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CASE

THE AMERICAN

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CASE # 2378

COURT OF GENERAL SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK, PART III.

2853

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T H E P E O P L E

-against-

HARRY ROSENSWEIG.
----- x

B e f o r e:

HON. OTTO A. ROSALSKY, J.,

and a Jury.

New York, November 27th, etc., 1917.

Indicted for sodomy.

Indictment filed November 1st, 1917.

A P P E A R A N C E S:

ASSISTANT DISTRICT ATTORNEY THOMAS A. MC GRATH:

FOR THE PEOPLE.

G. A. TEITELBAUM, ESQ., FOR THE DEFENSE.

-----oooOooo-----

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

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Frank S. Beard,

Official Stenographer.

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THE PEOPLE'S TESTIMONY:

J O H N J. B E H A N, of 202 Hooper Street, Brooklyn,
a witness called on behalf of the people, being duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. MC GRATH:

Q On the 24th day of October, 1917, were you attached to the
Third Branch Detective Bureau? A Yes, sir.

Q Did you, on that day or the day prior, have a conversation
with Mrs. Clara Adlerblum? A On the same date, October 24th.

Q Did you also have a conversation with her son, Harry
Adlerblum? A Yes, sir.

Q Thereafter, did you cause the arrest of this defendant?
A Yes, sir.

Q Where did you arrest him? A At his residence, No. 5 East
105th Street, I think it was.

Q Did you have a conversation with this defendant? A At
that time, yes.

Q Tell me what he said, not what you said to him; merely
what he said to you. A I went to his aunt -- he lived with his
aunt --

BY THE COURT:

Q No. State what he said to you, if anything. That is the
question put to you. A He denied --

Q State what he said.

BY MR. MC GRATH:

Q State the words that he said to you? A Well, I had to

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go to his house to inquire if he lived there.

THE COURT: Now strike that out. Now you will answer the simple question that is put to you by the District Attorney.

BY MR. MC GRATH:

Q. I asked you to say what the defendant said to you, not what you said to him, merely give to the jury the words that you heard come from his mouth at the time you arrested him. A First he said, "What's the charge? What are you arresting me for?"

I told him on complaint of Harry Adlerblum, who had lived at that address, and he said, "No, you can't take me out of this house with a warrant."

He said, "Where am I going to?" And I said, "To 219 East 116th Street", and he dressed and went out, to the branch.

Q What else did he say? A And, at the Branch was his mother, and the little boy, Harry.

Q You mean the mother of little Harry? A Yes, sir.

Q Not this defendant's mother? A No, sir.

Q Not the defendant's mother? A No, sir; and the little boy --

THE COURT: No, no.

BY THE COURT:

Q What did the defendant say? A He denied that he had --

Q State what he said, please.

BY MR. MC GRATH:

Q State the words that he used, officer? A He said that he had not been to bed with the boy at any time.

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Q What else did he say? A He denied that he was in the house on October 22nd, between 12 and 1 P. M.

Q What else did he say? A He asked the boy the question -- he says, "Could it be that you were down in the cellar? Why do you say it was me?" That was the conversation at that time.

Q Did you, at a subsequent time, have a conversation with him? A I did.

Q Where? A On a Third Avenue elevated train, going to Headquarters.

Q When? A On the night of October 24th.

Q Tell me what he said. About what time was that, officer?
A About ten o'clock.

Q What did he say to you at that time, officer? A He asked me to go and see Mrs. Goldstein, who was his aunt, and ask her what she thought of the case.

He says, at times, he gets wild, that he boils inside, and he has a desire -- no, he didn't say he had a desire -- he said he boiled inside, and didn't know what he was doing sometimes, and asked me to let him know, in the morning, what Mrs. Goldstein had said.

Q What other conversation did you have with him? A He said he would try to think it over, get his mind together, and let me know in the morning, when I was taking him to court.

Q Did you have any further conversation with him going down on the train? A No.

Q Did you have a conversation with him the next morning?

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A I did.

Q What did he say to you at that time, officer? A He told me if I had been to see Mrs. Goldstein.

BY THE COURT:

Q You mean he asked you? A Yes, sir. He asked me if I had been to see Mrs. Goldstein, on the night of October 24th, and I told him I did.

He said, "What did she say?" And I told him that Mrs. Goldstein thought that he had done this act to the boy.

The defendant told me that he hadn't done anything to the boy. Two weeks previous, or the week previous to when he was accused, he said that he was in the house that day, between twelve and one, on October ²²24th, and that he took the boy into bed, and that the boy removed his pants, and that he had placed his penis in the boy's anus.

Q Where were you when he told you this, officer? A On the Third Avenue elevated train, coming from Police Headquarters to the 121st Street Court.

Q The Magistrates' Court? A Yes, sir.

Q Did you have any further conversation with him? A No, sir; I didn't.

CROSS EXAMINATION BY MR. TEITELBAUM:

Q Officer, did you give the substance of this conversation that you had with Mrs. Goldstein, at the hearing in the Magistrates' Court? A I did not.

Q When was the first time you ever made any mention of

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the fact that you told this story, that Mrs. Goldstein thought that he did it? A I told, in the Magistrates' Court --

Q (Question repeated). When did you first mention the fact that you told him that Mrs. Goldstein thought that he had done it? A In the Magistrates' Court.

Q Are you certain of that? A Yes, sir.

Q Do you remember being interrogated by an attorney in the Magistrates' Court, known as Mr. Hyman? A Yes, sir.

Q Do you know him personally? A No, sir.

Q Do you remember being asked this question:

"Q Did you ask Mrs. Goldstein whether the little boy had told her what Harry did? A I did.

"Q What did she say? A She said no.

"Q You heard Harry swear that he did tell Mrs. Goldstein?
A Harry told me he told Mrs. Goldstein."

Did you, at that time, say that Mrs. Goldstein told you that she thought Harry did it? A No, sir; it wasn't at that time, sir.

Q Didn't you testify in the Magistrates' Court that Mrs. Goldstein said no? A I wasn't asked that question, sir.

Q MR. MC GRATH: Which Harry does that refer to? The boy or the defendant?

BY MR. TEITELBAUM:

Q Now, after you had placed on this case, and had a denial from the defendant that he had committed this act, you still persisted, and prodded him for a confession? A I didn't prod him at all.

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Q Well, he told you that he hadn't done it? A Yes, in the presence of the boy.

Q And that was the first statement he made to you? A Yes, sir.

Q And in spite of that statement you tried to get him to admit that he had done it? A No, I told him I wanted the truth.

Q Well, he had already told you what he said was the truth?
A Yes, sir.

Q Now, how much time elapsed, officer, between the first and second interviews that you had with this boy? A Well, he was in my custody from about a quarter of eight until ten o'clock.

Q He was with you for over two hours? A Well, an hour and three quarters.

Q And, in answer to the District Attorney's questions, you have given substantially to this Court and jury everything that was said by you to this boy, and all that he said to you?

MR. MC GRATH: No, that is not the fact. I limited him to what the boy said.

THE COURT: Yes, it was limited to what the complaining witness said.

BY MR. TEITELBAUM:

Q And when was the second interview? A Going down from 116th Street to Grand Street, on the elevated railroad.

Q And when did you reach Police headquarters? A About 25 minutes after ten.

Q And, after being with this boy from a quarter after eight until ten o'clock that evening, you hadn't succeeded in getting

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any admission from him with respect to the commission of this crime? Is that correct? A Yes, sir.

Q And the first statement that he made that would tend to connect him with an admission of committing this crime was about 25 minutes after ten? A No, he asked me to see Mrs. Goldstein.

Q Well, did he ask you to see Mrs. Goldstein while he was persistent in his denial that he committed this crime? A He did.

Q What interest could you have in seeing Mrs. Goldstein? A He asked to go and see Mrs. Goldstein in his interest.

Q And you came back from Mrs. Goldstein, and told him that Mrs. Goldstein said she thought he did it? A I didn't go to Mrs. Goldstein.

Q Did you testify on your direct examination that you saw Mrs. Goldstein, and that Mrs. Goldstein said she thought he did it? A I didnt testify to that.

Q What did you testify to then, about telling this boy that Mrs. Goldstein said she thought he did it? A He asked me to go and see Mrs. Goldstein.

Q Yes. What did you testify as to that?

MR. TEITELBAUM: May I have the testimony of the witness read as to that matter, your Honor?

THE COURT: According to my memorandum he told the defendant, he testified, that Mrs. Goldstein said she thought he did this act.

ME. TEITELBAUM: Yes, sir; that is my recollection of the testimony.

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BY MR. TEITELBAUM:

Q Did you so testify on the direct examination? A I did.

Q Now, what stimulated your visit to Mrs. Goldstein, after you had been with him three hours, and didn't get a confession from him? A I didn't go to Mrs. Goldstein.

Q You, as an officer of the law, came back to this boy, without having visited Mrs. Goldstein, and attempted to put in his mind that his aunt, Mrs. Goldstein, believed that he was guilty of this offense, without going there? A I didn't go there.

Q And in search of your unsuccessful efforts to get a confession from the boy, you told him that you had been to his aunt, and she thought that he had been guilty of this offense? A Yes.

Q And did you think it was a fair way of getting a confession? A (No answer.)

BY THE COURT:

Q Was that statement untrue? A I didn't mention that I was going to see her then or that I was going to see her then. I just told him that his aunt said so.

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

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AFTER RECESS.

WILLIAM TRAVERS GIBB, a witness called
on behalf of the People, being duly sworn, testified
as follows:

MR. MCGRATH: With the consent of counsel for the
defense, I am calling Dr. Gibb out of order, if your
Honor please.

THE COURT: Very well.

DIRECT EXAMINATION BY MR. MC GRATH:

Q How many years have you acted as an examining physician
for the New York Society for the Prevention of Cruelty to child-
ren? A Twenty-six years.

Q You are an examining physician of that society, I
ought to have asked you first? A Yes, sir.

Q And how many examinations have you made of the anuses of
boys? A About two or three hundred.

Q Doctor, did you make an examination of Harry Adlerblum,
on or about the 24th day of October? A The 25th day of October,
1917.

Q Will you state to the jury just what you found?

MR. TEITELBAUM: I object to that as immaterial,
irrelevant and incompetent, and not binding on this
defendant.

THE COURT: Objection overruled.

MR. TEITELBAUM: Exception.

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A I will have to consult the record made at the time.

Q If you will, doctor? A I examined Harry Adlerbaum on October 25th, at my office ---

THE COURT: Now, wait. The record is incompetent evidence. You may refresh your recollection, but do not testify from the record.

BY MR. MC GRATH:

Q Can you tell the jury the results of your examination, doctor, without reference to the record? A No. I see a great many of these cases, and it would be impossible for me to give it offhand, without consulting the record.

Q When was that record made? A At the time of the examination.

Q Will you refresh your recollection from that paper, then? Was it made in your own handwriting? A Oh, yes.

Q Now, refresh your memory, and tell the jury just what you found?

MR. TEITELBAUM: I object to this testimony, as immaterial, irrelevant and incompetent, and not binding upon the defendant, being too far removed from the time the alleged offense was committed upon the complainant.

THE COURT: Well, that objection does not go to the right of the witness to refresh his recollection.

MR. TEITELBAUM: But I submit respectfully that it goes to every point in his testimony.

THE COURT: I overruled your objection on the ground

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that you have suggested, but, Mr. District Attorney, I must caution you that the witness must rely upon his refreshed recollection, entirely.

BY MR. MC GRATH:

Q Have you refreshed your recollection, doctor? A Yes, sir.

Q Can you testify now, without referring to your record?

A Yes, sir.

Q Now, tell the jury just what you found at the time of that examination?

MR. TEITELBAUM: I respectfully wish to renew my objection on the ground that the evidence is entirely immaterial, irrelevant and incompetent, being too far removed from the time of the alleged offense committed upon the complainant.

(Objection overruled. Exception.)

A I examined the child in my office, on the 25th of October, and I found his entire anal region inflamed and lacerated, indicating a complete penetration of his anus by some blunt object.

I might add that that was evidence of recent penetration.

CROSS EXAMINATION: None.

MR. MC GRATH: Had you finished with the officer?

MR. TEITELBAUM: I had ----

H E N R Y A D L E R B L U M, of 238 Seventh Avenue, a witness for the People, testified as follows:

(The Court decided that the witness could make an unsworn

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statement.)

DIRECT EXAMINATION BY MR. MC GRATH:

Q What class are you in in school, Harry? A 2-B.

Q Do you remember the time that your mother was sick? Do you remember when she was in the hospital? A Yes, sir.

Q Where did you go to live then? A Mrs. Goldstein.

Q And where was her house? A No. 2 East 115th Street.

Q How long was your mother in the hospital? A Two weeks.

Q Do you know what date she went to the hospital? A It was on a Monday.

Q What is that? A It was on a Monday.

Q Speak up louder, please, Harry. When you were at Mrs. Goldstein's house, did you see this defendant, Harry Rosensweig? Was he at Mrs. Goldstein's house? A Yes, sir.

Q Where did you sleep when you went to Mrs. Goldstein's house? A The first night?

Q Yes, the first night? A I slept with him.

Q With whom? A With Harry Rosensweig (indicating the defendant).

Q Tell me what happened, that night, Harry? A That night I was sleeping with him in bed. So I felt something heavy on me, and I didn't know what it was. So I waked up, and I see it was him.

Q And what did he do, Harry? A He put his No. 1 into my No. 2.

Q What do you mean by your No. 1? A Here (indicating the penis).

Q And what do you mean by your No. 2? A Here (indicating the anus.)

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Q Well, did you make any noise then? A I said, "Ouch."

Q And what did he say when he was doing that to you? What did he say to you, Harry? A (No answer.)

Q Go on. Tell me. Tell what he said to you? A (No answer)

Q Did he say anything to you? (No answer)

Q What did he say to you, Harry? A Nothing.

Q Well, what happened? Did you notice anything after he was through? Was there anything there? A Yes.

Q What was it, Harry? A Something hurting me.
what

Q And/else did you notice there, Harry? What else did you notice, Harry? A (No answer)

Q Were you wet? Tell the jury. Tell these men? A I was wet, and I felt myself wet, and it dried all up.

Q What did you do the next morning? A The next morning I told Mrs. Goldstein.

Q Yes. Now, did the defendant ever do this to you again?

A Yes. That was Monday, when I was ready to go home, and my father telephoned I couldn't come; he wasn't ready.

THE COURT: No, strike that out.

BY MR. MC GRATH:

Q Did all this that you have told me about happen on the first night that you slept at Goldstein's? A What?

Q Did all this happen on the night that you slept at Mrs. Goldstein's? Was that the first night that you slept there? A Yes, sir.

Q Did you sleep with him the next night, Harry?

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MR. TEITELBAUM: If your Honor please, I don't think it is fair to attempt to show several alleged offenses, when only one is charged in the indictment.

THE COURT: Yes; the District Attorney must rely upon the specific act charged in the indictment. And then you may prove as many other acts as you can, Mr. District Attorney, and, later, I will instruct the jury as to the effect of that testimony.

MR. TEITELBAUM: I don't think that the evidence as to other acts should be admitted until the principal act is proven. This is a case where the sympathies of a jury will be easily aroused.

THE COURT: You need not worry about that. I will caution the jury that they must not permit any shocking or revolting acts testified to by any witness to create any prejudice, or any feeling of hostility, against the defendant, nor should they be influenced by considerations of sympathy for this boy. You need not worry about that. I will safeguard the defendant's rights. But the order of proof is a matter for the Court, a matter of judicial discretion.

MR. TEITELBAUM: I except.

BY MR. MC GRATH:

Q Now, who did you tell after the first night?

THE COURT: Excluded. Strike it out, and the jurors will disregard it utterly.

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Q You didn't sleep with him again, did you? A No, sir.

Q When did you --withdrawn. You know a boy by the name of Dickman? A Yes, sir.

Q Who is he? A He is in the grocery store.

Q Did you ever go to No. 2 East 115th Street with Dickman?

A Yes, sir.

Q Tell me what happened the day that you went there with him? A I went up, and I had the key --- and another Harry give me the key --- and I went up and opened the door, and so he brought up the bread, and I was going downstairs, and so he said, "Stay in there," and he gave me two cents, and I stayed with him.

And he laid me flat on the bed in the bedroom, and I took off my pants, and he took off his pants, and he put his No. 1 into my No. 2.

Q Who gave you the two cents, Harry? A Harry Rosenzweig.

Q And did he say anything to Dickman? A He chased him down.

Q What did he say to him? A He said, "Go down." So he went down, and I wanted to go down with him to play.

Q In what room did he take you, Harry? A In another man's room, another cousin's room.

Q Did he close the door? Tell me what he did, Harry? A He closed the door, and then he put me in the other cousin's bedroom, and then he laid me across the bed, and I was crying, and he gave me two cents.

Q What did he do then? A Then he did the same trick again.

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THE COURT: Strike that out.

BY MR. MC GRATH:

Q Just tell me what he did?

MR. TEITELBAUM: I respectfully submit that there should be some time of day fixed. This testimony has been going on for half an hour, now, and I am at a loss to say whether this was October or January.

MR. MC GRATH: This is the second offense that I am talking of now, and the boy says that he does not remember the date, and I will connect it in another way very soon.

Objection overruled; exception.

Q Now, after you were lying on the bed, what did he do?

A He put No. 1 in my No. 2.

Q Show me what you mean by your No. 1?

THE COURT: Well, he has already done that. It is not necessary to repeat it.

BY MR. MC GRATH:

Q Did you make any noise? A I said, "Ouch."

Q And what did he say at that time? A He said nothing. Then he said, "Go down," and I went down, and then, the next day, I told Mrs. Goldstein.

THE COURT: Well, strike that out, "I told Mrs. Goldstein the next day." And the testimony stricken out, gentlemen, will be entirely disregarded by you.

BY MR. MC GRATH:

Q Do you remember what day it was that you went up there with

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Dickman? AI think it was on a Monday. I don't know exactly.

Q When did you see your mother after that? A I saw her on Tuesday.

(Objected to as immaterial, irrelevant and incompetent.

Overruled. Exception.)

Q You saw her the next day? A Yes, sir.

Q Tuesday? A Yes, sir.

Q And was that the last time the defendant, Harry Rosensweig, did that to you? A Then he did it again, at night, in the middle of the night.

Q That same night? A Yes, sir.

BY THE COURT:

Q What same night? Before or after you saw your mother?

A Before I saw my mother.

BY MR. MC GRATH:

Q Well, when did you see your mother again? A The next day, Tuesday.

Q Was that the day that she came from the hospital? A She was sick yet.

Q And, after that day that you were up there with Dickman, and he did that to you in the afternoon, were you also up there in the evening? Did he ever do it to you again? A I went home then.

Q You went home then? A Yes, sir.

Q Do you remember that the next day you saw your mother?

A Yes, sir.

Q And where did you go with your mother? A Home.

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Q Where was your home? A 238 Seventh Avenue.

Q And after you went home, where did you go? A That night, I told my aunt --

THE COURT: No. Strike that out.

BY MR. MC GRATH:

Q Where did you go, Harry? A I went home to my mother's house.

Q And then where did you go with your mother?

MR. TEITELBAUM: Objected to as immaterial, irrelevant and incompetent, and not binding on the defendant.

Overruled. Exception.

A To 42nd Street.

Q Where did you go in 42nd Street?

MR. TEITELBAUM: I object to that as immaterial, irrelevant and incompetent, and as not binding on the defendant, and too far removed from the time that this offense is alleged to have been committed.

MR. MC GRATH: I am talking of the day after.

MR. TEITELBAUM: I am addressing the Court, sir.

BY MR. MC GRATH:

Q Where did you go to in 42nd Street, the next day? A To the detective's place.

MR. TEITELBAUM: I object to that, if your Honor please.

THE COURT: Well, I do not know what the District Attorney seeks to elicit from the witness. The answer is

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responsive. Objection overruled.

MR. TEITELBAUM: I will withdraw the objection.

BY MR. MC GRATH:

Q Now, after you went up there on the day that you have told us about, with Dickman, did you go to a doctor?

(Objected to. Overruled. Exception.)

A Yes, sir.

Q What doctor did you go to? A To Dr. Pick.

Q Do you see the doctor here in Court? A Yes, sir.

Q Is that the doctor (indicating Dr. Pick)? A Yes, sir.

Q Was that the doctor that you went to? A Yes, sir.

Q But the day after you were up with Dickman, you went to see Dr. Pick? A He came to my house. My father telephoned to him.

Q And did you see any other doctor, Harry? A Yes, sir.

Q When did you see him? A I saw him when I was up here, and the lawyer told me to go to him, to the Society.

Q No. When did you go to see the other doctor? A I don't know.

Q Was it after you saw Dr. Dick? (No answer)

BY THE COURT:

Q Which doctor did you see first? A Dr. Pick.

CROSS EXAMINATION BY MR. TEITELBAUM:

Q Harry, how long was it that you were living away from your home? A Two weeks.

Q How long before that had you not lived with your mother

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and father? A What?

Q You were not living with your mother and father for some time before you went to Goldstein's? Do you understand me, Harry?, Your mamma and papa are not living together, are they?

A No.

Q And you have no home; have you, Harry? A I have now.

Q But before that you had no home, had you, and you were living from one place to another? A No, I didn't have no home.

Q And you lived with one family for a while, and then somebody else would take you; is that right, Harry? A Yes, sir.

Q And in that way you lived with the Goldstein's, a year before that? A Yes, sir.

Q And Harry was there then, too; wasn't he? A No.

Q Well, you knew him for about a year? A He used to come up there.

Q Now, listen to me, Harry. Don't be afraid of me. I ain't going to hurt you. Didn't you know this Harry for about a year?

A Yes, sir.

Q And you lived on Amsterdam Avenue, didn't you --- you lived in a home somewhere on Amsterdam Avenue, with other children?

MR. TEITELBAUM: I don't think it was the Hebrew Orphan Asylum.

Q Oh, where was it? A 127th Street and Amsterdam Avenue.

Q Then it must have been the Hebrew Orphan Asylum. Were you always a good boy or a bad boy, Harry? A Always a good boy.

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Q Didn't you sometimes play truant? A (No answer)

Q Weren't you away from school a few days? A What?

Q Weren't you away from school a few days, sometimes?

And did Harry tell you anything about your not going to school?

Didn't he scold you for not going to school? A I never went to school by Mrs. Goldstein's.

Q Well, Harry wanted you to go to school, didn't he? He was always good to you, wasn't he, Harry? A He was not.

Q Did he hit you? A No, sir, he never hit me.

Q He was very kind to you? A No, he wasn't.

Q Didn't he want you to go to school, all the time? A He wanted me to go to school, but my father couldn't get me no transfer, because I was only away for two weeks.

Q Now, Harry, you really didn't know where your father was, did you, at that time? A No, I didn't know where he was.

Q And it was Harry that was trying to get you to go to school? A Yes, sir.

Q And did Harry once find you in a cellar, during school hours? A I never went in the cellar.

Q Well, do you remember Harry talking to you about finding you in a cellar? A I never was in a cellar.

Q Well, did he ever tell you that he found you in a cellar? A I never was in a cellar.

Q I don't care if you were there. Now, listen, Harry. Did Harry ever talk to you about finding you in a cellar, once? A He

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never told me.

Q Is this the first time that you ever heard anything about a cellar? A Yes, sir.

Q And did he ever talk to you about your using dirty words? A I never used dirty words.

Q You never did, Harry? A No, sir.

Q Now, Harry, when this Harry wanted you to go to school, you got a little angry at him, didn't you? A I never got angry.

Q But you didn't like to go to school, did you, Harry? A I liked to go to school.

Q And the only reason why you didn't go to school was because your father didn't get your a transfer? A Yes.

Q But you didn't know where your father was at that time, did you? A No, sir.

Q And so somebody else/you to go to school? A Yes, sir.

Q And that was Harry? A Yes, sir.

Q Now, when you lived with the Goldsteins, the year before that, was Harry there then, too, the other Harry? A He wasn't there.

THE COURT: I think the record will read better, if you stop calling him Harry. Otherwise, the record will be confused.

MR. TEITELBAUM: Yes, sir, I will do so.

Q Now, how many times did Harry do this to you that you have told the jury about, altogether? A Three times.

Q And that was during two weeks? A One time he did it, the

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first time, and then, a week later, he did it two times.

Q And the first time you say was when you were asleep with him in his bed? A In my bed.

Q And it hurt you, Harry, didn't it? A Yes, sir.

Q And you didn't say anything to anybody about the first time that he did it to you, did you? A I didn't say nothing.

Q You didn't tell anyone? A When I was going home, I told about it.

Q And that was after the third time, was it not? A Yes, sir.

Q And it hurt you, the first time, didn't it? A It hurt me the three times.

Q And even though it hurt you the first time, Harry, you never told anybody, did you? A I was afraid.

Q And then the second time that he did it, you didn't tell anybody about it, did you, Harry? A No, sir.

Q And when did he do it to you the second time? A He did it in the day time.

Q In the afternoon? A Yes, sir.

Q That was the second time? A Yes, sir.

Q What time was that? A I don't know the time.

Q, You don't know the time? A No, sir.

Q And it wasn't until after he had done it the third time that you told somebody about it; is that correct? A Yes, sir.

Q Now, what time did he do it the third time? A At night.

Q And, Harry, did you say that when he did it to you that

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night -- it was what time, Harry? A I don't know the time.

Q Did you say before you came upstairs with the key, with Henry, the other boy, and you went into the rooms, and he was there, or did he come there after? A He came after.

Q He came after? A Yes, sir.

Q That was about ten o'clock? A It was later than that.

Q It was later than ten o'clock at night? A No, during the morning.

Q The last time that he did it was in the morning? A The last time was at night.

Q Now, we are talking about the last time. About what time of night was it? A I don't know.

Q About ten o'clock? A I don't know the time.

Q You say that you were playing up to the time that he did it? A I was in bed.

Q You say that you wanted to go out to play, that night?
A No, I didn't want to go out to play. He sent me to bed.
And my father telephoned that he was going to take me in the morning.

Q Harry, who gave you the key, that night, to go upstairs?
A The other Harry, another boy.

Q Another Harry gave you the key? A Yes, sir.

Q Where did he get the key? A Mrs. Goldstein gave it to him.

Q Well, he wasn't living there; was he? A Yes, sir. That was her son. And this Harry went up after me.

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Q When did you go upstairs with the key? A I don't know the time.

Q It was about ten o'clock? A I don't know.

Q Don't you know? A No.

Q And, when you got upstairs with the key, who was there?

A Me, and Henry and Harry.

Q Well, was the other Harry there when you got there? A He came after me, and the door was open, and I gave him the key.

Q And then he did it for the third time, you say?
A Yes, sir.

Q Now, do you remember being in another court, before another jury, and there was another lawyer asking you questions? A Yes, sir.

Q Do you remember what you said then? A No, I don't.

Q Well, if I read something to you that you were asked then, would you remember it, Harry? You will try to remember it, won't you? Do you remember the other lawyer asking you: "What time of the night was it that you saw him -- " meaning the defendant -- " at Mrs. Goldstein's house? A. It was about ten o'clock at night when he came there, the first time."? Do you remember that? A No.

Q And then you were asked: "When this man came in, who was in the house? A. Only me and him." Do you remember saying that? A Yes, sir.

Q And you don't remember saying the other thing? A No, sir.

Q And you remember the other lawyer asking you, "Q. Did he have a talk with you? A. Yes."

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Do you remember that? A Yes, sir.

Q And then the other lawyer asked you: "Q. What did he say to you?" A And you said that he said: "Lay down on the bed, and button off your pants." Did he say that to you at ten o'clock at night? A He did. I don't know the time.

Q Do you know the time, the last time? A No.

Q You don't remember that, do you, Harry? A No.

Q But do you remember saying, "I went down to the stoop after that." Did you go down to the stoop after that? A Yes.

Q Now, Harry, did any other boys ever play around with you that way? A What?

Q Did anybody else ever do the same thing to you, Harry?

A What he did?

Q Yes. A No, nobody.

Q And Harry never did that to you, the year before, when you were living there; did he? A He wasn't there.

Q Wasn't he working there? A He wasn't there at all, last year, but he came sometimes around to her.

Q And he used to see you there, too, didn't he? A Yes, sir.

Q And he never did anything like that to you then, did he? A No.

Q Do you go to school now? A Yes, sir.

Q And who put you in school? A My father.

Q And your mother and father are living together again, aren't they? A Yes, sir.

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Q And you are back home? A Yes, sir.

Q And you were not living at home for a year; were you?

A No, sir.

H E R M A N B I C K, of 40 East 7th Street, a witness
called on behalf of the People, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. MC GRATH:

Q Doctor, how long have you been a physician? A This is
the third year.

Q Are you registered to practice under the Laws of the State
of New York? A Yes, sir.

Q Do you know Harry Adlerblum? A I do.

Q The boy who just preceded you on the stand? A Yes, sir.

Q Did you make an examination of that boy? A I did.

Q On what date, doctor? A Around about October 23rd. I am
not sure of the date. It was either the 22nd or the 23rd.

Q And did you make an examination of the boy's rear passage,
the anus? A I did.

Q Will you tell this jury what you saw, what you discovered?
A Well, I made an external examination; that is, I didn't go
inside of the rectum; and I found a small amount of inflammation,
ut there was no laceration or tear at all. And I didn't make an
internal examination, and I don't know the condition of the in-
ternal anus at that time.

BY THE COURT:

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Q When was it that you made your examination? A Either the 22nd or 23rd. I didn't just happen to mark down the date.

Q Well, then, you are guessing at it? A Well, I am not positive about the date. There is another way of putting the date. This was one day after the mother came back from the hospital, and that was the day that he returned from where he was staying while the mother was away.

Q Now, when did the mother return from the hospital?

A Well, it was either the 21st or the 22nd, and I would say that the date of the examination was the 23rd --- just one day's difference, -- I came to the house.

Q And who was there when you saw him? A The parents.

Q Was the mother there? A She was there.

CROSS EXAMINATION: (None.)

C L A R A A D L E R B L U M, of 238 Seventh Avenue, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MC GRATH:

Q What hospital were you in, in October last, Madame?

A The New York Hospital.

Q Do you know the date that you went there? A I think it was the 8th of October, on a Monday. I can't remember, because I was in a typhoid fever, and I didn't know what happened to me. And they took me away in the ambulance, and I left my children. I

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was in very bad condition. I didn't know what was happening.

Q When did you leave the hospital after that? A About ten days.

Q On what day did you leave the hospital? A On a Tuesday.

Q On a Tuesday? A Yes, sir.

Q Do you know what date that was? A I don't know. I can't tell you exactly the day of the month, but I know the day that they took me home.

Q What day was this on? A On a Tuesday.

Q Did you see your boy on that day? A No, I didn't see him. I couldn't walk or move myself, and they took me home in an automobile.

Q How long after you came home from the hospital did you see your boy? A One week later; eight days later, I seen my boy.

Q Hadn't you seen him before you came out of the hospital before that time? A No, sir.

Q Do you remember Dr. Bick coming to the house? A Well, Dr. Bick came to the house when I took my child home, and I found him sick, and so I told the doctor --

Q Did you make an examination of your boy?

(Objected to as immaterial, irrelevant and incompetent. Overruled. Exception.)

A Yes, sir.

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Q As the result of that examination, did you call Dr. Dick? A Well, that was on Tuesday, when they took the children home from that woman; and, Wednesday, in the morning, my husband went and telephoned for the doctor, and the doctor came up in my house, and then I went to find justice, to find out what was going on. I didn't want to do anything before the Law gets him.

Q Now, do you know what day Dr. Bick came there? A On Wednesday, the second day.

Q Well, where did you go after that? A The same day, I went to the Second Branch, and they told me that I didn't belong there.

MR. TEITELBAUM: I object to that as immaterial.

THE COURT: Sustained. Strike it out.

BY MR. MC GRATH:

Q On what day did you go to Dr. Gibb? A In 75th Street?

Q Dr. William Travers Gibb, the Society doctor? A When they had the case up in 121st Street.

Q How long after Dr. Bick examined the boy did you go to see Dr. Gibb? A Well, it was Saturday, I guess.

Q I asked you how many days after Dr. Bick examined the boy, did you see Dr. Travers Gibb? A From Wednesday to Saturday.

Q Are you sure of those dates? A Just a moment. I can't tell you exactly. I don't remember, because I was in a very bad condition.

But, when they took the case up in 121st Street Court, they said

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they wanted to have the child examined, and, the same day, I went to the doctor in 75th Street.

Q Well, how long after you saw Dr. Bick, did you go to the Court? A I didn't see, since that time, Dr. Bick.

Q How long after you saw Dr. Bick did you go to the Court? A Wednesday I saw Dr. Bick, and Wednesday night I went to the Second Branch, and they sent me to the Third Branch.

MR. TEITELBAUM: I object to this testimony. It is the operation of the witness's mind, I submit.

MR. MC GRATH: I am trying, the best I can, to fix the time.

THE COURT: Objection overruled.

MR. TEITELBAUM: Exception.

BY MR. MC GRATH:

Q From the Third Branch, where did you go? A I went right home, and then they telephoned down to me that I should go back to the Third Branch.

Q When was that? A The same night.

MR. TEITELBAUM: I assume that your Honor is taking this testimony for the purpose of fixing the time?

MR. MC GRATH: Yes, that is the purpose.

MR. TEITELBAUM: But I think we are now departing from the subject, when she is allowed to state a number of immaterial things that she did.

THE COURT: Objection overruled. And the remarks of counsel will be disregarded by the jury.

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they wanted to have the child examined, and, the same day, I went to the doctor in 75th Street.

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THE COURT: Objection overruled.

MR. TEITELBAUM: Exception.

BY MR. MC GRATH:

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Q When was that? A The same night.

MR. TEITELBAUM: I assume that your Honor is taking this testimony for the purpose of fixing the time?

MR. MC GRATH: Yes, that is the purpose.

MR. TEITELBAUM: But I think we are now departing from the subject, when she is allowed to state a number of immaterial things that she did.

THE COURT: Objection overruled. And the remarks of counsel will be disregarded by the jury.

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MR. TEITELBAUM: I take an exception.

BY MR. MC GRATH:

Q You went to the Third Branch, that night? A Yes, sir.

Q And from there, where did you go? A I went home.

Q Did you take the boy with you? A Yes, sir.

Q And where did you go, the next day?

(Objected to. Overruled. Exception.)

A In the 121st Street Court. And that was on Thursday.

Q Yes. Did you see Dr. Gibb, that day? A The same day.

Q And that was then two days after the boy came home?

A Yes, sir.

Q That you saw Dr. Gibb? A Yes, sir, Thursday.

MR. MC GRATH: That is all.

CROSS EXAMINATION: (None.)

THE COURT: Mr. Stenographer, repeat the testimony of the officer as to the alleged admission testified to by the officer.

(The direct testimony of the officer is read by the direction of the Court, as to what was said by the defendant to the officer in the way of an admission.)

MR. TEITELBAUM: And I would like to have the cross examination also read.

THE COURT: That is not necessary unless a juror desires to have it read. I had the portion repeated for my own information.

MR. MC GRATH: If your Honor please, if we adjourn now

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I will be prepared, tomorrow morning, to make the announcement as to whether the People rest or not, at this point.

THE COURT: Very well, then, we will adjourn now.

(The Court admonished the Jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Wednesday Morning, November 28th, 1917, at 10.30 o'clock.)

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TRIAL RESUMED:

New York, November 28th, 1917.

J O H N J. B E H A N, of the Detective Bureau, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. MC GRATH:

Q Officer, on what day did you cause the arrest of the defendant? A October 24th, 1917.

Q And on what day did you arraign him in the Police Court? A October 26th, 1917.

Q You made the arrest on the 24th? A Yes, sir.

Q And you had a conversation with him on the 24th? A Yes.

Q -You testified yesterday: "The defendant told me that he hadn't done anything to the boy, two weeks previous, or a week previous to when he was accused. He said he was in the house that day between twelve and one, on October 24th; and that he took the boy into bed, and that the boy removed his pants, and that he had placed his penis in the boy's anus". Is that correct? Did you so testify? A I did.

Q Was that correct? A No, sir.

Q In what respect is it not correct? A The defendant's statement to me referred to October 22nd, between twelve and one P. M.

Q Did he refer to October 22nd?

MR. TEITELBAUM: I object to that as tending to impeach the People's own witness.

THE COURT: I will sustained the objection.

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MR. MC GRATH: The officer yesterday made inadvertently the statement as to October 24th, when he meant the 22nd.

BY MR. MC GRATH:

Q Well, state the conversation that you had on October 24th with the defendant.

BY THE COURT:

Q You had the conversation with him on October 24th; is that right? A I did.

Q Now, state what you said, and what he said. A I asked him if he was in his home on October 22nd, between twelve and one P. M., and he said he did.

Q What else did you say to him? A I asked him if he heard the boy, Harry Adlerblum, ask him to tell the truth, and he said he did. And then I asked him if the little boy said --

BY MR. MC GRATH:

Q No. State just what the defendant said to you at that time, officer.

MR. TEITELBAUM: I object to that as already answered.

(Overruled. Exception.)

A The defendant told me that he was in his home, on that day, on October 22nd, between twelve and one P. M., and Mrs. Goldstone was out; that Harry Adlerblum was there, and that he took the boy into the room, and the boy removed his pants and that he had placed his penis in the boy's anus.

BY THE COURT:

Q Now, on what day did you arrest him? A On the 24th.

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Q What time of the day? A About 8 P. M.

Q This conversation referred to the 22nd then? A Yes, sir.

Q Because you had him in custody on the 24th? A Yes, sir.

BY MR. MC GRATH:

Q And you had him in Court on the 25th? A Yes, sir.

Q Did you arrest him on the 24th? A Yes, sir.

Q And did you arraign him on the 25th? A Yes, sir.

Q Did you go to Dr. Gibb? A No, sir.

MR. TEITELBAUM: Objected to as immaterial.

CROSS EXAMINATION BY MR. TEITELBAUM:

Q Officer, you testified in the Magistrates' Court, did you not? A Yes, sir.

Q Have you read the testimony that you gave in the Magistrates' Court? A I have not.

Q Since testifying here yesterday, has the testimony which you gave on the stand here, yesterday, been exhibited to you?

A I have seen it, yes.

Q Who showed it to you? A Mr. McGrath.

Q And who made the suggestion that you change your testimony?

A I told Mr. McGrath --

Q I haven't asked you that. (Question repeated).

MR. MC GRATH: I ask that he be allowed to finish his answer.

THE COURT: Yes. Answer the question, officer.

MR. TEITELBAUM: I withdraw the question.

BY MR. TEITELBAUM:

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Q Did anyone advise you to change your testimony? A No, sir; I wanted to change it myself. I understood that my statements referred to the 22nd of October.

Q And you want to make that statement as of the 22nd; is that correct? A Yes, sir; that's what it refers to.

Q But in yesterday's testimony you made reference to the 24th?

MR. MC GRATH: Objected to. That was not the testimony.

MR. TEITELBAUM: Question withdrawn.

Q Now, Mr. Behan, when did this conversation that you have now given to the jury actually take place; on what day? A On October 25th.

Q Did you just say that it took place on the 24th? A No, I didn't say that it was on the 24th.

Q Did you tell the Court and Jury just now, that this conversation occurred on the 25th? A I didn't give the date.

Q Did you state that it took place on the 24th? A That particular conversation, no, sir.

Q Did this conversation take place between you and the defendant after you had been to see Mrs. Goldstone? A I hadn't been to see her.

Q Do you state now that you had not been to see Mrs. Goldstone? A Yes, sir.

Q Did you swear in the Magistrates' Court that you had

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been to see Mrs. Goldstone? A I said I had been there.

Q And you state now that you had not been there? A Yes, sir; I did at that time.

Q Never mind. You swore falsely in the Magistrates' Court? A I did not.

Q Did you see Mrs. Goldstone on the night before this statement is alleged to have been made? A No, sir.

Q When did you see her? A On Friday, the 26th, I went to serve a subpoena there.

Q Did you tell Harry, the defendant in this case, on the 25th, that you had been to see Mrs. Goldstone? A I did.

Q You told him so? A Yes, sir.

Q You did tell him so? A Yes, sir.

Q As matter of fact you had not been to see her? A No, sir.

Q What was your purpose of telling him, on the 25th, that you had been to see her, when you hadn't been? A On account of the actions of the defendant's mother and aunt towards the mother of the complaining witness, Harry Adlerblum.

Q Now, will you please tell the jury what the actions of the defendant's mother and aunt had to do with your saying that you had gone to see Mrs. Goldstone, when you hadn't? A In the Third Branch Detective Bureau, the aunt and mother of the defendant was in the hallway, and when I told the complainant's mother, Mrs. Adlerblum, to go home, she was accosted by them, and they spoke in Jewish to her, and I said to Mr. Adlerblum, "What did they say to you?" And she said, "They wanted me to drop the case

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and not make a charge against the boy."

Q And what had that to do with your telling the defendant, while in your custody, that you had been to see Mrs. Goldstone, if you had not been there, the night previous? A The defendant had stated that the Goldstones didn't know anything about his actions.

Q He stated that on the 25th? A On the 24th.

Q But this statement that you are alleged to have made to Harry, the defendant in this case, that you had been to see Mrs. Goldstone, whereas you had not been to see her, as matter of fact, is alleged to have taken place on the 25th, isn't it?

A Yes.

Q Then, if you had already told him that you had been to Mrs. Goldstone on the 24th, and told him what Mrs. Goldstone is alleged to have told you, he would have known that you were there, wouldn't he? A Yes.

Q Then what would be your object in telling him that you were there, if you hadn't been there? A I had believed that the defendant was guilty of this crime.

Q And, because of your belief that the defendant was guilty of this crime, is the only explanation that you give for telling the defendant that you were there on the 24th, when, as matter of fact, you now state that you were not there on the 24th -- is that your best explanation? A No, it is not.

Q Well, what is your best recollection? A That I had a conversation with the defendant, if I am allowed to state what I

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said to the defendant.

Q On what day? A On the 24th.

BY MR. MC GRATH:

Q Go ahead and give the conversation.

BY MR. TEITELBAUM:

Q I am asking you, Mr. Behan, and you understand English as well as I do, why, on the day that the defendant is alleged to have made this alleged admission, on the 25th, whether or not your saying that you were going to Mrs. Goldstone, or had been there, what that had to do with the conversation on the 24th?

A Because the defendant had stated that he thought the Goldstones were going to help him.

Q And did you tell the defendant on the 25th that Mrs. Goldstone thought he did it? A I did.

Q Now, let me read to you your conversation in the Magistrates' Court -- your testimony -- as to what you told the defendant. You remember being asked this question:

"Q What did he say in response to that? A He said, 'No, I didn't.' In response to the question asked by the little boy, he said, 'No, I didn't.'" A Yes.

Q And the next question:

"Q He denied it? A Yes. In going down to Headquarters with the prisoner, on the night of October 24th, he asked me was I going to Harlem that night, and I told him I was. He says, 'You go and see Mrs. Goldstone, and tell her everything that happened.' And he said, 'If any object is in front of me,

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I can't see it.' And I asked him if he didn't do it, and he said, 'You go back and see Mrs. Goldstone, and let me know what she says.'"

Did you so testify? A I did.

Q And did you also testify as follows:

"On the morning of the 25th, coming to Court with the prisoner, I told him I had been to see Mrs. Goldstone, and he asked what she said, and I said, 'Mrs. Goldstone said that you were a good boy, and she didn't think you would do that.'"

Did you so testify? A Would you read that question again, counsellor, please?

MR. MC GRATH: Now you are reading only a part of the answer. Let him read all of the answer.

MR. TEITELBAUM: No, not at all. I will read just as I please, as I have always been reading since I have been a member of the Bar.

THE COURT: Now, the suggestion of Mr. McGrath was put to you in a very quiet way, and there is no occasion for getting excited. The zeal of counsel does not warrant him in exciting himself. You must conduct yourself properly in a Court of Justice. Now, the officer said that he could not grasp that long question, the matter which you read from the record, and asked to have it repeated, and he is entitled to have it re-read.

MR. TEITELBAUM: If I may say, in justification of myself, I will sacrifice my modesty by saying that my

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conduct towards the Court and counsel has been passed upon in many cases that I have tried very favorably, and I am trying to make the questions as brief as possible. Mr. McGrath wants me to ask questions that cover three or four pages, and I am not discourteous and I am not trying to be.

THE COURT: Well, bring to his attention the precise thing that you want the witness to answer; and, if the District Attorney thinks the entire matter should be read, the opportunity will be afforded to him to do so. There is no use of getting excited in a trial. Calmness and dignity are essential to a trial in a court of justice.

MR. TEITELBAUM: Well, that is just what I meant to say when I spoke to Mr. McGrath.

MR. MC GRATH: To save time, and to get at the truth, I merely asked that the whole question and answer be given, so that the witness's memory may be refreshed.

MR. TEITELBAUM: Now, I want to contradict this witness in important parts of this question, which is a very long question.

THE COURT: Proceed.

BY MR. TEITELBAUM:

Q Now, Mr. Behan, did you testify that Mrs. Goldstone said -- did you testify that you told the defendant the following:

"Mrs. Goldstone said that you were a good boy, and she didn't think you would do that"? A Yes, sir.

Q Did you state that at the last examination in the Magis-

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trates' Court? A Yes.

Q And now you state to the jury that you told Harry, on the 25th, that Mrs. Goldstone said he had done it? A I so testified in the Magistrates' Court.

Q Was your testimony in the Magistrates' Court accurate as to the conversation with Harry, on the 25th, or is the statement that you now make true?

MR. MC GRATH: I object to that. That is not the proper form in which to ask the question.

THE COURT: I will allow it. Overruled.

A I had told Harry that I had been to his house to see Mrs. Goldstone.

BY MR. TEITELBAUM:

Q I am not asking you what you told Harry. I am asking you --

THE COURT: Are you trying to show that this officer, by telling Harry that he spoke to his aunt, made that statement for the purpose of deceiving this defendant, in order to get him to make a possible admission?

MR. TEITELBAUM: No, sir. I am merely attacking the credibility of the officer, with whose testimony it is sought to establish that which is important in this case, and that is corroboration. I don't want to characterize his testimony, because I have it down in black and white.

THE COURT: Well, did you read that particular portion of the record?

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MR. TEITELBAUM: Yes, sir; I have read that into the record, and he now says that he testified to that at the other Court, and I have another important contradiction that I want to get into, before I am through.

THE COURT: Now, one thing at a time. Read the question by which you want to impeach the testimony, that particular portion.

BY MR. TEITELBAUM:

Q Did you testify in the Magistrates' Court as follows, among other things:

"On the morning of the 25th, coming to Court with this Prisoner, I told him I had been to see Mrs. Goldstone, and he asked me what she said. I said, 'Mrs. Goldstone said that you were a good boy, and she didn't believe you would do that.'"

Did you make that statement in the Magistrates' Court?

A I did.

Q And did you make the statement in this case that you told Harry that Mrs. Goldstone thought he did it? A I had answered you before that my testimony --

Q Now you haven't answered my question.

THE COURT: Just a moment. Pardon me. Is it your contention that, in the Magistrates' Court, this officer gave testimony entirely different from what he gave in this Court?

MR. TEITELBAUM: Yes, sir.

THE COURT: Now, is that your point?

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MR. TEITELBAUM: Yes, sir.

THE COURT: And that is a very simple matter. In what respect do you claim that his testimony differs?

MR. TEITELBAUM: In this respect, sir. In the Magistrates' Court --

THE COURT: I know what the testimony in the Magistrates' Court was. Now, in what respect do you claim that his testimony here differs from that?

MR. TEITELBAUM: Why, he tells your Honor that on the 25th, Harry made certain admissions as to what he is alleged to have done on the 22nd, and I have the very statement of what Harry is alleged to have told him on the 25th, as to what he is alleged to have done on the 22nd, I have it here, and I can read it to you, but I would rather question him on it, because I told you very frankly my opinion --

THE COURT: I do not care or want to hear your opinion.

MR. MC GRATH: If your Honor please, I asked him to read the whole thing, so that we will have the two confessions, the one he testified to yesterday, and the one that occurred on the morning he was arraigned, and then we can compare them.

THE COURT: Now, is there anything in the testimony on the Magistrates' Court showing that the officer said to this defendant that his aunt told him that she thought Harry did it; is there any such testimony?

MR. MC GRATH: from the examination of the Magistrates'

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record that I have made, I don't find it. I know that he merely said that he had seen Mrs. Goldstone, when as matter of fact he had not; and then comes the testimony as to the confession.

THE COURT: Now, both of you gentlemen miss the point. Let me clarify it, because it is important for the jury to get a proper understanding of this situation. This witness claims that as matter of fact, he never saw Mrs. Goldstone?

BY THE COURT:

Q Is that right? A Yes, sir.

MR. MC GRATH: Not until Friday, when he went to serve a subpoena.

THE COURT: And that his purpose in making the statement to the defendant as to what Mrs. Goldstone said or thought, thought a deception, was to elicit a statement from the defendant?

MR. MC GRATH: Yes, sir; that's the point.

MR. TEITELBAUM: Now, I am very much interested in the outcome of this case --

THE COURT: pardon me. I am much more interested than you are. Now just answer my question. Is it your contention that the record of the Magistrates' Court fails to show that this witness testified in that Court that he saw the aunt, where in fact he did not see her?

MR. TEITELBAUM: I think that the testimony, without being too caustic, without characterizing it as absolutely

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untrue, will show that he actually saw the aunt on that night, but I don't want to be too certain on that point, but that was the actual point, that he did see the aunt on that night. But the important point is the fact that when a witness --

THE COURT: Just a moment. I cannot read this record from the Magistrates' Court, and listen to you at the same time. Now proceed.

BY MR. TEITELBAUM:

Q Mr. Behan, did you make any memoranda of anything that you did in this case, at about the 25th? A I did not -- the 25th?

Q Yes? A Yes. That the prisoner was held in the Fifth Court by Magistrate Breen, for examination on the 27th.

Q What I am trying to get at is this: was your recollection of what transpired better in the Magistrates' Court than it is today? A No.

Q You testified from memory in the Magistrates' Court, did you not? A Yes.

Q And you are testifying from memory today? A Yes.

Q And have you told the jury substantially everything that you remember having transpired on the 25th? A I have.

Q You have? A I have.

Q Up to the time of the trip down to Headquarters on the 25th -- now, don't shake your head. Listen to my question.

A I didn't go down to Headquarters on the 25th.

Q Then I will withdraw the question. Up to the morning

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of the 25th, when this confession, to which you have testified this morning, took place, this defendant steadily maintained his innocence; is that correct? A Yes, he denied it.

Q And the first gleam of a confession that you received was on the 25th; is that correct? A It is.

Q And that confession which you received on the 25th was received by you, in form or in substance, in the manner in which you have testified to this morning; is that correct? A Yes, sir.

Q And it was different from that which you testified to yesterday?

MR. MC GRATH: I object to the form of the question.

THE COURT: I will allow it.

A No.

BY MR. TEITELBAUM:

Q It is the same thing? A As far as the dates is concerned --

Q I am talking about -- A The only difference is the date. The substance is the same.

Q The substance is the same? A Yes.

Q And is it, in form or substance, analogous to the testimony which you gave with respect to that matter in the Magistrates' Court, if you remember?

(Objected to. Allowed.)

A It is.

Q Did you testify yesterday as follows:

"The defendant told me that he hadn't done anything to the

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boy two weeks previous--"

THE COURT: No, you went over that yesterday. You question him about that on cross examination.

MR. TEITELBAUM: No, sir; I only questioned him so as to impeach him as to whether he went to see Mrs. Goldstone or not.

THE COURT: Very well. Proceed.

BY MR. TEITELBAUM:

Q Did you testify to this yesterday: "The defendant told me that he hadn't done anything to the boy, two weeks previous, or one week previous, to when he was accused. He said he was in the house on that day, between 12 and 1, on October 24th, and he took the boy into bed, and the boy removed his pants, and he placed his penis in the boy's anus?" A I did. But I testified to that as of October 22nd, not the 24th.

Q Did you say yesterday the other things that you say today, he told you at that time?

MR. MC GRATH: I object to that. I object to the form of the question.

THE COURT: Sustained. He says that he testified to it substantially as he did yesterday, except as to the date. And I called the District Attorney's attention to the fact that the indictment charged October 22nd. That is the point.

MR. TEITELBAUM: Doesn't it suggest itself to your Honor that he testified, this morning, to considerably

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more than he testified yesterday? I can't recall the exact testimony, but I think he went into a great deal more detail.

THE COURT: I do not think so, as you ask me the question.

MR. TEITELBAUM: At least we have got this much, that he says he testified substantially the same way in the Magistrates' Court, and we'll come to that now.

BY MR. TEITELBAUM:

Q Did you testify in the Magistrates' Court as follows -- in the Magistrates' Court:

"I questioned him about the night, two weeks ago, that the little boy said he done it, and he said he didn't. He said, 'If I done it that night, something on the 22nd, that I don't remember. But I did sleep with the little boy in bed.'"

Did you testify to that in the Magistrates' Court?

MR. MC GRATH: And I submit that it is not in any way contradictory of the testimony given here.

MR. TEITELBAUM: That is for the jury to determine.

THE COURT: Now, one moment. Let me look at that record for a moment.

MR. TEITELBAUM: Yes, sir.

THE COURT: I will allow this evidence. I overrule the objection.

BY MR. TEITELBAUM:

Q Did you so testify?

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THE COURT: In other words, it is clear from the Magistrates' Court minutes, that as to the 22nd, the defendant said, "I don't remember." I think that is quite clear.

MR. MC GRATH: Well, I want the whole answer, and then it will be clear.

THE COURT: Now read the last three or four lines.

MR. TEITELBAUM: "I questioned him about the night, two weeks ago, that the little boy said he done it, and he said he didn't. And he said, 'If I done it that night, something on the 22nd, that I don't remember, but I did sleep with the little boy in bed.'" Did you say anything about that today or yesterday?

THE WITNESS: About the 22nd I did.

THE COURT: Now, counsellor, I do not like to criticise you, but there is such a thing as overtrying a case. This is a very pertinent part of the testimony, which should have been asked of the witness before, without going around and around it for an hour.

MR. TEITELBAUM: Well, I will read the entire answer, your Honor.

THE COURT: Now, officer, I want you to pay very close attention. Give me the record.

BY THE COURT:

Q You testified here yesterday: "The defendant told me that he hadn't done anything to the boy two weeks previous."

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And the record in the Magistrates' Court is to this effect:

"I questioned him about the night, two weeks ago, that the boy little boy said he done it, and he said he didn't." Now, that is correct? A Yes, sir.

Q Now, you testified here yesterday further: "he said that he was in the house that day, between twelve and one, on October 24th." And now you say that you meant the 22nd?

A Yes, sir.

Q "He said that he took the boy into bed, and that the boy removed his pants, and that he had placed his penis in the boy's anus." In the Magistrates' Court did you make this answer:

"He said, 'If I done it that night, something on the 22nd, that I don't remember, but I did sleep with the little boy in bed.'"

A I did.

Q Now, will you be good enough to reconcile your testimony of yesterday and today, with that given in the Magistrates' Court?

A The testimony just referred to, that I gave in the Magistrates' Court, was told to me by the defendant on October 24th, on the way to Headquarters.

Q But you say, in the testimony in the Magistrates' Court, that the defendant said that he didn't remember doing anything to the boy on the 22nd, that he said, if he did do anything that night, he didn't remember it, but he did sleep with the little boy in bed, and in this court you say that he took the boy to bed between 12 and 1, on October 22nd, and that the boy removed his pants, and he placed his penis in the boy's anus. In other words,

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here your testimony is direct, and in the Magistrates' Court it was ambiguous. There was declaration in the testimony to the effect that the defendant told you that he inserted his penis into the boy's anus. All that he did say to you there was that, prior to October 22nd, he denied that he had anything to do with the boy, and with reference to October 22nd, he said, "If I done it that night, something on the 22nd, that I don't remember, but I did sleep with the little boy in bed." A I did tell Magistrate Breen, your Honor, as a witness in the Fifth District Court, that the defendant told me that he placed his penis in the boy's anus, and at that point Magistrate Breen told the counsel, "That's enough," and sent the case downtown. I did testify to that fact in that Court.

Q But I have read to you your testimony. A I know that I told the Magistrate that.

MR. MC GRATH: And it is in the record, your Honor. It is in the center of that statement, of that question, or that answer, that counsel for the defendant skipped that part of it, and goes to the last part of the statement, or the officer's testimony on that point. He read the first part of the answer, and the last part, and not the center part.

THE COURT: Then you may read it in your redirect examination.

MR. TEITELBAUM: No. I'm going to read it all. Now, let me have it. I won't stand any bluff from anyone.

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MR. MC GRATH: I intend to read it in my redirect examination.

MR. TEITELBAUM: No, I will read it.

THE COURT: One moment. Are you through with the witness?

MR. TEITELBAUM: Yes.

THE COURT: Now then, return to your place at table for the counsel for the defendant.

MR. TEITELBAUM: I'm not going to take any guff from you or anybody else.

THE COURT: Now, it is a rarity for me to cite counsel for contempt of Court, but I cite you now to appear before me on the charge of Contempt of Court, at the end of this case. I have repeatedly warned you to refrain from conducting yourself in a manner bordering constantly on contempt of Court, and constantly overstepping the proper bounds of conduct.

MR. TEITELBAUM: But he said, "I'll read the question," but before I could answer your Honor. He interrupted me.

THE COURT: No, that is not true.

MR. TEITELBAUM: It may be untrue, but that is my impression.

THE COURT: No. You had concluded with the witness, and the District Attorney was about to reexamine on the redirect examination, and the Court had questioned this witness, and the District Attorney wanted to read from the

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record, beginning the redirected examination.

MR. TEITELBAUM: But I wasn't through with the witness.

THE COURT: You said you were. Are you through with the witness now?

MR. TEITELBAUM: No, sir.

THE COURT: Now, turn over the papers to counsel, Mr. McGrath. And get back to your place at that table, and don't approach this witness stand again. Now, send for Mr. Benke, and have him prepare papers for commitment. I warned you several times to conduct yourself respectfully and decorously.

MR. TEITELBAUM: I have tried to.

THE COURT: Go on with your examination.

BY MR. TEITELBAUM:

Q Did you also, on that day, in the Magistrates' Court, testify that the defendant said: "Why did you tell me that you were not with the boy? Well, he said, 'I didn't want to tell.'" Did you say that in the Magistrates' Court? A Yes.

Q Did you also say, "He said, 'I was hard up, that day, at one o'clock, and I wanted to go with a woman.' And he said, 'I got one of them spells on me, and the little boy went to bed, and he took down his pants,' and he said, 'I got on top of him.'" Did you say that in the Magistrates' Court? A yes, sir.

Q Did you say a word about that yesterday or today?

A I did not.

Q Was it true when you said it in the Magistrates'

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Court? A It was.

Q Or untrue? A True.

Q You told this jury that you had testified, in form and substance, to everything that actually took place? A Most of the conversation, as I remember it.

Q Wasn't this important? A It was.

Q But you didn't remember this conversation? A No, I didn't.

Q And did you remember that you said in the Magistrates'

Court: "If I done it, that night, something on the 23rd, that I don't remember."

THE COURT: He has answered that several times.

Q Now, isn't it a fact that, on the night of the 24th, you actually went to Mrs. Goldstone's house? A I did not -- to arrest him, yes.

Q Officer, I didn't ask you what purpose you went there for, on the night of the 24th. You have been maintaining here that you were not there on the night of the 24th, and you say you were not. Were you there or not? A I arrested him at the home of Mrs. Goldstone, his residence.

Q I didn't ask you that. You have been maintaining here, all the morning, and all yesterday, that you were not there on the night preceding the 25th. A I went there to arrest him.

Q Why did you deny that you were there? A I didn't deny it.

THE COURT: Your question referred to a conversation with Mrs. Goldstone.

THE WITNESS: You asked me about a conversation with

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Mrs. Goldstone.

MR. TEITELBAUM: That's all. And I want to tell you that the reason I have asked this question is, your Honor --

THE COURT: Now, take your seat. I don't want to hear you further, until the proper time. The counsel will note that the counsel's demeanor was such, when the Court instructed him to sit down, as to show utter contempt of Court.

MR. TEITELBAUM: Now, I respectfully resent that. I am not showing any contempt.

THE COURT: Well, I observed your conduct when you sat down.

MR. TEITELBAUM: Well, I know how I feel about it.

THE COURT: It is immaterial how you feel. But I will teach you, later, that you must behave yourself properly in a Court of justice.

MR. TEITELBAUM: And I stoutly maintain that I am showing no contempt.

THE COURT: And, again, gentlemen, I instruct you that the conduct of counsel must not in the slightest degree affect the case of his client. Proceed.

REDIRECT EXAMINATION BY MR. MC GRATH:

Q Was the following question asked you, and did you make this answer:

"Q He denied it? A Yes. In going down to Headquarters with the prisoner, on the night of October 24th, he asked me

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was I going back to Harlem that night, and I told him I was. He said, 'You go to see Mrs. Goldstone, and tell her everything that happened.' He says, 'I get excited sometimes, and I boil inside.' And he said, 'If anybody object is in front of me, I can't see it.' And I asked him if he didn't do it, and he said, 'You go back to see Mrs. Goldstone, and let me know what she says.' On the morning of the 25th, coming to Court with the prisoner, I told him I had been to see Mrs. Goldstone, and he asked me what she said. I said, 'Mrs. Goldstone said that you were a good boy, and she didn't think that you would do that.' I said, 'Were you in the house with the little one that afternoon at one o'clock?' And he says, 'Yes,' and I said, 'Why did you tell me that you were not with the boy?' 'Well,' he said, 'I didn't want to tell you. I was hard-up that day at one o'clock, and I wanted to go with a woman.' And he said, 'I got one of those spells on me, and the little boy went to bed, and he took down his pants,' and he said, 'I got on top of him.' And I asked him if he had put his penis in, and he said he did, and I asked him if he had come, put anything in the boy, and he said he did. And I asked him how many times he had done it, and he said he only did it, that afternoon. I questioned him about the night, two weeks ago, that the boy said that he said it, and he said that he didn't. He said, 'If I done it that night, something on the 22nd, that I don't remember, but I did sleep with the little boy in bed.'"

You made that answer in the Magistrates' Court? A Yes, sir.

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RECROSS EXAMINATION BY MR. TEITELBAUM:

Q Now, this testimony --

MR. MC GRATH: I wasn't through.

MR. TEITELBAUM: I beg your pardon. I thought you were through.

BY MR. MC GRATH:

Q That conversation took place on the morning of the 25th?

A Yes, sir.

Q After you had arrested the defendant at Mrs. Goldstone's, did you go back there again afterwards? A On October 26th.

Q I mean, did you go back before the conversation of the 25th with the defendant, at Court? A I did not.

Q And the defendant requested you to go back, did he not? A Yes, sir.

Q Was the mother of the child in the Third Branch on the 24th? A Yes, sir.

Q And that was Wednesday? A Yes, sir.

RECROSS EXAMINATION (Continued) BY MR. TEITELBAUM:

Q Now, the answer that was read to you by Mr. McGrath, with respect to what the boy told you he had done, two weeks previous, had nothing to do with what he told you he did on the 22nd; did it? A No.

Q And the only time the entire answer refers to what the boy -- withdrawn. But this entire conversation concerning which Mr. McGrath has read to you from the record, took place on the morning of the 25th, didn't it? A Yes, sir.

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Q And you told the Court and jury, yesterday and today, everything that took place on the morning of the 25th; is that correct?

MR. MC GRATH: I object to that as already asked and answered.

MR. TEITELBAUM: Very well then. I will withdraw any question that you object to.

BY MR. TEITELBAUM:

Q You didn't tell them that, did you? A Which, counsellor?

Q What Mr. McGrath just read to you; you didn't tell the Court and jury about his boiling over, and wanting to have a woman?

A I did testify, yesterday, that the boy said he boiled inside.

Q Did you say yesterday, that the boy said he wanted to have a woman that day? A No, I didn't.

Q And the only thing he said to you on that day, about what took place on the 22nd, is the last sentence that Mr. McGrath read to you; is that correct?

MR. MC GRATH: I object to that. I object to his separating the last sentence from the whole of the answer. We have had the whole answer read, and have gone over and over it.

THE COURT: Objection sustained.

BY MR. TEITELBAUM:

Q Officer, the conversation that you had with the defendant, according to your testimony, about him saying to you that he boils over, did that take place on the 25th? A On the 24th.

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MR. MCGRATH: Yes, he testified that yesterday.

I think we have gone far enough on that subject.

BY MR. TEITELBAUM:

Q And that which Mr. McGrath has now read to you, in the former of your answer given in the Magistrates' Court is what you are supposed to have heard from the defendant on the 25th; - is it not? A No, both te 24th and 25th. The answers that the defendant made to me, that Mr. McGrath just read, refer to the 24th and 25th.

MR. MC GRATH: It was all gone into, yesterday.

THE COURT: Yes, it is in the record, on page 4r

MR. TEITELBAUM: Well, I am developing my theory of cross examination.

The COURT: Proceed.

MR. TEITELBAUM: Don't laugh at me, Mr. Behan. There is nothing to laugh about.

THE WITNESS: I am not laughing at you.

BY MR. TEITELBAUM:

Q Do you remember me asking you, a while ago, when was the first gleam of a confession that you got from the defendant, and your answering that it was on the morning of the 25th?

& MR. MC GRATH: If your Honor please, I object to that as not proper recross examination, glimpses of confessions and so on.

THE COURT: Yes. The next question.

BY MR. TEITELBAM:

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Q Then the conversation didn't occur on the 24th? A On the 24th and 25th.

Q But you said, this morning, that the confession occurred on the 25th? A The defendant told me he had placed his penis in the boy's anus; he told me that on the 25th.

Q Did I ask you when you had the first gleam of a confession, and you answer me, in form or substance, that it was not until the morning of the 25th? A I did.

Q And then why did you testify yesterday that on the 24th, he told you that he boils over, and asked you to go to Mrs. Goldstone?

MR. MC GRATH: I object to that. That has been gone over half a dozen times, I think, at least.

THE COURT: I will sustain the objection. You have covered that ground, counsellor.

BY MR. TEITELBAUM:

Q Now, if you had this confession on the 24th and on the 25th, did you make any effort, as an officer of the law, to reduce this confession to writing?

MR. MC GRATH: I object, if your Honor please.

THE COURT: No. That is proper. He may asked him that question. Objection overruled.

A I did not.

Q Have you ever gotten written confessions? A I have not.

Q Do you know what they are? A I do.

Q Do you know that they are gotten? A If the defendant

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wants to make a confession.

Q As an officer, you usually try to get one, don't you?

A No, sir; not a written one.

Q Did you ever try? A No, sir.

Q Do other officers try?

(Objected to. Sustained.)

Q Did you ask the defendant for a written confession?

A No, sir.

Q Was it important to get one? A I didn't think so.

(Objected to as immaterial. Sustained.)

MR. TEITELBAM: That's all.

MR. MC GRATH: The People rest. That is the People's case.

THE COURT: The People rest.

MR. TEITELBAUM: Then, with due apologies to the Court for any transgression upon its dignity, I want to move for a dismissal, on these grounds:

The defendant respectfully moves to dismiss the indictment, and for the discharge of the defendant from custody, upon the ground s that the People have failed to prove the commission of the offense charged in the indictment on the date, time and place alleged there in, by this d efendant.

And, further, upon the ground that there is no competent, probative or material evidence tending to establish the commission of this offense by the defendant, or of any offense by him.

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Upon the further ground that there is no competent or probative evidence of corroboration.

And upon all the grounds, and the authority of the People against Deshery, 74th N. Y. Supplement, 761; on the authority of the People against Bahr, 77 N. Y. Supp., 443; on the authority of the People against Mayer, 117 N. Y. Supp., 520; upon the authority of the People against Lowden, 153 N. Y., page 10.

THE COURT: Do you mean the Ledwin case?

MR. TEITELBAUM: Yes, sir; I suppose it is the Ledwin case.

THE COURT: The motion is denied. Those cases have no application to the case at issue here.

MR. TEITELBAUM: Will your Honor hear me on the question?

THE COURT: No. I am familiar with those cases. Motion denied.

MR. TEITELBAUM: It is the result of some study with me in this matter.

THE COURT: I am constantly making studies of cases that come before me.

MR. TEITELBAUM: Don't your Honor think that the Ledwin case applies, owing to the complainant's mental condition?

THE COURT: No. In the Deshery case there was a half-witted youth.

MR. TEITELBAUM: I understand that. Is your Honor

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at all satisfied by the corroboration offered here?

THE COURT: That will be for the jury. As matter of law, I hold that there is a case for the jury to pass upon.

MR. TEITELBAUM: Will your Honor permit me to quote from this decision, with respect to the probative value of the testimony offered on this trial?

THE COURT: Yes.

MR. TEITELBAUM: (Reading.) I am reading from the Deshery case. (Reads.)

And I quote by analogy that, if your Honor decides that the testimony of the child is of sufficient probative value, that he can understand the nature of the accusation he makes, then I think the whole spirit of that sentence that I have read is quite appropriate.

THE COURT: Undoubtedly there was no corroboration in the Deshery case, but that does not apply here.

MR. TEITELBAUM: Now I am raising the point with your Honor, in your wide discretion as to what is and what is not competent and probative testimony, could we with safety and with justice rule that the testimony of the officer in this case, as matter of law, is sufficient to satisfy the conscience, -- is of sufficient credibility or probative weight to satisfy the conscience of this Court that it corroborates the complainant.

THE COURT: I disagree with you. It is a matter

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for the jury. I shall hold, as a matter of law, that there is a case here for determination by the jury. I deny your motion.

And, gentlemen of the jury, in denying the motion, you must not infer that the Court expresses any opinion as to the guilt or innocence of the defendant. The Court merely rules, as matter of law, that there is a question of fact for you to pass upon in this case.

The weight of the testimony of the witnesses, and their reliability, are matters for you to determine.

MR. TEITELBAUM: May I proceed further on the question of whether or not it was proper for me to address this application to the conscience of the Court, on the question of whether or not your Honor must be satisfied as to whether or not the testimony that is offered as corroborative must be testimony which tends to connect the defendant with the commission of the offense, and that gives your Honor the power --

THE COURT: I shall charge the jury that the testimony in this case must support the complaining witness, which is a stronger term than "tend".

MR. TEITELBAUM: Doesn't your Honor think that you could disregard the testimony of the officer with safety, who, I think, openly and unquestionably makes false statements?

THE COURT: That is a matter of argument for you to address to the jury. I am holding, as matter of law, that

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there is a case to submit to the jury here.

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MR. TEITELBAUM: I take an exception.

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THE DEFENSE.

H A R R Y R O S E N S W E I G, of 104 Division Street,
Brooklyn, the defendant, being duly sworn, testified as
follows:

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

AFTER RECESS:

DIRECT EXAMINATION BY MR. TEITELBAUM:

- Q What is your first name? A Harry.
- Q Where do you live? A 104 Division Avenue, Brooklyn.
- Q How old are you? A Sixteen years of age.
- Q Where were you born? A In the United States.
- Q Did you go to Public School? A Yes, sir.
- Q When did you leave Public School? A When I graduated.
- Q What school did you graduate from? A P. S. 20.
- Q Where is that? A It's in Rivington, corner of Stanton.
- Q And how many years ago did you graduate from that school?
- A About two years ago.
- Q And, after you graduated from that school, what did you do?
- A I went -- my uncle took me into his business.
- Q Who is your uncle? A Mr. Morris Goldstone.
- Q Is he in Court now? A No, sir.

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Q Was he here this morning? A Yes, sir.

Q He is probably outside? A Yes, sir.

Q And what business is he in? A In the storage business.

Q Where is his place of business? A No. 2 East 115th Street.

Q And have you lived with him? A Well, when it is too late to go home, and when we were busy, and he wanted me to help him during the business hours, I didn't have to go home, because he was my uncle, and I could stay at his house.

Q How far was the place that you worked from where you lived?

A Well, I lived in Brooklyn, and that would take an hour and a half or so to get home.

Q And what did you do with your uncle? A I just made estimates, and anything he don't understand I explain to him.

Q Did you work on the wagon at all? A No, sir. If I collected any bill, I just collect them.

Q What did he give you a week? A Eight dollars a week and my board.

Q Have you any other brothers? A No, sir.

Q Are you the only child? A No, sir; I have three sisters.

Q Are you the oldest? A No, sir; I've got a married sister.

Q Well, you are the oldest working child at home? A Yes, sir.

Q And what do you do with that eight dollars a week that you get? A Give it to my father and mother.

Q How long have you been doing that? A For that last two years.

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Q And what does your mother do for a living? A She is a janitor.

Q In the house where you live in Brooklyn? A Yes, sir.

Q And does your father work? A Yes, sir.

Q You are somewhat responsible for the support of your family, are you not?

MR. MC GRATH: I object to that, if your Honor please.

THE COURT: He may give a brief history of his life.

BY MR. TEITELBAUM:

Q Now, Harry, have you ever been mixed up in any trouble in your life before? A No, sir.

Q Has anybody made any accusation against your honesty?

A No, sir.

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

Q Do you know what it is to be either moral or immoral?

A Yes.

Q You know what morals are? A Yes, sir.

Q You know the charge again you here today? A Yes, sir.

Q You know what you are charged with? A Yes.

Q Has anyone ever made a statement accusing you of a similar offense as that before? A No, sir.

Q Were you ever charged with any such act previously?

A No, sir.

MR. MC GRATH: I object to this line, if your Honor please.

the court; Not charged, but if he was ever convicted.

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BY MR. TEITELBAUM:

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

Q Now, previous to the 22nd day of October, had you ever committed any acts of immorality of the kind charged here?

A No, sir.

Q Can you remember the 22nd of October? A Yes, sir.

Q Do you remember well? It isn't so far back that you can't remember; is it? A No.

Q Did you, on the 22nd day of October, take the little boy who was here yesterday, Harry Adlerblum, to a room, or to any enclosure, or any apartment, and do to him what he said yesterday you did to him? A No, sir.

Q Have you ever done that to him? A No, sir.

Q Have you ever done it to any person? A No, sir.

Q Does your blood ever boil over you in such a way that you have to do that to any person? A No, sir.

Q Did you ever state to officer Behan that your blood boils over you, and you can't see things in front of you? A No, sir.

Q You are not sick in any way, are you, Harry? A No, sir.

Q Do you claim that you are like any other man, any other boy of your age? A Yes, sir.

Q Did you ever give Harry two cents, after you had had -- did you ever give him any money at any time that you had had intercourse with him of the kind that he complains you had with him? A No, sir.

Q Now, how long have you known Harry? A I have known him

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for about a year and one month.

Q What kind of a boy is Harry?

MR. MC GRATH: I object to that, what kind of a boy Harry is.

THE COURT: Sustained.

MR. TEITELBAUM: I will withdraw the question.

Q How did you first become acquainted with Harry? A While in the employ of my uncle, this boy was in the custody of my aunt, to be taken care of, which she did; and, of course, I used to see the boy every day in the week then. When my aunt went away, he used to get up in the morning and dress, and once in a while he would go to school, after getting his breakfast, which can be proved.

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

THE COURT: Objection sustained.

MR. TEITELBAUM: I withdraw the question.

Q Tell us something about his failure to go to school, or or refusal to go to school.

MR. MC GRATH: Objected to.

MR. TEITELBAUM: I withdraw it.

Q Do you remember being in the custody of the police officer who testified in this case, Harry? A Yes, sir.

Q Did you ever, in form, words or substance, state or admit to him in any way, or by any insinuation suggest to him, that you had the intercourse with this complainant to which he testified.

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to on the stand, in your presence here? A I don't understand you.

Q You heard officer Behan testify, didn't you, that on the 25th of October, 1917, you admitted to him that you had the intercourse concerning which Harry, the other boy, complained in this case? Did you ever make any such admissions to him?

A No, sir.

Q Did you ever state to him that your blood boils over you, and you don't see objects in front of you? A No, sir.

Q Did officer Behan have any conversations with you with respect to your guilt or innocence in this matter? A Yes, sir.

Q During those conversations did you, Harry, at any time admit to him that you were guilty? A No, sir.

Q Did you maintain your innocence throughout? A Yes, sir.

Q And claim that you were innocent? A Yes, sir.

Q When you were arrested, where were you taken to? A To the Tombs, downtown.

Q By whom? A When I was first arrested?

Q Yes, the first time. A I was taken over to 116th Street, the Third Branch Detective Bureau.

Q And you inquired of the detective the cause of your arrest? A Yes, sir.

Q And did he tell you? A Yes, sir.

Q Did you admit or deny? A I denied knowing anything about it.

Q And after you were taken to the Police Station, were

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you confronted there by the boy? A Yes, sir.

Q Did you, in the presence of the boy, admit or deny your guilt? A Denied.

Q Was any statement made by you in the presence of officer Behan, and in the presence of the boy, with respect to the boy being down in a cellar? A Yes.

Q Did you cause -- did you suggest that the little boy, in the presence of officer Behan, that he had been in a cellar? A (No answer.)

Q Do you get my question? A No, sir.

Q I withdraw it. Did you ever tell Harry, in the presence of officer Behan, that he was in a cellar? A I don't understand you.

Q Well, tell the jury exactly what was said by you and Harry, in the presence of the officer, with respect to a cellar.

A Well, officer Behan asked me where Harry Adlerblum would be, when he didn't go to school. Well, he wasn't around the house. That was understood, because we could never find him around there. He would either be in the next block or down in the basement with some other boys.

Q Was he what you would call a boy -- he was a boy who had no one looking after him?

MR. MC GRATH: I object to that.

THE COURT: Sustained as to form.

MR. TEITELBAUM: That's all.

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CROSS EXAMINATION BY MR. MC GRATH:

Q You stated, on your direct examination, that you live at 104 Division Avenue, Brooklyn, with your mother? A Yes, sir.

Q And that when you work late, you go over to your uncle's house; is that correct? A I don't have to go over there, I am right there.

Q I didn't ask you that. (Question repeated.) A Yes.

Q How often do you go over to your uncle's house? A I am there all week.

Q Then you don't only go there when you work there late? You live there? A Why, certainly.

Q How many rooms are there in that house? A Seven.

Q How many bedrooms? A Four.

Q Who occupies the four bedrooms? A That I couldn't tell you.

Q Do you occupy one of them? A Yes.

Q And your cousin, Harry Goldstone, occupies one? A He and one of the partners of the firm occupies one, and Mr. and Mrs. Goldstone occupy one.

Q Where did the boy sleep? When did the boy first come to that house, Harry Adlerblum? A He came there some time last summer.

Q How long was he there altogether? A He was there quite a number of months, and then he was taken away again.

Q Well, was he living there prior to October 22nd? A No, he was brought there again when his mother was taken away

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to the hospital.

Q When was his mother taken to the hospital? A I couldn't tell you.

Q Was it about two weeks prior to October 22nd? A Yes, sir.

Q Do you remember when his mother went to the hospital?

A No, sir.

Q Do you remember him coming to the house at that time?

A No, sir.

Q Do you remember him having been at the house for two weeks prior to October 22nd? A No, sir.

Q At what time do you remember him being there? A I remember him being there -- they brought him down there when I was asleep in bed already, and he was brought down there that same night.

Q What night was that? A The night that he was first brought down there.

Q When? Give me the time. A I couldn't tell you the time. I was asleep.

Q Well, how did you know that he was put in the bed with you? A He wasn't put in the bed with me at all.

Q When did you first know that he was there? A When I got up in the morning.

Q Where did you see him? A In the next room.

Q In the next room? A Yes, sir.

Q What was he doing in the next room? A Sleeping.

Q With whom? A Nobody.

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Q He had a room to himself? A He was sleeping on the couch, all by himself.

Q Did that boy ever sleep with you? A No, sir.

Q Do you mean to tell this jury that he was never in bed with you? A No, sir.

Q Have you ever been sick at all, ever complain of headaches? A No, sir.

Q What time of day were you arrested? A I was arrested in the evening.

Q Of what day? A I couldn't exactly tell you.

Q Do you remember being -- was it the day before you were taken to the Magistrates' Court? A I can't remember that.

Q Don't you remember when you were arrested? A Yes, I remember being arrested in the evening, taken away from the supper table.

Q And where did you go the next morning? A I was brought up from the Tombs, the next morning.

Q Where to? A To 116th Street.

Q And then where did you go? A Then we went to the Magistrates' Court.

Q Then the day after you were arrested you were in the Magistrates' Court? A Yes.

Q And that was October 25th? A I don't remember the date, but I know I was taken the next day, in the Court.

Q Now, what did the officer say to you when he came into the house to take you? A He told me I was under arrest.

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Q And you said, "What's the charge, what are you arresting me for?" Is that right? A Yes.

Q And then he told you that it was on the complaint of Harry Adlerblum, didn't he? A Yes, sir.

Q And then you said, "No, you can't take me out of this house without a warrant"? A Yes.

Q And then you asked him, "Where am I going to"? A Yes.

Q And he told you, "To 219 East 116th Street", didn't he? A Yes.

Q And then you got over there, to the house, and you told him that you hadn't been in bed with the boy at any time, didn't you? A Yes.

Q And then you told him that you hadn't been in the house on October 22nd, between twelve and one; didn't you? A (No answer.)

Q Were you at home on October 22nd? A Yes, sir.

Q On Monday? A Yes, sir.

Q You were at home on Monday, between 12 and 1? A Yes, sir.

Q Who else was in the house? A I was downstairs.

Q You were home, though, weren't you? A Well, that means downstairs. I was around the house, but the rooms was upstairs on the third floor.

Q Who else was in the house at that time? A Nobody was in the house at all, because my aunt had the key.

Q Harry Adlerblum was not going to school that day, was he? He hadn't been admitted to school yet? A No, sir.

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Q And Harry was home? A He was.

Q And do you know a boy by the name of Dickman? A Yes.

Q Did you see Harry that day with Dickman? A No, sir.

Q Dickman carries bread, doesn't he? Did he bring any bread to the house that day? A He might have brought it. I didn't know anything about it.

Q Did you see Harry with Dickman at all at any time?

A No, sir.

Q Now, you saw the boy at 116th Street, the night you were arrested, didn't you? A Yes, Harry Adler.

Q And the boy was telling what happened to him, wasn't he, in front of you? A Yes.

Q And you turned around to the boy, and said, "Could it be that you were down in the cellar?" Why do you say it was me?"

A Yes.

Q And then after that you went down on the Third Avenue elevated train with the officer to Headquarters, didn't you?

A Yes.

Q And did you speak to the officer going down? A The officer spoke to me.

Q Did you answer him? A Yes.

Q What did you say to him? A That I hadn't got any money with me.

Q Why did you say that? A Because he asked me if I had any money with me.

Q What else did he say? A He said, "How much do you think

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I can get?" And I said, "I don't know."

Q How much who could get? A Detective Behan. He said, "How much do you think your aunt will give me?"

Q Did you tell him about your aunt? A Certainly. He knew all about it, because he was up in the house.

Q Did you aunt say anything about giving him any money at the time? A -I don't know, because I was in the Tombs.

Q Now, tell me every word that was said by you and the officer about getting any money, from the moment you got on the train?

A He said, to me, have you got any money with you?" And I said, "I've got a little change."

Q Then the officer asked you for money? A He did.

Q And you had told him in the Branch, when they were taking down what you said, that you were a wagon helper? They wrote down your answers in a big book that you saw on my table this morning, didn't they?

MR. TEITELBAUM: I object to that. That is not binding on the defendant.

THE COURT: Well, the book would not be competent evidence, because it was a book kept by a third party, to which the defendant was not a party. Under the authority of the case of the People against McLaughlin, that would be incompetent testimony.

MR. TEITELBAUM: Yes, sir; the best evidence wouldn't by the book.

THE COURT: The best evidence rule has no application

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to this case. If your client made the entry in the book, it would bind him. Books of a third party are never admissible. The books of a corporation are not admissible against a director.

MR. TEITELBAUM: However, the whole thing is inadmissible.

THE COURT: It was held in the case of the People against Burnham, 119 and 120 Appellate Division. And there is another case, Rudd against Robinson. The District Attorney cannot prove that book against your client? It is inadmissible.

MR. MC GRATH: I will change the question.

BY MR. MC GRATH:

Q You were asked questions concerning where you lived, and how long you were in the United States, and all that, weren't you, in the Third Branch? A Yes, sir.

Q And what your business was, weren't you? A Yes.

Q And when they asked you what your business -- how long you had been in the country, you said a couple of years, and didn't you tell them that you came from Russia? A No, sir.

Q That your parents came from Russia? A Yes, sir.

Q And you went on to tell them your age? A Yes.

Q And how old did you say you were? A Sixteen years.

Q You didn't tell them that you were eighteen, did you?

A No, sir.

MR. TEITELBAUM: I submit that the books are not binding here, and he cannot proceed along this line

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any further.

MR. MC GRATH: But I amnot bothering about the book at all now.

THE COURT: I told you, counsello,r that I am not concerned with those books. He cannot use those books aagainst the defendant. The books might be used by a re-witness to/fresh his recollection, if the testimony is otherwise admissible, but I am not going to curtail the District Attorney in his right of examining the witness. Objection overruled.

MR. TEITELBAUM: Exception.

BY MR. MCGRATH:

Q Did they ask you what you did for a living, and you told them that you were a wagon helper? A By being a wagon helper, that means that I go along on the wagon, and collect the money.

Q But you didn't explain that, did you? A No, sir.

Q You just said you were a wagon helper? A Yes, sir.

Q And in your direct examination here, you said that you were never on the wagon? A Never was on the wagon?

Q Yes. Didn't you? You said you were never or never went out on the wagon, didn't you? A No, sir.

Q Now, after you told them you were a wagon helper, going down in the car, then, the officer asked you how much money you had in your pocket; is that correct? A I didn't get that question.

Q You told them in the branch you were wagon helper, you

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told that in the branch, and going down in the elevated train, he asked you how much money you had in your pocket? A He said, "Have you got any money?"

Q And what did you say then?

MR. TEITELBAUM: I object. It seems to me that the witness never said anything about the officer asking him if he had anything in his pocket, any money in his pocket.

MR. MC GRATH: The significant part of the testimony is that he asked him if he had any money, but I will pass on to something else.

BY MR. MC GRATH:

Q Did you tell the officer how much money you had? A Yes.

Q When he asked you how much money you had what did you say? A "I've got a few cents in change."

Q What did he say then? A Nothing.

Q What other conversation did you have with him? A Well, he asked me how much did I think he was going to get.

Q And what did you say? A I said, how could I tell him. He was brining me down to the Tombs just then, and I couldn't tell him anything.

Q What else did he ask you? Did he tell you what he wanted the money for? A No, sir.

Q Did you know what he wanted the money for? A No, sir.

Q What was the dicussion about money then? A Well, it seemed to me he just asked me if I had any money, and I told him just a few cents in change.

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Q Did he tell you what the money was to be used for?

A No, sir.

Q Did the officer ask any money from you; did the officer ask you to give him any money? A How could I give him any, when I had only a few cents?

Q (Question repeated)? A No, sir.

Q Did he say that if he got money from anybody at all, he would do anything for you? A Yes.

Q What did he say? A He said, how much do I think he would get from my aunt.

Q And what did you tell him? What did you say? A I told him I didn't know.

Q Did you tell him to go and see Mrs. Goldstone? A No, sir.

Q Didn't you say, going down on the car, "Go and see Mrs. Goldstone"? A No, sir.

Q "And ask her what she thinks of the case"? A No, sir.

Q Did you? A What?

Q (Question repeated)? A No, sir.

Q Did you mention Mrs. Goldstone's name going down on the car? A Yes.

Q What did you say? A I asked him to find out what all this was about.

Q Go on, go ahead. A And he said he would.

Q And did you ask him to go to see Mrs. Goldstone, to find out about it? A That's who I sent him to. I asked him to find out what this was all about, no matter from who. I didn't know

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anything about it.

Q Well, but you mentioned Mrs. Goldstone's name? A Well, she's my aunt.

Q Yes or no. Didn't you mention her name? A I mentioned my aunt.

Q And your aunt is Mrs. Goldstone? A Yes.

Q Do you remember, the next morning, when you saw the officer, when he took you out of the Tombs? A When he took me out of the Tombs?

Q Yes? A Yes.

Q Where did you go? A Uptown to 116th Street.

Q And where did you go from there? A In the Magistrates' Court.

Q Did you have any conversation after you left the Tombs, and until you reached 116th Street? A Yes, sir.

Q What was that conversation? A He asked me, "Well, Harry, what do you say? What do you think I can make on this? What do you think I can get?" And I said, "What do you want from me? I don't know anything about it. If I knew what there was about it, it would be different," and he said, "Come on and let me know how much I can get out of this." And I said, "How do I know?"

Q Go on and give us the entire conversation. Did he speak to you when you got on the car near the Tombs?

MR. TEITELBAUM: I have no objection to your having this evidence in this proceeding, that is, if you intend to

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bring any other proceeding.

MR. MC GRATH: I certainly do not contemplate any other proceeding.

MR. TEITELBAUM: Then I do object to your getting it in this case. It wasn't brought out on the direct examination, and it is entirely collateral, and I object to it.

THE COURT: Objection overruled.

MR. TEITELBAUM: An exception, sir.

BY MR. MC GRATH:

Q Did he speak to you immediately after leaving the Tombs?

A Yes.

Q What did he say from the time you left the Tombs, until you got on the car? A "Do you know where I am taking you now?" And I said, "No", and he said, "I am taking you up to Harlem now again, 116th Street".

Q And what did you say? A Nothing. I kept on walking.

Q And what did he say to you? A He didn't say anything until we got up on the platform.

Q And what did he say there? A He started questioning me about this money part of it. He said, "How much do you think I am going to get; how much do you think they are going to give me?"

Q And what did you say? A I didn't know what to answer, I didn't know what he was talking about.

Q You didn't know what he was talking about? A No. Why should anybody give him money?

Q That was all on the platform? A Yes, sir.

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Q And then you got on the car? A Yes, sir.

Q And you rode to 116th Street? A Yes, sir.

Q Did you speak going from the station downtown to 116th Street? A Yes.

Q What did you talk about? A He started asking me the same question over again.

Q What did he say to you? A He started coming right at me, how much money was he going to get, and I didn't know what to answer him, and so I kept quiet.

Q You didn't answer him? A No, sir.

Q And when did he ask you for money again? A On the same train, going uptown to 116th Street.

Q And how many times did he ask you for money go up? A About three or four times.

Q And you refused to answer him each time? A I said, "I don't know. I don't know who you are going to have money from. What do you want the money for?"

Q Did you ask him if he had been to see Mrs. Goldstone?
A No, sir.

Q You told him, the night before, though, to go to see what she thought of the case, didn't you? A No, sir; I asked him to find out what this was all about.

Q Well, did you ask him whether he had done what you had asked him to do? A I don't know what I had asked him to do.

Q To find out what all that was about? A Yes.

Q When did you ask him about that? A When he came to

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the Tombs, downstairs. When I was let out of the Tombs; I said, "Well, did you find out what all this was about?" And he said, "No, it ain't nothing."

Q And what else did he say? A That's all.

Q Did you ask him anything further? A No, sir.

Q Did he ask you, after you got off the train -- at 116th Street you went to the Third Branch, before you went to Court?
A (No answer.)

Q Or did you go directly to Court? A I can't exactly remember. I think we went straight to the Court.

Q All right. Did you have any conversation going from the train to the Courthouse; did he speak to you at all? A No, sir.

Q Did you say anything to him? A No, sir.

Q You uttered not one word from the time you left the train until you got into the courthouse? A No, sir.

Q Or did he ask you for money again? A No, sir.

Q Did you have any conversation after you got into the courthouse? A I asked him if there was a hearing or anything like that, and he said, "No, you are going upstairs now,"

Q You knew what you were going there for, didn't you?

A No, sir.

Q Did you ask him what Mrs. Goldstone said to him? A No, sir.

Q Did he tell you that he had been to Mrs. Goldstone's house? A I think he did.

Q What did he say? A He said, "I was speaking to your

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aunt, and she said, she would never think that you would do it, do anything like that at all."

Q You heard the officer say that on the stand, didn't you, tell about that conversation in the Magistrates' Court, didn't you?

A No. He said two different parts altogether. He swore in the Magistrates' Court --

Q I asked if you heard him say that. Yes or no. A I don't quite remember.

Q Did you tell him at that time that you saw Harry between twelve and one that day, when he was home, on Monday? A I didn't tell him anything.

Q Did he ask you whether you had seen Harry between twelve and one? A Yes, sir.

Q Did you answer him? A Yes.

Q You told him that you did see him between twelve and one; that he was home from school, didn't you? A He didn't go to school that day.

Q I know. You told him that he didn't go to school that day, didn't you? A I didn't speak of anything.

Q You didn't tell him that about Harry? A He didn't ask me anything about Harry and I didn't tell him anything.

Q Do you mean to say that he didn't ask you a question about Harry, and what occurred on October 32nd? A I think he asked me, "Do you know anything about this?" And I said, "No."

Q Is that all he asked you? A Yes, sir.

Q Now, how many times altogether did he ask you for money?

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MR. TEITELBAUM: I object to that as already asked and answered.

THE COURT: Objection sustained. You have gone over that.

MR. MC GRATH: That's all.

ABRAHAM HASINSKY, of 674 Gates Avenue, Brooklyn, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TEITELBAUM:

- Q What is your business? A Storage warehouse.
- Q What is your place of business? A 23 East 115th Street.
- Q Do you know the defendant in this case? A Yes, sir.
- Q Do you know his uncle, Mr. Goldstone? A Yes, sir.
- Q Do you have any dealings with his uncle? A I have.
- Q What do those business dealings consist of?

(Objected to. Sustained. Exception.)

THE COURT: Is this a character witness?

MR. TEITELBAUM: Yes, sir.

THE COURT: Then prove it in a general way.

BY MR. TEITELBAUM:

- Q Do you know the defendant in this case? A Yes, sir.
- Q How long have you known him? A About two years.
- Q How did you come in contact with him? A From Mr. Goldstone bringing storage into our warehouse.
- Q And how often have you seen him during the past two years?
- A Pretty near two or three times a week.

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Q And your warehouse is in the same vicinity where he works for his uncle, where his uncle has his trucking business?

A Half a block away.

Q And that's on 115th Street? A Yes.

Q And do you know many other people in the neighborhood who know him? A Yes.

Q Have you heard people talk about him? A I have.

Q And do you know what his reputation in the community is as to his character and his reputation, and as to his worthiness of belief, in the things that he says or does? A Why, his reputation, in general, is that everybody claims that it is good. As far as I found him in the dealings I have had --

MR. MC GRATH: I ask that the counsel be required to ask the question in the regular way.

BY MR. TEITELBAUM:

Q Do you know what his general reputation is for honesty and truth and morality? A A good, honest boy.

CROSS EXAMINATION BY MR. MC GRATH:

Q Have you ever discussed his reputation for morality with anyone? A Yes, with different men around.

Q Tell me the names of the men. A Well, I can't just mention all those names. At different times, when they brought goods into the warehouse, they would talk about different men's character.

Q Did you ever discuss his morality with them?

MR. TEITELBAUM: Do you mean in a particular instance,

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in a particular sense, or generally?

MR. MC GRATH: In its everyday sense, in the sense that it is used everyday.

A No, sir.

BY MR. MC GRATH:

Q Did you ever discuss his morals with anyone? A No, sir.

REDIRECT EXAMINATION BY MR. TEITELBAUM:

Q Did you ever discuss anyone's morals?

(Objected to. Sustained.)

Q Have you ever heard anyone say anything against his morals?

(Objected to. Allowed.)

A No.

G E O R G E W E I S S, of 3671 Broadway, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TEITELBAUM:

Q Mr. Weiss, what is your business? A Garage business.

Q Garage? A Yes, sir.

Q Do you know the defendant in this case? A I do.

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

Q How did you come in contact with him? A He been coming with stuff belonging to the Bell Warehouse Company.

Q Do you know his reputation for honesty and probity and worthiness of belief, as to his character in the community? Do

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you know what his reputation is? A Well, I've been coming in contact with him for about a year, and I always found him to be a good boy, quiet in his manners.

MR. MC GRATH: I object to that. That is not a responsive answer.

BY MR. TEITELBAUM:

Q Do you know whether his reputation is good or bad? A Well, I always found him good.

CROSS EXAMINATION BY MR. MC GRATH:

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

Q Were you ever in the Special Sessions? A No.

Q For any crime? A No, sir.

Q Within the last two years? A No, sir.

MR. TEITELBAUM: Can you prove any such conviction?

MR. MC GRATH: I object to these constant interruptions, if your Honor please.

THE COURT: Yes. It is unnecessary for you to ask that question, counsellor.

MR. TEITELBAUM: He is a character witness.

THE COURT: But the witness says he never was, and the District Attorney is bound by his answer.

MR. TEIELBAUM: That's just the point.

BY MR. MC GRATH:

Q Did you ever discuss this man's morality with anyone?

A I did not.

Q Never? A No, sir.

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M A X D I C K M A N, of 2 East 115th Street, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TEITELBAUM:

Q Mr. Dickman, what is your business? A Grocery, sir.

Q Where is your grocery store? A 2 East 115th Street.

Q How far is that from where the defendant works? A He works on the corner, and I keep my store right next to where he works.

Q How long have you known him? A Over three years.

Q Have you come in contact with him personally? Do you see him almost every day? A Well, he generally comes all the time and buys in the grocery sometimes, and sometimes I see him outside.

Q Do you know what people in that neighborhood say about his reputation for honesty and decency and morality? A Well, so far I am telling the truth. I know that boy for three years, and he is a respectable honest boy, and I wish my children would be as good as he is.

CROSS EXAMINATION BY MR. MC GRATH:

Q Did you ever discuss his morality with anyone? A Well, I don't know what you mean. I wish you would explain that to me.

(The official interpreter explains the meaning of the word "morality" to the witness.)

Q Did you ever discuss his morality with anyone? A Well, I know he is respectable.

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(Question repeated through the Official Interpreter.)

A No, no. With nobody. I can only say that the boy is a respectable, decent boy, and I can swear to it, too.

REDIRECT EXAMINATION BY MR. TEITELBAUM:

Q Did you ever hear anybody question his morality, say that he didn't have a good character for morality? A No, sir.

Q All that you heard about him was good? A Yes, all the time good.

A B R A H A M M. G O L D S T O N E, of 2 East 115th Street, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TEITELBAUM:

Q Mr. Goldstone, what is your business? A Moving, trucking and express.

Q And the defendant is your nephew? A Yes, sir.

Q And works for you? A Yes, sir.

Q And helps you run your business? A Yes, sir.

Q And he has lived with you? A Yes, sir.

Q Do you know his reputation with respect to character, probity and honesty in the neighborhood, or in the community in which you live and transact your business? A Yes, sir.

Q Is it good or bad? A Good.

Q You have found him to be honest and trustworthy? A Yes.

Q Have you ever observed anything about his moral habits in a boy of his age which would be bad? A Not that I know of.

Q You found everything good? A Yes, everything O. K.

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CROSS EXAMINATION BY MR. MC GRATH:

Q Did you ever discuss his morality with anyone? A No.

Q Was he living at your house on the 22nd of October?

A Yes, sir.

Q Do you remember Harry Adlerblum coming to your house?

A Yes, sir.

Q Where did you put Harry Adlerblum to sleep? A He had a room for himself.

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

MR. MC GRATH: I will withdraw it. I will not go into that.

BY THE COURT:

Q Did Harry Adlerblum sleep in your house? A Yes, sir.

Q And how long did you keep him? A Why, we kept him there a year altogether, during the two years.

REDIRECT EXAMINATION BY MR. TEITELBAUM:

Q And you have your own children? A Yes.

Q And you treated Harry Adlerblum the same as you did your own children? A Yes.

MR. TEITELBAUM: The defense rests.

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REBUTTAL:

J O H N J. B E H A N, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. MC GRATH:

Q Have you been present in the Courtroom while Harry Rosen-
sweig was testifying? A Yes, sir.

Q You heard him testify? A Yes, sir.

Q Did you at any time ask him for money?

THE COURT: Don't answer that. I will not allow that,
because it is a collateral matter.

MR. MC GRATH: I know it is, sir.

THE COURT: And we would only be going into another
issue here. It might have been proved as a part of the
People's case, on a different theory than you now seek to
prove it.

In the case of the People against De Garmo, 179 New York,
the Court of Appeals reversed a conviction of murder, where
the District Attorney, on cross examination of the defendant,
brought out certain things which, afterwards, he sought
to disprove, and the Court reversed, although there is a
case, Pontius against the People, where the Court of Appeals
allowed it, but the prevailing rule now is that you cannot
go into collateral matters. I sustain the objec-
tion.

MR. MC GRATH: Very well, sir. We rest.

MR. TEITELBAUM: We rest. And may I respect-

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fully renew my motions made at the end of the People's case on the grounds then stated?

And I further move that the defendant be discharged from custody because the People have failed to prove beyond a reasonable doubt that the defendant is guilty of any offense, and on the ground that there has been absolutely no satisfactory legal corroboration.

THE COURT: Motion denied.

MR. TEITELBAUM: Exception. I move for a direction of acquittal of the defendant, on the ground that there is no evidence of probative value, no evidence worthy of belief, tending to corroborate the statement of this nine year old child, a statement taken not under oath.

There is no evidence to show the fact that the statement of the child, of the age of nine years, was such a statement as would justify the Court in the belief that the complainant understood the nature of the accusation made against the defendant.

THE COURT: Motion denied. The People are required to corroborate in material particulars the testimony of the child. There must be supporting proof of the child's testimony, in material particulars.

If this case rested solely on the testimony of the child and of the two doctors, I would direct the jury to acquit; but, in view of the policeman's testimony, I hold

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that there is a question of fact for the jury to pass on.

MR. TEITELBAUM: And I desire to except to your Honor's denial of my motion.

(Mr. Teitelbaum then summed up for the defense, and Mr. McGrath closed the case for the People.)

(The Court charged the jury and the jury found the defendant not guilty.)

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