

COURT OF GENERAL SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK, PART 4.

THE PEOPLE

-against-

MAX R. LYNAR,
indicted as
MAX CHIMANG,

alias MAX SCHIEMANGT, alias MAX P.
LANDOR, alias COUNT MAX LYNAR LANDON,
alias RACHUS ZU LYNAR, alias ALBERT
MARCEL, COUNT DE PASSY.

Before:

HON. OTTO A. ROSALSKY, J.,

and a Jury.

2647

New York, April 13th, etc., 1916.

Indicted for Bigamy.

Indictment filed October 19th, 1915.

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

ASSISTANT DISTRICT ATTORNEY JOHN M. MINTON, JR.,

FOR THE PEOPLE.

HAROLD SPIELBERG, ESQ., FOR THE DEFENSE.

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TRANSCRIPT OF STENOGRAPHER'S MINUTES.

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Frank S. Beard,

Official Stenographer.

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THE PEOPLE'S TESTIMONY:

MINNIE ARNOLD, of 150 Union Street, Poughkeepsie, New York, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Mrs. Arnold, you live in Poughkeepsie? A Yes, sir.

Q And how long have you lived in Poughkeepsie? A Well, ever since I was twelve years old.

BY THE COURT:

Q Well, how old are you now? A Forty-three.

BY MR. MINTON:

Q Forty-three? A Yes, sir.

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

Q You will have to speak so that the last gentleman can hear you. When did you first him? A I met him in 1893.

Q Under what name do you know him? A Max Chimang.

Q Will you state whether or not on September 25th, 1893, you were married to the defendant? A Yes, sir.

THE COURT: Well, that is stating a conclusion of fact.

MR. MINTON: Well, I understand that there is no objection.

MR. SPIELBERG: None at all. I concede that this man and this woman were married in September, 1893, in the City of Poughkeepsie in the State of New York.

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BY MR. MINTON:

Q Were you married by the Reverend H. D. Kraeling?

A Yes, sir.

Q And did you have a child by that marriage? A Yes, sir; a son.

Q How old is he? A Twenty-two years old today.

Q How long did the defendant live with you as your husband? A I think it was a little over a year.

Q Then what happened? A He left me.

Q He left you? A Yes, sir.

Q Do you know where he went to? A No, sir; I don't. I guess he went to Germany.

THE COURT: Strike out that she guesses he went to Germany.

BY MR. MINTON:

Q Did you ever hear from him? A Yes, sir.

Q Did you get a letter from him? A Yes, sir.

Q Have you got that letter now? A No, I burned it up.

Q You burned it up? A Yes, sir.

Q Was the letter in his handwriting? A Yes, sir.

Q Will you state the contents of that letter?

MR. SPIELBERG: No, I object to that, may it please the Court.

BY THE COURT:

Q Are you familiar with his handwriting? A Yes, sir.

Q How often had you seen your husband write before you received this letter? A I used to see him write at home, but not after he left.

Q No, but while at home how often did you see him write? A Well, he didn't write very much at present.

Q No, but during the time that he lived with you? A (No answer).

THE COURT: You had better qualify this witness.

MR. MINTON: I will.

Q Did you ever see him write letters during the time he lived with you? A Yes, sir.

Q And did you know his handwriting? A Yes, sir.

Q Were you familiar with it? A Yes, sir.

Q And the letter which you received, was that in his handwriting? A Yes, sir; that was in his handwriting.

BY THE COURT:

Q When did you receive it? A (No answer.)

BY MR. MINTON:

Q What were the contents of that letter?

MR. SPIELBERG: That is objected to, may it please the Court.

THE COURT: Objection overruled.

MR. SPIELBERG: I respectfully except.

BY MR. MINTON:

Q Just tell us what was said in that letter? A He says

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Q How often had you seen your husband write before you received this letter? A I used to see him write at home, but not after he left.

Q No, but while at home how often did you see him write?

A Well, he didn't write very much at present.

Q No, but during the time that he lived with you? A (No answer).

THE COURT: You had better qualify this witness.

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Q And did you know his handwriting? A Yes, sir.

Q Were you familiar with it? A Yes, sir.

Q And the letter which you received, was that in his handwriting? A Yes, sir; that was in his handwriting.

BY THE COURT:

Q When did you receive it? A (No answer.)

BY MR. MINTON:

Q What were the contents of that letter?

MR. SPIELBERG: That is objected to, may it please the Court.

THE COURT: Objection overruled.

MR. SPIELBERG: I respectfully except.

BY MR. MINTON:

Q Just tell us what was said in that letter? A He says

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...will never come back to Poughkeepsie again, and that
should look for another partner, and we don't need no Court
whatever.

Q And can you remember anything else that he said in
the letter? A Well, this is so long ago that I forgot it, see.

Q And was that the last you heard of him? A I haven't
heard from him since.

BY THE COURT:

Q When was that? A That was right after he left, when
he went to Germany.

THE COURT: Well, strike out that he went to Germany.

By MR. MINTON:

Q Right after he left? A Yes, sir.

Q Did he say in the letter where he was? A It said in
the letter, but I forget.

Q Well, did he say in what country he was? A Yes, Germany.

Q And after that did you marry a man named Arnold? A Yes,
sir.

Q How long were you married to him? A Eleven years now.

Q And you married him in what year? In 1905? A Yes,
1905, or something like that.

Q And during all this time did you live in the City of
Poughkeepsie? A Yes, sir.

Q And you never left that City? A No, sir.

Q And never heard from the defendant? A No, sir.

he will never come back to Poughkeepsie again, and that I should look for another partner, and we don't need no Court whatever.

Q And can you remember anything else that he said in the letter? A Well, this is so long ago that I forgot it, see.

Q And was that the last you heard of him? A I haven't heard from him since.

BY THE COURT:

Q When was that? A That was right after he left, when he went to Germany.

THE COURT: Well, strike out that he went to Germany.

By MR. MINTON:

Q Right after he left? A Yes, sir.

Q Did he say in the letter where he was? A It said in the letter, but I forget.

Q Well, did he say in what country he was? A Yes, Germany.

Q And after that did you marry a man named Arnold? A Yes, sir.

Q How long were you married to him? A Eleven years now.

Q And you married him in what year? In 1905? A Yes, 1905, or something like that.

Q And during all this time did you live in the City of Poughkeepsie? A Yes, sir.

Q And you never left that City? A No, sir.

Q And never heard from the defendant? A No, sir.

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BY THE COURT:

Q Where did you live in Poughkeepsie? A I always lived on Union Street.

Q At 150 Union Street? A No, sir; not always at 150, but always in the same street.

BY MR. MINTON:

Q From the time the defendant left you until now, you have always lived in Union Street? A Yes, sir.

BY THE COURT:

Q Where else did you live in Union Street? A About four houses from the house which I now live in.

Q Well, did you live on the same block in Union Street, within the same block? A Yes, sir.

Q Is that a residential section or a business section?

A A business section.

Q Where do you live? A Right above the business.

Q Does your husband conduct any business? A Yes, sir; butcher business, a butcher market.

Q And before you were married to Mr. Arnold, did you live in the same building? A No, sir; I lived right across the street.

Q Was there any store under your apartment? A Now, at present?

Q No, at that time? A No, there wasn't.

Q And when you lived with the defendant was he engaged in business there? A No, he was not.

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Q You lived across the street from your present place?

A Yes, sir.

BY MR. MINTON:

Q And how many years after the defendant left you was it that you married Mr. Arnold? A Why, my boy was only a little over a year old, or about a year old when he left me.

Q And how many years after he left you did you marry Mr. Arnold? A Must have been nine or ten years.

CROSS EXAMINATION BY MR. SPIELBERG:

Q How old was your husband when he married you, do you know? A I guess I was about nineteen, between nineteen and twenty and he was about twenty-one or twenty-two.

Q What was he doing at the time for a living; do you remember? A He was working in the Buckeye.

Q Working in a machine factory? A Yes, sir.

Q Before he married you, you had known him for some time, had you not? A I didn't know him very long.

Q You knew him a short time? A Yes, sir.

Q He was all alone in this country, was he not? A I think so.

Q You didn't know any of his folks? A No.

Q And after you were married about a year or so, he left?

A Yes, sir.

Q And you never saw him again until you saw him in Court?

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Q. I haven't seen him since the time I testified.

Q. And you got married, after a period of about ten or eleven years, did you not? A. Yes, sir.

Q. And you are living with Mr. Arnold, your husband?

A. Yes, sir.

Q. And you have been living with him ever since? A. Yes, sir.

Q. And you have been living under the name of Arnold?

A. Yes, sir.

Q. And not under the name of Chimang? A. No.

Q. And can you tell me whether anybody in the neighborhood, madam, knew you as Mrs. Chimang, for the last ten years? A. Well, the whole neighborhood knows me.

Q. No. But do they know you as Mrs. Arnold, Mrs. Chimang or Miss Wendt? A. They knew I was a Miss Wendt before I was married, and they knew me as Chimang and as Arnold.

Q. But you haven't gone under the name of Chimang for the last ten or eleven years? A. No, sir.

Q. No letters ever came to you as Mrs. Chimang? A. No.

Q. How many years ago was it that that letter was written that you have spoken of? A. Oh, that was a good many years ago.

Q. Immediately after he left? A. Yes, sir.

Q. And you haven't the letter with you? A. No, sir.

Q. And you are simply relying on your memory as to the contents of a letter received nineteen or twenty years ago?

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Q Yes, sir, something like that.

Q It is now 23 years since you were married, is it not, madam? A Yes, sir.

Q And this letter had come to you about twenty-two years ago? A Yes, sir.

Q Now, did you believe this defendant dead when you married? A I hadn't heard nothing from him. I didn't know nothing.

Q For what period of years? A Well, for around ten years I hadn't heard anything about him.

Q For around ten years you hadn't heard anything about him? A Yes, sir.

Q You didn't know whether he was alive or dead? No news of any kind reached you? A No.

Q Did you during those years write to him? A No, I couldn't.

Q Did anybody in your family, as far as you know, write to him? A Not as I know of.

Q You don't know of anything of that kind? A No, sir.

Q You don't know where he was during all these years? A No, I didn't know.

Q And the first time you saw him again was in the Court? A Yes, sir.

THE COURT: Do you mean in this Court?

MR. SPIELBERG: Yes, sir.

BY THE COURT:

Q Was it the first time, today? A No, sir; when I identified him before.

MR. SPIELBERG: He was arraigned and she identified him.

BY MR. SPIELBERG:

Q Is your mother living? A No, sir; she died four years ago, in March.

Q In March, 1912? A Yes, sir.

Q Her name was Mrs. Wehdt, was it not? A Yes, sir.

Q Do you remember when she died? A It was the 17th of March.

Q 1912? A Yes, sir.

Q Did you ever hear of this defendant coming to Poughkeepsie? A I heard of it, but we hadn't seen him.

Q When did you hear of it? A That was two years ago or so.

Q That's the first time you heard of it? A Yes, sir.

Q Did you hear that he had made inquiries as to whether you were alive or dead? A Well, our dominie was telling us. I didn't know it.

Q The dominie told you about it? A Yes, sir.

Q Did you hear about his marrying again? A Only what I see in the papers.

Q Only recently? A Yes, sir.

Q And you didn't know whether he had married again or not? A No, sir.

Q And you didn't particularly care?

MR. MINTON: I object to that question.

THE COURT: Sustained.

BY MR. SPILEBERG:

Q Did you make a complaint against the defendant?

MR. MINTON: Objected to.

THE COURT: Sustained. One moment. Is it for the purpose of showing bias that you ask that question?

MR. SPILEBERG: Why, I just desire to find out how the defendant came to be indicted.

THE COURT: Under certain circumstances, the question is a proper one to be answered by the witness, but the point is did you ask it for the purpose of showing any animus against the defendant? If not asked on that ground it is immaterial.

MR. SPILEBERG: I think I have the right to show the disposition of the witness towards him.

BY THE COURT:

Q Were you subpoenaed to come here, madam? A Yes, sir.

Q And you answered the subpoena, is that right? A Yes, sir.

BY MR. SPILEBERG:

Q You didn't go to the District Attorney's office of this

...of your own free will to make a complaint against the
defendant?

MR. MINTON: Objected to.

THE COURT: It is immaterial whether she favors the
defendant or not. I cannot see any difference.

BY MR. SPILEBERG:

Q Now when the defendant left you, did he take any money
from you, Mrs. Arnold? A I didn't have anything to take away.

Q You were a poor girl? A Yes, sir.

Q And he was a poor workingboy, a machinist in a factory?

A Yes, sir.

Q And he didn't take anything away from you, but just
left? A Yes, sir.

REDIRECT EXAMINATION BY MR. MINTON:

Q Now, you said, in answer to counsel's questions, that
you heard he had come back to Poughkeepsie, that the dominie
told you that? A Yes, sir.

Q When did he come back there? A About two years ago.

Q And what did the Dominie say that he had come back for?

A Only to see his son, he said.

Q And did you receive any money from him for your son,
for the support of your son, or your support, while he was
away? A No, sir; never.

Q Did you say that you had received but one letter from

the defendant? A That's all I remember or know of.

RECROSS EXAMINATION BY MR. SPIELBERG:

Q And that may have been as long ago as 20 or 22 years ago? A Yes, sir.

MR. MINTON: She so testified.

THE COURT: Yes, she so testified.

MR. SPIELBERG: Very well then, I will withdraw the question as already answered. Oh, I would like to recall the witness for a single question, your Honor.

THE COURT: Very well.

BY MR. SPIELBERG:

Q You have no children by Mr. Arnold? A Yes, one boy.

Q By Mr. Arnold? A Oh, no; not by Mr. Arnold. I have no children by him.

Q But everybody in the neighborhood knew that you were living with Mr. Arnold as husband and wife for the last ten years? A Yes, sir.

Q And you were married by a clergyman to Mr. Arnold?
A Yes, sir.

Q And is the clergyman alive? A Yes, sir.

Q And you were living openly with him as man and wife?
A Yes, sir.

Q And Arnold is in business in Poughkeepsie? A Yes, sir.

Q And everybody knew you as living with him as his wife,

as man and wife? A Yes, sir.

BY MR. MINTON:

Q And you say that the neighbors all knew that your maiden name was Wendt, and that you had been married to a man named Chimang, before you married Arnold? A Yes, sir.

R O S E O ' B R I E N, of Albion, New York, a witness

called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Mrs. O'Brien, may I ask how old you are? A Forty-seven.

Q You will have to speak loud, so that the last gentleman can hear you. And your home is in Albion, New York? A Yes, sir.

Q And how far is Albion from Rochester? A Thirty-three miles.

Q You will have to speak up louder, madam. Do you know the defendant? A Yes, sir.

Q You say yes? A Yes.

Q And where did you first meet him? A In Lookport,

Q In Lookport, New York? A Yes, sir.

Q How long ago? A About three and a half years ago.

Q That was in 1913? A Yes, sir.

Q Did he come to see you in your home at Albion? A Yes,

sir.

Q Do you remember whether or not in November, 1913, there was a ceremony of marriage performed between you and the defendant? A In 1915?

Q In 1913, I mean? A Yes, sir.

Q And on what date? A November 14th.

Q Under what name did you know the defendant? A Max P. Loudon.

Q Will you look at that gentleman and state if that is the clergyman who married you (indicating)? A Yes, sir.

Q Where were you married?

THE COURT: Is there any objection to this testimony?

MR. SPIELBERG: No, sir; none at all.

THE COURT: Do you concede, Mr. Spielberg, that this defendant married Mrs. O'Brien in November, 1913, at Albion, New York?

MR. SPIELBERG: I do concede that he married this lady, at that time.

MR. MINTON: At that the marriage was performed by the Reverend H. C. Woods?

MR. SPIELBERG: Yes, sir; that is conceded.

BY MR. MINTON:

Q Will you tell us just what he said about his name?

MR. SPIELBERG: That is objected to as immaterial, may it please the Court. I object to it.

THE COURT: I think the evidence is admissible.

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I assume that it has some bearing upon the question of the identity of the man.

MR. SPIELBERG: There is no denial as to the identity of the man. There is a concession.

THE COURT: That is true. That is competent. If you ask me to state the reasons, I will do so.

MR. SPIELBERG: No, sir; it isn't necessary.

She may answer the question.

BY MR. MINTON:

Q Will you tell us what he said about his name? A I don't remember him saying anything about his name.

Q Well, did he tell you who he was? A Nothing more than he was Mr. Loudon.

Q Did he tell you whether or not he was a Count? A Yes.

Q Did he tell you about his title? A He said he was a Count, but he was not wearing his title.

Q He said he was a County, but he was not wearing his title? A Yes, sir.

Q Now do you remember signing the affidavit to your license to marry? A Yes, sir.

Q Now I show you a certified copy and ask you to look at the questions which were propounded to you, and stated whether or not you answered the questions correctly. Did you? (reads).

A Yes, sir.

Q Did you say that? A Yes, sir.

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Q. That it was your second marriage? A. Yes, sir.

Q. And that your former husband was dead? A. Yes, sir.

Q. And did you hear him answer the questions? A. Well, I don't know that I paid particular attention.

Q. Well, were you present when he answered the questions?

A. Yes.

Q. Did you hear him answer this question as to the number of his marriages? A. No, I don't remember that.

MR. MINTON: I offer in evidence a certified copy of the application for the marriage license, and the marriage license.

MR. SPIELBERG: I object to that as immaterial.

THE COURT: Sustained. You have got to confront him with the witness, to produce the witness.

MR. MINTON: I will withdraw the offer for the time being.

BY MR. MINTON:

Q. Now did you and the defendant live together afterwards as man and wife? A. Yes, sir.

Q. Where did you live? A. In my home.

Q. And how long did you live together in your home?

A. Well, Mr. Loudon was away considerable.

Q. He was away considerable? A. Yes, sir.

Q. Did he tell you what the nature of his business was?

MR. SPIELBERG: Objected to as immaterial, irrelevant

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and incompetent.

THE COURT: Sustained.

BY MR. MINTON:

Q How long did he continue to live with you?

MR. SPILEBERG: Objected to.

THE COURT: I will allow that.

A Up to the last couple of years; he hadn't been home much.

BY THE COURT:

Q How long did he live with you, madam? A Well, he came home every two or three weeks.

BY MR. MINTON:

Q Well, when did he stop coming home every two or three weeks? A A couple of years ago.

Q That was in 1914? A Yes, sir.

Q And did you see him again up to the time of his arrest?

A This time?

Q Up to the time that he was arrested on this charge?

A Yes, I have seen him.

Q Between the time that he left you and his arrest?

A Yes, I had seen him.

CROSS EXAMINATION BY MR. SPIELBERG:

Q Mrs. O'Brien, you were married before you met this defendant? A Yes, sir.

Q And you knew the defendant for some time before you married him, did you not? A Yes.

Q You knew that he was in business before you married him, did you not? A Yes, sir.

Q Did you know what business he was in? A Yes, sir.

Q What? A Factory business.

Q Won't you speak a little louder? These gentlemen want to hear you. You are living in a little City called Albion?

A Yes, sir.

Q And it is on the border line of Canada? A No, sir; it is near Rochester.

Q And did you know -- and you said that you knew the defendant, your husband, who was in the factory business? A Yes, sir.

Q Did you know what kind of a factory he had? A Yes, sir.

Q Did you visit his factory? A No, sir.

Q Never went to his factory? A No, sir.

Q Did you know where the factory was? A Yes.

Q Where? A In Fort Erie.

Q And you didn't give this defendant any money before he married you, did you? A No, sir.

Q And he didn't ask you for any money? A No, sir.

Q There was no money consideration attached to this marriage, was there? A No, sir.

Q Simply a matter of friendship between yourself and the

defendant? A Yes, sir.

Q You met him socially? A Yes, sir.

Q And introduced him to your family, did you not? A Yes, sir.

Q And after knowing him some time, you married him?

A Yes, sir.

Q And you were married by this referend gentleman who has appeared in Court? A Yes, sir.

Q Now didn't the defendant tell you before you married him that he was a widow? A Yes.

Q Did he tell you that he was married once before in the City of Poughkeepsie? A Well, he told me he had been married once before. I don't remember that he told me where he was married.

BY THE COURT:

Q Did he tell you that he was a widower? A Yes, sir.

Q And you understood then what that term meant, did you not? A Yes, sir.

BY MR. SPIELBERG:

Q You were a widow at the time? A Yes, sir.

Q And he told you he was a widower? A Yes, sir.

Q And he told you that his wife had died, in plain English? A Yes, sir.

Q And you believed that, did you not? A Yes, sir.

Q And you married him in the State of New York? A Yes, sir.

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Q And you lived after your marriage for some time together? A Yes, sir.

Q Your husband absenting himself to go from Albion, New York, to Fort Erie, New York? A Yes, sir.

Q And he always returned and passed Saturday and Sunday with you? A Yes, sir.

Q And you have a family in Albion, New York? A I have a son.

Q You have sisters? A Yes, sir.

Q And you and your husband, you and he, were living openly as husband and wife in the City of Albion, New York? A Yes, sir.

Q Excepting during the time that he was in the factory at Fort Erie? A Yes, sir.

Q And during the time of your marriage he supported you to the best of his ability? A Well, I don't know about that.

Q Well, he didn't make very much money, did he? A No.

Q And you knew that, too, and you didn't marry him for his money, did you? A No, sir.

Q Did you give him any money? A Yes, I did, after I was married.

Q Did you give him any money before you were married? A No, sir.

Q Not a cent? A No, sir.

Q You were not a rich woman, were you? A No, sir.

Q Did you make any inquiries about his first wife, how

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long ago he had married her? A I never asked him.

Q Did he tell you how old he was when he married for the first time? A No, sir.

Q He didn't tell you that? A No, sir.

Q He simply told you, "I was married once before, and my wife died? A Yes, sir.

Q That is all he said to you? A Yes, sir.

Q Did you come to New York County and make a complaint against this defendant?

MR. MINTON: I object to that as immaterial.

THE COURT: What is your object in asking the question? Is it for the purpose of showing that neither wife made a complaint?

MR. SPIELBERG: Yes, sir.

THE COURT: That is immaterial. The State of New York has the right to make the complaint.

MR. SPIELBERG: I know that very well. But who came here and said something to the State of New York?

THE COURT: It is immaterial, it is absolutely immaterial who moved the machinery of the law, if the jury should find that a crime has been committed, in fact. On the question of the weight and credibility to be given to the testimony of the witness, that fact may be considered by the jury. For example, if this witness, solely for the purpose of seeking revenge, had instituted this

proceeding, you could bring that fact out, to show that she was inspired to institute this proceeding; but, in the last analysis, it is immaterial who moved the wheels of the law.

MR. SPIELBERG: I will state frankly that it is not my desire to show any bias on the part of the witness, because I am satisfied that the witness has been telling the absolute truth in answer to every question of the District Attorney or myself. But I want to find out how this man came to be indicted, when neither woman has the slightest feeling against him.

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

THE COURT: Yes, strike it out, and the jury will disregard it.

BY MR. SPIELBERG:

Q You have been on friendly terms with your husband right along, up to today? A Yes, sir.

Q And you are friendly, today? A Yes, sir.

REDIRECT EXAMINATION BY MR. MINTON:

Q Counsel asked you if you gave any money to the defendant and you said yes? A Yes, sir; after we were married.

Q How much money did you give him?

MR. SPIELBERG: I object to that. No, I will with-

draw the objection.

THE COURT: Now the point is that you made inquiry as to whether she gave him any money, and she said no, not before they were married, or whether he had given her any money and she said no, not before the marriage. Now, you must have had some object in bringing out this evidence. It is immaterial as to the issues here.

MR. SPIELBERG: I want to show that she didn't give him a cent to induce him to marry her.

THE COURT: But she, later, gave him money?

MR. MINTON: Yes, sir.

MR. SPIELBERG: I have no objection to that.

BY MR. MINTON:

Q How much money did you give him? A I should judge about a couple of thousand dollars.

Q Did you give him that in one sum or at different times?

A At different times.

Q Counsel asked you if he ever supported you and you said, "I don't know about that".. Did he ever contribute anything to your support after you married him? A Well, yes.

Q Well, how much? A Well, at different times he gave me a little.

Q It was very little, was it? A It wasn't very much.

Q Now you say that you knew that he had a factory in Fort Erie. You merely knew that because he told you? A Yes, sir.

BY THE COURT:

Q Were you ever there? A Yes, sir; I have been there.

BY MR. MINTON:

Q But didn't you testify in answer to Mr. Spielberg's questions that you have never been there? A Well, I have been there since.

Q But not during the time that you were married to and living with him? A No, sir.

Q Did he tell you how long his first wife had been dead?
A No, sir.

Q Did he mention her name? A No, sir.

Q Did he tell you that he had deserted his first wife?
A No, sir.

Q In other words, he simply told you that he had had a first wife? A Yes, sir.

Q Did you get any money from your sister to give him?

MR. SPIELBERG: Objected to as irrelevant,
immaterial and incompetent.

THE COURT: Sustained.

BY MR. MINTON:

Q And all that you knew about his antecedents, that is, what he had been doing before you met him, ^{was} what he had told you himself? A Yes, sir.

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RE CROSS EXAMINATION BY MR. SPIELBERG:

Q You told the District Attorney that you had loaned your husband some money during your married life? A Yes, sir.

Q And didn't he return this money to you, at least some of it? A Yes, sir.

BY MR. MINTON:

Q But he didn't pay all of it back? A No, sir.

Q He paid you back after his arrest, didn't he? A Yes, sir.

REVEREND HENRY C. WOODS, of Albion, New York, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Mr. Woods, what is your occupation? A Clergyman.

Q A clergyman where? A Albion, New York.

Q In what denomination? A Methodist Episcopal.

Q Did you see the last witness on the stand? A Yes, sir.

Q Did you marry her to the defendant? A I did.

Q Do you recollect the date you married her to him?

A November 14th, 1918.

Q You heard him say that he took her to be his wife?

A Yes, sir.

Q You heard her say that she took him to be her husband?

A Yes, sir.

Q And did you pronounce them man and wife? A I did.

Q Now will you look at this certified copy of a marriage license, and state whether or not you recall that you signed that? A I signed the original.

Q Do you recall the contents? A Well, that is as I remember it, that is, the contents.

Q Do you recollect whether he said to you that it was his first or second marriage? A I don't recollect that.

Q What name did he give you? A Max Paul Loudon.

CROSS EXAMINATION BY MR. SPIELBERG:

Q You knew Mrs. O'Brien very well in your home town, didn't you? A Yes, sir; she belonged to my Church.

Q And she lived there with her family, with her sisters? A Yes, sir.

Q And you knew that she was going to marry the defendant before she married him? A No, sir; I didn't. She summoned me to her house and I married them on the same day.

REDIRECT EXAMINATION BY MR. MINTON:

Q How often did you see the defendant in Albion after that? A A few times.

Q Do you remember the last time you saw him there? A I think that I met them on the street, and he was to Church with her once.

(The Court admonished the jury in accordance with Section 415 and took a recess until 2:15 P. M.)

AFTER RECESS:

J O S E P H A. B A K E R, of No. 6 Willow Place,
Brooklyn, a witness called in behalf of the People,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Mr. Baker, you are the Assistant Division Superintendent
of the Department of Justice of the United States in New York?

A Yes, sir.

Q Do you recall the time when the defendant was arrested?

A Yes, sir.

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

Q Can you tell us the date he was arrested? A The 13th
of October, 1915, last year.

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

A Yes, sir.

Q Now, without stating any conversation, will you state
whether or not you asked him certain questions about his mar-
riage with a woman named Minnie Wendt? A Yes, sir.

Q Now what did he say about his marriage to Minnie Wendt,
in reply to your questions, leaving out your questions and only
giving his answers?

MR. SPIELBERG I object to that unless there were
some preliminary statements by the officer, warning him
of his right, and that he was under arrest.

THE COURT: There is no decision in the State

that requires any other public officer than a Magistrate to warn a person of his rights when under arrest.

But your question is too broad, Mr. District Attorney.

In other words, there may be a number of things that this witness may have said that may have been immaterial.

BY MR. MINTON:

Q Just state what he said, his answers in reply to the questions that you put to him about his marriage to Minnie

Wendt? A He said that he married when he was a young man in Poughkeepsie, a woman named Mina or Minnie Wendt, and that he lived with her until after a son was born, and then he left her and went to Germany, and wrote to her, and he didn't know anything more about her until the summer of 1912.

Q What did he say he did in 1912? A He said he visited Poughkeepsie, and made inquiries concerning his wife, and that he learned he had been married to a man named Arnold, who was a butcher, and that he also learned that his son was living in Poughkeepsie.

Q Did he say where he made those inquiries? A He said that he had called at the Church where he had been married, and had talked to the Minister there. That it wasn't the same Minister who had married him, but a new Minister.

Q Did you also ask him questions concerning his marriage to a woman named Rose O'Brien? A Yes, sir.

Q And did you make answer to your questions? A Yes, sir.

Q Now, without stating your questions, will you be good enough to state what he said to you, in substance, about Rose O'Brien? A He said that he was in business at Fort Erie, Canada; that he had occasion to go to Albion, New York; and while there he met a woman by the name of Rose O'Brien; that he didn't marry her; that he simply visited Albion at different times and slept with her, and came away. Shortly after that he admitted, however, that he married her.

THE COURT: Strike out that he admitted.

BY MR. MINTON:

Q He stated to you that he had married her, did he?

A Yes, sir.

Q What did he say about that? A He said that he had known her about two months, and that she wanted to be married, and that they were married at her home in Albion, by the Reverend Henry Clay Woods.

Q Did he say how long he lived with her? A He said he never lived with her, that he only visited her for a night or two, every week or so, and went back again.

Subsequent to the defendant's indictment, will you state whether or not he came to see you at the Department of Justice in New York City? A He did.

Q And if you have a conversation about the case of bigamy that was pending against him? A He did.

Q Will you tell me what he said to you? A He told me

that the District Attorney would never be able to press the case against him, for the reason that he had managed to get both women in the case out of the way; that they were beyond the reach of a subpoena.

Q Did he say where they were? A He told me that the O'Brien woman was in Canada; that he had sent her there, and had paid her certain moneys to go there.

Q Did he say how much he had paid her? A He said that some \$1500 had been sent to her attorneys at Rochester, New York, in consideration of which he was to remain away until the case here was dropped.

Q Did he make any statement to you with respect to you and Mr. Adams, your assistant, being witnesses against him in the bigamy case, and, if so, what did he say?

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

THE COURT: I will allow the evidence. Objection overruled.

MR. SPIELBERG: I respectfully except.

A He did.

BY MR. MINTON:

Q What did he say? A He stated to me, or rather he told me that he wanted me to use my influence with the District Attorney to have the case dropped; that he was paying money to his attorneys, and he felt certain that they were not doing

him any good, and that the only person who could do him any good would be myself.

THE COURT: Now wait. This evidence is not competent.

MR. MINTON: I think, when you hear it all, it will be competent. I will consent that it be stricken out, if it is not competent. However, I will withdraw that question for the present.

THE COURT: Strike out the evidence and the jury are to give it no weight or consideration whatever.

BY MR. MINTON:

Q Will you state whether or not, Mr. Baker, at the time you had the conversations that you have testified to, Mr. Adams, your assistant, an agent of the Department of Justice, was present? A He was.

CROSS EXAMINATION BY MR. SPIELBERG:

Q You are not a policeman, are you? A No, sir.

Q Not a police officer? A No, sir.

Q Not an officer of this County? A No, sir.

Q You have nothing to do with bringing this bigamy case, did you? A Oh, I don't know. That's rather a broad question. I could explain it.

Q Did you have anything to do with bringing this bigamy case on? A Yes.

Q You are working for the Department of Justice of the United States Government, is that right? A Yes, sir.

Q And you are in charge of Federal affairs, are you not? A Yes, sir.

Q Did you ever arrest this man charged with any Federal offense? A No, sir.

Q This man was never convicted, as far as you know, by the United States Government, charged with any Federal offense, was he? A Not that I know of.

Q Bigamy is purely a State offense, is it not? You know that?

MR. MINTON: I object to that. That is a question of law.

THE COURT: Sustained. We will take judicial notice of our own laws.

MR. SPIELBERG: Yes, that is so.

BY MR. SPIELBERG:

Q Did you ever meet this defendant before the time you called at his home? A Before he was arrested?

Q Yes? A I did not.

Q The first time you met him was after he was arrested?

A The night of his arrest.

Q Where did you meet him? A At his home.

Q Did you make the arrest? A I did not.

Q Were you there when he was arrested? A I was.

Q What business did you have there? A I was representing the Government.

Q Yes, I know that. Was there any charge against this man as far as the Government was concerned? A I can explain just why I was there.

Q At that time was there any charge against this man?
A There was an investigation pending against him, yes.

Q And you were following up that investigation? A I was.

Q And you didn't find sufficient evidence to arrest this defendant? A I was not there for the purpose of making an arrest.

Q You never did arrest him, did you? A I did not.

Q You never charged him with any offense against the Federal Government; did you? A I did not. I simply --

Q You were investigating it, is that the idea? A I did more than that. I was present on the night of his arrest to take from him a passport which he had secured, and also a passport he had secured for --

Q No, to take some papers. Unless you have them here, you can't describe them? A They were passports.

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

Q And did you take those papers away from him? Yes or no? A He stated --

Q I didn't ask you that. (Question repeated.) A I didn't take them from him, no.

Q You didn't take them from him? A No.

Q As a result of your investigation as an agent of the Department of Justice, after you had met this man, did you arrest him, charging him with any offense against the Department of Justice of the United States Government? Yes or no? A I was simply --

Q Yes or no? A No.

Q And not being able to make any charge against him, as far as the Federal Government was concerned, you took upon yourself to help along in the bigamy case, did you not? A I did not.

MR. MINTON: Objected to. However, it is answered.

BY MR. SPIELBERG:

Q You have been present during the several times that the defendant has been arraigned in Court, have you not?

A I think this is the third time I see him here.

Q Yes. And you have been in consultation with the District Attorney as to the procedure in this matter, giving him in-

formation and advice, and instructing him as to the procedure that he was to follow?

MR. MINTON: I object to that question as to form, entirely.

THE COURT: I will allow the question.

BY MR. SPIELBERG:

Q Yes or no? A No.

Q Is it not a fact that you told the District Attorney just what to do in this case? A I did not.

Q Is it not a fact that, before making any move in this case at all, the District Attorney consulted with you, and obtained your approval? A When you say the District Attorney, do you mean Mr. Minton?

Q Yes, I mean the District Attorney in charge, Mr. Baker? A No.

Q That is not so? A No, sir.

Q Well, you were not interested in any bigamy charge that was made against this man? It was not within your province, was it? A No, sir, not officially.

Q No, not as an agent of the Department of Justice?

A No.

Q You say this defendant volunteered this information to you? A In answer to questions.

Q At that time he was arrested, was he not? A No, he was not.

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Q But you say that you were there present the night that he was arrested? A He was not arrested until after we had talked with him.

Q Oh, you first talked with him? A Right.

Q But there was a warrant out for him at that time, was there not? A There was not.

Q Was he locked up without a warrant? A Yes, sir.

Q Who locked him up? A A detective attached to the District Attorney's office.

Q Detective Russo? A Yes, sir.

Q And he went to the defendant's home? A Yes, sir, and I went with him.

Q And who did the talking? A Mr. Adams, a special agent, and myself.

Q And you did not tell him at that time that you came there to arrest him for bigamy? A No, sir, I told him that I came to get from him a passport, and a passport that he got for his third wife.

Q Did you get the third wife also? A She was present in the house.

THE COURT: One moment. Although this was brought out on cross examination, strike out anything about the third wife, and the jury will disregard it. The evidence is incompetent.

BY MR. SPIELBERG:

Q You went there for the purpose of making an arrest.

on a charge of bigamy, did you not? A I did not.

Q But how did you come to go there?

MR. MINTON: I object to that as already asked and answered. However, I will withdraw the objection.

A I went there --

MR. MINTON: Now, tell us the whole reasons, all the reasons why you went there.

A For the purpose of taking from him two passports. Detective Russo went there for the purpose of arresting him on a charge of bigamy. At that time it was my intention to take from him the passports that I have mentioned.

BY MR. SPIELBERG:

Q Oh, you knew that Russo was going there to look him up on a charge of bigamy? A Yes, sir.

Q When you came into his room, did you tell him that he was going to be arrested on a charge of bigamy? A I don't recall whether he was told at the time or not. I know that I proceeded to talk with him, and requested him to turn over the passports.

Q Yes. That was before you told him that he was charged with bigamy? A I think it was.

Q And before Russo told him that he was charged with bigamy? A Yes, sir.

Q And you told him that you were an agent of the Department of Justice, did you not? A Yes, sir.

Q And this was the first time in his life, so far as you

know, that he had met you, is that right or not? A That is right.

Q Now you say that he told you that he never married Mrs. O'Brien? A At first, he said that he was not married to her, and then he said that he had married her.

Q And he also told you that he had married Mrs. Wendt?

A Yes, sir.

Q And did you thereupon have him arrested? A I was not there for that purpose.

Q Did Russo arrest him? A He was arrested that night, yes, sir.

Q Did he ever deny that he married Miss Wendt, when he was a boy? A At first he did.

Q Did you so state in your direct examination or not? A I don't know whether I did or not. I might clear it up, Mr. Spielberg.

Q No. One moment. Didn't you testify, a moment ago, on direct examination, that the defendant told you that he married one Minnie or Mina Wendt, when he was a boy? A Yes.

Q And did he deny that he married her? A Yes, in the beginning.

Q So that originally, according to your version, this defendant denied that he married Minnie Wendt? A At first, yes.

Q Did you do anything at all to persuade him that he did marry her? A I simply gave him dates and names and everything else, and he said then, "That is right."

Q Didn't you just say that he told you that he married Minnie Wendt, when he was a boy? A After he at first denied it.

Q And didn't he tell you that he had married Mrs. O'Brien? A Yes, after he had first denied it.

Q And you had all these dates at your finger ends, hadn't you? A Yes, I had.

Q And you had nothing to do with the bigamy charge at all? A No, sir.

RE-DIRECT EXAMINATION BY MR. MINTON:

Q You were asked how you came to bring the complaint to the District Attorney's office. Now, will you tell us how you came to bring the complaint to the District Attorney's office?

MR. SPITLER: I object to that.

MR. MINTON: I will withdraw the question in that form.

Q Counsel asked you whether or not you were at the defendant's house for the purpose of arresting him for bigamy, and you said that you were not. That is correct, is it not? A Yes, sir.

Q Now, before you went to the defendant's house, had you seen District Attorney Perkins? A Yes, sir.

Q And had you communicated to him whatever information you had? A Yes.

know, that he had met you; is that right or not? A That is right.

Q Now you say that he told you that he never married Mrs. O'Brien? A At first, he said that he was not married to her, and then he said that he had married her.

Q And he also told you that he had married Mrs. Wendt? A Yes, sir.

Q And did you thereupon have him arrested? A I was not there for that purpose.

Q Did Russo arrest him? A He was arrested that night, yes, sir.

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Q And did he deny that he married her? A Yes, in the beginning.

Q So that originally, according to your version, this defendant denied that he married Minnie Wendt? A At first, yes.

Q Did you do anything at all to persuade him that he did marry her? A I simply gave him dates and names and everything else, and he said then, "That is right."

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Q Now you say that he told you that he never married Mrs. O'Brien? A At first, he said that he was not married to her, and then he said that he had married her.

Q And he also told you that he had married Mrs. Wendt?
A Yes, sir.

Q And did you thereupon have him arrested? A I was not there for that purpose.

Q Did Russo arrest him? A He was arrested that night, yes, sir.

Q Did he ever deny that he married Miss Wendt, when he was a boy? A At first he did.

Q Did you so state in your direct examination or not? A I don't know whether I did or not. I might clear it up, Mr. Spielberg.

Q No. One moment. Didn't you testify, a moment ago, on direct examination, that the defendant told you that he married one Minnie or Mina Wendt, when he was a boy? A Yes.

Q And did he deny that he married her? A Yes, in the beginning.

Q So that originally, according to your version, this defendant denied that he married Minnie Wendt? A At first, yes.

Q Did you do anything at all to persuade him that he did marry her? A I simply gave him dates and names and everything else, and he said then, "That is right."

Q Didn't you just say that he told you that he married Minnie Wendt, when he was a boy? A After he at first denied it.

Q And didn't he tell you that he had married Mrs. O'Brien? A Yes, after he had first denied it.

Q And you had all these dates at your finger ends, hadn't you? A Yes, I had.

Q And you had nothing to do with the bigamy charge at all? A No, sir.

RE-DIRECT EXAMINATION BY MR. MINTON:

Q You were asked how you came to bring the complaint to the District Attorney's office. Now, will you tell us how you came to bring the complaint to the District Attorney's office?

MR. SPIELBERG: I object to that.

MR. MINTON: I will withdraw the question in that form.

Q Counsel asked you whether or not you were at the defendant's house for the purpose of arresting him for bigamy, and you said that you were not. That is correct, is it not?

A Yes, sir.

Q Now, before you went to the defendant's house, had you seen District Attorney Perkins? A Yes, sir.

Q And had you communicated to him whatever information you had? A Yes.

Q Yes or No?

MR. SPIELBERG: Objected to.

THE COURT: Sustained. That question is incompetent.

BY THE COURT:

Q Did you, after talking to the defendant, visit the District Attorney's office? A I had seen Mr. Perkins prior.

Q And did you see Mr. Perkins after you talked with the defendant? A Not Mr. Perkins; M r. Crain.

Q One of the assistants of the District Attorney? A Yes, sir.

BY MR. MINTON:

Q Now, counsel asked you whether or not the defendant first denied his marriage to these two women. Will you state all the conversation that you had with him, your questions and his answers, with respect to that denial? What did you say to him first, and what did he say to you? A I think, in order to answer that, that it might be that the Judge might not care to receive it, because it was struck out before.

Q And can you testify to that, without testifying to anything but the questions and answers, as to the marriages?

A I had considerable knowledge concerning the defendant, so that I was able to question him concerning good part of his life.

Q Now what did you ask first in respect to his marriage to Minnie Wendt?

MR. SPIELBERG: I object to that as already testified to.

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THE COURT: Have you not practically got all that in the record, all that took place?

MR. MINTON: Yes, sir, except to clear up this question of the witness first saying that he denied it, and subsequently admitted the marriage; that is all.

THE COURT: I will allow you to question him as to that phase of it.

BY MR. MINTON:

Q Now, what did he say at first as to his marriage to Minnie Wendt? A First he denied that he had married her.

THE COURT: No, strike that out.

BY MR. MINTON:

Q Did he say that he had or had not married her? A Yes, he said so.

Q And what did you say to him then? A I brought to his attention the date of his marriage, and the name of the Minister who had performed the marriage.

BY THE COURT:

Q State what you said in that regard? A I told him that the records in Poughkeepsie showed that he had married Minnie Wendt, on a certain date, in Poughkeepsie, and named the Minister who had officiated, and then he said that was right, that he had married her.

BY MR. MINTON:

Q And then what did he say as to Rose O'Brien? A He said at first that he hadn't married her, but had only been sleeping

with her, and then I gave him the date of the marriage to her, ^{he} and the name of the minister, and/said that was right, that he had married her.

RE-CROSS EXAMINATION BY MR. SPIELBERG:

Q You were not interested in getting evidence charging this defendant with Bigamy? Yes or no? A Bigamy, yes.

Q You were interested in charging him with bigamy?
A Yes.

Q Didn't I ask you that question before, and didn't you say that you had nothing to do with that end of it? A I didn't go there for that purpose. I went there officially in connection with passports.

Q But before you went there, that night, you had considerable data as to his marriages? A Yes.

Q But you never investigated his marriages in connection with making a charge against him for bigamy? A No, sir.

Q The United States Government is not interested in whether a man commits bigamy in a State or not? A No, sir.

Q And you, as an agent of the Department of Justice, were not investigating his past life in relation to any bigamy charge? A No, sir.

Q And yet you had all the dates of his marriages in Poughkeepsie and in Albion, New York, in your possession?
A Yes.

Q And you gave him those dates? A Yes, sir.

Q Now, you said that you were interested in obtaining some passports from him. Now I wish you would tell the exact truth to this jury. Were you after this man? A For passports.

Q Now, tell the exact truth to this jury about that?
A The exact truth was that we went to take from him two passports which he had secured, one for himself and one for a woman that he claimed was his wife.

Q And is that all that you were after him for? A Yes, to get the passports. And, if we could show that he had perjured himself in connection with the securing of the passports, it was our intention to prosecute him.

Q For perjury? A Yes, sir.

Q You were interested in knowing whether he had told the truth in regard to some passports? A Yes, sir, that is the fact.

Q And is that the absolute fact? A Yes, sir.

Q And was there anything else that you were after this man for? A No, sir, there wasn't.

Q Is it not a fact that you suspected this man of being a spy in behalf of the German Government, and for that reason you shadowed him and followed him, and investigated him, and investigated his entire life; yes or no? A In connection with passports.

Q In connection with passports? A Yes.

Q So that when you said, a moment ago, that your only

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object was to find out something about passports, you were not telling us the entire truth? A Yes, and I say the same thing now. In connection with passports.

Q But, as a matter of fact, your main object was to find out whether the defendant was working for the German Government?

A It was not.

Q Wasn't that your object? A No, sir.

Q Didn't you say that, in connection with passports, that he was working for the German Government? A I said that the investigation that we made of him was in connection with passports that he had secured.

Q Didn't I ask you, point blank, whether you were trying to find out whether he was a spy working for the German Government and didn't you say that you were trying to get from him passports in connection with work for the German Government? A I didn't say anything about the German Government.

Q You did not? A No, sir.

Q But you investigated his life as fully as you could?

A Yes, sir.

Q And that was only in relation to passports? A In connection with establishing whether the woman who secured a passport as his wife was his wife or not. That was our interest in him.

Q Do you know where this passport was to, to what country, or the application for this passport? A I don't recall, offhand.

I think Germany and a neutral country, Denmark, I think.

BY MR. MINTON:

Q You say that your investigation was for the purpose of discovering -- A I might mention, if you will ask me what the passport was intended for --

BY MR. SPIELBERG:

Q Didn't you start off to tell me that there was some talk about this defendant being a German Spy? A Well, there were rumors to that effect. That came after we were making our investigations, in fact, at the end of our passport investigations.

Q And aren't you responsible, as a matter of fact, for this entire prosecution in this case, for bigamy? A I am not.

Q Just because you were not able to fasten any charge against him in behalf of the Federal Government? A No, sir, I came to Mr. Perkins under instructions from my Chief, in Washington.

BY MR. MINTON:

Q Did you give to Mr. Perkins, when you came here, the evidence that you had on which you base the charge of bigamy, or that he had committed bigamy? A I gave to Mr. Perkins in substance the investigation we have made, in addition to the admissions by the defendant, made to me, and Mr. Adams.

Q And the Grand Jury of the County indicted the defendant?

A Yes, sir.

Q Now, you say that your investigation was in reference

to a passport for another woman. Was it either of the women who testified on the stand to-day? A It was not.

BY MR. SPIELBERG:

Q Now, as a matter of fact, when certain proceedings were going on in this court, last week, is it not a fact that the District Attorney asked you if you would be satisfied if certain arrangements were made?

MR. MINTON: I object to that.

THE COURT: I will allow it.

A Mr. Minton asked me what I thought of a suspension of sentence, and I told him -- if you want my reply I will give it.

Q No. I ask you if it is not a fact that the District Attorney prosecuting this case went to you, and asked you if you would be satisfied with certain arrangements, yes or no? A He did.

BY MR. MINTON:

Q And what did you tell me?

MR. SPIELBERG: I object to that. It doesn't make any difference. I simply wanted to prove that the District Attorney of the County was taking his orders or instructions from this man.

THE COURT: Well, what difference does it make? This witness is an officer of the Federal Government.

MR. SPIELBERG: I know that, but I wanted to show that this prosecution is not for bigamy, really, but

only because this man was believed to be a German spy.

THE COURT: No. Strike out the remark of counsel, and the jury will entirely disregard it. It is immaterial what motive prompted any officer of the law, or citizen, to move the wheels of justice against the defendant, except that the jury may consider such action as bearing upon the question of the credibility of the witness. But, if the jury reach the conclusion that a crime, in fact, has been committed, and that the defendant is guilty of the crime charged in the indictment, it is immaterial who moved the machinery of the law against the defendant.

MR. SPIELBERG: That is absolutely so, may it please your Honor, but I am endeavoring to show that this witness is moved by one single motive, working for the United States Government.

BY THE COURT:

Q. What position do you hold? A I am the assistant division superintendent of the Bureau of Investigation, United States Department of Justice, New York division.

MR. MINTON: Now, did your Honor rule that my question is proper?

THE COURT: I do not think that you ought to open the door any further.

MR. MINTON: Counsel for the defendant opened it.

He has asked that to show bias.

THE COURT: You cannot go any further. He has not asked for the conversation. It is immaterial.

MR. MINTON: Very well. I will not press it further.

BY MR. SPIELBERG:

Q Just one more question, Mr. Baker --

MR. SPIELBERG: No, that is all.

A L B E R T G. A D A M S, of 372 East 198th Street, Bronx, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Mr. Adams, what is your occupation? A Special Agent of the United States Department of Justice.

Q Assigned to any particular division? A New York Division.

Q Are you an associate of Mr. Joseph A. Baker, the last witness? A I am. I work under him.

Q Do you recall the night that the defendant was arrested? A Yes, sir.

Q And were you present at any conversation between him and yourself, or between the defendant and Mr. Baker? A I was.

Q Was it a general conversation in which you all took part? A Mr. Baker and I interrogated him.

Q Did he make statements in answer to your questions?

A He did.

Q Did he make any statement in reference to his marriage to a woman named Minnie Wendt? A He did.

Q What did he first say about that marriage? A He first said that he was not married to anyone other than the woman who was in the apartment at that time, Leila Florence Allendorf Jansen Loudon.

Q And that was neither of the women who testified this morning? A Neither one.

Q And did you ask him any questions about Minnie Wendt? A Yes, sir, I asked him, "Are you sure that this is your first and only marriage?" and he said, "Yes."

And I said, "Now, be honest with yourself and us at the same time. Are you quite sure? How about Poughkeepsie?"

He said, "Well, to tell you the truth, yes, I was married to Minnie Wendt."

And I said, "When was that? Quite some time ago, wasn't it?" And he said, "Yes, in 1893." Then I asked him if he had seen her since. He said no.

I said, "As a matter of fact, you ran away from her, didn't you?" He said, "I did."

"Well," I said, "why? You seem to have the appearance of a gentleman, although by outward appearances you can't judge."

Q Now, is that what you said? A Yes, sir.

THE COURT: No, I don't care what he said. Strike it

out. You see, there is the danger of such a broad question. Now, avoid, Mr. Witness, stating anything that is not germane to the issue.

BY MR. MINTON:

Q Be careful to confine yourself to the marriages in question here? A He said that he had deserted her.

Q Did he say why? A Yes, he did. He said that he had joined the army at Fort Wadsworth and had to fly, and he shipped to Germany.

BY THE COURT:

Q Now, did he use those words? A Those are almost verbatim, your Honor.

BY MR. MINTON:

Q Now, did you have any conversation with him about a marriage to a woman named Rose O'Brien?

MR. MINTON: However, with your Honor's permission, I will withdraw that question for the time being.

THE COURT: Of course, the Stenographer will note that Counsel for the Defendant is making no objection to this evidence. I do not know what your object is, Mr. Spielberg. Some of this evidence is incompetent.

MR. SPIELBERG: I have no objection. It is entirely at variance with what the other man said. I can prove that this man did not say a word. Go on.

THE COURT: Then proceed.

BY MR. LINTON:

Q Did he state whether or not he ever went to Poughkeepsie again? A Yes, he said that in the summer of 1913 he went to Poughkeepsie to see whether his first wife and son were still living; that he called at the parsonage where he and Minnie went and been married.

And I said, "Up on Grand Street?" And he said, "Yes."

And I said, "Did you see the Clergyman that married you?" And he said, "I did not. There was a new one there."

And I said, "What did you ask him?" And he said, "I asked him if he could give me information about Mrs. Arnold," and I said, "What do you know about Mrs. Arnold?" And he said, "Well, that was my first wife. She was married."

Q Now, did you ask him any questions about a marriage to a woman named Rose O'Brien? A I did.

THE COURT: Pardon me.

BY THE COURT:

Q What did he say that the Clergyman told him, if anything? A I should have added there, "My wife and son."

Q Yes. A He told me that the Clergyman told him that he had no idea where the son was, but that his wife was Mrs. Arnold, married to a butcher, living at 150 Union Street, and he --" by the way, he also told the Clergyman, and the Clergyman told me --

Q No. You must not state any conversation had with the Clergyman.

BY MR. LINTON:

Q Did he state whether or not he ever went to Poughkeepsie again? A Yes, he said that in the summer of 1913 he went to Poughkeepsie to see whether his first wife and son were still living; that he called at the parsonage where he and Minnie went and been married.

And I said, "Up on Grand Street?" And he said, "Yes."

And I said, "Did you see the Clergyman that married you?" And he said, "I did not. There was a new one there."

And I said, "What did you ask him?" And he said, "I asked him if he could give me information about Mrs. Arnold," and I said, "What do you know about Mrs. Arnold?" And he said, "Well, that was my first wife. she was married."

Q Now, did you ask him any questions about a marriage to a woman named Rose O'Brien? A I did.

THE COURT: Pardon me.

BY THE COURT:

Q What did he say that the Clergyman told him, if anything? A I should have added there, "My wife and son."

Q Yes. A He told me that the Clergyman told him that he had no idea where the son was, but that his wife was Mrs. Arnold, married to a butcher, living at 150 Union Street, and he --" by the way, he also told the Clergyman, and the Clergyman told me --

Q No. You must not state any conversation had with the Clergyman.

THE COURT: No. Strike that out.

MR. MINTON: Now I will ask you this question again.

Did you ask him any questions concerning the woman named
Rose O'Brien?

MR. SPIELBERG: Objected to as immaterial, irrelevant
and incompetent.

THE COURT: Overruled.

MR. SPIELBERG: Exception.

Q Now, without stating the questions put by you, will you
please state what he first said to you about Rose O'Brien? A He
had first said that he didn't know any such woman.

Q What did he say after that, if anything? A I said, "Do
you know the Reverend Mr. Woods?" And he said, "Yes."

And I said, "Didn't he marry you to Rose O'Brien?"

And he said, "Well, now, I will explain that to you."

He said, "At first, I used to visit her. You know a man
likes any port in a storm, sometimes. Finally I lived with
her as man and wife, and then she persuaded me to marry her.
So I was married by Mr. Woods to her."

I said, "You took some money from her also, didn't
you?"

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

MR. MINTON: Yes, I consent to that being stricken
out.

THE COURT: Striks it out.

BY MR. MINTON:

Q Now, after the defendant was indicted, will you state whether or not he made any statement to you and Mr. Baker, of the Department of Justice, about the bigamy case? A On the afternoon of January 27th of this year, he called at our office

BY THE COURT:

Q In January? A Yes, sir, January 27th. And we had quite a little conversation with him.

He said that he had been to see the District Attorney, and that everybody was satisfied to drop the charge against him; that, however, there was no one who stood in his way other than Mr. Baker and myself.

He said, "You know, I have been paying out quite a lot of money to my attorneys, and they haven't been able to do anything for me."

MR. SPIELBERG: Objected to.

THE COURT: Allowed.

MR. SPIELBERG: Exception.

BY MR. MINTON:

Q Go on, please? A And he said, "I would send a thousand dollars to anyone who could really help me, and you two can help me."

He also said, as supposed by his attorney, J. Philip Berg, Ross O'Brien was sent up into Port Hope, Canada.

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

THE COURT: I will sustain the objection. Mr. District Attorney, you know the facts; I do not. I cannot permit evidence which is clearly incompetent.

MR. MINTON: I am not asking what he said. I am not asking anything whatever that you said, witness.

THE COURT: Or as to what the defendant said about a third party.

MR. MINTON: Yes, sir.

BY MR. MINTON:

Q Now, if you can eliminate from what the defendant told you the names of others who are not involved here, please do so. Did he say anything to you about the whereabouts of the two women, the two wives in the bigamy case? A He told me that Mrs. Rose O'Brien had been sent to Port Hope, Canada, to her sister's home, and that he had given Mr. Berg, his attorney, five hundred dollars to help get her there.

MR. SPIELBERG: I object to that, if your Honor please, as immaterial.

MR. MINTON: This is a statement made by the defendant, if your Honor please, with reference to putting the witnesses beyond the jurisdiction.

THE COURT: All right, proceed.

A (Answer continued) And that he had also paid over

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CASE #2

fifteen hundred dollars, after his indictment, and while she was still in the States, a part of three thousand dollars he had agreed to pay to her, if she wouldn't testify against him either now or in the future, and he gave it -- he gave us a postoffice box address for --

Q No. I don't want that.

MR. MINTON: I will consent th that that be stricken out.

Q Now is that all the conversation you had with him in regard to the two women who testified here today? A That's all I can recollect at this time.

CROSS EXAMINATION BY MR. SPIELBERG:

Q Do you occupy a position superior or inferior in the Department of Justice to the last witness, Mr. Baker? A I beg your pardon?

Q (Question repeated)? A I am a Special Agent of the United States Department of Justice, and he is Assistant Division Superintendent.

Q And he occupies a position somewhat higher than you?
A Yes, sir.

Q You say that you accompanied him to the home of the defendant in Convent Avenue, did you not? A Yes, sir.

Q And didn't he do the talking? A As matter of fact, I did most of the interrogating, and Mr. Baker injected

00278 ES40

questions here and there.

Q Do you remember under what name he introduced you to the defendant? A He introduced me?

Q Mr. Baker introduced you to the defendant as Loudon, didn't he? A He didn't introduce me under any name.

Q He didn't give you any name at all? A No, he didn't.

Q But Mr. Baker and you were both present at the time when you talked with the defendant? A Yes, sir.

Q Did you hear Mr. Baker testify, a moment ago, that the defendant had said that the Clergyman had told him that his son was not in town; is that so? Did you hear Mr. Baker so testify? A I didn't catch that.

Q (Question repeated)? A I did.

Q This was a mistake on the part of Mr. Baker, was it not?

MR. MINTON: Objected to.

THE COURT: Sustained.

Q Didn't you testify, a moment ago, that the defendant told you that the clergyman told him that his son was not in Poughkeepsie? A No, I didn't say that.

Q That the Clergyman had so told him? A No, sir.

Q Now, Mr. Adams, you investigated this case carefully, did you not? A To the best of my ability, yes.

Q You went to Albion? A No, sir; I didn't.

Q You went to Poughkeepsie? A Yes, sir.

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Q And interviewed the witnesses there? A Yes, sir.

Q And neither you nor Mr. Baker were interested in preparing the evidence against the defendant on the charge of bigamy? A No, sir; not at all.

Q And yet you delved as deeply as you could into his past life in relation to his marriages, did you not? A It is our custom when we make an investigation to go into everything, regardless of whether it is a particular point that we are after, or not.

Q And you investigated his whole life, as far as his marriages were concerned? A Yes, as much as possible. And other crimes as well.

Q You said other crimes, did you not? A Yes.

Q Did you ever arrest this defendant and charge him with any crime against the Federal Statutes? A I didn't arrest him at any time, no.

Q Now, Mr. Adams, you say that this defendant called at your office in the Department of Justice? A Yes, sir.

Q And had a conversation with you? A Yes, with both of us.

Q And he said that, as far as the bigamy charge was concerned, no one but you and Mr. Baker was pressing it? A He said, "You are the only two that stand in my way of having the bigamy charge against me dropped".

REDIRECT EXAMINATION BY MR. MINTON:

Q Did he say why you and Mr. Baker stood in his way as to having the bigamy charged dropped, how it was that you two were the only persons who stood in his way? A I can't recall that he did.

Q Did he say that at the same time that he told that the women were beyond the jurisdiction of the Court? A Yes.

Q He said that the People's witnesses were away and the District Attorney couldn't try the case? A Yes, sir. And by innuendo offered us this bribe.

MR. SPIELBERG: I object to that.

THE COURT: Yes, strike it out and the jury will disregard the evidence. Do not characterize, Mr. Witness. State the facts and let the jury determine what he intended to do, if anything.

MR. MINTON: I consent to have it stricken out, your Honor.

JOSEPH RUSO, of the Detective Bureau, detailed to the District Attorney's office, a witness called in behalf of the People, being duly sworn, testified as follows

DIRECT EXAMINATION BY MR. MINTON:

Q You are an officer of the police force of the City of New York? A I am.

Q And you are assigned to the District Attorney's office,

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are you? A Yes, sir.

Q Now, on October 13th, 1915, did you have a conversation with Mr. Train, the Acting District Attorney at that time?

A I did.

Q And, as a result of that conversation with Mr. Train, the Acting District Attorney, where did you go? A To 128 -- no, to No. 13 Park Row, the ninth floor.

Q And did you meet anybody there? A The office of Mr. Baker, of the Department of Justice.

Q And Mr. Adams? A Yes, sir.

Q The last two gentlemen on the stand here? A Yes, sir.

Q And did you go anywhere with them? A To 128 Convent Avenue.

Q Did you see the defendant there? A Yes, sir.

Q And did you bring him in to Police Headquarters? A Yes, sir.

Q And were you present when he was arraigned at the bar? A I was.

CROSS EXAMINATION BY MR. SPIELBERG:

Q How long have you been in the District Attorney's office, officer? A About twelve years.

Q And when you had a conversation with Mr. Train did you obtain the address of this defendant? A I did not.

Q So that you first got your information as to where

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CASE #2280

the defendant was from Mr. Baker? A I did.

Q Or did you merely accompany Mr. Baker to wherever he took you to? A I come to Mr. Baker by the instructions of Mr. Train, Acting District Attorney at the time.

Q In other words, Mr. Train told you to go and see Mr. Baker; isn't that so? A He did, yes.

Q And to do as Mr. Baker told you to do? A To arrest a man whom Mr. Baker would point out to me, after Mr. Baker carried on an investigation.

Q So that you went along with Mr. Baker? A I did.

Q And you didn't know where you were going to when you went to him? A I knew I was going to arrest a man by the name of Max Loudon, for the crime of bigamy.

Q How did you learn what the charge was? A I asked Mr. Baker as to the charge and Mr. Train also told me that the case was complete, and to make the arrest without a warrant.

Q Do you remember when you arrested the defendant that the defendant said, "Officer, why are you locking me up?" and you said, "I don't know. You'll find out tomorrow morning".

A No, sir; that isn't so.

Q You knew what you were arresting him for? A Yes, and I so informed the defendant.

Q Did you arrest him without a warrant? A Yes, sir.

Q And you didn't know where he lived? A Not when I started out.

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Q You didn't know his identity? You had never seen that man before? A No, sir.

Q And so that you couldn't have arrested him, without somebody pointing him out to you? A No, sir.

Q And Mr. Baker and Mr. Adams pointed him out to you? A They were the men who identified him to me.

Q And they identified him to you as Max Loudon? A Yes. He had several aliases, and that was one of them.

Q And they told you where he lived? A Yes, sir.

Q And took you to his home? A Yes, sir.

Q And thereupon you arrested him? A Yes, sir.

REDIRECT EXAMINATION BY MR. MINTON:

Q You generally arrest people on information given to you by others, and men who are pointed out to you by others?

A Yes, sir.

MR. MINTON: With the exception of an original document that I expect to get from Albany in the morning, I rest your Honor.

MR. SPIELBERG: I move that your Honor advise the jury to acquit the defendant, on the ground that the People have failed to make out a case, and on the ground that the People's own testimony shows, out of the very mouth of the defendant himself, that he believed himself to be a widower when he married his second wife.

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THE COURT: I deny your motion.

MR. SPIELBERG: I respectfully except. And I will have to ask an adjournment until tomorrow morning to get a witness.

THE COURT: Well, why can you not proceed with some other part of the case?

MR. SPIELBERG: I have no witness here. I have none here that I wish to call at the moment.

THE COURT: I shall grant the request of counsel to adjourn this case until tomorrow morning, in order to afford him an opportunity to secure the presence of witnesses.

(The Court admonished the Jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until Thursday morning, April 13th, 1916, at ten-thirty o'clock.)

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CASE #22100

TRIAL RESUMED:

New York, April 13th, 1916.

M A X M U L L E R, of Poughkeepsie, New York, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Mr. Muller, you are the Pastor of the German Lutheran Church in Poughkeepsie, New York? A Yes, sir.

Q And were you the Pastor in 1912? A Yes, sir.

Q Do you remember the defendant, Max D. Chimang coming to visit you in 1912? A Yes, sir.

Q Did you have a conversation with him? A Yes, sir.

Q What did he say to you? A Came and told me that he is Max Chimang, and he told me that he was married with Miss Wendt, years ago, something like twenty years, and he likes to have his son, Max Arnold.

BY THE COURT:

Q "He likes to have his son"? A Yes, sir. And I told him I couldn't tell the address of his son. But I went to see, next morning, Miss Arnold. And Mr. Chimang gave me his address from Buffalo, New York, Allington Square, or something like that, and I wrote him a letter, but the letter came back.

BY MR. MINTON:

Q Have you any means of refreshing your recollection as

to the month in which the defendant called on you in Poughkeepsie, New York? Have you any means of refreshing your recollection as to the date on which the defendant came to see you at Poughkeepsie, New York? A The date?

Q Yes? A No. I --

Q I mean have you any letter or anything that shows about the time he came there? A Yes, I have the letter here.

Q You have? A Yes, sir.

Q And is that the letter you wrote to him after he had visited you? A Yes, sir.

Q Now are you able to refresh your recollection, and state when it was in the month of September, 1913, that he came?

A Yes, sir.

Q Now what did he say about Mrs. Arnold? A He don't say very much.

BY THE COURT: Q What did he say? A He didn't say much about her. He told me that he was married with her, years ago, and now he likes to have his son.

BY MR. MINTON:

Q Did he mention the fact that the Miss Wendt, to whom he was married was now Mrs. Arnold?

MR. SPILLBERG: I object to that as absolutely leading. He has given the full conversation, he says, as he honestly remembers it.

THE COURT: Overruled.

MR. SPIELBERG: Exception.

BY MR. MINTON:

Q Did he mention the fact that Miss Wendt is now Mrs. Arnold? A I think he did.

Q Well, don't you know whether he did or not? A There was no question about that.

BY THE COURT:

Q Which name did he mention, Mrs. Chimang, or Miss Wendt, or Mrs. Arnold? A I think Mrs. Arnold.

BY MR. MINTON:

Q He mentioned Mrs. Arnold, before you mentioned the name, didn't he? A Or Miss Wendt; I don't know that for sure.

BY THE COURT:

Q Well, did you know Mrs. Arnold under the name of Mrs. Wendt? A No, sir; she was married before I came to Poughkeepsie.

Q Under what name did you know this woman? A Mrs. Arnold.

Q You say that you called on Mrs. Arnold; is that right? A Yes, sir.

Q Now, under what name did the defendant introduce himself to you? A Max Chimang.

Q And he told you that he had a son living in Poughkeepsie? A Yes, sir.

Q Did he tell you the name of his son? A I think Max.

Q Max what? A Max Arnold.

Q Did he mention the name of Max Arnold? A I think he did.

Q And what did you say to him when he mentioned that name?
A I told him I know the boy and, when he liked to have his address, I went to Mr. Arnold and asked them for the address, and sent the address to Mr. Chimang.

Q Did you know Mr. Arnold? A Sure, yes, I did.

Q Do you know how long he had been married? A No.

Q How long had you known Mr. Arnold? A Eight years.

Q And when you first met him was he then married? A Yes, sir.

Q Did you know the son, who was called Max Arnold?

A Yes, sir.

Q How old was he at that time? A When he was there (indicating the defendant)?

Q Yes? A He was a little boy then.

Q Now when the defendant told you his name was Chimang, and that he had a son named Max Arnold, did you inquire how it was that the son was called Max Arnold? A Yes.

Q Did you inquire about that of the defendant? A No, I heard it before.

Q No. Strike that out. Did you inquire of the defendant? A No, sir.

Q How far is your Church from where the Arnold store was

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at the time the defendant visited Poughkeepsie? A It is about two blocks.

Q Is the Church on the same street? A No, it isn't on the same street.

Q On what street is the Church located? A Grand Street.

Q Near where? A Near Union.

Q Near Union? A Yes, sir.

Q And the Arnolds lived at that time on Union Street, at what number? You say about two blocks away from the Church?

A Yes, sir.

Q Does Union Street cross Grand Street? A Yes, sir.

Q So that the Arnolds really lived around the block from the Church, is that right? A Yes, sir; about two blocks.

Q About two blocks? A Yes, sir.

Q Did you tell the defendant that the Arnolds lived around the blocks? A He knows that.

THE COURT: Well now, strike out "he knows that".

Q Did you tell him where they lived? A No.

Q Did you ask him why he didn't look up his son? A Yes, sir.

Q Did you ask him that question? A Yes, sir.

Q What did he say? A He told me that he is now well off, and he likes to have his son.

Q No. Did you tell him to go around the corner and he could find his son? A Yes, sir. I asked him why he wasn't

himself to Mr. Arnold and ask him that.

Q Yes. And what did he say? A That he don't like to go.

BY MR. MINTON:

Q Did he say that he didn't wish to see Mrs. Arnold?

MR. SPIELBERG: I object to that as immaterial, irrelevant and incompetent, and entirely improper.

A No.

THE COURT: Allowed.

MR. SPIELBERG: Exception.

Q Why did he say he didn't like to go around? A Because it makes a bad feeling, like that.

Q Yes. He said it would make bad feeling if he went around? A Yes, sir.

CROSS EXAMINATION BY MR. SPIELBERG:

Q Now, Mr. Muller, you are a Lutheran Clergyman? A Yes, sir.

Q Up in Poughkeepsie? A Yes, sir.

Q Now, what you testified to is important, and, if you remember, please say so. I wish to ask you a few questions, Mr. Muller, and if you remember, please tell me. Now, do you remember when it was that this defendant came to see you? Do you remember accurately just now? If you don't understand my English, please say so. Do you understand me? A Yes.

Q When was it, what year? A 1918.

Q Are you sure it was 1912? A Yes, sir.

Q There can't be any mistake about that? A No, sir.

Q Do you remember the date? A Not exactly. You see that's four years ago.

Q That's right. A But it was in September, and I think the 21st, like that.

Q Then it was about the latter part of September then?
A Yes, sir.

Q Mr. Muller, isn't it possible that it was in 1913?
A No.

Q You don't think it is possible? A No, sir. I have the letter here.

Q And the letter is addressed 1912? A Yes, sir; the stamp on the letter is 1912.

Q And that's what fixes it in your mind? A No, sir; it isn't in my mind; it's there.

Q I say, by seeing the letter, you remember? A Yes.

Q Now, Mr. Muller, this defendant came to your home?
A Yes, sir.

Q How did he introduce himself? What did he say his name was? A Max Chimang.

Q You didn't know him? A No.

Q That's the first time you saw him in your life? A Yes, sir.

Q What was the next thing he said to you, doctor? What

did he say to you? A What's the next thing?

Q Yes. If you remember, say so, and if you don't, say so. I want your best recollection, doctor. A As he told his name, then I asked him if he was that Chimang that made the trouble in Germany.

Q Yes, that's right. You asked him if he was the Chimang that made the trouble in Germany? A And he told me no; "That's my brother".

Q That is was his brother? A Yes, sir.

Q What did you say then? Do you remember? If you don't remember, say so. What did he say then, if you remember?

A Yes, then he asked me about his son.

Q That's right. He asked you about his son? A Yes, sir.

Q What did he say? Did he say, "I have a boy in Pough-keepsie"? A Yes, sir.

Q And what did you say if you remember? A What shall I say?

Q No. Tell me. I've got to get the conversation, if I can. If you remember, tell me please, Doctor. A That's four years ago.

Q I appreciate that, and I know that you are doing the best you can to be perfectly honest with us. Did you say that you knew his son? A Yes.

Q Max Chimang? A Yes.

Q Did you know anybody by that name? A Max Arnold.

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CASE #2100

Q Well, but did you know anybody by the name of Max Chimang a boy, in Poughkeepsie? A Yes.

Q Well, you don't understand me. I say, did you at that time know that there was a boy in your neighborhood whose name was Max Chimang? A Yes, sir. I know that Max Arnold was adopted by a stepfather, and was before Max Chimang.

Q You knew that, did you? A Yes, sir.

Q Did you so tell him? If you remember, say so, and if you don't, say so? A No.

Q Did you speak to him at all?

MR. MINTON: Let him finish the answer. He asked you, did you tell him that.

BY MR. SPIELBERG:

Q Did you tell this defendant that you knew his boy, Max Chimang, was now known as Max Arnold? If you don't remember, say so, please. A Yes, I think I did.

Q But you are not sure about that? A No, not very sure but I think it. I think it was so.

Q You think it? A Yes, sir.

Q Well, that's all right. Now, doctor, did the defendant ask you anything about his wife, whom, he said, he married twenty years ago? Yes or no? Did he asked you? A I don't think he asked me about his wife.

Q Did you tell him anything about his wife, doctor?

A No, sir.

Q You didn't say a word to him about his wife? A No, I don't think so.

Q All right. I want your best recollection, doctor.

A The whole matter was he asked me about a son, see.

Q That's right. And there was nothing said about the wife? A Not very much, no.

REDIRECT EXAMINATION BY MR. MINTON:

Q But there was something said about the wife, was there not? A Yes.

Q He said her name was Mrs. Arnold, didn't he? A Yes, sir.

RECROSS EXAMINATION BY MR. SPIELBERG:

Q Now, doctor -- A Miss Wendt.

BY MR. MINTON:

Q And now Mrs. Arnold? A Yes, Mrs. Arnold.

BY MR. SPIELBERG:

Q The defendant told you that he married a Poughkeepsie girl, twenty years ago, whose name was Mina Wendt? A Yes, sir.

Q And wasn't that all he told you? A Yes, and now Mrs. Arnold.

Q Are you sure he told you that? A Yes, I am quite sure now.

Q Did you tell him anything about that? A He knows that himself, see?

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Q But did you tell him anything about it? A I told him --

Q I want your best recollection. Please think a moment, and remember exactly. Get the scene back into your mind, as he was sitting in your office, and tell me exactly, because it is important. You understand what you are doing, do you not, doctor? You understand that this is a situation in which a defendant is being tried upon a serious charge, and I ask only for your best recollection. A I think that I spoke about Mrs. Arnold to him.

Q You think so? A Yes.

Q But you will not swear positively to it, doctor? A I am quite sure on it.

Q And then when you said a moment ago that the main conversation was about the son, that he came and inquired about the son, and you told him that you would ascertain the address and write to him, or send it to him, you told the truth, did you not? A Yes, sir.

Q And that is the principal part that happened? A Yes, sir.

BY THE COURT:

Q You also said that there was some talk as to why the defendant did not call for his boy at the Arnold house? Was there not some talk about that? A Yes, sir.

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Q Now, do you remember distinctly what his reply was?

A I don't understand the question, Judge.

Q The question is: You testified before that you asked the defendant why he did not go himself to the Arnolds? A That is right, yes.

Q Now, what did he say in answer to that question? A If I remember right, he said he don't like to go there.

BY MR. SPIELBERG:

Q Doctor, are you sure now as to what answer he gave you? Or whether you asked him at all, "Why don't you go around the corner and see your boy"? Did you say that to him? A Yes, sir.

Q Are you sure that you said that to him? A Yes, sir.

Q "What don't you go around the corner and see the boy?" Is that what you asked him? Now please tell me what you asked him, if you remember? A About the Arnolds?

Q Did you say to him, "Mr. Chimang, why don't you go around the corner and see your son"? A I told him, "Why don't you go around the corner and see Mr. Arnold, and ask them".

Q Ask him?

MR. MINTON: No, ask them, he said.

MR. SPIELBERG: Pardon me. I didn't catch his answer fully.

Q And what did he say, if you remember? A He don't like

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Q He don't like to go? A Yes.

Q Is that all he said? A Yes, sir.

Q Is that all that was said about the Arnolds? Is that all that was said about them? A I think that was all.

H A R R Y D. B A R T L E E T T , of Albion, New York, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Mr. Bartlett, you are the County Clerk of Orleans County?

A Yes, sir.

Q And is Albion, New York, in that County? A Yes, sir.

Q And have you charge of the marriage records of the County of Orleans? A I have.

Q Have you produced, today, at my request, the original marriage license and affidavit for the license between Max Paul Leudon and Rose Amelia O'Brien? A I have.

Q Will you hand it to me? A I will.

MR. MINTON: I offer it in evidence.

MR. SPIELBERG: I object to it as immaterial, irrelevant and incompetent. The marriage has been conceded by the defense.

THE COURT: I will allow it.

MR. SPIELBERG: I respectfully except.

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(It is marked People's Exhibit 1.)

MR. MINTON: And, as long as it is a Court record, we will not have it marked.

THE COURT: No. It may be read into the record.

MR. MINTON: I will read it to the jury and the stenographer can incorporate it in the record.

(Mr. Minton then reads People's Exhibit 1 as follows:)

State of New York

Affidavit for License to Marry.

State of New York

No. 1093

County of Orleans

Town of Albion

Max Paul Loudon, Groom

and Rose Amelia O'Brien, Bride,

applicants for a license for marriage, being severally sworn depose and say, that to the best of their knowledge and belief, the following statement respectively signed by them is true, and that no legal impediment exists as to the right of the applicants to enter into the marriage state.

From the Groom:

Full name: Max Paul Loudon.

Color: White.

Place of residence: Buffalo, New York. 158

Seneca Street.

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Age: 42.

Occupation: Civil Engineer.

Place of birth: St. Quentin, France.

Name of Father: Augustus A. Loudon.

Country of birth: France.

Maiden name of mother: Whilamenia De Montmorency.

Country of birth: France.

Number of marriage: First.

Former wife or wives living or dead: ---

Is applicant a divorced person: ---

If so, when and where divorce or divorces
were granted: ----

From the Bride:

Full name: Rose Amelia O'Brien.

Color: White.

Place of Residence: Albion, N. Y. 16 E. Herriock St.

Age: 42.

Occupation: None.

Place of birth: Weston, Canada.

Name of Father: Alexander White.

Country of birth: England.

Maiden name of mother: Susanna Braund.

Country of birth: Canada.

Number of marriage: Second.

Former husband or husbands living or dead: Dead,
June, 1911.

Is applicant a divorced person: ---

If so, when and where divorce or divorces
were granted ---

Max Paul Loudon

Miss Rose Amelia O'Brien

Groom

Bride

Subscribed and sworn to before me this

14th day of November, 1912.

Harry E. Corburn

Town Clerk

New York State Department of Health

Board of Vital Statistics

Certificate and Record of Marriage

Registered No. 341.

Place of Registry

State of New York

County of Orleans

Town or City of -- Albion

KNOW ALL MEN BY THIS CERTIFICATE, that any person
authorized by law to perform marriage ceremonies within
the State of New York to whom this may come, he, not
knowing any lawful impediment thereto, is hereby

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authorized and empowered to solemnize the rites of matrimony between Max Paul Loudon, of Buffalo, in the County of Erie and State of New York and Rose Amelia O'Brien, of Albion, in the County of Orleans, and State of New York, and to certify the same to the said parties or either of them under his hand and seal in his ministerial or official capacity and thereupon he is required to return his certificate in the form hereto annexed. The statements endorsed hereon are annexed hereto, by me subscribed, contain a full and true abstract of all the facts concerning such parties disclosed by their affidavits or verified statements presented to me upon the application for this license.

INTESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Town or City at Albion, this 14th day of November, 1912.

Harry E. Corburn,

Albion, N. Y.

(Seal.)

Town Clerk.

The following is a full and true abstract of all the facts disclosed by the above named applicants in their verified statements presented to me upon their applications for the above license:

From the Groom:

Full name: Max Paul Loudon.

Color: White.

Place of Residence: Buffalo, N. Y., 158 Seneca St.

Age: 42.

Occupation: Civil Engineer.

Place of birth: St. Quentin, France.

Name of Father: Augustus A. Loudon.

Country of birth: France.

Maiden name of mother: Whilamenia De Montmorency.

Country of Birth: France.

Number of marriage: First.

Number of wife or wives living or dead ---

Is applicant a divorced person: ---

If so, when and where divorce or divorces
were granted: ---

From the Bride:

Full name: Rose Amelia O'Brien.

Color: White.

Place of residence: Albion, N. Y. 16 E. Herrick St.

Age: 42.

Occupation: None.

Place of birth: Weston, Canada.

Name of father: Alexander White.

Country of birth: England.

Maiden name of mother: Susanna Braund.

Country of birth: Canada.

Number of marriages: Second.

Former husband or husbands living or dead: Dead,

June 1911.

Is applicant a divorced person: ---

If so, when and where divorced or divorces were
granted: ----

TO CLERGYMEN AND MAGISTRATES.

The license and certificate duly signed by the person who shall have solemnized the marriage therein authorized shall be returned by him to the office of the Town or City Clerk who issued the same on or before the 10th day of the month next succeeding the date of the solemnizing of the marriage therein authorized and any person or persons who shall wilfully neglect to make such return within the time above required shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25 nor more than \$50 for each and every offense.

I, Harry C. Woods, a minister, residing at Albion, in the County of Orleans, and State of New York, do hereby certify that I did, on this 14th day of November, in the year A. D. 1912, at Albion, in the County of Orleans and State of New York, solemnize the rites of matrimony between Paul Max Loudon, of Buffalo,



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CROSS EXAMINATION BY MR. SPIELBERG:

Q Did you hear your husband answer the questions before he signed it? A Yes.

Q Did you hear him answer every question that was asked him? A By the Clerk, you mean?

Q Yes. By the young man or the old man? A Yes.

MR. MINTON: That is the People's case.

MR. SPIELBERG: I renew my motion, made yesterday, when the People rested.

THE COURT: Denied.

MR. SPIELBERG: We respectfully except..

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THE DEFENSE:

J. PHILIP BERG, of 160 West 132nd Street,
a witness called in behalf of the defense, being duly
sworn, testified as follows:

DIRECT EXAMINATION BY MR. SPIELBERG:

Q What is your full name, sir? A J. Philip Berg.

Q Where is your office? A 399 Broadway.

Q What is your occupation? A I have been practicing law
since 1879.

Q You have been a lawyer for some thirty years now?

A About that.

Q A statement was made yesterday by a witness named Baker,
that the defendant said that he gave you five hundred dollars
to get Mrs. O'Brien out of the jurisdiction of this State;
is that so? A That is not so.

Q Did you ever receive any such money? A I never re-
ceived a penny for any such purpose.

Q Did you make any attempt to get Mrs. O'Brien out of the
jurisdiction of this State? A I certainly did not.

Q Did you ever see Mrs. O'Brien in your life until you
saw her just now on the stand? A I did not.

Q Did you have any conversation with Mr. Baker subsequent
to the arrest of the defendant? A Yes, I did.

Q Where? A Once at the Tombs and once at my office.

Q Once at the Tombs prison, next door here (indicating).

and once at your office, 399 Broadway? A Yes, sir.

Q Did Mr. Baker come to your office? A Yes, sir. He came to speak to me about the case.

Q What did he say to you about the defendant? A He said he wanted some papers, and if I would get them for him, and I told him I would.

Q Did you get those papers for him? A I did.

Q As the attorney for the defendant? A Yes. And I said, "What is there in the secret service against my client, the Count?"

And he said, "Well, we made a thorough investigation. We first thought, under information we had received from the New York Herald, that he was a German spy. We have gone over that record entirely, and we find that we have nothing against him. And that statement has also been made to a reporter of the New York World."

BY MR. MINTON:

Q Now did you hear that statement made? A To the New York World, no. I didn't hear that statement.

THE COURT: Well, strike it out.

THE WITNESS: He said that that statement was made to the New York World.

Q Who did? A Mr. Baker.

THE COURT: Then I will allow it to stand.

BY MR. MINTON:

BY MR. SPIELBERG:

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Q And that's all the conversation you had with Mr. Baker?

A Yes, sir.

Q And you afterwards sent him the papers that he wanted, which you obtained from the defendant? A Yes, sir. I put them in an envelope and sent them to him, by a man connected with the Department of Justice.

Q And that was when the defendant was out on bail? A Well, he was out on bail either a day or two before or after that. I can't remember that distinctly.

CROSS EXAMINATION BY MR. MINTON:

Q You didn't expect Mr. Baker to give you his evidence, did you? A No.

MR. SPIELBERG: That is expected to, what he expected.

THE COURT: I will allow the question.

THE WITNESS: I didn't expect him to lie to me, though.

BY MR. MINTON:

Q But you didn't expect him, a detective, a secret service man, to disclose to the attorney of the defendant what evidence he had against his client? A Certainly not.

Q Now you were the defendant's attorney from at least June, 1915, weren't you? A Yes.

Q Yes? A Yes. I have been his attorney -- I have

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been the attorney for Mr. Loudon for, oh, away back in the early Spring, April or May.

Q And you were the gentleman who was instrumental in attemptin to procure these passports? A I procured a passport for him.

Q You procured the passports which were referred to in the testimony yesterday, did you not? A I don't know what was referred to in the testimony. I was not here.

Q Well, now, look at this. Is that the application for the passport, with your card attached? A Yes, that was made out in my office.

Q And those were the passports which the Federal Agent was seeking to recover at the time they investigated the defendant? A Some papers he mentioned, and then I gave those papers to him -- one of them at least.

Q Well, one passport was for himself and another was for a woman; wasn't it? A I think so. I don't know. I don't know exactly. He said passports, but I don't know which one it was.

Q Well, I ask you, Mr. Berg, whether or not one of the passports was for the defendant and the other for a woman?

A I think so.

MR. SPIELBERG: I object to it as immaterial, irrelevant and incompetent. This man was put on the stand to deny a particular statement made by Mr. Baker.

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THE COURT: Well, the District Attorney is making him his own witness on these matters.

MR. SPIELBERG: Yes, sir; his own witness.

BY MR. MINTON:

Q You say that you have been the attorney for the defendant for how many years? A I didn't say for years.

Q For how long? A A little over a year.

Q And, of course, you are familiar with most of the defendant's affairs? A Well, I don't know that I could tell you that, because that is privileged between attorney and client.

Q I am not asking you to tell me anything confidential.

A Well, that fact is privileged and I claim my privileged.

THE COURT: Sustained.

BY MR. MINTON:

Q Well, aren't you anxious to help your client here?

A I am here to tell the truth.

Q (Question repeated)? A It is my duty, if I am telling the truth.

Q Did you go to Poughkeepsie to see Miss Wendt or Mrs. Arnold? A No, sir; I didn't.

Q Have you been to Poughkeepsie in this matter at all? A No, sir.

Q Didn't you make statements to certain people that Rose O'Brien would never be procured by the District Attorney; that the District Attorney would be unable to secure her attendance?

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CASE #2180

A No, but you told me you couldn't get the witnesses.

Q I did? A Yes, you said that in open Court.

Q And didn't you say that we would never be able to get the witnesses in this case? A I did not.

O T T O A L B E R S, a witness called in behalf of the defense, and being examined through the Official Interpreter, Mr. Rosenthal, testified as follows:

DIRECT EXAMINATION BY MR. SPIELBERG:

Q Where do you live, sir? A 128 Convent Avenue.

Q You understand English a little bit, don't you? A A little, yes.

Q And you speak somewhat, don't you? A Oh, yes; a little.

Q How old a man are you?

MR. MINTON: Let him speak in English then.

MR. SPIELBERG: Well, he speaks it unintelligibly. It is extremely hard to understand him.

A I am thirty-four years old.

Q How long do you know the defendant at the Bar? A Since 1898.

Q Where did you meet him at that time? A In Hanover, Germany.

Q When did you come over to this country? A In 1911.

Q Did you and the defendant remain in Germany between 1898 and 1911? A During that time I was in Germany.

03177 ES 3

Q When you came to the United States --

THE COURT: That is not a responsive answer.

BY MR. SPIELBERG:

Q No, did you and the defendant remain there until 1911?

Do you know whether the defendant also remained there until 1911?

A Yes. He remained in Germany and so did I, but I wasn't always together with him.

Q Did you come here in 1911? A Yes, sir.

Q And did the defendant come here in 1911? A This I don't know exactly. I met him in 1911.

Q Did you work for the defendant while you were in the United States? A Yes.

Q Where did you work? In what City? A In Buffalo, and in Fort Erie.

Q What business was the defendant engaged in in 1911 and 1912 in Fort Erie, if you know? A He had a factory of novelties and employed about 25 or 30 people.

Q Answers you one of the employees? A Yes.

Q Were you his clerk? A Secretary and bookkeeper.

Q In the year 1912, late in that year, did you go to the City of Poughkeepsie? A Yes, sir.

Q Why did you go there?

MR. MINTON: I object to the form of the question.

THE COURT: Sustained as to form. The fact may be established.

MR. SPIELBERG: Yes, sir.

BY MR. SPIELBERG:

Q Did the defendant ask you to go to the City of Poughkeepsie?

MR. MINTON: Yes or no to that.

A Yes, sir.

Q And did you thereupon go to the City of Poughkeepsie?

A Yes, sir.

Q What did you do there?

MR. MINTON: Now don't state the conversations you had, please. What did you do, you are asked. should

A I make arrangements so he should get together with his wife again. He thought that she was --

MR. MINTON: I object to what he thought.

THE COURT: Sustained.

BY MR. SPIELBERG:

Q What did you do in the City of Poughkeepsie? A I arrived there in the morning and afterward I got in communication with three German gentlemen in a restaurant. When I heard the gentlemen were talking German, I inquired of them about a lady by the name of Wendt, and asked them whether they knew a lady by the name of Wendt.

Q Did you find out any family by the name of Wendt, living over there? A These gentlemen sent me, the same day, to No. 160 or 161 Union Street. I don't remember the number any more.

Q Did you go there? A Yes, sir.

Q And did you investigate about Wendt? A Yes, I met an old lady and asked her about the name of Wendt.

Q What did you find out? A

MR. MINTON: I object to the form of the question, unless we have who it was that he spoke to more specifically.

THE COURT: Yes, I sustain the objection.

MR. MINTON: And who was the woman? May we have that fixed first?

THE COURT: Yes.

BY MR. SPIELBERG:

Q Where did you speak to this woman? In what street or at what number? A It was in Union Street, No. 160 or 164, the neighborhood of a small church, a little church.

BY THE COURT:

Q Was the church on Union Street? A Oh, yes.

BY MR. SPIELBERG:

Q How far from the house was the church? A As far as from the witness chair to the end of the room.

Q About 200 feet? A Perhaps a little longer, a little wider.

Q Did you there ask for Miss or Mrs. Wendt? A Yes, sir.

Q And did you there get certain information about her?

MR. MINTON: I object to the form of the question.

THE COURT: Overruled.

Case #2130

A Yes.

BY MR. SPIELBERG:

Q And did you bring that information about her to the defendant at the Bar? A Oh, yes.

Q When did you go back to Fort Erie? A The same evening I left Poughkeepsie.

Q And did you tell this defendant what you found out about his wife? A Yes, sir.

Q What did you tell the defendant? A I told him that the lady there in Union Street had told me that Miss Wendt or Mrs. Wendt had died several months before that.

MR. SPIELBERG: That's all.

CROSS EXAMINATION BY MR. MINTON:

Q When did you go to Poughkeepsie? A In the year 1912.

Q Well, in what month? A It was about June or July, perhaps the beginning of August. I can't tell.

Q Well, it was before September, 1912, was it not? A Perhaps August or September, but it was in the height of the summer season that I went there.

Q It was in the height of the summer season, was it not? A Yes, sir.

Q You speak English, do you not? A A little.

Q And you went to Poughkeepsie in the summer time?

(The witness answers in English.)

027210

A The end of the summer.

Q You went there before the defendant went to Poughkeepsie, didn't you? A What's that question?

Q (Question repeated through the interpreter). A Yes, he sent me before.

Q And then he went up there himself, didn't he? A Then I went back and told him what I found out.

Q Well, you know that he went up again after you went there, don't you? A Yes, he went there later.

Q And that was after you had gone there, wasn't it? A Oh, yes.

Q Now, what is the name of the person that you inquired of in Poughkeepsie? A It was either Mrs. Belna or Mrs. Meyer, I don't know which. I spoke to the lady for two hours.

Q For two hours you spoke to whom? A With the lady in Union Street.

Q And what number in Union Street? A 160 or 164.

Q Did you go over to the church and speak with the Pastor? A No.

Q Did you go to look at the grave? A No.

Q Now, I just want an answer to the question. The answer was no, was it not? A Yes.

Q Did you go to the Bureau of Health in that City, to see whether there was a certificate of her death? A No, I didn't deem that necessary, because many people had told me

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CASE #2130

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that that lady had died.

Q Well, now, what other people told you that the lady had died? A Several people on Main Street in Poughkeepsie, told me that.

Q People that stopped you on the street and told you that? A No, I stopped them.

Q You stopped them on the street and asked them if Mrs. Wendt was alive; is that right? A No, I didn't do that.

Q Well, now, what name did you ask for? A For Mrs. Wendt.

Q What name did you know the defendant under? A I found out later.

THE DEFENDANT: One moment. He said Lynar or Loudon.

THE COURT: Did he say that, Mr. Interpreter?

THE INTERPRETER: Yes, sir; but I didn't understand it, and I asked him to repeat it. He said that.

BY MR. MINTON:

Q Now, if you ask for anybody in Poughkeepsie by the name of Mrs. Loudon or Mrs. Lynar? A Mr. Lynar had told me she was living under her maiden name.

Q Did the defendant tell you when he learned that? A No, he didn't tell me?

Q What other name did you know him by? A By De Chimang.

Q Did you ask for Mrs. De Chimang in Poughkeepsie?

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Case #2110

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A The end of the summer.

Q You went there before the defendant went to Poughkeepsie, didn't you? A What's that question?

Q (Question repeated through the interpreter). A Yes, he sent me before.

Q And then he went up there himself, didn't he? A Then I went back and told him what I found out.

Q Well, you know that he went up again after you went there, don't you? A Yes, he went there later.

Q And that was after you had gone there, wasn't it?
A Oh, yes.

Q Now, what is the name of the person that you inquired of in Poughkeepsie? A It was either Mrs. Belna or Mrs. Meyer, I don't know which. I spoke to the lady for two hours.

Q For two hours you spoke to whom? A With the lady in Union Street.

Q And what number in Union Street? A 160 or 164.

Q Did you go over to the church and speak with the Pastor?
A No.

Q Did you go to look at the grave? A No.

Q Now, I just want an answer to the question. The answer was no, was it not? A Yes.

Q Did you go to the Bureau of Health in that City, to see whether there was a certificate of her death? A No, I didn't deem that necessary, because many people had told me

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A No, sir; I only inquired about Mrs. Wendt.

Q Now, did you know him also as Count Loudon? A Yes.

Q And did you ask for Countess Loudon in Poughkeepsie?

A No, I only inquired for Mrs. Wendt.

BY THE COURT:

Q Did he give you any description of Mrs. Wendt? A Yes, sir; because he believed that she was alive.

BY MR. MINTON:

Q Yes, you say that he believed she was alive? A Yes, sir.

Q Now where did you first meet the defendant, what part of Germany? A In Hanover, the province of Hanover.

Q Well, what place in Hanover? A In the Royal Hotel.

Q What were you doing in the Royal Hotel? A I did the same thing that other people coming from New York are doing, when they have free time to spend.

Q Had you been to New York before you went to Hanover?

A No, I came from Hanover to New York.

Q Well, what business were you in at the time you met the defendant? A Importing and exporting business.

Q And were you with him all during 1898, 1899 and 1900?

A No, only about six months I was together with him, and he explained me his plans, and I worked out the drawings for his patents.

Q Well, you say you only knew him for about six months when you first met him. When did you next meet him? A Then

I believe I met him in 1906.

Q 1898, six months; and then 1906; is that right?

A Yes. Then I met him in 1906.

Q Where? A I met him in Kiel, in the northern part of Germany.

Q Do you know where he was from 1898 to 1906? A I believe he was in Asia.

Q Well, now, don't you know that he was not in Asia?

A I don't know that.

Q And when did you come to this country? A As I said before, exactly, in 1911.

Q And the defendant wanted you to go to Poughkeepsie for the purpose of making arrangements so that he should go back to live with his wife; is that right? A That's right.

Q Well, but didn't he have a wife with him at the time that he came to America? A This is absolutely unknown to me.

Q Look at the picture of a woman I show you. Didn't he have that woman as his wife when he came from Germany? A I don't know that. I met the gentleman on 59th Street and Fifth Avenue.

Q Didn't you say that you came to America with him?

A No, I didn't say that.

Q Well, when did you come to America? A I came to America in 1911.

Q With whom? A With a gentleman by the name of Bröcker

CASE #2180

or Brookland, I don't remember which.

Q How soon after you came to this country did you meet this defendant? A About fourteen days or three weeks later.

Q And from that time on you became his companion or secretary, is that right? A At that time he intended to open a factory in Buffalo, and he took me along.

Q Never mind what he intended. I didn't ask you that. And how long did you live with him at 128 Convent Avenue?

A Only the last four or five weeks.

Q Did he have a wife living there with him? A I didn't see that.

Q Well, were you sure that he did not?

MR. SPIELBERG: I object to that.

THE COURT: What is this offered for?

MR. MINTON: Not to prove any third marriage, of course, sir, but only on the question of the probability that he would send this man to Poughkeepsie to look up his wife, with a view to renewing the relations between himself and that woman, if he had a wife living with him, or a woman living with him as his wife.

THE WITNESS: In Convent Avenue I didn't say that he lived together with a woman.

MR. SPIELBERG: The question is whether he lived with a wife or a woman, and the witness may not understand. It is entirely different in German.

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MR. MINTON: I will withdraw the question, because I must confine myself to before 1913, I see.

BY MR. MINTON:

Q Where were you living before you went to Poughkeepsie?

A In Buffalo.

Q Where in Buffalo? A 86 Niagara Street.

Q Who else was living with you there? A Nobody. It was a furnished room house.

Q Were you living with the Count? A No.

Q Where was he living? A He was living in Fort Erie.

Q Who with? With whom? A In Fort Erie he had a factory. I came to the factory and went to Buffalo again.

Q With whom was he living there? A I believe he lived together with a lady, the picture of whom you have shown to me. I believe so.

Q Was that his wife, wasn't it? A I don't know that.

Q Didn't you call her Countess or Mrs. Loudon, when you addressed her?

MR. SPIELBERG: That is objected to, as entirely immaterial.

MR. MINTON: I want to show that at the time he had a woman --

THE COURT: Sustained.

BY MR. MINTON:

Q It wasn't Mrs. O'Brien that he was living with in

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Fort Erie, was it?

MR. SPIELBERG: Objected to.

THE COURT: Sustained.

Q Now did you go to Poughkeepsie from Fort Erie? A From Buffalo.

THE COURT: In answering the questions, witness, look at the jurors.

MR. SPIELBERG: Face the jury, Mr. witness. The Court directs you to face the jury in testifying.

BY MR. MINTON:

Q Now, I want to ask you a question, again. At the time you went to Poughkeepsie, you say that the defendant, your employer, was living with a woman whose picture I showed you?

MR. SPIELBERG: I object to that as immaterial, irrelevant and incompetent. There is no testimony that he was living with her.

MR. MINTON: Yes, he testified to that.

MR. SPIELBERG: Well, it depends upon what the District attorney means. Was he living in her apartment, was he a boarder or lodger, or was he living with her as man and wife?

THE COURT: You have offered evidence here showing that the witness went to Poughkeepsie to make inquiry as to the whereabouts of the first wife, in order to endeavor to reestablish relations between them.

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MR. SPIELBERG: That was his impression of his mission, probably.

MR. MINTON: No, he testified to that.

THE COURT: Well, what was his impression?

MR. SPIELBERG: I don't know.

THE COURT: You have examined him on that subject.

MR. SPIELBERG: He said to me that he went to see Mrs. Wendt, and his impression was that he went there to see if they could not reestablish relations of man and wife.

THE COURT: Then you may inquire about that matter now, so as to clear it up.

BY MR. SPIELBERG:

Q Who asked you to go to Poughkeepsie? A Mr. Lynar.

BY THE COURT:

Q What instructions did you receive from him as to what you were to do when you got to Poughkeepsie? A I should go to Poughkeepsie and see if I couldn't find out whether she was living there at the time, and where she was living, and I should bring her back to Fort Erie.

BY MR. SPIELBERG:

Q Did the defendant tell you that, to bring her back, or is that your idea? A He said I should find out first whether she lived there, and then find out whether he could get in connection with her again.

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BY THE COURT:

Q Well, you testified before that he told you that you should make arrangements so that they should both get together again, in other words, that he should resume his marital relations with Mrs. Wendt? A Yes, I was to bring them together.

MR. MINTON: Yes, that's what I thought he said.

And my question was directed along that line.

Q Well, you say that at that time he was living with the woman whose picture I showed you; is that right? A I don't know whether it was at that time.

Q Well, was it before that time? A No, I don't believe it.

Q Well, didn't you testify that you went from Fort Erie, and at the time you went he was living in Fort Erie with this woman; is you say that? A No, I don't believe I said that.

Q Well, isn't it so? A I don't believe it. I don't believe so.

Q Well, what did you call this woman?

MR. SPIELBERG: That is objected to, may it please the Court, what he called her.

THE COURT: Sustained.

BY MR. MINTON:

Q What if you hear the defendant call her?

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

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THE COURT: Sustained. Of course, the only object of allowing this line of examination is to show, if the District Attorney can, the lack of probability of the story testified to by this witness, as bearing on his credibility as a witness. This evidence is not offered for the purpose of showing any misconduct or impropriety on the part of the defendant, and it must not be considered by the jury for any such purpose. It is incompetent for that purpose. The only object of the District Attorney in interrogating the witness along these lines is to establish, if he can, on cross examination, the improbability of the story of this witness as bearing on his credibility as a witness. Whether he does or not is a matter for you to determine, gentlemen of the jury.

MR. SPIELBERG: In that connection, if your Honor please, I submit most respectfully that, because this witness speaks a foreign language, and has testified through an interpreter, this field has been gone over very thoroughly.

BY THE COURT:

Q Where was the defendant living when you left Fort Erie to go to Poughkeepsie? A In Fort Erie.

Q Where? A In the main street, which runs along the Niagara River. I believe the name is Niagara Street.

Q What kind of a building? A It was a nice small country

house.

Q A private dwelling? A Yes, sir; private.

Q Did he occupy that building alone? A Yes; no strange people were living in that house.

MR. SPIELBERG: Now, I submit that he said in German, all by himself.

THE COURT: No, the interpreter will translate it, and the translation must be accepted as official, unless you desire to show that the translation is incorrect.

MR. SPIELBERG: No, I am entirely satisfied with his translation.

BY THE COURT:

Q Of how many rooms did that house consist? A I was very seldom in that house. I believe there were nine or twelve rooms.

Q Did he have any help who lived there? A There were about twelve girls employed in the factory, and they were doing some work in some of the rooms of that house, those factory girls, because the factory was too small.

Q So that the home was used for factory and living purposes? A No, I don't want to say that. I don't mean that.

BY MR. WINTOR:

Q Who was living with him in that house?

MR. SPIELBERG: That is objected to, may it please the Court. The witness answered that he was living there.

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all alone.

THE COURT: Well, I will allow the question.

A I can't say that. It is impossible for me to say that, even if I wanted to, because I very seldom got there, and whenever I did go there I found him alone, or I found him with his typewriter girl and two men and the factory girls.

Q Well, you didn't live in that house, did you? A No.

Q Do you know who occupied the other rooms?

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

Q Now what did you mean when you told the jury a short time ago that he was living with this woman in Fort Erie? A I saw her once in the house. I was invited there to dinner.

Q And was she there at dinner? A Yes, sir.

Q And did he address her by the name of "wife"?

MR. SPIELBERG: That is objected to, if your Honor please. There is no charge that that was his wife.

MR. MINTON: No, I am not charging that.

MR. SPIELBERG: Then what is the object of this question, if he addressed her as his wife? What are you trying to do? Trying to prove this man a monogamist/instead of a polygamist?

THE COURT: No, that is not the point. It is not offered for the purpose of having the jury consider the same as bearing on any act of impropriety on the part of

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the defendant, but simply as bearing on the story of the witness, that his mission was to go to Poughkeepsie with a view to reestablishing marital relations between the defendant and a woman in Poughkeepsie, and the question is whether he held this woman out as his wife. That is the point.

MR. SPIELBERG: All right. I have no objection. Let him answer the question, did he call her wife.

MR. MINTON: I will withdraw the question.

BY MR. MINTON:

Q Did you hear what he called her when he spoke to her?

A No, I didn't hear what name he called her, and how he addressed her.

Q Well, weren't you there at dinner? A Yes, sir.

Q And who else was at dinner besides yourself and the woman?

MR. SPIELBERG: Objected to as immaterial, irrelevant and incompetent.

THE COURT: Sustained.

Q Was it dinner in the evening? A No, it was noon time.

Q And was that before or after you had been to Poughkeepsie to look up Mrs. Arnold or Mrs. Wendt? A It was before.

Q Yes. How many times did you see this woman there in the house before you went to Poughkeepsie?

MR. SPIELBERG: That is object to, may it please

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the Court.

THE COURT: Overruled.

A Perhaps three or four times; when it happened that I brought some books from the factory over to his private house I saw her.

Q Did he introduce you to her? A No.

Q Well, when you brought the books over, what did you say? What did you call her?

MR. SPIELBERG: That is objected to, may it please the Court.

THE COURT: Sustained, what he said to her.

BY MR. MINTON:

Q What did he ever say to you about her?

MR. SPIELBERG: Objected to.

THE COURT: Overruled.

MR. SPIELBERG: Exception.

A I had no time at all to talk about these private matters. We had so much to do in the factory.

Q Well, didn't he ever say anything to you about this lady who was in the house there on several occasions?

MR. SPIELBERG: I object to that.

THE COURT: Overruled.

MR. SPIELBERG: Exception.

A He only told her, the first time when I came, referring to me, "This is Mr. Albers, my bookkeeper."

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Q And what else did he say? A Nothing more.

Q And what did he say to you about her when he said to her, "This is my bookkeeper, Mr. Albers"? What did he say she was? A He only said, "Mr. Albers", referring to me.

Q She was in the house when you came? A Yes, sir.

Q And did you ever hear him speak of her as Countess?

A No.

Q Did he ever tell you her name? A No.

Q Did you ever ask him her name? A Yes.

Q What did he say? A Before I answer, I will have to explain something.

Q No, I want to know what he told you her name was when you asked him. A He told me her name; it was the first name; and I was impressed that it was his housekeeper.

MR. WINTON: I ask that that be stricken out, his impression.

THE COURT: Denied.

BY MR. WINTON:

Q You were impressed that it was his housekeeper? A Yes, this I thought.

Q Now, how long did she live there as his housekeeper, do you know? A I can't say. I don't know. She wasn't living there continuously. She only came there on a visit.

Q Was she living there at the time the defendant went to Albion? A I don't believe so.

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Q Well, do you know whether she was or not? A She used to come there on a visit from time to time. Whether she was there at the time the defendant went to Albion, I can't say.

Q Well, you thought she was a kind of a visiting housekeeper, did you? A Yes, that's what I thought.

MR. SPIELBERG: The Defense rests.

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REBUTAL:

JOSEPH A. BAKER, being recalled by the District Attorney,
testified as follows:

DIRECT EXAMINATION BY MR. MINTON:

Q Were you present in Court when a gentleman named Mr.
Berg, who was sitting at that table (indicating), testified?

A Yes, sir.

Q Did you ever go to Mr. Berg's office? A I never was
in Mr. Berg's office.

CROSS EXAMINATION BY MR. SPIELBERG:

Q Did you talk to Mr. Berg? A Yes, once, in the Tombs.

Q Did he give you some papers? A No, sir.

Q Did you ask him for some papers? A No, sir.

Q Did he send you some papers? A No, sir.

Q You never got any papers from Mr. Berg? A No, sir.

Q And you only spoke to him once, in the Tombs? A I passed
him, after I talked with the defendant. I called at the Tombs
to get from him the passport, but he said he didn't have it at
home the night he was arrested. As I left the Tombs, going to
the gate, to go out, I passed Mr. Berg, and some attendant in
the Tombs told me that the man I was passing was the defendant's
lawyer.

THE COURT: Strike out this testimony. Confine your
answer to the question, Mr. Witness.

THE WITNESS: What was the last question?

(The last question is repeated by the stenographer.)

A Yes.

MR. MINTON: That is the People's case.

THE COURT: Recall the witness Otto Albers.

MR. SPIELBERG: I understand that he has gone away.

THE COURT: Where has he gone? Get him back.

THE CAPTAIN: He doesn't answer.

MR. SPIELBERG: He doesn't live in the City just now.
I just got him into town specially.

THE COURT: Very well. It is all right. Proceed
to sum up.

MR. SPIELBERG: Shall I sum up, this morning?

THE COURT: Yes, you ~~have~~ still half an hour before
the recess hour.

(Mr. Spielberg then began to sum up.)

MR. SPIELBERG: I now desire to offer in evidence a
certain paper which I have in my hand.

MR. MINTON: I object to it. It doesn't seem to be
competent.

MR. SPIELBERG: I submit it is competent. Mr. Berg
said that he turned over from a man from the Department of
Justice the papers which he sent to Mr. Baker, at Mr. Baker's
request, a man named Scully, as a receipt for the
papers shows. It is written on the office paper of Mr.

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Herg.

THE COURT: I will admit it.

(It is marked Defendant's Exhibit A.)

(Mr. Spielberg then resumed his summing up.)

(At the close of the summing up of Mr. Spielberg of Mr. Spielberg, the Court took a recess until ten minutes after two o'clock, having admonished the jury in accordance with Section 415 of the Code of Criminal Procedure.)

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