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COURT OF GENERAL SESSIONS OF THE PEACE,  
City and County of New York.

- - - - -x  
: THE PEOPLE,  
: vs.  
: JOHN SCHAUMLOEFFEL,  
: -x

Before  
: HON. WARREN W. POSTER, J.,  
: and a Jury.

March 23, 1904.

Indictment filed February 3, 1904.

Indicted for Sodomy.

APPEARANCES.

For the People,

ASSISTANT DISTRICT ATTORNEY ROBERT TOWNSEND,

For the defendant,

CHARLES WEISHAUP, ESQ.

T. W. Osborne,  
Official Stenographer.



(Jury duly impaneled and sworn).

The Court admonished the Jury in accordance with Section 415 of the Code of Criminal Procedure, and takes an adjournment until tomorrow morning, March 24, 1904.

.....

March 24, 1904.

Court met pursuant to adjournment.

MR. WEISHAUP: I move to dismiss the indictment upon the ground that it charges the defendant with the commission of two crimes, and that is contrary to law.

THE COURT: What two crimes?

MR. WEISHAUP: First, it charges that he aided and abetted in the commission of the crime, and second it charges separately that he counselled, commanded and procured the act to be done.

THE COURT: I will deny your motion at this time with leave to renew after the proof is in. We will hear the proof and see what crime is shown, if any.

Exception.

Mr. Townsend opens the case on behalf of the

People.

MR. WEISHAUP: I offer to admit on behalf of the defendant that on the 20th day of January of this year, at the premises 231 and 233 East 33rd street, at about 10 o'clock in the evening, two women named Bertha Johnson and Cora Smith publicly laid upon each other on the stage there.

MR. TOWNSEND: We do not want that admission.

N I C H O L A S     S C H L O E D E R, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q You live where? A I live at 341 East 68th street, Manhattan, New York City.

Q Your occupation is what? A Lawyer.

Q Do you know the defendant at the bar? A I do.

Q Do you recollect when it was that you first became acquainted with him? A I should judge about a year ago, possibly a little longer.

Q Where was it? A He called up my office then at 257 Broadway and told me that he had succeeded to the rights of one August F. Zimmermann, as proprietor of the saloon run at Nos. 231 and 233 East 33rd street, of which I was the landlord

as trustee of the estate of Frank Skull, deceased. He then paid me the rent for that month-- I can't remember which month it was--- and said that he would hereafter pay his rent as Mr. Zimmermann had done.

I then told him that I would not release Zimmermann from the lease which he held, but that I would also hold him liable under that lease, and he said he was satisfied.

Q What else happened at that time? A At that time, I told him there was a five year lease. He said he knew it. He knew the lease would expire in 1905. He also said he had made arrangements with the brewer with reference to the \$500 security deposited with me. I said that was all right, as long as I received my rent it was perfectly satisfactory to me.

Q These premises do you recollect the number? A I beg pardon?

Q Did you state the number? A I think-- 231 and 233.

Q Whereabouts? A Between 2nd and 3rd avenue on the north side of 33rd street.

Q In the County of New York? A In the County of New York and Borough of Manhattan.

Q Do you recollect the name of the hall which was given? A That I do not recollect.

Q You have been there to see the premises? A Oh, yes, I have seen them a number of times.

Q Did you ever meet the defendant there? A Yes, sir; I met him there.

Q When, after that time? A Yes, sir, after a while he became rather delinquent in paying his rent, and would not answer the letters I wrote to him requesting the rent, and so I called upon him twice thereafter. Once he paid me something on account in his place of business there, and another time he said he would come down and pay, and that must have been either September or October or the beginning of November of last year.

Q Did you see him again at the premises? A No, sir--- I saw him twice.

Q When were those two occasions, do you recollect about when? A One I believe was in September, and the other October or November. I don't remember which of the two months it was.

Q Did you look through the premises at that time? A I did.

Q Can you describe them? A I can describe the premises, not alone from that interview, but from being there at the time Zimmermann had possession of it. The premises consist-

ed of a saloon about the size of this room, and back of that saloon there was a partitioned off a large hall, which was a meeting hall for lodges and other places like that, and above that there was a smaller hall, and above that there were people living there, a regular tenement house, people I should judge that were laboring people with their families. He had a lease of the whole premises at \$200 per month. He occupied the entire premises and sublet these things.

Q You say you saw him in November-- did he make any payment to you? A Yes, sir; he did, very often.

Q The last payment he made to you was about when?

A The last payment I think he made to me personally was in October of last year.

Q Then you know that he made another payment to one of your concern? A He made a payment to the managing clerk of the firm Straley, Hasbruck & Schloeder.

Q When was that made? A In January, January of this year.

Q Your managing clerk here? A He is-- he was my managing clerk.

CROSS EXAMINATION BY MR. WEISHAUP:

Q As the trustee of an estate, owning real estate, real

property, did you take any interest in the use for which the premises were put? A Certainly I did.

Q You inquired to ascertain if those premises were used for any improper purposes? A I did-- not that exactly, but I inquired to find out for what they were used, so if they were used for improper purposes, I would not permit such things to exist.

Q Made personal investigation? A I did as far as I could.

Q What was the result? A The result of the investigation was this, from what information I could get the hall was hired out to labor unions and lodges and German Singing societies, and in the front there was an ordinary-- what I considered a German beer saloon. Upstairs the hall was hired for the same purposes and the residents appeared to be laboring men with their wives and children-- appeared to be perfectly respectable to me.

Q Did you satisfy yourself at any time as to the use to which the stage in the hall, on the ground floor was put? A I was informed that it was used by the presiding officers of these various lodges and labor unions to make speeches.

Q Did you ever ascertain whether amateur entertainments,



of any kind, were given? A I never ascertained that, never heard of that.

Q You say you noticed on the walls the certificates?

A I noticed the placard or bulletin there which gave the date at which various lodges and societies and labor unions would meet at these rooms. I was present one evening when one of the labor unions was meeting there-- that is I was there for the purpose of collecting my rent, and saw the men sitting around the tables there doing their business.

Q Was there anything improper or immoral done at that time? A Nothing whatever.

Q You say Mr. Schaumlceffel paid you the rent for those premises? A He did.

Q Do you know whether he owned the saloon? A He told me so, I don't know so, except that he told me so.

Q That he ran the saloon or or owned or leased the premises? A He told me he was the proprietor of the place, that he had succeeded to Mr. Zimmerman who was formerly the proprietor, and he told me that Mr. Zimmerman had ran away from his wife and he had succeeded and was going to take possession of the place and paid me the rent.

Q He told you that? A At the beginning-- that was the first time I ever met him. He called upon me. I never knew him before that.



Q Did you make any other investigation besides going to the place? A I inquired in the neighborhood to find out what the place was and they told me it was all right.

Q Inquired of respectable people? A Yes, sir.

Q Had anybody in the neighborhood at any time complained to you? A No one whatever, not during Mr. Schaumlcoeffel's tenancy, did I hear any complaint whatever.

Q As far as you know, the place was used at all times for purposes which were not either immoral or indecent?

A As far as I know, certainly.

BY MR. TOWNSEND:

Q You were not notified of the prize fights? A Never heard anything of that sort, never knew, and I very seldom called there for an interim of nine months.

Q You do not live in that part of town? A No, sir-- for an interim of nine months, I was not there.

MR. WEISHAUP: We will admit that the defendant paid the rent.

LEON A. CARLEY, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

## DIRECT EXAMINATION BY MR. TOWNSEND:

Q Your business is what? A I am an attorney.

Q And you live where? A 316 West 84th street.

Q Do you know the defendant at the bar Schaumloeffel?

A I do.

Q When was it for the first time you met him to know him? A I have seen him at my office. I won't state just the time.

Q You were connected with the firm of the gentleman who just preceded you? A Yes, sir.

Q Last year, you mean the latter part of last year?

A Yes, sir.

Q Did he ever have any transactions with you? A Only in the payment of rent for these premises on East 33rd street.

Q When was that? A On January 12th.

Q Of this year? A Of this year.

Q What was done at that time when you saw him? A He came in and paid \$200.

Q Did he say anything about it, or was anything said about what the \$200 was for? A It was for rent, and at the time he requested an allowance to him for a couple of small bills he had paid in the way of repairs, and I told him that I knew nothing about that that Mr. Schloeder was the trustee of that estate and I would communicate with him in regard to

these matters, Mr. Schloeder at that time being home sick.

Q You saw him upon several occasions? A I never have seen him upon many occasions.

Q More than one? A Yes, sir; I think I have, in the office, but that is the only time I had any business with him.

Q That you had any business with him? A Yes, sir.

CROSS EXAMINATION BY MR. WEISHAUP:

Q You never saw Schaumlceffel at the 33rd street place?

A I think not, no, sir.

Q Did you ever go there? A I never was there prior to this January 12th. I have been there since that time.

Q You have been there since then? A Yes, sir.

Q And when you went there on January 12th, did you look around the place? A I did not go there. He came to our place to pay his rent.

Q You were never in the 33rd street place? A Up to that time I say no.

Q Up to January 12th? A January 12th.

Q After that? A After that I have been there.

Q What was the first time you went there after January 12th? A I can't state the exact time.

Q Was it before January 20th? A That I would not

Q Whenever you went there, you looked around the place, I suppose? A Just let me consider a minute-- it is possible I was there once prior to January 12th, and I won't be positive. If I did go there it was in regard to this rent, to get the rent.

Q Whenever you went there you looked around the place? A I was only in the front part in the saloon.

Q Did not look in the hall at all back of the saloon? A Never was in the hall back of the saloon until two weeks ago about.

Q Did not go upstairs? A No, sir.

Q You say you were in the hall back of the saloon about two weeks ago? A Just about.

Q Was the place open or closed at that time? A Well, it is practically closed. We are dispossessing the tenants and are looking for some arrangement to handle the house.

Q At the time you were there did you see any charters around the walls for labor unions or singing societies or anything of the sort? A I do not recall any.

Q Did you see any list of lodges and meeting time out in the saloon? A I do not recall that there was any.

## RE DIRECT EXAMINATION BY MR. TOWNSEND:

Q You were there on the 12th of January, what time in the day was it? A No, Mr. Townsend, I was not on the 12th. We came to our office on the 12th.

Q What day were you there? A I cannot say as to that.

Q Was it after he had been to your office, after the 12th? A Yes, sir; I have been there after the 12th, and I think before the 12th.

Q I mean just about that time, did you see him there, the point is, when you were there-- what did you go there for? A I went there to collect the rent, and I did not get it.

Q Did you see him at that time? A No, sir; I saw his wife.

Q Did you see him there after that? A No, I never have seen him there.

Q Now, you say the rent was paid \$200 was paid on the 12th of January, that paid the rent up to when? A Up to the 1st of January.

Q The rent was payable in advance, was it? A Yes, sir, in advance, as that is, as I understand.

Q The rent, as I understood was paid at the close of each month? A It was paid at the close as I understand,

but that was simply a concession on the part of the proprietor. That of course he could tell you about. I do not know as to that.

Q It was not collected really in advance, collected at the end? A I think that was the situation, collected at the close of the month.

RE CROSS EXAMINATION BY MR. WEISHAUP:

Q Who paid you the rent on the 12th? A Mr. Schaumloeffel.

Q Was Mrs. Schaumloeffel there? A No, sir.

Q You say you saw Mrs. Schaumloeffel in the place?

A I saw her at the place on 33rd street.

Q You saw her there? A Yes, sir.

Q On the 12th he came down to your office? A Yes, sir.

Q Did you ever ascertain who owned the saloon? A I don't know anything about that.

J O H N M. O ' S H E A, called as a witness on behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:



Q What is your occupation? A County detective.

Q Connected with the District Attorney's office?

A Yes, sir.

Q And has been for sometime? A Yes, sir.

Q Were you so employed on the 20th of January?

A I was.

Q Now, Mr. O'Shea, are you familiar with the premises 231 and 233 East 33rd street in the County of New York? A Yes, sir.

Q They are in the County of New York, are they? A Yes, sir.

Q Do you recollect the 20th of January? A I do, yes.

Q In the evening? A Yes, sir.

Q Where were you about eight o'clock? A At 8:30 I was at 231 and 233 East 33rd street.

Q Anybody with you at that time? A Yes, sir.

Q What did you find when you got to 231 and 233 East 33rd street, what did you find there? A I found a liquor saloon and I entered in the front door and I seen the defendant at the bar.

Q I show you this photograph? A Yes, sir; that is the saloon I have reference to.

Q That is this place? A That is the saloon I have referred to.



Q Now, was there anybody in the liquor saloon?

A Yes, sir, there was four or five people in there. This defendant was behind the bar.

Q Do you recognize this man, the defendant, do you recognize seeing him there that night? A Yes, sir:

Q What was he doing the first time you saw him? A He was behind the bar talking to some man at the bar when I entered.

Q What did you do then? A I was introduced to the defendant.

Q By whom? A By a man that was introduced to me as Jones, Mr. Jones. I was introduced to the defendant.

Q In what way were you introduced, state what was said? A I was introduced as Mr. Blake, and he said "This is the boss of the place".

Q Who said that? A This Mr. Jones.

Q Said that while in the presence of the defendant? A Yes, sir, and Mr. Schaumloeffel shook hands with me and we had a drink there.

Q At that time did he say anything to you? A Mr. Jones said to him that I was a young man that he knew and that I wanted to see the circus.

MR. WEISHAUP: I move to strike that out, the words "to see the circus".

BY THE COURT:

Q Was it said in the presence of the defendant?

A Yes, sir; it was.

THE COURT: We will receive it for the purpose of showing the conduct of the defendant, as part of the res gestae.

Exception.

THE WITNESS: (Continuing) So I asked the defendant if the show was going to be all right, and he said "Yes, it would be a good show." So he said it would cost me two dollars and a half to go in there.

Q Two dollars and a half? A Yes, sir. So, he came from behind the bar and he asked for my money, and I gave him three one dollar bills, and so he took me in the rear room to a man named Schaefer.

Q Look at that photograph, just hold it up so the jury can see, and point which way you went? A He came from behind the bar here and met me about this post. Then he took my money there and brought me in the rear room here. There was a man named Schaefer standing at that rear door---

Q Hold up the photograph? A He came from behind the bar here, and met me at that post, and then took my money here, and brought me into the rear room behind this little box office.

Q There was a door there in the rear room? A Yes, sir; there is a door there.

Q At that door-- A Was a man named Schaefer. Mr. Schaumloeffel handed my money over to Schaefer.

Q The defendant handed your money to Schaefer? A And Schaefer returned me fifty cents.

Q Did Schaumloeffel say anything as he did that? A Yes, sir.

Q What did he say? A He said "This is this young man's money", and Schaefer took the money and gave me fifty cents change and admitted me into the rear room.

Q I ask you to look at that diagram there: Is that the room you got into? A That is the room.

Photograph is offered in evidence.

It is received and marked "People's Exhibit 1".

Another photograph is offered in evidence and received and marked "People's Exhibit 2".

BY MR. TOWNSEND:

Q Just take that photograph, Exhibit 2-- were there any people in that room at that time? A Yes, sir; that room was quite crowded.

Q With what? A Crowded with men.

Q What were the men doing? A Sitting at tables and around the chairs and smoking and drinking beer.

Q Was the room lighted? A Yes, sir, lighted by three or four lights there.

Q At the end of the room there was what? A There is a stage, platform and stage with scenery on both sides.

Q How high was that above the floor? A I should judge about four feet.

Q Any light over this stage? A Yes, sir; there was a big electric light there.

Q This was about what time when you went in there?  
A About 8:30.

Q In the evening? A In the evening, P. M.

Q What did you do when you got in there? A When I got in there, there was a colored gentleman at the door, and he directed me to take a seat and so I walked up.

Q Do you know his name now? A Yes, sir; George Bundi, and I walked up along the side here and took a seat on the fifth seat here on the side.

Q How far were you from the stage there? A I should judge about 15 or 20 feet.

Q What did you do then? A Waited there until the show was announced.

Q How many people were in there--- was the show announced finally? A Yes, sir.

Q About what time? A About 8:45.

Q And many in there at that time? A Yes, sir; there was about 300 men.

Q 300 men? A Yes, sir.

Q And you speak of the show being announced, state what happened? A Why---

MR. WEISHAUP: I object upon the ground it has not been shown that Mr. Schaumlcoeffel was present.

THE COURT: We will receive it.

Exception.

THE WITNESS: (Continuing) A man by the name of Sheppard came on the stage and he announced that a woman by the name of Birdie Smith would give a performance there, and he announced her as the girl with diabetes of the ass hole.

MR. WEISHAUP: I move to strike that out upon the ground that Mr. Schaumlcoeffel's connection with this performance has not been shown.

Motion denied: Exception.

THE WITNESS: (Continuing) About two or three minutes after that, this Birdie Smith came upon the stage, and she started todance and then removed her clothing. She removed all her clothes except her stockings and shoes and she went through a Spanish dance on the stage, and that lasted I should judge, about five minutes.

Q Was she white or colored? A White girl.

BY THE COURT:

Q Was she the first performer? A No, sir; there was a performer before her who just sang a song and left the stage. She did not disrobe. She was the second performer.

MR. WEISHAUP: I object to all this evidence upon the ground stated.

THE COURT: Objection overruled.

Exception.

THE WITNESS: (Continuing) He announced a woman by the name of Vera Olcott. He announced her as the girl with the tight ass hole, and she came on the stage, and she was dressed when she came upon the stage, and then she removed her clothing, and she done the Spanish dance.

BY THE COURT:

Q What do you mean by the Spanish dance? A She called it the Spanish belly dance, hoochee coochee.

BY THE COURT:

Q She called it the Spanish belly dance? A Yes, sir.

MR. WEISHAUP: I move to strike out this testimony about diabetes on the ground that was not made in the presence of this defendant.

Motion denied.

Exception.



THE WITNESS: (Continuing) Her performance lasted about five minutes, and then he announced another woman by the name of Flora Temple. She was announced as a Spanish fandango, to do a Spanish dance, and she came upon the stage, and she removed her clothing and went through a contortion act, <sup>and</sup> a Spanish dance too. She had nothing but her shoes and stockings on. Then they announced Helen Colson and a man named Arthur Ashton. They were announced, and they came on and they gave an exhibition of sexual intercourse on a chair, on top of the stage. That lasted I should judge about five minutes.

BY MR. TOWNSEND:

Q How were they introduced? A They were introduced as the cock sucker sisters.

Q As the cock sucker sisters? A Yes, sir.

Q These announcements were made in a loud tone of voice? A Yes, sir.

MR. WEISHAUP: I move to strike out all that testimony upon the ground, first, that they have not proven that this was in the presence of the defendant, Schaumloeffel, and, second, that none of them have been shown to be connected with this crime of sodomy.

THE COURT: It is part of the res gestae leading up. I will receive it.



**Exception.**

**THE WITNESS:** (Continuing) This Arthur Ashton was dressed in woman's clothes, and he removed all his clothing except the under drawers, and this Helen Colson removed all her clothes except her shoes and stockings. They then took an intermission of half an hour.

**BY MR. TOWNSEND:**

Q What did they do? A They gave an exhibition of sexual intercourse on the chair.

Q An exhibition of it? A Yes, sir.

**BY THE COURT:**

Q What do you mean by exhibition? A They called it an exhibition.

**BY THE COURT:**

Q Did they have sexual intercourse? A Yes, sir.

**BY MR. TOWNSEND:**

Q Then there was an intermission? A There was, yes, sir, about half an hour. Then, after the intermission, there were two colored women announced by this Sheppard as the women who would piss ink and shit shoe blacking, and these two colored women, Bertha Johnson and Cora Smith came upon the stage, and they began to disrobe, and the short woman, this shorter woman of the two lay upon the floor, and the taller woman of the two lay on top of her, and went through the motions of

sexual intercourse. That lasted I should say about a couple of minutes, and this Mr. Schaefer stopped the performance and told them that they better do it on the table, and he hands up a table.

BY MR. WEISHAUP:

Q Was that Schaefer or Sheppard? A Schaefer.

BY MR. TOWNSEND:

Q Schaefer handed up a table? A Yes, sir; and told them to get on that so the audience would not have to stand, and so this shorter woman lay her back on the table and the taller woman lay just the reverse and they put their heads in the private parts of <sup>one</sup> another, and began licking.

MR. WEISHAUP: I object and move to strike that out.

Motion denied. Exception.

THE WITNESS: (Continuing) Then the announcer came upon the stage, and he asked that somebody---

BY MR. TOWNSEND:

Q Sheppard? A Sheppard, yes, came upon the stage, and asked the audience to step up and see that it was on the level, that they were doing the sucking all right.

BY THE COURT:

Q Were those his words? A Yes, sir.

BY MR. TOWNSEND:

Q He said are they sucking all right?

BY THE COURT:

Q Give just the words he used?

THE WITNESS: He announced that he wanted them to come up and see the show was on the level and that they were doing the sucking all right, and so one of the audience a man by the name of Simon Kelly went upon the stage and he looked at them and he said---

BY MR. TOWNSEND:

Q What is his other name? A Butcher Sam, he was known as. He got up on the stage, and he said they are doing it all right, all right, and so he pulled the taller woman from the shorter woman, and he got on top of the table and he had sexual intercourse with the colored woman, and when he was through with her, she got off, and the other woman got on the table, and he had sexual intercourse with the other woman, and that lasted I should say about five minutes, and the announced came upon the stage and he said "We will have a little of the same thing in the same color", and then Tom Lewis another colored man that was in the audience came upon the stage, and he took off some of his clothing, just left on his under drawers and shirt and shoes and socks, and he went on the stage, and he had sexual intercourse with this colored woman, the shorter of the two.

MR. WEISHAUP: I make the same objection, as before, that Mr. Schaumlcoffel has not been proven to be connected with it.

Objection overruled. Exception.

THE WITNESS: (Continuing) Sheppard then announced that that concluded the performance.

BY MR. TOWNSEND:

Q Was there any piano there? A Yes, sir; there was.

Q State what happened was anybody playing? A There was, during the performance by this colored gentleman, they were playing a piece entitled "Good by Eliza Jane".

Q Were there any recitations upon the stage? A There was.

Q Where did that take place? A That took place right as this colored man came upon the stage. He recited a poem there.

Q The colored man? A Yes, sir, this Tom Lewis.

Q What any announcement made of the title of it?

A No, sir. He announced it himself.

Q What did he say? A He called it "Stand up noble prick".

Q These women had their clothing entirely off, were entirely naked? A With the exception of shoes and stockings.

Q About how long, including recess or intermission, was this performance, how much time? A It was shut off at five minutes after ten o'clock.

Q About an hour and twenty minutes? A Yes, sir.

Q The audience seated all the time during the performance or how? A During the intermission some of them got up and went to the toilet and others went to the bar to have a drink.

Q When the show was going on, what position did they take? A They were all sitting down facing the stage. Some were standing up in the rear of the hall that had no seats.

Q Did you again see this defendant? A I seen him during the performance at different times, and I seen him at the time we made the arrest.

Q State during the performance where you saw him? A I saw him at the bar, at this bar that he arranged in the rear of the hall. He had an addition to the bar there.

Q He had an addition to the bar in the rear in the hall--- just show where that was? A You cannot show on this picture, it is the back here. I can show may be on the diagram.

Q It was in the large hall? A Yes, sir.

Q Where? A Right in back of this box office. This is the large hall, and this is the stage. Here is the seats,

row of seats.

Q On the side? A On the side.

Q Where were the chairs? A Others were around the room with tables and chairs.

Q Where was this improvised bar? A Right back of this box office, right here.

Q In view of the stage? A Yes, sir; it faced the stage. There was a table right here with a lot of glasses on, and there was two taps right here, faucets for the beer to come out of.

Q During the performance did you see Schaumloeffel?

A At this bar, yes.

Q At that bar? A Yes, sir.

Plan or diagram is offered in evidence.

Received and marked "People's Exhibit 3."

Q Just show the jury the door from the bar room on this plan exhibit 3? A This is the door they used right here.

Q That was the door where you entered from the bar room?

A Yes, sir.

Q Where is the bar room on that diagram? A Right here (indicating).

Q The street entrance is where? A Here.



Q Walked right in there and right around and just that one door between the show and the bar room? A These were doors here, and they were closed. They were not open that evening.

Q Where was Schaefer when you went in? A Right here at this door.

Q Schaumloeffel handed the money to Schaefer while he was there? A At this door, yes, and the colored man Bundi was on the inside of the door.

Q Were there any dressing rooms there? A On each side of the room there was a small room where the girls entered and dressed themselves.

Q They all entered this door-- which door did they enter to get to the stage? A They all came through the same door here and walked up this aisle into this room.

Q To the stage where the rooms were? A Yes, sir.

Q Look at that photograph-- you say Schaefer handed up a table? A Yes, sir.

Q Upon which these two women subsequently laid?  
A Yes, sir; that is this table here upon the stage.

Q That is shown in the photograph? A Yes, sir.

Q Was there a light there? A Right under that light (indicating).

Q That is the table upon which the women laid? A That



is not the table, but it is one similar to it.

Q You took the table that night? A Yes, sir; to the station house.

Q Were you present at the time the defendant was arrested? A Yes, sir.

Q Where was he arrested? A He was arrested in the hall.

Q In this concert hall? A Right at the hall.

Q Do you recollect what was said, or what he said at the time? A No, sir; I don't remember hearing him say anything.

Q Did you see him afterwards? A In the station house.

Q Did you talk to him? A No, sir.

CROSS EXAMINATION BY MR. WEISHAUP:

Q When you came into this place, you came in through the entrance to the saloon, not through either of the entrances on the side? A I came in through the saloon entrance.

Q That was about what time? A About eight thirty.

Q Who did you meet there-- you say you saw Schaumloeffel-- who did you meet there-- mention people you met there? A Met in the saloon?

Q Yes. A I met nobody in the saloon until after the

arrest.

Q Didn't you say a man by the name of Jones had introduced you to Schaumlcoeffel? A Had come in the saloon with me and introduced me to Schaumlcoeffel.

Q Who is this Jones? A I don't know exactly who he is. He was introduced to me as Jones.

Q Where? A At the office upstairs.

Q Do you know where he lives? A No, sir.

Q Do you know what his business is? A I do not know. I do not know what his business is.

Q Do you know whether that is his right name? A I do not know.

Q He introduced you to Schaumlcoeffel as Mr. Blake?  
A Yes, sir.

Q Did you ever see Mr. Schaumlcoeffel before? A No, sir; I never did.

Q You say that you told Mr. Schaumlcoeffel that you wanted to see the circus? A Yes, sir.

Q What did you mean by saying the circus-- did anybody tell you what character of performance was to be there that night?

THE COURT: I would not ask that question, if I were you, counsellor. If you want to, I am not going to say you shall not ask it. I will not forbid

you. If you want to, you may, but you see you are opening the door for him to give any amount of hearsay testimony on this subject that he desires to.

MR. WEISHAUP: I will withdraw the question.

BY MR. WEISHAUP:

Q Who told you this show was to occur there? A This Mr. Jones.

Q You met him upstairs? A Yes, sir.

Q You went from upstairs directly to 33rd street?

A No, sir.

Q What time did you get to 33rd street? A About 8:30.

Q 8:30, and Mr. Jones was the only man that you met there whom you knew, or the only man that went in with you? A The only man that went in with me that I knew.

Q Did you see anybody there that you knew? A Yes, sir.

Q In the saloon? A That I had met before, yes.

Q Who were they? A I saw Mr. Watson there during the performance.

Q Who is he? A He is, I believe, connected with the New York Journal.

Q Anybody else? A And this Mr. Jones.

Q Anybody from the detective office? A I met nobody else that I knew.

Q Mr. Schaumlcoeffel you say took your money? A Yes, sir.

Q And handed it over to Mr. Schaefer? A Turned it over to Mr. Schaefer.

Q And he said "This is this young man's money?" A Exactly.

Q And you say he turned it over to Mr. Schaefer at that side door there? A Yes, sir.

Q That is the side hall as you enter? A The door leading into the rear room.

Q Not the folding door? A Not the folding door, no, sir.

Q Handed it to Mr. Schaefer, inside or outside?  
A Outside.

Q Was the performance going on at that time? A It was not.

Q You said nothing to Mr. Schaumlcoeffel about the character of the performance except that you wanted to see the circus? A I asked him if it was all right, and he said yes, it was going to be a good show.

Q That is all you said? A That was all. He told me it would cost me two dollars and a half.

Q You say he was present in the room at the time this performance was going on? A During the performance, yes.

Q What do you mean by during the performance, at all times? A Not at all times. I do not say that. I saw him at different times during the performance.

Q What was going on at the time, did you see him at the time these two negro women were on the stage? A I didn't look to see him at that time.

Q You cannot say that you saw him there at that time, can you? A Not at that particular minute, no, sir, I cannot.

Q Minute? A Well, five minutes.

Q Were you very much interested <sup>in</sup> the performance? A Not in the performance. I was interested looking to see who was taking part in the performance.

Q You saw everything that went on, on the stage? A Yes, sir.

Q And yet you had time to turn and see Mr. Schaumloeffel and Mr. Bundi and hosts of other people-- and did you see Mr. Watson there? A I did, during the performance.

Q What was the last time that you saw Schaumloeffel in the rear of the room? A At the time he was arrested.

Q I mean during the performance? A I saw him there at different times. I saw him there when I was--- right after the show was ended I saw him there, when the crowd commenced to leave.

Q Before that, when did you see him? A I seen him dur-

ing the intermission.

Q During the intermission? A Yes, sir.

Q When did you see him before that? A Well, I seen him different times before that. I can't recall who was on the stage at the time.

Q So that between the time of the intermission and the time that the show ended, and that was the period in which these two colored girls committed this alleged sodomy, you did see Mr. Schaumloeffel in that rear room? A What is that question?

Q I say, between the time of the intermission, and the time when the show ended, which was the time in which these two women committed this alleged act on the stage, you did not see Mr. Schaumloeffel in that rear room, did you? A I don't know whether I did or not. I do not recall seeing him.

Q You cannot say whether you did or not? A No, sir.

Q You do not know? A I cannot say that he might have been in there at that time-- at the time they were committing the sodomy-- I do not know.

Q You say you saw him at the end of the show? A Yes, sir.

Q And you saw him at the time of the intermission?  
A Yes, sir.

Q And you cannot say at all, from any recollection



that you have, that you saw him in there? A I can say he was in there since the intermission.

Q Since the intermission? A Yes, sir; after the intermission.

Q How can you say that? A Because I seen him after that.

Q You say that the first time before the end of the show that you saw him was at the time of the intermission? A I did not. You asked me if that was the last time-- the last time I saw him was the time he was arrested.

Q How often did you see him between the time of the intermission, and the end of the show? A Three or four times.

Q Sure of that? A Positive.

Q What was he doing at that time? A He was dishing out some of the drinks while the waiters were carting them up and down.

Q Did you ever see him look on the stage? A I seen him near the stage.

Q Serving beer? A Yes-- no, not serving beer. He was walking around when I saw him.

Q Looking at the show? A I don't know if he was looking at it.

Q What was going on at that time? A I seen him at the

time Tom Lewis was having sexual intercourse with the colored woman.

Q And you are sure of that? A Positive, because I turned around to see Lewis come up from the audience.

Q You are sure it was Mr. Schaumlcoeffel? A Yes, sir; positive.

Q Saw him very clearly? A Very clearly.

Q You say there was an improvised beer stand or bar in the rear of the room? A There was, yes.

Q Were there any people in that room serving beer, bartenders? A Yes, sir; there were three bartenders.

Q Besides? A Yes, sir.

Q And those bartenders were present during the performance? A Yes, sir.

Q Did you ever see them go out of the room, or were they there all the time? A They were there mostly all the time. I never saw any go out.

Q How many people were there in that place? A I guess there must have been 300.

Q All sitting down? A The majority of them were. Some were standing.

Q Some standing up? A Yes, sir.

Q You say you saw Mr. Schaumlcoeffel walking around--- point out where you saw him walking? A Yes, sir, certainly,--

in the rear of the room here, and over here, and then, I saw him at one time over here (indicating). I seen him one time over here. The majority of times I saw him around these tables.

Q In the rear of the room? A Yes, sir. There is a stove right near here, and I saw him a good deal around that stove.

Q And between him and the stage there was some three or four hundred people? A There was quite a few people between him and the stage.

Q Some of them were standing up? A No, sir, not there--- in the rear.

Q Where were you, point out where you were sitting?  
A Right here at the side.

Q Where did the performers come from when they went on the stage? A Came from that same door that I came in.

Q And they went through this door here? A Passed up the aisle where I was sitting.

Q Did you notice these things above your head there?  
A What things?

Q These signs and things? A They were nailed on the wall, yes. I did notice them.

Q Did you know what they were? A One was the Wood workers union.

Q The wood carvers? A One was, yes.

Q Do you remember any others, all charters of societies?

A I did not know any of them-- I mean these announcing some stags and different things, the Wood Workers Union, and different things.

Q These framed things were charters of societies?

A I don't know; I did not read those.

Q Above this hall there was another hall, was there not? A Upstairs?

Q Yes. A There was a meeting room of some kind.

Q A meeting room of some kind? A Yes, sir.

Q Did you know what was going on there then? A There was a meeting going on upstairs.

Q A meeting? A Yes, sir.

Q You don't know what the meeting was? A Some German society-- I don't know what it was.

Q A singing society, do you know? A I believe it was.

Q Did you go there? A I have been in that room, yes.

Q Did you go in there while this singing society was holding its meeting? A After the arrest we went in there.

Q Not while the singing society was holding its meeting?

A Well, they were holding a meeting then, I believe. There was quite a few members there. I don't know if they were holding a meeting or not.

Q Where did these girls come from, you say they passed in front of you? A Yes, sir.

Q Do you know where they came from? A I don't know. I know there was a room upstairs that they said they dressed in-- I did not know if they did or not.

Q The only way that anybody could get into that hall, at any time, was through this side door here, where Mr. Schaefer had his stand? A Is that the only way he could get there? A Yes

Q Yes. A No, that is the only way I seen them using, but there were other entrances.

Q You mean there were these folding doors? A Yes, sir.

Q They were locked you say? A Yes, sir, but that was the only way they entered that room that night.

Q I mean there was no other way through which they could enter that night except by passing Mr. Schaefer there?

A That was the only way that I seen.

Q Now, Mr. O'Shea, there was no way in which you could tell or anybody else could tell in that audience what the next act was going to be? A No, sir, not until they came on.

Q You could not tell what was going to be the next thing to come on, until it was announced by Mr. Sheppard? A That was the way I could tell by the announcement only.



Q That was the only way you could tell what was going to occur? A Yes, sir-- there were no programmes.

Q After the performance was over, what did you do?  
A After it was over I went in the street and sent word to the other officers to come in there.

Q The other officers, you mean there were some other officers around there at your call? A Yes, sir.

Q So that at any time you called them in they would come in and arrest the people pointed out? A They were going to come in any way at 10:30, but the show ended before and I went out and told them that it ended.

Q But at any time you called them in they would come in?  
A I believe they would.

Q And they were there at 10 o'clock? A Yes, sir.

Q And they were there at half past nine? A Some there at half past eight.

Q Some there at half past eight? A Yes, sir.

Q Where were they? A I don't know where they were.

Q You say you summoned them, called them? A What is that.

Q You say you went and told them to come, after this performance was over? A Yes, sir.

Q Where did you find them? A I found one in the hallway across the street.

Q How many were there altogether? A I guess there



must have been five or six, but I seen two and I sent one with a message to the other that the show was ended and they better hurry up back.

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure, and takes a recess until 2:15.

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After recess.

EDWARD J. REARDON, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A 227 East 87th street, New York County.

Q What is your occupation? A County Detective officer, in the office of the District Attorney of New York County.

Q And have been for some time? A Since the 2nd day of January, 1902.

Q Are you familiar with premises 231 and 233 East 33rd street? A Yes, sir.

Q Were you there on the night of the 20th of January?

A I was.

Q About what time? A I entered the premises 231 and 233 East 33rd street, New York county, about 10:20 in the evening.

Q Where did you go? A I entered the saloon or bar room on the ground floor. I then entered part of a small hall, small hallway leading into a large room, some of an assembly room, with piano, tables and chairs and a stage and a table on the stage.

Q Look at the defendant, did you see him there that night? A Yes, sir; I did.

Q Where was he when you first saw him? A I first saw the defendant downstairs between the--- in the hallway between the bar room proper and the assembly room.

Q What was he doing when you first saw him? A He was in custody of one of the detectives at the time.

Q Do you know Schaefer? A Yes, sir.

Q Did you see him? A Yes, sir.

Q Where was he? A Schaefer was downstairs when I first saw him.

Q Was he under arrest at that time? A Yes, sir; he was in custody of one of the officers.

Q What did you do when you got there? A I proceeded to the first-- one flight up to the first story and I took charge of rooms No. 1 and 2, and took charge of the different

prisoners that were turned over to my custody.

Q And was the defendant one of those people? A Yes, sir; he was.

Q State what was said and done?--A The defendant was passed upstairs to me. I was told to be careful that he was the proprietor.

MR. WEISHAUP: I object and move to strike it out.

BY MR. TOWNSEND:

Q Was that said in the presense of the defendant?

A Yes, sir.

BY MR. WEISHAUP:

Q That you were to be careful with him?

BY THE COURT:

Q Was it within his hearing? A Yes, sir. The officer that had him in custody at the time said "Look out, Ed, that is the proprietor; he is charged with sodomy". I searched him and found some cards in his possession.

Q Have you those cards? A I think Hammond turned them over to you.

BY THE COURT:

Q You have not got them in your possession? A No, sir; I had at the time, but I turned them over to the officer in charge of the raid.

BY MR. TOWNSEND:

Q I show you these cards, three pieces of paper, state whether you have seen them before? A I could not swear I had seen these before. The ones I took from the defendant are initialed, have my initials on the back.

BY THE COURT:

Q Are they in every respect similar to those? A Yes, sir; they were.

BY MR. TOWNSEND:

Q Did you say anything? A Hammond had them a few moments ago.

BY MR. TOWNSEND:

Q Where did you take them from, the cards similar to these? A I took them from the inside coat pocket of the defendant at the time of the arrest and raid.

Q What did you say to him? A I ordered him to take a seat in the room.

Q Did he have anything to say? A Yes, sir; he said he wanted to talk to Schaefer, and I told him he could not talk with Schaefer as both he and Schaefer were prisoners on a felony charge. I think that is about the only conversation. I put the prisoner into the patrol wagon and took him to the 35th street station house. He there gave his name and pedigree to the sergeant at the desk.

Q Did you see one Bundi at the time? A I did.

Q Where was he when you first saw him? A Bundi was in the assembly room, I recall. He was later placed in my custody upstairs on the first floor, in the room where I had the different principals, that is room No. 1.

Q Did Bundi say anything to you or you to Bundi?

A Yes, sir; I told Bundi after he was brought upstairs by one of the detectives---

MR. WEISHAUP: I object unless it is shown that it was in the presence of the defendant.

THE COURT: Yes, you will have to show that Mr. Townsend.

MR. TOWNSEND: I offer it upon the theory of the prosecution that he is bound by what Bundi said.

THE COURT: I will receive it subject to a motion to strike out unless it is connected with the defendant.

Exception.

THE WITNESS: The other defendant George Bundi, the colored man was brought upstairs by one of the officers and placed in my custody. The defendant Schaumloeffel had been brought up previously and placed in this room. I told Bundi he was under arrest on a charge of sodomy, which was about the filthiest crime on the statute book.

MR. WEISHAUP: I object and move to strike that out as not responsive.

Motion denied. Exception.

THE WITNESS: (Continuing) That anything he would say to me might be used against him upon the trial and I advised him not to say anything. He told me that they pulled those shows off in Philadelphia, and I told him he could not pull those shows off in New York, because if he did I would drive him into the East river. I also had a conversation with one Schaefer, now a fugitive from justice.

BY MR. TOWNSEND:

Q Where was he? A In the same room, this room No. 1. He had been brought upstairs and placed in my custody, room No. 1 on the first story.

Q What was said to Schaefer and what did he say? A I told Schaefer he was under arrest on a charge of sodomy, running a show. Schaefer took a large number of invitations to this affair from his pocket and threw them on the floor. I ordered him to take them up which he refused to do, and I picked the invitations up myself. Also the two colored women, Cora Smith and Bertha Johnson were brought into the room with this defendant, room No. 1, of the first story, and also one William Hargie and a woman named Smith.



Q Did you see this girl and this other fellow? A Yes, sir, I did.

Q What were they doing when you saw them? A They were in room No. 2, an adjoining room to No. 1 on the first story. At the time we went upstairs together with other detectives, the girl Smith---

MR. WEISHAUP: I move to strike that out on the ground it has not been shown that Schaumlcoeffel was present at the time or was connected with them in any way at all, with this girl.

THE COURT: We have received some evidence of what the witness said to others, and there is some doubt in my mind whether what he said to others was competent. I think Mr. Townsend, you had better strike that out. It is safer.

MR. TOWNSEND: The statute is very broad and sweeping. It says whether present or absent.

THE COURT: That is another proposition. You are coming down to the guilt of the defendant. I agree with you there fully, but whether the statements made by the witness to other people not in the presence of the defendant are competent as against him, is a very different question. You can show what those others did in his absence by showing it was done pursuant

to his procurement or done with his privilege, but the rule of evidence is a little bit different-- we do not want to stretch it too far-- it would be more prudent to strike it out.

MR. TOWNSEND: Then I will withdraw that.

THE COURT: Strike out whatever this witness has said he said to Bundi and to others not in the presence of the defendant. The acts of the others are on an entirely different basis.

MR. TOWNSEND: I would like to offer a transaction that took place in one of the upper rooms at this time.

THE COURT: That does not prove sodomy. We have tried another case growing out of this transaction, and personally I have some knowledge of the general facts. You have offense evidence tending to show that the defendant was the proprietor of premises in question, that he was present at the time and place in question. Now, I take it that you want to show that sodomy was committed there, and with his privity and procurement. What happened after the exhibition, concerning the arrests of others really is not competent as against this defendant, and is not relevant to the inquiry proceeding against the

defendant.

MR. TOWNSEND: Does your Honor not think that the conduct of those in the hall or in that building that night, even though they might not be engaged in the very show would be some testimony going to show the character of the whole place and surroundings?

THE COURT: The trouble is I do not understand that your inquiry goes to that. If it does, I shall probably permit it. Ask your question.

MR. TOWNSEND: It goes to the separate act of two people.

THE COURT: Ask your question, and then I will rule upon it.

BY MR. TOWNSEND:

Q You say upon the second floor-- was that adjoining the room, one of the dressing rooms, or how was it connected with the place? A It was connected with room No. 1, one flight up.

Q What was room No. 1?

BY THE COURT:

Q Was this in an apartment? A It was in a room, sort of a room, or coat room.

Q Connected with the living apartment on the first floor?  
A No, sir. They were not used as living apartments. They

were used as meeting rooms, if I understand it correctly. I found the meeting on the first story on several occasions, two occasions I may say.

THE COURT: Proceed.

BY MR. TOWNSEND:

Q Did you see two people in those rooms? A I did.

Q Do you know who they were? A Yes, sir.

MR. WEISHAUP: I object, no connection with the defendant has been proven.

Objection overruled. Exception.

BY MR. TOWNSEND:

Q Do you know who they were? A Yes, sir.

Q Who were they? A Birdie Smith and one William Hargie now a fugitive from justice.

Q A man and woman? A Yes, sir.

Q Now, don't answer this until we get a ruling of the Court-- did you see what they were doing?

THE COURT: You may answer that.

THE WITNESS: Yes.

Same objection, ruling and exception.

Q What were they doing?

Objected to upon the ground that it is not proven to be connected with the defendant, or that he was present at the time, and it is not connected with

the crime charged in the indictment.

Objection overruled.

Exception.

THE WITNESS: They were engaged in the commission of the crime of sodomy.

THE COURT: Strike that answer out-- state facts.

BY MR. TOWNSEND:

Q State the fact, what you saw? A I saw one of the women named Birdie Smith, she was in this coat room, and this man William Hargie was sitting on a chair that was tilted back, in room No. 2, of which there is a photograph, and the other defendant Birdie Smith was down resting on her knees with her mouth, or, with the penis of Hargie in her mouth. I grabbed both defendants Hargie and Smith and pulled them into the hall in the presence of the other detectives.

BY THE COURT:

Q Was this occurrence visible from the hall? A No, sir; I could not say it was. The door was mostly closed. There was a man acting as picket at the top of the stairs who was thrown over when I went upstairs. He attempted to stop me and I threw him over.

THE COURT: This is not connected with the occur-

ence in question, Mr. Townsend.

MR. TOWNSEND: No, I say that. It was a circumstance entirely independent of the show, but it was under this man's roof, and just at the breaking up of the show.

THE COURT: Are you going to connect this with the defendant.

MR. TOWNSEND: He was proprietor of the house there.

THE COURT: Yes, that may be, but in order to connect the defendant you must show some privity upon his part to the proceeding. I do not mean to say you cannot show it, if you can connect it, but the mere fact of the happening of this occurrence in a private room, unless you bring it home to the defendant would not be competent as against him.

MR. WEISHAUP: Besides that, if your Honor please, it is not alleged in the indictment.

MR. TOWNSEND: I thought it was sort of a side show to the other performance.

THE COURT: If you will prove it was a side show and if you will prove he had some connection with it, or if you say you will connect him with it, and establish his privity, then I will permit it.



MR. TOWNSEND: I say he was the proprietor, he leased these premises and paid for them, and here is a performance going on in an adjoining room to the show.

THE COURT: The law presumes innocence in every case. The law presumes he had no privity with this illegal and criminal act. You have to prove he did have some connection with it. If you can do that I will receive it subject to your promise to connect it. If you cannot, I will strike it out.

BY MR. TOWNSEND:

Q How did you get there, from where? A I proceeded from the hall downstairs up a pair of stairs and I turned and there was a man standing at the top of the stairs and he refused to let me go further, and I threw him over and drove him to the back of the hall and entered room No. 2 where I found this man and woman in the act I have stated. I went then into room No. 1, and the different prisoners were passed up to me.

Q Were these rooms all connected by doors? A Yes--- room No. 1 and room No. 2 were connected by a sort of a window I think. They were not really connected. They were on the one hall and adjoining rooms, but I do not think they were connected.

Q Did you have any talk with Schaumlcoeffel about this

matter? A I don't think I did.

Q Both parties were arrested? A Yes, sir; one is now awaiting trial in the Tombs, and the other is a fugitive from justice.

THE COURT: Unless you can connect this defendant with it, Mr. Townsend, it is not proper to receive it.

MR. TOWNSEND: I offer it as part of the res gestae. He is shown to be the proprietor and master of that house. Now, is he not responsible for what goes on in that house?

THE COURT: No, not under the law.

You must show this defendant was connected with it. You have already laid the foundation by showing that he sold a ticket for two dollars and a half and that he received three dollars in bills, and that he actually took that money. Now, go on and show what that admission ticket permitted him to see-- you are not doing that. You are showing something which the witness saw by brushing aside someone upon going in. Presumably the defendant did not know what was going on there. If you show that he did

I will receive it and it would be perfectly competent, but if you cannot show that, of course I cannot receive it.

BY MR. TOWNSEND:

Q Were either of these people seen talking with this man prior to that time?

A That I do not know.

MR. TOWNSEND: Then I will withdraw the evidence in that respect and ask to have it stricken out.

THE COURT: Strike out all that happened in this room No. 2, and gentlemen of the jury, you will disregard all of that testimony.

BY THE COURT:

Q Did you see the happenings in the large hall? A No, sir. I did not. I only went in with the party that made the arrests.

## CROSS EXAMINATION:

Q You said that Schaefer was a fugitive from justice?

A Yes, sir.

Q By what, do you mean that he was never arrested or that after arrest he gave bail and skipped the bail, jumped bail?

A I mean to say he is a fugitive from justice now. There is an indictment pending in this county against him and he has never shown up to plead to that indictment. He has fled to Philadelphia. Officers are now searching for him in order to bring him to trial.

Q And Mr. Sheppard, did you arrest him? A I did.

Q And where is he now? A I understand he is in the Tombs awaiting sentence, on a plea of guilty.

Q Where were you while the show was going on? A I was in different parts of the neighborhood awaiting a signal from the people that were on the inside as to whether or not a crime had been committed.

Q How many people were there with you, how many detectives?

A I suppose there were twelve or fourteen.

Q How long were they there? A There were some of them there all the time-- some there from 8:20 or from 8 o'clock, the time that Detective O'Shea first entered. There was detectives constantly covering the place, watching the people going in and out, to see whether O'Shea would give the signal or not.

Q They were all there by what time, all in the neighborhood by what time? A All hands entered the premises at 10:20.

Q I mean, how many people were in the neighborhood say about nine o'clock? A By nine o'clock, I should say about twelve or fourteen detectives.

MR. WEISHAUP: I understand, if your Honor please, that your Honor struck out the testimony in reference to his going upstairs and meeting somebody and somebody refusing to allow him to proceed?

THE COURT: I struck out all the testimony as to what he saw happening in Room No. 2 and I have instructed the jury to disregard it.

BY MR. WEISHAUP:

Q Who is this man that would not allow you to come upstairs?

A One of the inmates, and he was fined \$10 in the Police Court the following morning.

Q What was his name? A I do not recall. There were forty-eight men arrested and it is pretty hard to recall all the names.

Q He was not in the employ of the defendant so far as you know? A I would not attempt to say so.

BY MR. TOWNSEND:

Q I show you these tickets, these four cards, have you seen them before? A Yes, sir.

THE COURT: Is it conceded that the defendant was the proprietor of the place in question?

MR. WEISHAUP: I will concede that he was the lessee of the building.

THE COURT: And in possession of the hall, is that disputed?

MR. WEISHAUP: I dispute that he was in possession of the hall at the time-- that is, he was lessee of the hall but had no rights there.

THE WITNESS: (Continuing) Those are the cards which I found in the possession of the defendant on the night of January 20th at the time of the raid, which I have described and I identify them through the identification marks made on the backs, my initials, at the time. I may say I had a conversation about these cards, with the defendant.

MR. WEISHAUP: You have not been asked any question.

I have no objection to this card being introduced in evidence, but I do object to the introduction of the other three. I do not see what relevancy they have in this case.

THE COURT: Are they offered in evidence?

MR. TOWNSEND: Yes.



THE COURT: Let me see them, and, hand to the stenographer the one consented to.

One card is marked in evidence People's Exhibit No. 4.

People's Exhibit 4 reads as follows: Tecumseh Hall and Hotel. Large hall and meeting room, 231 & 233 west 33rd Street, New York. John Schaumloeffel, Prop.

THE COURT: I sustain the objection as to the others.

BY MR. TOWNSEND:

Q You say you talked with the defendant after he was arrested? A Yes, sir.

Q Where? A I talked to him after the different prisoners had been brought upstairs, as a result of finding those German hotel cards in his possession.

MR. WEISHAUP: I object to that.

THE COURT: Yes, strike out the answer beginning with the words "as a result of finding, &c".

BY MR. TOWNSEND:

Q State the conversation you had? A I asked him if he was running-- if he was also running a whore house in 13th Street.

MR. WEISHAUP: I object to that and move to

strike that out.

Motion denied. Exception.

THE WITNESS: He told me no, that he had not been there for a long time. He said he had never run a house there.

MR. WEISHAUP: I object and move to strike it all out as not material to this case.

THE COURT: I will strike it out. It is not important one way or the other.

BY MR. WEISHAUP:

Q The statement about shows brought on in Philadelphia-- that was the conversation between you and Mr. Bundy? A Yes, sir.

Q Where is Mr. Bundy now? A To the best of my belief he is in the Tombs awaiting sentence.

Q Did you examine those premises, look around? A Very thoroughly.

Q Did you go in the hall on the lower floor, the ground floor? A Yes, sir.

Q And did you see these charters on the wall, lodges and things like that? A Yes, sir.

Q And the meeting times of the lodges and singing societies? A I did not see anything about singing societies. I know there were some men met there.

Q Did you see these charters, these framed certificates on the wall? A Yes.

Q And upstairs also, what was going on upstairs in the large hall at the time of the arrest, anything? A Upstairs?

Q Yes. A It looked like a small sized riot to me.

Q Was a singing society meeting upstairs there?

A No singing going on while I was there.

Q Did you go in there while the meeting was in progress?

A I don't know if you would call that a meeting or not-- looked like a riot.

Q Did you go in there? A Yes, sir.

Q What was it, a labor union singing society or what?

A There was a lot of men there trying to get out of windows and doors and fanlights and every other place.

V I C T O R   A .   W A T S O N ,   called as a witness in behalf of  
the People, being duly sworn and examined, testified as  
follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A 22 Lenox Avenue.

Q What is your occupation? A Newspaper work.

Q Connected with what paper? A The New York American.

Q Do you recollect the night of the 20th of January last?

A I do.

Q Are you familiar with the premises 231 & 233 East 33rd Street? A Yes, sir.

Q Did you go in there that night? A I did.

Q About what time? A About half past eight.

Q Anybody with you? A No.

Q Where did you go first? A To the bar room which is in the front of the ground floor.

Q What did you do when you got in there? A I met an acquaintance.

Q What was he doing? A He was standing at the bar talking to the gentleman who is sitting right beyond you.

Q Talking with the defendant Schaumloeffel? A Yes, sir, in a desultory sort of way.

Q What happened when you stood there? A I spoke to my friend; a few moments later he called for a drink which was served by this Mr. Schaumloeffel and I was introduced to Mr. Schaumloeffel by my acquaintance who told Mr. Schaumloeffel that I was all right and I spoke with Mr. Schaumloeffel.

Q State what you said? A I asked him what time the performance was going to begin and he said that it would begin in a very short time. He then spoke to my friend. I do not recall exactly what it was he said, and I asked him how much it would be.

BY MR. WEISHAUP:

Q Was this in the presence of the defendant? A This was with the defendant. I asked him how much it would be.

BY THE COURT:

Q Was there anything said as to the character of the show?  
A No, sir.

THE COURT: Proceed.

THE WITNESS: And he told me it would be \$5 a piece.

BY MR. WEISHAUP:

Q Who told you that? A The defendant. My friend said, "Let us wait a while before we go in", and a short time after, we decided we would go into the rear room where the performance subsequently took place. Mr. Schaumloeffel, when we signified we were going inside, said that he would take us in, and he did; he walked from behind the bar, and the exit from the bar was in the direction of the rear room, and within a few feet of the door that led into the performance room. There was a man named Schaefer standing at the door and Mr. Schaumloeffel came with in with us and I asked him if he would take the money, and he said, "Give it to this man", and I gave the \$10 for admission for two, to Mr. Schaefer. That was all I saw of Schaumloeffel at that time. I saw him about the time set for the raid. Some one called to Jack Sheppard, who was the announcer on the stage,



and Sheppard left the stage or the wing of the stage and went to the rear of the room, where he had a hasty talk with Shaefer, and Schaumloeffel I saw was standing right there. I do not know if he spoke to the others or not, and a short time after, when the raid had taken place, that is when the county detectives had entered the room, and before most of the people in the place realized a raid was on, several of the county detectives spoke to me and I saw that Mr. Schaumloeffel went behind the bar, put on his coat and passed over to a table where his wife was sitting, or a woman whom I believed was his wife. He said something to her and then made a very hurried movement towards the door which led to the cellar, where he was caught by County Detective Dillon by the collar and drawn back, and I then had a conversation with it. I said to him, "This is a hell of a nice mess you have got us all in". I spoke to him for the purpose of finding out what he had to say--

MR. WEISHAUP: I object to that and move to strike out his explanation.

THE COURT: Yes; strike it out.

A (Continuing) At any rate, I said to him, "This is a hell of a nice mess you have got us in", and he said, "Well, I thought it would be all right", and that was about all I had to say to him at that time.



BY MR. TOWNSEND:

Q Then he was arrested? A So far as I know, yes.

Q Did you ever see him again to talk to? A No, sir. I saw him again but not to talk to.

Q Where did you see him? A In the station house.

Q Were you in the hall during the performance? A Yes, sir.

Q During all of the performance? A Yes, sir.

Q Did you see the defendant there? A I saw him at the time I have already said, when Sheppard was called from the stage, I saw him then, because he was standing right with the two people that I saw, that I looked at.

Q Were you there when two women appeared, colored women? A I was.

Q Where were you during the performance, what part of the room were you in? A I was in about the centre of the room.

Q Can you indicate there, and show the jury, so that the jury can see about where you were? A Why yes; just about here (Indicating on one of the photographs). This is the centre of the room (indicating).

Q Were there many people in the room? A Yes, sir, about two hundred and fifty or three hundred.

Q And you saw Sheppard, did you? A Yes, sir.

Q What did he do? A He was the announcer. He announced

the various performers as they reached the stage.

Q Now, when Cora Smith and Bertha Johnson came in, these two colored women, state what you saw them do, if anything?

A Why, they came on the stage. When they appeared on the stage they wore short skirts and waists which they took off, and undershirts. They removed them, and then they removed their drawers and appeared in simply their shoes and stockings. They laid on the floor of the stage then and were about to commit an act of sodomy when--

MR. WEISHAUP: I object and move to strike that out.

BY MR. TOWNSEND:

Q State what they did, what you saw them do? A They were about to commit an act of sodomy when the crowd yelled that they could not see what was going on.

MR. WEISHAUP: I object to that and move to strike it out.

THE COURT: Yes.

BY THE COURT:

Q You may state what they did, what you actually saw them do? A One of them laid on her back on the stage and opened her legs, parted them, and the other one placed her head between the legs with her mouth close against the body of the woman that was lying on her back. At this the crowd yelled that they could

not see exactly what was going on, and a table was then handed up from the front of the stage and was taken by Jack Sheppard and put in the centre of the stage. One of the negroes complained that the table was dusty and Mr. Sheppard went to the proscenium arch and was tearing down one or two American flags, with which he was going to dust the table off, when the audience, refusing to stand for that, began to cry out, and the flag was then thrown into the wings, and one of the negroes produced a towel from a chair and wiped the table off herself. She then laid on her back on the table and the other negro got on top of her with her face towards the table down, and placed her head between the legs of the other woman, and the other woman placed her head between her legs. The audience was not satisfied with this and a young chap in the audience who was called "Butcher" Sam jumped up on the stage. He took the right leg of the woman who was laying on her back and pulled it apart and said, "I will see this is on the level by Jesus", and he pushed the woman's head still further in and held the head close up against the other woman's body. I noticed that when the woman raised her head, the bottom of the other woman's body glistened as if it were wet, and, after that performance was over, or rather, just about as it was over, Butcher Sam announced that he was not satisfied up to date, and he had to be satisfied, and one of the negroes unbuttoned his trousers and he jumped up on the table and there was an act of

fornication or apparently one, and then the other negro laid on the table and there was another act of fornication, and at this time I noticed that Butcher Sam's penis was also glistening. After the negroes left the stage, this Butcher Sam went through the audience and they asked him how he liked it, and he said, "By God, it was good", and that was about all there was to that particular act.

CROSS EXAMINATION BY MR. WEISHAUP:

Q You said you met an acquaintance in this saloon who introduced you to Mr. Schaumlcoeffel, the defendant? A Yes, sir.

Q Who is that? A I don't recall his name.

Q Do you see him in court today? A No, I do not see him in court.

Q Or outside of the court, either? A No, I have not seen him today.

Q Will you describe his appearance, please? A Yes, I can describe him in a way. He is a man somewhere around five feet nine, rather stout, with a ruddy complexion and blond mustache.

Q You say that Sheppard came down off the stage? A Yes, sir.

Q And had a conversation with Mr. who? A Schaefer.

Q He had a conversation with Schaefer, Sheppard did?

A Yes, sir-- that is, I saw Schaefer and I saw Sheppard talk, and Schaumlcoeffel was right with them. I did not see him talk.

Q Standing with them or close at hand or how far away were they, five feet or ten feet? A No, sir; I was further than that. I was about twelve or fifteen feet I should say.

Q He was ten or fifteen feet away from them?

MR. TOWNSEND: How far were they from each other?

THE WITNESS: Oh, within two or three feet.

BY MR. WEISHAUP:

Q What time was this? A This was approximately 10:30, the time set for the raid.

Q But it was after the performance was all over? A Oh, no, no, the performance was still going on, but the performance was ended very abruptly.

Q I mean when Sheppard came down from the stage, the performance was all over at that time? A No, sir.

Q What was going on then? A The negroes were still on the stage, that is, not the same act. There was a negro woman and a negro man in an act of fornication.

Q This was after the time that these two negro women had been on the stage, afterwards? A Yes, sir.

Q How far away were you from the place where this alleged conversation was going on? A Twelve or fifteen feet.

Q Any people between you and the place where it was going



on? A Yes, sir, a few sitting down.

Q Did anybody in the audience at any time make an attempt to stop this performance while it was going on? A Any part of it, or the whole performance?

Q Yes. A Yes, sir, practically the entire audience-- their actions did result in stopping the use of the American flag as a scrubbing cloth.

Q I refer to the performance itself? A No, sir.

Q Nobody made an attempt? A No, sir.

Q What do you think would have been done to anybody who made an attempt? A That would simply be a conclusion.

MR. TOWNSEND: I object.

Objection sustained. Exception.

Q The audience were rather excited over this performance, very much interested in it? A I don't know whether they were excited or not. I certainly was not.

Q Where was the beer drawn from, you say they were giving beer around? A Yes, sir.

Q Where was that drawn from? A I saw some of it drawn from a pipe that seemed to run through from the bar room and the rest of it I don't know where it came from.

BY THE COURT:

Q Beer drawn through a pipe? A The key apparently was right close up against this partition with the spigot sticking



right through it.

BY MR. WEISHAUP:

Q Schaumloeffel never had your money in his hand?

A No, sir.

J O H N M c M A H O N, called as a witness in behalf of the

People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A 232 East 157th Street.

Q What is your occupation? A Clerk.

Q Do you recollect the night of the 20th of January?

A Yes, sir.

Q Do you know the hall at 231 & 233 East 33rd Street?

A Yes, sir.

Q Do you know those premises? A Yes, sir.

Q Were you there that night? A Yes, sir.

Q Look at the defendant at the bar Schaumloeffel and state whether you saw him there? A Yes, sir.

Q Where was he when you first saw him? A Behind the bar.

Q Behind the bar? A Yes, sir.

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

Q What did you say? A I asked him could I go inside to

see the smoker.

Q State first what you said to him? A I asked him could I go in and see the smoker.

Q What did he say? A He said all right, and you can help me out. I was a waiter in there. I took a tray and I was waiting on the tables.

Q He said, "Yes, if you will help me out"? A Yes, sir.

Q What did he say further? A He told me to take a tray and help him out.

Q What did you do? A I went around and waited on the tables.

Q You went around and waited on the tables? A Yes, sir.

Q Before you got in did you see a man named Schaefer?

A Yes, sir, he was at the door.

Q What did the defendant say to him? A He said, "Let him go in; he is going to wait on the table".

Q What did you do when you got in there? A I took a tray and went around and got orders for drinks.

Q In the theatre room? A Yes, sir.

Q In the hall? A Yes, sir.

Q I show you a photograph, People's Exhibit 2, is that the hall? A Yes, sir.

Q And you got orders for drinks, and where did you fill the orders? A Right at the door there was a table there, and at

the door, they had drinks there, and we filled the orders at the table and then I served them as I took them away from the table.

Q Did you have any further talk with the defendant?

A No, sir, not after that.

Q So you saw the performance? A Yes, sir.

Q Did you get any money for it? A I had a dollar's worth of change and I held that.

Q That was what you got from the audience? A No, sir; I got a dollar for change to hold in my pocket and I held that.

Q Who gave you that dollar? A Mr. Schaumloeffel.

Q The defendant? A Yes, sir.

(No cross examination.)

C O R A S M I T H, called as a witness in behalf of the People,  
being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A Philadelphia.

Q What do you do for a living? A General housework.

Q Do you know Bertha Johnson? A Yes, sir.

Q Where does she live? A Philadelphia.

Q Do you recollect the 20th of January? A Yes, sir.

Q When did you leave Philadelphia? A On the 20th of

January.

Q Anybody with you? A Bertha Johnson was with me.

Q Who else came with you on the train? A Mr. Bundi.

Q Bundi? A Yes, sir.

Q A colored man? A Yes, sir.

Q He bought your tickets, did he? A Yes, sir.

Q When you got here to New York what time was it, about?

A When we got to Kitty Kirkum's, it was twenty minutes to six.

Q Who is Kitty Kirkum? A I don't know, only a white woman.

Q Where did she live? A Mr. Bundi said she lived at 44th Street and 2nd Street.

Q Who took you up there? A Mr. Bundi.

Q Who did you find up there when you got there? A I found Kitty Kirkum and Annie Bernard.

Q Any men? A Mr. Sheppard.

Q And Mr. who-- anybody come in while you were there?

A Mr. Schaefer came in while we were there.

Q Mr. Schaefer came in? A Yes, sir.

Q How many women were there, or came in, or were there when you got there? A I don't know. There were a lot of women in there.

Q White women? A Yes, sir, all white but Bertha Johnson and myself.

Q You and Miss Johnson were the only colored women?

A Yes, sir, the only colored women.

Q You soon left there? A Yes, sir.

Q Where did you go? A To a saloon.

Q What was in the saloon, what was behind the saloon?

What was connected with the saloon? A We went upstairs when we first went there.

Q When you went into the saloon did you see the defendant here Schaumloeffel? A No, sir.

Q You went up where? A Upstairs in the second story front room.

Q Well, what happened while you were up there? A Was not anything happened while we were up there.

Q Nobody say anything to you or do anything? A No, sir; nobody didn't say anything to us only Mr. Bundi.

BY THE COURT:

Q Did you see the defendant? A I did not see that man but I saw a lady up there.

BY MR. TOWNSEND:

Q How long did you stay up there? A I stayed up there until we came down on the stage.

Q That was about what time? A I don't remember, sir, what time it was.

Q Nine or ten o'clock-- look at this picture of the hall



there-- was that the hall? A Yes, sir, something like that.

Q Did you go up on the stage? A Yes, sir.

Q What did you do when you got up there? A Took my clothes off.

Q What did Bertha do? A She took her clothes off.

Q All your clothes off? A Yes, sir.

Q Everything except your stockings? A Except my shoes and stockings.

Q Then what happened? A Then I laid on the table.

Q How did you lay on the table, on your back or stomach?  
A I laid on my back.

Q On your back? A Yes, sir.

Q What did Bertha do? A She laid on me.

Q What did she do with her head? A Her head laid out towards the audience.

Q Laid out towards your feet? A Yes, sir.

Q Your head, where was your head? A My head was back this was (indicating).

Q Where did she put her head? A Her head was about that part of me (indicating).

Q Where your private parts are? A Yes, sir, down about there.

Q Did she put her head on your private parts? A No, sir.

Q How close did she put it? A I don't know, sir. I could not see.



Q You could not see? A No, sir.

Q Did you feel her? A I felt her hands put I did not feel her head at all. I just felt the same as though her hand.

Q Felt like her hands there? A Yes, sir.

Q How about <sup>your</sup> head, where did you put that? A My head was back this way.

Q Whereabouts were the private parts of Bertha? A About along there (indicating).

Q About where your face was? A No, sir, just about along there.

Q But, between her legs, though? A Yes, sir.

Q While you were doing that do you recollect somebody coming up on the stage? A Yes, sir, I heard somebody get up on the stage.

Q What was said and done then by the man that came up on the stage? A I couldn't just hear what this man was saying, but afterwards he said-- when he first got up I couldn't hear but afterwards he said, "I would like to try one of these girls to see which one is the hottest".

Q He said he would like to try these girls? A Yes, sir.

Q What did you say? A I did not say anything.

Q What happened? A Bertha was up then and so was I and he grabs Bertha and lays Bertha on the table.

Q What did he do to Bertha? A He was there with her a

little time and then he got up.

Q What happened then? A He said, "I don't like her, I will try the other one".

Q What happened then? A He grabbed me by the arm and put me on the table.

Q What did he do to you? A He was there with me a little while but not long, not more than a minute. I don't suppose he was there that long.

Q You know what sexual intercourse is, you know what having connection is? A Yes, sir.

Q Did he have connection with you? A No, sir, he just only right there and--

Q What-- didn't he have connection with you there?  
A No, sir, he just only put it right down between my legs and went away.

Q You never got paid for your performance? A I was sick and they were getting ready to send me to the hospital and Bundi gave me \$2.

Q How much were you to get for the performance? A Seven dollars and our expenses over here and back.

Q Your expenses were paid over here? A Yes, sir.

Q By Bundi? A Yes, sir. Mr. Bundi bought four tickets at the Broad Street station.

Q Were you arrested that night? A Yes, sir.

Q Before you got out of the hall? A Yes, sir.

CROSS EXAMINATION BY MR. WEISHAUP:

Q You said you were to be paid, who was to pay you?

A Mr. Bundi.

Q Mr. Bundi was to pay you? A Yes, sir.

Q Do you know Mr. Schaumloeffel, the defendant? A I just know him since I have been arrested.

Q You never met him or saw him before that? A I never met or saw him until I saw him in the Magistrate's Court.

Q Was his name ever mentioned to you? A No, sir.

Q Never heard his name mentioned? A I never heard his name.

Q By Bundi or Sheppard or anybody else? A I never heard his name until I heard it from the woman. She said she was his wife.

Q Where did you see her? A The first place I saw her was in the dressing room, she was looking up-- seemed to me some kind of a writing desk in this dressing room.

Q As you came in? A Yes, sir, she was in this dressing room when I came in, this woman was.

Q How long did she stay there? A She didn't stay there no time at all, only just looked this thing.

Q As soon as you came in she went out? A She looked this

thing up and went out.

Q Were you ever informed by Mr. Bundi or by anybody else who was running that show that night?

Objected to.

A No, sir, only he said he was going to Mr. Schaefer's.

Q Bundi said he was going to Mr. Schaefer's? A Yes, sir.

Q What did you understand by that?

Objected to.

Objection sustained. Exception.

Q Did you see Mr. Schaumleoffel in the hall at the time that you were on the stage at any time? A I don't remember seeing that gentleman at all.

Q And did you receive any aid or any assistance of any kind from him, at the time? A No, sir.

Q Did you ever see him-- did he ever tell you to do this thing that night? A He did not, no, sir.

Q Never saw him at all? A I never seen him until I seen him in the Magistrate's Court.

Q When you came from Philadelphia were you informed by Mr. Bundi as to what you were to do here in New York? A No, sir, not in Philadelphia I was not.

Q What did you come here for? A I came here to sing and dance in a concert.

Q He told you you were to sing and dance? A He told me

I was to sing and dance in a concert.

Q Did you know at any time before you actually went on the stage what you were to be asked to do that evening? A He told me up in the dressing room.

Q Who told you? A Mr. Bundi.

Q Was Mr. Schaumloeffel there at that time? A No, sir; Schaumloeffel was not.

Q Was Mrs. Schaumloeffel there at that time? A She was not.

Q That is the first time anybody told you what you were to do that evening, when Mr. Bundi told you upstairs that you were to perform this act? A Yes, sir.

Q The first time you were told that? A That was the first time I was told of that. Mr. Bundi told me in Philadelphia he was bringing me over here to sing and dance in a concert.

Q Did you meet Mr. Schaefer here in New York? A I did. The first I saw Mr. Schaefer was in this flat, Kitty Kirkum's. He came in.

Q Where is that? A 2nd Street and 44th Street.

Q Second Avenue? A I don't know whether it was avenue or street-- 2nd Street and 44th Street Mr. Bundi said.

Q Did you meet Mr. Sheppard there in 44th Street? A Mr. Sheppard?

Q Yes. A Yes, sir, he was there.

Q And Mr. Schaefer was there, was he? A Mr. Schaefer came in.

Q And Mr. Bindi, was he there? A Yes, sir, he brought us there.

Q Was Mr. Schaumloeffel there? A No, sir.

Q Was Mrs. Schaumloeffel? A I didn't see either of them.

Q Did Mr. Sheppard or Mr. Bundi or Mr. Schaefer ever tell you anything about who was running this place in 33rd Street?

A No, sir.

Q Did they ever mention Mr. Schaumloeffel's name to you?

A No, sir, I never heard his name until I heard it called in the magistrate's Court.

Q This man who came up from the audience, do you see him in court anywhere, the man you say came up from the audience-- you do not see him? A No, sir. I do not see anybody that looks like him.

Q Did you look around among the audience while you were on the stage-- did you look through the audience to see who was there? A No, sir, I did not. I would not know one man if I saw him in here, who was there.

Q People sitting down around tables drinking beer?

A Yes, sir, they were sitting down drinking.

Q Any of them standing up? A I don't remember whether



there was or not, but as far as I could see they were all sitting down.

Q Who told you that night to go on the stage and commit this act, this act with Bertha Johnson? A Mr. Bundi.

Q Mr. Bundi told you? A Yes, sir.

Q And when you went on the stage did Mr. Sheppard tell you to go ahead and do it right or something of the sort? A Yes, sir.

Q Mr. Sheppard told you that? A Yes, sir.

Q When did you meet Schaefer first, in 44th Street-- did you ever meet him before that? A I never saw Mr. Schaefer before that.

Q Before you met him in Kitty Kirkum's in 44th Street?

A I met him in this Kitty Kirkum's.

Q Did Mr. Schaefer say anything to you at that time?

A No, sir, he only came in and spoke to all. He said good evening. That was all he said.

Q Did you hear him say anything to Bundi, or to the other people about the act you were going to do that night? A No, sir. I did not.

Q Did Mr. Schaumloeffel tell you to commit that act?

A No, sir.

Q Did Mrs. Schaumloeffel tell you to commit that act that night? A No, sir.

Q You never heard of them in connection with that act at all, going to that place? A Not from Mr and Mrs Schaumloeffel, I did not.

Q Did you hear of them from anybody-- did anybody ever tell you, before that performance ended that evening, that Mr. Schaumloeffel was running that place; did you ever hear his name mentioned? A I never heard either one of their names until I heard it in the Magistrate's Court.

Q Never anything was said to you about the proprietor of this place being connected with the show? A No, sir.

Q Nobody ever told you that? A No.

Q That the proprietor of the place was connected with the show-- Schaefer never told you that and Bundi did not and Sheppard did not? A No, sir.

J O H N J. S H E P P A R D, called as a witness on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A 306 East 13th Street.

Q What is your occupation? A Vaudeville performer, singing and dancing comedian.

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

Q When did you first become acquainted with him? A In 33rd Street.

Q When? A The night of the raid.

Q The 20th of January? A Yes, sir.

Q How did you meet him and who were you introduced by?

A Through Mr. Schaefer. He was introduced as the boss of the place and he said anything I wanted he would let me have.

Q Schaefer introduced him as the boss of the place?

A Yes, sir.

Q And anything you wanted he would let you have?

A Yes, sir.

Q Where was he at the time? A In the bar room.

Q Behind the bar? A Yes, sir, behind the bar at that time.

Q What time was this? A This was very early in the evening.

Q About what time? A I should judge between seven and eight.

Q Was anything said then further? A Well, it was in reference-- the ladies wished some drinks and I told Mr. Schaefer and Schaefer said, "You go and see Mr. Schaumlcoeffel and it will be all right", and I says, "You show him to me", and he went down and he said, "Let this boy have anything he wants", and that was how I knew it was Mr. Schaumlcoffell.

Q What happened after that? A After that I went-- the show commenced and then after the show commenced he went inside and erected a temporary bar in there, a table with glasses on it.

Q In the hall? A Yes, sir.

Q Who do you mean by "he went in"-- you say he went inside and erected a bar? A Mr. Schaumloeffel went inside.

Q The defendant? A Yes, sir.

Q Were you there when anybody went in? A At the door?

Q Yes. A You mean spectators?

Q Yes. A Now and then, in and out.

Q Did you see any money handed over to anybody, paid?

A Nobody but Mr. Schaefer.

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

Q Who hired you to go there? A Mr. Schaefer.

Q When? A The day of the performance.

Q What did he hire you for? A To do my singing and dancing turn.

Q Anything said about being the announcer? A After I got through doing my singing and dancing turn he said he would pay me \$5 extra salary if I would go up and do the announcing, and I did it.

BY MR. WEISHAUP:

Q Who told you that, Schaefer? A Mr. Schaefer.

BY MR. TOWNSEND:

Q Did you go upstairs while the women were up there?

A Yes, sir, I went up to call each and every one.

Q You called them down for their turns? A Yes, sir, for their turns.

Q Then you took a place on the platform, on the stage?

A On the stage, yes.

Q And announced the performances? A Yes, sir.

Q Where was Schaumloeffel while the performance was going on? A Right behind that temporary bar in the hall.

Q Did you see him from time to time during the performance?

A Yes, sir.

Q Where was he? A Behind that bar, temporary bar, table with glasses on it.

Q In the hall? A Yes, sir.

Q You have seen Bertha Johnson and Cora Smith, the way they performed? A Yes, sir.

Q State what you saw them do? A I saw them have their tongues in one other's privates.

Q How near were you to them? A Within a few feet, three or four or five feet, right on the stage with them, walking around.

Q They were without clothing? A Without clothing.

Q You saw the tongue, which tongue did you see, whose

tongue? A Both of them, each one.

Q Did you see Bertha Johnson's tongue in the privates of Cora Smith? A Yes, sir, and Cora Smith's in the privates of Bertha Johnson.

Q Who told you what to announce? A Mr. Schaefer.

Q How many different performances were there? A About six or seven.

Q This bar that you say was in there was in the hall, was it not? A In the hall where the show was going on.

Q In this hall (Showing photograph)? A Yes, sir.

Q What part of the hall? A The rear part of it up against the door, partition or whatever it was, temporary bar, a table with glasses on it.

Q You plead guilty to this crime? A Yes, sir.

Q Is that all the part you took in it? A Yes, sir.

CROSS EXAMINATION BY MR. WEISHAUP:

Q While this performance was going on, a number of people were standing up in the audience? A Very few were standing up.

Q There were some standing up? A Three or four. They were not allowed to stand up.

Q Did you get down from the stage during the performance and walk to the rear of the room and have a conversation with



Mr. Schaefer? A Now and then, Mr. Schaefer, yes.

Q Was Mr. Schaumloeffel present when those conversations occurred? A Yes, sir, Mr. Schaumloeffel was present when the show commenced until it finished.

Q I mean-- you said you had conversations with Mr. Schaefer? A Yes, sir.

Q Did you have any conversations with Mr. Schaumloeffel? A Well, in regard to cigars and things.

Q That is all, in regard to furnishing the people with cigars and drinks? A And drinks, that is all.

Q For the people on the stage-- do you know who was behind the bar in the front room while that performance was going on? A Well, that I don't know-- in the main bar room?

Q Yes. A I do not know. I did not see.

Q These folding door here, they were folding doors? A Yes, sir, folding doors.

Q Leading directly from the bar room into the hall-- were they open or shut? A They were not opened or shut while I was there during the evening.

Q I mean, they were locked? A Yes, sir.

Q It would be impossible for any one in the bar to see into the rear room? A That I do not know.

Q In order to get into this rear room you had to come through a door here into the hall and through another door in

the rear room? A Yes, sir.

Q What was the last time that you saw Mr. Schaumloeffel in that rear room? A The last time I saw him, Mr. Schaumloeffel was just as I went up to make the announcement of Miss Smith and Miss Johnson.

Q Where was he then? A He was behind his temporary bar, table, or whatever it was.

Q Behind that temporary--

BY THE COURT:

Q You saw the defendant at that time? A Right previous to going up.

Q This temporary bar was in the room? A Yes, sir.

Q What was it you said when you made the announcement, give us your words? A In regard to the performance?

Q Yes. A I said it will be an eat 'em up affair by a little bit of color.

Q That was all you said? A Yes, sir.

Q Those were the very words? A Yes, sir.

BY MR. WEISHAUP:

Q You say that Mr. Schaefer told you what announcements to make? A Yes, sir.

Q At what time, if at all, before the actual act was committed, were you informed, or did you become aware of the nature of the act to be committed by these women? A What time?

Q I mean when did you know what they were going to do there? A Not until they got up upon the stage and I made the announcement.

Q Who told you what they were going to do? A Mr. Schaefer.

Q Did Mr. Schaefer ever tell you before that what these girls were going to do upon that stage, at any time? A No, sir.

Q When did Mr. Schaefer first speak to you about this performance? A Right there, that evening.

Q That evening? A Yes, sir, that evening.

Q How did you come to meet him? A By going around to his office.

Q His office, where is that? A 210 Second Avenue.

Q What is Mr. Schaefer's business? A Theatrical agent.

Q Theatrical agent? A Yes, sir.

Q Did he tell you he was going to run that show that night? A At that time?

Q Yes. A No, sir.

Q Did he ever tell you anybody who was going to run that show? A Did not tell me.

Q Did you ever have any relations with Mr. Schaefer before this night of the 22nd of January? A Yes, sir.

Q In connection with theatricals? A Theatricals.

Q Played shows before? A He booked for different theatres and different clubs and music halls.

Q Were you and he ever connected in any way with any show of an immoral character? A Not as I know of.

Q Like the show occurring this evening of the 20th of January? A Not as I know of.

Q When did you meet Schaumloeffel, that evening?

A Yes, sir.

Q When Schaefer told you "any drinks you want to get you can get from him"? A Yes, sir.

Q Did you ever have any conversation with Mr. Schaumloeffel in reference to the act that these girls were going to commit?

A No, sir, I did not.

Q Were you present at anytime-- did you ever hear any conversation between Mr. Schaumloeffel and Mr. Schaefer in reference to the act these girls were going to commit?

A No, sir, I did not.

Q Do you know who received the money that evening?

A Mr. Schaefer.

Q The price of admission? A Mr. Schaefer.

Q He was stationed at this door? A One of the doors going into the hall.

Q One of the doors leading into the hall, which door was he stationed at, the door that led into the hall from the hallway

or the door that led into the hall from the bar? A He was at both, at times, inside, and at times outside.

Q Do you know Mr. Bundi? A Yes, sir.

Q When did you first meet him? A That evening.

Q Schaefer introduced you to him? A Well, yes.

Q When Mr. Schaefer said to you that Mr. Schaumloeffel would let you have anything you desired, or when he told Schaumloeffel to let you have anything you desired, that referred to beer and cigars and thingslike that only, did it not?

A Yes, sir.

Q Now, you are pretty certain, are you not, that you saw Mr. Schaefer in the rear of the saloon, in the rear of the room at this table? A Mr. who?

Q Mr. Schaumloeffel? A Yes, sir, back of the table, temporary bar.

Q Could you see him from the stage? A I saw him from the stage and I talked to him-- at the same time I walked from the stage back and I asked him in regard to a cigar a gentleman had bought me a cigar and he said pay for it and I made the announcement and stayed on the stage a minute or two and then walked back and asked him about the cigar and I did not get the cigar.

Q Are you sure this is the man you spoke to? A Yes, sir, that is the man I spoke to.

Q At the time these girls came on to commit this act, did

you see him in the back of the room? A I just left him to make the announcement. I said, "Don't forget that cigar", and I went up and made the announcement.

Q I mean at the actual time the girls committed this act, at the time you were on the stage, did you see him in the room?  
A I did.

Q While the girls were doing this thing on the stage?  
A Yes, sir, while these girls were doing it.

Q You say you saw him before the act? A Yes, sir, he was there all the evening after the show commenced.

Q How can you say that-- did you see him all the time there? A Did I-- I was right near him all the time-- back of the hall was my position until the show commenced and when I made the announcement I stepped off the stage and stepped to the rear of the hall where the table was and glasses and on this side was the door coming in.

Q Were you watching the performance? A Very little of it.

Q While these girls were doing this? A While the girls were, yes.

Q You say Schaefer took the money? A Yes, sir.

Q Do you know what became of the money afterwards?  
A I do not.

Q Did you get any of it? A No, sir.



Q Do you know who was to get it? A Do I know?

Q Did anybody ever tell you who was to get it-- did Schaefer ever tell you who was to get it? A He did not tell me.

Q You say you were connected with Mr. Schaefer when he gave shows previous to this one, at various times? A Yes, sir.

Q Where were those shows given? A In different parts of the city, different halls, music halls;

Q What was Mr. Schaefer's usual method, to rent halls, for the evening? A That I do not know.

Q You say you were with him at the time? A Well, I don't know as he engaged them.

Q When did you have any relation or connection with him with reference to a show or entertainment of any kind before this one? A There were weeks-- the concert music halls such as the New Brunswick, Hoboken and small places.

Q He would hire them? A Legitimate play house, small music hall on a small scale.

Q Wherever he could get a hall to give an entertainment, he hired that hall and gave the entertainment there, didn't he? A He never did that. It would be a gentleman that leased the place would go to him and engage talent and he would send over so many performers.

Q This show that occurred there this evening, was that

given under his auspices? A I do not know.

Q Or Schaumloeffel's auspices A I do not know.

Q Did you ever see Schaumloeffel receive any money for running this, from the price of admission? A I did not.

Q Did Schaefer ever mention to you Mr. Schaumloeffel's name before you met him there that evening? A Not before I met him, no.

Q You never heard of Schaumloeffel before that night?

A No, sir.

BY MR. TOWNSEND:

Q You were there when Jon O'Shea went in? A No-- there was some many people went in I didn't know half of them. I didn't know them.

Q Describe how they went in-- what they did when they got to the door? A They would go into the bar room, those that were not in it, and inquire around and somebody would bring them to Mr. Schaefer and say they were all right and they would go in.

Q Did you see them speak to Schaumloeffel and did you see him doing anything? A I saw him around there. I saw him in and out, going back and forth to the door.

Q I speak now of the audience, when they came in, did you see them speak to Schaumloeffel? A Some bid the evening to him and would buy a glass of beer off the bar.

Q What did he do-- did they talk with him-- what I ask you is whether he did anything in consequence of what they said?

A They talked with Mr. Schaumloeffel and then they would go in.

Q Go in where? A Go in to see the performance.

Q Did you see how they went in-- did they go in alone or did Schaumloeffel take them to the door, how did they know where the door was? A Mr. Schaumloeffel would show it to them.

Q That is what I want to know, whether he showed them where the door was? A Yes, sir, he showed one or two gentlemen and went in.

Q Did you see any tickets? A No, sir, I did not.

Q Invitations? A No, sir, I did not.

REGROSS EXAMINATION BY MR. WEISHAUP:

Q You say you saw some people speak with Mr. Schaumloeffel, in the rear of the saloon, in the rear of the hall-- how many people did you see speak to him? A In the bar room, going from the bar room into the hall.

Q It was not in the hall at all then? A Going from the bar room into the hall.

Q What time were you in the saloon, in the bar room front?

A That was very early before the show had commenced.

Q Look at this picture and tell me what this is on the side, right opposite the bar, lunch counter, is it not? A I

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do not know.

Q Did you know what the next act was going to be at any time until Mr. Schaefer told you? A No, sir.

Q You did not? A No, sir.

Q Nobody else knew except Mr. Schaefer what the next act was going to be? A That I do not know.

Q He made all the arrangements for the next act and for every act? A Yes, sir.

Q All the arrangements, as far as you could see, were Mr. Schaefer's, he made the arrangements? A As far as I know.

NATHANIEL M. SHIRE, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q You are connected with the Police Force of this county, are you? A Yes, sir.

Q Captain of Police? A Yes, sir.

Q What precinct? A 21st.

Q Were you captain on the 20th of January, 1904?

A Yes, sir.

Q Of the 21st Precinct? A Yes, sir.

Q Does that take in 231 & 233 East 33rd Street? A Yes, sir.

Q You are familiar with those premises? A Fairly well, yes.

Q You have been there? A Yes, sir.

Q Do you know Schaumloeffel, the defendant in this case?

A Yes, sir.

Q When was it that you first saw him to know him?

Objected to.

Objection overruled. Exception.

A I first remember seeing him in the station house.

Q When was that? A In the month of december.

Objected to and motion to strike out any evidence except evidence connected with this crime.

Objection overruled and motion denied. Exception.

Q Did you have a talk with him about 231 & 233 East 33rd Street? A Yes, sir.

Q State what he said as to what he knew about it?

Objected to as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

A I had been on the sick list for quite a while, for nearly three months.

BY THE COURT:

Q State what he said to you? A And during that time I understood that--



THE COURT: No; that won't do.

BY MR. TOWNSEND:

Q Just state what conversation you had with him, what he said to you and what you said to him? A I asked him if he was the proprietor of the place.

Q Referring to 231 & 233 East 33rd Street? A Yes, sir; and he told me he was. I told him I heard that he said he was being hounded and he admitted that.

Q What did he say, state what he said? A He said yes, and I spoke to him about the prize fight that was reported as coming off in that place.

MR. WEISHAUP: I object to that and move to strike it out.

THE COURT: Mr. Townsend, you are getting away from this case.

BY MR. TOWNSEND:

Q Do not testify to anything that happened, but state what you said to him in connection with managing the place, that is all? A I told him that he would have to run the place in compliance with the law. I told him that he would have to be careful as to who he let his place to. I told him that he would get the same show as every other business man in the precinct, as long as he done what was right, but I would hold him responsible for anything in the line of a prize fight or anything like a



violation of law that would come off in his place.

MR. WRISHAAPT: I object and move to strike that out.

Objection overruled. Exception.

Q Anything further? A No, there was nothing further at that time, only that he promised that he would.

Q Now, did you see him again after that time and the 20th of January? A That I do not remember. I do not remember seeing him again until I saw him the night of the raid.

Q Did you have any talk with him then? A No.

(No cross examination.)

MR. WRISHAAPT: I move to strike that out.

THE COURT: I will grant your motion.

MR. WRISHAAPT: It is stricken out?

THE COURT: Yes.

THE PEOPLE REST.

MR. WRISHAAPT: The defendant moves your Honor to dismiss the indictment upon the ground first, that no evidence has been introduced to connect Mr. Schaumloeffel with this alleged crime of sodomy.

Second, that it has not been proven that he counselled or procured or commanded that the crime

be committed, or that he aided or abetted or gave any assistance in its commission.

That it has not been proven that he is guilty beyond a reasonable doubt; that the evidence introduced in behalf of the People is just as consistent with innocence as with guilt, and that it would require too violent an inference to be drawn from the evidence to presume that he in any way was connected with this alleged crime of sodomy or in any way connected criminally with the commission of this sodomy.

Also, that no testimony has been introduced to show that Mr. Schaumloeffel was anything more than a mere spectator at the time of the commission of the crime; that no guilty knowledge or intent on his part has been proven.

On the further ground that it has been shown by the evidence adduced upon the part of the People that the defendant was no more than a lessee of the building; that he was not the manager of the show and had nothing to do with the arrangements therefor, and therefore could not be held criminally responsible under this indictment for what occurred there.

I further move to dismiss the indictment upon the ground that it charges two offenses, one the aiding and

abetting and the other counselling, commanding and procuring, and that that is improper; that if this defendant has been guilty of any crime at all, under the evidence, it can only be that of keeping a disorderly house, and this indictment would not warrant a conviction for that offense, that offense not being included in this indictment.

On the further ground that the testimony in behalf of the People, if it proves anything at all, proves merely that the defendant neglected or omitted to perform a duty, and the law does not hold people criminally responsible for neglect or omission of a duty, but only for guilty connivance or assistance in the commission of a crime.

I also move your Honor to strike out that part of the indictment where the defendant is charged with having commanded, counselled or procured this act to be done, on the ground that it has not been proven that by reason of any counselling or commanding or inducement on his part, the act was committed; in other words, it has not been proven that they committed this act by reason of anything that was said by him directly or indirectly.

Also move to dismiss that part of the indictment

wherein it is charged that this defendant aided and abetted in the commission of the crime, because it has not been proven that in any manner was he active in assisting the participants.

THE COURT: Motion denied.

Exception.

The Court admonished the jury in accordance with Section 415 of the Code of Criminal Procedure and took an adjournment until tomorrow morning, March 25th, 1904, at 10:30.

New York, March 25th, 1904.

The Court met pursuant to adjournment.

MR. WEISHAUP: I would like to make one motion more. My motion is that the indictment be dismissed upon the ground that it has been proven by the evidence adduced in behalf of the People that this man did not know for what purpose these premises were being used.

Motion denied. Exception.

MR. WEISHAUP: I further move to dismiss the indictment upon the ground that no act of sodomy has been proven.

Motion denied. Exception.

DEFENDANT'S CASE.

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WILLIAM KRAUSE, called as a witness in behalf of the defendant, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WEISHAUP:

Q Where do you live? A 320 East 15th Street.

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

Q How do you know him? A I was working for the gentleman.

I was tending bar for the gentleman about four months.

Q Were you in his employ on the 20th of January, of the current year? A Yes, sir, I was.

Q Do you remember that evening? A Yes, sir.

Q Do you remember the performance that was being given there that evening? A I remember there was a performance given there that evening.

Q Did you see it? A I did not see it.

Q Or any part of it? A Not a particle.

Q Where were you? A Tending bar in the place.

Q Did you see Mr. Schaumloeffel that evening? A I saw him about eight o'clock when he handed me my stock to work on-- afterthat I didn't see him. He tended bar on the inside.

Q He tended bar on the inside? A At the main bar, and I was tending bar in the hall.

Q On the inside-- did you go into the place inside?

A Have I?

Q Did you ever go in the inside where the performance was going on? A I was tending bar.

BY THE COURT:

Q Did you go inside-- you were at the bar, but did you during the evening go inside? A No, sir.

BY MR. WEISHAUP:

Q Did anybody ever speak to you about that performance



that was going to be held there that evening? A No, sir.

Q You never heard of it or knew what it was going to be?

A I didn't know anything until we were arrested.

Q Do you know the halls in the premises in 33rd Street?

A Yes, sir.

Q Do you know for what purposes those halls were used?

A Yes, sir; for lodge rooms and meetings.

Q You never had any indecent exhibitions there or shows, to your knowledge? A No, sir; meeting rooms and so forth.

Q Mention the names of some of the lodges or societies that met there? A Upholsters' Union, Carpet Layers' Union, Woodcarvers; Woodworkers, and several number of tailors' organizations. I don't know exactly their names or numbers, and, Finlandish singing societies, they were there that night.

Q How many people were employed by Schaumloeffel that evening? A Two more besides me.

Q How many? A Two besides me.

Q Where were they? A Two waiters.

Q How do you know they were employed by Mr. Schaumloeffel?

A That I could not say, whether they were employed by Mr. Schaumloeffel.

Q But they were there? A They were working there.

Q Ordinarily, outside of this specific evening, how many people were employed by Mr. Schaumloeffel? A Myself, that is all.

Q Yourself alone? A That is all.

Q Do you know in whose name the license for the saloon was?

A It was Mary Schaumloeffel.

Q Who is Mary Schaumloeffel? A I understand it is Mr. Schaumloeffel's wife.

Q What do you mean by saying you understand? A She is his wife.

Q Do you know who received the money for the performance that was occurring there that evening? A No, sir, I do not.

Q Did you ever see any tickets for the performance that was occurring there that evening? A No, sir.

Q You were in the place all the time? A I was.

Q You must have known something was going to occur there that night, some sort of an affair? A No, sir; I started to work at seven in the morning and worked until one at noon and then got on at seven in the evening and worked until one at night. I never knew what was going on there-- the calendar was always there.

Q While lodges and singing societies were holding their meetings there, did Mr. Schaumloeffel ever go in and interfere in any way with them-- did he ever find out what they were doing? A Yes, sir, certainly, he would have to go in to light up the hall.

Q While the meeting was in progress he never went in?

A No, sir.

Q Or looked in? A No, sir.

Q The occurrences of that evening, are they very distinct in your mind? A They are not.

Q Did you know what was occurring in the saloon at the time this performance is alleged to have occurred in the rear?

A While I was tending bar in the rear Mr. Schaumloeffel and Mrs. Schaumloeffel were in the front bar.

Q You were in the rear and they were in front? A Yes, sir.

Q What did you mean by saying he was at the bar in the inside? A I mean the main bar, that is when you come in from the street.

Q In the saloon? A Yes, sir.

Q You were in the hall where the performance was going on? A Yes, sir.

Q And Schaumloeffel, was he ever in that hall, inside, while the performance was going on? A He gave me my stock about eight o'clock and I had not seen him since.

Q While the performance was going on? A I did not see him.

Q I want to know about the time when the performance was going on? A I have not seen him in the place at all.

Q You did not see him in that hall at all? A No, sir; I got in there about eight o'clock.

Q Where were you-- was there an improvised bar in the back?

A Yes, sir.

Q You could have seen him if he was there? A Sure.

Q Were you arrested when Schaumloeffel and the other people were arrested? A Yes, sir.

Q You were discharged? A I was discharged, yes.

Q Now, did you see the two negro girls that were alleged to have committed an act during the performance that night?

A I did not see any of the performance.

Q Did you see them in the police station? A Yes, sir; the morning when we were in court.

Q Did you ever see any of them before? A No, sir.

Q None of them? A No, sir.

Q White girls or black girls? A No, sir.

Q Or men? A I did not see any.

Q Do you know Emil Schaefer? A I did not know him until after we got arrested-- never knew the gentleman before.

Q If Schaumloeffel had known Schaefer before that or been intimately acquainted with him, you probably would have known it?

THE COURT: That will not do.

Question withdrawn.

BY MR. WESIHaupt:

Q Did you know Mr. Sheppard before? A No, sir.

Q Or Bundi? A No, sir.

Q Never came around there? A No, sir, I never see them two.

Q Let me get that clear-- Schaumloeffel was in front while you were in the back? A Yes, sir.

Q You did not see him in the back at all that night?  
A No, sir.

Q Who else was in the rear with you? A The two waiters.

Q Who were they? A I guess one man's name of Oscar Hart and another one by the name of Johnnie McMahon.

Q What sort of a looking man is Oscar Hart? A A young tall man about your build.

Q Mustache or clean shaven? A Clean shaven.

Q Do you know a man by the name of Deering? A No, sir.

Q Do you know a man by the name of William Dennis?

A Yes, sir.

Q What was he? A He is an organizer for the United Tailors-- Brotherhood of Tailors or something, some organization to that effect.

Q They met in that building? A Yes, sir, they meet there.

Q Is he acquainted with Schaumloeffel? A Is he?

Q Yes. A I guess so.

THE COURT: Strike that out.

MR. WEISHAUP: I intend to connect that after-



wards by testimony of this witness--

THE COURT: The guess of this witness is not evidence.

BY THE COURT:

Q Do you know whether or not he is acquainted with the defendant? A Yes, sir, he is acquainted with the defendant.

BY MR. WRISHAUP:

Q You have seen them together? A Yes, sir.

(No cross examination.)

MARY SCHAUM LOEFFEL, called as a witness in behalf of the defendant, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WRISHAUP:

Q You are the wife of the defendant? A I cannot speak very good English.

THE COURT: You speak well enough to be understood, if you will only keep your voice up.

BY MR. WRISHAUP:

Q You are the wife of the defendant? A Yes, sir.

Q Do you remember the night of the 20th of January?

A Yes, sir.

Q This year? A Yes, sir.

Q Describe your movements on that evening, tell me what



you did that evening, say from about seven o'clock on? A I was down at seven o'clock and bring the bartender his supper down and I have going upstairs, and after eight o'clock my husband comes upstairs and he eats his supper and after nine o'clock I come down and my husband was in the hall.

Q What do you mean by the hall? A In the saloon.

Q What do you call the hall or saloon? A In the saloon.

Q The saloon that you come in from the street? A Yes, sir. I mean that, where the bar is.

Q The bar room? A Yes, sir.

Q That is in the front? A Yes, sir.

Q What time did you come down? A After nine o'clock?

Q How much after? A May be it was half past nine.

Q You were there until ten o'clock-- did you see this performance in the rear-- did you see people go out? A I was down when the people came out of the hall.

Q Between half past nine and the time when the people came out of the hall your husband was there? A Yes, sir.

Q In the front, in the saloon? A Yes, sir.

Q In whose name is the license for that saloon? A The license is in my name.

Q But your husband manages the saloon for you? A Yes, sir.

CROSS EXAMINATION BY MR. TOWNSEND:

Q You were up in the room where the white girls were?

A I opened the room for the two colored girls.

Q Were there white girls up there at that time? A No, sir.

Q Were there any white girls there at all? A There was some white girls. I saw some white girls going out.

Q Going out of where? A Out of the saloon.

Q At what time? A At the time all the people came out.

Q When the arrest was made? A They were not all arrested.

Q They were not all arrested? A No.

Q Could not arrest all of them? A No.

Q How many did they arrest? A The two colored girls.

Q They arrested you? A Yes, sir.

Q You were not doing anything? A No.

Q How long have you been married to this man? A Four years.

Q Did you often have shows there? A What do you mean?

Q Did you have shows often-- how often did you have shows there-- did you have a show once a week there? A Not every week a show.

Q Every other week? A Sometimes every month.

Q Prize fights, did you have them there? A I don't know. I know nothing about that. My husband attends to that.

Q Your husband attends to those shows-- that is all.

## RE-DIRECT EXAMINATION BY MR. WEISHAUP:

Q Do you mean to say that you had prize fights in that place-- do you know whether they had any prize fights there or not? A I don't know nothing about the prize fights.

Q Did you ever hear of any prize fights there? A I hear.

Q You heard some people talk about them? A People told me that but I don't know it.

Q Do you know whether they had meetings there, lodges, at any time? A Yes, sir, every day.

Q They have meetings there every day; by saying they had shows there, do you mean occasionally, perhaps once a month or once a week they had entertainments there, is that what you mean? A Got meetings every day, I know that and that is all what I know.

JOHN SCHAUMLOEFFEL, the defendant, called as a witness in his own behalf, being duly sworn and examined, testified as follows:

## DIRECT EXAMINATION BY MR. WEISHAUP:

Q Give your address? A 231 East 33rd Street.

Q Is that your address now? A No.

Q What is the place where you have your residence, where your wife and goods are? A 1685 Second Avenue.

Q Do you know Mr. Schaefer, Emil Schaefer? A Yes, sir.

Q When did you first meet him? A It was in the last month before Christmas-- before Christmas of last year.

Q Did you have any conversation with him at the time?

A That was the night when he came in first.

Q Did you have any conversation or talk with him?

A No, sir.

Q No talk at all? A No.

Q What did he do-- simply come in and have a drink?

A He came in first, that was the first time he came in and had a drink and then there was no meeting that night and he asked me for the hall-- if he could rent the hall that night.

Q He did have a conversation with you? A Yes, sir.

Q Just tell the jury everything he said that night? A He asked me--

Q The first time he came there? A He asked me if he could have the hall for dancing and singing so I said yes. So he asked me what day. Then he said he wanted it in the month of January, so I said, "You could not have it before the last-- every day is a meeting until the last Wednesday in the month". So he said all right. Then he walked away and I never saw him since, never showed up since until that morning of the 20th of January.

Q So between this day before Christmas that you had this conversation with him and the morning before the 20th of January

or the 20th of January, you never saw Mr. Schaefer at all?

A No, sir.

Q Did you ever see him before this time that you had the conversation with him in December? A No, sir.

Q You say you saw him on the morning of the 20th of January; will you please state to the jury everything that he said to you on that morning? A It was about ten o'clock in the morning he came. I was in bed yet and he came into the room on the first floor in the front, where the ladies were sitting--that was my sleeping room.

Q Where who were sleeping? A Were the ladies were that night. I was sitting there. That was my sleeping room.

Q How many rooms did you have on that second floor?

A Only one and two besides to put the clothes in.

Q What were those rooms used for? A If I have benefit societies or singing societies and have a ball or something, benefit, then they put their clothes in that room.

Q You mean their hats and coats? A Yes, sir, hats and coats.

Q Go on and state what Mr. Schaefer told you that morning, was there anybody present? A No, sir.

Q You were alone there? A Yes, I was in bed then.

Q State what he told you? A He said I should have the hall ready for the night, to put the chairs, about 200 chairs



and tables around and there would be a good class of people come who would spend a little money and at the same time he asked me where the ladies-- there would be some ladies there, about ten ladies, and they wanted to change their clothes before they came on the stage, and where they can sit. He looked first before he went upstairs. He looked in the hall first, how the hall was connected, that they could change their clothes, and it did not fit him and he said if he could have that room where I slept in and so I said all right, put the folding bed up and I often sit in there-- so, then, he walks away and he came at seven o'clock that night and walks around and saw that everything comes around and then he walks in to see about taking the tickets. He went next to the bar room between those two doors and stood there all the time, and I was tending to the bar where the people came in; they always took a glass of beer before they first went in the hall.

Q At the time you had this conversation with him in December, did he ask you what your terms would be? A No, sir.

Q Did you have any conversation in relation to the terms at all? A No, sir.

Q Was there any understanding at all about the terms at which he was to have the hall? A Only what he told me, there would be singing and dancing and there would be some ladies.

Q I don't mean the character of the performance. I mean



in reference to the price, the terms? A No, sir.

Q The money that you were to get? A No, sir.

Q Were you to get any money for leasing that hall? A No, sir.

Q What is the usual arrangement that you enter into for people who desire to lease those rooms? A The only thing I gave them the hall for, I have a lot of expenses and cannot leave the hall empty, a day empty in a week, and so I gave him the hall so I could make my living in it.

Q How did you get any remuneration?

BY THE COURT:

Q You give the hall free? A Yes, sir, the hall free.

Q To enable you to sell drinks to people that come there?

A Yes, sir.

BY MR. WEISHAUP:

Q At any time did you have any understanding about getting anything beyond what you got for beer? A That is all.

Q Now, do you know Mr. Rundi? A I never saw him before.

Q Before what? A I do not know him.

Q When did you see him first? A When we got arrested.

Q You know him now? A I know him now.

Q You did not know him before you got arrested? A No.

Q Did you know Mr. Sheppard? A I knew him only now since--

I didn't know anybody from the actors, not one, even what was in the back there-- I don't know not one.

Q Come down to the night of the 20th of January-- do you know the girls that were there? A I never saw them before.

Q White girls or black girls? A Never saw them before.

Q Did you see them when you were arrested? A Only when I was arrested.

Q You never knew them before that? A No, sir.

Q Coming down to the night of the performance, will you tell the jury everything you did that evening, describe your movements as near as you can recollect? A What is that?

Q On the 20th of January, in the evening, tell the jury what you did that night, just describe your movements so they can tell where you were and what you were doing that night?

A About eight o'clock there came in only one after another, and Mr. O'Shea came in at the same time with Mr. Jones, a detective, and Mr. Jones, what I know, only w he is a state detective--

Q You say Mr. Jones, this man who came with O'Shea, was a state detective? A State detective.

Q Do you know that now or did you know it then? A That night, I knew it that night.

Q You knew Jones was a state detective? A Yes, sir.

Q Did you know O'Shea? A No, sir, never saw O'Shea before.

Q Never saw O'Shea before? A No, sir.

Q Do you know Mr. Reardon? A No, sir.

Q Did you see him on the stand here, the detective who said he arrested you upstairs? A Mr. Reardon?

Q Yes. A Was he yesterday sitting here?

Q Yes. A I don't know him, only at that time, only I saw him when I got arrested, yes.

Q That is, you say Mr. O'Shea came there with Mr. Jones?

A Yes, sir.

Q And that you knew Mr. Jones was a detective? A A state detective, yes.

Q Did they or either of them speak to you that evening about going in to see the show? A Mr. Jones came over. He was about a dozen times before in my place and he visited up-

stairs that organizer of the union, Mr. Dennis. He introduced me to him the day before. He was the one what was in that night that knew Schaefer, Dennis, the organizer, and when he spoke with Dennis about that night, and that was all, I never heard anything only, the night before he came in with Mr. Jones and he told-- Mr. Dennis came in with Mr. Jones thenight before and brought in Mr. Jones and told me about it, that tomorrow night will be a little show in the back there and I shall see that Mr. Jones can get in, because he cannot bring him in on account he has got to go away to Boston. So, he came in about

eight o'clock or half past-- about eight o'clock, with Mr. O'Shea.

Q The next night, that was the night of the show?

A Yes, sir. The first thing he introduced me to Mr. O'Shea and they took a drink and then Mr. Jones called me on the side, at the end of the bar, and said, "You know me?" I said, "Yes", and he said, "Will you see that we can get in here. I have a friend and he wants to go in right away". I said, "I will see about it". So I went to Mr. Schaefer.

Q Where was Schaefer at the time? A I did not know what it is yet, what the price is, and he said, "Go and find out", so I went to Mr. Schaefer and asked him what the price is and he said \$2.50, so I told that to Jones and he went back to Mr. O'Shea and told him and Mr. O'Shea he said, "Come on and get me in"-- just in front of Mr. Schaefer, and he said, "You take the money and give it to Schaefer", and he makes me take \$3 off him and give it to Mr. Schaefer and I said, "Here is the money for this Mr. Dennis' friend", and he said all right and so he got \$3 and handed to O'Shea a half a dollar back. That was all I spoke.

Q This money passed through your hands? A Mr. O'Shea make me do it, that he gets in.

Q Why didn't he give it to Mr. Schaefer first? A I don't know what for he wanted to get me in it. He could get in at

the same time but he wants to give me the money and hand it to Mr. Schaefer.

Q What time did this show begin that evening? A About nine o'clock.

Q It began about nine? A Yes, sir, around there.

Q Was there an intermission while the show was on? A I don't know what that means.

Q Was there a break, did they let people out and let people come back and go into the show again? A No, no; they all walked in and never came out.

Q While the show was in progress, these large folding doors-- A That was locked.

Q All the time? A All the time.

Q Where were you before the show? A Always behind the bar.

Q Did you ever go in the hall before the show began?  
A Only once.

Q What did you do? A I closed the skylight. There was so much draught there, Schaefer hollered out I should close the skylight. That is all I went in for.

Q What arrangement did you make, or what arrangement did you have for providing the people in the place, in the hall, the large hall in the rear, with drinks, eatables or cigars, or whatever they wanted, what arrangement did you make, how did

you give it to them? A To whom?

Q To the people in the back, if they called for beer?

A I did not serve any in the back.

Q Did they bring it from the front? A No, sir; about nine o'clock Schaefer hollered out I should get the beer inside, because he is going to close the door. So I sent the bartender and tapped the beer down stairs and there is a faucet that runs in the back and I tapped the beer and put a few boxes of cigars in the back and three bottles of whiskey in the back and I sent the bartender and two waiters were engaged already and they served that.

Q The bartender was the gentleman who preceded you on the stand? A Yes, sir.

Q The folding doors were open before the performance began? A No, sir, they got closed about half past seven. The door got closed. The folding door, because there was another door for everybody to walk in.

Q You sent this stuff in through the other door? A Brought it in the other door and that was all.

Q Were you in this hall in the rear at any time while this performance was going on? A No, sir.

Q Did you see anybody on the stage? A No, sir.

Q Did you see anybody on the stage when you went in there to close the skylight? A There was nbbody on the stage yet.



Q And where were you all the time while this performance was going on? A I had a singing society upstairs and they came that time in at the same time, so I had to attend to them behind the bar.

Q You were attending to the bar? A I attended the outside bar all the time.

Q Who was tending to the bar in the rear? A The bartender.

Q That is who? A Mr. Krause.

Q Now, when did the show get out, close? A After ten o'clock.

Q It lasted altogether how long? A Well, I can't remember.

Q About an hour? A I know about nine o'clock the door got closed and I don't know if it started right away or not but I know it was after ten when they all came out again.

Q And did you go into the hall after the performance was over? A No, sir.

Q Where were you arrested? A Behind the bar. They took me behind the bar.

Q Did anybody at any time ever tell you that there was going to be indecent acts committed that evening, that this was going to be an indecent show of any kind? A No, sir.

Q Did you ever know that two girls were going to go on that

stage and commit an act of sodomy? A No, sir.

Q Did you ever suggest it to anybody? A No, sir.  
Did

Q A You ever suggest that such a thing should happen there that evening? A No, sir.

Q Did you help with the people in the show except by closing the fanlight and then lock the door, while the show was in progress, did you help them in any way? A No, sir.

Q Did you go up to the dressing rooms? A I never went upstairs.

Q Where were you from nine o'clock until ten o'clock--- you were in the saloon? A Yes, sir.

Q Where were you before that, from eight o'clock until nine? A There was always people coming in. I was always behind the bar.

Q You tended to the bar? A Yes, sir.

Q Look at this picture and state what this counter is here, right opposite the bar? A It is a lunch counter.

Q Who tended to that lunch counter? A There was no lunch that night.

Q No lunch that night? A No, sir.

Q What time did your wife come down stairs-- did your wife come down stairs? A She was in the bar room.

Q At what time did she come down? A Well, I can't exactly say.

Q Did she come down before the show began? A No, no; I don't know, I can't say-- she was in the bar room-- after supper, when I had my supper, she do always her work and then comes down and sits in the bar room.

Q Were there any people in the saloon while the show was going on in the back? A Yes, sir.

Q Were many of those people known to you or were they mere acquaintances? A They were some upholsters sitting there around the table.

Q Did you know them? A Yes, sir.

Q What were they sitting around, tables in the front?

A Yes, sir, they were sitting there around those tables.

Q Did you hear the testimony of the witness for the prosecution, Mr. Watson and Mr. O'Shea, did you hear the testimony of those two witnesses? A What is that.

Q Do you know Mr. Watson, the gentleman with the glasses, who was on the stand? A I saw him that night.

Q You saw him come in that night? A Yes, sir.

Q Did you see him here on the witness stand? A Yes, sir.

Q You heard what he testified to? A Yes, sir.

Q Did you hear Mr. O'Shea, this detective, the young man?

A Yes, sir.

Q You heard what he testified to? A Yes, sir.

Q You heard Jack Sheppard testify on the stand? A Yes, sir.

Q The announcer that evening? A Yes, sir.

Q You heard all of them say you were in the back that night?

A Yes, sir.

Q At that improvised bar? A Yes, sir.

Q Is that true? A I was not in the back to see the show. I had to go in once, in the middle time, they called me in. There was such a rush on that table, on the bar, that the bartender could not get nothing and he said, "Look, they are taking everything and grabbing and there is no money coming". So I stayed there a few minutes and looked after it and then I closed the door and had to go out again.

Q What was on the stage at that time? A Nothing was on the stage.

Q Was that during intermission? A There was no performance at that time.

Q You recollect at one time at which you went in that place in the rear-- were there any other times during that night that you were in there? A No, sir.

Q Any other times at all? A No, sir.

Q You are sure of that? A Yes, sir.

Q Well now, when Mr. Watson and Mr. O'Shea and Mr. Sheppard testify that you were in there while part of the performance was going on, are they mistaken or you mistaken, are they telling the truth or you telling the truth? A When I was there there was

no show on at the same time.

Q If they say you were in there while the show was going on, are they telling the truth or are you telling the truth?

A I tell the truth.

Q When you went in there to see about the bar, when this Mr. Krause, the bartender, called you in there, did you see Jack Sheppard there? A No, sir.

Q Did not see him at all? A No.

Q Did he come and stand next to you? A I don't know no Sheppard at all, only after we got locked up-- I didn't know him before.

Q Did you see Mr. Schaefer inside at that time? A Mr. Schaefer?

Q Where was he when you went in there? A He was right on the door there.

Q On the door? A Yes, sir, right next to the bar.

Q Did you see Schaefer and Sheppard together conversing that night? A I don't know. I did not see them.

Q When one of the witnesses testifies that you were standing close by while the conversation was going on between Schaefer and Sheppard, he is mistaken, is he not? A I don't know if it was Sheppard or Schaefer-- I don't know one from the other that night.

Q You knew Schaefer? A I knew Schaefer. He was on the

door and didn't know who talked to him or nothing. I had no chance to look for that.

Q What did you do in that place while you were in there, when you went in there at the call of Mr. Krause? A I stayed there a little and they grabbed everything to get drinks and then went back again. That is all. Handled the money a little over, what was coming over the bar.

Q Did you take the money at that time? A Yes, sir.

Q How much money did you take that time? A About a dollar or two-- about a dollar or two came in at that time.

Q What did that money come from, the sale of beer?

A Selling beer, yes.

Q Did you receive any<sup>other</sup> money at any time for the sale of beer in there, or the sale of anything? A No, sir.

Q All you got that night was a dollar and a half? A Just that minute.

Q At no other time did you get any other money? A When the show was over I took the box out again and there was about ten dollars came in that night, in the back, that they sold that night.

Q You took it out? A Yes, sir, it was in a cigar box.

Q You were also in the rear room after the show began?

A Just took only a few minutes to take the rest of the stuff out.



Q Was there anybody on the stage? A No, sir.

Q Was there anybody at the piano singing? A No, sir.

Q Was there anybody at the piano singing when you went in there at the call of Mr. Krause? A No, sir, nothing going on at all, because the side door was open and there was nothing on the stage.

Q Mr. Schaefer had the side door closed? A Yes, sir.

Q At all times while anything was going on? A Yes, sir.

Q If people wanted to go in, did he open that door?

A There was nobody to go in any more. They were all inside.

Q Did anybody come out while the show was going on and tell you what was going on in the back? A No, sir.

Q Did you hear anything going on in the back? A No, sir.

Q Did you hear any noises? A No, sir.

Q Singing or anything? A Couldn't hear-- there was a little noise from the people in there-- couldn't hear no singing, and only the piano.

Q Did you hear any applause or yells? A No, sir, you couldn't understand that outside at all.

Q You didn't know what was going on until when-- when did you first know what occurred there that night? A Only in the court I heard it.

Q Did the detectives tell you when they arrested you what you were being arrested for? A No, sir.

Q What character of kind of performances went on in this place?

THE COURT: Never mind that. All we want to know is what this performance was. You cannot introduce general evidence of other performances. Either this was a proper performance or an improper performance.

MR. WEISHAUP: I understand that is the question, but some evidence has come in here either through untruthfulness of witnesses or through the error of witnesses to show certain things occurred there like prize fights.

THE COURT: I think I struck all that evidence out. It was the evidence of the Captain and on your motion I struck it out and I shall instruct the jury that it is not the character of the place we are trying-- it is what occurred on this evening in question.

CROSS EXAMINATION BY MR. TOWNSEND:

Q You had a place in 13th Street?

Objected to as incompetent, irrelevant and immaterial, not connected with the indictment, and on the further ground that it is an attempt to put in character evidence.

THE COURT: When you called your client as a witness, you clothed him with respectability. You cannot attack his character, but the People may attack his character and show he is unworthy of belief, and this question goes to the credibility of your witness, and being cross examination it is proper. I overrule your objection and state the reason so that you may understand.

Exception.

BY MR. TOWNSEND:

Q You had a place in 13th Street? A I never had a place before.

Q Were you ever connected with a place, 138 East 13th Street? A I was bartender.

Q 138 & 140 East 13th Street? A I was bartender there.

Q Bartender? A Yes, sir.

Q How long were you there? A About five years.

Q Didn't you get to be manager? A No, sir.

Q You did not? A No, sir.

Q Head barkeeper, were you? A No, sir.

Q What barkeeper were you-- how much did you get paid there? A What?

Q How much were you paid? A \$15 a week.

Q What was that place there? A It was a hotel.

Q Women frequented it? A They came gentlemen and--

Q Gentlemen and ladies? A Yes, sir.

Q Didn't you collect from the women when they came down at night? A Not a cent. I was never the bookkeeper. There was another clerk there. I was the bartender.

Q You never took any money from the women as they came downstairs? A No, sir.

Q Sure of that? A No, sir, I did not.

Q Did you take checks from them? A Checks-- no, sir. There was no checks there, not so long I was there.

Q How do you know there were not checks there? A I know there was no checks there when I was working there.

Q How was it managed, by what, how was it run if it did not run by check? A There was no checks there, never. I can prove that.

Q If a man and lady came in what did he do? A I don't know-- they only got a room and I did not give them no room, either.

Q What? A I did not give them no room.

Q You never had anything to do with that? A No, sir.

Q The place was raided constantly while you were there?  
A Never was arrested before.

Q Was not the place raided while you were there?  
A No, sir.

Q Never raided while you were there? A No, sir, never was raided.

Q Do you know what I mean when I say raided? A Yes, sir.

Q What do I mean? A The same like get arrested.

Q That the police came there and arrested the people?

A No, sir.

Q It never happened while you were there? A No, sir, not while I was there.

Q You were there every evening? A Yes, sir; I started at two o'clock in the afternoon.

Q And worked up until when? A About twelve or one o'clock.

Q Never worked after twelve o'clock I suppose? A After twelve?

Q Yes. A We closed-- it was not open all night. It was closed.

Q How late did you close? A About one o'clock it got closed, sometimes later.

Q And sometimes before one-- never after one? A Oh, yes; after one.

Q What? A Yes.

Q Did you ever sell any liquor after one? A I did not take no charge of that.

Q What did you do? A I was bartender.

Q Didn't you sell any liquor there? A Not afterwards.

Q What? A Not after one.

Q Never after one? A No, sir.

Q What was going on upstairs in this place that night?

A At night?

Q Yes. A I could not see anything.

Q Didn't you go upstairs? A I didn't serve anything upstairs.

Q Was there a meeting up there? A A meeting?

Q Yes. A Where?

Q Upstairs in 233 East 33rd Street? A Oh, in 231-- I thought you were speaking about the hotel yet.

Q No, no; I am not speaking about that. I speak about 231, what took place upstairs? A I didn't go upstairs that night.

Q Was there anything going on up there? A There was a singing society up there.

Q Who sang up there? A Finlandish singing society was up there.

Q Who sang-- what did they do up there? A Singing-- every Wednesday they came there and sang.

Q You didn't go up there at all? A No, sir.

Q So you don't know what took place? A No, sir.

Q How long have you been a proprietor of 231? A Since



the 1st of March last year.

Q Since the 1st of March last year? A Yes.

Q How long were you there before that time? A I was living in the house, in 231, first floor. There was three rooms I was living.

Q How long? A Three years.

Q Didn't you have anything to do with the saloon, the hotel, until the 1st of March? A Until the 1st of March.

Q Until the 1st of March-- were you not connected in any way? A The proprietor that was there before, he went to San Francisco and his brother-in-law was upstairs and they called me up and asked me if I wanted to take the place and I said I don't know. So, spoke about me, and called a collector from the Brewery and the brewer asked me how much money I got and I said I got so much and then he said, "Why don't you take the saloon?"

Q You hired the saloon? A Then I got in the saloon, that was the first.

Q You were proprietor of it on the 20th of January, 1904?  
A I was so long there.

Q You were proprietor of it on the 20th of January, 1904?  
A Yes, sir.

Q Had sole control of it, you alone controlled the saloon and the hall? A We and my wife, yes.

Q Why did you have the license in your wife's name?

A I was not no citizen.

Q You were not a citizen? A No, sir.

Q How long have you been in this country? A Ten years.

Q You never had any trouble with the Excise Law people yourself? A No, sir.

Objected to.

THE COURT: It is already answered.

BY MR. TOWNSEND:

Q You are sure about that? A About what?

Q Any Sunday violations? A Yes, sir; got a few times-- I didn't know right away what you meant by excise-- what that meant. I cannot speak good English.

Q Didn't know what the excise law was? A No-- I know what it means now.

Q You were in trouble several times with the excise people, with the police?

Objected to.

Objection sustained.

THE COURT: You may ask him if he has ever been convicted.

BY MR. TOWNSEND:

Q This show was to last only an hour? A What?

Q This performance that night lasted only an hour?

A About an hour.

Q Didn't you think it was a pretty expensive performance, \$2.50 and \$5 a ticket? A I found that out only when I asked what the price was.

Q Who did you ask? A Mr. Schaefer.

Q You asked him what the price was? A Yes, sir.

Q What did he say? A \$2.50.

Q Didn't you think that was pretty high? A I would not give a quarter for it.

Q You would not give a quarter? A No, sir, not me.

Q It is an old story with you I suppose-- A The first time I heard of such things-- I never knew what such a show as that could be held that way, only when we got arrested, and then I heard about it.

Q Didn't you tell the gentlemen it was going to be a show, and going to be all right? A No, sir.

Q Never said anything like that? A That Mr. Jones knows all about it-- Mr. Dennis told him about it-- they knew more-- they were born in this country and I don't know nothing about it.

Q You saw Mr. O'Shea here yesterday, a witness? A Yes, sir.

Q Did you hear the witness testify as follows: "So I asked the defendant"-- that is you-- "if the show was going to be all right and he said yes, it would be a good show. So he said it would cost me \$2.50 to go in". Do you recollect him

testifying to that? A. Who said that?

Q. O'Shea, yesterday? A. Yes, sir, I heard that. Only on the door, I told him, he begged me that I should get him in.

Q. He begged you? A. Yes, sir.

Q. What did he say to you? A. Mr. Jones always-- I was busy on the bar and didn't want to talk all the time to him and he said, "Come on and get Mr. O'Shea in", and I went to Mr. Schaefer and asked him-- I told him first I got a friend, how much is it to go in, and I told Mr. Jones first, \$2.50, and he went back to Mr. O'Shea and told him about it and Mr. O'Shea comes over and said, "Come and get me in", and he pushed me all the time along that I shall take the money off him and hand it to Mr. Schaefer.

Q. You did not want to touch the money? A. No, sir.

Q. What about the change, how many dollars did he give you?

A. Mr. O'Shea?

Q. Yes. A. I didn't count it. Only I handed it just that way.

Q. Didn't you hear him testify that he gave you three one dollar bills? A. Mr. Schaefer counted that up.

Q. Did he give you three one dollar bills? A. Yes, sir.

Q. And you took him in the rear room to a man named Schaefer?

A. It was not in the rear room. That was just behind the bar.

Q. And you said, "This is this young man's money" and

Schaefer took the money and gave him fifty cents change?

A Not me.

Q Schaefer took the money? A Schaefer took the money and gave fifty cents to O'Shea himself.

Q You took him to Schaefer? A Yes, sir.

Q And you handed the three dollars to Mr. Schaefer?

A Yes, sir.

Q And you said, "This is this man's money"? A Yes, sir.

Q And he gave him fifty cents back? A Mr. Schaefer gave it to Mr. O'Shea.

Q Didn't you say he was a friend of yours? A I told it is a friend of Mr. Dennis what live in the house. I never saw him before.

Q How do you know if he was a friend of his? A Well, Mr. Dennis introduced him, brought Mr. Jones in there, about a dozen times he was up in the place, in the week time.

Q Do you recollect Mr. Watson testifying here yesterday, the gentleman with the glasses? A With the glasses, yes.

Q Now, see if you recall this testimony as follows, given by Mr. Watson: "I asked him how much it would be"-- A He did not ask me.

Q Do you recollect him testifying to that--"and he told me it would be \$5 a piece"? A No.

Q Do you recollect Mr. Watson asking you that and you told



him it would be \$5? A No, sir.

Q And do you recollect his testifying yesterday, "When we signified we were going inside, Mr. Schaumloeffel said he would take us in and he did"-- do you recollect that-- you told him you would take him in and you did? A I only take him to Mr. Schaefer, only brought him next to the lunch counter.

Q You passed him in there? A Yes, sir.

Q Do you recollect Mr. Watson testifying yesterday, "And I asked him if he would take the money and he said, 'Give it to this man', and I gave the \$10 for admission for two to Mr. Schaefer"? A No, did not say that.

Q How long before that night had you so crowded a house as that-- when was the last performance there-- when was the last performance in that room before that? A Had no performance.

Q Never had one before? A Only singing societies.

Q Only singing societies? A Yes, sir.

Q This was a little out of the ordinary? A No-- never was orderly in the place.

Q Look at these pieces of paper and state whether you have ever seen them before? A No, sir, I did not see one of them.

Q What does it say on there? A I never saw it before.

Q Did you see men handing them in that night as they went in-- were there any tickets there used that night? A They



gave it all to Mr. Schaefer.

Q Did you see any tickets used? A No, sir, not before, only they walked in-- I don't know if they paid money to Schaefer or not, or handed him tickets.

Q You don't know if any money was paid or tickets or what?

A No, sir.

Q Did you see three hundred men go in by your bar that night? A I did not count them. There was a good lot of people.

Q A great many were there not? A Yes, sir.

Q You have been five or six years in this hotel down in 13th Street? A Yes, sir.

Q A bartender? A Yes, sir.

Q And you have been living up in this place for three years or two years? A Yes, sir.

Q And this performance you knew nothing about? A No, sir.

Q What was going on in this room where you let these people in, is that it? A I did not know.

Q You did not know what it was? A No, sir.

Q Never heard? A No, sir.

Q Have you heard yet? A Only after when we got arrested?

Q Who told you? A When we got up in 57th Street court.

Q Who told you? A What was with me in the cell.

Q Who was in the cell with you? A Sheppard and Bundi

and then actors.

Q What did they tell you? A They say we got arrested because it was a disorderly show in the back.

Q Did you ask them what was done? A No, sir; they spoke to one another and they were strange to me and I couldn't speak to them at all.

Q You could not speak to them? A No, sir.

Q You never found out even then-- did you ask them what they were doing in there? A I did not ask them. They told me the whole story.

Q What did they tell you? A That it was girls on the stage taking their clothes off.

Q They told you that? A Yes, sir.

Q What did you say? A I said I did not see it.

Q You did not see it? A Yes, sir.

Q Did they ask you where you were? A No, they did not ask me. They knew I was always outside.

Q They did know that? A Yes, sir.

Q Did they know that you collected the money to let them in there with? A No, sir.

Q Did you tell them that? A Afterwards I told them that Mr. O'Shea, I let him in, that he got in on account of me.

Q And Mr. Watson got in on account of you also? A Mr. Jones took him in along.

Q When did you first hear what the price of the tickets was? A Before Mr. O'Shea went in.

Q Who told you? A Mr. Schaefer.

Q Mr. Schaefer? A Yes.

Q What did you say to him when? A He wants to get in so quick and begged me I shall get him in and so I wanted to find out first how much it is and then when I told him he said all right I pay that, get me in and so--

Q What did you say to Schaefer about the price of the tickets? A I didn't say nothing to Schaefer.

Q What had you ever known the price of tickets to be at that hall before for any entertainment? A I didn't know nothing about it.

Q Before, at other meetings there, how much did they ever charge? A In meetings?

Q Yes. A There is no charge for tickets. They got union cards to get in.

Q When did Schaefer first speak to you about this entertainment? A He hired the hall before Christmas.

Q Before Christmas? A Yes, sir.

Q Did you know him before that? A No, sir.

Q He came there to you? A Yes, sir.

Q Alone? A All alone.

Q How many times did he come after that time? A Only

that morning on the 20th of January.

Q On the 20th of January? A I didn't expect him to come-- if he came back I was not sure, so he came about ten o'clock.

Q You mean to say the tickets were not put out until that morning? A I don't know about the tickets, if he give any tickets out or not, but nobody came.

Q Didn't he tell you that he had given tickets out?

A No, sir.

Q Do you know anything about the Apollo Pleasure Club?

A No, sir.

Q Did you ever know that they met at your hall, the Tecumseh Hall? A No, sir.

Q Didn't you know that they met there on the 2nd of January?

A No, sir.

Q You did not? A No.

Q Would you be surprised to learn that they did meet there on the 2nd of January? A There was no club or meeting.

Q There was no meeting there that night on the 2nd of January? A No, sir.

Q Is that true? A Yes, sir.

Q Did you see Schaefer afterwards, after the show?

A No, sir.

Q Why were you going down stairs with your hat on when

you were arrested? A When I was arrested?

Q Yes. A I had to go upstairs when they took me.

Q What for? A I had to go in that room where they put us all together.

Q Did you hear Mr. Watson testify that you had your hat on going down the cellar when you were arrested? A That is the toilet.

Q You were going down to the toilet? A That is on that side, yes.

Q Could you get out that way? A No, sir, I couldn't get out that way.

Q Could not? A No, sir.

Q Cellar down there? A The cellar, yes.

Q You started, when you heard the noise, to go the cellar, is that it? A No, sir, I had to go down there.

Q Sudden call of nature? A Yes, sir.

RE-DIRECT EXAMINATION BY MR. WRISHAUP:

Q Did Mr. Schaefer ever tell you that he was connected with any club of any sort? A No, sir.

Q At the time before Christmas that he came to see you, did you make any definite arrangement about any night he was to have the place-- did you tell him he could have it on the 20th? A Yes, sir.

Q Did you tell him he could have it on any other day?

A No, sir.

Q Did not? A No, sir; the other days are all rented already.

Q All the other days in January? A Yes, sir.

Q Did you look over your list? A Yes, sir, I have a calendar of that.

Q Did you give him two alternative days or give him only one, the 20th? A Only the 20th.

Q The first time you saw Schaefer in December, between that time and the time that you say you saw him on the morning of the 20th of January, you did not see him between those two days? A No, sir.

Q Did anybody from him come to see you? A No, sir.

Q Do you know whether anybody from him came and spoke to anybody in your employ, Mr. Krause the bartender or anybody else?

A No, sir.

Q Whether he came or anybody else came to see you?

A No, sir.

Q They might have come? A Never spoke-- I never find out.

Q Did you leave any arrangements for the place to anybody in your employ? A No, sir.

Q Did Mr. Krause have a right, if he desired, to say to



some people the night of such and such a date is empty and you can have the place? A No, sir.

Q I mean at any time, if somebody came to the place and wanted to hire the hall for some night and you were not there, and Mr. Dennis was there, could Mr. Dennis make any arrangement for you? A No, sir.

Q Had to come to you? A Had to come to me, yes.

Q Well, what took place on the night of January 2nd in your place-- do you remember that night? A What day was that?

Q The day after New Years. A Was it on Tuesday-- I don't know what day in the week it was.

Q That was Saturday, the night of January 2nd? A There was nothing only a meeting.

Q A meeting? A Yes, sir, tailors.

Q Where was that? A That was down stairs.

Q Was there anything upstairs that night? A Upstairs they-- I got four-- there is a partition-- there is many organizations, one comes on this side and one on this side and the big organization got to go down stairs.

Q How many organizations could meet upstairs at one time?  
A Two.

Q There were two rooms? A Yes, sir.

Q Were both of those rooms occupied that night?

A Yes, sir.

Q Who were they occupied by? A Tailors.

Q Tailors upstairs and down stairs also? A Yes, sir.

Q Different lodges of the same organization? A Yes, sir, different.

Q How long have you known this tailors' institution?

A That was there before I came.

Q How long did they meet in your place? A I don't know. When I opened the place it was not closed, it was always open. the Union was right there already.

Q When you came to that place that Union was meeting there? A Yes, sir, meeting already there, every one.

Q They had the entire place on the night of the 2nd of January? A Well, every two weeks; one Saturday they got it and the other Saturday these people got it.

Q I mean on this very night, on the 2nd? A Yes, sir, that was the tailors.

BY THE 8TH JUROR:

Q You said Mr. Dennis came to see you the night before this show, with Mr. Jones? A Yes, sir.

Q And that Mr. Dennis told you that there was going to be a show there tomorrow, that you should treat Mr. Jones right?

A Yes, sir.

Q Did you know of such a show? A No, sir.

Q Did you ask what kind of a show it was going to be?

A No, sir.

Q You did not know anything about it? A No, sir, only I know there would be ladies singing and dancing.

Q You knew that the night before? A Yes, sir-- no, sir; only when Schaefer came about ten o'clock.

Q That morning? A Yes, sir.

Q I talk about the night before, did you know about it the night before? A Mr. Dennis spoke to Mr. Jones about it that there would be singing and dancing the next night and I shall get Mr. Jones in, because Mr. Dennis cannot bring him in, he had to go away to Boston, and he left that afternoon, that Wednesday afternoon, he left the house. He was living in the house.

Q Nobody told you there was going to be anything that night of the 20th, at that time? A I beg your pardon?

Q Mr. Dennis told you there was going to be something that night? A That Mr. Dennis, he was there when Mr. Schaefer came that night and hired the hall.

BY MR. WEISHAUP:

Q And you say Mr. Dennis lived in the house? A Lived in the house with his family on the second floor.

BY THE COURT:

Q The admission fee was \$2.50? A Yes, sir.

Q Did not that provoke some suspicion in your mind as to the nature of this entertainment? A There was no time to speak about it. I was busy.

Q You knew they were charged \$2.50 admission? A Yes, sir.

Q Did you suppose it was an ordinary singing and dancing entertainment for which they were giving \$2.50? A I could not understand how a man would pay that-- I don't know if the others-- if they paid that money.

Q When you found they were charging \$2.50 admission fee, didn't it induce you to make some inquiry about what the show was to be? A I was so busy there, your Honor, and I am a little green in that business yet.

Q You knew \$2.50 was rather high admission fee, didn't you, for an ordinary entertainment of singing and dancing? A I had some before and they paid a dollar and they got refreshments before that. I don't know what he wants to do.

Q You knew they were not to get refreshments in this instance? A Yes, sir.

Q Because you connected up that keg of beer-- have you anything else to say? A I could not stop it-- I don't know if I could stop it or not and if I saw anything I would do it.

Q I only ask you, when you learned that the admission fee was \$2.50, did you make any inquiry as to what the exhibition

was to be? A No, sir.

Q You did not? A No, sir.

Q And were you suspicious that there was something out of the ordinary going on? A Well, I can't tell that. I would not say.

TESTIMONY CLOSED.

It is admitted on the part of the defense that Cora Smith plead guilty in this Court of General Sessions, of the crime of sodomy committed at the time and place charged in this indictment.

It is conceded upon the part of the prosecution that the defendant Schaumloeffel had no acquaintance with the two women in question prior to the night of the 20th of January, 1904.

MR. WRISHAUP: I now renew my motion to dismiss upon the same grounds as stated at the close of the People's case.

Motion denied.

Exception.