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COURT OF GENERAL SESSIONS OF THE PEACE,

City and County of New York, Part II.

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THE PEOPLE OF THE STATE OF NEW YORK, :

-against-

MORRIS GOLD.

Before:

HON. JOSEPH F. MULQUEEN, J.,

And a Jury.

New York, September 8th, 1915.

The defendant is indicted for violation of Section 2460 of  
The Penal Law.

Indictment filed May 18, 1915.

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

For the People: ROBERT McCORMICK, ESQ., Assistant District  
Attorney.

For the defendant: I. ERLICH WOLFE, ESQ.

A jury is duly impaneled and sworn.

Mr. McCormick opens to the jury.

M A Y H A R R I S (25 Erie Street, Amsterdam, N. Y.) a  
witness sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q Now, you will have to talk loud because all those men  
have to hear you. How long ago did you first meet Gold the  
defendant? A About five years.

Q Were you engaged in any business when you met Gold? A No,  
sir.

Q Were you earning any money in any way? A No, sir.

Q When did you first go out on the street for the purposes

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of prostitution?

MR. WOLFE: I object to that.

THE COURT: Allowed.

MR. WOLFE: Exception.

A Four years ago.

Q Where were you living when you first met Gold? A 113th street.

Q What number? A 171.

BY THE COURT:

Q In New York County? A Yes, sir.

Q Was that east or west? A East.

BY MR. McCORMICK:

Q Did you ever live with him? A Yes, sir.

Q As man and wife? A Yes, sir.

Q When did you first do that? A About five years ago.

Q At that time were you engaged in prostitution? A Yes, sir.

BY THE COURT:

Q Before you met Gold? A Yes, sir, once in a while I went out.

BY MR. McCORMICK:

Q Did you go out on the street? A Yes, sir.

Q Before you knew Gold at all? A Yes, sir.

BY THE COURT:

Q You had been occasionally a prostitute? A Yes, sir.

BY MR. McCORMICK:

Q On the street you would meet men? A Yes, sir.

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MR. WOLFE: I move to strike out what she did before she met the defendant.

THE COURT: Motion denied. This is preliminary.

MR. WOLFE: Exception.

Q How much of the time until September 1913 did you live with him? Did you live with him all the time? A To September 1913?

Q Up to that time? A Not steadily; I was not steadily with him all the time.

Q What did you do with the money that you got from the men that you met on the street?

MR. WOLFE: Objected to; no proof that she got money from the men.

THE COURT: That is what prostitution means. It is an English word, meaning to have indiscriminate sexual intercourse for money.

BY THE COURT:

Q You said you were a prostitute and you made money in that way? A Yes.

BY MR. McCORMICK:

Q What did you do with the money? A Well, I used it for my own expenses; to pay the rent.

Q Did you ever give him any of it? A Occasionally I gave him a few cents to buy what he needed.

Q Now in September, 1913, did you go to live on 97th street with him? A Yes, sir.

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THE COURT: The indictment charged February 1915; come down to that.

MR. McCORMICK: I want to lead up to show their relations.

THE COURT: She said she met him four years before February, and went to live with him as man and wife.

MR. McCORMICK: That was intermittently. I want to show he knew how she was earning money when she could not make money in any other way.

Q Did you ever have any job during all the five years you knew this defendant except prostitution? A No, sir, when he worked I was home and did not do anything.

Q You never did anything? A While he was working I did not go out.

Q Did you live with him all the time from September, 1913, down to the first of January of this year? A Yes, sir.

Q And that house was where? A 327 East 97th street.

Q Did you have a little flat there? A Yes, sir.

Q Did any one else live in the flat but you and he? A No, sir.

Q Did he eat his meals there? A No, sir, not often; some of them.

Q Now, about five months out of that year, or over a year he was working? A In the market.

Q Where? A 59th street.

Q What kind of a market? A Products and vegetables.

Q A produce market? A Yes.

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Q What hours in the day would he work? A He got up at  
four or half past four, and he used to work until ten or eleven.

Q That was only about five months out of the fifteen months  
or sixteen months, is that right? A Well, he was there with his  
father; his father had a grocery store at 1588 Park avenue.

Q So about more than half the time he was out of a job?  
A He used to pick up jobs occasionally.

Q Wasn't he out of a job about half of the time? A About  
half of the time.

Q And during that time you furnished the money that ran the  
flat? A Paid the rents.

Q On or about the first of January, 1915, were you in Vi-  
gretti's saloon one evening or one day? A The beginning of this  
year?

Q Just before you went to Amsterdam, the day before? A I  
had walked in there with Fay.

Q Do you remember being there one night when Fay was there?  
A I used to go in there and call.

Q To Vigretti's? A Yes.

Q To this defendant's? A He used to be in there occasion-  
ally.

Q I am talking about a time, the night before you went to  
Amsterdam, when there was a slip of paper there, do you remember  
that? A No, sir, He was not there when I got the slip of  
paper.

Q Who handed you the slip of paper? A Mr. Vigretti handed it

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to Fay and Fay handed it to me.

Q Who was Vigretti? A The proprietor of the saloon.

Q Who was his girl? A Fay.

Q He had her in the house, didn't he? A I don't know when she was in the house; she went to Amsterdam with me.

Q What did this piece of paper say? A "Send down two girls at once", 10 River street, Finnegan's.

Q Did it have Amsterdam on it? A Amsterdam, 10 River street.

Q After you saw that paper, and you were talking to Fay about going to Amsterdam, did you meet Gold that night? A No, sir.

Q You did not see him at all? A No, sir.

Q Did you see him next day? A I saw him next day.

Q Where was he that night? Didn't he sleep at home? A I don't know where he was; he did not sleep home.

Q Did you tell him about it? A Fay said to me about going, and I said yes. I had a dress suit case to pack.

BY THE COURT:

Q What did you say to the defendant and what did he say to you? A He did not say anything.

Q Did you go to Amsterdam? A Yes.

Q Did you talk to him about going to Amsterdam? A No, sir, he was not there when the note got there.

Q You did not go the day you got the note? A No.

Q How long after you got the note did you go? A The next day on the 11:20 train in the morning.

Q Did you see him between the time you got this note and the

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time you went to Amsterdam? A Yes, sir, I seen him, and told him I was going.

Q What, if anything, did you say to him? A I just told him I was going to Amsterdam; that they needed two girls up there.

BY MR. McCORMICK:

Q What did he say to that? A He did not answer me; he did not answer at all.

Q He said something to you about sending him money from Amsterdam, didn't he? A Well, the rent. I sent that.

Q He wanted the rent money? A Yes.

Q Did he go to the car when you went to get the train the next day? A I went to the car and Fay and him. I jumped on the car.

Q Who went with you to the car? A Fay and I and Defendant.

Q Gold? A Yes.

BY THE COURT:

Q Fay is another prostitute, I understand? A Yes.

BY MR. McCORMICK:

Q Then you went to Amsterdam? A Yes.

Q Did you go to Finnegan's? A Yes, sir.

Q How long did you stay there? A About fifteen minutes.

Q What kind of a place was Finnegan's? A A disorderly house.

Q You stayed there about fifteen minutes? A Yes, sir.

Q After you left Finnegan's where did you go? A Fay was working at 59 Bridge, and she said, "Come on up there, I know the proprietor."

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MR. WOLFE: This was not in the presence of the defendant, this conversation.

THE COURT: Strike out what she said to Fay.

Q Where did you go? A 59 Bridge.

Q What was that? A A disorderly house.

Q How long did you stay there? A Up till about two months ago.

Q How much money did you use to average? A Not much.

Q How much? A Sometimes sixteen dollars, eighteen dollars.

Q A week? A A week; it was not very much.

Q That money was the proceeds of prostitution? A Yes, sir.

Q That is, you had intercourse with men and they paid you the money? A Yes, sir.

Q Did you send any of that money to Gold? A Just what you have there.

THE COURT: Strike that out.

BY THE COURT:

Q Yes or no? A Yes, sir, those money orders.

Q You sent money to him by money orders? A Yes, sir.

BY MR. McCORMICK:

Q I show you American Express Company money order for fifteen dollars, dated January 28th, 1915, and ask you whether you sent that money to Gold? A Yes, sir.

MR. McCORMICK: I ask to have it marked for identification.

(Money order marked People's Exhibit 1, for identifica-

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tion.)

Q You put it in an envelope? A Yes, sir.

Q And you addressed the envelope where? A To the saloon.

Q What saloon? A 1879 Second avenue.

Q But you addressed it to Gold? A Yes, sir.

Q In care of the saloon? A Yes.

Q Where is the saloon? A 1879 Second avenue, corner of 97th street and Second avenue.

Q Did you send him this money order in the same way? (Handling slip of paper to witness) A Yes, sir.

Q In an envelope addressed to the same saloon, to Gold?

A Yes, sir.

MR. McCORMICK: I ask to have this one marked for identification.

(Paper marked People's Exhibit 2, for identification.)

Q I show you American Express Company order for \$12 payable to Morris Gold, dated the 20th of January, 1915, and ask you whether you sent that to him in an envelope, addressed to the same saloon? A Yes, sir.

Q I show you another money order for the sum of \$8 payable to the order of Morris Gold, dated February 26th, 1915, and ask you whether you sent that in the same way? A No, sir, Miss Austin sent that.

Q Who was she? A She is the proprietor of 59 Bridge..

Q Is that Morris Gold's signature on the back of it? A Yes, sir.

MR. McCORMICK: I ask to have them marked for identification.

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(Papers marked People's Exhibit 3 and 4 for identification.)

Q Who did you say Miss Austin was? A She is housekeeper at 59 Bridge.

BY THE COURT:

Q The proprietress? A The proprietress.

Q You bought that \$8 order, and she sent it? A She took it over.

Q She took the money and bought it? A Yes.

BY MR. McCORMICK:

Q Who addressed the envelope? A I did.

Q All four envelopes? A Yes.

Q I show you this order and ask you if that is his signature on the back of the money order? A Yes.

Q Is that his signature on the back of the money order?

A Yes.

Q You have seen him write often? A Yes.

MR. McCORMICK: I offer this in evidence.

(Money order received in evidence and marked People's Exhibit 1.)

Q I show you money order dated February 12th, 1915, and ask you whether that is his signature on the back of it? A Yes, sir.

MR. McCORMICK: I offer this money order in evidence.

(Money order received in evidence and marked People's Exhibit 2.)

BY THE COURT:

Q Did you ever see that before, People's Exhibit 2, in evi-

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dence? A I don't understand what you mean, "did I ever see it before."

BY MR. McCORMICK:

Q You saw it in my room? A Oh, yes.

Q You saw it in Amsterdam when you put it in the envelope?

A Yes.

BY THE COURT:

Q Did you ever see it before? A Yes, when he made the money order out, I put it in the envelope.

Q You paid the man the amount of the money order? A Yes.

Q How much did you pay? A The amount I sent.

Q How much? A It is \$14.

BY MR. McCORMICK:

Q You paid \$14 and sent back to this defendant on the 12th of February, of this year, is that so? A Yes.

Q From Amsterdam, New York? A Yes.

Q You mailed it yourself? A Yes.

Q Put it in an envelope, sealed the envelope and mailed it to him, is that so? A Yes, sir.

Q And that is his signature on the back? A Yes.

Q And every cent of that money you earned by prostitution?

A At 59 Bridge street.

Q You earned it by prostitution? A Yes, sir.

Q Now I show you one dated January 28th, 1915, and ask you whether that is his signature? A Yes, sir.

Q You put that in an envelope? A Yes, sir.

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Q You bought it? A Yes, sir.

Q It is for fifteen dollars and you paid \$15 for it, didn't you? A Yes, sir.

Q In Amsterdam? A Yes, sir.

Q And you paid the American Express Company? A Yes, sir.

MR. McCORMICK: I offer that in evidence.

MR. WOLFE: Objected to as not within the indictment.

THE COURT: Allowed.

MR. WOLFE: Exception.

MR. WOLFE: I take the same objection to the other money orders, if they are going to be offered in evidence.

THE COURT: I will admit them all in evidence. The defendant is not on trial for taking any of those other money orders; they are admitted for the purpose of showing the relations between them. They may be taken by the jury as evidence on the question of his knowledge or his intent.

(The money order just referred to has been already marked People's Exhibit 1, in evidence.)

Q I show you one marked February 26th, 1915, for \$8; you say that is his signature? A Yes, sir.

Q You sent that \$8; you bought that money order? A I did not buy that; Miss Austin bought that.

MR. McCORMICK: I offer that in evidence.

(Money order received in evidence and marked People's Exhibit 3.)

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Q The one dated January 20th, 1915, for \$12, you sent that?

A Yes, sir.

Q And put it in an envelope? A Yes.

MR. McCORMICK: I offer this money in evidence.

(Marked People's Exhibit 4 in evidence.)

MR. WOLFE: I wish to take exception to your Honor's ruling as to the other three money orders.

THE COURT: Your objection is overruled.

Exception taken.

THE COURT: They are admitted for the purpose that I stated. He is not on trial for any of those other acts, for any act except that stated in the indictment, but the others are received for the purpose of proving the huilt knowledge or his intent at the time he took this money, if the jury find that he did take it on or about the 14th of February.

Q Did you ever go by the name of Mrs. Goldberg? A Yes, sir.

Q You paid rent under that name, did you not? A Yes, sir.

Q On several occasions? A Yes, sir.

Q Now, while you were in Amsterdam did you receive any letters from the defendant? A I just received one that he was out of a position.

Q You received several, didn't you? A No, sir, not several.

Q How many? A A few of them.

Q How many? A Two.

What did he say in those letters?

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MR. WOLFE: I object to that.

(Question withdrawn.)

Q What became of those letters? A I destroyed them.

BY THE COURT:

Q When did you destroy the letters? A Quite some time ago I destroyed them.

BY MR. MC CORMICK:

Q What did he say in the letters? A He told me he received--

MR. WOLFE: I renew my objection.

BY THE COURT:

Q Can you recollect what he said? A Not all, I cannot recollect, no, sir.

BY MR. McCORMICK:

Q Did he say anything about the money matters?

MR. WOLFE: It is highly improper for this District Attorney to lead the complaining witness. He has been doing that and I object to that now.

THE COURT: Allowed.

Exception taken.

A Just that he received the money order and that he paid the rent.

Q Did he say anything else? A No, sir, I cannot recall.

Q Did he ever ask you to send more money? A Not to send him more money, no, sir.

Q What did he say? A Just wrote me a letter, asking me how I was getting along.

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Q Did he write you one asking why you did not send him money?

THE COURT: I will exclude that.

MR. McCORMICK: Your witness.

CROSS EXAMINATION BY MR. WOLFE:

Q When was the first time you met this defendant? A I told you about five years ago.

Q Do you remember the occasion of your meeting him and where; do you remember where you met him? A Hewas working as assistant manager in the moving pictures when I met him.

Q Was he working there at the same time? A Yes, sir.

Q What was he working at? A I told you he was assistant manager and ticket taker.

Q Where? A 114th street and Third avenue.

Q In New York County? A Yes, sir.

Q Do you remember the conversation you had with him at that time, if you had any at all, when you first met him? A No. He used to come and sit with me in the moving pictures there, and he went his way, and I went my way home.

Q How long had you been employed there at this moving picture place at the time you first met him? A I was not employed; he was employed there.

Q You met him there? A I am just after telling you I did.

Q You were not employed in this moving picture place, were you? A No, sir.

Q You met him as a patron of the place, is that so? A Yes, sir.

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Q Did you tell him afterwards that you were a married woman at any time? A Why, certainly.

Q You told him that you were not living with your husband?

A Yes, sir.

Q Did you ever tell him that you earned your living by prostitution? A Why, certainly.

Q When was that? A I don't know just how long it was before I told him.

Q How long after you met him did you tell him that you were a prostitute? A I can't just recollect how long, but I told him.

Q As a matter of fact, you never told him you were a prostitute when he lived with you, did you? A I told him.

Q Isn't it a fact that he lived with you as man and wife and forbid you to go out on the street? A He did not persuade me to go out, no, sir.

Q Didn't he forbid you to go out on the street? A He did at one occasion, yes.

Q Well, on several other occasions, didn't he forbid you to go out on the street?

THE COURT: You are speaking of five years ago. She said she was a prostitute, and he knew she was a prostitute, but lived with her without any ceremony at all, as his mistress; he simply told her not to go on the street.

BY THE COURT:

Q He knew you did go on the street, didn't he? A I told him.

BY MR. WOLFE:

Q How much money in all did you give this defend-

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ant? A I cannot reckon up; I did not give him very much.

Q When you gave him this money did you owe him this money or how did you happen to give him this money that you say you gave him? A Because he was not working, and I paid the rent, and when he worked he gave it to me back. He always supported me while he was working.

Q Isn't it a fact that he had given you at one time the sum of \$90; that he had saved?

MR. MCCORMICK: That is objected to as immaterial.

THE COURT: Allowed.

A I don't know how much it was, but he gave me some money.

Q Which he had earned? A I am just telling you he worked.

Q He gave you this sum of money as the result of his own earnings? A That is what I told you; when he worked, he supported me.

Q And this money that you sent him from Amsterdam is part of the money you borrowed from him, or you took from him, isn't that so? A Well, I sent him the money to pay the rent.

Q Isn't that money you sent him to pay the rent part of the money that you took from him while you were living with him?

THE COURT: She said she earned that money as a prostitute up in Amsterdam.

BY THE COURT:

Q Is that so? A Yes.

BY MR. WOLFE:

Q How much money did you receive in all from the defendant?

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MR. McCORMICK: That is objected to as immaterial.

THE COURT: That is excluded as immaterial.

Q Didn't defendant pay rent there out of his own money?

MR. McCORMICK: Objected to.

THE COURT: That is excluded as repetition. She said she paid it when he worked, and when he did not work she went on the street and earned it as a prostitute.

Q How long did the defendant work when he was living with you as man and wife? A I am telling you he worked for his father.

BY MR. McCORMICK:

Q How long? A He worked on the market five months, going on six.

BY MR. WOLFE:

Q How long did he work for his father after he lost his job in the market? A He worked before he got the job in the market.

Q Don't you know that during the entire period you lived with him he was working?

THE COURT: The only question is did he know she was in a house of prostitution, and did she earn money as a prostitute; if so he was guilty of a crime in taking it for his support. It will be conceded he worked whenever he could get it.

Q How much money did you get from the defendant in all?

MR. McCORMICK: Objected to as immaterial.

THE COURT: Sustained.

MR. WOLFE: Exception.

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Q Now, when you got this note at 10 River street, "Wanted two girls, Finnegan", defendant was not present at that time, was he? A I said he was not.

Q Didn't you tell him at that time you were going up there to get a job with Fay, this friend of yours? A I told him when we were going up to 10 River street, yes, sir.

Q Did you tell him what kind of a place 10 River street was? A Yes, sir.

Q What did you tell him about it? A I told him it was a disorderly place.

Q Did you tell him you were going up there to work as a waitress? A I told him I was going up there and I got on the car, me and Fay, and went up on the 11:30 train.

BY THE COURT:

Q Did you tell him you were going to work as a waitress?

A I told him I was going to 10 River street, a disorderly house.

Q Did you tell him you were going to work as a waitress?

A No, sir.

BY MR. WOLFE:

Q Do you remember going into a moving picture place the night after you say this note was given to you, and this Fay girl?

MR. McCORMICK: Objected to.

THE COURT: Allowed.

A We went into the moving picture place the night before we went, and when we came back --

Q After you got that letter that Fay handed to you about

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two girls being wanted, did you go to the moving picture place?

A Yes.

Q Did you meet the defendant there? A No, sir, I did not meet him.

Q When did you meet him after you got this note? A In the morning.

Q The following morning? A Yes.

Q What did you tell him? A I am just after telling you what I told him.

Q Well, tell us again? A They need two girls at 10 River street.

Q What did he say to that? A He did not say anything.

Q Absolutely nothing? A Nothing.

Q And then he suddenly went to the car to take you to Amsterdam? A I went with Fay to Amsterdam.

BY THE COURT:

Q Didn't he go to the car with you? A Yes; he took me as far as the car.

Q Where did you get the train? A No train; we just took the street car; me and Fay went up alone.

Q You had to get a train? A The 11:30 train.

Q Where did you get the train? A At 125th street.

BY MR. WOLFE:

Q Did you have any conversation with the defendant on your way down to the street car? A No, just I told him I was going; that is all.

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Q Did you have any quarrel of any kind before you left the  
defendant? A No, sir.

Q I show you this letter and ask you if that is your signature?  
A Yes, sir.

Q It is? A Yes.

MR. WOLFE: I offer it for identification.

(Letter marked defendant's Exhibit A for identifica-  
tion.)

Q Is that your letter (handing letter to witness)? A Yes,  
I wrote that to his mother.

MR. WOLFE: I ask to have it marked for identification.

(Paper marked Defendant's Exhibit B for identification.)

Q Is that your signature on the letter I hand you? (Handing -  
letter to witness) A Yes, sir.

MR. WOLFE: I ask to have it marked for identifica-  
tion.

(Paper marked defendant's Exhibit C for identification.)

MR. WOLFE: I will consent to have her cross examina-  
tion go over until two o'clock, it appearing that the wit-  
ness is sick.

MR. McCORMICK: Then I will put on my other witness  
Miss Fay in the meantime.

MR. WOLFE: I consent to that.

THE COURT: On account of the illness of the last  
witness the People may call Miss Fay and proceed with her  
examination, and recall May Harris later.

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F A Y S M I T H (23 Erie street, Amsterdam, N. Y.) called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q About the 1st of January of this year, wheredid you live?

A The 1st of January?

Q Where did you live before you went to Amsterdam? A 97th street.

Q What number? A I just cannot tell you the number; I don't remember the number.

Q What avenue? A Between Park and Madison.

Q Do you know Gold, this defendant, at that time? A I did.

Q How long had you known him? A Not very long, about two or three months.

Q How long had you known May Gold? A About the same time, at that time.

Q Two or three months? A Yes.

Q You used to meet them in a saloon at the corner of 97th street and Second avenue? A Yes.

Q Who ran the saloon? A Sam Vigretti.

Q Were you in there one night when there was a slip of paper produced there? A I was.

Q What has been your occupation for the last six years?

A Prostitute.

Q Where did you work? A I worked in 111th street and Second avenue, and 97th street and Second avenue.

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Q Vigretti was a friend of yours, was he? A He was.

Q Was he proprietor of the saloon? A He is the proprietor of it.

Q Who was there when that paper was produced? A There was nobody there but Sam Vigretti, May Harris and I.

Q That is, May Harris is also May Gold? A Yes.

Q Who produced the paper? A It was brought in by a mail man to Sam Vigretti.

Q Did you go to the car the next morning with the defendant and May Gold? A As far as the car with them; Morris did not go with us.

Q Did you hear her say anything to him as to where you were going? A I did not.

Q Didn't he know where you and she were going? A He knew where we were going, but we did not tell him.

THE COURT: Strike that answer out.

Q After you saw the paper in the saloon, did you see the defendant? A We seen him when we left next morning.

Q Is that the only time? A Yes.

Q Did he say anything? A No; the only thing he told her was to behave herself and be good.

Q Where did you see him? A At the street car.

Q With May Harris? A Yes, May Harris and myself.

Q What did he say? A He told her to be good and to behave herself.

Q Did you know what her business was before she went to

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Amsterdam?

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MR. WOLFE: Objected to as immaterial.

BY THE COURT:

Q She was a prostitute? A Yes.

Q And you were a prostitute? A Yes.

BY MR. McCORMICK:

Q Do you know whether she ever sent any money to him from Amsterdam? A I do not.

MR. McCORMICK: That is all.

MR. WOLFE: No cross examination.

BY THE COURT:

Q You went to Amsterdam with May Harris, did you? A Yes.

Q And you went to the same house, did you? A I did.

Q You both acted as prostitutes in that house? A Yes, sir.

Q It was a disorderly house? A Yes.

Q Are you still an inmate of that house? A No, sir.

Q What do you do now? A Living private.

Q In Amsterdam? A Yes, sir.

Q How long is it since you have been living private? A  
Going on seven months.

Q What do you mean by living private? A I have been  
married.

Q You have been married? A Yes, sir.

Q When were you married? A Just here lately, the last  
two or three months.

Q But in February, you and May were prostitutes in 59

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Bridge street? A Yes.

Q How many other girls were in that house? A About four.

M A Y H A R R I S, recalled for further cross examination,  
testifies as follows:

CROSS EXAMINATION BY MR. WOLFE: (Continued)

Q Who told you to make this complaint against this defendant?

MR. McCORMICK: Objected to.

THE COURT: I will exclude that as immaterial.

Q Do you remember being arrested with the defendant?

MR. McCORMICK: I object to that as immaterial.

Q Do you remember being brought up in the Bronx?

THE COURT: I will exclude that as immaterial.

MR. WOLFE: I want to bring out the statement she made.

THE COURT: If she made statements, you may bring them  
out.

Q Did you make any statement up in the Bronx as to this  
defendant, to the police officials there?

MR. McCORMICK: Objected to.

THE COURT: Allowed.

BY THE COURT:

Q Did you talk with any police officials in the Bronx about  
Gold? A Yes.

Q Did you tell them anything that is different from what  
you told us here today? A Not that I recollect.

THE COURT: If she told different things there, you can

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bring it out.

BY MR. WOLFE:

Q Do you know whether or not the defendant had a bank account in his name?

MR. McCORMICK: Objected to as immaterial.

THE COURT: That is excluded.

MR. WOLFE: I offer this letter marked Defendant's Exhibit C for identification, in evidence.

(Letter marked defendant's Exhibit C for identification, is marked in evidence as Defendant's Exhibit C.)

(The letter is read to the jury.)

Q What did you mean when you wrote in this letter that somebody else accused him, the defendant?

MR. McCORMICK: That is objected to.

THE COURT: What is the date of the letter?

MR. WOLFE: There is no date.

THE COURT: I will exclude it then, as immaterial, what she meant.

BY MR. WOLFE:

Q When was this letter written? A I don't recollect the date.

Q Was it written after the defendant was arrested? A I wrote to his sister and to his mother.

Q Was it written after he was arrested? A Yes; his mother wrote me letters, and I answered them, yes.

Q That was after he was arrested? A Yes.

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Q What did you mean when you said that, "He accuses me for having put him where he is, and he is wrong"? A They were all down in the Bronx, and they brought me down, I don't know for what. His sister Katie wrote me in the latter what I done that trick to him for. I said, "I don't know how it came about with the Bronx case; they brought me down, and that was Miss Florence Austin told about the money order, and who he was, and they brought me down. I didn't know what they wanted me for. They telephoned me from New York to Amsterdam to come down.

BY THE COURT:

Q You did not start the prosecution? A No, I did not; I was unaware of the fact.

Q But you are telling the truth on the stand today? A Yes.

BY MR. WOLFE:

Q You visited the defendant's home on many occasions, that is, his parent's home?

MR. McCORMICK: Objected to.

THE COURT: That is excluded.

MR. WOLFE: That is all.

FLORENCE AUSTIN (59 Bridge street, Amsterdam, N. Y.) called and sworn on behalf of the People, testifies as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q Were you at 59 Bridge street when Fay Smith and May Gold were there? A Yes, sir.

Q That was in January, February, and March of this year?

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A Yes, sir.

Q How long had you been an inmate there? A Not at all.

Q What did you do? A Housekeeper.

BY THE COURT:

Q What do you mean by housekeeper? A Just taking charge of the place.

Q You collected the money from the men, is that it?

A No, sir.

Q What kind of a house was it? A A disorderly house.

Q What do you mean by a disorderly house? A A house of prostitution, was it? A Yes.

Q Men came there and paid, and had intercourse with women?

A Yes.

Q The women met any men that paid them? A Yes.

Q Who was in that house; how many girls? A Four of them at the time.

Q Was May Harris one of the four? A Yes, sir.

Q She was a prostitute there, was she? A Yes.

BY MR. McCORMICK:

Q Was May Smith one? A Yes.

Q Did they come up there together? A Yes.

Q About the first of January? A About that.

Q Did you ever mail a letter to the defendant? A Yes, sir.

Q Do you know what was inside the envelope? A I never read it.

Q Was there a money order in it? A Yes.

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Q Did you see the money order? A I made it out; I went  
and mailed it.

Q Did you ever see May Gold mail any other money orders  
besides the one you mailed? A No, sir.

Q Where did you address it to? A Somewhere in New York;  
Morris Gold.

Q Where? A Somewhere in New York, on Second avenue.

Q Some saloon? A Yes, sir.

Q On Second avenue and 97th street? A I don't remember  
that; I know it was on Second avenue.

MR. McCORMICK: Your witness.

CROSS EXAMINATION BY MR. WOLFE:

Q Did you talk to anybody about this case before coming  
here today? A No, sir.

Q You swear to that? A I have not seen anybody.

Q What brings you here? A I was subpoenaed.

Q You never spoke to a single soul before today about this  
case? A I have not seen none.

Q You never saw the defendant in your life, did you?

A Just once.

Q When? A The time that he was arrested.

Q Before that you never saw him? A No, sir.

Q So you didn't know who Morris Gold was when you mailed  
those letters? A No.

BY THE COURT:

Q That was the name on the envelope? A Yes.

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BY MR. WOLFE:

Q Was there any reason why you should have addressed those letters to Morris Gold, and not May?

MR. McCORMICK: Objected to.

THE COURT: That is excluded.

MR. WOLFE: Exception. I want to know the reason why she sent those.

BY THE COURT:

Q You didn't owe him any money, did you? A No.

Q It was not your money? A No.

MR. McCORMICK: The People rest.

MR. WOLFE: I move to dismiss. There is not sufficient evidence here to prove the crime charged in the indictment.

THE COURT: The motion is denied.

MR. WOLFE: Exception.

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MORRIS GOLDBERG, the defendant, (327 East 97th street) called as a witness in his own behalf, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q How old are you? A Thirty-seven.

Q Were you at any time married lawfully? A Yes, sir.

Q You have been divorced, have you? A Yes.

Q You obtained the divorce? A Yes, sir.

Q In this county? A Yes, sir.

Q When did you first meet the complainant, May Harris?

A In the moving picture house where I was assistant manager, 114th street and Third avenue.

Q State the circumstances under which you met her at that time, and how you came to live with her; tell us all about it?

A I was at the door one night while the other fellow was off for his supper. I was at the door, and was taking tickets, and this May Harris come along, as she calls herself, with another girl; the other girl's name was Jennie. I knew the other girl coming there, coming there before May Harris came there. She always used to speak to me. She said to me, "How do you like my new friend I got?" Jennie said that. I said, "Anybody is all right, if they come in here and spend their five cents!" Just like that. One night passed and they visited the place frequently. I got in conversation through getting introduced with Jennie to this May. Well, we got to be friends. She asked me would I come to see her. I said "Where?" She said, in her

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furnished room. I said, "I could not go up now; I am working." She said, "When you get through you can come up." I said, "Yes, but not for long." I done that on and off. I was living home at the time.

Q With your parents? A Yes, sir.

Q Go ahead and continue? A She had me coming up there one night a week for a little while, and then she got me so that she had me to leave home altogether. She made me leave the job I had at the moving picture place, because I could not get off just the nights when I wanted to get off. She made me leave this place and I done so.

Q What happened after that? A After that I moved out of my parents house, when she said to me that I would have to live with her, otherwise she would make trouble for me.

Q What did she mean by that? A I don't know; she did not tell me anything about her going out anywheres, or doing anything wrong.

Q As a matter of fact you did live with her as man and wife?  
A Yes, sir.

Q For how many years? A A little over four years.

BY THE COURT:

Q At the time she said she would make trouble for you, was about four years ago, and before you went to live with her as man and wife? A Just four or over.

Q But it was before you went to live with her; you went to live with her because you were afraid of her? A Not exactly; I

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was home at the time.

Q But it was a long time ago? A About four years or over.

BY MR. WOLFE:

Q During the time you were living with her as man and wife you received money from her, didn't you? A Yes, sir.

Q During the time you lived with her you also gave her money didn't you? A Yes, sir, all the time.

Q Do you remember the time she went to Amsterdam? A Yes, sir.

Q Tell us just the circumstances under which that happened?

A That happened this way: There was not much doing; it was on the 15th day of January. I went down to the market that morning. In cold weather there is not much doing, and especially when you work on the sidewalk in the market, at 59th street, the Queensboro Bridge. I went down and there was not much doing and I came home. I came home about half past twelve. I came home and met May Harris and this Fay girl at my house. I had my dinner, I said, "I am going to the pictures, I have nothing to do now." So she said, "Where are you going?" I said, "To 96th street, and 95th street, there is a moving picture house. I will go in for an hour or so, and go to sleep when I come back. She said, "All right, when we get our dinner we will go to the pictures." I went to the moving picture place, staying there about three quarters of an hour, when in rushed this May Harris and Fay. She got at me. I didn't know what happened. She said, "Hurry up, come out side." I said, "What is the matter?" I didn't know what was up. She said, "Come out. I got something particular to

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tell you." I said, "Wait until the show is over; I didn't pay to see the show half through; wait until after the show." They sat down. After the show was over they went outside, and she said, "I got a job." I said, "What do you mean?" She said, "I got a job to go to work." I said, "Where?" She said, "In Amsterdam." I said, "What kind of a job?" She said "Working as a waitress." I said, "Who has given you this job?" She said, "Fay." I said, "Who told Fay about this job?" She said, "Her fellow did." I said, "I don't want you to go to work, and another thing I will be working steady pretty soon, why don't you wait? I got a couple of dollars yet." I said, "Don't be in a hurry, take your time. You don't want to go tonight." She said, "I will go tomorrow." I said, "I don't care if you never go." She said, "What do you care? You ain't doing much, but whatever I make over there will only help the two of us out. I am only going as a waitress." And that is all there was to it.

Q During the four or five years that you were living with her as my wife, did you know that she was going out on the street hustling? A No, sir.

Q Or selling her body for the purpose of making money?

A No, sir.

Q Did you know? A No, she never told me.

Q Did you ever see her in company with other men? A No.

Q You heard her testify that you worked about six months, during the year that you were living with her, in the market, is that so? A I worked in the market from the first day

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that market opened up, from the 15th day of September, at the Queensboro Bridge; there was about four of us started that market on the curb.

Q You were employed there how long? A About eight months or over.

Q During the time you lived with her did you give her any money? A I gave her every dollar I earned.

Q And the money that you received from her while she was at Amsterdam? A Was my own money.

Q When she left for Amsterdam did you give her any money? A I gave her money all the time. The week of Thanksgiving I gave her \$55 that I earned that week in the market.

Q Did you have a bank account during the time you lived with her? A Yes, sir.

Q Whose money was that? A My own money.

Q That money you saved where? A In the Yorkville Bank Building.

Q How much did you have at the time she left for Amsterdam in that bank? A About \$90.

Q That money, did you draw it out of the bank? A Yes.

Q What did you do with it? A I gave it to May.

BY THE COURT:

Q When she was in Amsterdam? A I gave it to her before she left; she always held my money.

Q What money did you have? A I had the money I usually earned.

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BY MR. WOLFE:

Q You said you had \$90 in the bank? A I took that out.

Q You drew it out when? A The day she left for Amsterdam.

Q What did you do with it? A I gave it to her.

BY THE COURT:

Q She was going to get a job? A She would not trust me with the money, and I gave it to her the day she left for Amsterdam.

BY MR. WOLFE:

Q Part of the \$90 was returned to you, is that so? A Yes, sir.

Q In the form of these money orders? A Yes, sir.

Q Were you working during the time she was up in Amsterdam?

A Yes, sir.

Q Where? A I was working on and off down the market, day in and day out; on and off; not steady.

Q How much were you earning when you did work there? A On the average, some days I made \$2.50, \$3.50, according. When I bought stuff on the outside myself I would make seven and eight dollars a day.

Q When you were living in this 97th street house how many rooms did you have there? A Three.

Q Were they furnished? A Yes, sir.

Q By yourself? A Yes, sir.

Q Who paid for them? A I did.

Q Who paid the rent in this place you occupied? A I did.

I paid it three days before I was arrested.

BY THE COURT:

Q When were you arrested? A On the 17th day of May.

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Q Who paid for it January and February? A I paid it.

BY MR. WOLFE:

Q Those receipts were made out in whose name, if you know?

A That is my name, Goldberg.

Q Do you remember the occasion when Fay Smith was in the saloon on 96th street? A 97th street and Second avenue.

Q Did you have a conversation with her at that time?

A Yes, sir.

Q What was that conversation? First, how soon before May Harris and Fay Smith went to Amsterdam? A This was after; not before.

Q After they went to Amsterdam? A Yes.

Q How soon after? A In the month of May.

Q The same month you were arrested? A Yes, sir.

Q What happened then? A Fay Smith came into that place with an officer. I did not know it was an officer.

Q What place? A Sam Vigretti's place on 97th street and Second avenue, in the back room. I knew this girl over two years, this Fay Vigretti, through May. I was in the barroom having a drink. She knew me from coming in there. She said, "Hello Morris." I said, "Hello." She said, "Have a drink." I said, "I ain't drinking, but I will have a ginger ale." She said "All right, take it." I sat down and she was sitting there with the officer. The officer made some remark. He said, "Ain't Sam got anybody?".

Q You didn't know the man she was sitting with was an officer?

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A No; so I heard him say, "Listen Fay, I ain't going dopping around with you a couple of days. I have been doing it long enough. Ain't Sam Vigretti got anybody to send this kid to Amsterdam with? Ain't he got any friends?" I didn't know what they were getting at. She asked me where Sam was. I said, "Sam left word here he would be back about four or five o'clock." So the Italian fellow who tended bar told him the same thing. He said, "Why don't you go to Amsterdam and let him send his kid up there that belongs to her", that she was living with, but that child was from her husband. I said, "Listen Fay, there is no use getting excited or worried." I said, "He won't want your child, and if that is the thing you came down for, why don't you go back? He will send the child or stay here and take the child. There is no use having a fight." She said, "All right, I will be back about four or five o'clock." They went out and didn't come back that day. They came back a day or two later. I was in the saloon. This was in the afternoon. I was in there and the first thing you know she said "Hello", I said, "Hello." We sat down. I sat down at the table. I did not have no drinks this time. She sat down at the table and this Kennedy said, "Ain't Sam around?" I said, "No." He said, "How is it that fellow is out all the time?" I said, "I don't know." The first thing I said, "Listen Fay, I heard you ain't with Tinkie any more." She said, "Why that Tinkie --" Your Honor, can I express the words that were mentioned?

THE COURT: Go ahead.

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

Q Up to the time you met this Harris girl, you were living with your folks? A Yes, sir.

Q And at the time you met her you were a divorced man? A Yes.

MR. WOLFE: That is all.

CROSS EXAMINATION BY MR. McCORMICK:

Q How long do you know Vigretti? A I know him about two years or over.

Q You spend most of your time in his saloon? A No, sir.

Q He was a great friend of yours? A No, sir.

Q Both times the officer was looking for you he found you in Vigretti's saloon? A Yes. It is only half a block from where I lived, and was the one I went to.

Q Where is Vigretti now? A I don't know.

Q The police are looking for him? A I don't know.

Q He was a pimp? A I don't know.

Q Didn't you know he had this girl Fay in a house on Second avenue, and didn't she turn over everything from her prostitution to him? A I don't know anything about him or her.

Q When you went to live with this girl May Harris, you say she forced you principally? A No, not principally. It was up to me to go and live with her if I wanted to.

Q What did you mean by saying she made you give up your job? A She told me to leave the job. She could not go out with me except on the day off.

Q Then you left the job? A Yes.

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Q How did you live when you left the job? A I got another job.

Q During the time from September, 1913, to the 1st of January 1915, you lived with her in a small flat on 97th street? A Yes. Three rooms.

Q More than half of the time you were out of a job? A No, sir.

Q How much of the time? A Not one-third of the time.

Q Who supported you during that time? A I supported myself.

Q Did you ever take a cent from her? A No, sir.

Q You did not know she was a prostitute? A No.

Q Don't prostitutes hang out in the back room of Vigretti's saloon? A I don't know anything about that; I have never been in that business.

Q But you have been in the saloon? A In the front part of it, and the back part, - you used to go to the toilet in the back.

Q In fact, you have been in Vigretti's saloon every day, - weren't you? A No, sir, not every day.

Q Did you draw a salary when you were working, or wages? A Yes; sometimes I would buy for myself.

Q From September, 1913, to January 1st, 1915, who paid the money to you? A The boss I worked for.

Q What is his name? A Joe Mooney and Jack Morrissy. I started to work for him.

Q Where can we get them now? A I don't know if he is in the market.

Q Where does he live? A In Harlem.

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Q Where is the market? A Queensboro Bridge.

Q What is the other man? A Morrissy? I don't think he is in the market any more; he is the first man I started for.

Q Where can we get Morrissy? A He is out on a wagon, I understand.

Q How much during the time, during 1915, did you work in that market? A I worked an average for eight months in the market.

Q From when? A September 15th.

Q What year? A I think it was 1914, if I ain't mistaken.

Q Was it last September? A I think it was; I ain't sure.

Q Don't you know which year it was? A No, I worked down there from the first day the market opened.

Q When did it open? A In September some day.

Q What year? A I think it was last September; I ain't sure.

Q You mean the free market? A Yes.

Q Did you make any effort to go and get Morrissy down here?

A I can get them.

Q Did you make any effort? A No, I was in jail, I could not.

Q Did you tell your counsel to get him? A I did not tell anybody. I told him who I was working for, my counsel.

Q During the year 1914, how much of the time were you working?

A I was working on and off.

Q Principally off? A Not principally off, part of the time. I would go out myself and buy a little stuff and sell it in the streets.

Q Can't you tell us how much of 1914 you were working? A Of

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last year?

Q 1914? A I worked pretty nearly all the time.

Q How much money did you work, and how were you paid? Were you paid every day? A Yes, sir.

Q Who paid you? A The boss.

Q Which boss? A Mooney.

Q How much rent did you pay for the flat? A \$7.50 a month.

Q Who paid it? A I did.

Q Did May Gold ever pay it? A No, - she might have at times.

Q Who is Mrs. Goldberg? A That is supposed to be her.

Q She paid in May, 1915? A She had my money; she could pay it; I could not be there all the time to pay the rent.

Q How much did you give her in 1914? A I don't know how much; I didn't count it.

Q You gave her every cent you made? A Every dollar. I would ask her for breakfast money when I would go out.

Q How long did you know Fay? A About two years or over.

Q You knew her pretty well? A Not pretty well.

Q You used to meet her in Vigretti's saloon? A I seen her going in.

Q What time? A Day and night.

Q Didn't you know she worked in a house of prostitution from ten in the morning until three o'clock the next morning? A No.

Q You used to meet her in Vigretti's saloon after three o'clock in the night? A Not me, no.

BY THE COURT:

Q You did not know she was a prostitute, did you?

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A I didn't know anything about this lady.

Q What is a prostitute? A A woman that works in a house.

Q No, that is not a prostitute. A A woman that goes out and gets money.

Q For what? A Off men.

Q For what? A I don't know.

Q You do not know? A I suppose a woman goes to a man and I suppose he does something to her, and he gives her money.

Q And you did not know Fay was that kind of a woman? A No, sir.

Q What did you think she was around Vigretti's place for?

A That girl didn't go in there; maybe she thought I was in there and looked for me.

Q You say you saw her twice? A Vigretti's girl?

Q That is the one I am asking you about, Fay? A I seen her twice in there.

Q And you did not know she was a prostitute? A No, sir.

Q You thought she was a highly respectable person? A I could not say what she was.

Q This May Goldberg was your companion? A Yes.

Q And you did not know May associated with Fay? A I seen her with her, and I told her not to go with her.

Q Why did you tell her that? A Because I did not like the idea of her going into that saloon.

BY MR. McCORMICK:

Q You lived with her for over a year at 97th street? A Well,

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about a year.

Q And all that time did she do any work at all? A No, sir.

Q Did she go out evenings? A I don't know if she went anywhere.

Q Did she go out nights? A She went out with me in the moving pictures.

Q Ever alone? A No, she never went out alone.

Q And you were with her every night during the night? A Yes, sir.

Q All evening? A Yes, sir.

Q Did she ever work at anything? A Not that I know of.

Q Did you ever know her to work as a waitress before she went to Amsterdam? A She said she was.

Q Did you ever know of her working during the four years you lived with her as a waitress? A No.

Q And you supported her four years? A Yes.

Q And she never worked at anything? She never told me she did.

Q And she suddenly made up her mind to get a job at Amsterdam as a waitress? A That is what she said, through Fay Smith.

Q Did she have any reason for leaving you? A No, she did not leave me.

Q Didn't you force her to give money to you that she made on prostitution? A No, she never gave me any of her money at all. I did not force her, and the girl cannot say so.

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BY THE COURT:

Q She only began giving you money after she went to Amsterdam? A After she went to Amsterdam.

Q Tell us why, if you gave her \$90 to go to Amsterdam, she sent it back to you from Amsterdam? A Because I needed it; I was not doing anything.

Q Didn't you need it when she went to Amsterdam? A I would not have needed it if she was not here.

Q You said you drew \$90, and gave her \$90 to go to Amsterdam.  
A Yes.

Q And she was going to get a job there? A Yes.

Q And then she sent you back this \$90? A She sent me back part of the money?

Q In instalments? A Yes, sir.

BY MR. McCORMICK:

Q Before she went to Amsterdam, had she ever given you any money that she had earned? A No, sir.

Q The first time she ever earned it and gave it to you, was after she went to Amsterdam? A That was my own money.

Q You heard her swear she made it in a house of prostitution? A If the girl wants to have any prejudice against me, she can say what she pleases.

Q How much money did you get from her in Amsterdam? A I could not say.

Q You got \$14 one time? A I could not remember.

Q Well, look at the paper. A That is my name, and I got it.

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Q Did you get it? A Yes, sir.

Q That is February 12th? A Yes.

Q January 28th, you got \$15? A Yes, sir.

Q January 20th, you got \$12? A Yes, sir.

Q February 26th, you got \$8, didn't you? A Yes, sir.

Q How much money do you think a waitress makes? A She never told me how much she makes.

Q How much do you think a waitress makes? A I don't know.

Q Don't you know how much a waitress makes? A No, sir.

Q Do you think a waitress can make in the course of a couple of weeks, forty-two or forty-three dollars? A I could not say.

BY MR. WOLFE:

Q It is possible, however, for a waitress to make as high as \$10 a day in tips?

THE COURT: He said he could not say.

Q You heard the complainant testify that she told you she was a prostitute? A Yes, sir.

Q Did she ever tell you that? A No, she never told me that.

Q What was the reason you were living with her as man and wife during the four years that you lived with her? A The girl looked like a good girl, and I wanted to look after her.

Q As a matter of fact, you took her to your own home where your parents live? A I took her to be a respectable woman.

Q You took her to your own parents' home? A Yes.

Q And you introduced her to your own sisters? A Yes.

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LOUIS GOLDBERG, (108 East 119th street) called  
as a witness on behalf of the defendant, being first duly  
sworn, testifies as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q You are the father of this defendant? A Yes, sir.

Q Do you know the girl by the name of May? A Yes.

Q How many times was she in your house with your son?

MR. McCORMICK: Objected to as immaterial.

THE COURT: Allowed.

A I could not recollect how many times she was. She was not  
in my house since January.

Q In this year? A Yes.

Q But before that time, she had been to your home on many  
occasions with your son? Is that so? A He used to work in  
my place.

BY THE COURT:

Q Was she in your house, yes or no? A Yes.

BY MR. WOLFE:

Q Did your son tell you who she was?

MR. McCORMICK: Objected to.

Objection sustained.

MR. WOLFE: That is all.

MR. McCORMICK: No cross examination.

MR. WOLFE: I would like to have an opportunity to sub-  
poena two witnesses this afternoon.

THE COURT: Well, you can have them here at 2 o'clock.

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THE COURT: Gentlemen of the Jury, the court takes a recess until 2 o'clock. Be extremely careful not to discuss the case among yourselves or with anyone else, and you must not come to any conclusion as to the guilt or the innocence of this defendant, until you have all the evidence on both sides, and until the case is given to you for your decision. You may go until 2 o'clock.

(Whereupon court takes recess till 2 o'clock.)

TRIAL RESUMED, 2 p. m.

LOUIS GOLDBERG, recalled by the defendant, testifies as follows:

BY MR. WOLFE:

Q Mr. Goldberg, did your son ever work for you? A Yes, sir.

Q When, and at what time did he work for you? A He was working over three and a half years in my place since 1914.

Q What did he work at in your place, what business? A Grocery store.

Q Where did you have your grocery store? A On Park avenue.

Q Near where? A 1588 Park avenue.

Q Was it wholesale, a wholesale grocery? A No, retail.

Q Do you know of any other place that your son worked, out side of your own place? A Before, he was working on Broadway, for some time, three or four years before he came to me.

Q Where else? A In a moving picture place he worked. After he left my place, he was working on 59th street market,-

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the last place.

Q You mean at the public market? A Yes.

Q Do you know who he was working for? A That I don't know.

Q But you know he was working there in the market? A Yes.

Q Was that at the time he was living with this, or going with this girl May? A Yes, sir.

MR. WOLFE: That is all.

THE COURT: Do you wish to ask these women any more questions so they can go back to Amsterdam.

MR. WOLFE: I would like to recall May Harris; I wish to make her my own witness.

MAY HARRIS, recalled by the defendant, testifies as follows:

BY MR. WOLFE:

Q During the time when the defendant lived with you, you said he worked occasionally, is that so? A Yes.

Q During those periods of time that he worked, did he ever bring any money to you?

MR. McCORMICK: That has been covered.

THE COURT: She said when he did not work, she went on the street.

BY THE COURT:

Q Is that so? A Yes, sir.

BY MR. McCORMICK:

Q Did you ever do any other kind of work? A No, sir.

Q Did you ever work as a waitress anywhere? A No, sir.

Q Did you ever tell the defendant that you worked as a

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waitress at the time you first met him?

MR. WOLFE: Objected to as immaterial.

THE COURT: I will exclude that as immaterial.

BY MR. McCORMICK:

Q Just before you left for Amsterdam, did the defendant give you any money? A No, sir.

BY THE COURT:

Q Did he give you \$90 on the morning you left? A No, sir.

BY MR. McCORMICK:

Q Did he draw any money from the bank before you left?

A No, sir.

THE COURT: If you have any further witnesses to call, I will allow you to call them.

MR. WOLFE: I will have the other ones here Monday morning.

MR. McCORMICK: I would like to have your Honor's consent, and also the consent of counsel for the defendant for the girls to go back.

MR. WOLFE: I have no objection to the girls going back to Amsterdam.

THE COURT: Gentlemen of the jury, the Court will excuse you until Monday morning at 10:30 o'clock. Meanwhile, be extremely careful not to discuss this case with anyone, and do not talk about it among yourselves. You must not make up your minds as to the guilt or innocence of the defendant until you have heard both sides, and until the case is given

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to you by the Court for your decision.

(Case adjourned to Monday, September 13th, at 10:30

o'clock a. m.)

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New York, September 13th, 1915.

TRIAL RESUMED.

HERBERT J. DAHN, (472 West 141st street) called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q Mr. Dahn, what business are you in? A Real estate and insurance.

Q How long have you been in the real estate business?

A Thirteen years.

Q Did you ever own or run a moving picture theatre on Third avenue, New York? A Yes.

Q Do you know the defendant, Morris Goldberg? A I think I do.

Q Was he, if you know, ever in your employ at your moving-picture theatre on Third avenue? A I believe he was, yes.

Q Do you know how long a time he worked for you? A No.

Q Have you any record to show whether or not he worked for any period of time for you? A I think I have; I may have.

Q Do you know how long he worked for you? A I do not know.

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Q Was it a month, or two months, or three months? A I have not the slightest recollection.

BY THE COURT:

Q How long ago was it, five years ago? A Well, it may have been about four years ago.

BY MR. WOLFE:

Q While in your employ, did the defendant receive any wages?

THE COURT: I will exclude that as immaterial.

MR. WOLFE: Exception.

Q Do you know other people who know this defendant? A I just met a man in the hall who said he might know him if he saw him, the same as I did.

Q Do you know any people outside of this man that you met in the hall that know this defendant? A I could not answer yes or no, because I don't know.

LOUIS KUEHNER, (645 Tremont avenue, Bronx) called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q Are you employed by the Yorkville Bank, of this City?  
A Yes.

Q In what capacity? A Bookkeeper.

Q Did you have an account in or about January, of this year, in the name of Morris Gold?

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MR. McCORMICK: I object to that as immaterial.

THE COURT: Sustained, as immaterial.

Exception.

Q Did you have an account in the name of May Goldberg, in or about the month of January, of this year?

MR. McCORMICK: Objected to as immaterial.

THE COURT: Sustained.

Exception.

PAULINE FIEFERBLATT, (327 East 97th street) called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q You were the janitor of the house in which the defendant lived, were you not, in January of this year? A Yes.

Q When you lived there, did the defendant's wife, however she was known to you, ever come into your place? A Yes.

Q How often did she come to your rooms? A Every night she used to come in.

Q Did she have occasion to go anywhere with any of your children at any time? A She never went with my children anywheres.

Q So far as you know, she stayed in nights, is that so? A Yes, sir.

Q Do you know whether the defendant, at the time he lived in your house, whether he worked or not that time?

BY THE COURT: Q Did you ever see him working? A Yes, sir.

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in the market.

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Q In the market? A Yes.

Q You saw him in the market, in the mornings? A Yes.

BY MR. WOLFE:

Q Did you ever have occasion to discuss the character of the defendant with other people that you know? A I don't know.

MR. McCORMICK: No questions.

ANNIE SCHWARTZ, (206 East 98th street) called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. WOLFE:

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

Q How long have you known him? A I lived with him one year.

Q That is, you lived in the same house with him? A In the same building, next door, as a neighbor.

Q At the time he lived in the same building with you, he lived with a certain lady known as Mrs. Goldberg, is that so?

A Yes, sir.

Q May Goldberg? A May Goldberg.

Q During the time that May Goldberg lived in the same place that you lived, did you ever take occasion to note whether the defendant was employed? A Yes, sir.

Q Do you know where? A I know he worked down the market, but I don't know the place.

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Q Did you ever have occasion to know at what time he used to get up mornings? A Yes, sir.

Q When did he use to get up? A Well, at 4 o'clock in the morning. I used to hear the door open early in the morning when we were fast asleep yet, but I had to get up most of the time when my baby awoke by his door giving a clap.

Q Did you ever see him bringing anything home from the market? A Sometimes I saw him. I said I would buy some fruit if he would sell me some, and he did.

Q You and Mrs. Goldberg were friends at that time, isn't that so? A Yes, sir.

Q Did she ever come into your apartment where you lived?  
A Yes.

Q How often? A Every day.

Q Did she ever come in in the night time? A Yes.

Q How often at night? A Mostly every night.

Q Do you know whether she went out walking the streets for immoral purposes? A No, I never noticed that.

Q You considered her a good woman, didn't you? A Yes, sir.

MR. McCORMICK: No questions.

K A T I E L E V Y, (123 East 112th street) called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q You are the sister of the defendant? A I am.

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Q Do you know the woman by the name of May Goldberg, or Gold? A I do.

Q When did you first meet her? A A couple of years ago.

Q In whose company? A In my brother's.

Q When you first met her in your brother's company, was she introduced to you by your brother? A She was.

Q As what? A As a friend.

Q Subsequently to that, did the defendant ever visit your Home with the complainant, May Goldberg? A He always did.

Q How often did the defendant and May Goldberg visit your home? A Well, say once a week or twice a week, just like a fellow that was going with a girl would.

Q During that time, do you know whether your brother was working? A He certainly was always working.

Q Do you know the occasion when May Goldberg went away and left your brother? A I don't know just when she did that, but I know the last time that I seen them together, that he had told me he just came home from the market and he looked every bit of it. He was all worn out.

Q Do you remember when May Goldberg left for Amsterdam? A Yes, I remember that.

Q Do you remember having any conversation with the defendant at that time when she left, in the presence of the complainant? A My brother did not tell me just what happened.

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BY THE COURT:

Q Yes or no? A No, I don't remember.

BY MR. WOLFE:

Q Did your brother tell you why she went to Amsterdam?

MR. McCORMICK: Objected to.

Objection sustained; exception.

Q You have not seen her since the time she left for Amsterdam, is that so? A No, I haven't.

MR. WOLFE: That is all.

MR. McCORMICK: That is all.

MORRIS GOLDBERG, the defendant, recalled, testifies as follows:

BY MR. WOLFE:

Q When did May Goldberg come back from Amsterdam, if you remember? A About the 6th or 7th of May.

Q This year? A Yes, sir.

Q When she came back at that time, did you have a conversation with her? A Yes.

Q What was the conversation? A I told her that I heard that that place where she was working in, was a disorderly house. We had a quarrel about that; I told her that I don't care to live with no woman that is in that life, because I had a lesson once, so she said, "What do you mean?" I said, "Just what I am telling you, that I don't want to live with no woman that is in this life."

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Q When you said to her you had a lesson once, what did you mean?

THE COURT: That is immaterial.

A So we had a quarrel. Then she left. Before she left the door, she said to me, "Mark my words, you will feel sorry for this some day", and with that, she left.

BY MR. McCORMICK:

Q How long had you known Vigretti?

MR. WOLFE: Objected to as immaterial.

THE COURT: Objection overruled.

Exception taken.

A Since I lived in 97th street, a few months after.

Q How many years, if you know? A I don't know how long I lived there.

BY THE COURT:

Q Ten years? A No, sir.

Q Five years? A About a year and a half, say.

BY MR. McCORMICK:

Q How long have you known Fay Smith? A I don't know her at all.

Q How long; she said she has known you several years, is that right?

MR. WOLFE: Objected to as immaterial.

THE COURT: Objection overruled.

Exception taken.

Q How long? A I could not say, about six months or

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seven months, something like that.

Q You used to see her in Vigretti's saloon very often?

A Not very often, no.

Q Did you know that Vigretti put her in a house of prostitution, and that she gave him all the proceeds of her prostitution?

MR. WOLFE: Objected to.

THE COURT: Objection overruled.

Exception.

A I don't know.

Q Do you know that disorderly house on Second avenue?

A No, sir.

Q You don't know any in New York? A No, sir.

Q Did you know that Fay Smith used to give him as much as \$150 a week? A I don't know what the relationship, or what they done with each other. I was looking after my business.

Q What was the relationship between May Gold and Fay Smith? A There was no relationship.

Q They used to know each other? A They did not know anything that I knew of each other.

Q Did you ever see them together? A Fay Smith came up in my house once.

Q Did you ever see her in Vigretti's saloon? A Once.

Q You did not know that Fay was a prostitute? A No, sir.

Q You didn't know that May Gold was a prostitute?

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A No, sir.

BY MR. WOLFE:

Q If you had known that May Gold was a prostitute, would you have lived with her? A No, sir, not a minute.

F A Y S M I T H, recalled on behalf of the People, testifies as follows:

BY MR. McCORMICK:

Q How long have you known Morris Gold? A About three years.

Q And during that time, where did you use to see him, in Vigretti's? A Sam Vigretti's.

Q And did you ever hear Morris Gold talk to Vigretti about disorderly houses? A I did not.

Q Where were you working? A In New York.

Q Where was that house? A 111th street and Second avenue.

Q Who put you in the house? A Sam Vigretti.

MR. WOLFE: I object to that.

THE COURT: I exclude that.

MR. McCORMICK: I want to show that the associate of this man is a pimp.

MR. WOLFE: I object to that statement.

THE COURT: The jury will disregard that statement.

You have shown he was a fugitive from justice ---

BY THE COURT:

Q Is that so? A Yes.

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BY MR. WOLFE:

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Q Where did you first meet the defendant? A In 97th street.

Q How long ago? A About three years ago.

Q Did you know where he lived at that time? A I did.

Q When you went up to Amsterdam with May Goldberg, do you know whether the defendant knew what you were going there for with her? A I suppose he knew, because it was not the first place she ever went to.

BY THE COURT:

Q He went with you to the street car? A He did.

Q Did you have any talk with him on the way to the cars?

A I did not.

Q Did he talk with the other girl? A The only thing he said to her was he told her to behave herself and be good.

BY MR. WOLFE:

Q Do you remember the night before you went to Amsterdam?

A That was the same morning.

Q Do you remember the night before you went to Amsterdam?

A I do.

Q You met him the night before, did you? A Yes.

Q You met him in the moving picture place, didn't you?

A Yes.

Q Do you remember the conversation you and May Goldberg had with the defendant? A I remember May Goldberg telling him that we got a letter and she was going to Amsterdam.

Q Do you remember what the defendant said, if anything at

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that time? A I do not.

Q Do you remember May Goldberg saying she was going up there to get a job as a waitress? A I do not.

Q Was there any mention made of the word "waitress" at all during that conversation between you and May and this Defendant? A I do not remember.

Q You will not swear that there was not a word mentioned?  
A No.

BY THE COURT:

Q What other house do you say this girl was in, May Goldberg? A We worked in Albany together.

Q In a house of prostitution? A Yes, sir.

Q Did you go from New York to Albany? A We did.

Q How long ago? A It is about two years.

Q That was during the time she was living with him? A It was.

Q What about the house in New York you spoke of? A Well, I worked there myself; she never worked there.

Q You knew her to be a prostitute, didn't you? A I did.

Q How long did you work in Albany as a prostitute with May Goldberg? A About five months.

Q She was away all that time from New York? A She was. We used to come home once a month and sometimes once every two months.

Q When you say you used to come home, you mean you used to come back to New York? A Yes.

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Q And then go back to your prostitution? A Yes.

BY MR. McCORMICK:

Q When you came back to New York you would meet and see the defendant? A We would see him all the time.

Q Where? A In the saloon most of the time.

Q Which saloon? A 97th street and Second avenue.

BY THE COURT:

Q Whose saloon was that? A Sam Vigretti's.

Q That was the man whom you gave your money to? A It was.

BY MR. McCORMICK:

Q Do you know how long the defendant was a friend of Vigretti's? A I could not tell whether he knew him any time before I knew him.

Q Well, how long a time do you know to your own knowledge?

A Three years.

BY MR. WOLFE:

Q You had a quarrel with Vigretti, didn't you? A I did.

Q Do you know whether May Goldberg had a quarrel with the defendant? A I do not.

Q Do you know whether this defendant, at the time you went to Albany with May Goldberg, knew she was up in Albany? A I do.

Q Did he know? A Why, certainly he knew.

Q Isn't it a fact you only know the defendant about six months? A No, sir.

Q What was the occasion of your first meeting him about three years ago; how did you happen to meet him? A I met him through

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Sam Vigretti. I was introduced to him.

Q Where? A 97th street and second avenue.

Q And that was, you say, three years ago? A Yes, sir.

Q Who else was present at that time besides Sam Vigretti, the defendant, and yourself? A I don't just remember that.

Q Where was this introduction made? A In the back room of the saloon.

Q Did you know at that time that the defendant was living with May Goldberg? A I did not know it just at that time, no.

Q You had never known May Goldberg before that time, had you?  
A No.

Q Did you ever make any threat against this defendant? A Not that I remember of.

Q You remember whether you made a threat, don't you? A How am I supposed to remember?

Q Well, you would remember if you made it, wouldn't you?  
A I don't remember.

Q You remember the time you went to the back of the saloon there, prior to your going to Amsterdam with May Goldberg and making a threat against this defendant, don't you? A I did not.

Q You remember going out with Detective Kennedy, for a few weeks just prior to this defendant's arrest?

THE COURT: That was after she came from Amsterdam; she said she was five months in Amsterdam.

BY THE COURT:

Q You were five months in Amsterdam? A About six months.

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BY MR. WOLFE:

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Q When did you go around with Detective Kennedy? A About three months ago.

Q That was how long after you came back from Amsterdam?  
A I was not back from Amsterdam. I was brought here to a trial. I was not back here to live.

Q How many times have you been convicted of crime? A I never was convicted.

Q Were you ever sent away? A No, I was not.

Q For disorderly conduct? A No.

Q Anywhere? A No.

Q Now, when you came back from Amsterdam, were you going around with Detective Kennedy, and did you meet the defendant in Vigretti's saloon one day? A I did.

Q With Detective Kennedy? A I did.

Q Do you remember what you said to the defendant then? A I do not.

Q You had some conversation with him? A I remember speaking to him, but I don't remember what I said.

Q Do you remember threatening to get this defendant in trouble? A I don't remember.

Q Don't you remember you said to him you would make him laugh on two sides of his face some day? A I don't remember ever saying anything to the man of that kind.

Q You didn't know him well enough to say that, did you?  
A I knew him well enough, but I did not care anything about talking to him.

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Q You were anxious, however, to be introduced to him, weren't you, three years ago? A Not very anxious.

Q What was the conversation that you and Detective Kennedy and this defendant had in the saloon at the time you came back from Amsterdam?

THE COURT: I will exclude that unless you show it contradicts her present testimony.

Q What was the conversation, please? A I don't remember the conversation, because I had too much on my mind.

Q Wasn't it about your child that you had from your husband that you were once lawfully married to?

MR. McCORMICK: Objected to as immaterial.

THE COURT: I will exclude that as immaterial.

MR. WOLFE: Exception.

Q Who had your child?

THE COURT: I will exclude that as immaterial.

MR. WOLFE: Exception.

Q Who are you now living with? A Tony Jumpedist.

BY THE COURT:

Q Didn't you say you were married now? A I am.

BY MR. WOLFE:

Q Legally married? A I am,

Q Are you still living in Amsterdam? A Yes.

BY THE COURT:

Q And you are here under subpoena? A Yes.

BY MR. WOLFE:

Q But you still go under the name of Fay Smith, don't you?

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A Because I was brought into court on my subpoena, and I had to go, or they would not know who they were sending after.

Q What does your husband do, if anything?

THE COURT: I exclude that as immaterial.

MR. WOLFE: Exception.

Q Whereabouts in Amsterdam are you living? A 25 Erie street.

Q That is a disorderly house, isn't it? A It is not.

Q Was it ever a disorderly house? A It was not.

Q Isn't that the place you and May Goldberg went to? A No, sir, 10 River street was the place we were supposed to go to.

Q What was the purpose of your going around with Detective Kennedy? A For the purpose of getting my child.

Q Did you question the defendant about your child? A I did.

Q What was that conversation, please? A I just asked him if he knew where the baby was at. He said he thought they sent it to Amsterdam.

Q What else did he say to you? A I don't remember him saying anything else.

Q Did he ever say anything about Tinkie? A Yes, he did.

Q That is the other fellow you were with, isn't it? A I was.

Q What did he say then when he told you he did not know where the child was, or something to that effect? A I don't remember.

Q Did he say to you words to this effect: "I see you got another fellow again; you are getting it quite wasy"? Did he

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say that? A I remember him saying that.

Q And in response to that you said, "I will make you laigh on the other side of your face some day", didn't you? A I said no such thing.

Q What did you say? A I did not say anything to him; not that I can remember.

Q You will not swear you did not say anything? A I will not.

H A R R Y F A G A N, (7 Delancey street), a witness called on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q What business are you in? A I am a diamond broker.

Q How long at that? A Twenty-six years or twenty-seven years.

Q How long do you know the defendant? A A good many years. I know the whole family.

Q How many years? A About fifteen ot twenty years.

Q Do you know other people that know the defendant? A What do you mean, if I know other people?

Q Do you know any other people that know him? A I know that I know him myself; I ain't supposed to know if anybody else knows him.

Q Do you know friends of his? A I know the whole family personally.

Q Did you ever have any occasion to discuss his character?

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A No.

Q Did you ever employ the defendant? A No.

Q Did he ever buy anything from you?

MR. McCORMICK: Objected to as immaterial.

THE COURT: That is excluded.

Q As far as you know the defendant's character was good, wasn't it? A I never knew anything wrong about the family; every one is respectable; every one of them.

Q That includes the defendant? A Every one of them; the daughters and son.

MR. WOLFE: That is all.

MR. McCORMICK: No question.

A BRAHAM I S E R S O N, (395 Fourth avenue) a witness called on behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WOLFE:

Q What business are you in, Mr. Iserson? A Manufacturer of muslin underwear; ladies underwear.

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

Q Is he related to you? A Yes, sir.

Q What relationship? A Brother-in-law.

Do you know other people that know him? A Yes.

Q Have you ever had occasion to discuss him among the other people you know? A No, sir.

Q Did he ever work for you? A Yes, sir.

Q How long? A About four or five years, probably.

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Q How long ago was that? A About two or three years ago.

Q So far as you know was his character good or bad? A I have always known him as a good character.

Q Is it good or bad? A Good.

CROSS EXAMINATION BY MR. McCORMICK:

Q You don't know a man named Sam Vigretti, do you, that runs the saloon on Second avenue and 97th street? A No, sir.

(Both sides rest, and counsel sum up to the jury.)

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THE COURT'S CHARGE.

Gentlemen of the Jury, the defendant is indicted for the crime of knowingly accepting and receiving money, without consideration, from the proceeds and earnings of a woman engaged in prostitution. It is alleged that on or about the 13th of February, of this year, in the County of New York, Morris Gold, without consideration, did feloniously and knowingly receive from one May Gold, the sum of \$14 in money, lawful money of the United States of America, and of the value of \$14, from the proceeds and earnings of the said May Gold, who was then and there a woman engaged in prostitution, and from the proceeds and earnings of her prostitution, that he, the said Morris Gold, then and there, well knowing that such money was the proceeds and earnings of the prostitution of her, the said May Gold, against the form of the statute in such cases made and provided, and against the peace of the People of the State of New York and their dignity.

You understand that this is not a case between May Gold and this defendant. The parties to this case are the People of the State of New York, and the defendant Morris Gold. The People of the State of New York are the complainants, and they claim they were injured by these acts. They claim that he violated the law, disturbed the

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order, and threatened the existence of society, by committing the act prohibited in the statute, living on the earnings of a prostitute knowingly. That term "People of the State of New York", embraces all the people living in this State, ten millions, more or less. They have their own notions of right and decency, and they wish to maintain law and order and respect for decent living in the State, and they have the power to pass laws to forbid conduct which offends the decency of the State. They have made such statutes, and they say that this defendant broke them.

Now, the statute is a very plain one. Section 2460 of the Penal Law is called "Compulsory Prostitution of Women", and the last subdivision of it, Paragraph 8, is as follows:

"Any person who shall knowingly accept, receive, levy, or appropriate any money or other valuable thing without consideration, from the proceeds or earnings of any woman engaged in prostitution, shall be deemed guilty of a felony. And any such acceptance, receipt, levy or appropriation of such money or valuable thing, shall, upon any proceeding or trial for the violation of this section, be presumptive evidence of lack of consideration."

Now, you understand that the indictment is only

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the charge. It is like the complaint in a civil action. It contains the basis of the claim made by the People that the defendant broke the law, and this court is established to try the indictment and to try the defendant on the charge.

The rule in criminal trials is that the defendant is presumed to be innocent until the contrary be shown by the evidence, and if the testimony be not sufficient to satisfy the jury of his guilt beyond a reasonable doubt, then he is entitled to go free. That is what is meant by the presumption of innocence.

The People, to prove his guilt, have called witnesses, and the defendant has called witnesses in his own behalf, and it is your duty to weigh all that testimony, and if upon the whole case your minds are firmly convinced to a moral certainty that the charge is true, that he did what the indictment charges him with doing, why, then he is guilty; and if the evidence falls short of that, you must acquit him. You must give him the benefit of the reasonable doubt.

Now, in the trial, there is a division between the duty of the Court and your functions. The Court must see that the defendant receives a fair trial; that means an American trial, a trial according to law.

This defendant was indicted on the 18th day of

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May last, and I remind you of that, because you heard me say to the attorney when he complained of lack of time to prepare, that there had been ample time given him to prepare. He has had the right to be represented by counsel, and he has had a voice in the selection of his jury. He has been confronted with the witnesses against him, and his counsel has had the right to thoroughly cross-examine them on all matters which could properly be brought to the attention of the jury, and he has had the right to call witnesses in his own behalf. His counsel has placed his view of the case before you; that is all his legal right. It is also the duty of the Court to instruct you in the law. The law is very simple. It is your duty then to take the law that the Court gives to you, without question, and to weigh the facts, and your judgment on the facts. Your verdict on the facts is supreme. You are the sole and supreme judges of the facts. Now, facts must be proved by witnesses; and it is your burden therefore also to pass on the credibility of witnesses. That word "credibility" means worthiness of belief. There is no hard and fast rule that can be laid down for determining the credibility of witnesses. The law expects you to be honest men, to divest every particle of passion, of prejudice or sympathy from your minds. Those elements should not be present in the jury box at

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all. You must remember that you are doing the most important work that citizens of a Republic are ever called upon to do in time of peace. You have to give up your business and devote yourselves during this month to this work, and on the way you discharge your duty depends the welfare of the State just as truly as the very existence of the State might depend on the way you decide your duty in time of war. An honest verdict is a vindication of the law. That is, a verdict which is the result of a very careful, pains-taking and patient weighing of the testimony in the light of the law. The law is very simple.

A prostitute is a woman who practices sexual intercourse indiscriminately with men for hire. It is the common lewdness of the female. A house of prostitution or a disorderly house is a place where prostitution is practiced. But whether a woman be an inmate of a house of prostitution or not, if she meet men indiscriminately for hire and have sexual intercourse with them, she is a prostitute. That is a plain definition. The law forbids any person, man or woman, to accept any of the earnings of prostitution, without consideration, as a gift or otherwise. Of course, if a doctor render services to a prostitute, he would have the right to be paid; that would be consideration. If a grocer sold groceries, a butcher sold meat, or a clothier sold clothing, and gives con-

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consideration for the money, he would have the right to receive it; but any man who would take her money to live on, knowing that she was a prostitute, would be violating this law, and if it be shown that the defendant took any of the earnings of prostitution, the law says that that is presumptive evidence of the fact that there was no consideration. It raises a presumption of guilt, and places the burden on him of showing that there was consideration. That is, if he knowingly took the money. Those are the elements of the law. First, prostitution; second, the acceptance of money from that prostitute by some one, without consideration, and third, the knowledge that she was a prostitute, that that money that was received was the fruit or the earnings or the rewards of her prostitution. If that be shown, that is sufficient evidence to warrant a verdict of guilty, unless the defendant proves that there was consideration for the money so received by him, or unless the evidence on the whole case raises a reasonable doubt in your minds on that point.

As I said, the questions of fact must be decided by you, and they must be decided by you from the evidence. you must not go outside of the case and guess or speculate as to what may or may not have happened. You must confine yourselves solely to the testimony.

There is a provision in the law that no conviction

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shall be had under this section upon the testimony of the female, unless supported by other evidence. That is, if this girl, May Gold, was the only witness called here, even if she told the truth in every respect, there could be no conviction on her testimony, and so the People have called Fay Smith, the other prostitute, who gives testimony that this money was earned in a house of prostitution. She has told you how she received a certain slip or note on which there was information that two girls were wanted in Amsterdam; that she got that from Vigretti, in his saloon. She was Vigretti's prostitute, she says, and she told May Gold about it, and May Gold testified that she told the defendant that she was going to Amsterdam. She told him about this slip that she had received from Fay Smith. Fay Smith further testified that they did go to Amsterdam; that the defendant went with them next morning to the street car that they took to go to the station, and that they went to the New York Central Railroad at 125th street, took the train for Amsterdam, and he went with them to the car which brought them to the railway station; that they entered a house of prostitution in Amsterdam, and remained there for several months. The People also produced a woman who said she was the housekeeper of the house that the girls went to; that it was a disorderly house, a house of pros-

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titution, and that Fay Smith and May Gold were inmates of it, and were practicing prostitution to her knowledge. So that the People claim they have shown clearly that May gold was a prostitute, and that she earned money as a prostitute in Amsterdam. To corroborate her statement that she sent this \$14 on or about the 13th of February, the People have produced an express money order, People's Exhibit No. 1, which was sent to him. Miss Austin testified as to the sending of that also, and the defendant acknowledges the receipt of it. His signature is indorsed on the back of it, and that money was paid to him. As bearing on the question of his guilt, they have produced other similar receipts at or about the same time, amounting to the sum of \$49, I believe. I do not remember the exact sum, but you will be guided by your own recollection on that. The defendant is not on trial for receiving any of the other sums. He is on trial simply for receiving this \$14, but whenever guilty knowledge or guilty intent is an element of a crime, the People have a right to show from other transactions of a similar nature happening at or about the same time, that the defendant had guilty knowledge or guilty intent, so that you may take the receipt of the other sums of money by him at or about the time, not as proof that he received the \$14, because that is proved by the testimony of the defendant himself,

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as well as by all the testimony in the case, but it is offered to you to show you and to convince you beyond a reasonable doubt that the defendant knew, when he received that money, that it was the proceeds of prostitution.

The defendant has testified that the girl told him that she went to Amsterdam as a waitress, and he has endeavored to show that the complaining witness and Fay Smith, had a motive to testify falsely against him. It is proper for you in passing on the credibility of the witnesses, to consider all those things. You may consider the manner of a witness in giving the testimony, how it impresses you, as being truthful, or otherwise, as to being a frank, open, unreserved story of what really happened. You may consider the interest of the parties in the controversy, the motive which a witness may have had, whether on account of relationship to the defendant or interest in the result of the controversy, to tell what was not true, and what motive has been shown on the part of May Gold and Fay Smith thus to testify falsely against the defendant; that is for you to decide.

On the other hand, you may inquire whether the defendant has a motive or not; whether he is an innocent man telling the truth, or whether he is a guilty man who is telling what is not true, in order to escape the con-

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sequences decreed by the law for his criminal acts. You must not decide that a witness has testified falsely simply because there may be a motive to testify falsely. Witnesses may have testified truthfully, notwithstanding the existence of a motive to testify wrongfully, and in considering the credibility of every witness, you must keep that in mind and decide on the whole case, and not be guided simply by the existence or non-existence of a motive to testify one way or the other. That is only one of the elements that you may properly consider.

It is also proper on cross examination to call the attention of any witness to any criminal, vicious or immoral act in the career of the witness. The complaining witness and Fay Smith admitted frankly that they were prostitutes. A prostitute is permitted to testify in a court of law. Her testimony must be received, but you may remember when you are weighing the credibility of their testimony, that they are women of that character, and you may take that into account in determining their credibility; the testimony of such witnesses is addressed to the conscience, the reason and the judgment of the jury. It must be carefully received and examined by them. What has Fay Smith testified to, if anything, that has not been corroborated by the defendant? That is for you to say. She testified that she was a prostitute, and

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she testified to a meeting with the defendant. The defendant testified to a meeting with her. Did he contradict her in any way? He testified that he first began to visit May Gold once a week, and finally went to live with her altogether. There was no wedding, no marriage, no ceremony, no talk of marriage. So far as I recall the testimony, and you must be guided by your own recollection of it, he differs with her in the fact he never received any money from her before. You may take that into account in connection with the receipt of this money which is shown by his own signed indorsement on these money order checks from Amsterdam. Do they bear out her statement or not that when he worked he supported the house by his toil, and then when he did not work, she supported it by prostitution, and that her trip to Amsterdam was to support him and to support the house and pay the rent, just as she had supported him in New York according to her own statement, when he was out of work.

When the defendant becomes a witness, he is subject to the same tests as to credibility, as any other witness, and you may consider what he has told you of his career on the question of his own credibility, whether he is to be believed when he says he gave her \$90, and that this money was repayment within a week or two, of part of that money which he had given her to go to Amsterdam to

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work as a waitress. If you have a reasonable doubt on that, if you have a reasonable doubt as to whether or not there was consideration for this money, why, you must acquit him. If you have no reasonable doubt, if you are satisfied by all the evidence as honest men, to a moral certainty, that there was no consideration for the money, except her design to give him a gift and to pay the rent and help him, and that the money that she sent was earned by prostitution with his knowledge, then you must find him guilty.

You will take the whole case, therefore, and remember that the law is plain. You have no power to overrule the law. You have no power to condone any offences. You must keep the law in mind and revere it and respect it. Then, when you take the law in mind, the Court has done its work. It is your duty to take the evidence and weigh it as honest men, animated solely by the thought to do your duty.

Take the testimony of the complaining witness and the testimony offered as corroboration thereof; take the testimony of the defendant and the testimony of all the witnesses called in his behalf, and weigh it all, animated solely by the desire to do your duty.

You have no right to speculate as to what will happen to society if men who commit crime are allowed to

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go free; that is not your concern, nor, on the other hand, have you the right to speculate as to what may happen to a defendant if he is guilty. If he is guilty, he deserves the punishment the law imposes, and that is a matter which is solely for the judgment and conscience of the Court. The Court does not seek to control your judgment, and you have no right to interfere with the prerogative of the Court. You have sworn to do your duty, which is to take the law from the court and to give an honest verdict without any regard to what the consequences may be. An honest verdict, whether it be not guilty or guilty, is a vindication of the law. A wrong verdict which the jury in its heart, or a juror in his heart and soul, knows is not true, is a great wrong either to the defendant or to the People: so be honest men. Rid yourselves of every question of passion or prejudice, because such elements are apt to enter into a case of this kind. Men are apt to have their passions aroused against a man who is simply charged with such a crime. Your judgment should not be swayed by passion or prejudice. Take the evidence calmly, coolly and quietly, and weigh it, and then, if your minds are fully convinced to a moral certainty that the defendant is guilty, (that is all the law requires) you should pronounce him guilty as charged. If the evidence leaves you undecided on any

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of the essential elements of the case, if you cannot say that your minds are fully satisfied so that you are convinced to a moral certainty, then the defendant is entitled to an acquittal, because your mind is in reasonable doubt. Remember, the law says that the case must be proved beyond a reasonable doubt. That does not mean that it must be proved to a mathematical or exact certainty. We do not find such a state of mind in human beings; rarely, if ever. All that the law requires is that you should have your reason and judgment fully satisfied to a moral certainty. So take the whole case, weigh it calmly, keep the law in mind, and render a verdict of either guilty or not guilty.

Have you any requests to charge?

MR. WOLFE: If your Honor please, I request your Honor to charge, that the evidence of good character, together with the other evidence in the case, may raise a reasonable doubt as to the defendant's guilt.

THE COURT: That is the law; that the evidence of good character must be considered by you at the same time as the other evidence. You must give it the weight to which you think it is entitled. Such evidence may of itself be the basis of a reasonable doubt, when but for such evidence there would be nothing in the case warranting a reasonable doubt.

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MR. WOLFE: I ask your Honor to charge that the question of proving guilty knowledge is upon the part of the People. The burden of proof is upon the People to prove guilty knowledge.

THE COURT: That is so.

MR. WOLFE: I ask your Honor to charge that the trial of a criminal action is not like that in a civil action, in this respect, that in a criminal action, the burden of proof is upon the People, and they have the right in opening first and not of closing first, and that the defendant has to close first and the People last. In that respect it differs from a civil action.

THE COURT: That is immaterial. I merely said in civil actions the complaint is not proof of its contents, and in a criminal action, the indictment must not be regarded as evidence. I want to emphasize the fact that a man must not be convicted because he has been indicted. There must be evidence to support it, and proof of guilt beyond a reasonable doubt, otherwise, he must go free, notwithstanding the fact he has been indicted.

MR. WOLFE: I ask your Honor to charge the jury that a reasonable doubt is not a guess or whim or surmise, but a doubt based on reason.

THE COURT: I so charge, and I think I have charged that.

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MR. WOLFE: I ask your Honor to charge that the refusal to permit me to prove the withdrawal of certain sums of money from a certain bank, was error, for the reason that it prevented me from proving consideration.

THE COURT: I decline to so charge.

MR. WOLFE: I take an exception.

THE COURT: The fact that a man drew money from the bank is no proof he gave it to any third person, and the fact he had money in the bank would be no proof that he did not receive it from a prostitute; -- the mere possession. The jury must not sit in judgment of the Court. The Court rules on the law, and that evidence was entirely immaterial, and had nothing to do, and had no probative value at all in this case, and that is why the Court excluded it. So you must decide the case on the evidence which the Court admitted to you.

MR. WOLFE: I ask your Honor to charge that the evidence of a prostitute, that is, the credibility of the evidence of a prostitute, may be given less weight than that of a woman who has never been convicted of crime, or bears a stainless character.

THE COURT: I decline to so charge. The amount of credibility that any witness is entitled to receive, must be decided by the jury. There is no fixed rule, as I told you. I told you you may consider the fact that a

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timony, for instance, must be carefully  
but there are cases in which such  
y testimony that could be received.  
w but a prostitute, whether she was a  
s. Does it require a great strain on  
to believe that, when a woman says she is  
/ So you must take all the evidence in the  
and the character of the witnesses you may consider  
in determining how much weight you will give that testi-  
mony, whether you will credit it or not, whether you will  
give credence to it or not. Who would know anything  
about a house of prostitution in Amsterdam, but prosti-  
tutes? The People are not estopped from proving crime by  
the fact that only witnesses of bad character know the  
facts, but you may consider the character of those wit-  
nesses when you are determining how much weight you will  
give their testimony. If there are corroborating circum-  
stances, why, you must take them into account. The amount  
of credibility or credence that any witness is entitled  
to in any case, depends not only on the character of the  
witness, but on all the other testimony in the case, and  
all the other facts and circumstances of the case; the  
nature of the case.

MR. WOLFE: I ask your Honor to charge that the  
circumstances in this case may be either for guilt or in-

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nocence as to this defendant.

THE COURT: I decline to so charge. If the jury believe that, they must acquit the defendant. The law raises a presumption which says, when and in such circumstances it has been proved by his own statement he accepted money from this woman, if you believe his own testimony, and that receipt is in evidence, -- that is presumptive evidence of lack of consideration; that is presumptive evidence that he did not give her \$90. If the whole testimony in the case overcomes that presumption and raises a doubt in your minds as to whether there was any consideration for the receipt of this money, or any lack of knowledge on his part of the way the money was earned, why, then you must acquit him; but if you are satisfied that he knew she was a prostitute earning this money as a prostitute and he took it and received it from her with that guilty knowledge, without consideration, simply to live or to pay the rent, why, then he is guilty. If you have a reasonable doubt of those facts, you must acquit him. It is for you to say whether the evidence is consistent with his innocence or guilt; if it is, you must acquit him.

MR. WOLFE: I ask your Honor to charge that the burden of proof never shifts, but is always upon the People.

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THE COURT: I so charge, but when the People prove certain facts the law is that those facts are sufficient to warrant a conviction, if they prove certain facts beyond a reasonable doubt. If, on the whole case, certain facts are proved beyond a reasonable doubt, why, then that warrants a verdict of guilty. If those facts, which are the receipt of the money, the source of the money from a prostitute, and the guilty knowledge of the defendant that it was the proceeds of prostitution, if those facts are not established by the testimony beyond a reasonable doubt, you must acquit him. If they have been established by the testimony beyond a reasonable doubt, you must convict.

Any other requests?

MR. WOLFE: Nothing further.

The jury retire at 12:35 p. m.

The jury return at 2:15 p. m.

THE CLERK OF THE COURT: Gentlemen of the Jury, have you agreed upon a verdict?

THE FOREMAN: We have not.

THE COURT: I sent for the jury because I received this communication: "Your Honor, it is impossible for the jury to agree. C. A. Zahruck, Foreman.", and I have communicated the contents of this note to the attorney for the defendant and to the District Attorney, and I

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would like to ask the foreman if he thinks there is any possibility of agreeing if they have more time to deliberate?

THE FOREMAN: No, sir.

THE COURT: You do not think so?

THE FOREMAN: No.

THE COURT: Is that the sentiment of the jury?

(The jury nod in the affirmative.)

THE COURT: The law in the case is very plain to you; that is all I have to do with it, and if you differ as to the facts, of course you can tell whether there is any possibility of your coming to an agreement or not.

THE FOREMAN: I do not think there is.

THE COURT: Is that the sense of the jury that it is useless to have any further discussion?

THE FOREMAN: Yes.

THE COURT: You all wish to be discharged from further consideration?

THE FOREMAN: Yes.

THE COURT: I have communicated with Mr. McCormick and the attorney for the defendant, and they are of opinion that if the jury think they cannot agree, they ought to be discharged, and I therefore am obliged reluctantly to dismiss you from any further consideration of this case.

(Jury discharged.)

(The defendant is remanded.)

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