirely immaterial.

THE COURT: Sustained.

MR. EDWARDS: It would be competent, of course, only on the subject of the report. It is asked in the re-direct examination, and I didn't ask it on the direct, and would not have done so. It is obviously explanatory of the form of report, which was called for and brought out by the defendant. I press the question.

THE COURT: I think I will sustain the objection.

MR. EDWARDS: That is all, Miss Miner.

MR. SARASOHN: That's all.

W A L L S T E I N M . T O M K I N S , of 158 East 37th Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, Doctor, will you try to speak so that the last gentleman can hear you,because it is quite noisy in this room, and it is a large room. You are a physician duly licensed to practice your profession in this State? A Yes, sir.

Q And with what Institutions are you connected?

MR. SARASOHN: We object to that. We concede her competency, as a first class surgeon and doctor.

CASE #1768

THE COURT: Well, if her competency is conceded, I suppose that is unnecessary.

BY MR. EDWARDS:

Q Now, Dr. Tomkins, have you anyconnection with the New York Hospital? A Yes, sir.

Q Will you state what it is, please? A I work in the New York Hospital Outdoor Patient Department, as a Deputy Surgeon in Women's diseases.

Q Now, did you on the 13th of November, 1912, Doctor, at the request of Waverley House, make a physical examination of the girl Annie Jacobs? A I did.

Q Will you state to the Court and jury what that examination disclosed?

MR. SARASOHN: I object to that as entirely immaterial to the issue here, having no bearing on any of the charges in the indictment.

MR. EDWARDS: Does your Honor care to hear me on it?

THE COURT: Yes, I will hear you, Mr. Edwards.

MR. SARASOHN: May I ask that the argument be had before your Honor, because I don't think that it would be fair to the defendant that the argument should be heard by the jury.

MR. EDWARDS: Well, I am going into nothing but the evidence before the Court and Jury, and I see no reason why it should be a private argument. I only want to call your Honor's attention to one element in the defendant's case, which this witness is call-

1406
CASE #1768

ed to meet.

THE COURT: I think that I can hear Mr. Edwards in the hearing of the jury, so far as that is concerned.

MR. SARASOHN: Yes, I have no objection to that. But in certain cases, the Court hears an argument in place of the evidence that it is ~~xxxxx~~ proposed to offer, and then excludes the evidence, but the effect is still on the jury's mind.

MR. EDWARDS: I will not do anything of the kind.

THE COURT: I will hear you, Mr. Edwards:

MR. EDWARDS: The defendnt's contention is, as I understand it, that Annie Jacobs was a girl of immoral character, not only prior to the time she met the defendant in this country but also prior to the time she left Russia, and this testimony is offered to meet that statement in the defendant's proof.

MR. SARASOHN: Will your Honor hear me?

THE COURT: I will hear you.

MR. SARASOHN: And is it seriously contended that the examination of a woman, so long a time after, is of any value?

THE COURT: I cannot say, until I hear the testimony. I will hear the testimony.

MR. SARASOHN: Exception.

BY MR. EDWARDS:

Q Now, will you tell me what your examination of the girl disclosed? A The girl showed a condition of recent abuse, and showed it---

CASE #1768

MR. SARASOHN: We object.

THE COURT: Objection sustained.

BY MR. EDWARDS:

Q Now, just state the facts, what you saw?

BY THE COURT:

Q Now just tell us what you saw, Madam. A The girl showed a recent abuse, and she was in the condition---

MR. SARASOHN: I object to that.

THE COURT: Sustained. Now, Doctor, you don't quite understand. Will you have the kindness, leaving out such words as "recent" or anything of the kind, to tell us just what your eyes saw, when you looked at Annie Jacobs.

A She was inflamed and excoriated, in a way in which a woman accustomed to a live of prostitution would not have shown.

MR. SARASOHN: I object to that, and move to strike that out.

THE COURT: Objection sustained. Motion granted.

BY MR. EDWARDS:

Q Now, you say she was excoriated. What do you mean by that word, "Excoriated"? A I mean that the skin was broken around the hymen, as well as the hymen.

Q And you refer now to her hymen? A Yes, and the skin about it, the vulva.

Q Now, did you observe anything as to the girl's appearance, as to her general physical condition?

CASE #1768

MR. SARASOHN: I object.

THE COURT: I will allow it. I am going to hear the testimony of this witness bearing on what she saw, and I will determine, after I have heard it, in the light of such cross examination as you may see fit to make.

MR. EDWARDS: But, pardonx me---perhaps I am wrong, but I thought it was the rule that first the Court rules upon the competency of the testimony, and, if the Court rules it is incompetent it is not given. Will your Honor first receive the testimony and then decide whether it is competent or not?

THE COURT: Oh, no. I rule that it is competent to xix elicit from this witness what she saw, what she observed, at the time she made an examination, as I understand, of Annie Jacobs, the materiality of it, if any, must depend upon the subject matter of that which she testifies to, both on the direct and on the cross, if you cross examine her.

MR. SARASOHN: Pardon me. She has testified to the condition of the hymen and the skin surrounding that, and, of course, I can readily see that your Honor had that in mind, and then she is asked to tell about her general appearance, otherwise. Suppose, for instance, her nose was broken?

THE COURT: Not at all. I understand that the contention of the People is that there are general physical appearances readily recognized by an experienced physician accompanying what may be called a prolonged life of continued prostitution.

1412
CASE #1768

MR.SARASOHN: But, if your Honor please, that is disputed. Some of the physicians of the highest standing dispute that.

THE COURT: Well, that may be a matter of dispute, but it is a matter of contention here, and, therefore, I will allow the evidence.

MR. SARASOHN: But that hasn't been brought out.

THE COURT: No, because you objected to the question.

MR. SARASOHN: And I object to her giving that general description.

THE COURT: Mr. Edwards, will you permit me to make a suggestion to you?

MR. EDWARDS: Yes, sir.

THE COURT: Find out first when and where the examination by this witness was made.

MR. EDWARDS: I have done that, sir, I have shown that it was made at the New York Hospital, and on the date mentioned in the record.

BY THE COURT:

Q Now, what parts of the person of the complaining witness did you look at? A Only the genitals.

Q When she was being examined by you on the occasion referred to, the only portions of her person of which you made a medical examination were what? A Her genitals.

BY MR. EDWARDS:

CASE #1768

Q Her genital organs, you mean? A Yes, sir.

Q Now, the last question that I asked you, Doctor, was this: "Was there anything that you observed about the girl's physical appearance, when she came to you for examination?"

MR. SARASOHN: To that we object, asbeing immaterial. Her general physical appearance will not aid us in determining the issues in this case.

THE COURT: I don't know whether it will or not. I will hear the answer.

MR. SARASOHN: Exception.

A The girl seemed cowed.

BY MR. EDWARDS:

Q Well, what makes you class or characterize it as cowed, her appearance?

MR. SARASOHN: We object to that, and move to strike that out.

A It was difficult to get intelligent answers to the questions.

BY MR. EDWARDS:

Q Yes. You asked her many questions, as well as making a physical examination, did you not?

THE COURT: I think I will strike out, "She seemed cowed."

MR. EDWARDS: I have no objection to that being stricken out, but what I was trying to get at is what the witness meant by that word.

CASE #1768

THE COURT: Well, we will eliminate that. I don't think her manner of answering enters into it.

MR. EDWARDS: Why, I submit her general appearance enters into it very materially, and may be a very important factor in the determination of this case, in connection with the other examination.

THE COURT: I will receive from this witness a description of her general appearance.

BY MR. EDWARDS:

Q Can you give that, Doctor? A Her general appearance was rather stupid.

Q Now, Doctor, how many years have you been practicing your profession? A Something over fifteen years.

Q And during that time you have had frequent occasions to make such examinations? A I have.

Q Now, Doctor, can you tell, with reasonable certainty, from your knowledge and experience as a physician, and from the facts which you saw and learned from your examination of this Annie Jacobs, as you have described---whether or not she was a girl who had been practicing sexual intercourse for any considerable period of time?

MR. SARASOHN: I object to that.

THE COURT: Now, I will sustain the objection to that, and I will tell you why. If this witness will answer this question without taking into consideration anything that may have been said

CASE #1768

to her by Annie Jacobs, I will receive it.

MR. EDWARDS: And the question as framed specifically excludes anything of the kind, anything that she said. May the question be repeated?

(Question repeated by the stenographer)

MR. EDWARDS: I will amend the question by making it read, "From the facts which you saw, and learned from what you saw, and learned from your examination of this Annie Jacobs."

(The question is repeated as amended, as follows)

"Q Now, Doctor, can you tell with reasonable certainty, from your knowledge and experience as a physician, and from the facts which you saw, and learned from what you saw, and learned fromyour examination of this Annie Jacobs, as you have described, whether or not she was a girl who had been practicing sexual intercourse for any considerable period of time?"

MR. EDWARDS: Now, Doctor, just yes or no.

MR. SARASOHN: We object to the question.

THE COURT: The objection is overruled. You will bear in mind that limitation. Your answer is not to be predicated upon anything that she said to you.

MR. SARASOHN: We except.

A May I have the question again?

(The question is repeated, as amended, by the stenographer).

THE COURT: I think it would be better, Mr. Edwards, to

CASE #1768

ask her if she could express an opinion with reasonable certainty.

MR. EDWARDS: Well, I have followed the form which I have followed for many years, and which has stood the test of appeal to the higher Courts, but I will insert that.

(The question is repeated as amended, by the stenographer).

A Yes.

BY MR. EDWARDS:

Q Now, will you do so, Doctor? A I would say that the girl had not been accustomed to a long life of prostitution.

BY THE COURT:

Q What do you call a long life, in that connection? A I would say months or years.

BY MR. EDWARDS:

Q She had not been, in your opinion, accustomed to prostitution for months, you say? A I would say that she had not.

Q Can you state, with reasonable certainty, Doctor, from the same experience and facts, whether the excoriations which you saw were recent or not? A They were recent.

Q Can you state from the same experience or facts whether or not a girl or woman, who had for a considerable period of months been practicing prostitution, would have shown such excoriations as you have described? A Not as a rule.

MR. EDWARDS: That is all.

CROSS EXAMINATION BY MR. SARASOHN:

CASE #1768

Q Doctor, from your examination of this girl, Annie Jacobs, was the hymen ruptured? A It was.

Q Well, that showed to you at once that that girl did have sexual intercourse; did it or did it not? A As a rule, it does show that.

BY THE COURT:

Q In other words, that is the way---one of the ways---in which a hymen may be ruptured? A Yes, sir.

BY MR. SARASOHN:

Q So that the fact that the hymen was ruptured didn't tell you anything at all, for all that appeared, she might not have had sexual intercourse? A It showed that sexual intercourse had been possible.

Q But it didn't show that it had actually taken place? A It was pretty positive evidence of it.

Q Now, you say that the skin around the hymen was inflamed and excoriated, is that so? A Yes, sir.

Q But, at the same time, there was no appearance of venereal disease, was there or was there not? A No, there was not.

Q Then you take this fact, from the fact that the hymen was ruptured, and the skin around the hymen was inflamed and excoriated, you take that to show that there had been much friction around that neighborhood? A Yes.

Q And that there had been frequent acts of intercourse? A Yes; and recent.

CASE #1768

Q Yes, frequent, recent acts of intercourse? I will take that. A Yes.

Q Now, Mrs. Doctor, can you tell us, or would you undertake to testify, for how long a period of time the rupturing of the hymen had taken place? A No, I couldn't tell exactly for how long it had taken place.

BY THE COURT:

Q Are you able to express an opinion, with reasonable certainty, as to the length of time that it would take to heal---what were those words that you used? A Excoriations.

Q Excoriations, such as you saw? A I think a few weeks would probably have cured them; sooner, with treatment.

BY MR. EDWARDS:

Q Sooner, with treatment? A Yes, sir.

BY MR. SARASOHN:

Q But you don't testify, do you, that any treatment at all would place that hymen in its original state, do you? A No.

BY THE COURT:

Q But will you say that, in the ordinary course of things excoriations of the character you have mentioned, would heal within a period of a few weeks, speaking from your professional knowledge and experience? A Yes, probably the minimum time. The whole condition seemed recent.

Q Well, that it would take at least some weeks for excoriations such as you saw, to heal, after they had been made? A Yes,

CASE #1768

1420

I think that's the case.

Q That is to say that it would be possible that, after the expiration of some weeks, excoriations of the character that you have mentioned, would be no longer visible; is that so? A That's the state of the case. An old time prostitute would have shown--

BY MR. SARASOHN:

Q Now, Mrs. Physician, you have examined quite a number of prostitutes, have you not? A A great many.

Q And haven't you found that, in the case of prostitutes, especially of the cheaper class, who have many men a night, haven't you found the condition of the skin around the hymen being inflamed and excoriated?

MR. EDWARDS: Objected to.

THE COURT: Allowed.

A No.

BY MR. SARASOHN:

Q Now, say that a woman has sexual intercourse with five or ten men, during the day, or the afternoon, or the evening, and then washes out that part, doesn't frequent washing cause the skin around the hymen to be inflamed and excoriated? A I don't know.

Q You don't know? A No.

Q Will you undertake to testify, under oath, Mrs. Doctor, that that girl whom you examined, that that hymen had not been ruptured two years before? A In all probability it had not

CASE #1768

been.

Q Now, that wasn't my question.

MR. EDWARDS: I object to the question, because the witness is not called upon to state as a physician a positive fact, but an opinion only, and that is all she has attempted to do, and he wants her to swear to this as a positive fact, and no reputable physician could do that.

THE COURT: I do not understand that the witness has stated that as a positive fact. She has merely expressed an opinion.

MR. SARASOHN: Then that's all with this witness.

MR. EDWARDS: That is all. Thank you very much, Doctor.

THE THIRD JUROR: Would you let me know the date of that card that she brought here---that was brought here?

THE WITNESS: November 13th, 1912.

MR. SARASOHN: And the raid was made on November 2nd.

BY THE FOURTH JUROR:

Q Doctor, will you tell me whether at the time of this examination, there was any other doctor present besides yourself? A Yes, there was one other doctor present, and I think a second one also.

BY MR. SARASOHN:

Q Give me the names. A Dr. John Williams was one of them.

CASE #1768

BY THE JUROR:

Q And can you tell me, or the jury, the name of the nurse that attended to this patient, Annie Jacobs, at the time you made your examination? A No, I don't remember who it was. The nurses in the school rotate in pretty rapid succession, and I could not remember what nurse it was.

Q Well, they have to make out their report, don't they? A No, the nurses don't make reports. The doctors write the cases up.

Q Well, as a rule, don't the doctors take the report from the nurses when they come around to find the temperatures, and such things? A No. In the Outdoor Patient Department, each patient is written up by the doctor.

Q Well, was this patient a house patient or outdoor patient? A An outdoor patient. She came from Waverley House, for special examination.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q And you sent back a Waverley House card with her stating that she had no venereal disease, did you not? A Yes, sir.

Q And that is the chief reason why the house had her examined, was it not? A Yes, sir.

RE-CROSS EXAMINATION BY MR. SARASOHN:

Q Haven't you known, Doctor, that a woman has had a venereal disease, and has been cured so as to leave no trace of it? A Yes.

1422
CASE #1768

Q That is, in a mild form? A Yes.

BY MR. EDWARDS:

Q The Wasserman test will always disclose any features of a syphilitic character, will it not? A Yes, almost always.

BY MR. SARASOHN:

Q Did you apply the Wasserman test to Annie Jacobs? A No, sir; she showed no sign of disease.

Q I am asking you whether that test was applied to her? A No, sir.

BY MR. EDWARDS:

Q And that test is only applied where there is some evidence of disease, is it not? A Yes.

MR. EDWARDS: That is all.

MR. SARASOHN: That is all.

THE COURT: That is all, Madam.

M A X M E N D E L L , a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 95 Monroe Street.

Q And how long have you been in this country? A Ten years.

Q And from where do you come in the Old Country? A From Minsk.

Q And when did you leave Minsk? A Where I live in Minsk?

Q No. When did you leave Minsk, when did you come away

CASE #1768

from Minsk? A I don't remember; I can't tell.

Q Well, how long ago was it that you left Minsk, how many years ago, to come to this country? A I am leaving Minsk about ten or twelve years.

Q And did you know Rivka Berger in Minsk? A Yes.

Q And for how long a time did you know her there? A I know her about five years.

Q And where did she live when you knew her in Minsk? A When I am going to this country I live in---

THE SECOND JUROR: He doesn't understand a word that you ask, Mr. District Attorney.

MR. EDWARDS: Yes, I think we had better have it through the Interpreter, had we not?

THE INTERPRETER: Yes, I think so.

(Question repeated through the Official Interpreter)

A In Magazine Street.

BY MR. EDWARDS:

Q At the time you left did she live there? A Yes, sir.

Q Now, in what other places had she lived in Minsk, when you knew her? A Next to the mill, Klebane Mill.

Q On what street was that? A The name of the street is next to Klebane Mill.

Q And did she live anywhere else while you knew her in Minsk? A On the High Market.

Q And now, what business, if any, was she in in Minsk, if

1425

CASE #1768

you know? A She had a kind of employment bureau. She was sending servants to people who needed them.

Q Now, what do you mean by an employment bureau? What sort of girls did she provide? A Any kind. It may have happened that some one may have needed a girl for other kind of business.

Q What do you mean by other kind of business? A I can't say it here.

Q Oh, yes, you can. A Prostitute.

Q Did you ever go to any of her places of residence yourself? A Yes, I was several times there.

Q For what purpose did you go there? A With my acquaintances, young boys, I used to go together with them.

Q And what did you do when you went to her residence? A We used to go up together, and drink a glass of whiskey or beer.

Q Yes. And did you ever do anything else? A I didn't do anything else.

Q Well, whom did you use to meet up there?

MR. SARASOHN: We object to the adventures of this gentleman. I don't think they are interesting to this jury, or material in this case.

THE COURT: Well, I will allow him to proceed somewhat further.

MR. SARASOHN: We except.

A With my friends, boys, unmarried and married men.

BY MR. EDWARDS:

I 425

CASE #1768

Q Well, tell us what you and your friends, the unmarried men, did in her house? A Sometimes other men used to have a use with a girl.

Q Well, tell us what you mean by that?

THE THIRD JUROR: Now, he knows how to tell it in plain language. Let him tell it in plain language.

BY MR. EDWARDS:

Q Go on, and tell us in plain English. A They used to go with her in a room and do business with her.

BY THE COURT:

Q With whom? A With Gentile girls and Jewish girls.

BY MR. EDWARDS:

Q And that was in Rivka Berger's house? A Yes, sir.

MR. EDWARDS: That's all.

CROSS EXAMINATION BY MR. SARASOHN:

Q How long have you known Rivka Berger in Minsk? A About five or six years.

Q And she kept a sort of restaurant, a place where they sold whiskey and drinks, is that so? A No restaurant, she didn't keep a restaurant.

Q But she was just the kind of a woman who knew where to get the girls, who knew the girls who did acts of prostitution, wasn't she? A What's that?

Q She was just the kind of women who knew the girls in Minsk who went out with the men; is that so? A Yes, sir.

1426
CASE #1768

Q Now, you are living where? A I am living 95 Monroe.

Q 95 Monroe Street? A Yes, sir.

Q How far from Mr. Jacobs' place? A Just acrossthe street.

Q You have been here for ten years in this country? A Yes, sir.

MR. SARASOHN: That's all.

BY THE TENTH JUROR:

Q What kind of a house did Rivka Berger keep there? Did she keep a house for girls or did she know the girls? A The girls used to come to her house who were looking for a place, and she knew about these girls.

BY THE COURT:

Q In other words, she kept an employment office there? A Yes, sir.

BY MR. EDWARDS:

Q Well, do you mean---

BY THE TENTH JUROR:

Q Did you go there in company with anybody? Was that the house you went to? A What house?

BY THE COURT:

Q Do you mean,Mr. Witness, that you went, when you were in Minsk, to the house in which Rebecaa Berger lived, and that you there, in her house, had sexual intercourse with girls? A Not I, but my friends did.

Q Were you present at any time in the house of Rebecca Ber-

CASE #1768

ger, in Minsk, when friends of yours had sexual intercourse with girls in that house? A Yes, sir.

BY THE SECOND JUROR:

Q He said that he called at this house with friends, married and unmarried. Would it be proper to ask him whether he was married at the time he called at this house?

THE COURT: The question may be asked.

(The question is repeated by the stenographer).

A I was married at the time.

BY THE FIFTH JUROR:

Q I want to ask the witness, your Honor, whether he was actually present in the room while other men had sexual intercourse with those girls, if he was actually present in the room where the deed was committed.

BY THE COURT:

Q In the house of Rebecca Berger, in Minsk? A Yes, I was present; which means that, when one enters into the place, to the right there was a room, and we were not ashamed of one another, and in Russia people are not ashamed of one another,

THE FIFTH JUROR: But it isn't an answer to my question, your Honor.

THE COURT: No.

THE INTERPRETER: Shall I repeat the question, your Honor?

MR. EDWARDS: Can you frame it again, in another way,

CASE #1768

so that you may get a more direct answer, Mr. Juror?

BY THE COURT:

Q Were you in the same room that other persons were in, in the house of Rebecca Berger, in Minsk, at a time when those persons were having sexual intercourse with girls? Now, yes or no? A I went in there with my friends, but, naturally, I couldn't stay there, and I went out.

BY MR. EDWARDS:

Q Well, just what do you mean? Do you mean that you saw the actual act of intercourse between men and women in her house, or that you saw men and women go into another room together there, and then return? A I went there with a man, and there was a gentile woman there---

MR. SARASOHN: I object to that. I submit that the question should be answered yes or no.

MR. EDWARDS: And I submit it can't be. There was an alternative in the question.

MR. SARASOHN: No, it can be answered categorically.

THE COURT: Well, I think it is impossible to answer it categorically.

MR. SARASOHN: But the question called for whether he saw the act or not.

THE COURT: No, it is in the alternative.

MR. SARASOHN: Then I ask that the question be amended in that way.

I 426

CASE #1768

THE COURT: The question may be repeated to the witness.

(It is repeated by the Interpreter).

A I know it for sure that they had sexual intercourse, but I wasn't standing by.

MR. SARASOHN: I will ask that the first part of the answer be stricken out.

THE COURT: I will strike it out.

BY THE COURT:

Q You mean thatyou did not, ~~of~~ with your own eyes, see it?

A No. With my eyes, I didn't see it.

BY THE SECOND JUROR:

Q Was that a general rule, or do you refer to only one occasion? A That was usual. She always had such a kind of a house.

MR. EDWARDS: That's all.

RE-CROSS EXAMINATION BY MR. SARASOHN:

Q You told us, a minute ago, that in Russia, people are not ashamed of such things, and you told us that you didn't have any intercourse, is that the truth? A Yes, I myself did not.

Q Well, you went to such a place? Did you only go for company's sake or did you go to do some business there? A We used to go together, and have a drink theretogether, and whoever wanted to do some business, did so.

Q Well, that was a place where drinks were sold; isn't that

CASE #1768

so? A No.

Q Well, did you bring the drinks along with you? A No, she used to bring the drinks, furnished the drinks.

Q But the place itself, you say, was an intelligence office? A Yes, sir.

Q Then some of the girls that came there would be willing to stay with men, is that correct? A Yes, sir.

Q And Mrs. Berger, for that reason, had peculiar means of knowing just the girls that were willing to stay with men?

MR. EDWARDS: I object to that.

THE COURT: Sustained. It is argumentative.

MR. SARASOHN: That's all with this witness.

W I L L I A M P. P E R L M U T T E R, of 104 Second Avenue, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Mr. Perlmutter, what is your position? A Process server in the office of the District Attorney.

Q Now, day before yesterday, at my request, did you go over to 327 Williams Avenue, Brownsville? A Yes, sir.

Q Did you go up to the apartment of Mrs. Leff, on the first floor? A Yes, sir.

Q And did you go into the hall bed room lookingout on to Williams Avenue? A Yes, sir.

Q Did you measure the width of the bed in that room? A

CASE #1768

Yes, sir.

Q And what was the width of that bed? A May I refer to my notes?

Q You may, if you need to, to refresh your recollection. A There was a single bed. The width was three feet two inches; the length was six foot one inch, and from the top to the floor--that is, the lower top, not where the head is, but where the feet is, it is three feet two inches, and fromthe floor to the spring, one foot five inches.

Q Did you measure the length and breadth of the room? A I did, yes.

Q And what is the length of the room? A Nine foot seven inch;width, seven foot one inch. There is a wardrope just as you enter into the room, to the right, standing one foot out into the room.

Q And how many doors are there in that room? A Two doors.

Q Where are they? A One door leading into the hallway and the other into the parlor of the apartment.

Q Now, with reference to the door from the hallway into that room, does that door swing into the room or out into the hall? A Into the room.

Q To which side, right or left? A Towards the left.

BY THE COURT:

Q Pardon me. That is to say, as you are facing the window, it swings to the left? A Yes, sir.

CASE #1768

BY MR. EDWARDS:

Q If you stand as you were when you enter the room, swings to the left? A Yes, sir.

Q And, as you enter that door from the hallway, enter that room, on which side is the door which leads from that room into the front room? A On the left.

Q And how close are the two doors together? A Why, the door, swinging inwardly from the hall, would cover the door from the parlor.

MR. EDWARDS: That is all.

MR. SARASOHN: That's all.

BY THE COURT:

Q Whereabouts in the room was the wardrobe? A Why, to the right, as you enter, standing one foot out into the room.

BY THE FOURTH JUROR:

Q I didn't quite catch the width of the room: How wide? A Wide, seven foot one inch, length, nine foot seven inch.

Q And the length of the bed is how long? A Six foot one inch.

BY THE COURT:

Q And what was the position of the bed? A The position of the bed? Why, the head would be towards the parlor, to the left, and the feet would be towards the right.

BY MR. SARASOHN:

Q But, in reference to the window, what is the position of

1435
CASE #1768

the bed? A Why, the bed---say here is the bed and here is the window right there. (Illustrating). The window would come about the center of the bed.

BY THE COURT:

Q One side of the bed is up against the wall, isn't it? A Yes, your Honor.

BY THE FOURTH JUROR:

Q And then there is about a foot space between the wall--- as I understand, the bed runs not the length but the width of the room.

BY THE COURT:

Q The bed is across the room, in front of the window? A Yes sir.

BY THE JUROR:

Q And that is the width of the room? A Yes.

Q And then there is about a foot space between? As I understand, the room is about seven foot wide? A Yes.

Q And the bed was about how many feet? A The length of the bed is six foot one inch.

BY MR. EDWARDS:

Q Just about a foot, then, between the foot of the bed and the wall? A Yes, but the bed is placed so that there is half a foot leeway at each side of the bed. It isn't right up against the wall.

MR. EDWARDS: That's all.

CASE #1768

MR. SARASOHN: That's all.

F R A N K J. S Z U M A N S K Y , being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. EDWARDS:

Q Now, Officer, after the arrest of Annie Brown, on the second of November, which was a Saturday, did you at anytime make any effort to find this defendant? A Yes, sir.

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

THE COURT: I will allow it.

MR. SARASOHN: We except.

BY MR. EDWARDS:

Q Now, tell us---

THE COURT: Now, the only criticism of it is that it might have been a part of the People's case, the People's main case, but I will allow it.

MR. EDWARDS: And my reason for not introducing it in the People's main case is that it was not until the defendant opened his case that I was informed that he would argue, as he then statedhe would argue, to the jury.

THE COURT: I will allow it. I will allow this Officer to tell what he did for the purpose of finding the defendant.

MR. SARASOHN: We except.

BY MR. EDWARDS:

Q Now, Officer, will you tell us what you did, and who was with you, but don't tell us any conversations? A Well, about five o'clock on Sunday morning---I think it was November 10th,

CASE #1768

1912---in company of the complaining witness's father and the complaining witness, and Mrs. Goldman and Patrolman Lewin, we went to Brownsville, on information---

BY THE COURT:

Q Well, you have told us about the Brownsville visit, have you not, on your direct?

MR. EDWARDS: No, sir; he did not And that is why he is recalled, after the opening of counsel.

A (Answer continued) On information of the complainant's father that---

BY MR. EDWARDS:

Q No. Where did you go? A I went to Grafton Street, Brownsville, and we tried to have the complaining witness identify the house she was in, and, after looking at one house after the other on the entire street, she could not identify the house she was in. And then we took her to different streets, to see if she could remember any of the streets she come through and she couldn't recollect any of the said streets in that locality.

Q How long did you spend over there? A Oh, about seven or eight hours.

Q And what time did you return to New York? A Oh, I guess it was about one to two o'clock.

Q Now, after that, was anything done by you, or anything done with which you had any connection, for the purpose of locating the defendant? A Yes, we again went out to Brownsville. I

CASE #1768

think it was about three nights after.

Q Yes. Who went at that time? A The complaining witness, I, Officer Lewin and Mrs. Goldman.

Q Yes? A And we went to a place there, and we---

BY THE COURT:

Q Now, what place did you go to? A InGrafton Street.

Q What number? A I don't recollect the number.

Q Now, give no conversation, but just tell us what you did there? A On information we received, we went to another house, and the people that we were looking for weren't the defendant. It was a different party altogether.

BY MR. EDWARDS:

Q You didn't find the defendant, but you found some one else? A Yes.

Q And where was that house, do you recollect? A That house was on Dean Street, if I ain't mistaken, because we went to one house on Eastern Parkway and from that house we went to a certain number in Dean Street, in Brooklyn.

Q And you were acting all the time on certain information that you had received? A Yes, sir.

Q Now, after that---how long were you out, on that night? A Well, I couldn't exactly say. It might have been about four or five hours.

Q And was there anything done after that, that you recollect, or that you took any part in? A Yes, sir. The complaining witness's father---we suggested that the complaining witness's

1437
CASE #1768

father---

Q No, don't tell what you suggested. Did you make a suggestion? A Yes, sir.

Q And, as a result of that, what was done? A The father was to---

BY THE COURT:

Q No, what did you do? A I didn't do nothing, but the complaining witness's father did.

BY MR. EDWARDS:

Q You waited for further information, didn't you? A Yes, sir.

Q And subsequently the defendant was arrested, as has already been described, and brought in, was he not? A Yes.

MR. EDWARDS: That's all.

CROSS EXAMINATION BY MR. SARASOHN:

Q When you went with the complainant, on these occasions, to Brownsville, did you go to Williams Avenue? A No, sir.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q Well, have you learned since how near any of these places that you did go to was to Williams Avenue? A I don't know, because I never was out in that part of Brooklyn before, to my knowledge.

MR. EDWARDS: The People rest.

MR. SARASOHN: I have one further witness, whom I had yesterday, and who couldn't wait, yesterday, and he is one of the employers, and I want to call him.

CASE #1768

THE COURT: I will let you call him.

MR. SARASOHN: I will call Mr. Black. Now, I want that petition, Mr. District Attorney, that was signed by you, to obtain a writ of habeas corpus for Mrs. Brown.

MR. EDWARDS: Now, if the Court please, if that is on file at all, it is filed in the Clerk's Office, and isn't in my control.

THE COURT: Now, Mr. Sarasohn, you want a certain paper?

MR. SARASOHN: Yes, sir.

THE COURT: And I will try to get it for you. What do you want?

MR. SARASOHN: I want the application for a writ of habeas corpus, to get Mrs. Brown down from Auburn. I have seen it on file here.

THE COURT: Where was it when you saw it?

MR. SARASOHN: Among papers on the clerk's desk, in this building.

MR. EDWARDS: And then perhaps Mr. Gallagher can tell where such papers are customarily filed.

THE CLERK: Whenever any paper of that kind is entered here, I take it down and leave it with the clerk, and, as a rule, they are put in the indictment.

MR. EDWARDS: And then it would be in the Annie Brown indictment, perhaps, and not in the indictment in the Bebkin case.

CASE #1768

Look in the Annie Brown papers, Mr. Clerk.

THE COURT: Is that the paper that you want? (Indicating).

MR. SARASOHN: No, sir; that is not the paper. It is a printed blank that the District Attorney has.

MR. EDWARDS: The regulation form of a petition on a writ. It was my impression that, where the prisoner is held here on a writ, it is filed with the keeper of the Tombs, where the defendant is confined upon the order of the Court. I think the original writ is filed in the Tombs.

THE CLERK: Yes, and we don't take any notice of it.

THE COURT: Now, you may see every paper in the Brown case. I will hand them back to the Clerk, and he will hand them to you.

MR. SARASOHN: Has your Honor any paper in the Bebkin case, except the indictment?

THE COURT: I have no paper in the Bebkin case, not even the indictment.

MR. SARASOHN: Then I will get it from the clerk. Here is the paper that I want (Indicating).

THE COURT: Now, is that the paper that you want?

MR. SARASOHN: Yes.

THE COURT: And then you may have it.

MR. EDWARDS: And I find that you are mistaken, Mr. Sarasohn, and I didn't sign it.

CASE #1768

MR. SARASOHN: Then I would like to callMr. Embree as to the testimony of Annie Brown before the Grand Jury.

MR. EDWARDS: I haven't the slightest objection to your calling Mr. Embree.

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1411
CASE #1768

S U R - R E B U T T A L .

A L E X A N D E R B L A C K , of Brownsville, New York, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SARASOHN:

Q Now, Black, do you talk English? A Not very much.

Q How long are you in this country? A Seven years.

Q You are seven years here? A Yes, sir.

Q Perhaps we can get alongthen, and, if you don't understand my question, call for the Interpreter. What is yourbusiness? A Contractor for skirts.

Q Do you have your own shop? A Not my own shop. I contract inside.

Q That is, a manufacturer has a place of business, and you have a contract with him to do a certain class of work? A Yes, sir.

Q And you have your own workmen? A No.

BY THE COURT:

Q You have people who work for you? A I used to have; not now, because now it is slow.

BY MR. SARASOHN:

Q From October last, from October, 1912, to May, 1913, did you have such a place, where you kept people working foryou? A Yes.

Q Where was that place? A Twenty-fourth Street and Seventh Avenue.

1412
CASE #1768

Q And what is the name of the manufacturers? A Sparks & Foster.

Q And do you have a contract with them to do a part of their work? A I don't have no contract. I did some of the work for them without a contract.

Q How many people did you have employed? A Six.

Q And did the defendant Abe Bebkin work for you? A Yes, sir.

Q When did he start to work for you? A About the end of October of last year and stopped about the first of May.

Q And was he working from October to May? A Yes, sir.

Q And did he work by the piece or by the week? A By the week.

Q What did he get? A And he started with eleven dollars and got fourteen in the last.

Q When he left, he was getting fourteen? A Yes, sir.

Q Did you keep any books? A No, sir.

Q How many workingmen did you have? A We had four workmen and two partners.

Q Now, some one has said here that you were interested in a dancing hall in Brooklyn. Did you ever own that house where the Star Dancing Academy was in Brooklyn? A I don't understand.

(Question repeated by the Interpreter.)

A No, I was a partner there. They needed money and I furnish-

CASE #1768

ed the money and became a partner, and, whenever I had time, I went up there.

Q And so that was in the night time, is that it, when you went there? A Yes, in the night time.

Q And in the day time you were a contractor for skirts? A Yes, sir.

Q And had you known Bebkin beforehe commenced to work for you? A I didn't know him exactly.

Q Well, did you know him by sight? A I don't understand.

(Question repeated through the Interpreter).

A Yes, by sight.

MR. SARASOHN: Now, that's all. He is your witness.

CROSS EXAMINATION BY MR. EDWARDS:

Q Now, when did Abe go to work for you? A At the end of October.

Q What year? A 1912.

Q And can you tell us the day of the week hewent to work for you? A I can't tell exactly the day of the week. Idon't remember.

Q Well, can you give us the day of the month? A Eh?

Q (Question repeated) A No.

Q Can you give us the day he quit work, in May? A I don't remember exactly when that was.

Q Can you tell us what part of May it was, the beginning or middle or end? A About the end of April he stopped.

CASE #1768

Q So that he didn't work for you in May at all? A I don't remember exactly.

Q Well, when, in April, did he stop working for you? A In the last part; before May.

Q Before May? A Yes.

Q And can you tell us what day of the month it was when he stopped? A No.

Q Is there any way you can fix the date at all? A No, I have no books.

Q You didn't keep any records at all? A No, sir.

Q Didn't even have a check book? A No. I used to get a check from the manufacturer, bot that check I cashed, and I paid out the workingmen.

Q Who are you working for now? A I am working for Foster.

BY THE THIRD JUROR:

Q Did you see Abe Bebkin at any time at the Star Hall before he went to work foryou? A No, sir.

Q The first time you saw him was when he started to work for you? A Yes, but I can't remember him before, because I didn't have no business with him. I didn't speak to him.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q Tell the jury how he came to workfor you, what he said to you and what you said to him?

MR. EDWARDS: Objected to.

CASE #1768

THE COURT: Sustained.

MR. SARASOHN: Exception. And the jury will know that the objection is sustained, and that evidence can't be given?

THE COURT: Yes.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q How long had you been a partner in the Star Dance Hall in Brownsville, before Bebkin went to work for you? A About four or five months.

Q About four or five months? A Yes, sir.

Q And you never saw Bebkin in that hall? A Never.

Q You knew where he lived, didn't you? A I didn't know that.

MR. EDWARDS: That is all.

MR. SARASOHN: That is all. Now, I offer in evidence, and want to read to the jury, the statements---or, rather, the public statement made by Mr. Justice O'Sullivan as to Annie Brown on the several times that she was arraigned. The gentleman said he would allow it to be read, the last time.

MR. EDWARDS: No. I offered to consent to its being read, last time, and he wouldn't read it, and I have no objection to reading it now, if counsel permits it.

THE COURT: I will not receive it.

MR. SARASOHN: Sir?

THE COURT: I will not receive it.

MR. SARASOHN: Notwithstanding the testimony of Annie

CASE #1768

Brown, that she has testified to certain facts which we deny?

THE COURT: No. I will not receive it.

MR. SARASOHN: I ask that it be marked for identification, and I except.

(It is marked Defendant's Exhibit 1 for Identification)

MR. SARASOHN: Now, I will call Mr. Edwards.

W I L L I A M H. L. E D W A R D S, of 108 East 38th Street, Manhattan, New York, being duly sworn, testified as follows:

BY THE COURT:

Q Mr. Edwards, you are an attorney and counselor at law? A Yes, sir.

Q And you are an Assistant District Attorney in the Office of the District Attorney of the County of New York? A Yes, sir.

Q And you are the Assistant District Attorney assigned by the District Attorney in the prosecution of the cases upon the Calendar of this Part of the Court? A Yes, sir.

Q And you have conducted the prosecution of this defendant in this trial, have you not? A I have, sir.

DIRECT EXAMINATIO BY MR. SARASOHN:

Q Did you conduct the defendant's first trial on this indictment, before Mr. Justice Foster on or about August 1st, 1913? A Yes.

Q You conducted the prosecution in that trial, did you not? A Yes.

14471

CASE #1768

Q Now, during that trial, Bebkin produced as witnesses, the same people for whom he testified he worked from the day he came here, Fine, Black and Puschkoff? Isn't that so?

THE COURT: Mr. Edwards, I may say, in your capacity as Assistant District Attorney, you may make objection to any question that you might have made if you were not in the witness chair, and were acting in your official capacity.

(Question repeated by the stenographer).

MR. EDWARDS: I object to the question.

THE COURT: Ido not see that it is material. I sustain the objection.

MR. SARASOHN: We take an exception.

BY MR. SARASOHN:

Q Now, after the trial, didn't you send two officers to investigate each of these places, where the people themselves, and Bebkin testified he worked? A Well, you will have to tell me what you mean by "Officers".

Q Well, detectives? A I did not.

Q Well, men, then? A I did not.

Q Did anybody in the District Attorney's Office, to your knowledge, send anybody to investigate, any men? A No, sir.

Q Any process servers? A I gave orders to one process server with respect to one of the employers.

Q Didn't you give orders to one process server, or more, to investigate every one of the witnesses who had testified in the

CASE #1768

last trial? A No, I did not. I did as to certain witnesses, but not as to all.

Q Oh, you did, as to certain witnesses? A Yes.

Q And that investigator is here, is he not? A No.

Q Well, is he in the building?

THE COURT: I do not see how that is material.

BY MR. SARASOHN:

Q Well, have you produced that investigator as a witness in this trial? A I have not.

Q Now, Mr. Edwards, do you recall the testimony of Annie Jacobs at that trial? A Not in detail.

Q Well, I will call your attention to one point. At the trial before Judge Foster, did Annie Jacobs ever testify that there was a picture in that room?

MR. EDWARDS: I object to the form of the question. I have no objection to answering the question, if put in the proper form.

THE COURT: I think the form is objectionable.

MR. SARASOHN: Does your Honor exclude it in that form?

THE COURT: Why, there have been several rooms mentioned in this case.

BY MR. SARASOHN:

Q Well, that there was a picture in the hall room, bed room in which she testified that she was locked up?

MR. EDWARDS: I object to that, if the Court please.

THE COURT: Sustained.

1416
CASE #1768

MR. SARASOHN: Exception. May I ask the grounds? I understand that any person who was present in Court is competent to testify as to whether another witness testified to a thing or not.

THE COURT: A witness is competent to testify, if he heard any testimony of that kind.

BY MR. SARASOHN:

Q Well, did you hear Annie Jacobs give any testimony on the first trial, before Judge Foster, as to there being a picture in the hall bed room, in which she testified that she was locked up for three days?

MR. EDWARDS: I object to that, on the ground that I heard no question as to that asked of her, and, if I did not hear the question, I didn't hear the answer.

THE COURT: Objection sustained.

MR. SARASOHN: We except.

BY MR. SARASOHN:

Q And I call your attention to the minutes, and ask you to find anything in those minutes to show that she so testified at the first trial?

MR. EDWARDS: Objected to.

THE COURT: If you call my attention to any question put to Annie Jacobs on that trial, which required of her a description of that room and its furniture, and any answer that indicated that she had given a description of everything that she saw in that room, and it then appears that she omitted to mention the presence

1456
CASE #1768

of a picture in that room, I will receive it.

MR. EDWARDS: And there is no such question or answer in the record, if your Honor please. I have read it thoroughly frequently.

BY MR. SARASOHN:

Q Now, at the last trial was Annie Jacobs permitted to remain in the Court Room while the testimony was given? A Yes, after she had testified.

Q And was Mrs. Goldman a witness at the last trial? A She was.

Q And while Annie Jacobs was in the room, didn't I ask some of the witnesses about the pictures in the room? A Not that I heard, sir; and I don't think you did.

Q Was Annie Jacobs sitting in the Court Room when the defendant's witnesses, Mr. and Mrs. Leff, and the boy, were describing that room? A When some of them were, but not when all of them were. That is my recollection.

Q Now, isn't it a fact that you examined one of those Leff witnesses while Annie Jacobs was in the room, and brought out the fact that there was a picture in the room? A No, it is not a fact.

MR. SARASOHN: That's all, Mr. Edwards.

MR. EDWARDS: Now, I have only a few questions to ask in cross examination of the witness, Edwards, if your Honor please.

CROSS EXAMINATION BY MR. EDWARDS:

CASE #1768

Q Will you please describe the Court Room in which Annie Jacobs was present during the time some of the defendant's witnesses were testifying, and her position in the Court Room? A The Court Room was Part III of the General Sessions. The lay-out is similar to this, that is to say, the jury box is on the left of the witness chair, as it is here, and the rail and counsel tables are similarly arranged, with the Clerk's table or desk on the right, on the right hand, and at about the same distance from the Bench. The rail there is arranged about as it is here. And then there were chairs on the other side of the bench, beyond the rail on that side, where jurors take their seats when a jury is empanelled in a case that is not yet actually on trial, and Annie Jacobs sat in the rearmost row of those chairs, and itwas exceedingly difficult even for counsel for the defense or for the People to hear the witnesses, while the trial was going on, because the witnesses spoke in a low tone of voice.

Q But don't you know that some of them testified in Yiddish, through the Interpreter? A Yes, but he didn't always talk much louder than they did.

Q And don't you know that she understands Yiddish? A I do, but I don't believe that, the way the witnesses were speaking, their tone of voice, that she could hear much or any of it, because other persons in the Court Room who were sitting nearer than she was told me that they couldn't hear the testimony very well, that it didn't carry even half acrossthe Court Room.

14512
CASE #1768

MR. SARASOHN: That is all.

MR. EDWARDS: I have no further questions to ask the witness.

MR. SARASOHN: Now, may I ask your Honor, in view of the fact that Annie Brown has given certain testimony here, which is directly contradicted by a statement made by her in open Court, a copy of which I hold in my hand, (Indicating defendant's exhibit 1 for identification), may I know the point upon which your Honor excludes this paper?

THE COURT: Suppose you put your finger, counselor, on what point is in conflict with her testimony?

MR. SARASOHN: Yes, I will put my finger on it: It's right here. (Indicating).

THE COURT: I don't see it. I may be obtuse, but I don't see that it has any bearing. I don't see that that paper contains anystatement alleged to have been made by Annie Brown contrary to anything said during this trial.

MR. SARASOHN: But, certainly, any conflict in the testimony---

THE COURT: Now, come here and we will discuss it.

(The Court then conferred with ceunsel on both sides).

MR. SARASOHN: That's all, except Mr. Embree, I understand, isn't here.

MR. EDWARDS: Mr. Embree is before the Grand Jury, and he will come down as soon as he gets through with the case that

CASE #1768

he is now presenting.

MR. SARASOHN: I will ask Mr. Edwards if he knows anything about the preparation of this paper?

MR. EDWARDS: And I am not now on the stand, I submit. I would have answered that question, when on the stand, if asked it.

THE COURT: Well, what is the purpose?

MR. SARASOHN: To show whether he had any communication with Annie Brown from the time that she was sent up to Auburn until the time of the first trial.

MR. EDWARDS: Idid not.

MR. SARASOHN: Or any one in your office?

MR. EDWARDS: Not to my knowledge.

MR. SARASOHN: Now, that's all. We rest.

THE COURT: Now, that is the case on both sides, is it?

MR. SARASOHN: Yes, sir, thank God.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until two o'clock.)

MR. SARASOHN: May I make a motion at this time, your Honor?

THE COURT: Yes.

MR. SARASOHN: The defendant moves now that the Court direct a verdict of acquittal, upon each and every one of the counts in the indictment.

CASE #1768

THE COURT: And you renew your motions upon all the grounds previously stated?

MR. SARASOHN: Yes, sir; and I now make an additional motion, that the Court advise the jury, under Section 410 of the Criminal Code, to acquit, upon each and every one of the counts, and upon the entire case.

THE COURT: The motion is denied.

MR. SARASOHN: And we except.

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CASE #1768

A F T E R R E C E S S .

MR. EDWARDS: May I state to the Court that Mr. Embree is present now, if there is any desire on the part of the counsel for the defendant to call him?

MR. SARASOHN: I told Mr. Edwards what I wanted to get from him.

THE COURT: Now, do you want to call him or not?

MR. SARASOHN: No, I don't think it's necessary. I will not call him.

THE COURT: Now, Mr. Sarasohn, and I say it without intending to limit you in any way, how long would you like to take in your summation? Now, you mayhave just as long as you want. How long do you want?

MR.SARASOHN: I think I can hold out an hour or an hour and a ~~kaxk~~ quarter.

THE COURT: You would like to have an hour and a quarter?

MR. SARASOHN: Yes, sir.

THE COURT: Is that agreeable to you, Mr. Edwards?

MR. EDWARDS: It's agreeable to me, and I will not try to take any longer than Mr. Sarasohn does. And may I ask another question of the witness Edwards, if your Honor please?

THE COURT: You may.

BY MR. EDWARDS:

Q Since the Recess Hour, Mr. Edwards, have you read the record of the testimony of Mrs. Goldman, given at the last trial?

1456
CASE #1768

A Yes.

Q And can you state whether or not Mrs. Goldman, in the course of her testimony, was asked any questions respecting the pictures on the wallsof the hall bed room at 327 Williams Avenue in Brooklyn? A Yes, I can, because I read the record over during recess.

Q Will you do so? A Yes. She wasn't asked any such question.

RE-DIRECT EXAMINATION BY MR. SARASOHN:

Q And have you read the testimony of the boy Leff, when he was examined, on that subject? A No, sir.

Q Or of Mrs. Leff, when she was examined on that subject? A No, I have not.

RE-CROSS EXAMINATION BY MR. EDWARDS:

Q And why haven't you done so? A Because Mr. Sarasohn directed my attention entirely to the one matter that I looked up, by questions in his examination of me.

(Mr. Sarasohn then summed up for the defense, and Mr. Edwards closed the case for the People.)

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CASE #1768

THE COURT'S CHARGE.

CRAIN, J.:

Gentlemen of the Jury:

After the evidence in a case has been submitted, and after counsel on both sides have delivered their summations, reviewing the evidence and stating their respective contentions, it becomes, under the law of this State, the duty of the Judge presiding at the trial, to state to the jury the law applicable to the case; so that a jury, being guided by the law as stated, may apply that law to the facts in the case, as disclosed by the evidence, as they recollect the evidence, and so, applying that law to those facts, may reach that conclusion which, in the light of the law as applied to the facts, appears to the jury to be just.

Apart from this statutory duty the Court of Appeals of this State has said in a recent case, reaffirming an utterance by that Court in an earlier case, that it is the duty of the Judge presiding at the trial to make such fair comment upon the evidence as will aid the jury in perceiving the pertinency of the testimony, the purposes for which it was received, and, therefore, the purposes for which it may be considered, and its relevancy to the issues in the case.

Those duties, as defined by Statute and stated in judicial decisions, it will be my aim to discharge with a view to making as plain to you as I can the law applicable to the case.

I wish to express in this case the great satisfaction

1458

CASE #1768

that I have felt during the progress of this trial, because of the attention given by jurors to the testimony in the case, evidenced, in part, by very pertinent questions put, from time to time, by different jurors.

The case has been a somewhat long one, possibly in duration longer than the majority of cases tried in this Court, but by no means as long as many. The case has been tried with fidelity and zeal by the experienced counsel who represents the defendant, and it has been tried with like fidelity and zeal by the experienced Assistant District Attorney assigned to this Part of the Court.

The defendant is charged in the indictment with two crimes, namely, with the crime of abduction, which is the charge contained in the first count of the indictment, and with the crime defined by Section 2460 of the Penal Law, which is charged in different forms in the second, third and fourth counts in the indictment.

The indictment is an accusation in writing. It is nothing but an accusation. It creates no presumption that Abraham Bebkin is guilty. Abraham Bebkin has said by his plea that he is not guilty, and you have been empanelled and are now acting as jurors in this case, so that in your capacity as the exclusive judges of the facts, you may determine, in the light of the law as stated to you in this charge, whether or not the defendant is guilty either under the first count

1456
CASE #1768

in the indictment, of the charge of abduction, or, under any one of the other counts of the indictment, of the crime defined in Section 2460 of the Penal Law.

I will invite your attention to the law's definition of the crime of abduction. It is the law that a person who takes, receives, employs, harbors or uses, or causes or procures to be taken, received, employed, harbored or used, a female under the age of eighteen years, for the purpose of prostitution, or, not being her husband, for the purpose of sexual intercourse; or without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage, is guilty of abduction.

The wording in that definition, in the light of the evidence in this case, for your immediate consideration may be stated as follows:

"A person who takes or receives or uses a female under the age of eighteen, for the purpose of prostitution, or, not being her husband, for the purpose of sexual intercourse, is guilty of abduction."

And the question to be determined, in the light of the evidence in this case, under the first count in this indictment, is whether this defendant is shown by the evidence, beyond all reasonable doubt, to answer to the description of such a person, with respect to the complaining witness, Annie Jacobs, and anything that he may have done to her in that con-

CASE #1768

nection, on or about the twentieth day of October in the year 1912.

I will put it in the form of a question: Did this defendant, on or about the 28th day of October, 1912, at a time when Annie Jacobs was under the age of eighteen years, and at a time when this defendant was not her husband, take her to 22 Mangin Street, in the County of New York, in the alternative, either for the purpose of prostitution, or, not being her husband, for the purpose of sexual intercourse?

I have, inadvertently made a slight mistake in the statement of that law, which I now correct. It is not material to the case whether or not he was her husband, if he took her to that place for the purpose of prostitution. But, if he took her to that place for the purpose of sexual intercourse, one of the things to be proven in that connection would be that he took her there at a time when he was not her husband.

Did this defendant take Annie Jacobs to 22 Mangin Street, in the County of New York, on or about the 28th day of October 1912; did he receive her there at that time, or employ her there at that time or harbor her there at that time, or use her there at that time?

If so, was she at that time a female under the age of eighteen years; and, if so, did he take her there for the purpose of prostitution? And, prostitution means, in that connection, as it means when used in Section 2460 of the Law, "For

CASE #1768

the purpose of having common, indiscriminate, meretricious commerce with men, and not merely for the purpose of having sexual intercourse with the party who enticed her or took her away."

That is one branch of the charge against this defendant, as contained in the first count of the indictment; and the other is that he took her there, not being her husband, for the purpose of sexual intercourse.

Was this defendant, Abraham Bebkin, in the apartment of Annie Brown, on or about the 28th day of October, 1912? The complaining witness says that he was, the witness Annie Brown, as I recall her testimony, says that he was. The defendant says that he was not. What other testimony, if any, is there in the case bearing upon the question whether this defendant was or was not in 22 Mangin Street in the apartment of Annie Brown, on or about the 28th day of October, 1912?

I am trying to present these matters to you, gentlemen, in what may be called the logical sequence in which very conceivably you may desire to take them up when you retire to deliberate.

If he was there, on or about the 28th day of October, 1912, did he go there with Annie Jacobs; did he stay there with Annie Jacobs; was he there for portions of nights or days, on or about that time, with Annie Jacobs?

If they came together to that flat, on or about the 28th

CASE #1768

day of October, 1912, and when I say "they", I mean Annie Jacobs and this defendant, under what circumstances did they come there? And the importance of all the testimony relating to what is alleged to have taken place in Brownsville and what is said to have taken place immediately before it is said that the complaining witness and the defendant went to Brownsville, is that it bears upon the question as to whether or not the defendant was the inducing cause of the coming into 22 Mangin Street of the complaining witness, if she came there.

Now, perhaps I have not made that plain, and so, at the risk of repetition, I am about to put the thought that was in my mind in other words.

This defendant is not on trial for anything which may have been done, or not done, in that part of the County of Kings commonly spoken of as Brownsville. This defendant is on trial for something that he is alleged to have done in the County of New York, and the materiality of the evidence relating to what he is said to have done at his home in Brownsville, shortly before the 28th day of October, 1912, is in connection with the claim or contention of the circumstances surrounding the complaining witness there, and the circumstances under which she is said to have come there, referring to the defendant's home in Brownsville, if she went there, were circumstances bearing upon how it happened that

1465
CASE #1768

she, the complaining witness, got to 22 Mangin Street, on or about the 28th of October, 1912, if she did get there about that time.

When the Law uses the word "take", it does not mean of necessity a physical compulsion; it does not mean that it is requisite that the prosecution should establish to your satisfaction, and beyond a reasonable doubt, that the defendant placed his hands on the complaining witness, and physically compelled her to go; but it does mean that, if they went, the suggestion of going, the initiative with respect to the going, the thought leading up to the going, should have been one originating in the mind of this defendant, and not in the mind of the complaining witness.

If they came into the flat of Annie Brown on or about the 28th day of October, 1912, together, that is to say, at the same time, under what circumstances did they come there? Who was the moving cause that led them to go there? Did the complaining witness get there, if she got there at that time, because she was taken, and did she remain there because she was harbored by this defendant?

And the testimony, I state again, in other words, which has been received bearing upon what is said to have taken place antecedent to the alleged going of the complaining witness with this defendant to Brownsville, and what is said to have taken place in the hall bed room in Brownsville, in the

1464
CASE #1768

flat of the uncle and aunt of this defendant, was received in this case as bearing on the question of the circumstances under which the complaining witness got into the flat of Annie Brown, at 22 Mangin Street, on or about October 28th, 1912, if she came there about that time, with this defendant.

When you retire to deliberate, you will first consider the question of this defendant's guilt or innocence of the crime of abduction, remembering in that connection that no conviction can be had for abduction upon the testimony of the female abducted, unsupported by other evidence; and the Courts have held that what is meant in that connection is this: "That the corroborative evidence, whether consisting of acts or admissions, must be at least of such a character and quality as tends to prove the guilt of the accused by connecting him with the crime; that the corroborative evidence, the corroboration, must extend to every material fact that is essential to constitute the crime."

I have stated what are the facts which constitute the crime of abduction, I have stated what are the material facts to be established by the evidence before a conviction can be had as for that crime; and your function will be to take the testimony of the complaining witness, and, recollecting it, to determine whether it is supported by other evidence, or, in other words, determine whether the corroborative evidence is of such a character and quality, if there be corroborative

1465
CASE #1768

evidence, as tends to prove the guilt of this defendant by connecting him with the crime.

The contention of the prosecution is that the complaining witness is supported by other testimony, and the learned Assistant District Attorney has pointed out to you in his summation the evidence which the People contend is evidence supporting the testimony of the complaining witness, and corroborating her; and you have heard, in opposition to the contention so made, the summation in that regard by counsel representing the defendant; and the question has been submitted to you in this charge as a question of fact, to be passed upon by you.

If you believe the defendant to be innocent of the crime of abduction, as charged in the first count of the indictment, or if, upon the evidence, you entertain a reasonable doubt respecting his guilt of that crime, you will consider the question of this defendant's guilt or innocence, under the remaining counts in the indictment, which charge him, in different form, with the violation of the provisions of Section 2460 of the Penal Law.

I now invite your attention to those provisions, so far as they are applicable to the charges as contained in the indictment under which this defendant is on trial. The title of that Section is, "Compulsory Prostitution of Women." The second subdivision of that section contains, among other lan-

CASE #1768

guage, the following:

"Any person who shall compel, or shall induce, entice or procure any female to reside with him, or with any other person for immoral purposes, or for the purposes of prostitution, or shall compel any such female to reside in a house of prostitution, or compel or attempt to induce, entice or procure her to live a life of prostitution, shall be guilty of a felony."

I have omitted some words contained in that subdivision. Subdivision 3 of the same Section contains, among other language, the following:

"Any person who shall induce, entice or procure any woman or girl, for the purposes of prostitution, shall be deemed guilty of a felony."

There again the words "For the purposes of prostitution" and "To live a life of prostitution" have the meaning which I told you was given to similar words when used in the section of the Law defining the crime of abduction, namely, for the purpose of having common, indiscriminate, meretricious commerce with men, and not merely for the purpose of having sexual intercourse with the party who enticed or took her away.

Referring now more pointedly to the charge that this defendant is guilty of the crime of compulsory prostitution of a female, as set forth in the second count of the indictment,

CASE #1768

you may properly ask yourselves these questions: Did the complaining witness, Annie Jacobs, lead a life of prostitution in the month of October, 1912, in the premises 22 Mangin Street? If so, was she compelled to lead such a life by this defendant; or, in the alternative, was she induced to lead such a life by him, or, in the alternative, was she enticed to lead such a life by him, or, still in the alternative, did he procure her to lead such a life?

It would serve no useful purpose to attempt to define the words "compelled", "induced", "enticed" or "procured" as so used, because they mean, as used in this section, what they mean when correctly used in everyday life, and they are words in very ordinary use, and their meaning is universally understood.

The third count in the indictment charges the same crime, as you have been told, namely, the crime known as the compulsory prostitution of women, in a different form, in that there the charge is that he compelled her to reside in a house of prostitution. And the questions arising under that count are: Was the flat of Annie Brown, at Number 22 Mangin Street on or about October 28th, 1912, a house of prostitution, within the Statute? If so, did Annie Jacobs reside within that flat when it was such a house of prostitution; and, lastly, if so, did she reside there because she was compelled to reside there by this defendant?

CASE #1768

The Statute does not merely, in that connection, contain the word "compel", but it also contains the words "induce, entice and procure;" and the indictment likewise, in that connection, contains those words. So that you are to ask yourselves not merely whether he compelled her to reside, at that time, within a house of prostitution, but likewise, in the alternative, did he induce or entice her to so live in such a house?

The last count in the indictment comes under the latter provision of Section 2460, as the provisions were read to you, and the questions for your determination under that count are: Did he induce or entice or procure the complaining witness, for the purpose of prostitution, in its relation to the allegation that that is what he did, on or about the 28th day of October, 1912, at the premises 22 Mangin Street in the County of New York?

In connection with the counts in the indictment charging this defendant with the crime of compulsory prostitution, there is this provision of law, found in the ninth subdivision of that section, namely: "No conviction shall be had under this section upon the testimony of the female, unless supported by other evidence." And there again the rule respecting corroboration is, "That the corroborative evidence, whether consisting of acts or admissions, must, at least, be of such a character and quality as tends to prove the guilt of the

CASE #1768

accused by connecting him with the crime; that the corroboration must extend to every material fact essential to constitute the crime."

In this case, certain evidence has been received, for the purpose of throwing light, if it does throw any light, upon the character of persons who have appeared here as witnesses, so that, aided by that evidence, if it is of aid to you, you may determine the nature of the source from which the testimony comes.

Testimony has been offered with respect to the character of the complaining witness, as bearing upon her credibility, and as bearing upon the probability of the story which she tells, that is to say, upon the probability or otherwise of the charges contained in this indictment.

What does that evidence disclose? You have seen the complaining witness on the stand, you have heard her. You have seen the mother of the complaining witness on the stand and heard her, and the father of the complaining witness, and heard him. You have heard a person who was acquainted with the complaining witness, namely, a young girl, and you have heard from the young girl, that she knew the complaining witness at a time when, as she says, she and the complaining witness worked in the same place.

You have heard certain medical testimony, in the form of an expressed opinion, by a physician. You have heard certain

CASE #1768

witnesses, who say that they saw the complaining witness on certain occasions, at certain times, in the City of Minsk, in Russia; and certain witnesses who say that they saw her prior to October, 1912, going up the stairs, or in the hall---you will recall what the evidence is in that regard---of the premises 22 Mangin Street. You have heard certain witnesses, who say that, prior to October 28th, 1912, they saw her inside of Annie Brown's flat; and you have heard, I believe, one witness who purports to testify to an act of sexual intercourse between himself and the complaining witness in that flat, some time in the month of August, 1912.

But there may be, and doubtless there is, other testimony in this case, which you may recollect, bearing upon the question of the character of the complaining witness. That is not important in the sense of its being true that, before a conviction can be had under any one of the counts in this indictment, that it must appear that the complaining witness was of previously chaste character, because that is not so. Either the crime as defined in Section 70 of the Penal Law, or the crime of compulsory prostitution, as defined in Section 2460 of the Penal Law is possible of commiss on upon a girl or woman who, at the time of its commission, and prior to its commission, answered to the description of a prostitute; and the evidence is merely in this case, as already stated, as bearing, in the first place, upon the credibility of the com-

CASE #1768

plaining witness, and, secondly, as bearing upon the probability of her testimony, in the light of the character of the charge as made against this defendant.

In this case a witness has appeared, Annie Brown by name, who has been previously convicted of the crime of abduction. In determining what credence you will give to her testimony, you may take into consideration that circumstance. In connection with the testimony of Annie Brown, and in connection with the testimony of every witness who has appeared upon this trial, or whose testimony has been read in evidence, by consent, in this case, you are now told that, if you believe that any witness has committed deliberate perjury, with respect to a material matter, that then, and in that event, you are at liberty to wholly disregard the testimony of such witness. The rule is not that you are compelled to disregard it; the rule, contrariwise, is that you are at liberty to disregard it.

In this case, certain questions were put to Annie Brown, when she was under direct examination, and after she had testified, as I recall it, that she had no conversation with this defendant at the time when, as she said, the defendant came to her flat, on or about the 28th of October, 1912, in company with the complaining witness, for the purpose of refreshing her recollection by directing her attention to certain questions that were said to have been put to her and

14128
CASE #1768

certain answers which she is said to have given, upon a preceeding trial, and, after hearing those questions read, and the answers, as they appeared in the stenographer's minutes, likewise read, she adhered to the statements made by her upon this trial, and alleged that the testimony given by her in that connection, or in response to such questions, on the other trial referred to, was untrue. That testimony, that is to say, those questions and those answers, were allowed to be put, for the purpose of refreshing her recollection, and not for the purpose of her impeachment as a witness. Any testimony given upon a preceding trial, not given under concession, where the witness was by concession upon this trial not produced, and not stated upon this trial by the witness testifying upon this trial to be true, is not to be deemed as evidence in this case.

Your function is to weigh the evidence. That is a figurative expression, which means the process that is adopted by intelligent jurors in reaching a conclusion as to whether a given witness is telling the truth. The considerations which should influence you in that regard are matters for your individual determination, and what I say to you, therefore, in that connection, is said not in a directory spirit, but by way of suggestion.

What was the witness' seeming intelligence? What was his or what was her relation to the controversy? Inter-

1473
CASE #1768

1471

ested or disinterested? Biased or unbiased? What was the witness' manner of testifying? Did the witness tell a probable story? Was it consistent with itself? If contradicted, was it contradicted in an important or material matter, or merely in an immaterial one?

Was it in conflict with the testimony of other witnesses; and, if so, of what witnesses?

What was the witness' opportunities for observation? What was his capacity or her capacity for observation?

In the hurry of a trial, questions are sometimes put in a confusing form, without any intent on the part of counsel putting them to have the question other than perfectly plain; and it happens not infrequently that a witness, not fully understanding the question may say something that the witness, in point of fact, does not mean; and that possibly is increased where the witness, being of foreign birth, speaks the English language imperfectly. It is, therefore, well to take all that the witness has said upon a certain subject as indicative of the real meaning of the witness, rather than to take a single answer to a single question, because what you want to get at is what the witness really intends to say, and whether the witness is endeavoring to tell the truth, and what the truth is.

CASE #1768

This is a criminal action, and in criminal actions, the burden of proof is upon the prosecution. That burden re-

quires that, before the defendant can be found guilty, a jury must be satisfied beyond a reasonable doubt of the defendant's guilt.

There are two contingencies under our law in which a verdict of guilty cannot be lawfully rendered against Abraham Bebkin, and one is if, upon the evidence in this case, you believe he is innocent, and the second is if, upon the evidence in this case, you entertain a reasonable doubt respecting his guilt.

There is a contingency in which your oaths require that you shall render a verdict of guilty, and that is, if, upon the evidence in this case, you entertain no reasonable doubt of the guilt of this defendant.

A reasonable doubt is a doubt that is founded in and sustained by reason. It is not a whim, it is not a caprice, it is not the action of unreasonable sympathy. It is not a mere subterfuge to which resort may be had in order to avoid doing a disagreeable duty. It is a doubt, back of which there is a "because" so that a juror says that he doubts the guilt of the defendant for such and such a reason.

During the progress of this trial, in your presence, certain motions were made, and they were argued, and they were passed upon by the Court. When you go into that jury room, you are not to think about what was said on any one of those motions, you are not to talk about it, you are not to make it

CASE #1768

the basis, in your inner consciousness, of any verdict that you may render in this case, because the decision by the Court of motions in this case imports no opinion by the Court as to what your verdict should be; and you are to banish from your minds, when you enter upon the discussion of the evidence in this case, everything but the evidence, and, measuring the evidence by the legal definitions given to you in this charge, you are to determine the question of the guilt or innocence of this defendant.

If you bring in a verdict which registers your belief as to what the evidence in this case requires, you have discharged that duty which you swore you would discharge; and if, for any reason, you render any other verdict, although nobody may know that some other reason has influenced you, you will have been false to the oath that you took when you stood at that gate, before you went into the jury box.

Now, it is very conceivable that there may be some propositions of law which both the District Attorney, on the one hand, and the Defendant's Counsel, on the other, may desire to have me charge you, and I am going to give those gentlemen an opportunity to put those requests in writing, and I will consider them, and pass upon them.

MR. SARASOHN: I have none, your Honor, unless the District Attorney has some.

MR. EDWARDS: I have but three suggestions to make

14768
CASE #1768

to the Court, which will not change the charge in any way, but be merely additional to the charge.

MR. SARASOHN: May I hear what that was? Idiдn't hear what Mr. Edwards said.

THE COURT: I may say to you, gentlemen, that I charged, in respect to the fact, in a certain connection which I mentioned, that it was an element to be proved that the defendant was not the husband of the complaining witness, and I may say, by way of addition, in that connection, that, as I understand it, there is no contention on the part of the defendant that he is or was the husband of this complaining witness.

If you believe that any witness has committed deliberate perjury, but, at the same time, you feel that you can separate what that witness said that was true, if anything that the witness said was, in your opinion, true, from what that witness said that was false, you are at liberty to doso.

MR. SARASOHN: I will ask one request, if your Honor please---

THE COURT: Now, just pardon me a moment.

MR. SARASOHN: I beg pardon.

THE COURT: I think perhaps that it is probable that I made plain before what I am going to say now, but my attention is called to the fact by the District Attorney that possibly I did not make it plain; therefore, I will try to make

CASE #1768

it plain now: When Annie Brown was produced as a witness for the People, she said, in answer to questions put to her by Mr. Edwards, in the course of his examination, that when, as she says, the defendant, accompanied by Annie Jacobs, came to her, Annie Brown's flat, in October, 1912, as she says they came, she had at that time, that is to say, Annie Brown had at that time, no talk with this defendant. That testimony in that regard apparently took the District Attorney by surprise, and, for the purpose of enabling him to refresh, if possible, the recollection of Annie Brown in that regard, he was permitted to draw her attention to certain questions which he had asked her on a preceding trial, and certain answers which she had then given, indicating at that time that she had talked with this defendant. It was received, not as evidence in this case, but those questions were permitted to be put for the purpose of endeavoring in that way to refresh her recollection, in the event that she might say that her recollection was imperfect. Is that sufficient?

MR. EDWARDS: Perfectly, sir.

MR. SARASOHN: And, in view of that, I ask your Honor to instruct the jury that those answers to which Annie Brown's attention was called are not evidence in this case.

THE COURT: You are charged that, gentlemen.

MR. SARASOHN: And, if any juror intentionally or unintentionally gives that evidence any weight, he is violat-

1478
CASE #1768

ing his oath.

THE COURT: Well, if he does it intentionally.

MR. SARASOHN: Yes, I didn't mean unintentionally. And I ask your Honor to charge this---

THE COURT: You appear to have it written out, now. Hand it up to me.

MR. SARASOHN: Here it is, but it is so mixed up, that I would like to give your Honor briefly my request in words.

THE COURT: If the testimony in this case is evenly balanced, gentlemen, and you are uncertain as to whether your verdict should be guilty or not guilty, of course your verdict will be one of not guilty. In fact, I went beyond that at the time I charged you, because I said, in that connection, that the only condition of mind which would warrant a verdict of guilty in this case, was a condition of mind which would enable you to say that, on the evidence, you entertained no reasonable doubt of the defendant's guilt, and the words "reasonable doubt" were defined to you.

MR. SARASOHN: That's all.

THE COURT: Now, gentlemen, I may say this: You have served long and I shall want to do everything that I can for your comfort, and, if you are engaged in deliberating at seven o'clock, I shall be very glad to see that an opportunity is given to you, in charge of Officers, to go to some suitable

CASE #1768

place for dinner.

MR. SARASOHN: I regret that your Honor can't include me in that dinner, because the County will not pay for it.

THE COURT: I only say that to you, gentlemen, because I do not want you to be at all hurried in your deliberations.

(The jury retired at 5:50 P. M.)

(The jury returned to the Court Room at 9:15 P.M.)

THE COURT: Mr. Foreman, you have asked two questions:

"First---Did Annie Brown testify that the defendant brought Annie Jacobs to 22 Mangin Street, or did she testify that Annie Jacobs brought the defendant there, on October 28th?"

Counsel on both sides are agreed that the only testimony in the case having any bearing upon the question that you ask is as follows, on the direct examination of Annie Brown:

"By Mr. Edwards:

"Q Now, when was it, Annie, that you first met this defendant? A When she came with him.

"Q When was that, Annie? A That was five days before I was arrested.

"Q Now, didn't you meet him at the time when he came into the house with Annie? A Yes, because he was with the

1486

CASE #1768

girl.

"Q And you mean to say that you didn't speak to him at all? A She introduced him to me."

On the cross examination of Annie Brown by Mr. Sarasohn, she was asked:

"Q And how long was that before the time that you first saw Bebkin? A She came with him."

The second question is:

"Second---Did the defendant testify to being at 22 Mangin Street five times, or did he testify how many times he really was there, and when?"

Counsel on both sides are agreed that the defendant testified that he was at 22 Mangin Street once, and that that was on a Saturday in August of 1912.

Now, gentlemen, you may retire.

(The jury again retired, at 9:20 P. M.)

(The jury returned to the Court Room at 11:30 P.M.)

THE COURT: Mr. Foreman, and gentlemen of the jury, with the express consent and concurrence of the counsel for the defendant and the Assistant District Attorney, I have sent for you, and had you brought into the Court Room, in order to say to you that, in about fifteen minutes, that is to say, in about a quarter of an hour, Ishall leave the Court House; and that, if you have any questions which you would like to ask, I will receive the questions for consideration, and answer them,

CASE #1768

if proper, and that, if there is any testimony that you would like to have read, it can be read to you from the stenographer's minutes, in open Court; that, if there are any further instructions as to the law, that you would like to receive, and you will submit your request in writing, I will consider the propriety of giving you further instructions.

I may say, gentlemen, that I feel constrained to keep you together somewhat longer, in the light of the circumstance that the trial of this case has taken a number of days. Now, gentlemen, you may retire, and you can consider these suggestions.

(The jury again retired, at 11:35 P. M.)

(The jury returned to the Court Room at 11:45 P.M.)

THE COURT: Gentlemen, you ask me the following question:

"If there is reason to believe that the complaining witness had sexual intercourse with men before meeting the defendant, and if it is not believed that he took her to 22 Mangin Street for the purposes of prostitution, but if he used her at that address for his own purposes, does that constitute a violation under sections 2, 3 and 4 of the indictment?"

The answer to that question is as follows:

The second count in the indictment reads: "And the Grand Jury aforesaid, by this indictment further accuse the

CASE #1768

said Abraham Bebkin of the crime of compelling, inducing, enticing and procuring a female to live a life of prostitution, committed as follows: --The said Abraham Bebkin, late of the Borough and County aforesaid, on or about the 28th day of October, in the year aforesaid, but on what particular day the Grand Jury is unable more particularly to set forth, at the Borough and County aforesaid, feloniously did compel, induce, entice and procure a certain female, to wit, her, the said Annie Jacobs, to live a life of prostitution, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York, and their dignity."

Under that count in the indictment, the answer to your question is, "No."

The third count in the indictment reads:

"And the Grand Jury aforesaid, by this indictment, further accuse the said Abraham Bebkin of the crime of compelling, inducing, enticing and procuring a female to reside in a house of prostitution, committed as follows:---The said Abraham Bebkin, late of the Borough and County aforesaid, on or about the 28th day of October, in the year aforesaid, but on what particular day the Grand Jury is unable more particularly to set forth, at the Borough and County aforesaid, feloniously did compel, induce, entice and procure a certain female, to wit her, the said Annie Jacobs, to reside in a

CASE #1768

house of prostitution, to wit, in the premises there known as Number 22 Mangin Street, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity."

And under that count in the indictment the answer to your question is, "Yes," and not "No."

And, in that connection, to make it somewhat plainer, I charge you that it is the law that, if a man compels a female to reside in a house of prostitution, he may be guilty of a felony, although he may have compelled her to reside there, not in order that she might be a prostitute, but simply that he might have in such a house, under such circumstances, sexual intercourse with her.

The fourth count in the indictment reads as follows:

"And the Grand Jury aforesaid, by this indictment, further accuse the said Abraham Bebkin of the crime of inducing, enticing and procuring a girl for the purposes of prostitution, committed as follows:---The said Abraham Bebkin, late of the Borough and County aforesaid, on or about the 28th day of October, in the year aforesaid, but on what particular day the Grand Jury is unable more particularly to set forth, at the Borough and County aforesaid, feloniously did induce, entice and procure a girl, to wit, one Annie Jacobs, for the purposes of prostitution, against the form of the Statute in such case made and provided, and against the peace of the

CASE #1768

People of the State of New York and their dignity."

And under that count in the indictment, the answer to your question is "No."

Have I made that reasonably plain? Gentlemen, you may retire.

MR. SARASOHN: And may I ask one request, your Honor?

THE COURT: No, I think I will entertain no requests.

MR. SARASOHN: But, in view of the question, your Honor---

THE COURT: I will, at this time, entertain no requests. The jury will retire.

THE SECOND JUROR: Will your Honor remain here for about fifteen minutes?

THE COURT: Yes.

THE SECOND JUROR: We may be able to reach a verdict on your charge.

THE COURT: I will.

(The jury again retired at 12:10 A. M.)

(The jury againxreturned to the Court Room at 12:30 A. M.)

THE CLERK: Gentlemen of the Jury, have you agreed upon a verdict?

THE FOREMAN: We have not.

CASE #1768

THE COURT: I have received, Mr. Foreman, a communication from you in behalf of the jury, stating that you are unable to agree, and asking whether you can be discharged. Do you declare yourselves to be unable to agree upon a verdict?

THE FOREMAN: I think so. I don't think we can agree upon a verdict.

THE COURT: And do you desire to be discharged from the further consideration of the case?

THE FOREMAN: I think that would be advisable, yes.

THE COURT: Do you think that you are unable to agree upon a verdict?

THE FOREMAN: I do. I don't think, if we stayed there any longer, we would be able to agree upon a verdict; I don't think we would be able to come together.

THE COURT: I regret your inability to agree, gentlemen, but, in view of the length of time that you have had the case under consideration, and the fact that this is your third request to be discharged, saying that you were unable to agree, I will discharge you from the further consideration of the case.

I wish to thank you, gentlemen, for the attention t hat you have given to the case, and I regret that I felt constrained to keep you so long. Tomorrow will be the last day of the

CASE #1768

Term, and you are all excused for the balance of the Term, with the thanks of the Court.

The defendant is remanded.

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CASE #1768